Review - Ill-gotten Money and the Economy

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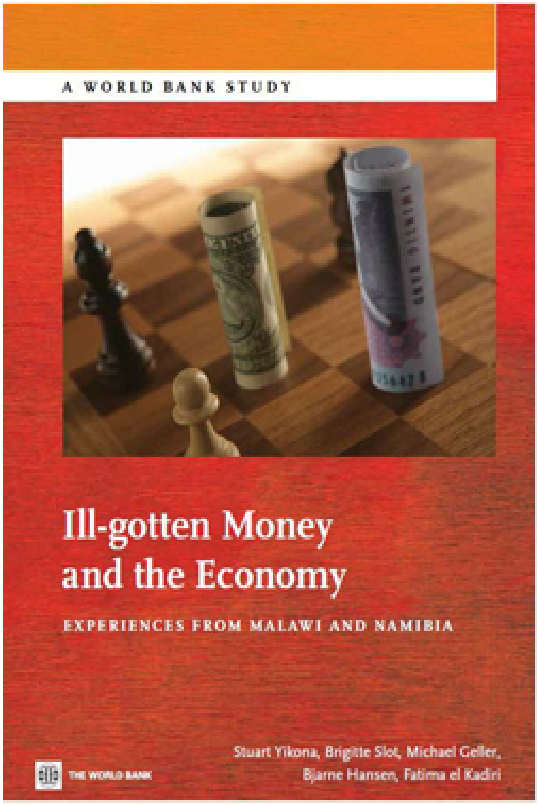
LUKE M. HERRINGTON, NOV 7 2012

Ill-gotten Money and the Economy: Experiences from Malawi and Namibia
By: Stuart Ikonoa, Brigitte Slot, Michael Geller, Bjarne Hansen, and Fatima el Kadiri
Washington, DC: The World Bank, 2011



One of the benefits of globalization, according to Moisés Naím, is the "swift movement of money," a fact enabling the integration of illicit money into the legitimate global financial system with ease. Many governments enacted and strengthened anti-money laundering (AML) policies in the aftermath of the terrorist attacks of 11 September 2001 (9/11), but unfortunately, these new laws have yet to change the status quo in any significant way.[1] In spite of this *prima facie* observation, understanding money laundering and the AML policies meant to restrict this illicit activity nevertheless remains an important endeavor, especially if it can help governments prioritize varying AML policies in an effort to improve their efficacy. Of course, this is exactly what authors, such as Stuart Yikona, Brigitte Slot, Michael Geller, Bjarne Hansen, and Fatima el Kadiri, set out to accomplish. In *Ill-Gotten Money and the Economy: Experiences from Malawi and Namibia*, a World Bank report on AML, the authors explain what AML is, how it has worked in the developing world, and the challenges countries like Namibia and Malawi face in the effort to prevent money laundering and criminal activity (1, 7).

"Ill-Gotten Money" and AML

According to Yikona et al., AML efforts are meant to track "ill-gotten money." Said differently, it follows the trail of "the proceeds of crime, fraud and corruption, and tax evasion—even when not criminalized in a given jurisdiction." Moreover, AML seeks to recover "assets derived from illegitimate activities" (3-4). In this spirit, AML policies have both a repressive and preventative purpose. In the case of the former, AML promotes financial intelligence gathering, a method of evidence collection that can be used by authorities to suppress the criminal activities associated with money laundering. In the latter case, AML acts as a deterrent by demonstrating that illegal activities are unprofitable endeavors, which thus prevents the injection of ill-gotten money into the legitimate economy (4-5).[2]

Of course, the international AML regime has a number of individual objectives of which Yikona et al. limn three. First, AML policies serve as a single tool in the fight to stop, prevent, and prosecute criminal activity, including corruption, fraud, and tax evasion. Second, the AML regime is meant to protect the global financial system from criminal influence vis-à-vis the protection of the international and domestic economies more generally. To elaborate, the chief aim of this second objective is to prevent the insertion of ill-gotten money into the legitimate economy. Third, the regime emphasizes transparency, and as such, "promote[s] the rule of law" and "contribute[s] to good governance" (5).

The FATF and the Framework of the International AML Regime

Though many countries have started tackling money laundering, doing so is definitionally difficult. In fact, Yikona et al. aver that "[m]oney laundering is an elusive concept," with an apparently subjective nature necessitating definitional elucidation. As such, a few definitions have emerged, including the "concealment definition," which simply states that money laundering is the process of obscuring the link between ill-gotten money and criminal activity, and a broader legal definition which sees money laundering as the "use *or possession* of illegally obtained money" (1-2). This ambiguity necessitated the formation of an international AML regime. Hence, most countries follow the United Nation's example by adopting the legal definition, and by passing legislation inspired by the Financial Action Task Force (FATF). Described as "the world's leading [AML] body," the FATF is an organization founded "to set standards and promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing and other related threats to the integrity of the international financial system" (2-4.[3]

The 40 + 9 recommendations of the FATF advocate the criminalization of money laundering, the establishment of Financial Intelligence Units (FIUs), and the procurement of the proper tools for authorities to recover ill-gotten assets among other measures. Though AML policies are often treated synonymously with the FATF 40 + 9 recommendations, and while they are essentially two sides of the same coin, the latter represents the legal framework for the entire regime, thus highlighting the reason why general economic approaches to AML can have different, yet complimentary goals and roles (4-5).

Ill-Gotten Money in Malawi and Namibia

Yikona et al. present two case-studies, including one on Malawi and one on Namibia. Both countries, they argue, have a good start on AML. However, they offer unique cases, as their levels of economic development differ dramatically. While Malawi is poor on the one hand, "Namibia is an upper-middle-income country" on the other. Both countries have heavily cash-oriented economies, but Namibia has a smaller shadow economy, larger number of ATMs, and wider financial inclusion. Of course, Malawi does have a smaller GINI coefficient than does Namibia, and its annual GDP growth rate is larger, but unfortunately, it has a higher level of perceived corruption. Also of note, international business ties in Malawi tend to be more regionally focused, while Namibia has ties with Europe, South Africa, and Angola. Interestingly enough, these business ties have a similar impact on both countries. Both, consequently, are more susceptible to illicit business activity. As noted earlier, globalization has enabled transnational criminal activity to move easily along the same economic vectors as legitimate financial interests. Despite the gulf that separates these two countries, Yikona et al. maintain that they still warrant comparison. Both "have demonstrated a strong commitment to establishing an AML framework," and the criminalization of money laundering in both countries is in line with the global AML regime. Moreover, in both countries the implementation of

AML policies is hindered by the competition for scarce government resources (7, 19-21).[4]

Additionally, both Malawi and Namibia face similar challenges in the effort to improve their financial integrity, including the widespread use of cash currency. The other key challenges government officials in Malawi face include using AML as a "tool in following the proceeds of corruption," ensuring that "gatekeepers" in cash-intensive industries complete suspicious transaction reports, adjusting the framework to meet the needs of a cash economy, and developing more proactive FIUs. It almost goes without saying that these same challenges are exacerbated by the criminal activities injecting ill-gotten money into the economy. Again, in Malawi, for instance, the three chief sources of ill-gotten money—corruption, tax fraud, and cannabis production—very obviously act as challenges to the government's effort to improve the state's financial integrity. Yikona et al. argue that other forms of illicit activity include motor vehicle theft, violent burglaries, human trafficking, and labor exploitation, but the data on these specific crimes for profit are fewer and less accurate. Nevertheless, assert Yikona et al., anecdotal evidence on matters such as theft and armed burglary indicates an alarming increase in these crime rates, revealing additional challenges (28, 39, 48, 85).

Like Malawi, corruption is the largest problem Namibia faces, and the country also struggles with a large tax gap. Indeed, tax evasion is the largest single source of ill-gotten money in the country. Other forms of organized crime persist, but Namibia is particularly vulnerable to the inflow of ill-gotten money from abroad. Though anti-corruption measures are a major government priority, corruption in Namibia is eroding confidence in the government, creating the potential for environmental harm, leading to inflation within the real estate market, and fostering political entrenchment. Other organized criminal activity includes drug trafficking and diamond smuggling. Cross-border money flows are particularly damaging to Namibia's reputation, as it is being transformed into "a secure place to invest ill-gotten money for other nationals including Europeans." In spite of this, the primary challenge still faced by Namibia in establishing a successful AML framework is that it has to be able to use AML policies as a tool to trace the proceeds of the above mentioned corruption and tax evasion (58, 60-61, 67-68, 70-71, 76).

AML in Malawi and Namibia: Meeting the Challenge

Though the challenges in both Malawi and Namibia remain great, both countries have already taken the proper first steps to establishing a sturdy and reliable AML framework. In 2006, Malawi enacted the *Money Laundering Proceeds and Serious Crime and Terrorist Financing Act*, criminalizing money laundering. An FIU established in 2007 processes information from the financial sector, and transmits it to law enforcement authorities, empowering them to prosecute financial crimes. The Malawi framework should also be applauded for its inclusion. The National AML and Combating the Financing of Terrorism Committee counts the Malawi Police Service, the Ministry of Finance, the FIU, the Reserve Bank of Malawi, the Anti-Corruption Bureau, the Ministry of Foreign Affairs, and others among its membership. Moreover, "[b]anks, lawyers, notaries, and other independent legal professionals, accountants, casinos, dealers in precious metals and stones, and real estate agents… are obliged to file suspicious transaction reports," which have helped to crack down on fraud, illegal foreign exchange dealings, and human trafficking (26-27).

Namibia too, has made strides in establishing an AML framework capable of thwarting the flow of ill-gotten money. In 2004, it passed the *Prevention of Organized Crime Act*, which criminalizes money laundering and imposes strict reporting obligations on matters associated with suspected unlawful activity. The *Financial Intelligence Act* of 2007 mandates that businesses and financial institutions develop policies and procedures meant to crackdown on the flow of ill-gotten money. Finally, it has brought a wide swath of the economy, including casinos, real estate agents, stock brokers, *inter alia*, under the state's AML requirements (58).

Even if these efforts remain incomplete, they seem to be working. Yikona et al. show that using AML as a tool in recovering stolen or lost revenue works in both Namibia and Malawi, as well as globally. Of course, AML is no panacea, and must remain complimentary to other efforts aimed at tackling the root causes of criminal activity and corruption (82-83), but the authors are certainly justified in recommending a wider strategy for AML development in the developing world. That said, the comparative approach employed by Yikona et al. is hamstrung by the transnational nature of terrorism and organized crime. This shortcoming might have been addressed through wider reference to the international AML regime, or by scaling the levels of analysis to feature a chapter on the subject. Moreover, though international relations theory is alluded to through reference to an international AML *regime*, the authors' research lacks theoretical robustness. Of course, *Ill-Gotten Money and the Economy* is a World Bank report, so it is likely that their audience has little time for, and holds little interest in, academic theorizing. Nevertheless, their book could have benefited from the application of regime theory. Perhaps a separate article on the subject could be used to rectify this shortcoming. In spite of these shortcomings, *Ill-Gotten Money and the Economy* represents an erudite contribution to the research on counter-terrorism, regimes, and the efforts to apply the research of International Political Economy to the problems of transnational organized crime. Likely written for an audience of policymakers, NGOs, and international activists, this book would make an excellent contribution to any course on globalization, regimes, African development, counter-terrorism, or transnational organized crime. Indeed, it ought to be well-received among IR students everywhere, as its incredible brevity makes for a very fast, and engaging, read.

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[1] Moisés Naím, *Illicit: How Smugglers, Traffickers, and Copycats are Hijacking the Global Economy* (New York, New York: Anchor Books, 2005), 134; and Moisés Naím, "It's the Illicit Economy, Stupid: How Big Business Taught Criminals to Go Global," *Foreign Policy*, 9 November 2005, available from <http://www.foreignpolicy.com/articles/2005/11/09/its_the_illicit_economy_stupid>; Internet; accessed 18 June 2012.

[2] See especially, "Figure 1.3. What is AML?"

[3] Also see The Financial Action Task Force, "Who We Are," 2012, available from <http://www.fatf-gafi.org/pages/aboutus/>; Internet; accessed 22 June 2012.

[4] See especially, "Figure 2.3. Malawi and Namibia At-A-Glance, 2009."

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Dr. Luke M. Herrington is an Assistant Professor of Social Science at the School of Advanced Military Studies (SAMS) at Ft. Leavenworth. A political scientist and international relations scholar by training, he received his PhD from the University of Kansas. His research and teaching interests focus on political violence and extremism, religion in comparative and international politics, theories of great power conflict, and the role of various beliefs and attitudes (e.g., tolerance) in political life and development. His most recent work explores the negative impact of conspiracy theory on American national security.