

# OBSERVATORY OF ILLICIT ECONOMIES IN EASTERN AND SOUTHERN AFRICA



## RISK BULLETIN

### SUMMARY HIGHLIGHTS

- 1. Why did two major ivory trafficking cases in Tanzania collapse, with one conviction quashed and the other resulting in only a small fine?**

Developments in two headline-grabbing ivory trafficking cases in Tanzania are not what conservationists might have hoped for. The conviction of Boniface Mathew Malyango, known as 'Shetani', was quietly overturned in 2020. Shetani was alleged to be one of the most prolific ivory traffickers in the world and became globally infamous after featuring in the documentary *The Ivory Game*. Mateso 'Chupi' Kasian – also allegedly responsible for thousands of elephants killed in Tanzania and Mozambique – was deported from Mozambique to Tanzania and faced wildlife trafficking charges as a result of years of investigations by regional authorities and conservation organizations. However, his recent conviction resulted only in a small fine. Both cases highlight the challenges faced by major wildlife trafficking investigations in the region.
- 2. The assassination of William 'Red' Stevens: a violent entrepreneur who symbolized South Africa's evolving gang culture.**

William 'Red' Stevens, a 'general' in the 27s gang, was gunned down in northern Cape Town on 2 February 2021. The 27s are one of South Africa's notorious prison 'number' gangs – made up of the 26s, 27s and 28s. Stevens's career provides a lens into the traditions and culture of these gangs, as well as showing how individual gangsters can reshape these traditions to their own advantage.
- 3. Drug pricing data: why the methodology matters.**

Data on drug prices has real-world impact. In several countries in East and southern Africa, the estimated value of drugs can have a direct impact on sentencing of offenders. Price data can
- also give an insight into how drugs markets work. But such data is not often widely available and the methodologies used to generate such data leave much to be desired. The GI-TOC has been developing new methods of conducting drug pricing surveys that involve people who use drugs (PWUD). This method responds to calls by PWUD and civil society organizations for PWUD to be meaningfully involved in drug research and policymaking.
- 4. New findings on the supply of methamphetamine from Afghanistan to South Africa.**

South Africa is home to the largest and most established meth consumption market in East and southern Africa. New GI-TOC research has found that meth consumption is far more widespread and markets far better established across the region than previously understood. Interviews with meth importers and suppliers also cast light on the emerging supply route by which meth produced in Afghanistan is trafficked to southern Africa.
- 5. Some groups are advocating for new international frameworks on illegal wildlife trade. What impact would this have in practice?**

Some conservation groups are advocating for a new international legal framework to counter illegal wildlife trade, namely, a fourth dedicated protocol of the UN Convention against Transnational Organized Crime (UNTOC). Yet what would the impact of a new legal framework be? As well as drawing upon in-house expertise amassed from monitoring the developments of the UNTOC, the GI-TOC also conducted interviews with a number of law enforcement investigators working in East Africa to assess if and how they see such an initiative impacting on police investigations into illegal wildlife trade.



## ABOUT THIS ISSUE

Collecting accurate, reliable information on illegal markets is no straightforward task. In this issue of the Risk Bulletin, we seek to explain how the GI-TOC has developed methods – working with networks of people who use drugs – to collect up-to-date information on retail drug prices and the shifting dynamics of drug markets. Information on drug prices has real-world impact: in at least three countries in East and southern Africa, the value of drugs involved in an offence has a direct effect on either the offence charged or on sentencing. Our monitoring of the market for methamphetamines has also uncovered how vast regional consumption for this drug really is, and how this market is now being fed by global supply chains, connecting to as far as Mexican drug cartels and Taliban-controlled areas of Afghanistan.

We also look at how two major ivory trafficking cases being prosecuted in Tanzania seem to have collapsed, with the conviction of ‘Shetani’ – believed to be one of the most prolific ivory traffickers in the world – being overturned, and another suspected trafficker, Mateso ‘Chupi’ Kasian, being convicted on possession charges but only given a cursory fine. Both cases faced the recurring challenges that have affected many other wildlife trafficking cases: issues of corruption, lengthy delays in court cases and problems in the preparation and presentation of evidence.

### 1. Why did two major ivory trafficking cases in Tanzania collapse, with one conviction quashed and the other resulting in only a small fine?

Developments in two major ivory trafficking cases in Tanzania are not what conservationists might have hoped for. The conviction of Boniface Mathew Malyango, known as ‘Shetani Hana Huruma’ (‘the Devil has no mercy’ in Kiswahili), was hailed by conservation organizations as a victory in 2017,<sup>1</sup> with Shetani described as one of the ‘biggest ever illegal ivory traders’.<sup>2</sup> However, his conviction was quietly overturned in mid-2020: a development that went largely unreported in the press.

Likewise, Mateso ‘Chupi’ Kasian was extradited from Mozambique to Tanzania in 2017 to face prosecution

This also raises questions for civil society: many conservation NGOs were involved in building the cases against Shetani and Mateso, and celebrated Shetani’s initial conviction. Yet, the eventual outcome of both cases passed with little comment from the media, NGOs or international partners. Is there an excessive focus on arrests and initial prosecutions, and not enough monitoring of the long, drawn-out legal processes that these cases often involve?

Both the Mateso and Shetani cases required cross-border cooperation between law enforcement. Some civil society organizations are currently pushing for a new international legal framework for wildlife crime that would, it is argued, help such cooperation to take place. In this issue we look into these proposals and draw from interviews with law enforcement on what they see as the building blocks to successful cross-border investigations.

Finally, we also report on the assassination of William ‘Red’ Stevens, a ‘general’ in the notorious 27s gang. The 27s are one of the infamous ‘number’ gangs, which are a powerful force in South Africa’s prisons and in its wider criminal landscape. The number gangs have a long, complex history and a unique gang culture. Stevens’ death, and its aftermath, shows how this culture works today and gives us an opportunity to understand the role of the number gangs in South Africa.

in what was, at the time, seen as a major victory for regional cooperation against wildlife trafficking. However, his prosecution only led to a TZS 500 000 (US\$215) fine – a small sum compared to the enormity of the trafficking operation he supposedly controlled.<sup>3</sup>

Both cases highlight the significant challenges that major wildlife trafficking investigations often face, including corruption, delays in prosecution and poor evidence handling. Support and political pressure from international partners and NGOs have primarily focused on arrests and initial prosecutions, rather than on the follow-up to legal cases.

## THE SHETANI CASE

Shetani became globally infamous as a result of the Leonardo DiCaprio-produced documentary *The Ivory Game* and was reputed to have killed or ordered the killing of up to 10 000 elephants, and to have controlled poaching gangs in Tanzania, Burundi, Mozambique, Zambia and southern Kenya. He was arrested with his two brothers in October 2015 in Tanzania and convicted in 2017 on charges of 'leading organized crime' and 'unlawful dealing in government trophies'.<sup>4</sup> The particulars of the case charged Shetani with collecting, transporting and selling 118 elephant tusks worth almost US\$1 million. He and his brothers were sentenced to 12 years in prison.<sup>5</sup>

Conservation NGOs welcomed Shetani's conviction as a sign that Tanzania was taking a stance on ivory trafficking. 'This prosecution sends out a strong message that Tanzania's authorities are taking [poaching] seriously and are working to eliminate poaching in the country', said Amani Ngusuru, WWF-Tanzania country director, in a statement at the time.<sup>6</sup>

However, in a judgment on 18 June 2020, the Court of Appeal of Tanzania in Dodoma quietly quashed the convictions of Shetani and his brother, Lucas Mathayo Malyango.<sup>7</sup> There was almost no media coverage of the appeal case.<sup>8</sup>

The initial prosecution had relied on three key pieces of evidence: 1) a confession that Shetani made to police officers upon his arrest that he was involved in the ivory trade; 2) a caution statement where he again confessed to police and described how he used special

compartments in his modified cars to transport pieces of ivory; and 3) physical evidence taken from Shetani's car, in which a whitish substance had been found that was determined by a sniffer dog and then by chemical analysis to be ivory shards.

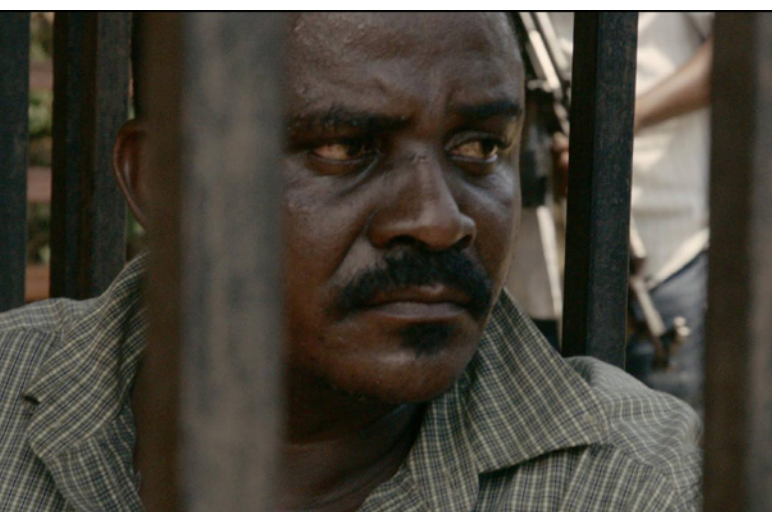
In an appeal to the High Court, the first appeal judge had expunged the caution statement, on the grounds that it was not properly determined that it was given voluntarily. In the Court of Appeal hearings, the State attorney conceded that this caution statement was presented by the prosecution in the hope that it would prove that Malyango dealt in the 118 ivory tusks in question. It was, in short, a key piece of evidence connecting Malyango to a criminal enterprise.

The Court of Appeal judge then found that the physical evidence from the sniffer dog and chemical analysis, showing ivory shards found in the car, would also have to be discounted. The chain of custody of the car had been broken since it was searched only several hours after the car was seized, after it had been driven to a police station in Dar es Salaam.

The Court of Appeal judge also ruled that, while Shetani's oral confession to police was admissible evidence, it was not enough for a conviction by itself. Without the physical evidence from the car, the judge found that there was insufficient proof that Shetani was part of an organized crime group involved in the collection and sale of the ivory in question.

According to Shamini Jayanathan, a Kenya-based criminal barrister working on illegal wildlife trafficking, the appeal judgment points out several major evidential problems: a lack of forensic examinations, issues with chains of custody in key evidence and the over-reliance on confessions. 'The basics of "points to prove" seem to have been missed, with no evidence adduced of key elements of the offence', such as transport, collection or sale of the ivory, says Jayanathan.<sup>9</sup>

In her view, this stems from issues with police training. 'In my experience, there is very little training done on interviews of suspects and the need to build a case regardless of what a suspect may say. There are no measures of recording of interviews or codes of practice regarding treatment of suspects (and ideally, video recording of their interviews in police detention) to contradict allegations of mistreatment or pressure.'



Boniface Mathew Malyango, known as 'Shetani', was alleged to be one of the major ivory traffickers operating in East Africa. Photo: Terra Mater Factual Studios / *The Ivory Game*

Where international support and mentoring is provided for wildlife trafficking cases, this is primarily focused on wildlife agencies and not the national police.

Other experts monitoring wildlife trafficking cases in East Africa also argued that the other elements of the case that posed problems – such as presenting testimony from sniffer dog handlers or maintaining proper chain of custody over physical evidence – also indicate issues with police training.

‘Shetani’ has since been released from custody, as his conviction has now been quashed by the highest court in Tanzania.

### THE MATESO CASE

In late November 2020, a judgment was made in an appeal case in the High Court of Tanzania at Mtwara, a small port city near the Mozambique border.<sup>10</sup> The appeal was filed by Tanzania’s Director of Public Prosecutions against Mateso Kasian (also known as ‘Chupi’ which means ‘underwear’ in Kiswahili), with the aim of increasing the penalty of his 2019 conviction on ivory trafficking charges.

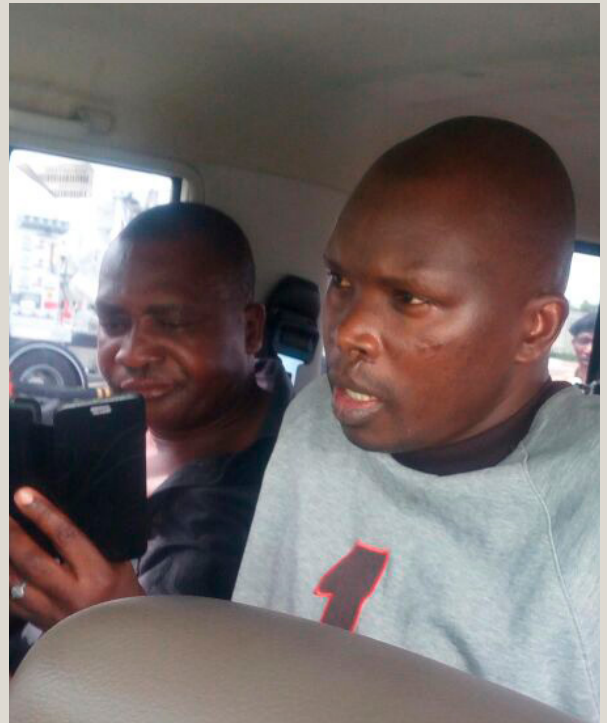
Mateso had been sentenced to pay a fine of TZS 500 000 (US\$215) and to forfeit two houses in Dar es Salaam and Liwale. This, the prosecutors argued, was insufficient, since the guidelines for sentencing this offence under Tanzania’s wildlife crimes legislation recommend a fine of no less than twice the value of the ‘trophy’ or wildlife product involved: in this case, TZS 777 600 000 (US\$335 000).

The judge disagreed: the ruling stated the prosecution’s case was baseless, since (despite Mateso’s long, documented history of arrests and involvement in wildlife trafficking) he had no previous wildlife trafficking convictions, he had pled guilty and because the ‘recommended fine’ is not a mandatory sentence. Not only that, but the judge found that the original order for forfeiture of Mateso’s houses did not properly specify the properties, and so was quashed. As such, the TZS 500 000 fine remained the only penalty. The judgement did not describe the reasons why the penalty imposed differed so much from the recommended fine, even if such a fine is not ‘mandatory’.

The prosecution brought against Mateso was the product of years of work on behalf of Tanzanian and Mozambican investigators and conservation NGOs,<sup>11</sup> investigating him for orchestrating the slaughter of hundreds, possibly thousands, of elephants in southern Tanzania and Mozambique since 2012.<sup>12</sup>



Ivory trafficker Mateso ‘Chupi’ Kasian’s passport, certifying that he is a Tanzanian citizen. He was deported from Mozambique after serving a short sentence relating to a fraudulently acquired Mozambican identity card. Photo: Supplied



Mateso ‘Chupi’ Kasian after his deportation to Tanzania, where he was then taken into custody on ivory trafficking charges in 2017. Photo: Supplied



Mateso, a Tanzanian national, was reportedly originally running elephant-poaching gangs in southern Tanzania. According to coverage of his trial in 2018 in Lindi, Mateso was arrested in 2008 in possession of elephant ivory in Liwale, southern Tanzania, before evading capture and escaping over the border to Mozambique.<sup>13</sup>

Mateso then shifted his operation to Mozambique, reportedly in order to evade investigations by Tanzania's National and Transnational Serious Crimes Investigation Unit (NTSCIU), between 2013 and 2014. Having fraudulently obtained a Mozambican identity card, he settled in northern Mozambique and allegedly directed numerous elephant-poaching gangs in Niassa Special Reserve at the height of the elephant-poaching crisis in the area.<sup>14</sup>

In September 2014, a poaching gang was arrested near Niassa Special Reserve in possession of a notebook detailing Mateso's name in connection with a 300-kilogram shipment of ivory. Interviews with suspects suggested that he was running up to five poaching gangs in the park, which were highly organized and well-equipped. Mateso was reportedly supplying ivory to both Chinese and Vietnamese trafficking syndicates moving ivory out of Mozambique.<sup>15</sup>

These developments were followed by over two years' work by Mozambique's National Criminal Investigation

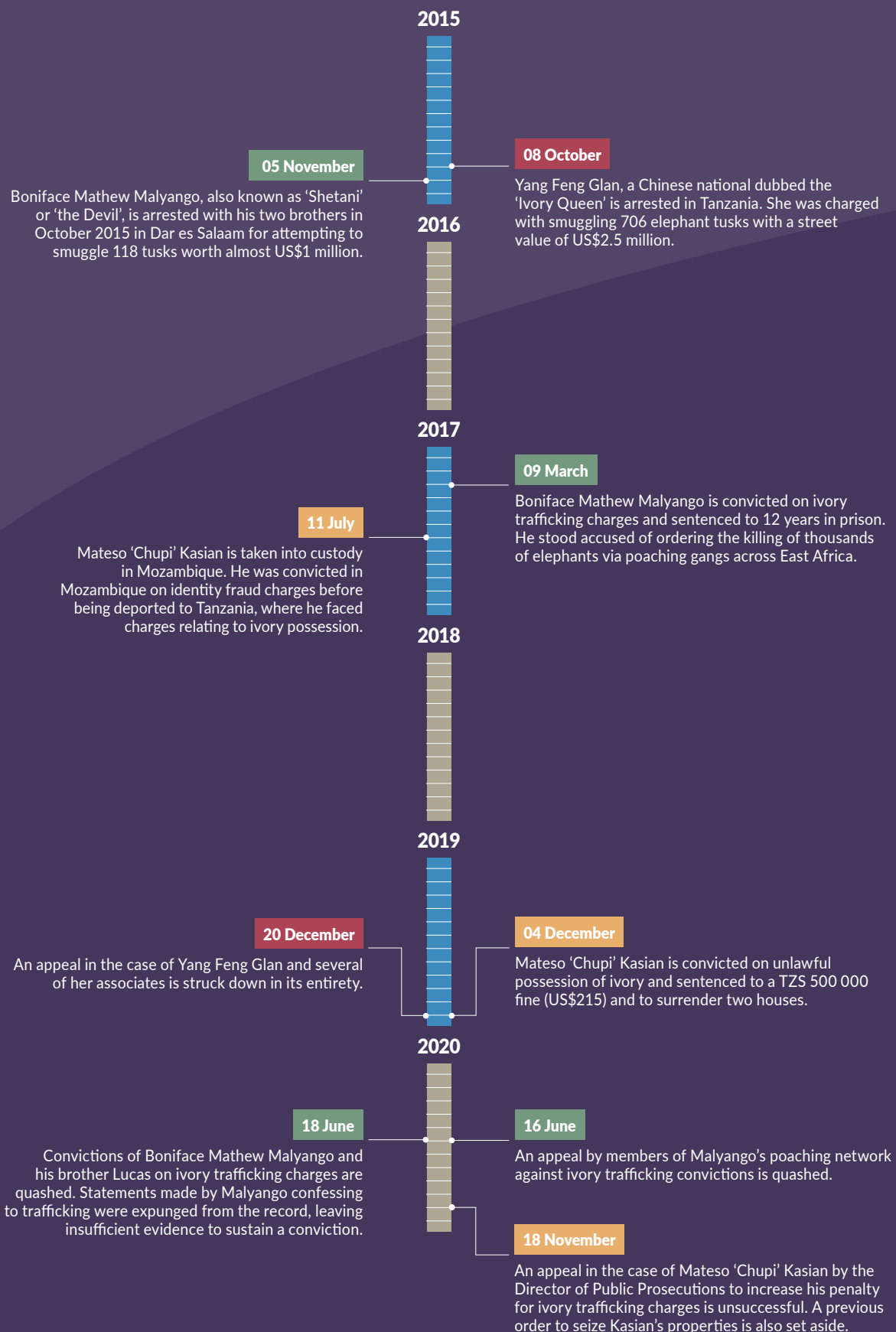
Service (SERNIC), Mozambique's National Administration of Conservation Areas and Tanzania's NTSCIU, and conservation organizations including the Wildlife Conservation Society, the PAMS Foundation and Luwire Conservancy. Mateso was taken into custody by SERNIC in northern Mozambique on 11 July 2017.<sup>16</sup>

During these investigations it apparently became clear that Mateso was well protected by corrupt police and local government officials.<sup>17</sup> The decision was made by the Mozambican authorities that, due to the risk of corruption impeding a wildlife trafficking prosecution, Mateso would only be charged in Mozambique over his fraudulently acquired identity card. Following a short spell in prison in Mozambique on the identity fraud charges, Mateso was deported to Tanzania, where he then faced wildlife trafficking charges.

At the time, this was seen as a major victory for regional cooperation, for conservation NGOs supporting wildlife trafficking prosecutions and for circumventing corruption issues. The enormity of the work involved in prosecuting Mateso, and the extent of the wildlife offences he has reportedly been responsible for, are at odds with the ultimate result of his prosecution. He remains in custody pending the decision of the Court of Appeal, and the outcome of another pending case with the Resident Magistrate Court at Lindi.



From 2009 to 2014, Mozambique lost nearly half its elephants – including this one in Niassa Special Reserve – to poaching. Mateso 'Chupi' Kasian was accused of running several poaching gangs operating within the reserve. *Photo: Alastair Nelson*



**FIGURE 1** Highlighted ivory trafficking cases in Tanzania, 2015–2020.

NOTE: The arrests of Boniface Mathew Malyango, Mateso 'Chupi' Kasian and Yang Feng Glan were hailed as some of the most significant arrests of ivory traffickers in East Africa.

## LESSONS LEARNED FROM THE MATESO AND SHETANI CASES

Both Shetani and Mateso were landmark cases challenged by corruption – a challenge that continues to bedevil wildlife trafficking investigations in the region and globally. Corruption of key officials in Mozambique was the reason Mateso was deported to Tanzania rather than facing trafficking charges, but this left the Tanzanian authorities facing the quandary that Mateso's most recent ivory-poaching activities were in Mozambique, outside their jurisdiction. Corruption was also key in enabling 'Shetani' to run his alleged smuggling operation at such a large scale.<sup>18</sup>

The problems of evidence-gathering (which brought down the Shetani prosecution) have also been seen in other major cases in the region, including several in Kenya.<sup>19</sup> As Jayanathan's assessment of the Shetani appeal suggests, this may be linked to systemic issues of police training.

Both cases faced long delays in prosecution proceedings, with judgments made years after the initial arrest for criminal activity that stretched back many years. Similar delays have been seen in other significant ivory trafficking cases in East Africa.<sup>20</sup> These delays pose a serious challenge to prosecutors bringing credible evidence and reliable witnesses to trial.

Questions can also be raised in both cases about the penalties applied. In Tanzania, offences relating to dealing in ivory (for which both Shetani and

Mateso were convicted) not only fall under wildlife conservation legislation but are also treated as 'economic crimes', following amendments to Tanzania's Economic and Organized Crime and Control Act (EOCCA). The penalty under the EOCCA for such offences is between 20 and 30 years imprisonment, yet this was not applied in either case.<sup>21</sup>

It should be noted that other sentences in major ivory trafficking cases in Tanzania have been upheld. A judgment on an appeal of Malyango's ivory trafficking network, judged in the same week as his own appeal, upheld the charges against his associates.<sup>22</sup> Similarly, an appeal in the case of Yang Feng Glan – a notorious ivory trafficker known as 'the Ivory Queen' – and her associates was struck down in its entirety in December 2019.<sup>23</sup>

These cases highlight the challenges in investigating and successfully prosecuting cases against suspected organized wildlife criminals in countries with weak rule of law and entrenched corruption. The efforts required to overcome the corrupt environment and build a case that leads to an arrest and successful prosecution are immense. Yet more can be done to build the capacity of investigators and the prosecutors to build the cases more effectively, on meaningful charges, to ensure that they do not later collapse in court or on appeal. Support, observation and political pressure by civil society, throughout the full legal process, also plays a role.

## 2. The assassination of William 'Red' Stevens: a violent entrepreneur who symbolized South Africa's evolving gang culture.

On 2 February 2021, William 'Red' Stevens – a 'general' in the notorious 27s gang – was sitting outside his home in Kraaifontein, a northern Cape Town suburb, when three gunmen shot him dead. On the night following the assassination, the area saw shootouts between rival gangs, with videos shared widely on social media.<sup>24</sup> These were reportedly reprisals sparked by the hit on Stevens: in the words of one source familiar with the workings of the 'number' gangs, '[Stevens's] blood must be picked up'.<sup>25</sup> Albert Fritz, the Minister of Community Safety in Western Cape, called for calm in Kraaifontein.<sup>26</sup>

Steven's death is a significant one. His criminal career, his death and its aftermath not only reveal much about the mythology and traditions of the number gangs, but also show how individual gangsters such as Stevens can bend those traditions in establishing their own criminal enterprise.

### BREAKING THE BOUNDS OF GANG TRADITION

The 27s, also known as the *manne van son-op* ('the men of sunrise'), are one of South Africa's infamous 'number' gangs – the 26s, 27s and 28s – that originated in





Members of the 27s gang surround the coffin of William 'Red' Stevens, a general of the 27s who was assassinated in early 2021.  
Photo: Facebook

South Africa's prisons and are a powerful force in Cape Town's underworld. In their over 100-year history, these number gangs have developed an intricate set of traditions that continue to be followed today. Many of these are centred around the military-style hierarchies adopted by the gangs.<sup>27</sup>

This militaristic ethos was in evidence at Stevens's funeral, which was attended by over 2 000 people, many of whom were members of the 26s and 27s gangs. Stevens's coffin was carried by four generals of the 27s gang. Gang members performed a ceremony, which included symbolic gestures such as the stamping of feet and a 'folded arm' stance (symbolizing a broken arm, a sign of mourning): this took the place of the customary 21-gun salute performed by other senior gang members, which could not be carried out because of heavy police and army presence around the funeral. The funeral also highlighted the mythological aspects of the number gangs' tradition, with the ceremony according Stevens 'ancestral status' in the gang's history.<sup>28</sup>

According to 'number' tradition, different number gangs have different roles within prisons. According to sources familiar with the gang, the 27s have long been considered as the 'enforcers of the law'.<sup>29</sup> The 27s use violence to negotiate better conditions for prison

inmates and to enforce order among the other number gangs and non-gang-affiliated prisoners.<sup>30</sup>

Over time, relationships between number gangs and street gangs have evolved. Many street gangs today have a 'shadow' affiliation with a number gang – either the 26s or 28s – and many number recruits re-join their old street gangs upon their release from prison.<sup>31</sup> No street gangs are affiliated to the 27s, who often regard themselves as the true holders of the 'number' traditions.

Street gangs also changed the state of play within prisons, with incarcerated leaders of street gangs offering the number gangs payment in exchange for protection and other favours. Some argue that the street gangs have 'corrupted the number system' and caused the strict orthodoxy of the number gangs to change.<sup>32</sup>

Other number gangs, in particular the 28s, have become notorious and highly profitable criminal enterprises outside of the prison bounds. The 27s, by contrast, have not become so prominent. 27s members, known for their violence in prison, often join street gangs, affiliated to other 'numbers', as violent enforcers on their release.<sup>33</sup>



But Stevens took a different approach. According to sources close to Stevens, he initially joined the 26s gang in prison, but then converted to the 27s. Leaders of the gang at the time had earmarked him as a recruit allegedly for his propensity for violence. In the words of one member of the 27s, 'In prison "Red" took blood and stabbed his way into the 27s gang, abandoning the 26s ... so now he was versed in both the 26 and 27 foundations'.<sup>34</sup> He attained the highest rank – general – in the 27s while in prison, and on his release ran the 27s' street operations in Cape Town.<sup>35</sup>

Once on the street, Stevens capitalized on the gang's strength as enforcers to sell protection to other gangs. According to one 27s member, "'Red" was different, he saw how the *gedagte* [policy] of the 27s [as enforcers within prisons] kept them away from money on the streets and so he reformatted himself as a stand-alone 27s gang on the streets and sold his assassins to the highest bidder. It was never done like that before.'<sup>36</sup> Through this, Stevens's band of 27s members was able to make money in a way more commonly seen among the 26s and 28s gangs. However, not all 27s on the streets embraced Stevens's strategy.

### THE SIGNIFICANCE OF THE ASSASSINATION

There are various theories as to the motive behind Stevens's assassination. South Africa's organized-crime police unit, the Hawks, have stated that they are investigating the possibility that it was connected to the prosecution of a murder case: that of steroid smuggler Brian Wainstein, who was killed on 18 August 2017.<sup>37</sup>

Sixteen suspects were arrested in connection with the Wainstein murder, reportedly including several hitmen belonging to the 27s gang.<sup>38</sup> Most prominent among the accused were Stevens, alleged underworld figure and oft-described 'controversial businessman' Mark Lifman and Jerome 'Donkie' Booysen, the alleged leader of the Sexy Boys street gang.<sup>39</sup> The arrest of three major underworld figures all together made headlines in December 2020.<sup>40</sup>

All three suspects – Stevens, Lifman and Booysen – were released on R100 000 (US\$6 800) bail later that month. Days later Booysen was the target of an attempted hit,<sup>41</sup> and about a month later Stevens was assassinated.

Booyesen was again arrested along with five others on 18 February 2021 on separate charges, in what is considered a major drug operation by the Hawks. He now faces 96 charges relating to drug trafficking and dealing along with the five men arrested with him, and has in the past been arrested on similar charges.<sup>42</sup> Booysen has received widespread attention in South African media for various alleged criminal activities and also for being the target of more than nine separate assassination attempts, one of which made headlines when hitmen targeted him at Cape Town International Airport.<sup>43</sup>

The Wainstein murder case is part of a large-scale, ongoing, organized crime-related prosecution relating to activities in 2017. The charges allege that the accused (including Booysen, Lifman and the late Stevens) conducted operations across a wide area of Cape Town, contributing to a pattern of violent, organized criminal activity.<sup>44</sup> It has been reported that, at the time, Booysen and Lifman were involved in a struggle for control of Cape Town's lucrative nightclub security market (and the connected extortion rackets) with a group involving businessman Nafiz Modack and Booysen's own brother, Colin Booysen.<sup>45</sup> Modack and his associates were arrested on charges relating to extortion in December 2017, but were subsequently acquitted.<sup>46</sup> Lifman and Stevens (along with another accused, Naude) were accused of conspiring to murder Modack and his associates in November 2017.<sup>47</sup>

Underworld sources assert that Stevens was assassinated because 'his men' – the 27s members accused of carrying out the Wainstein murder – had turned state's witness and given the names of those who purchased the hit on Wainstein to the police, naming them as Lifman and 'Donkie' Booysen. According to a member of the 27s (who is also a member of the Americans street gang) "'Donkie" is a 26 and so the 27s don't really care about giving them up, because they were going to jail anyways'.<sup>48</sup> Another source argued that there was a money-related dispute between Lifman, Booysen and Stevens.<sup>49</sup>

There are also other theories surrounding the assassination, which can offer insight into the roles and rivalries of the number gangs. Some sources in the area assert that some members of the 27s have accused the 28s of carrying out the hit on Stevens as part of the continuing bad blood between the gangs.<sup>50</sup> Shootouts in the immediate aftermath of the hit were reportedly between the 27s and 28s.<sup>51</sup>

Other sources suggest that the hit was connected to the rules governing how number prison gangs can operate as street gangs. As a leader of the 27s, Stevens was also a powerful figure governing the activities of the 26s, which is reportedly in some way governed by the 27s and 28s. Stevens reportedly opposed a move for the 26s to begin operating as a street gang, as this 'contradicted the old scripture' governing the numbers.<sup>52</sup> This angered 26s members who stood to gain power and wealth from being part of a 26s street gang.<sup>53</sup>

**THE AFTERMATH**

The hit on Stevens is the highest-level assassination to target the 27s gang, and an example of the broader upheaval underway in South Africa's underworld. Several major leaders who have controlled South Africa's gang structures for decades have been targeted and killed, including leader of the Hard Livings gang Rashied Staggie, who was shot dead in Cape Town in 2019, and Ernie 'Lastig' Solomon, the leader of the Terrible Josters, who was shot dead in November 2020.<sup>54</sup>

Steven's death will have repercussions within the 27s gang. Following the reprisals reported after the hit, the 27s entered into a formal period of mourning, according

to a source familiar with the gang.<sup>55</sup> This is ordered by senior gang members, and over seven days inmates will shave their heads and fighting within prisons is kept to a minimum. After the week of mourning, senior gang members hold meetings to strategize and investigate the hit. They may order actions such as an increase in *stambula* (intensified gang recruitment).

The death of Stevens may also lead to other members being promoted. Given that Stevens was such a senior member, his killing may prompt the 27s to change their tactics. For example, the gang could choose to align with other gangs to take revenge for the hit, something which the 27s have not often done in the past.

Stevens's assassination therefore shows two competing forces in how the number gangs operate. The rituals surrounding his death, the internal gang 'investigations' and shifts in the hierarchy illustrate how the militaristic, quasi-governmental mythology of the number gangs – where they present themselves to their members and outsiders as a kind of 'shadow state' – is a powerful force shaping their behaviour. But Stevens's actual criminal career – shaping the 27s into a new form of criminal enterprise, and dealing with other major gangsters – also shows how this mythology is a flexible facade that can evolve where opportunity arises.



Crowds gather at the funeral of William 'Red' Stevens, which was attended by over 2 000 people. Photo: Facebook

### 3. Drug pricing data: why the methodology matters.

Drug prices are some of the most widely used pieces of data about illegal drug markets. Almost any reporting and analysis on drug markets contains some estimate of the value of that particular market, and drug seizures by police are widely reported with estimates of their value.<sup>56</sup> Price data is useful for journalists and analysts seeking to explain the drug trade and its impacts to their readers, law enforcement, and for researchers seeking to understand the drug market. It can have a real-world impact on the sentencing and prosecution of drugs offences.

However, up-to-date and publicly available data on drugs prices is scarce, and the methodologies used to collect this data also may present issues. The GI-TOC has been developing strategies to collect data on illicit economies, including drugs prices, which aim to take a different approach to improving this critical evidence base.

#### DRUG PRICING DATA IN THE COURTROOM

In at least three countries in East and southern Africa, the value of drugs has a direct impact on the classification of a criminal offence or on sentencing. Similar measures are also in place elsewhere, such as Slovakia and Ireland.<sup>57</sup>

In South Africa, sentencing guidelines view the value of drugs as an aggravating factor of an offence when the value of the drugs involved is more than ZAR50 000 (US\$3 328), or ZAR10 000 (US\$666) if the offence is committed by a criminal group.<sup>58</sup>

In Mauritius, under the Dangerous Drugs Act 2000, an offender is charged as a 'trafficker' when the street value of the drugs exceeds 1 million Mauritius rupees (US\$24 464).<sup>59</sup>

Uganda's Narcotic Drugs and Psychotropic Substances (Control) Act 2016 likewise prescribes penalties based on drug value in possession cases. In addition to imprisonment, the act prescribes fines of UGX10 million (US\$2 715) or three times the market value of the drug, whichever is greater. The act prescribes the same fine in cases of trafficking, in addition to life imprisonment.<sup>60</sup>

Interestingly, the Ugandan legislation states that the market value of the drug in question has to be certified by the proper officer of the court, and the certificate presented as a *prima facie* piece of evidence at trial. At least as recently as December 2019, this provision was creating problems in Uganda's courts, particularly in cases where drugs were being trafficked through Uganda,



Lighting up a homemade heroin pipe in Kampala, Uganda. Under Uganda's drugs legislation, the value of the drugs seized has an impact on the penalty given in drugs possession and trafficking cases. Photo: Michele Sibiloni

due to debate as to whether the drug value was to be estimated for the value in Uganda itself or the destination country. The provision was also not being widely used in the courts, in part because the market value of drugs was not being properly certified for use at trial.<sup>61</sup>

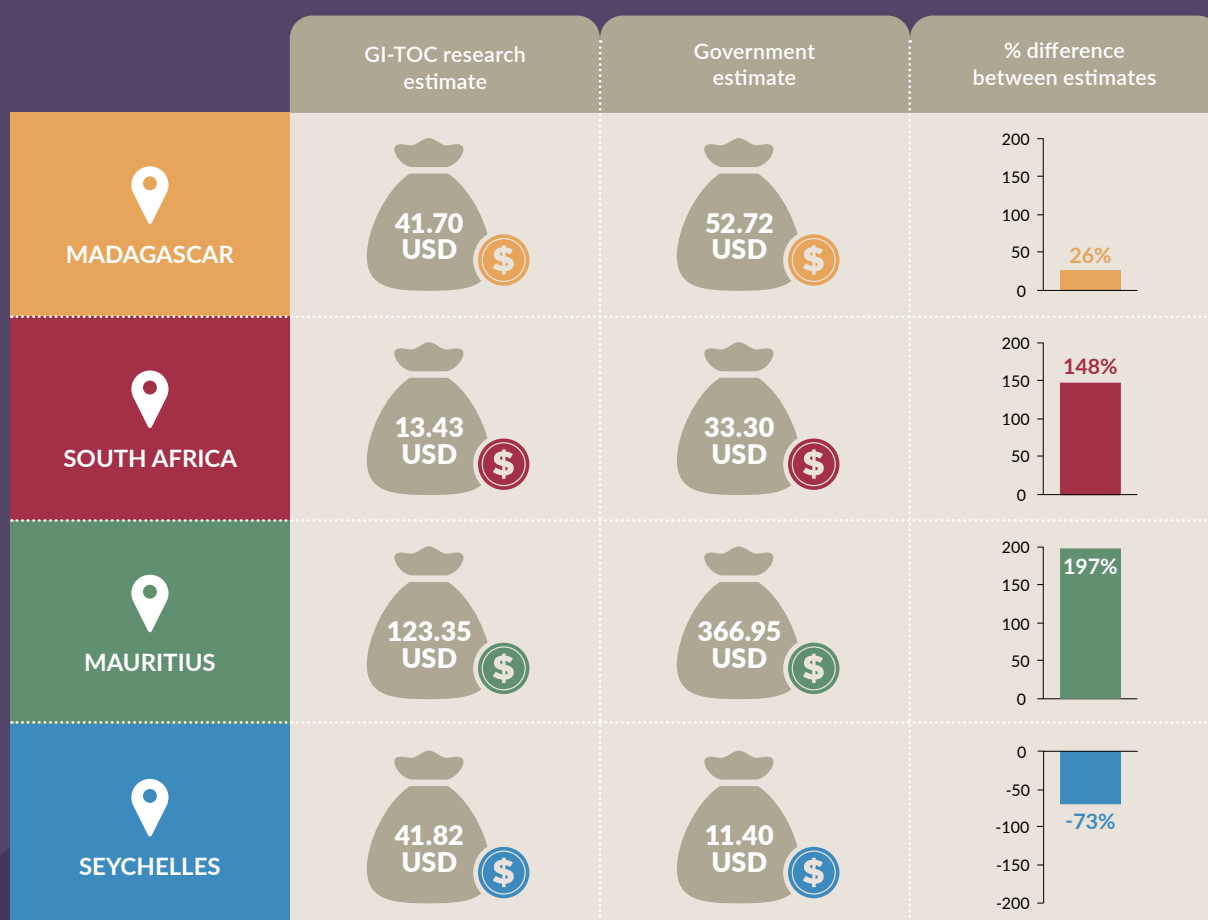
The collection of price data therefore has a very real-world implication for people convicted of possession and trafficking offences. It is therefore vital that the methodology used to create such data is reliable.

### TAKING A DIFFERENT APPROACH TO DRUG PRICE DATA

The GI-TOC is in the process of conducting a series of price monitoring studies for illegal markets in East and southern Africa – the first of which, on heroin, has been published – as well as a wider initiative to develop domestic capacity to create and maintain a real-time heroin price index in the region.<sup>62</sup>

For these pricing studies, we have developed methodologies for collecting retail drug prices in partnership with organizations run by people who use drugs (PWUD) in the region, specifically with PWUD networks in South Africa and Tanzania.<sup>63</sup> As far as possible, the pricing research has been conducted with and by PWUD.<sup>64</sup>

In each instance, information on drug retail prices was collected across a number of drug-selling areas. Extensive sampling was done through user interviews, in most cases conducted by other PWUD research partners. This data was then cross-referenced with similar price data collected from interviews with local dealers and drug suppliers. This approach, which aimed to bring together a high volume of data across many consumers and suppliers, aimed to involve people who participate in the drug market so as to minimize bias and create a more accurate picture of how the economics of the market work.



**FIGURE 2** Comparison between GI-TOC heroin drug pricing data and estimates from government agencies.

NOTE: For each country listed, the estimate is for average national heroin price per gram, 2020. Currency conversions via Oanda.

SOURCE: Data shared by the South African Police Service, the Mauritius Anti-Drug and Smuggling Unit and the Agency for the Prevention of Drug Abuse and Rehabilitation.



One primary feature of this consumer-centred approach to drug pricing has been the revelation that the data collected from these studies can differ significantly from estimates collected by law enforcement. In Mauritius, the estimated average heroin price per gram shared with our research team by law enforcement was between three and four times higher than that calculated from survey data and interviews.

Similarly, in South Africa, our study published in May 2020 compared two different methods of collecting retail heroin prices.<sup>65</sup> In the first, data was collected in partnership with a local civil society organization run by PWUD. The second method was done in collaboration with the South African Police Service (SAPS), with data collected by law enforcement personnel from informants and other sources at district-level throughout the country.<sup>66</sup>

The rough mean national price for one gram of heroin, as determined by SAPS data, was over twice that derived from PWUD data. Similarly in Madagascar, estimates of heroin prices shared in interviews with law enforcement were higher than estimates from our data collection, though the differences were less stark than in South Africa and Mauritius.

It could be argued that the differences between our PWUD-led data and police-collected data is because street-level retail drugs may be adulterated with other substances, and therefore differ in value from drugs

seized by police. In the absence of purity testing, which would eliminate this possibility completely, it is unlikely on two key fronts.

First, our methodology has been developed, as far as possible, to mitigate influences on price estimates. Sampling was done extensively within and across a range of locations, through as many sources as possible, to create averages that took into account the variability in prices often seen in drug markets. This may be variability on the part of dealers, as they may change prices depending on whether the user is a trusted customer. It may be variability on the drug sample size, from a dose to gram to multiple grams. Our estimates, reviewed by users, aimed to produce an average that brings this variety into account.

Second, law enforcement estimates of drug pricing stem largely from two sources: seizure of drugs from users arrested for drug possession, and estimates derived informant users and undercover officers. There is little evidence that the personal caches of retail drugs seized by police from arrested users differ significantly in terms of purity from drugs that other users are widely purchasing and using in the same marketplace of our sampling; or that paid informants would be reporting street-based retail prices based on significantly different levels of purity.

However it is possible that data collection by law enforcement contains some biases. There may be, for



Methadone distribution in the Seychelles. As the heroin-using population in the archipelago has exploded, authorities have implemented a large-scale methadone distribution programme. *Photo: Yasuyoshi Chiba/AFP via Getty Images*

example, an implicit bias in the filtering of drug price information through the law enforcement–informant relationship. Equally, it is possible that the political and professional structures within law enforcement institutions and their constituent drug interdiction units may lead to implicit reporting bias with respect to the price data and its place within the broader contexts that validate specific drug-based planning and action. In point of fact there are obvious political incentives for domestic law enforcement being seen to take high-value drugs off the streets, personal performance incentives for officers being seen to perform well and incentives within a policy of drug prohibition for offenders to be given the highest possible penalties, which may be predicated on the value of the drugs involved.

It is notable that the only instance found where official sources produced a lower price estimate than our data collection was in the Seychelles, where information on estimated drug prices was shared with us by the Agency for Prevention of Drug Abuse and Rehabilitation (APDAR). This is perhaps explained by the fact that APDAR is not a law enforcement agency, but works on drug-related public health. The agency conducts peer-to-peer outreach with a network of PWUD with whom they collaborate, and conduct studies estimating the size of the PWUD population with methods that include this network. As such, APDAR’s data differs from information collected by law enforcement personnel from informants.

## **OTHER USES AND IMPLICATIONS OF DRUG PRICE DATA**

The possibility of bias in drug pricing data being used in prosecutions and sentencing is a cause for concern. Up-to-date, reliable pricing data also is useful in other ways. From a research perspective, drug prices are a useful metric in studying the characteristics of drug markets.<sup>67</sup>

When compared over time, drug prices can provide insight into the stability (or instability) of a drug market. For example, GI-TOC research in the Seychelles reported that heroin prices have dropped sharply since 2018. This suggests there has been a significant shift in the market, an insight that provided an avenue for our research to investigate. While some interviewees attributed the fall to the introduction of a widespread methadone programme in the Seychelles, the drop in price may also be linked to other factors, and may suggest that new lines of supply have opened up and flooded the market.<sup>68</sup>

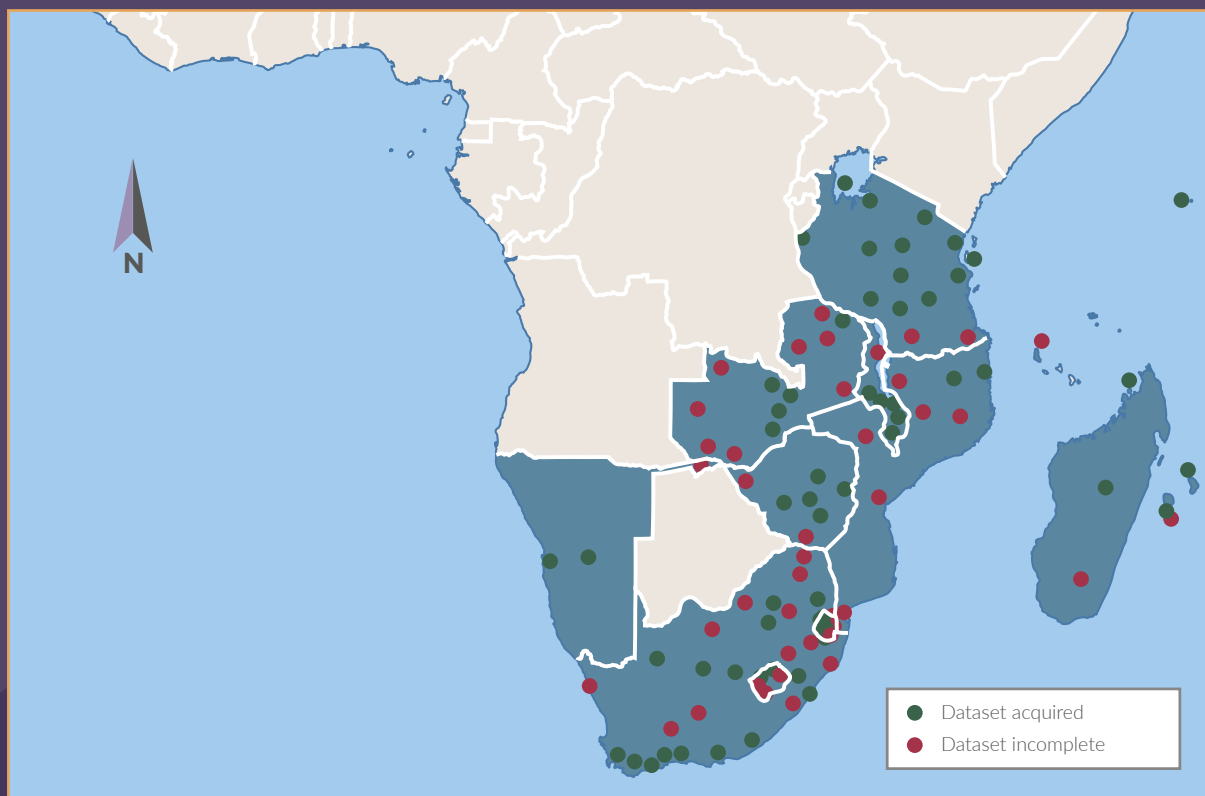
Drug prices can also give an insight into different drug supply chains and routes. Our research in Tanzania found that heroin was widely available, often at the same price for significantly different levels of purity to the same retail customers. This is a symptom of a domestic heroin market with several different routes of supply and different networks involved, and suggests there are few barriers to entry for aspiring traffickers and dealers.<sup>69</sup>

Drug prices can also be important metrics in examining the impact of drug policy and law enforcement actions. For example, in locales where police are aiming to disrupt the market, ascertaining whether prices fluctuate in response to interdiction operations can indicate whether the operation has had an impact.

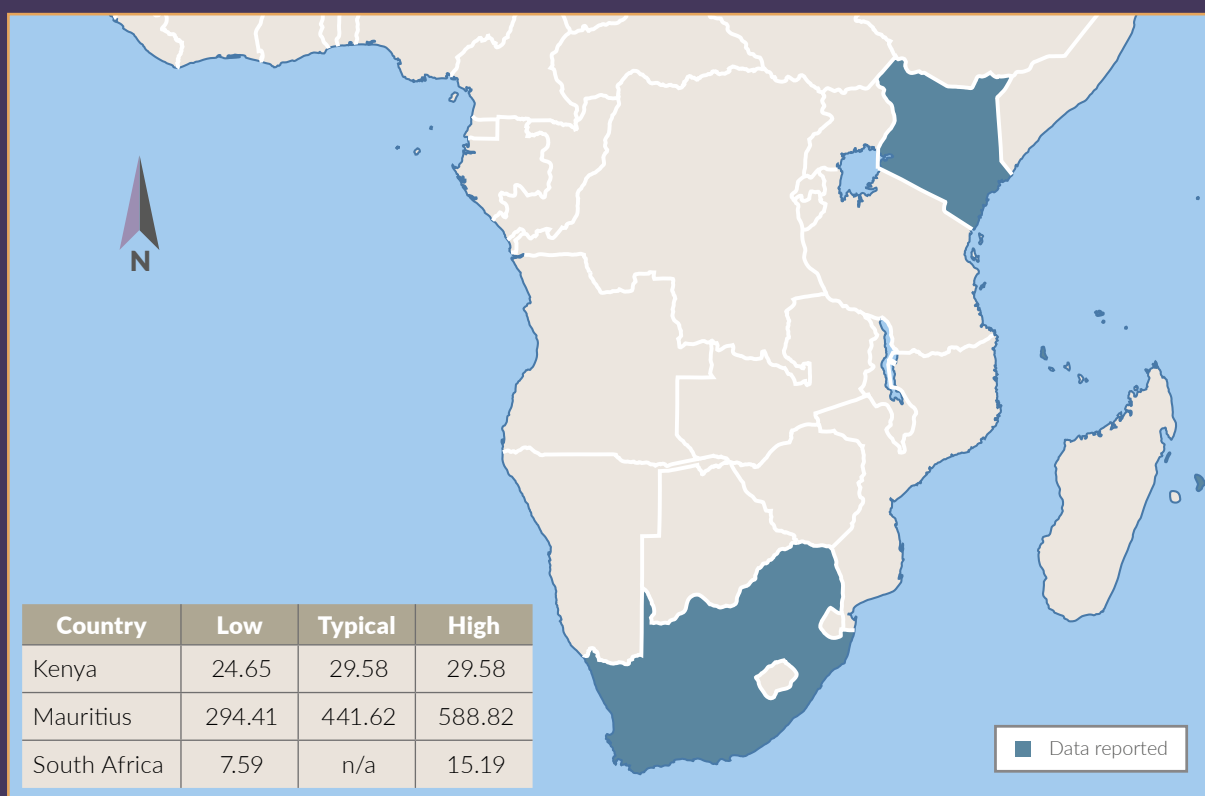
Important as this may be, up-to-date and publicly available information on drug prices is scarce. The UN Office on Drugs and Crime (UNODC) attempts to collect price data from member states in its annual reporting questionnaire, but completion rates are low. As shown in Figure 3, the only states in East and southern Africa that reported heroin price data for 2018 (the most recent year for which the data is currently available) are Kenya, South Africa and Mauritius.<sup>70</sup> The data collection process also presents issues, as the UNODC receives data from member states with no independent verification. As we have highlighted, data collected by law enforcement may be subject to bias, which then is replicated in the UNODC data.

The inclusion of PWUD in the design and collection of data on drug markets is a political question, as well as a question of good research design and the elimination of bias. For years, civil society organizations and advocacy groups of PWUD have argued that drug-related policy should be created with PWUD having meaningful involvement and a voice. In its report ‘Don’t treat us as outsiders’, the Aids and Rights Alliance for Southern Africa draws together the input of PWUD groups in southern Africa to analyze the dehumanizing impact and stigma that PWUD experience as a direct result of drug policy.<sup>71</sup> Therefore developing strategies such as drug pricing surveys that include meaningful involvement of PWUD is one small step towards more inclusive and less stigmatizing drug policy, as well as a step towards creating more reliable, up-to-date datasets for a type of data that has wide real-world impacts.

GI-TOC heroin retail price survey data collection, 2020



UNODC Annual Reporting Questionnaire results for East and Southern Africa, 2018



**FIGURE 3** Retail heroin pricing data in East and southern Africa, showing results for per-gram heroin price, UNODC and GI-TOC.

NOTE: UNODC gather data on drug prices through its Annual Reporting Questionnaire. The above map and table illustrate the full data available on retail heroin pricing in East and southern Africa for the latest year available, 2018, in USD. Throughout 2020, the GI-TOC have also been developing methods of data collection on retail drug pricing with PWUD-run civil society groups. The first map highlights the countries and locations where this data collection has taken place.

SOURCE: UNODC

#### 4. New findings on the supply of methamphetamine from Afghanistan to South Africa.

Meth consumption has long been ignored as a domestic drug problem in East and southern Africa. However, new GI-TOC research has found that the drug is far more embedded across the region than previously understood.<sup>72</sup>

South Africa is home to the largest and most established meth consumption market in East and southern Africa. A new flow of meth to South Africa appears to have emerged out of Afghanistan, with the aim of feeding the growing base of southern African users. These growing international flows, and the scale of southern African meth consumption, may have longstanding impacts on urban governance in the region.

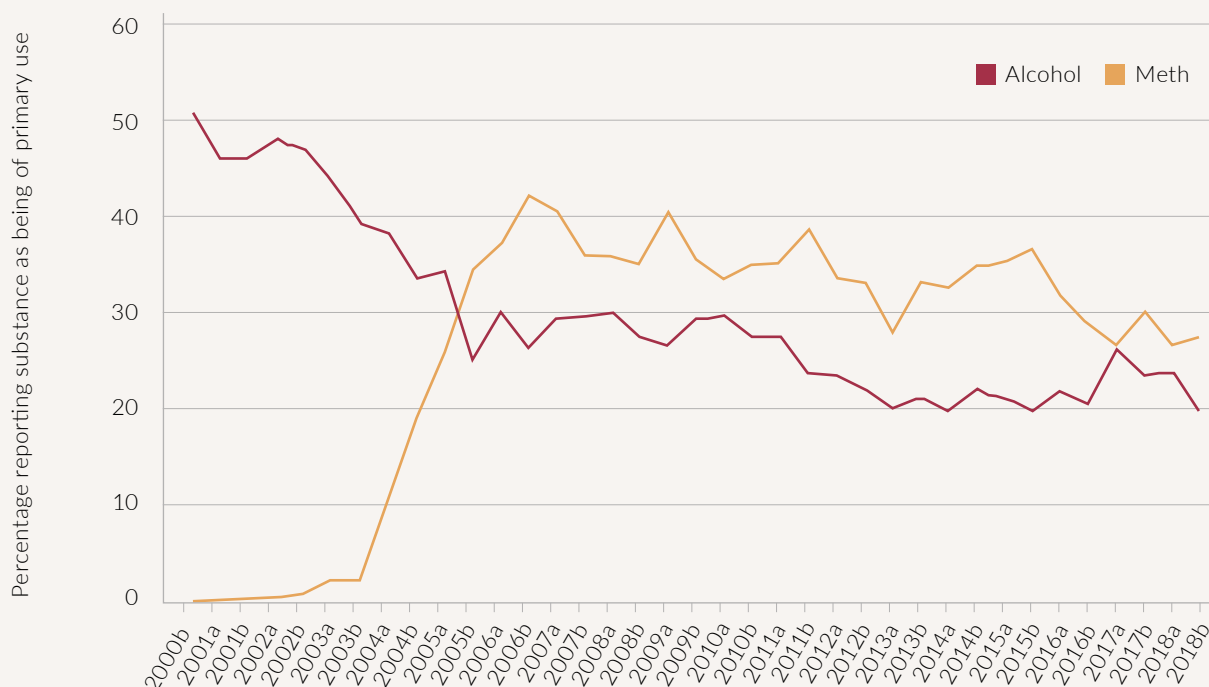
#### THE RISE OF METH CONSUMPTION IN SOUTH AFRICA

Meth consumption has a long history in South Africa, dating back to the early days of the democratic transition (and with roots in the apartheid period). The first meth laboratory was seized in South Africa in 1998,

shortly after the use of meth was first detected in Cape Town.<sup>73</sup> By 2005, eight years after its appearance, meth became the primary substance of use among all people who use drugs (PWUD) in the Western Cape province,<sup>74</sup> surpassing methaqualone, cannabis and even alcohol.<sup>75</sup> Today, meth is still the most common drug of choice in the Western and Eastern Cape provinces and the second most common in the Northern Cape, North West and Free State provinces.

#### SOUTH AFRICA'S THREE MAJOR METH SUPPLY CHAINS

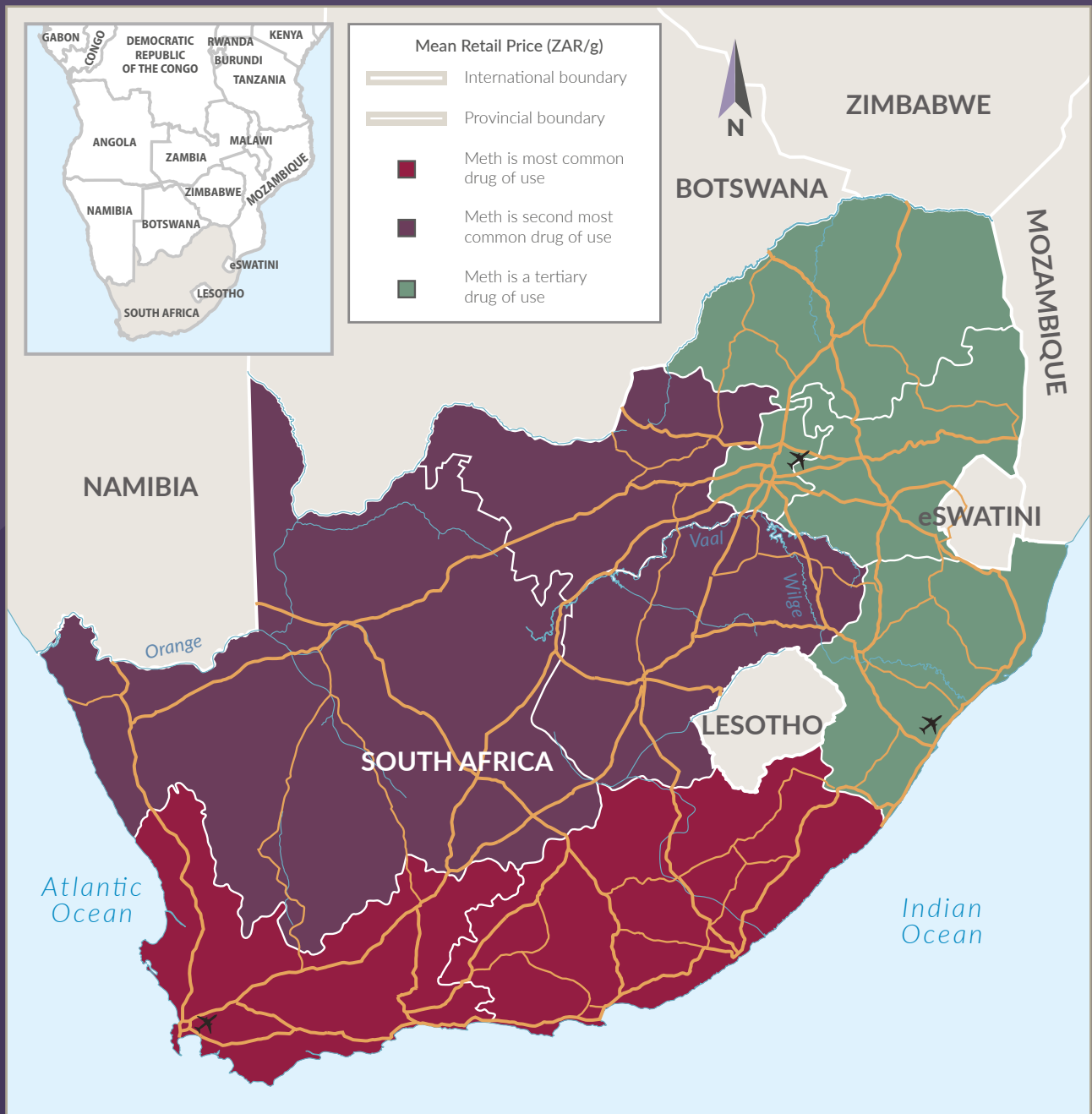
Today, South African meth is sourced from three major supply chains. The first originates in Nigeria and is imported by Nigerian syndicates, although since 2016 these syndicates appear to have been producing meth in Nigeria itself, allegedly in cooperation with at least one of the Mexican cartels.<sup>76</sup> High-quality Nigerian-made crystal meth has flooded the South African market and is known among PWUD as 'Mexican meth' due to the alleged Mexican connection.



**FIGURE 4** Tracking meth and alcohol as reported primary substances of use (by percentage) in Western Cape province, South Africa, 2000–2018.

SOURCE: Siphokazi Dada et al., Monitoring alcohol, tobacco and other drug use trends in South Africa (July 1996 to December 2018), South African Community Epidemiology Network on Drug Use (SACENDU), 22, 1, 2019, 15





**FIGURE 5** Dominance of methamphetamine use by province in South Africa, 2019.

SOURCE: Data derived from SACENDU regional reports for July to December 2018 and 2019. Most recent figure available was used for each province.

A second, locally manufactured supply also serves domestic and regional markets. This supply is linked to Chinese syndicate interests and originates in the greater Johannesburg area. However, the number of clandestine domestic meth laboratories detected by the South African Police Force has decreased significantly over the past six years. This appears to correspond with information from suppliers in Gauteng and Western Cape who indicate that Chinese-supported meth production has declined in South Africa in recent years. (This gradual decrease in domestic South African meth manufacture, and the rise of industrial production locations in West Africa that are supplying the South African meth market, is a finding also supported by UN, INTERPOL and US sources.<sup>77</sup>)

A third international flow of meth to South Africa came to light in South Africa's domestic meth markets in late 2019, particularly in the Western Cape region. This is a meth supply chain that originates in the Afghanistan-Pakistan border region, with interviewees calling the product 'Pakistani meth'.<sup>78</sup> The emergence of this new source of meth follows a significant shift to the production of meth in Afghanistan's opium-poppy-growing south-west provinces along the borders with Iran and Pakistan.<sup>79</sup>

As we reported in Issue 12 of this bulletin, the existence of this new 'Pakistani meth' supply was confirmed by several Cape Town users and distributors during research

conducted in August 2020.<sup>80</sup> Mixed seizures of meth and heroin shipments along the 'southern route' – usually used to traffic heroin from the Pakistan coast to East and southern Africa – also suggested that this route was increasingly being used for meth trafficking.<sup>81</sup>

### THE EMERGING PICTURE OF THE 'PAKISTANI METH' SUPPLY CHAIN TO SOUTH AFRICA

Since our first report,<sup>82</sup> more than a dozen informants, including both intermediate and high-level meth importers as well as rival (Nigerian) importers, have now confirmed the existence of a Pakistani-controlled meth flow. Eight distributors in the Western Cape area made (unprompted) claims that a new Pakistan-based meth supply chain was feeding the South African market.<sup>83</sup> One informant stated that this Pakistani meth supply had 'hit the Cape big time'.<sup>84</sup> Another South African-based importer confirmed that he placed his Afghan meth orders by phone directly with intermediaries in Pakistan.<sup>85</sup>

Dozens of PWUD in South Africa have confirmed that this 'new' meth is clearly different in texture, purity and synthesis base (in that this type of meth is derived from the ephedra plant, which grows widely in Afghanistan, rather than other common chemical precursors) to other supplies. No other meth supply chain was ever identified in any of the interviews throughout the research period



'Mexican meth', produced in Nigeria and imported by Nigerian distributors, has been available in South Africa for the last three to four years. This quality of meth is distinguishable by its large crystalline shards. ▼ ▶



▲ Afghan meth shipments that have arrived in South Africa. A South African-based importer confirmed that he placed his Afghan meth orders by phone directly with intermediaries in Pakistan.



(May to November 2020) other than the three described above: domestic meth (Chinese-supported), Mexican meth (Nigeria-based) and the new Afghani meth.<sup>86</sup>

The types of meth are visually distinct: Mexican meth appears to be consistently clean, translucent and pure. Pakistani meth, which is ephedra based, appears in the marketplace in both large crystalline shards, similar to those of Mexican meth, as well as in batches of smaller 'crushed ice' crystals that can be oily and often retain a yellow or brown hue (i.e. unrinsed meth). The quality of this new meth can be variable, according to PWUD in South Africa, but normally is comparable to the best Mexican meth – an attribute that has increased demand for the new supply. Locally produced South African meth is distinguished by its generally smaller ('crushed ice') crystal size, a more regular white-ish or duller, cloudy appearance and the irregular presence of large crystalline shards. This is perceived to be of lower quality and there is a strong belief among PWUD that some of the local meth often is adulterated with an external agent.

Our research found two Pakistani meth supply chains into South Africa. The first runs by sea (via dhows, Indian Ocean fishing vessels) to a Middle Eastern nation, from which it then transits via a popular air hub onboard a regularly scheduled passenger flight. The first routing appears to involve the supply of small amounts at a time (perhaps in the low tens of kilograms), most likely destined for a single local Cape Town syndicate.

The second route is by sea (by both dhow and container ship) to the Angoche–Pemba coastline area in the north of Mozambique, then overland to Johannesburg and Cape Town in South Africa. This route sees meth supplied in volumes of hundreds of kilograms, as evidenced by increased meth seizures in the western Indian Ocean region, including off the coast of eastern and southern Africa and of combined shipments of meth and Afghan heroin, primarily by the international naval force CTF 150.

In October 2020, the CTF 150 seized 450 kilograms of meth from a dhow heading for the East African coast – a record for the amount of meth seized in a single instance.<sup>87</sup> In November 2020, the Yemeni Coast Guard, with assistance from the Arab coalition forces, seized a dhow off the Mahra coast carrying 216 kilograms of meth.<sup>88</sup> Another large seizure of heroin, meth and hashish was made in the Arabian Sea in February 2021.<sup>89</sup> No seizures of similar shipments were reported before late 2019.<sup>90</sup>

Pakistani meth is also being reported in other regions. Sri Lankan, Indonesian and Australian authorities have confirmed seizures of Afghan meth shipments, while reports of meth importation by Pakistani and Iranian crews have been verified in Tanzania and Mozambique. In Mozambique, chemical analysis conducted on samples of this new meth supply have confirmed its origin to be Afghanistan.<sup>91</sup>

## THE FUTURE OF SOUTHERN AFRICA'S METH MARKET

With the establishment of the new Pakistani meth supply chain, southern Africa is now a node in the global meth supply chain connecting both the cartels of Mexico in the west (via the Nigerian syndicates) and the Taliban-controlled provinces of Afghanistan in the east, where the meth imported via Pakistan is originally produced.

This evolution should not be a surprise. South Africa's synthetic drugs market has a long history and has grown to be one of the largest meth consumer markets in the country – and is still growing. In the region as elsewhere, meth markets have been driven, among other factors, by urban decay and criminal governance in communities that have long been marginalized. The repercussions of the coronavirus pandemic and the economic consequences of lockdown may push these communities further to the margins.<sup>92</sup> This confluence of factors looks set to sustain and increase the market for synthetic drugs, including meth, across East and southern Africa in the near future.



◀ The research presented in this article is drawn from 'A synthetic age: The evolution of methamphetamine markets in eastern and southern Africa', a new research report by Jason Eligh for the GI-TOC's Observatory of Illicit Economies in East and Southern Africa, due to be published in March 2021.

## 5. Some groups are advocating for new international frameworks on illegal wildlife trade. What impact would this have in practice?

Some conservation groups are advocating for a new international legal framework to counter illegal wildlife trade (IWT). Foremost among these is End Wildlife Crime, a non-governmental organization chaired by John Scanlon, the former Secretary General of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which has drafted a potential new protocol to the UN Convention against Transnational Organized Crime (UNTOC), illustrating what such a new legal framework could look like.<sup>93</sup>

This is not the first time a new wildlife-crime protocol to the UNTOC has been called for, but the issue has gained new urgency in the context of the potential role of the wildlife trade in the transmission of the coronavirus. End Wildlife Crime argues that although the pandemic demonstrates the risk to public health of zoonotic diseases, 'current wildlife trade laws do not take account of public or animal health issues'.<sup>94</sup> In the last few years, IWT has also become more of a political priority on the international level, as evidenced by a series of political declarations and UN resolutions.<sup>95</sup>

Yet what would be the impact of a new legal framework? The GI-TOC is one of few civil society organizations that has monitored the developments of the UNTOC and assessed its impact.<sup>96</sup> We also

draw on interviews with a number of law enforcement investigators working in East Africa to assess if and how they see such an initiative impacting on police investigations into IWT.

### THE SHORTCOMINGS OF CITES

CITES is the currently the central node for international dialogue on wildlife trade. The primary aim of the convention is to prohibit trade in specific species when they are threatened with extinction. Because of this, experts argue that CITES does not provide the right platform or legal framework with which to counter IWT as an organized crime issue.

In the words of GI-TOC Senior Adviser John M Sellar, 'CITES is a trade- and conservation-related agreement. It was not drafted to respond to or combat crime – especially serious or organized crime ... From the prohibitionist's perspective, CITES is awash with loopholes and weaknesses, because preventing trade was never its primary goal.'<sup>97</sup>

Experts working in wildlife-trade law enforcement in East Africa agree. Robert Mande, Chair of the National Anti-Poaching Task Force in Tanzania, argues that a fourth protocol for IWT under UNTOC would be very useful as it would embed tackling wildlife crime as



A Kenya Wildlife Services ranger stands guard in front of illegal stockpiles of burning elephant tusks at the Nairobi National Park. Photo: Carl de Souza/AFP via Getty Images



an organized crime issue in the UNTOC framework, rather than as a trade issue, which is how it is treated under CITES.<sup>98</sup> With international protocols for IWT currently largely falling under CITES, it is CITES officers who attend cooperation meetings to discuss how to tackle IWT. However, Mande argues, their mandate and expertise are typically around utilization and trade and reducing the harmful effects of trade, not around tackling the organized crime side of the wildlife trade.

'The counter-wildlife trafficking successes that have occurred in the region have been the result of engagement between the mandated counter wildlife crime agencies in the neighbouring countries and their law enforcement partners, not the CITES desks,' said Mande. 'If a fourth protocol helped to formalize these kind of engagements between neighbouring countries it would help to tackle the transnational criminals.'

A regional attaché for the US Fish and Wildlife Service based in East Africa also argues that one of the shortcomings with CITES is that the legislation has not been brought into domestic law for all countries or, where it has, it sometimes only refers to species from that country.<sup>99</sup> This can give rise to situations where those found trafficking a CITES-listed species from another country have not necessarily broken any local laws. If a fourth UNTOC protocol could overcome these issues of legislative complexity, he argues, then it would be a useful initiative.

#### **A FOURTH UNTOC PROTOCOL: BENEFITS AND CHALLENGES**

It is a quirk of UNTOC that, though it is a broad instrument that deals with a wide variety of transnational organized crime types, it also has three specific protocols: on trafficking in persons, smuggling of migrants and trafficking in firearms. These protocols provide additional legislative and cooperation tools to countries that sign up. They also each have a standing working group, which produces recommendations that are adopted by states parties. Politically, these protocols give the three crime types a certain status as an 'official' form of transnational organized crime.<sup>100</sup>

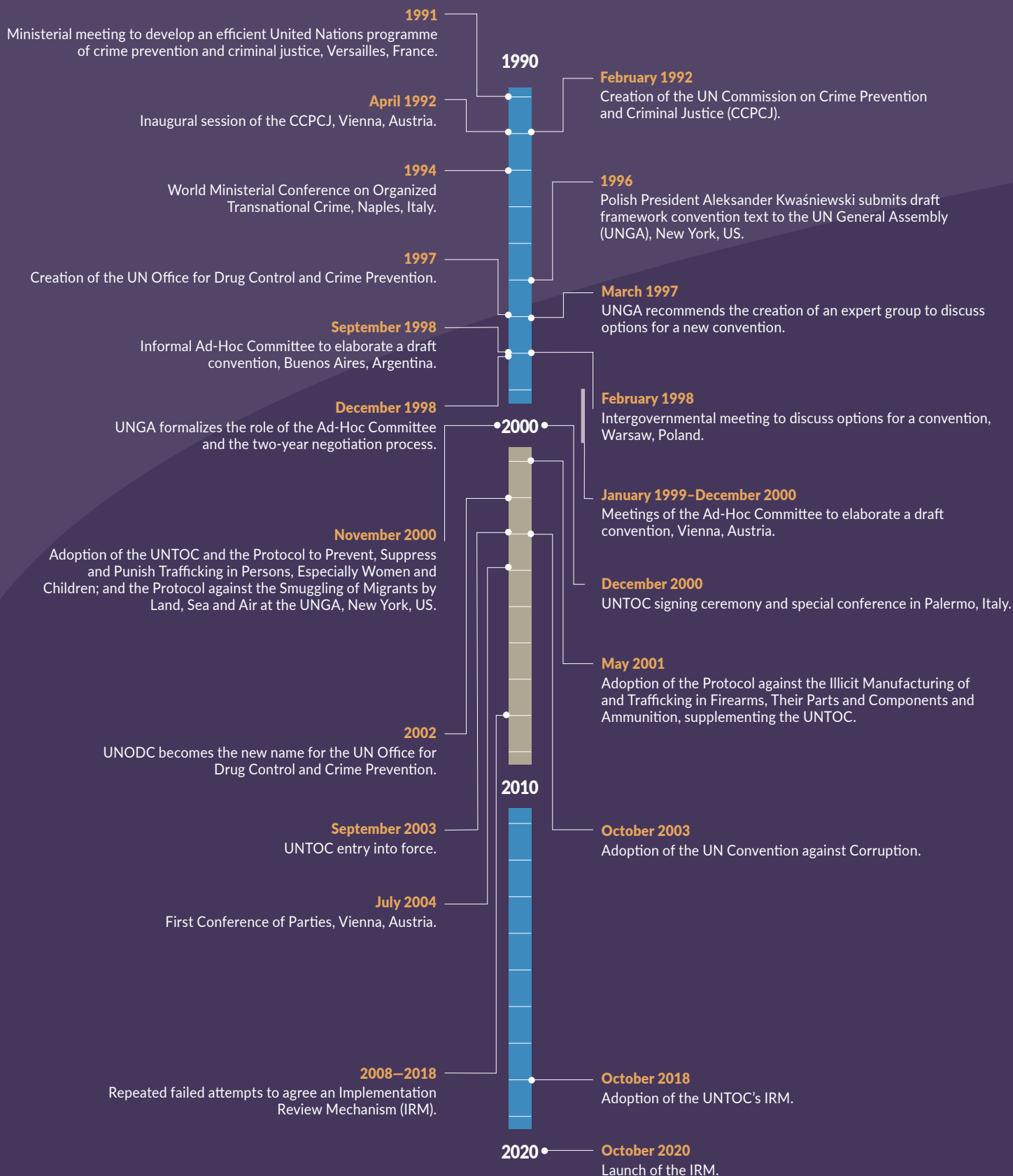
Investigators in East Africa expressed their support for a fourth protocol on IWT, especially in terms of the opportunities for international cooperation that

it could bring. Mande says that a protocol could help with international coordination and engaging with other countries on transnational organized wildlife crime networks.<sup>101</sup> The US Fish and Wildlife Service attaché in Tanzania says that a key use of a protocol would be its convening power for all relevant law enforcement agencies in a country and to bring them together with counterparts from neighbouring countries.<sup>102</sup> This would mean that wildlife trafficking (where it is carried out by organized crime groups) would not only be a wildlife agency problem, but clearly recognized as an organized crime issue.

A fourth protocol may also help overcome the legislative complexities seen as one of the drawbacks of CITES, as mentioned above. End Wildlife Crime argue that addressing gaps in the international legal framework is vital to combating ITW, and states that its proposed protocol would 'criminalize the intentional illicit trafficking of specimens of wild fauna and flora. States Parties to the Protocol would be agreeing to adopt legislation establishing as a criminal offence the illicit trafficking of any whole or part of a wild animal or plant, whether alive or dead, in violation of an applicable international agreement or any domestic or foreign law, together with a wide range of other matters.'<sup>103</sup>

But there are challenges to consider. Proposing, negotiating and adopting the protocol can in no way be taken for granted. Some countries, such as Brazil and Russia, are reluctant to single out 'environmental crime' for special treatment under UNTOC, making it difficult to achieve the basic (and required) consensus on the importance of the issue. Resolutions on the issue of IWT at the UNTOC conference have always been difficult and contentious for this reason. Even if consensus was achieved on starting the process, negotiating the protocol would be time- and resource-intensive, requiring a high level of political will and commitment from a broad range of countries.

There are also the strengths and weaknesses of UNTOC itself. The GI-TOC's analysis of the impact of the convention found that it is widely seen as a flexible and useful instrument among experts.<sup>104</sup> It provides a template for criminalization of certain offences and a framework and platform for international cooperation in criminal matters that is adhered to almost universally around the world.



**FIGURE 6** A history of the development of the UNTOC convention.

NOTE: A proposed protocol on illicit wildlife trade would come long after the adoption of the previous three UNTOC protocols, adopted in 2000 and 2001. As shown on the timeline, the development of the UNTOC review mechanism, a means by which the implementation of the convention is evaluated, was a long and hard-fought political process.



White-bellied pangolins rescued from traffickers in Kampala, Uganda. Photo: Isaac Kasamani/AFP via Getty Images

However, political momentum behind the convention has waned in the 20 years since its adoption. A review mechanism designed to monitor implementation was only launched in 2020 following years of diplomatic deadlock. The review mechanism is an 11-year process into which a fourth protocol would have to integrate. As the GI-TOC has commented on before, the provisions in the review mechanism on transparency and civil society engagement leave much to be desired.

### PROTOCOL VERSUS PRACTICE

While the wildlife crime investigators we spoke to for this article were generally of the view that a fourth UNTOC protocol could be a useful initiative, they also cautioned against seeing the fourth protocol as an end in itself, rather than as a means to support law enforcement work in the field.

In the view of an attaché for the US Drug Enforcement Agency (DEA) based in East Africa, the building blocks of effective law enforcement against organized crime – nationally and transnationally – are well known.

Agencies need to undertake effective investigations and prosecute people in order to achieve maximum disruption and dismantling of the networks, he says. For this, what is needed are trusted officers working in key units, multiple sources of intelligence feeding into these units, and the use of tried and trusted investigation techniques (such as human sources, communications intercepts and surveillance). Protocols need to be followed to ensure evidentiary material is collected, then cases need to be built with support from prosecutors. Where investigators are dealing with transnational networks, trusted units in the region need to be in communication with each other, and prosecutions pursued in whichever country the criminal network is operating where the prosecution is likely to have the highest impact. While new protocols and agreements do not achieve this in and of themselves, they can help create the necessary conditions.<sup>105</sup>

The need for inter-agency trust – both nationally and internationally – was repeated by others with experience of working in these investigations.<sup>106</sup>

Edward Phiri, director of the Lusaka Agreement Task Force, an inter-governmental organization leading cooperation between member states of the Lusaka Agreement, a major regional platform working to counter illegal wildlife trade, warned of the need for effective implementation. 'There are a number of UN bodies and protocols in existence to address organized wildlife crime. But what we are lacking is enforcement and implementation. We also need to institutionalize and strengthen regional bodies to be effective in the fight against wildlife crime. Negotiating new protocols require resources and it takes time to make them functional. I would suggest that we need to explore opportunities in the existing UN bodies/protocols such as under UNTOC or CITES, revise them to be more practical in enforcement and implementation to tackle organized wildlife crime. This can also present an opportunity where regional bodies such as the Lusaka Agreement can further be strengthened, to respond to organized wildlife crime syndicates.'<sup>107</sup>

Alastair Nelson, current senior analyst with the GI-TOC and former Regional Director for Counter Wildlife Trafficking with the Wildlife Conservation Society, argues that there are examples where international agreements to counter wildlife crime have actually had a negative impact. Mozambique and Vietnam spent four years working on developing and agreeing a Mutual Legal Assistance Treaty in order to tackle organized wildlife crime between the two countries. This process included multiple memoranda of understanding and joint meetings designed to build trust and develop opportunities for working together, yet has recorded little success. One key problem, according to Nelson, is that other agencies have tried to step in between the wildlife law enforcement agencies to act as gatekeepers on communication and information-sharing. This is an example of an agreement creating a new and unnecessary mechanism to service the agreement itself.

By contrast however, Malawi, Mozambique, Tanzania and Zambia have formed a subregional platform to combat wildlife crime and signed standard operating procedures for how they will meet, communicate and share information. This platform now meets biannually and has helped build relationships such that critical case information is also shared outside the meetings bilaterally when needed. In this instance, Nelson says, no new mechanism was created, only a platform to bring together national agencies from neighbouring countries who wanted to communicate and collaborate better but lacked the mechanism to achieve this.

Overall, the view of wildlife crime experts is that a UNTOC protocol will be useful if it is able to help build political will on wildlife trafficking; improve the legal framework to tackle the challenges of trafficking in non-native species; and convene and provide a framework for agencies to be able to work more closely together, both nationally and internationally. If it sets up new administrative bodies that need servicing and which become gatekeepers for information and communication, then it could be counterproductive.

Finally, the limitations of the UNTOC should be considered. The convention is a legally focused instrument and does not meaningfully address other issues (such as human rights, gender, livelihoods and developmental challenges) that drive and/or enable organized crime, including IWT. Accordingly, the GI-TOC argues that while the convention is a key element in combating organized crime, more holistic and coordinated responses across the multilateral system are also required.<sup>108</sup> An additional protocol to the UNTOC may help create a legal framework for IWT, but this must also be complemented by effective and inclusive action on the ground.



## Notes

- 1 Shreya Dasgupta, Notorious elephant poacher, 'The Devil', sentenced to 12 years in jail, *Mongabay*, 9 March 2017, <https://news.mongabay.com/2017/03/notorious-elephant-poacher-the-devil-sentenced-to-12-years-in-jail/>. See also this obituary of PAMS Foundation founder Wayne Lotter (who was assassinated in connection with his work) which describes the Malyango case as one of his greatest achievements: Ben Taylor, Obituary, *Tanzanian Affairs*, 119, 1 January 2018, <https://www.tzaffairs.org/category/obituaries/>.
- 2 See Peadar Brehony, Turning the Tide Against Poaching: Lessons from Tanzania, *The Courant*, 17 November 2016.
- 3 Mateso's sentence was to a TZS 500 000 fine, or in default of payment of the fine a twenty (20) years term of imprisonment. The fine has since been paid in full, meaning Mateso is not liable to the imprisonment. Conversion of currency via Oanda.
- 4 Boniface Mathew Malyango & Another vs Republic (Criminal Appeal No.358 of 2018) [2020] TZCA 314; (18 June 2020), <https://tanzlii.org/tz/judgment/court-appeal-tanzania/2020/314-0>. Leading Organized Crime—contrary to Paragraph 14 (1) (a) of the First Schedule to and section 57 (1) and 60 (2) of the Economic and Organized Crime Control Act, Cap. 200; and (2) Unlawful Dealing in Trophies—contrary to section 80 (1) and 84 (1) of the Wildlife Conservation Act No. 5 of 2009 read together with paragraph 14 (b) of the First Schedule to and section 57 (1) of the Economic and Organized Crime Control Act, Cap. 200.
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