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# **The public sector corruption and organised crime nexus: The case of the fertiliser subsidy programme in Malawi**

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## **Introduction**

The article argues that there is a direct link between corruption and organised crime. A case study of the Malawi fertiliser subsidy programme is used to highlight the fact that corruption not only gives rise to organised criminal groups but also acts as a lubricant for the effective operation and survival of such groups. In this regard, the prevailing corruption has given rise to organised criminal groups who have hijacked the whole process and either smuggled the subsidised fertiliser to other countries or took it for their personal use. The problem has been exacerbated by the international dimensions of the crime and the fact that traditional leaders, politicians and government officials have been key players in the process, thereby intensifying the corruption/organised crime nexus.

**Keywords** public sector, corruption, organised crime, fertiliser subsidy, Malawi

This in turn has had a negative effect on the poor, who were supposed to be the primary beneficiaries of the programme.

## Conceptual underpinnings

### Organised crime

‘Organised crime’ is a notoriously slippery concept to pin down as there is little agreement about how the term should be defined. There has been an overwhelming renewed interest in the study of organised crime with each study taking a particular perspective. As Paoli pointed out, organised crime has ‘suddenly become a hot topic of public discourse all over the world’.<sup>1</sup> Moreover, the concepts of terrorism, corruption and violence which have characterised recent studies of organised crime have expanded the concept even more. This is complicated by the fact that with globalisation, the concept of organised crime has taken on an international and transnational focus. To add to the confusion, some authors have suggested that the concept of ‘organised crime’ be replaced with ‘illicit enterprise’<sup>2</sup> to encompass the range of criminal activities included in the concept.

It is beyond the realm of this article to delve into this discussion, but suffice it to say that at the most basic level, organised crime is considered to be a ‘continuing criminal enterprise that rationally works to profit from illicit activities that are often in great public demand; its continuing existence is maintained through the use of force, threats, monopoly control, and/or corruption of public officials’.<sup>3</sup> From this perspective the main ‘aim of organised crime is thus profit, characterised by the use of criminal activities carried out by people or groups of people operating in a well- or highly-organised manner’.<sup>4</sup>

The actual size and interconnections of organised criminal groups are not of any concern in this definition, for ‘two persons are the minimum required to engage in a criminal conspiracy, so any group of two or larger suffices’, nor is it ‘necessary for these participants to be part of a pre-existing organised crime group’.<sup>5</sup> These qualifications require a shift of the unit of analysis from the ‘groups’ to the products, services and mode of operation necessary for a group to be defined as an organised crime group. For this reason Maltz classified organised crime into three main manifestations, namely common crime (*mala in se*), illegal business (*mala prohibita*), and illegitimate business (white-collar crime).<sup>6</sup> From this perspective, there are two markets for organised crime products, namely ‘the markets of goods and services which are *forbidden* and ... the markets of *permitted* goods and services which are offered or handled by means of lawbreaking’.<sup>7</sup> This categorisation of crime manifestations, which narrows down to particular markets, necessities moving from the traditional concentration of organised

crime that focuses only on illicit goods and services (drug trafficking, human trafficking, firearms) to a broader analysis of organised crime which would be very relevant to the African context.

## Corruption

Generally, corruption is regarded as the 'illegal transfer of public resources from public to private use'<sup>8</sup> which involves the 'misuse of public power for private profit'.<sup>9</sup> However, the specific definition of the concept of corruption depends on the context and subject of the particular study under investigation, because the concept of corruption has 'cultural and moral connotations'.<sup>10</sup> To adequately operationalise the concept of corruption in the context of organised crime, this article views corruption as pointing to 'behaviour which deviates from the formal duties of a public role because of private-regarding (personal, close family, private clique) pecuniary or status gains; or violates rules against the exercise of certain types of private-regarding influence'.<sup>11</sup> There have also been attempts to draw a litany of activities that qualify into the ambit of corrupt activities,<sup>12</sup> including embezzlement, nepotism, bribery, extortion, favouritism and fraud. However, if organised crime is brought into the equation, the list is never exhaustive. Suffice it to say that 'goods and money appear to be the weak points in relation to corruption'.<sup>13</sup>

## Corruption and the organised crime nexus

The nexus between corruption and organised crime is under-established and at best only assumed. However, there is a direct linkage between corruption and organised crime so that 'corruption and organised crime are much more than an isolated criminal phenomenon'.<sup>14</sup> In most cases corruption is used to co-opt 'government officials to mitigate the ability of law enforcement, regulatory, or other agencies that are directly responsible with interdicting or eradicating ... criminal groups'.<sup>15</sup> The role of corruption in organised crime is 'not only in diluting deterrence but also as a strategic complement to crime and therefore a catalyst to organized crime'<sup>16</sup> so that organised crime and corruption 'feed'<sup>17</sup> on each other.

Corruption, terrorism and violence are regarded as key instruments that criminal groups use in their activities. However, despite the important role of terrorism and violence in organised crime, the single most workable instrument for organised criminal groups is corruption. The use of corruption is preferred because whereas violence and terrorism eliminate an adversary, 'corruption creates an accomplice whose utility continues in time'.<sup>18</sup> In Africa, most organised crime activities involve collusion with public sector officials, and in such situations corruption is the most effective way of operation. It also entails, 'powerful private actors, including criminal groups and wealthy business interests, [who] buy off weak politicians'<sup>19</sup> and bureaucrats. Therefore it is not surprising

that 'while violence and intimidation remain a constant for organized crime, corruption has become a primary resource'.<sup>20</sup>

## **The fertiliser subsidy programme in Malawi**

After years of continuing food crises, Malawi has been implementing a fertiliser subsidy programme since the 2005 growing season in order to boost its food self-reliance capacity. The rationale for the establishment of the fertiliser subsidy programme was that 'hunger and recurrent food crises are best responded to by supporting agriculture, and this means providing subsidies to get agriculture moving'.<sup>21</sup> The programme offers fertiliser to the poor at a much-subsidised price so that they can benefit from farm input which they would not have been able to afford at prevailing market prices. Only those categorised as poor (by whatever criteria used) benefit from the programme. The beneficiaries are given coupons that they use to buy fertiliser at the subsidised rate. In 2005, for example, the subsidised fertiliser was being bought at K950 when the market price was K4 000. The 2007 price for subsidised fertiliser was K900 and in 2008 it was K800. The subsidised price is set to be further reduced to K500 for the 2009/10 growing season. The use of fertiliser subsidies in Malawi is vital as the country's economy is based on agriculture and the great majority of the country's workforce consists of subsistence farmers.

The fertiliser subsidy programme has generally been heralded as successful because of the resultant abundant yields. For example, from 2005 when the fertiliser subsidy programme was implemented, the country has had food surpluses and some produce is even being exported to neighbouring hunger-stricken countries such as Zimbabwe, Lesotho and Swaziland. A representative of Malawi's Food and Agriculture Organisation (FAO) hailed the fertiliser subsidy policy as a 'pro-poor policy, which could and has already alleviated a lot of suffering of the people'.<sup>22</sup> The fertiliser subsidy programme has also won several presidential awards, and also some from the FAO. Moreover, it has served as a role model for countries that are contemplating the implementation of a similar programme.

After the initial successes, donor institutions that were initially not in support of the programme as it conflicted with their neoliberal policy ideals later began funding it.<sup>23</sup>

## **Corruption and organised crime in the programme**

Malawi, like most countries in Africa, is affected by the problem of organised crime. The situation is exacerbated by the country's porous borders and geographical location, which have made Malawi a 'target route for small firearms trafficking and small firearms related crimes'<sup>24</sup> as well as other organised crimes. In Malawi, organised

crime is 'conducted by a complex and changing network of criminal groups and organisations'<sup>25</sup> that engage in various kinds of crimes, including banditry, corruption, racketeering, theft and smuggling of mineral resources, motor vehicle theft and smuggling, trafficking in illegal drugs and small arms, poaching and cattle rustling, money-laundering and fraud.<sup>26</sup> The activities also extend to essential food resources and farm produce.<sup>27</sup>

The fertiliser subsidy programme has not been spared in this regard. Using corruption as their modus operandi, organised criminal groups have infiltrated the programme to obtain both subsidised fertiliser and coupons. The networks involve a diverse group of people ranging from chiefs, government officials, politicians, coupon printers, businessmen, and truck drivers to foreign nationals who are part of organised groups. They have been referred to in the media as 'fertiliser theft syndicates',<sup>28</sup> 'coupon syndicates'<sup>29</sup> and 'rackets'.<sup>30</sup> The fertiliser subsidy corruption networks are so complex and highly organised that even the police have acknowledged that the matter is a 'mystery'<sup>31</sup> and a 'shock to us'.<sup>32</sup> Even President Bingu wa Mutharika acknowledged the presence of such criminal groups and admitted that the fertiliser 'coupons have landed in wrong hands'<sup>33</sup> and that 'unscrupulous people [are] ... stealing the coupons and selling them'.<sup>34</sup>

Three types of syndicate are conducting fertiliser theft in Malawi, namely syndicates who steal the actual fertiliser, groups that steal coupons, and others that use fake coupons that they either sell or use to purchase the fertiliser at the reduced prices.

### **Subsidised fertiliser theft syndicates**

Fertiliser theft syndicates are groups that smuggle the subsidised fertiliser to both local and international markets. These groups divert fertiliser in transit or obtain it from depots of the Agriculture Development and Marketing Cooperation (Admarc), which are the points from which the fertiliser is distributed. Their strategy is to corrupt Admarc officials or truck drivers. For example, fertiliser in transit to an Admarc depot was diverted and resulted in the arrest of 17 businessmen in Lilongwe in 'connection with a syndicate that was diverting fertiliser worth millions of kwacha meant for the subsidy programme and selling it on the open market'. This fertiliser was being 'delivered at a private residence'.<sup>35</sup> The syndicate bribed truck drivers to deliver the fertiliser elsewhere and not to the designated Admarc depots. The truck drivers would then produce genuine 'goods received notes' signed and stamped by participating Admarc personnel at the depots where the deliveries were supposed to have been made.<sup>36</sup> The drivers would pretend that the fertiliser had in fact been delivered.<sup>37</sup>

In other cases the subsidised fertiliser is stolen from Admarc depots. In one case the police in Lilongwe arrested four people and impounded two trucks carrying subsidised

fertiliser which had been stolen from an Admarc depot during the night. The four had conspired with an Admarc unit marketing manager to carry out the theft. It was established that the two trucks had been hired but the police were unable to trace the owners<sup>38</sup> (implying that the syndicate is made up of more people than the ones present at the crime scene). In most cases those present are only frontliners and the actual 'owners' or 'bosses' of the syndicate control operations from remote locations.

In some cases the organised criminal groups use traditional leaders in their operations. Traditional leaders command a high degree of respect in their communities and are regarded as havens of safety by criminal groups. The criminals usually bribe the leaders to collect the fertiliser from the Admarc depots and later hand it to the criminals at agreed 'safe' locations. Chief Chilowamatambe of Kasungu was for example found in possession of 170 bags of fertiliser he had obtained unlawfully at the Kasungu Admarc through expired fertiliser coupons. More bags were found at the residence of one of the chief's friends. When the police questioned the chief, he claimed that the 'fertiliser belonged to some people in his area ... who all assembled their coupons and gave them to him as their traditional authority, so that he could buy the fertiliser from Kasungu Admarc on their behalf'.<sup>39</sup>

### **Fertiliser coupon theft syndicates**

There are also organised criminal groups who fraudulently obtain fertiliser coupons. They either sell the coupons themselves or use them to buy fertiliser that they either resell or supply to fertiliser syndicates. To obtain the coupons, the syndicates use corrupt relationships with a variety of people such as workers at coupon printers, traditional authorities, and government officials.

At coupon printers, for instance, organised criminal groups would enlist the help of a worker so that she or he can steal coupons from the printing house and supply them to syndicates who would either provide a market for the coupons or co-opt the employee to the organised crime network. Examples in point include workers at Montfort Press (a printing house that was mandated to print coupons) who were stealing printed coupons.<sup>40</sup> At Design Printers in Lilongwe one of the workers, Kate Mphampha, was found in possession of 360 coupons for subsidised fertiliser and farm inputs destined for Kasungu district.<sup>41</sup>

Traditional leaders are also targeted as they were mandated to distribute coupons to their subjects when the fertiliser subsidy programme was implemented in 2005/06. This process was later terminated because most of the chiefs were selling the coupons to criminal groups that would later buy the subsidised fertiliser. Some of the traditional authority chiefs who were arrested because they were selling fertiliser subsidy coupons were Chitukula of Lilongwe, Chikowi of Zomba, Mchilamwela of Thyolo, and Mpando

from Ntcheu – the latter was arrested together with five members of his development committee.

Although coupon distribution became the task of Ministry of Agriculture personnel, the situation did not improve. These workers also obtained the coupons by corrupt means and provided them to organised crime networks. In one case an agriculture extension officer created a whole ghost village to whom he ‘distributed’ coupons. Another officer, Erasmus Mgala, used a ‘non-existent village to get subsidised fertiliser coupons which he is said to have been selling’.<sup>42</sup>

Politicians, including ministers, have been implicated in the coupon racket. They use their political influence to obtain coupons from the Ministry of Agriculture which they then pass on to their colleagues or criminal groups for sale. Often political patrimonial linkages rather than the required bureaucratic procedures would determine the distribution channel, which would be marred by further corruption and illegal activity. An example is that of the former Minister of Defence, Bob Khamisa (from the ruling Democratic Progressive Party), who obtained 2 000 coupons from the Ministry of Agriculture and handed 400 of them to Philip Bwanali, the Deputy Director of Research of the United Democratic Front (opposition party). Bwanali was later caught selling the coupons to a businessman. In his defence Bob Khamisa stated that:

I want to refute in strong terms reports that the President gave me 200,000 coupons, when what I got was only 2,000. I did not get the coupons from the state president but from the Ministry of Agriculture. Bwanali pleaded with me that he had some poor people he wanted to assist in Bvumbwe. He said the people had not received coupons and were asking from him. I have nothing to do with how Bwanali used the coupons.<sup>43</sup>

However, in the final analysis the distribution of fertiliser coupons is supposed to be undertaken by the Ministry of Agriculture and not by any other ministry or minister.

### **Fake coupon syndicates**

The subsidised fertiliser programme in Malawi has also seen the proliferation of fake coupons. Here criminal groups print and sell fake coupons to unsuspecting citizens or use fake coupons to buy fertiliser which is then resold at much higher prices. According to the police, ‘middlemen’ are often used by these syndicates and the police are still searching for the primary suspects.<sup>44</sup> Some of the groups use traditional leaders as their middlemen, for they are regarded as being above suspicion. For example, a senior group village headman of Traditional Authority Lukwa in Kasungu was ‘arrested after he was involved in production and selling of fake government subsidised fertiliser coupons’.<sup>45</sup> There are even cases where the criminals have sent unsuspecting children to buy the

subsidised fertiliser at Admarc depots using fake coupons. According to a report in the *Daily Times*:

... a man sent four young boys to buy the subsidised farm inputs at an Admarc depot and after the first three boys bought the inputs, the last one was asked by the clerks to explain where he got the coupons. He shivered before disclosing that he was instructed by a certain man to buy the farm inputs on his behalf and that he was not the only one ...<sup>46</sup>

Although it is difficult to pin down the extent of corruption in the production and sale of fake coupons, the coupons provide an opportunity or a recipe to corrupt officers at all levels. After all, the continuous production and distribution of the fake coupons would depend on a bribe or two to those in the relevant authorities.

In most cases, the tools used to 'authenticate' fake coupons had been stolen from government offices and could only have landed in the hands of the criminals through corrupt officials. At Kawale in Lilongwe, four people were found to have been printing fake coupons and the suspects also had government rubberstamps marked MC (Mchinji) KU (Kasungu), and TO (Thyolo),<sup>47</sup> which they used to 'authenticate' the fake coupons by marking them with the districts where the fertiliser coupons could be used.

## **International dimensions of organised crime in the programme**

Globalisation has facilitated the growth of complex international linkages of organised criminal groups worldwide and the provision of supplies, markets and resources that aid criminal groups has taken on an international dimension. Criminal groups involved in the Malawian fertiliser subsidy programme rely on international networks to facilitate their activities. There are three manifestations of this. First, people of other nationalities also have connections with criminal groups involved in fertiliser subsidy scams in Malawi; second, some fake coupons have been produced in countries other than Malawi; and finally, foreign countries provide markets where the smuggled fertiliser is sold.

## **Foreign nationals as members of organised criminal groups**

The first international dimension of the organised criminal groups dealing with the fertiliser subsidy programme in Malawi is that they command an international membership because of the profitability of the activity. In particular, people of foreign nationalities have provided the logistical facilities for smuggling fertiliser to destinations outside Malawi. In most cases these foreigners are illegal immigrants who work under cover for fear of deportation if they are caught and convicted. They therefore

operate as ‘feeders’ rather than ‘frontliners’. In Kasungu, for example, a Nigerian was earning a commission on coupons provided to frontliners in the organised criminal group. According to the police they had caught the frontliner, a Mr Kamwendo, but they were unable to trace the Nigerian man and even Kamwendo was unaware of his whereabouts.<sup>48</sup>

### **Foreign countries as producers of fake coupons**

The second international dimension is that syndicates produce fake coupons outside Malawi. This is a more sophisticated form of the crime as it requires fairly advanced technology to print realistic-looking fakes. The country that is usually targeted for the production of fake coupons is South Africa, as it is technologically advanced. The fakes are sometimes so good that, as one police officer stated who caught a man with fake coupons produced in South Africa: ‘It is very hard to tell the counterfeit coupons from the real ones issued by the Ministry of Agriculture, which is probably why he was able to fool people and buy hundreds of bags.’<sup>49</sup>

### **Foreign countries as markets for subsidised fertiliser**

The last international dimension is that most of the commodity is sold outside the country. With reference to this the World Trade Organisation noted that ‘smuggling of goods is a major problem for Malawi and substantial informal trade occurs across borders’.<sup>50</sup> Countries that provide markets for subsidised fertiliser include Zambia, Mozambique and Tanzania. Zambia and Mozambique are mostly preferred because of their proximity to Malawi. This cuts transport costs and generous prices can be fetched. In fact, commentators have noted that Zambia has suddenly become a big market for the subsidised fertiliser, which is selling at high prices.<sup>51</sup>

### **Effect of organised crime and corruption on the programme**

The corruption and organised crime that has rocked the fertiliser subsidy programme in Malawi has had negative effects, especially on the poor who depend on fertiliser for subsistence farming. The whole philosophy for the institution of the subsidised fertiliser programme in Malawi was to enable the poor to get the much-needed farm input which they would otherwise not get. However, corruption has robbed the poor of the opportunity to access fertiliser. As the chief executive officer of the National Smallholder Farmers’ Association of Malawi (NASFAM), Dyborn Chibonga, lamented: ‘Many farmers will not benefit from the programme because of allegations of corruption.’<sup>52</sup> The situation on the ground has been that Malawians who ‘obtain their coupons from government now stand in long queues day after day, however with little success of getting the commodity because it is being appropriated by profit-minded individuals’.<sup>53</sup>

## Government's efforts to arrest the situation

The government has not turned a blind eye to corruption in the fertiliser subsidy programme stemming from activities of organised crime syndicates and has on various occasions attempted to put an end to it. President Bingu wa Mutharika in particular has shown that he is committed to dealing with the issue. He warned that, 'if I catch you I will throw you in jail ... and I will take the keys so that you do not come back.'<sup>54</sup> The political commitment was also clear when he ordered the arrest of traditional leaders involved in organised crime rings and who in the past had been regarded as untouchable for political reasons. Moreover, the President dismissed the Minister of Defence, Bob Khamisa, because of his involvement in the fertiliser coupon scam. Following this presidential cue the police have been on the look-out to arrest those involved. Headlines such as 'Police bust fertiliser theft syndicate in Lilongwe',<sup>55</sup> 'Government exposes coupon syndicate'<sup>56</sup> and 'Police have stopped fertiliser and coupon racket'<sup>57</sup> attest to their success.

However, there is a need to strengthen this commitment so that a lasting solution can be found. First and foremost there is a need for a proper policy mechanism to direct the effective implementation of the programme, because at present the fertiliser subsidy programme 'lacks policy direction and a clear implementation mechanism ... [and there is an] ... inability to control the coupon system'.<sup>58</sup> The Principal Secretary for Agriculture has acknowledged the truth of this allegation, stating that 'we can not be having a policy for each and every programme. For the subsidy programme we have a strategy in place.'<sup>59</sup> Lack of such a policy creates loopholes for corruption on which organised criminal groups have capitalised and which they are still exploiting today.

The other matter that needs attention is improving the capacity of the police so that they are better equipped to stop such crimes. The use of modern technology has meant that organised criminal activities have become extremely complicated and sophisticated. Modern police equipment for detecting fake coupons would go a long way towards uncovering criminal groups since 'better surveillance and control ... reduce the opportunity for small-time organized crimes, which would affect larger organized crime operations'.<sup>60</sup> This will also help the police to be proactive in their approach to stopping organised crime rather than being reactive as is currently the case.

Moreover, most of the public sector actors join criminal groups merely to add to their meagre salaries. The problem is that civil servants are poorly paid, particularly in terms of ever-rising commodity prices. This tempts them to become involved with corrupt activities. However, the 'strategy in relation to corruption for all states should be the elimination of risk ... [requiring] ... the identification of weaknesses and vulnerable points'.<sup>61</sup> Better remuneration packages would go a long way towards reducing the susceptibility of civil servants to organised criminal activities. Better salaries will make corruption more costly and public officers harder to bribe.

## Conclusion

Through the corruption prevalent in the fertiliser subsidy programme in Malawi this article has demonstrated that there is a strong link between corruption and organised crime. Corruption both gives rise to organised criminal groups and works as a lubricant for the effective operation and survival of organised criminal groups. The problem has been exacerbated by the international dimensions of the crime and the fact that traditional leaders, politicians and government officials have been key players in the process, thereby intensifying the corruption/organised crime nexus. Consequently, the corruption and organised crime that have racked the fertiliser subsidy programme have had a negative effect, especially on the poor who depend on fertiliser for their subsistence farming. Because of corrupt practices they have limited access to a commodity that had in the past contributed to an improvement in their living conditions.

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