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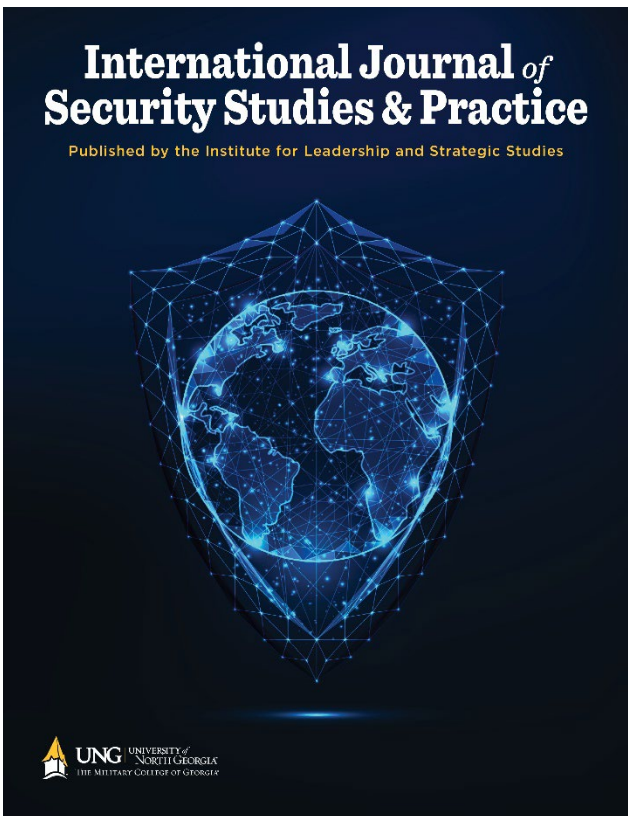

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M-Pesa and Transnational Organized Crime: Causes and Facilitation Factors

The African continent is the leader in mobile money services today (Mobile). M-Pesa ("M" stands for "mobile" and "*pesa*" means "money" in Kiswahili) is a micro-finance service and a short message system (SMS)-based money transfer scheme, which allows registered users to make payments, and deposits, transfer, withdraw and borrow cash using mobile phone technology. The mobile money service (M-Pesa) was established in 2007 between Vodafone, a British multinational telecommunications company, and Safaricom, Kenya's largest mobile network company. For ten years since M-Pesa's ten years of utilization, M-Pesa has spread to many countries in the East African and southern regions of Africa, i.e., Tanzania, South Africa, Uganda, Mozambique, Lesotho, Egypt, Afghanistan, India, Romania, and Albania. The mobile money service initially had a target group: individuals who did not have bank accounts and rarely or never used banking facilities. Defying the initial intent, M-Pesa currently has over 20 million subscribers in Kenya, which is 80% of the adult population. Data provided by the late Bob Collymore, former Safaricom CEO, the company generated a profit of 32 billion Ksh. (Kenya shillings) after tax for the 12 months in March 2015 (Okoth, 2015). Statistics from Kenya show that more than 60,000 individuals have registered with Safaricom as M-Pesa agents, which outnumbers the number of bank branches in Kenya (Meyer, 2013). The annual transactions with M-Pesa are equivalent to over 20% of Kenya's gross domestic product (GDP). Despite these positive economic statistics, the growth of M-Pesa has brought with it its criminal elements. There are reported cases of money-laundry schemes and other financial-related scams. The reported criminal conduct occurs even though the M-Pesa systems are advanced, regulated, and monitored 24/7.

Several cases have been reported on how individuals become victims of transnational organized crime through M-Pesa. In most cases, people receive telephone calls from people impersonating Safaricom customer care agents or receive an SMS from individuals who claim to be relatives requesting money to be sent to them because they have an emergency or are stranded in a foreign country. Middle-income and developing countries have been a haven and fertile ground for cybercriminals and other transnational criminals (Kshetri, 2010). M-Pesa money transfer is ubiquitous, which makes it a preferred medium for transferring illegally obtained money through legitimate people and is so difficult to track. Some scholars have suggested that to respond to emerging crimes, African countries should improve their citizens' awareness of such crimes and legislate to protect them since Africa is increasingly becoming connected in areas of commerce and business (Shaw & Reitano, 2014). This article attempts to show how transnational organized crime thrives and is sometimes reinforced by technology. The use of criminological theory could assist policymakers in creating legislation that responds to these challenges.

The United Nations Office of Drug and Crime has defined transnational crimes as offenses whose inception, proportion, and or direct/indirect effects involve more than one country. Transnational crimes are violations of law that involve multiple countries in their planning, execution, or impact. These crimes are distinguished from other crimes because of their multinational nature that poses unique problems in understanding their causes, developing prevention strategies, and mounting effective adjudication procedures. The terms transnational organized crimes, multinational crimes, and international organized crimes have been used interchangeably to refer to transnational crimes (Friedrichs, 2007; Fichtelberg, 2008). Other terminologies such as cross-border crimes are used by criminologists to refer to transnational crimes.

The definition of transnational crime varies from country to country, thus there is no accepted consensus on the definition (Mavrellis, 2017). However, a United Nations General Assembly resolution determined that

> an 'organized criminal group' shall mean a structured group of three or more persons, existing for some time and acting in concert with the aim of committing one or more serious crimes or offenses established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefits. (2001, p. 4)

The United Nations Convention on Transnational Organized Crime construes the term "transnational" broadly to mean offenses committed not only in one state but also offenses that are planned or controlled in another state. Transnational crimes can be grouped into three broad categories involving the provision of illicit goods such as drug trafficking, trafficking in stolen property, weapons trafficking, and counterfeiting; illicit services such as commercial sex and human trafficking; and infiltration of business and government (fraud, racketeering, money laundering, and corruption) affecting multiple countries (Albanese, 2005).

Criminological perspectives assist us in explaining internal or external influences that encourage individuals to commit offenses. Criminologists have argued that social factors contribute to crime. The assumption is that changing underlying social conditions reduce or prevent criminal behavior from occurring (Akers, Sellers, & Jennings, 2016; Valasik, 2014). Law-breaking behavior is viewed as the consequence of a lack of legitimate means of achieving social goals (Cloward & Ohlin, 1960).

Globalization has created ease of movement around the world together with technological advancements that have opened opportunities for crime to thrive. While no single criminological theory can exhaustively explain why individuals engage in organized crime, free will and hedonistic individual choices are certainly among the possibilities (Baccaria, 1764). When the potential offender perceives that the pain associated with the crime is greater than the pleasure derived from a potential crime, criminal behavior will not take place.

The article proceeds, henceforth, in four sections. Section 1 engages in an analysis that examines criminological theories and how these perspectives explain how the use of M-Pesa mobile money transfer contributes to transnational organized crime, i.e., money laundering and other types of organized crime. Cases will be used to provide evidence to support the assertions made in this section, which also highlights victim cases and how M-Pesa contributes to transnational organized crime. Section 2 examines how M-Pesa contributes to money laundering and other types of organized crime. Section 3 evaluates the approaches to combat transnational organized crime. Section 4 concludes the discussion by highlighting the main findings and providing some recommendations.

Section 1. Criminology and Transnational Organized Crimes

Criminological perspectives attempt to explain internal and external influences that push individuals to commit crimes; criminologists have argued for over a century now that social factors contribute to crime (Akers, Sellers, & Jennings, 2016; Valasik, 2014; Williams & McShane, 2017). Law-breaking behavior is viewed as the consequence of a lack of access to legitimate means for achieving social goals (Cloward & Ohlin, 1960). Globalized trade and technological advancement have created the ease of movement of goods, people, and other raw materials around the globe. These developments have facilitated, in part, opportunities for emerging crimes such as transnational organized crime.

According to criminological theory, causes of transnational organized crime and facilitating factors include: (i) social and economic influences that push individuals to commit crimes; (ii) structural factors that include political, economic, and social conditions, which create an environment that is conducive for the commission of a crime; (iii) free-will decisions, where individuals maximize pleasure and avoid pain (hedonism); and (iv) the idea that criminal behavior brings about pleasure and is beneficial (Beccaria, 1764). Other perspectives in criminology posit that a lack of access to legitimate means, that is, blocked opportunity structures, may inhibit some individuals from achieving expected social goals, and this facilitates crime (Cloward & Ohlin, 1960).

For juvenile offenders and young people in general, criminal subcultures are a result of a mismatch between goals and opportunities. Three distinct criminal subcultures emerge (i) criminal, (ii) conflict, and (iii) retreatist. The criminal subculture occurs when young people evolve and become adult criminals. The conflict subculture occurs when young people become part of violent gangs, and gang status is achieved through intimidation and protection of turfs. The retreatist subculture occurs when young people fail to gain acceptance either through criminal or conflict subcultures and become criminal dropouts or drug addicts (Albanese, 2016).

Everyday life and human activities may create an environment conducive to the flourishment of transnational organized criminal activities. This criminology perspective focuses on the circumstances of the crime, known as "routine activities" (Felson & Boba Santos, 2010; Cornish & Clarke, 1987). According to this criminological theory, societal transformation to modernity has brought about fundamental changes to how individual and collective activities are organized. This criminology perspective argues that the availability of opportunities to commit specific crimes is facilitated by factors, i.e., availability of attractive targets and opportunities, low-level supervision, and low risk of apprehension. Felson & Boba Santos (2010) attempt to distinguish between a "convergent city" and a "divergent metropolis." A divergent metropolis is a city where sites of work, residence, and leisure are spatially dispersed. The "divergent metropolis," they suggest, grows into a "great metropolitan reef" where human activities become more dispersed. Property is dispersed at low-building densities, people dispersed among more households, travelers into more vehicles, and social activities into more sites away from residences.

The discussion above on criminology perspectives on crime shows how difficult it is to rely on a single or plurality of perspectives in an attempt to explain the etiology of transnational organized crime. It is safe to say, however, that criminology perspectives that focus less on individual behavior and more on broader systemic factors on causes of crime are useful in explaining how transnational organized crimes are perpetrated. The discussion on the criminological perspectives and transnational organized crime brings us to case studies of how M-Pesa contributes to transnational organized crime.

It is a fact that mobile money transfers such as M-Pesa represent a significant threat to society, especially when proactive steps are not taken to strengthen mechanisms to prevent such platforms from being utilized as facilitators of crime. These threats include the facilitation of human trafficking and the smuggling of persons, terrorism financing, drug trafficking, organized motor vehicle theft, wildlife crime, money laundering, and corruption, to mention just a few. There are three stages in which Mobile Money Transfers, such as M-Pesa, go through that provide loopholes for criminals to exploit. These are: (1) when the funds are deposited onto an account (placement stage), (2) when funds are transferred between accounts (layering stage), and (3) when funds are withdrawn from an account when customers and agents have an opportunity to commit offenses (integration stage).

A case of a prominent politician can perhaps provide a good illustration of the above. This individual created a charitable donation page on social media where he offered motorcycles to youth in his constituency. For one to qualify for the offered motorcycles, a person had to register on the social media platform and pay Ksh. 200 (equivalent to $2 USD). Criminals were able to duplicate the page and provide a "Pay-Bill" number for interested people to make donations through M-Pesa. The money was then collected by the fraudsters and the politician lost the charity (INTERPOL, 2020). This is an example of transactional fraud.

It is clear from the case study that victims trust Mobile Money Services (MMS); however, they lack an understanding of how the money transaction process occurs, which provides room for criminals to exploit them. Since MMS (i.e., M-Pesa) offers complex levels of operations and actors, it provides room for organized crime to foster. Furthermore, poor regulation and enforcement provide another enabling factor for transnational organized crime to thrive.

Section 2. How M-Pesa Contributes to Money Laundering and Other Types of Organized Crime

The high rates of unemployment, especially among the youth in Kenya, have led them to crime out of frustration and illegitimate opportunity structure, with most of them finding solace in technology-aided crimes such as M-Pesa fraud. Strain theory suggests that an individual initially attempts to achieve "success" by acceptable means (e.g., education, employment) but he or she quickly realizes that these legitimate avenues are blocked in lower-class communities. Blocked access to legitimate avenues of success may come in a variety of general forms including under-funded school systems and high unemployment rates (Byrne & Hummer, 2016). Due to lack of opportunities, individuals make varied adaptations in response to the strain being experienced (unemployment), one of the ways individuals adopt through innovations. Many unemployed

Kenyans may opt to use the M-Pesa services to engage in transnational organized crime and other related crimes to achieve social and/or material goals, including economic success.

Technological advancement has led to the displacement of traditional crimes from their mainstream perpetration, i.e., ordinary street crimes to online/via technology platforms as the result of situational crime prevention methods such as increasing the difficulties of crime and increasing the immediate risks of getting caught. Routine activities theory argues that opportunity plays a part in every form of crime or disorder (Clarke, 1997) and, therefore, the emergence of online-based crimes such as mobile money fraud, money laundering, and identity theft, to mention just a few, are perpetrated because of the opportunities afforded by the online platforms. This article shows that the risks of being caught while engaging in M-Pesa fraud are low and it is fairly easy to execute.

Money laundering in Kenya is dependent upon local and international criminal gangs that operate in both formal and informal sectors. In 2017 the United States of America, through the Department of State, warned that M-Pesa could be used for local and cross-border criminal operations (Bureau for International Narcotics . . ., 2017). Two years later, the Al-Shabab terrorist group managed to maneuver and enhance their tactics using mobile money transfer in Kenya. It has been reported that one of the suspects of the January 2019 Dusit D2 terror attack had previously received approximately Ksh. 9 million from South Africa through M-Pesa over three months and sent it to Somalia to assist in the preparation of the attacks (Safaricom had closed).

Apart from the ability to receive money from other countries across the globe to support criminal enterprises, M-Pesa recently launched a service that allows its customers to send money globally as well. With this new development, M-Pesa customers can send money to foreign banks via Western Union, PayPal, World Remit, Home Send, and International mobile numbers

(Safaricom Annual Report, 2018). This in itself creates new avenues for the commission of transnational organized crimes such as money laundering and financing terrorist groups, fraud, and even trafficking of drugs across borders. In the past, outbound international transfers have been curtailed because of rising concerns over money laundering and terrorism financing.

With the growth of M-Pesa in the East Africa region, organized criminal operations that deal in money laundering, online fraud, and terrorism financing have moved beyond traditional financial institutions to new technologically powered systems such as M-Pesa and M-Pesa Global. Criminal gangs that engage in fraudulent activities have leveraged their operations on mobile money transfers without leaving a trace. Several Kenyans have been arrested in connection to M-Pesa fraud. Fraudsters scam unsuspecting individuals by calling and pretending to be employees of a service provider (Muinde & Kahonge, 2020). People who answer the calls are asked to share sensitive information such as IDs and PINs. The criminals then swap SIM cards, a process that allows them to transfer money, carry out mobile and internet banking services, make voice calls, use data, and any other services. In December 2018, the Directorate of Criminal Investigations arrested three individuals in Nakuru County with several identity cards, over 2000 SIM Cards, and M-Pesa booklets.

Similarly, in April 2018 a man who impersonated parliamentarian Sabina Chege was arrested in Tanzania while fleeing to Congo after using her details to extort money from Kenyan Members of Parliament through M-Pesa (Ombati, 2018). There are also instances where individuals fall victim to non-M-Pesa messages. In this case, fraudsters circulate M-Pesa messages to potential victims; afterward, they follow with a phone call and ask for a reversal. The unsuspecting victim reverses money that never came into his or her M-Pesa account, thereby losing the money they "reversed." This has proven hard to investigate since the fraudsters use one-time SIM cards.

Conmen have also fraudulently called customers to inform them that they have won money in competition and, through a series of instructions, shepherded unsuspecting users to the point of sending money to the fraudsters as a prerequisite to accessing their "winnings." With technological advancements, it remains difficult to track and investigate suspicious transactions within mobile payment and banking systems. The police, for instance, do not have adequate resources to build sufficient institutional capacity, nor do they possess the investigative skills necessary for independent complex financial investigations.

Kenya has been listed as a major money laundering country with financial institutions that engage in currency transactions involving significant amounts of proceeds from international narcotics trafficking (Bureau for International Narcotics . . ., 2017). As the financial hub of East Africa, Kenya is also at the forefront of mobile banking. In 2016, in the global market in M-Pesa hit Kenya Shillings (Ksh.) Six billion in global transactions. In the first quarter of 2017, M-Pesa moved Ksh. 890 billion locally (Safaricom PLC, 2021). As of 2018 M-Pesa has approximately 20.5 million registered users (Safaricom Annual Report, 2018). The higher the number of registered users, the higher the risk posed to the platform. In 2018 alone, Safaricom investigated 57 fraud cases involving its employees compared to 27 cases in 2015 (Safaricom Annual Report). In the wake of technological advancements, the M-Pesa platform remains vulnerable to transnational crimes. Mobile money like M-Pesa has made it possible for criminal gangs operating around the world to commit simple crimes using simple tools, simple crimes using complex tools, complex crimes using simple tools, and complex crimes using complex tools.

Section 3. Strategies to Combat Transnational Organized Crime on the M-Pesa Platform

The White House National Security Strategy (United States, 2010) states that

> combating transnational criminal and trafficking networks requires a multidimensional strategy that safeguards citizens, breaks the financial strength of criminal and terrorist networks, disrupts illicit trafficking networks, defeats transnational criminal organizations, fights government corruption, strengthens the rule of law, bolsters judicial systems, and improves transparency. (p. 49)

In 2015, to show commitment to the Anti-Money Laundering Campaign, Safaricom came up with a Transaction Monitoring Procedure, which ensures that suspicious M-Pesa transactions are detected, investigated, and reported promptly. Additionally, the telecommunication company has put in place what is called the Know Your Customer policy to promote due diligence and prevent cases of fraud, money laundering, or terrorist financing (Safaricom, 2015). Through Safaricom, M-Pesa launched a voice biometrics service in 2018 to protect its customers' data. Voice biometrics rely on an individual's voice characteristics for identification. The move was a response to the rising number of fraud cases, and Safaricom anticipates a reduction in such M-Pesa cases (Safaricom Annual Report, 2018).

As recently as 2017, Safaricom decided to strengthen verification initiatives by introducing the use of photo ID for identification to curb M-Pesa fraud. The company also introduced strict measures to its agents and made it mandatory that all cash withdrawals and deposits must be accompanied by an identification document. It is worth noting that in 2018 Safaricom lost Ksh. 20 million to fraudsters as compared to Ksh. 90 million in 2017. In the same spirit of fighting money laundering through mobile money, the Central Bank of Kenya published anti-money laundering guidelines for the provision of mobile payment services. The purpose of the guidelines is to implement and enforce sound anti-money laundering legislation for mobile payment service providers and to ensure all mobile payment service providers are subject to effective systems for monitoring and ensuring compliance with AML/Countering the Financing of Terrorism measures (Central Bank of Kenya, 2013). According to these guidelines, any mobile money transfer account that exceeds a daily turnover of Ksh. 100,000, and any personal account transacting more than Ksh. 300,000 per week, is subject to investigation. The guidelines also elaborate on money laundering systems and control where mobile service providers are supposed to report to the Central Bank of Kenya every month. Service providers are required to enact penalties and other remedial measures for violators. Furthermore, in March 2018 the Central Bank of Kenya issued a guidance note on conducting money laundering/ terrorism financing risk assessment to set the minimum standards that institutions should adopt to develop an effective money laundering/terrorism financing risk assessment framework (Central Bank of Kenya, 2018).

Conclusion

This article attempts to reveal the causal relationship between M-Pesa and other Mobile Money Services to transnational organized crime through the application of criminological theories. The authors have shown that mobile money services such as M-Pesa offer transnational organized criminals the opportunity to thrive because of the network it offers and the many loopholes that this system provides. Criminals exploit the weaknesses in mobile money services to commit organized transnational crimes, and the complex structure of M-Pesa, which includes diverse actors, offers criminals an empowering environment for the commission of transnational organized crimes.

Criminological theory can help not only to explain how transnational organized crime is committed but also provides us with methods and mechanisms for how to respond to such criminality. The article highlights how the weaknesses of individual identification systems, the lack of consumer awareness, and adequate training for law enforcement officers provide room for transnational organized crime to thrive. M-Pesa has been shown to contribute greatly to the country's economy, creating efficiency and convenience for common people to make transactions. Closing the loopholes presented in this article will reduce criminal opportunities and make it safer to use mobile money services such as M-Pesa.

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