'Smoke and Mirrors': Tracking Beneficial Ownership and the Proceeds of Corruption, Preliminary Evidence from Nigeria

RUSI Presentation

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Thank you to everyone for taking part we have a very strong range of contributors and I am very much looking forward to an interesting debate and discussion and I really hope that we can use this opportunity to collectively shape future work in this important field.

Project Overview - Hiding the beneficial owner and the proceeds of corruption

- Question: *Can improvements be made to the identification and tracking of Beneficial Ownership to increase likelihood of recovering the proceeds of corruption?*

- Collaborative mixed methods cross-disciplinary project that aims to provide evidence for intervention

- Nature of problem of money flows and corruption
    - What international financial flows are explainable by legal trade– triangulation using BIS data. Can this help with estimates of IFFs?
    - What can we learn from cases of grand corruption. Triangulation using companies house and UK land registry data. Illustrative typologies for Nigerian-based known cases of grand corruption to feed into red flags *eg* networks and companies

- Nigeria's response to the problem (including BO)
    - How is the international normative AML framework applied within Nigeria
    - What is the operational reality for AC agencies, including their ability to access and share information – cradle to grave approach Banks/ investigators/prosecutors – meetings with 13 key agencies (missing EFCC)
    - Where might resources be focussed to maximise success of registers of beneficial ownership for example in improving records management

- Specifically aligned with today's workshop is the central question of beneficial ownership – who has what data to share and what benefit will they gain from sharing it!

Agencies, collaborations and operational reality over data

- From our prior research we posit that assessment of effective functioning on AML framework requires understanding of internal operational reality and organisational culture, entailing a more subjective approach. It is possible to be highly compliant without being 'effective' or indeed 'efficient'

- Only 40% adult Nigerians have bank accounts; shadow economy almost 50% GDP; GDP highly dependent on Oil – crude oil and petroleum account for 98% exports(2018) and 83% federal Govt Revenue *(links to uncertainty over budgets and resourcing);* largest single import is refined petroleum; tax ratio 5.9%. Few individuals pay income tax and only 9% of companies pay company tax.

- R24 framed in expectation of information sharing both between agencies within a single jurisdiction and between jurisdictions; R33 around collection of specific statistics on ML prosecutions/conviction/assets recovered

- To be useful information has to be up to date, accurate and accessible – data in Nigeria is hard to locate, if published it is out of date can be inconsistent (eg Currency Declaration Reports or assets recovered by EFCC) with misplaced emphasis on 'accuracy' down to 'pennies'.

Agencies, collaborations and operational reality over data

- High level of apparent compliance capturing a lot of data without it being useful.

  - Reporting requirements on banks are stringent. 2015 – 3.2m cash transaction reports (CTRs) but only 1,978 STRs. Have to report transactions above 5m Naira ($13k) individuals and 10m Naira for companies
  - Required to generate monthly reports on all PEP transactions. PEP identification difficult and given size of government sector, many fall into the category.
  - Currency Declaration Reports (CDRs) all sums leaving country above $10k to be declared 2014 $807.6 m declared (26.3k persons) majority for China except for BVI no OFC mentioned. Assumed these are licit; only $1.9m seized. How does that match to IFFs?
  - Asset declaration forms to the CCB for public officials very detailed yet of the 4-4.5m 'public officers' 2018 only 17,000 declarations received – manual record keeping (IMF data)

- Concept note set out overall opaque public administration, unreliable budgets and manual record keeping

Registries, Records and Beneficial Ownership

- **Karabo Rajuili Country Manager, Open Ownership – leading this section**
- <u>Other points to raise for discussion if needed</u>
- Companies house analysis of Nigerian Affiliated companies shows 3 individuals associated with more than 30 companies – this may reflect a small number of 'trusted' company formation agents; 'professional straw persons, or highly entrepreneurial individuals. Higher volume of companies associated with real estate and oil sector.
- Land registry overseas ownership data shows 152 held by companies registered in Nigeria (cannot see indirect ownership) – noticeable rise in purchase registrations 2012-2015 (74 or the 152).
- Nigerian Banks employ lawyers to search company records in Nigeria at on-boarding but acknowledged issues over accuracy.
- Nigerian Land ownership records limited – transfers of property not always recorded and 'registers' held at state level.
- Initial work on data capture fields by various agencies to see what is held and where there may be overlaps. It is highly intrusive in some of the details required while data that would be useful eg tax identification number hindered by limited compliance.

Grand corruption, getting beyond the 'PEP' label

- Cases shared by Human and Environmental Development Agenda (HEDA) involve individuals at both state and federal government level. Features a large number of state governors *(is it too tempting or too easy?)*

- Funds have been misappropriated for election bribes but in many cases mainly for property purchase and luxury assets in Nigeria and overseas.

- **Funds flow to the place where they can be enjoyed by the beneficial owner**

- Networks tend to be close and trusted social contacts or family as in the case of Diezani Alison-Madueke (petroleum minister) including professionals – bank manager and a property manager

- or through a work related network of collaborators where all share the proceeds as with Jolly Tevoru Nyame Governor of Taraba State.

Grand corruption, getting beyond the 'PEP' label

- Aware of the extensive potential number of PEPs but not all are 'equal' in their ability to exploit their position. Limited use of STRs but significance of petitioning to prompt investigation cultural context in action – reports comply with FATF requirements but action arises from a different process.

- Delaying tactics in courts through use of appeals, where cases dismissed lack of evidence (quarter of cases)– possible issues with evidence management.

- From EFCC /ICPC data on - 20 convictions take 1-12 years (mean 4.75); 6 acquittals (av. 6.3 years to process); 6 ongoing.

- Problems with asset management and no central data on assets recovered.

- Separately would support attention to methods of procurement (for government contracts) and contract allocation in the oil sector would be useful.

Grand corruption, getting beyond the 'PEP' label

- **Overall a 'sticking plaster' approach to deal will problems – create a new agency particularly in response to FATF and external pressure**

- **Federal and state government fiscal and other affairs are perversely made less transparent by the apparent attention to book keeping and written memos.**

- **What other changes would improve chances of success of the register – how useful would it be to private sector and how would it be deployed? How helpful to prosecutors?**

- **Operational level 'affinity' working group on intelligence sharing in connection with ownership disclosure.**