SOC ACE Serious Organised Crime & Anti-Corruption Evidence Research Programme

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News never sleeps: When and how transnational investigative journalism complements law enforcement in the fight against global corruption[1]

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Summary

Grand corruption is a transnational problem requiring transnational cooperation among anti-corruption actors.

In the case of law enforcement, cooperation is often difficult to achieve, and this has been attributed to the political sensitivity of investigations, lack of trust among agencies, difficulties in sharing intelligence securely, weaknesses and discrepancies in capacity, and organisational incentive structures that favour quick and easy cases. However, investigative journalists, who ostensibly face similar challenges, increasingly cooperate across borders to investigate and expose corruption with great success.

Our research seeks to understand how investigative journalists have overcome these difficulties and to assess the contribution that they make, alongside that of other actors such as law enforcement, to global collective efforts to tackle grand corruption and illicit financial flows. We explore these questions through interviews with investigative journalists who have participated in transnational networks in Latin America, the Caribbean and the Balkans.

1 For the full research paper, see Dávid-Barrett, E & Tomić, S (2022). *Transnational governance networks against grand corruption: cross-border cooperation among law enforcement.* SOC ACE Research Paper No. 8, Birmingham, UK: University of Birmingham.

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We find that these networks empower journalists operating in high-risk contexts by providing safety in numbers and facilitating strategic use of different legal frameworks or access to data, methods and standards, helping to bring stories to the public. They serve an important function in identifying individual perpetrators of crimes, but also in uncovering patterns of corruption and systemic weaknesses, informing policymakers about where there is a need for action. Moreover, by creating understanding and awareness about grand corruption and its impacts among the public, they help to create political pressure on office holders to act.

We argue that transnational investigative journalism (TIJ) should be seen as a new institution of global governance which adds significant capability and value to our anti-corruption toolkit. The transnational networks are agile, dynamic, and capable of working across borders, making them a match for the perpetrators of grand corruption, money laundering, and organised crime. However, there is potential for them to make an even more important contribution, if their work could be better coordinated with law enforcement and if their funding model was more secure.

Background

Investigative journalism has always been a vital tool for exposing and deterring corruption, but it was traditionally very localised, since journalists relied on local knowledge and social capital to find out information. This model came under threat with the rise of online and free-of-charge media content and the decline of the printed press, particularly local newspapers. With the market facing pressure to produce more content but forgoing income from newspaper sales as well as advertising revenue, investigative journalism – which is slow, resource-intensive, and high-risk – initially fell into decline, and with it, an important part of the accountability ecosystem was lost.

However, over the last decade, investigative journalists have begun to work according to a new model. Large transnational networks of journalists based in countries all around the world have broken a series of major stories on grand corruption and illicit financial flows. These stories have often been based on major leaks of data from law firms, financial institutions, or government agencies, as with LuxLeaks (2014), SwissLeaks (2015), the Panama Papers (2016), the Paradise Papers (2017), the FinCEN Files (2020), the Pandora Papers (2021), and Suisse Secrets (2022).

Transnational investigative journalism networks play a convening role for journalists around the world and facilitate their cooperation. There are two main global TIJ networks in the world, the Organized Crime and Corruption Reporting Project (OCCRP) and the International Consortium of Investigative Journalists (ICIJ). These are complemented by a range of regional networks, such as the Balkan Investigative Reporting Network (BIRN), which is prominent in the Western Balkans. Regional networks sometimes participate in or have membership in a major international TIJ network.

Key findings

Journalists regard membership in a TIJ network as valuable in mitigating individual risk. As several journalists explained to us, investigating and writing about the perpetrators of grand corruption remains an extremely dangerous business, but transnational networks are helpful in mitigating the risks associated with taking on the powerful and well-connected. This partly reflects a sense of safety in numbers. As one journalist told us,

> 'I lived in a small town and if I was going to publish something by myself on corruption I felt completely unsafe. I didn't have any support. Once I received a death threat after publishing something. With the transnational work you have a network of support, and it's not only your name that becomes a target or is connected to a publication, it's loads of names being connected.'

The network may also make it possible for individual journalists who might be at risk if their names were associated with certain stories to pass on a story to someone else in the network. If a case is highly sensitive in one country, for example, the network might pass it to someone who does not live there. This approach can also help evade curbs on media freedom and make sure that stories which would otherwise be suppressed are published. Notably, for example, none of the February 2022 Suisse Secrets stories were published under the bylines of Swiss reporters, out of concern that these individuals could be prosecuted under Switzerland's archaic secrecy laws. Other journalists told us that they have used transnational networks to get around Nicaragua's laws against publishing stories based on leaks. Once the story has been published elsewhere, outside the jurisdiction of those laws, it is not illegal to report a synthesis of the story in the Nicaraguan media.

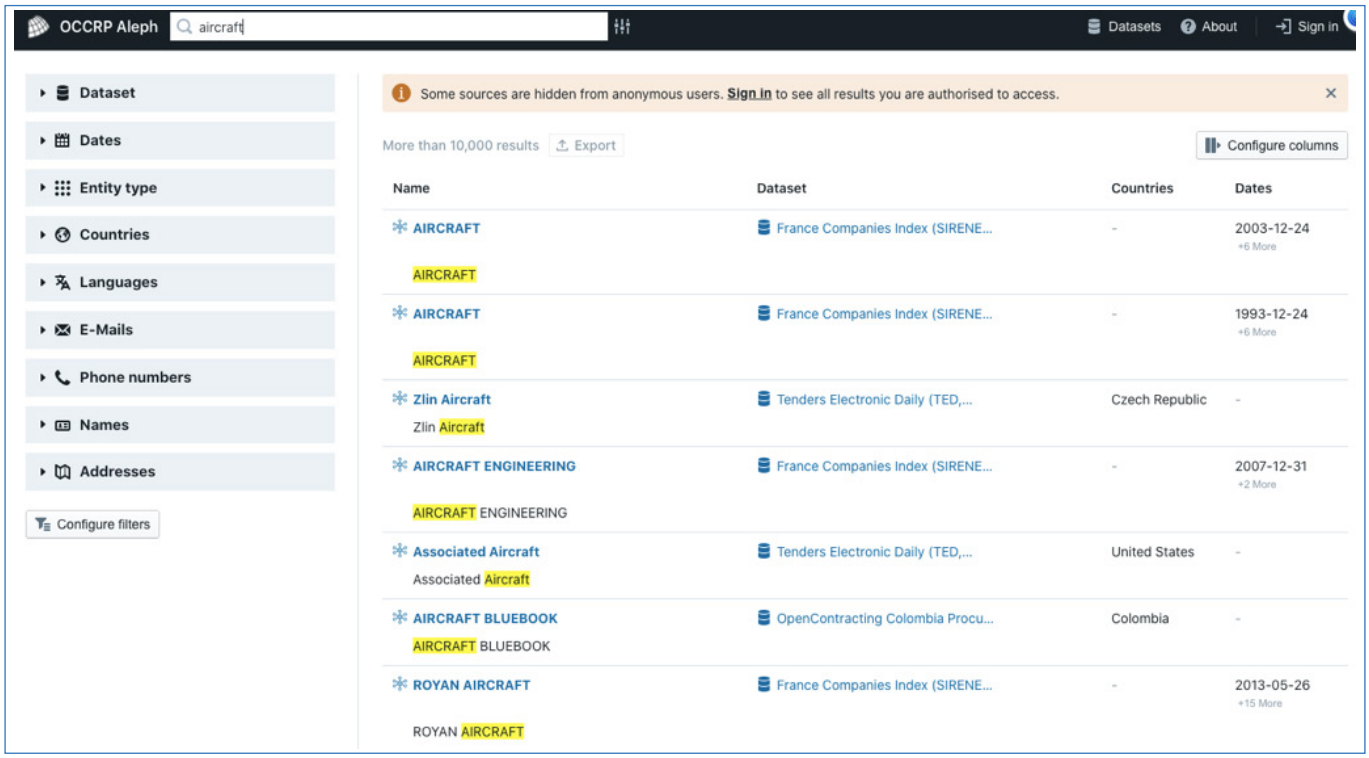
We found that **transnational networks build the capacity of the profession in several ways.** One way is through new tools provided by the networks as a public good for the profession, alongside training on how to use them. The networks have two sorts of digital platforms, for example, both of which are fundamental to efficient cross-border investigations. **Internal forums allow journalists and other experts to liaise**; for example, to find a partner from abroad, perhaps in far-flung places, who can assist an ongoing investigation, most often by gathering local evidence and providing local context. Some journalists act as regional specialists whom their colleagues from other places in the world can hire for more sophisticated analysis. One interviewee from one of the two global networks works as a specialist for the Middle East North Africa (MENA) and Balkans region:

> 'I often get hired to research various sources that someone from distance cannot, which sometimes even includes travels to another country, when, for instance, I must physically present myself to collect documentation from sources such as registries, or if I need to speak to a local source. The knowledge of the local context, formal and informal sources, and the language, make local specialists highly valuable assistors for other journalists from across the world.'

Investigative dashboards, meanwhile, collate data from a variety of sources to help journalists access and triangulate evidence. For example, the OCCRP has brought together journalists and data scientists to develop an investigative dashboard called Aleph[5] (see Figure 1), which provides access to data including company ownership records and other information using data from public records and the media, as well as from past leaks and data from public sources such as on geospatial location.

5 Organized Crime and Corruption Reporting Project (n.d.). OCCRP Aleph. https://aleph.occrp.org/.

Figure 1: A screenshot of Aleph showing a search for 'aircraft'; from the open version of the OCCRP tool Aleph



The networks also sometimes assist small outlets with gaining access to tools and data that they might otherwise find too expensive to access, such as satellite information, export-import figures, or telephone numbers or addresses. Some networks have in-house data scientists to perform sophisticated searches and analyses.

Our interviews indicate that TIJ networks excel at harnessing digital capacities. Moreover, this **digital collaboration has helped to develop and consolidate a culture of collaboration among the TIJ networks**.

> 'It is a sort of a blind reciprocity. Someone is helping you out today, and you simply help someone else tomorrow, knowing that the whole network and profession is built on this mutual support and readiness to "jump in" whenever someone from another part of the world needs local assistance. And we do that without any reservation or slack. It is almost a norm to respond to an assistance request within the same day, if not within an hour or so – depending on when you see the request and when you can respond - and then get down to the task that the colleague is asking.'

This has helped to build trust and a strong sense of community across truly global networks. This is an asset in itself which may give TIJ an advantage over other professions in the anti-corruption space, including law enforcement and prosecutorial officials, where such trusting attitudes seem more dependent on historical and formal relationships among subsets of countries. It marks a shift in the culture of journalism away from the traditional 'lone wolves' competing for career-burnishing scoops, toward a more collaborative and mutually supportive model, which may also attract different personality types into the profession. Further research might explore, for example, whether this makes the profession more appealing to women or better able to retain women.

Training is not just about teaching individuals to find and use new data sources. TIJ networks also conduct training on journalistic standards, providing guidance on establishing an investigative strategy, how to deal confidentially with sources, fact checking and triangulation, and publishing with credibility.

> 'The training that I received in my network was invaluable; I had the opportunity to learn from leading investigative journalists in the world how to deal with evidence, sources, how to avoid the typical pitfalls and what to do – in other words, the big "Nos" and the "Dos".'

The fact that individuals have been trained to the same professional standards serves as a signal of credibility that helps to build trust among network members. They can be more confident that individuals will operate to the same high standards and according to a shared understanding of what constitutes good practice, making it easier for them to trust one another with sensitive information and to rely on each other to carry out tasks.

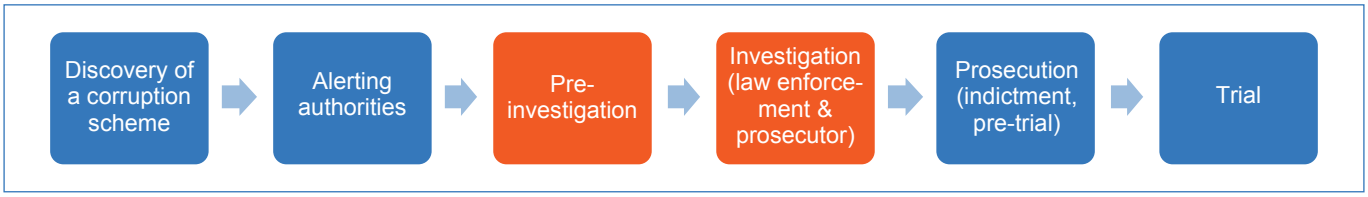
Implications for the fight against grand corruption

The work and discoveries of TIJ networks is widely lauded, but what do we know about its contribution to the global fight against grand corruption? Many actors play a role in tackling grand corruption and it is important to understand their limitations. Anti-corruption investigations comprise a long and complex chain of stages (see Figure 2), and a weakness in one of the stages may jeopardise the whole process.[6] Relatively few of the cases of cross-border corruption revealed by even the most spectacular leaks have led to trials and verdicts, because it is eventually up to domestic authorities to prosecute, and that legal process is fraught with obstacles.

Once again, technology plays a role in enhancing the value of TIJ to the global anti-corruption effort. It has made it much easier for whistleblowers and other sources to contact journalists anonymously and to provide them with large quantities of information in electronic form through special websites where data can be dumped. The digital nature of today's media also facilitates the use of investigative journalists' reports by law enforcement, because the articles and the databases on which they are based create an archive that can be useful to law enforcement looking for evidence, especially since search engines make it easy to find information from the past and connect the dots. Thus, even if a story does not trigger an investigation, it might be consulted at a later date if an investigation is started for another reason.

Our research suggests that TIJ networks are especially important in the discovery and preliminary evidence collection stages of the global fight against corruption, necessary preconditions for a formal investigative process to launch and potentially turn into a prosecution, trial and verdict; and may also enhance the pre-investigation stage. Journalistic reports may alert prosecutors and law enforcement to the location of evidence in new places, and potentially to unexplored linkages among corruption actors.

Figure 2. Formal stages in the anti-corruption prosecution cycle



6 Johnsøn, J (2012). *Theories of change in anti-corruption work: A tool for programme design and evaluation*. U4 Anti-Corruption Resource Centre.

This can focus the authorities' attention, potentially triggering further investigation by law enforcement or the prosecution apparatus, or by an Asset Declaration Office, which, for example, might obtain evidence of criminal acts such as hiding assets abroad, and may be mandated by law to initiate a procedure to check such evidence as part of verifying a politically exposed person's asset declaration. There are numerous cases in the Balkans where journalists discovered that a public official possessed undeclared bank accounts in a foreign country, or a company registered abroad including in offshore jurisdictions, from which they could operate and invest monies back into the original country or elsewhere.[7]

Sometimes TIJ reveals that office holders are perpetrators of corruption schemes, or reveals how they launder monies, or hide assets abroad. In this sense, TIJ may play an important role in boosting the horizontal and electoral accountability of office holders, mobilising pressure and stimulating work on new anti-corruption initiatives, helping to set the agenda. However, this impact is difficult to measure and unpredictable; sometimes "things do not move" even when a story "makes a splash".

Nor do such revelations necessarily prompt an anti-corruption investigation. Our interviews in the Western Balkans – specifically, in Serbia, North Macedonia, and Bosnia and Herzegovina – suggest that cooperation between journalists and law enforcement or prosecutors is weak to non-existent. The professions maintain a high degree of "relation distance" from each other,[8] although they ostensibly work towards similar goals and greater collaboration might strengthen anti-corruption capacity. This separation partly reflects objective obstacles including different legal standards and incentive structures. Once an investigative story has been published, it might be too late for the justice system to follow up on the evidence presented thereof. Indeed, publication of a story might itself alert suspects, who might try to tamper with the evidence, evade the jurisdiction, or hide assets.

"Softer" or more subjective factors also play a role, such as incompatible professional cultures, lack of understanding and trust, and weak confidence in the potential for collaboration to yield benefits. Investigative journalists often see law enforcement and prosecutors as 'closed, keeping themselves at distance at best, with very little readiness to provide information about the progress in ongoing cases or the state of referred cases of potential corruption schemes that a journalist has reported about'. One lamented that,

> 'We understand that they might not want to compromise an investigation by revealing details to us, but we generally have difficulty tracing [even more simple things such as] in what stage a case is and, even after years of being published, whether it is still investigated, whether it closed, and so on.'

The two professions also have very different organisational cultures, which are partly shaped by prior traditions as well as concrete differences in the evidentiary standards and legal prerequisites that each profession needs in order to take action. Our interviews indicate that a significant portion of prosecutors and law enforcement officials find investigative journalist stories *potentially* useful, but they exhibit a high degree of scepticism as to whether the material of the journalists will meet evidentiary standards and be sufficient to trigger a formal legal process, even in terms of pre-investigation. Some prosecutors, for instance, take the view that many journalists are "too light" or "too creative" on evidence and have no understanding

7 For example, the Serbian Minister of Finance was found to be the CEO of a firm registered in the British Virgin Islands which, among other things, owned 24 apartments on the Bulgarian coast. See: Vojinović, M & Pećo, D (2021). 'Mali refused to answer questions about 24 apartments to *KRIK* journalists', *KRIK*, 15 November. https://www.krik.rs/mali-odbio-da-novinarima-krik-a-odgovori-na-pitanja-o-24-stana/; another story revealed that Director of Serbian Highways, a high-ranking official and long-standing member of one of the ruling parties in Serbia, had an undeclared bank account holding €500,000 in Switzerland: Jovanović , B (2022). 'Drobnjak claims that the account in Switzerland was not his, the leaked data say the opposite'. KRIK, 1 March. https://www.krik.rs/drobnjak-tvrdi-da-racun-u-svajcarskoj-nije-bio-njegov-procureli-podaci-govore-suprotno/.

8 Black, D (1976). *The Behavior of Law.* New York: Academic Press.

of the criminal procedures and legal standards to which they (prosecutors) must operate. One typical comment sums up the attitude: 'Trial by media is to be avoided, and that sort of pressure could only be pernicious'. Some law enforcement officers seemed to look down on journalists, citing suspicions about them having a 'hidden agenda', 'not understanding legal standards', or being prone to 'impatience and [being] quick on the gun'. While these concerns are to some extent founded on real differences in operational requirements, we suggest that such views tend to 'lump all journalists into one basket'. They might fail to recognise that some investigative journalists work to very high professional standards, risking that useful resources and reports may be overlooked. On the other hand, some law enforcement agents were more open-minded. One said, 'why not use their powers? They have the ears.'

Some of the journalists we interviewed recounted some instances where TIJ reports had presented new details that either facilitated an ongoing investigation or put pressure on investigators who were aware of certain issues but had thus far neglected to explore them. One journalist told us that law enforcement authorities may even leak information to them so that a story is published and this creates external pressure to speed up an investigation.

> 'Some of the leaks we receive are from internal staff who are frustrated with the lack of progress or even will by their superiors or colleagues in investigating a case; once they give us the details and after we investigate further, we publish it and this could put pressure on the institution to act.'

TIJ also contributes to the global fight against corruption through creating domestic or international pressure to address systemic weaknesses. TIJ can be an important catalyst and advocate of reform. For example, coverage of grand corruption and money laundering schemes uncovered in the Panama Papers and similar leaks has helped to make the case for public registers of company beneficial ownership, which is now a key advocacy goal of the global anti-corruption movement. Journalism illuminates the extent of crime in our society, its relationship with other countries, and uncovers the role of political actors in orchestrating, being implicated in or tolerating such criminal networks. It can help create political pressure for governments to better resource the law enforcement authorities, for example.

Towards closer engagement between TIJs, law enforcement and prosecutors?

Is this constellation of mutual distance and distrust between investigative journalists and more formal law enforcement actors inevitable? We suggest that there are three possible models of collaboration and co-existence.

a) **Parallel co-existence**. This is by and large the status quo model, with mutual distance and distrust and little cross-utilisation of the resources that each side has and offers.

b) **Healthy distance**. A step towards further collaboration would involve both sides giving more consideration to how the other party might feed into the broader anti-corruption process. In this model, prosecutors and law enforcement, for instance, would act on some revelations from investigative journalists in a post-hoc utilisation of stories already published. At the same time, investigative journalists would be allowed greater access to information regarding the basic status of a case; for example, whether the prosecutor had opened an investigation.

c) **Closer mutual collaboration**. A more collaborative model could include ex-ante cooperation prior to the publication of a story. In this model, law enforcement and prosecutors would engage with investigative journalists early in the process. Regarding individual cases, investigative journalists could provide early insights to law enforcement and prosecutors to "raise the alarm" about potential criminal schemes. This seems to occur rarely at the moment, certainly in the Western Balkans, but one prosecutor mentioned that, unlike the established

practice among colleagues, they tended to heed investigative journalists' early reports and regarded them as 'valuable information from the field, which we neither have at this early stage nor can we in formal legal terms initiate it'. Another interviewee, a financial investigator working on the identification of money laundering cases, suggested that 'we should utilise investigative journalists much more; they are out there in the community, they see when someone starts driving an expensive car, buys land for an expensive property development, or shows other signs of overnight enrichment which might be illicit'.

However, it is not without tensions. Journalists fear becoming informal 'informants'. Most of the journalists interviewed highlighted that one of their priorities is to keep questioning whether they are being lured into serving or "being used" by law enforcement people or others in the justice system. One said, 'We need to be continuously cautious especially when dealing with people from the intelligence service or police, as, alongside [being] willing to feed us with information that we would publish and thus further their goals – more or less noble – they might also want to extract from us more about a case we are working on or maybe even a source, whom we must not compromise under any circumstance.' Journalists might also fear losing "story exclusivity", which remains a significant motivator, particularly in today's age of social media.

> 'Honestly, upon introspection, I can definitely say that there is an element of fame-chasing in our work… sometimes it's just hard to control, especially as you start building your name with the first few cases… sometimes it even makes for a competitive environment among our colleague journalists within the country.'

Law enforcement officials also have reservations. One law enforcement officer told us that a colleague who had cooperated with a journalist was regarded with suspicion by colleagues, while also facing the risk that they might lose their job if seen to have breached secrecy rules. Others also mentioned the risk of reputational damage from "crossing the red line".

Yet it seems that there might still be potential, within these constraints, to build an ethical and mutually trust-reinforcing model of cooperation. Law enforcement and prosecutors could engage in "soft" or informal consultations with investigative journalists, for example, to discuss which types of cases or schemes are of particular interest, allowing for information-sharing about priorities or emerging patterns. With carefully crafted protocols and mutual norms of collaboration, this might lead to an ethical and instrumental "agenda coordination" between the two sides. It could also build relationships that might reduce transparency barriers at a later stage; for example, when a criminal procedure has been opened, making it easier for journalists to access information regarding the state of the case.

Conclusion

Transnational networks of investigative journalists provide unsolicited but rigorous narratives linking information and actors, with the evidence they uncover being used both by the general public and by law enforcement agencies. The search and collaborative capacities of TIJ have in this way overcome the cross-border obstacles that anti-corruption investigators have traditionally faced, effectively compressing time and space to make large investigations more efficient. In an era where criminals operate and distribute their assets across borders and may move money quickly, the efficiency of a global network is critical to being able to act quickly to trace assets and activities. TIJ is already performing an essential function in the global fight against grand corruption and illicit finance, but this role might yet be enhanced further, by finding further ways to build cooperation with other anti-corruption actors.

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The Serious Organised Crime & Anti-Corruption Evidence (SOC ACE) research programme aims to help 'unlock the black box of political will' for tackling serious organised crime, illicit finance and transnational corruption through research that informs politically feasible, technically sound interventions and strategies. Funded by the UK's Foreign, Commonwealth & Development Office (FCDO), SOC ACE is a new component in the Anti-Corruption Evidence (ACE) research programme, alongside Global Integrity ACE and SOAS ACE. SOC ACE is managed by the University of Birmingham, working in collaboration with a number of leading research organisations and through consultation and engagement with key stakeholders.

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