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# Transnational governance networks against grand corruption

Cross-border cooperation among law  
enforcement

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# Acronyms and abbreviations

<b>AFP</b>	Australian Federal Police
<b>CSSF</b>	Conflict, Stability and Security Fund
<b>DHS</b>	Department of Homeland Security
<b>EU</b>	European Union
<b>FBI</b>	Federal Bureau of Investigations
<b>FCDO</b>	Foreign Commonwealth & Development Office
<b>HSI</b>	Homeland Security Investigations
<b>IACCC</b>	International Anti-Corruption Coordination Centre
<b>ICCP</b>	International Corruption Capacity Project
<b>ICE</b>	Immigration and Customs Enforcement
<b>ICU</b>	International Corruption Unit
<b>MLA</b>	Mutual Legal Assistance
<b>NAO</b>	Network Administrative Organisation
<b>NCA</b>	National Crime Agency
<b>NGO</b>	Non-governmental Organisation
<b>PEP</b>	Politically Exposed Person
<b>RCIPS BFI</b>	Cayman Islands Bureau of Financial Investigation (part of the Royal Cayman Islands Police Service)
<b>RCMP</b>	Royal Canadian Mounted Police
<b>SOC</b>	Serious Organised Crime
<b>UK</b>	United Kingdom
<b>UNCAC</b>	United Nations Convention Against Corruption

# Summary

Grand corruption occurs when senior politicians and public officials abuse their power to embezzle large sums from the state. They typically also launder this money using the global financial system, setting up shell companies in offshore secrecy jurisdictions to conceal the provenance of their corrupt proceeds. Grand corruption damages the economic and social development of the countries from which funds are stolen, as well as undermining the rule of law.

Fighting grand corruption requires transnational cooperation among law enforcement agencies, to be able to 'follow the money' on its typically complex route around the globe. However, law enforcement agencies typically encounter many obstacles when they try to cooperate, some of them technical but others arising from weak resources or power imbalances. Existing international organisations such as INTERPOL and EUROPOL are not able to overcome these problems efficiently, partly because their formal mandates limit them to facilitating bilateral cooperation.

This problem relates to wider literature on the rise of voluntary transnational governance networks as collective action responses to problems deriving from globalisation. In many cases, these networks comprise private sector organisations and focus on setting standards and norms for self-regulation, or NGOs and think tanks that spread knowledge.

This paper sheds light on how a certain group of substate actors – law enforcement agencies – have formed a coalition of the willing to cooperate among themselves and support non-member agencies in sharing intelligence to fight grand corruption. It studies one particular innovation in this area, the International Anti-Corruption Coordination Centre (IACCC), a unit set up following the 2016 London Anti-Corruption Summit with core funding from the UK government. The IACCC is a result of voluntary cooperation among the law enforcement agencies of six countries (Singapore plus the 'Five Eyes', a pre-existing intelligence-sharing alliance comprising Australia, Canada, New Zealand, the UK and the United States), as well as nine associate partners.

The Centre was set up to improve the efficiency of transnational grand corruption investigations, by assisting investigators and prosecutors from jurisdictions all around the world, many of whom lack the resources, expertise or political support needed to pursue grand corruption crimes. It is able to take an overview of intelligence collected from its multiple partners and provide a composite intelligence package to the requesting state. This is a more integrated service than INTERPOL or Europol can provide, since they are permitted only to facilitate bilateral connections, meaning that many information asymmetries remain.

The paper provides evidence on three ways in which the IACCC enhances the global fight against grand corruption:

- By enhancing understanding among overseas law enforcement agencies about how to draft a request for mutual legal assistance (MLA) to which the UK authorities can respond, and helping to shepherd requests through the system.
- By reducing the uncertainty and costs of pursuing grand corruption cases and increasing the ease of access and benefits, in a context where weak resources and political sensitivity often lead national agencies to avoid corruption cases.
- By using informal relationships to build trust and confidence, particularly between agencies from more- and less-developed countries, which facilitates not only cooperation on particular operations but also the transfer of knowledge, practices and strategic thinking around prosecution strategies.

### **Broader implications**

Transnational networks to fight grand corruption are evolving, from purely facilitating operational exchange to providing a range of functions that build capacity, set standards and integrate knowledge. This is made possible by creating contexts in which *informal* relationships can form and grow (although it is also clear that the formal intelligence-sharing alliance of the Five Eyes provides an important basis for trust in the IACCC). These types of relationship ensure that cooperation goes beyond sharing intelligence, to develop broader and more strategic knowledge around the globe about how to design and tailor investigations, including where to focus, how much resource to use, how to sequence different steps, and when to convert informal conversations into formal requests.

Thus, whereas early work on transnational policing had argued that effective police cooperation requires formal structures and a supranational system of accountability to ensure popular legitimacy, the IACCC experience suggests that softer and more informal forms of cooperation can complement formal cooperation, and even overcome some of the obstacles it faces.

Overall, the system contributes to collective global capacity to fight grand corruption by allowing agencies with weak resources and working in difficult political contexts, to “outsource” some of their need for technical knowhow and capacity to external actors that are not under direct political control and/or are less vulnerable to political intimidation from vested interests. In short, transnational networks operating in the sensitive area of corruption empower actors in high-corruption contexts by allowing them to access and borrow support from systems with stronger rule of law.

# 1. Introduction

Globalisation results in a number of problems requiring transnational governance solutions, including contagious financial instability and security issues arising from terrorism and organised crime (Koppell, 2010). Kleptocracy, a form of high-level corruption facilitated and fuelled by globalisation, is one such issue (Bullough, 2018). Senior politicians and public officials abuse their power to embezzle large sums from the state. And they typically launder this money using the global financial system, setting up shell companies in offshore secrecy jurisdictions to conceal the provenance of their corrupt proceeds. The global nature of the problem requires at least a partly global solution, leading many to call for improved transnational cooperation among law enforcement. Commitments to this effect are embedded in Articles 48 and 56 of the UN Convention Against Corruption (UNCAC).

For most of the problems arising from globalisation, states have found it difficult to coordinate a regulatory response. The intergovernmental frameworks and international organisations on which we used to rely have proved ill-equipped and ineffective, struggling with the operational challenges of transnational cooperation and often unwilling to tackle the political sensitivities that these problems raise (Hamel-Green & Held, 2012). In many cases, voluntary transnational cooperation among non-state actors has emerged instead. Private sector companies engage in voluntary regulation, forming clubs and setting standards around environmental commitments, labour rights, and integrity in international business (Abbott & Snidal, 2001; Dávid-Barrett, 2017; Mattli & Woods, 2009; Potoski & Prakash, 2005; Vogel, 2008), while multi-stakeholder initiatives help to bind governments and companies to similar commitments, partly through engaging civil society actors to hold them to account, thereby providing international reputational benefits and local accountability (David-Barrett & Okamura, 2016; Mena & Palazzo, 2012). Such initiatives involve a devolution of responsibility to non-state actors and focus on diffusing norms as a substitute for enforceable regulation.

In other areas, transnational governance networks of 'substate' actors – that is, actors that are part of the state machinery but not core decision-making governmental bodies, such as national regulators and law enforcement agencies – play a similar role. They also produce and disseminate soft rules and non-binding standards (Bach, De Francesco, Maggetti & Ruffing, 2016), share and manage knowledge (Stone, 2013), and drive learning (Francesca P. Vantaggiato, 2018). Such networks are often used to compensate for weak resources in individual agencies (Francesca P. Vantaggiato, 2018), while their development is affected by power dependencies (Saz-Carranza, Salvador Iborra & Albareda, 2016), but overall, membership tends to boost the legitimacy of participating agencies and reinforce their independence (Stephenson, 2017).

Law enforcement is one area where such networks are growing. The increasing interconnectedness of the world has transformed the way that policing works (Bowling, 2009), with cross-border cooperation among police agencies described as a 'statist transnationalism', and seen as particularly important for addressing organised crime and terrorism (Aydinli & Yon, 2011). However, while the need for transnational cooperation among law enforcement agencies is widely acknowledged, research to date



has largely discussed how poorly such cooperation functions. The mainly legal literature tends to focus on distinct species of institutions (Christensen, 2021) and typically concludes that the barriers to cooperation are vast, arising from differences in legal systems, lack of trust among agencies, and the political sensitivities of sharing information, which is particularly relevant for corruption cases (Busuioc & Groenleer, 2013). Some nascent conceptual work in the fields of public administration and regulatory governance seeks to capture experience of how transnational cooperation works when it overcomes these barriers, what functions it serves, and how it influences the professions involved (Tomic & Scott 2022).

We contribute to the literature by analysing a recent innovation in the field, the International Anti-Corruption Coordination Centre (IACCC), a unit dedicated to transnational cooperation in fighting grand corruption that was established in 2017. This Centre, based in the UK National Crime Agency, is a voluntary cooperation among the law enforcement agencies of six countries (Singapore plus the 'Five Eyes', a pre-existing intelligence-sharing alliance comprising Australia, Canada, New Zealand, the United Kingdom and the United States), as well as nine associate partners. It thus acts as a 'network administrative organisation', or NAO. The Centre was set up to improve the efficiency of transnational grand corruption investigations, by assisting investigators and prosecutors from jurisdictions all around the world, many of whom lack the resources, expertise or political support needed to pursue grand corruption crimes. It is able to take an overview of intelligence collected from its multiple partners and provide a composite intelligence package to the requesting state. This provides a more integrated service than either INTERPOL or Europol which, while comprising much larger networks, are permitted only to facilitate bilateral connections, thus failing to overcome information asymmetries so efficiently.

In less than five years of operation, the Centre has responded to 60 cases and supported 37 jurisdictions. By focusing on the way that the IACCC operates, we seek to understand what can be learned about this model of transnational law enforcement collaboration. We seek to identify areas where institutional design, resourcing and operational practice support cooperation, with the aim of informing policymakers making decisions about how to resource and shape these and other networks. We argue that for transnational cooperation in policing to truly become a global governance tool against grand corruption, it needs to transform from ad hoc collaboration on particular cases into a functioning 'community of practice', and find that the IACCC offers plentiful insights into how to achieve this goal. We document how, when led by practitioners in a bottom-up process, transnational cooperation can foster legitimacy, solve some of the traditionally observed gaps that arise from inevitable incompatibilities in formal structures, and boost global capacity to tackle grand corruption.

## 2. Transnational governance networks in law enforcement

Transnational governance networks typically exert influence in three main ways: cognitive, prescriptive, and technical (Nay, 2012). Cognitive cooperation gathers and integrates information, shaping and disseminating policy in a process known as ‘policy transfer’ (Evans, 2009; Stone, 2013). Prescriptive efforts seek to elaborate rules or standards, with ‘norm entrepreneurs’ aiming to leverage interests and align incentives to achieve a collective good (Barnett & Finnemore, 2004; Finnemore & Sikkink, 1998). Technical cooperation largely involves having and sharing the capacity to assist others, and this is the way that law enforcement cooperation is most commonly described. Bowling, for example, refers to the growing need for police to ‘service’ other forces to address cross-border issues (Bowling, 2009), while Block’s analysis of European police cooperation focuses on a series of operational issues (Block, 2008). However, Bowling also raises the question as to whether transnational law enforcement cooperation is mainly technical-operational or rather takes on broader functions of setting standards and circulating knowledge (2009, p. 157).

Transnational law enforcement cooperation is not new. It has become critical to tackling the drugs trade and human trafficking, for example, and the networks and structures to facilitate this operational cooperation on cases have developed considerably over the last few decades (Bowling, 2009; Vlassis & Williams, 2013). Networks to tackle aspects of grand corruption have also emerged, with differing levels of organisational formality, mandates, and regional configurations.<sup>1</sup> Many international donors also fund technical assistance to develop capacity, sharing skills and knowledge through training and mentoring, as well as advising on legal frameworks and standard operating procedures. In this way, techniques and knowhow about how to investigate grand corruption, and how to freeze, seize and recover assets in such cases, are being shared and improved through these global knowledge networks.

Yet successful outcomes arising from transnational law enforcement cooperation remain relatively rare. Even among countries which have close ties, such as EU member states, it has been ‘difficult, slow and ineffective’ (Busuioc & Groenleer, 2013). In countries that are more distant and do not have historical relationships of trusting one another, cooperation is harder still. As one of our interview respondents put it, ‘National criminal justice systems don’t easily stray across borders’ [Interview 02]. The lack of successful cooperation is often attributed to formal barriers, such as the inadequacies of the formal system for police forces to request assistance from one another through mutual legal assistance (MLA) requests. The MLA process is beset by delays, largely reflecting failure to write requests in ways that meet the technical requirements for the

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<sup>1</sup> In the twelve months prior to the time of writing, two new international networks have been established: the Global Network of Law Enforcement Agencies (Globe network) was launched in June 2021, while INTERPOL announced a new Financial Crime and Anti-Corruption Centre (IFCACC) to ‘provide a coordinated global response against the exponential growth in transnational financial crime’ in March 2022. See <https://www.interpol.int/en/News-and-Events/News/2022/INTERPOL-launches-centre-against-financial-crime-and-corruption>.

receiving agency to respond (Swire, Hemmings & Vergnollie, 2016). This can be extremely damaging to investigations: witnesses may lose confidence and withdraw cooperation or become unavailable for other reasons, and investigators with limited resources may simply have moved on to another case by the time a request is fulfilled.

Other research finds that agencies seeking to cooperate devote too much time to technical matters and not enough to softer efforts to build trust. In the case of Europol, Busuioc and Groenleer (2013) report that the agency's initial focus on building technical systems to facilitate information sharing among national law enforcement authorities came at the expense of attention to overcoming the mistrust that, even once the technical systems were in place, hampered the exchange of information. By contrast, Eurojust's focus on more informal professional networking created close working relations with other national members and national counterparts and increased the effectiveness of trans-boundary cooperation. Tomić (2019) also finds that a lack of trust between law enforcement agencies in different jurisdictions impedes cooperation and particularly frustrates smaller agencies' ability to pursue cases (Tomić, 2019). These findings suggest that there is a difference between a network that functions operationally on individual cases and one that is capable of broader learning and development. As Bell (2007) concludes from his early study of the Proceeds of Crime community in the UK, 'just because practitioners work in the same field and operate together does not mean that a community of practice will automatically emerge' (Bell, 2007). This article highlights how such a transition can be facilitated.

Lack of trust is often exacerbated by a culture of competition, a factor which is sometimes overlooked in the broader transnational governance literature (Bach et al. 2016). Both across and within jurisdictions, agencies often compete rather than cooperate, creating unnecessary inefficiencies and providing scope for criminals to use their knowledge to circumvent the system (Sittlington & Harvey, 2018). In Canada, one study found that information-sharing among police organisations is impeded by organisational structure as well as organisational culture (Abrahamson & Goodman-Delahunty, 2014). And in their study of Europol and Eurojust, Busuioc and Groenleer (2013) found that prosecutors and magistrates often fail to follow up on leads to other jurisdictions for fear of delays which might jeopardise short-term success at the national level. This suggests that transnational cooperation is seen as higher risk or less rewarding than pursuing purely national cases. Indeed, they also find evidence of a 'negative incentive structure' at the national level, because national authorities are typically not rewarded for judicial cooperation across national borders (Busuioc & Groenleer, 2013; Goldsmith & Sheptycki, 2007; Lingenfelter & Miettinen, 2021).

In sum, the literature suggests that transnational law enforcement cooperation is hindered by formal obstacles, lack of trust and insufficient attention to building trust, inter-agency rivalry, and unhelpful incentive structures. We conjecture that the obstacles to cooperation may be more acute when investigating grand corruption as opposed to other crimes, because the issue is highly politically sensitive, often involving wrongdoing by those who are currently in public office or have recently left office, and because there are high risks of failure. Our approach is to garner insights into the practices and mechanisms of transnational cooperation in the area of grand corruption by examining how collaboration works in practice in this area. We focus on a specialist unit called the International Anti-Corruption Coordination Centre (IACCC). Based in

London, the IACCC was set up in 2017 as an initiative of the previous year's London International Anti-Corruption Summit, mandated specifically with providing an intelligence-gathering service to law enforcement agencies around the world that need assistance in pursuing grand corruption cases. Altogether, we conducted interviews with 27 individuals who have experience of transnational law enforcement cooperation in the area of grand corruption. Of these, six were IACCC staff and six had worked with the IACCC; the remaining 15 were prosecutors, investigators and lawyers based in the UK, Western Balkans, East Africa and the Caribbean, who work on grand corruption cases and have some experience of transnational cooperation more broadly. The selection of interview respondents was designed to collect data from different points of view on the same or similar processes and therefore to allow for triangulation at the analysis stage. The interviews were semi-structured, with questions designed initially to elicit responses about the process of cooperation, including how it was initiated, progressed and concluded. We then probed on how participants built trust and how relationships developed, as well as how – where relevant - cooperation in the IACCC context differed from their other experiences of transnational cooperation.

## 3. The IACCC and its contribution to global capacity

### 3.1. How the IACCC works

The IACCC was established specifically to facilitate transnational cooperation among law enforcement agencies working on grand corruption cases. It is a coalition of the willing, based on memoranda of understanding among the core members, which comprise relevant agencies from six countries, while INTERPOL also regularly deploys an officer to the IACCC and the agency has links – albeit weaker ones – with a further eleven associate members (see Table 1). Among the associate members are several so-called ‘financial secrecy jurisdictions’, frequently implicated in facilitating illicit financial flows. The IACCC receives requests for assistance, typically from a law enforcement agency abroad which is investigating a particular case. After undertaking some initial checks and discussing the request, the IACCC decides whether or not to assist using a prioritisation matrix; the latter is in itself indicative of a more systematic approach to fighting grand corruption, since the matrix embodies assumptions and ambitions that frame part of the global collective response and might help to shape the practice of other agencies. If a case is taken on, then all IACCC team members make contact with colleagues in their home agencies to gather intelligence on the case in question.

**Table 1: The IACCC’s founding and associate members**

<b>Founding members</b>	
Country/territory	Agency
United Kingdom	National Crime Agency (NCA)
United States	US Federal Bureau of Investigation (FBI), Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI)
Australia	Australian Federal Police (AFP)
Canada	Royal Canadian Mounted Police (RCMP)
New Zealand	New Zealand Police and New Zealand’s Serious Fraud Office
Singapore	Corrupt Practices Investigation Bureau of the Republic of Singapore
<b>Associate Members</b>	
Cayman Islands	Anti-Corruption Commission and the Cayman Islands Bureau of Financial Investigation (part of the Royal Cayman Islands Police Service) (RCIPS BFI)
Gibraltar	Gibraltar Financial Intelligence Unit
Guernsey	Guernsey Financial Intelligence Unit
Isle of Man	Isle of Man Financial Intelligence Unit
Jersey	Jersey Financial Intelligence Unit
Mauritius	The Mauritius Independent Commission Against Corruption
Seychelles	The Seychelles Anti-Corruption Commission and the Seychelles Financial Intelligence Unit
Turks and Caicos	The Turks and Caicos Islands Integrity Commission
Bermuda	Bermuda Police Service
<b>Other partners</b>	
	INTERPOL

Source: compiled by the authors following correspondence with IACCC staff.

Perhaps the most obvious benefit of the centre then is its efficiency, compared with cooperation in other transnational law enforcement networks. Rather than the requesting agency having to have several different conversations with all of the member agencies, the IACCC team collates the intelligence and analyses it collectively in person with the team members in London. This creates an ‘intelligence package’ that can be passed on to the requesting agency.

‘We help affected states with intelligence, investigations and prosecutions. We provide a composite intelligence package among all of the partners. Say we are tracing assets, we [as the agency of one core member country] can show an asset coming from here to here, then the next partner picks it up and shows what is known to the members.’ [01]

As one of the officers explained, this provides a major benefit in terms of efficiency.

‘Sitting here together, in two hours, we can peel away layers of beneficial ownership that have probably taken years to build up.’ [06]

The IACCC has an advantage over institutions such as INTERPOL and Europol because it serves as an ‘honest broker’. While INTERPOL and Europol can largely facilitate bilateral communication among agencies, the IACCC gains a much broader view of the intelligence pertaining to a particular case and may use that to mediate among multiple partners and facilitate collaboration. As one officer explained,

‘As a neutral in the middle, I get to see everyone’s case. They [the agencies from jurisdictions involved in the case] might be in touch with each other but only sharing bilaterally. As a neutral, I can see who has what and I can suggest that they might want to transfer evidence to another party.’ [01]

A senior official in the Malaysian Anti-Corruption Commission also reported this as a key benefit of the Centre over other networks, citing his own experience:

‘In the 1MDB case, there were assets that we wanted to freeze in London. The United States was putting a freezing order in from a US court. We were interested in doing the same, and the Swiss were also interested in the money. So the IACCC became the hub that channelled all this information. They would say ‘Look Malaysia, there is some information you need to get from Switzerland. Otherwise I wouldn’t know there was a piece of evidence in Switzerland and probably the Swiss authority was not aware that we need the information. They [the IACCC] became a coordinator, facilitator. For me it was very handy for the 1MDB case.’ [27]

The IACCC has also innovated beyond its initial remit to extend its network to trusted Associate Members. In addition, each of the core IACCC members has international police liaison officers posted to jurisdictions around the world (in more than 130 countries) with a responsibility for bilateral police relations (Fowler, 2008). Thus, when



a country submits a request to the IACCC, it gains access to a much bigger network of operational information and assistance.

‘Where the NCA might not have a presence, one of the other agencies – the core members – might. So it expands our network reach overall. And there are some territories where our risk assessment, or evidence/intel might not be adequate but another agency might.’ [06]

‘If they need a digital exam we might try to find someone to do it, including finding the resources to do it.’ [09]

In technical terms, the operations of the network are facilitated because the IACCC has its own encrypted messaging system that it can use with countries around the world, beyond its usual trusted partners. Alternatively, if they run into legal barriers to sharing intelligence online, they send it to a local liaison officer who then prints it out and takes it physically to the local requester.

The IACCC also explicitly builds capacity in several ways. When it has assembled an intelligence package, rather than simply sending it off to the requester, the team typically travels to the country to discuss their findings. This provides an opportunity to discuss the analysis in depth and to offer advice on possible investigation strategies, including how and which intelligence might best be turned into evidence, which can be used for prosecutions.

‘We find it as intel and work with them to convert it into evidence... work with them to take action to stop those properties moving while they are collecting evidence – help them take action to freeze it.’ [01]

These sessions also help to build up informal relationships, making it more likely that the requesting agency’s officers will reach out at a later stage if they require more advice or assistance; and potentially makes them more likely to make further requests about future cases. Working in this way, the IACCC has provided more than 100 intelligence packages in less than five years to 37 jurisdictions. It has *independently*<sup>2</sup> identified \$1.29bn worth of assets and helped restrain over \$520m of that through formal court orders, and has assisted other jurisdictions to identify many multiples of these amounts.

The Centre’s focus on corruption cases rather than other types of crime also makes it a more appealing partner for some investigators than other transnational networks that deal with a broader range of crimes:

‘The IACCC are very dedicated to corruption and they understand the language, they understand the need, that’s why we get very fast reactions.’ [27]

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<sup>2</sup> The IACCC defines the amount that it has frozen conservatively. For example, if one agency already knows about the whereabouts of some assets but asks the IACCC for help in freezing them, these are not counted. It is only if the IACCC uncovers evidence about previously unknown assets that they record it as part of their own impact.

This expertise is important given that grand corruption investigations are still relatively new. An officer at Europol discussed the need to build professional expertise for tackling particular crimes, recalling that this had been necessary for tackling drugs, human trafficking and terrorism and indicating that, in his view, expertise on corruption was lagging but would probably follow the same path [25]. The IACCC may be playing an important role in accelerating this process.

The IACCC explicitly moves into the realm of standard-setting and policy transfer through its engagement with associate members. Monthly online meetings with the representatives apparently attract ‘impeccable attendance’, and ‘issues are raised quite freely; perhaps particularly about some things that might be harder to raise in bigger arenas’ [06]. Sometimes these provide an opportunity to offer operational advice; for example, if one jurisdiction is dealing with several cases, those on the call discuss and advise on prioritisation. These conversations allow participants to at least think beyond the legal minutiae and institutional protocols that normally constitute their work, encouraging more strategic and creative thinking. Other sessions focus on a specific topic, a common challenge where participants are keen to share ideas for solutions.

‘The feedback is that people like the focus on a particular topic – something operational and/or training. They come away with action points.’ [06]

Thus, the IACCC and its broader network is functioning not merely as a technical and operational transnational governance network. It also builds global capacity by convening and participating in discussions about best practice. More broadly, this helps to set standards for global policing, particularly in the area of investigating grand corruption, creating and sharing knowledge about how to tackle this complex global issue. All of this is achieved at great value for money. The IACCC’s core funding of approximately £1 million per year has to date been provided by the UK government, while the founding member agencies also fund the deployment of their own staff and New Zealand contributes extra for training.

## 3.2. Overcoming formal obstacles

One common obstacle to transnational cooperation among law enforcement relates to the use of mutual legal assistance (MLA) requests, whereby states formally request assistance from each other with investigations or prosecutions. While an MLA is not needed to access the IACCC’s services, once an investigation moves from the intelligence-gathering to the evidence-gathering stage, MLAs are necessary to obtain evidential material that can be used in prosecutions. Globally, the MLA system is widely regarded as dysfunctional and many officers recount tales of requests that go unanswered for years. The problem partly reflects insufficient resources being allocated to deal with numerous requests, but also a persistent problem of requesters lacking specific information about laws in the recipient country and hence asking for assistance that cannot legally be provided.



'[The IACCC] was doing a lot of work to help less experienced parties but finding evidence would often fall at the final hurdle because the country wouldn't have the confidence or expertise to submit the right MLA request.' [04]

Another officer explained that often requesters 'ask for the wrong thing at the wrong time in the wrong way. When it comes to sharing the evidence, it's a very legalistic process. It's a big difficult beast and knowing how and when to do it is important.' [02]

The inefficiencies of the system are particularly likely to exclude law enforcement from less well-connected jurisdictions, creating a two-tier system. From the point of view of the requesting states, making MLA requests is often very frustrating and any bad experiences quickly confirm perceptions that they are being ignored because they are from smaller or peripheral countries. As one prosecutor from the Western Balkans told us:

'Some states – particularly the most powerful ones in Europe or in the world – even don't bother to acknowledge receipt of our letter. We don't hear back from them, we don't know whether the letter is in a drawer, the bin maybe, or somewhere around in procedure...' [17]

Financial intelligence officers from the same region concurred, and explained how this affects their own attitude to transnational cooperation:

'Yeah... there's a bit the "small vs big states divide" definitely in financial intel sharing... Sometimes when you know that you won't be prioritised, that you might wait for a while etc, [it] will just deter you from sending a request if you feel the case is still "blurry".' [18]

'...that's the way it is and instead of moaning I tell my guys to always give more to the big states than they ask for so maybe they'll next time be a bit more friendly to us.' [13]

Experienced officers suggest that getting an MLA answered always requires having some informal relationships, whether to help explain how to write the request in an appropriate manner or to help move it through the system.

'There is no point sending in a cold MLA. The people dealing with MLAs are drowning in requests. They do triage but with very low resources. Often the first request is lost, the second one doesn't meet the criteria, there is a delay, they then send a reply that answers the wrong questions. It can take 3-4 years.' [09]

By facilitating initial informal conversations, the IACCC speeds up investigations, which can in itself enhance the chances of a successful prosecution or asset recovery. As one officer told us, 'We don't need an MLA, just an email. We are a coalition. It is the epitome of informal exchange.' [01] This informality provides a short-cut to a process that would otherwise be long and drawn out, as a recipient of IACCC assistance told us:

'When you conduct a cross-border investigation, you have to understand what information is available. The platform available around the world is MLA. This is the final official platform whereby the central authority (normally the Attorney General of the country) talks to its counterpart. In Malaysia if we need to send an MLA, it needs to go through our foreign ministry... it goes through a diplomatic channel. But whatever information is requested, it cannot be a fishing investigation. Everything we include in the MLA has to be supported by facts or evidence. The problem is, how are we supposed to get that information or even know it exists when it is at the other country?' [27]

By providing its composite intelligence packages and making connections among agencies, the IACCC ensures that the informal conversations happen, which then ensures that formal MLA requests are processed smoothly.

For the authorities receiving the requests, there are typically no consequences for not dealing with MLAs, and dealing with poorly written requests tends to be a low priority for officials who are already overburdened and under-resourced.

'For a long time corruption was quite neglected in the UK Central Authority. We didn't have the expertise. When we received requests that were badly drafted, we tended to send stock replies that we couldn't assist, without explanation.' [04]

On the requester's side, local knowledge is needed to know what can be requested but requests related to grand corruption cases often come from less experienced parties overseas, who may not know how to write a request in the appropriate way. Globally, law enforcement officers and prosecutors often solve this through informal relationships, using secure email channels to submit initial indicators or evidence and then pre-cooking the details of the request before formally raising an MLA if both parties agree that there is material sufficient for a prosecution. With informal connections, 'you can have honest conversations, talk through different strategies before proving it' [09]. The informal relationships can also sometimes cut out political interference, one officer explained:

'...if country A submits an MLA to the UK, usually their practice will be to draft the MLA, send it to their Attorney General, who then sits on it for a few months before sending it to the embassy or high commission in the country via diplomatic channels, then it sits there again for a long time. Just factoring in bureaucracy wastes 4-5 months. The law says it doesn't have to go through these diplomatic channels though, so if we have an informal police-to-police connection, we can cut that out.' [01]

Recognising the importance of unblocking the obstacles to formal cross-border legal assistance, the UK government has invested in a specialised unit within the UK Central Authority, the International Corruption Capacity Project (ICCP), mandated to support

requesting authorities.<sup>3</sup> This has effectively institutionalised support that was previously only available to those with the right informal connections. The unit works with the IACCC's overseas partners to help them write requests in the correct way so that they can be fulfilled by the receiving party.

'We work with the IACCC to do in-country training to take partners through their financial investigation, UK legislation on requests for asset recovery, help them draft MLA requests. And then when it is submitted to the UK, we take it through the system.' [04]

Help is necessary to 'take it through the system' because, on the receiver side, it is not straightforward to act even on well-written requests given that the UK system is 'ridiculously complicated' [04]. Many different law enforcement agencies are responsible for corruption investigations and they all have slightly different but sometimes overlapping mandates.

'The Serious Fraud Office has a very tight remit and is very choosy, rejects a lot of referrals. If you are looking for another home, there's the International Corruption Unit at the NCA or the civil recovery team in the NCA. For the NCA it has to be serious organised crime. Usually grand corruption would count [as SOC] but if it's a mid-level bureaucrat not a PEP [politically exposed person] then it's not under the ICU.' [11]

In addition, once the MLA is placed with an agency, it may be necessary to put pressure on those who are supposed to fulfil it, to speed up implementation. One officer told us, 'There is no resource in most countries for any international cooperation. If a request arises, it goes into the in-tray of someone who may have no experience of working internationally' [08]. It is therefore important that someone follows up and seeks to ensure that the request is fulfilled, potentially providing additional clarification or assistance if necessary. By filling some of these gaps and devoting attention to MLA requests from beginning to end, working in cooperation with the IACCC, the ICCP has relieved pressure on a bottleneck and helped to boost global capacity to investigate grand corruption. The IACCC's intelligence packages have, in the period July 2017-March 2022, generated 75 MLAs; the ICCP's support seeks to ensure that they are written well and that the right UK agency will provide a timely response.

### 3.3. Changing national incentive structures

The problem of law enforcement being insufficiently resourced is a recurring theme in the UK and elsewhere, but when thinking about transnational cooperation to tackle grand corruption, the lack of resources interacts with another issue – prioritisation – in a way that often leads to grand corruption cases being neglected or sidelined. UK law enforcement agencies have big mandates and limited resources, hence they are constantly making decisions about how to prioritise among numerous competing claims

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<sup>3</sup> The programme is supported by the cross-government Conflict, Stability and Security Fund (CSSF).

on their time. In this context, a number of things militate against devoting scarce resources to transnational cooperation to tackle grand corruption. One factor is the lack of public pressure:

‘Cooperation [to tackle grand corruption] is set out in law but it doesn’t happen because it takes political will and resources. There are huge volumes of international crime but no public pressure about these kinds of crime. Grand corruption doesn’t have the political bite. Fraud is coming up the agenda because the press is taking an interest. But generally if it doesn’t shout or go bang, nobody’s interested.’ [09]

Commissioners face a choice as to whether to embark on investigating a case that may take 8-10 years to conclude, or to deploy the same resources to deal with stabbings of young men, where they perceive that the public and political pressure to act is far greater.

Another problem is that corruption investigations often lead to fairly minor sentences. One officer cited this as a reason why corruption investigations rarely target so-called ‘professional enablers’, the lawyers and financial advisers who often facilitate corruption and money laundering. Such individuals are often implicated in cases but are not the key perpetrators in what are typically complex schemes, and this can lead to them being dropped from an investigation. Not only are the sentences likely to be light, but the Crown Prosecution Service often signals that a case should not have too many suspects, and it is those expected to receive lighter sentences for whom charges are dropped first.

Many law enforcement teams weigh this lack of domestic interest against the formidable risks of getting operationally involved in a case with foreign partners, particularly where there is no historical or formal relationship of trust with that partner. When deciding whether to invest time and resource in helping an overseas partner, the officer will ultimately be concerned that their efforts might be wasted. This is because there are several reasons why, even if they assist fully, the case might not lead to a prosecution. For example, a lack of capacity in the requesting country agency might mean that, although the correct intelligence is supplied, they do not engage in sufficient strategic planning to ensure that they recover evidence in time. Alternatively, a lack of political will in the requesting country might mean that the prosecution is blocked or undermined, or that the agency drops it because they fear that pursuing the case will lead to repercussions for their agency.

‘Corruption prosecutions have to be politically opportune. If you are not confident in the system, what’s the point of trying? In the UK I at least know that I’m going to get a fair judge every time I put my gown on. But what if you can’t trust in that? In other countries, you might think “what’s the point?” if they are being defended by that lawyer or we might get that judge.’ [02]

Getting involved in overseas corruption cases also involves risks associated with needing to manage assets that have been seized. Agencies may have to return the assets if their case is unsuccessful, but this leaves them with dilemmas about whether to pay

heavy maintenance costs in the meantime or to try to sell early and bank the value before it declines too much. They might also be sued for any loss in value.

‘What we are asking law enforcement to do is to underwrite our political ambitions to fight grand corruption, and to underwrite the risk of unsuccessful litigation and paying reparations if that doesn’t work out.’ [02]

Moreover, the risks and enforcement responsibilities relating to grand corruption are not distributed equally among countries. One officer told us, ‘one of the downsides of being a global financial centre is that we attract lots of bad business. Are we domestically resourced to be one of the world’s asset recovery police? The UK receives around three times more requests than we send – so we are running a service.’ [02]

At the same time, enforcement agencies investigating financial crime face difficulties in attracting and retaining qualified staff, in an area where specialist skills are critical.

‘Pursuing corruption, like financial investigation, becomes a bit of an afterthought. It’s long, complicated, it’s quite frankly boring – not like a dawn raid kicking down a door, which comes with an adrenalin rush. Writing a letter to a bank in London is dull.’ [02]

The skills of financial investigation are not always perceived as valuable or high-status within law enforcement as a profession, creating a vicious circle where it becomes more difficult to attract good people, and experienced staff are not incentivised to stay in the role when promotion within the force often requires changing jobs and/or the private sector offers much better-paid opportunities. However, one of our interview respondents was sanguine about losing good financial investigators to better-paid jobs at banks:

‘It’s bad in some sense but then we are getting people with the right mindset going into banks and other places, so in the long term that’s good. If people understand why we do this stuff, that’s really important.’ [02]

This comment is testament to the mindset of officers involved in investigating grand corruption, with many of them showing tremendous belief in and commitment to the collective effort of building global capacity in this area, and recognising that this involves collaboration among much wider networks that include law enforcement, NGOs and the private sector. Again, this suggests that cooperation is going beyond technical and operational mechanisms and gradually forming a community of practice. This in turn helps to change the equation for individual law enforcement agencies when they consider pursuing grand corruption cases, reducing the entry costs and uncertainty while increasing the expected benefits.

### 3.4. Building trust

Partly because of the high stakes and risks intrinsic to investigating grand corruption, trust is critical to transnational cooperation. At the IACCC, the core members comprise the ‘Five Eyes’ partners, and our interviewees suggested that this provides a firm basis for trust and confidence in one another. Not only do the partner agencies have a long history of cooperation and formal arrangements to underpin this, but there is a strong sense of having common values or, as one officer put it: ‘we are all likeminded’ and ‘relaxed with sharing both formally and informally’ [05]; ‘I won’t give any secrets anyway but I can be franker with trusted countries, explain the urgency, have a professional conversation. The Americans call it professional courtesy. I can tell it how it is and they will say, the courts are too backed up you’ll never get it. Sometimes people will say if you give this you can have it.’ [09]

The IACCC also makes collaboration among the Five Eyes more efficient, purely because partners are located in the same space. This physical proximity, recognised as important in the literature for building efficiencies and reducing relational distance (Black, 1976), was emphasised by many of our interviewees:

‘If I want to speak to counterparts in the FBI, or in New Zealand etc, I walk along the corridor and talk to them. It’s really easy. [...] Every time something comes in about [a particular international case], I go to [name removed] and ten minutes later I know who I need to speak to in the FBI. Within two hours we are chatting and we then meet every day for a week until we resolve it.’ [11]

When partnering with other agencies, it is more difficult to establish trust. Here, officers mentioned a number of ways that they build up trust, although it takes time and continued effort. One more formal technique is to provide training to potential partner agencies. Some officers commented that this works best with smaller agencies that are more reliant on international support and intelligence. The training course both ‘acts as an incentive’ to cooperation and, substantively, helps to ensure that the potential partner is working to the same international standards around critical issues like human rights and data protection, where a divergence in approach might prove a barrier to cooperation. However, IACCC officers also talked about the need to conduct training in a way that is not patronising, because ultimately they want to build partnerships rather than simply pass on advice. There may also be professional courtesy issues around needing to connect with someone from an equal or higher rank. On the other hand, liaison officers from at least one country are told to downplay their rank when operating internationally: ‘it’s ranks out the window when you’re overseas – we even take it [our rank] off our signatures’ [05]. This practice is intended to have a levelling effect.

Partnerships among some countries can be hindered by historical experience and imbalanced power relations. Agencies in low-income countries may be wary of sharing information and even suspicious of offers to help:



‘Usually we get only about 60% of [the] story when they first approach us. But when we are in country they start giving us more, once they see that we are valuable etc. Sometimes we have to spend a long time building up that trust. They often want to know why we are doing it. They ask what cut we are getting. We have to explain that it’s aid funded and it all goes back under our UNCAC obligations.’ [01]

One officer recalled a collaboration in which the UK had needed evidence from an African country and the same country needed evidence from the UK. Because of this mutual dependence, ‘it turned it into a partnership rather than the colonial relationship that cuts under everything that we do in [country X] all the time’ [02]. At the same time, for law enforcement officers in lower-income countries, there can be a certain cachet attached to working with London. ‘When it goes well, it provides significant force multipliers. Even the impact of receiving evidence from the UK is really big. I’ve seen cases where requests have been made and through a long and painstaking process we’ve secured that evidence. The impact that has on the confidence of people is significant. There is a view that the court will give more weight to that evidence and the prosecutors and defence are sometimes more confident in the process if evidence comes from abroad. It provides a huge confidence boost.’ [02] This suggests that international cooperation can provide a kind of external legitimacy for law enforcement agencies operating in difficult contexts.

Reciprocity was mentioned by several officers as an important part of building a trust relationship with strangers. For example, one officer will share a little information but with caveats about how it can be used, then observe whether the recipient abides by the caveats. If they do, then they are more likely to disclose more information or help in other ways. This may involve being prepared to make the first move, which also signals to people that you are willing to share and may make them more likely to reciprocate. And in cases where officers feel that the assistance they give is not reciprocated, this breeds suspicion and reduces their willingness to help further. [05]

Repeated interactions are also important, partly for building confidence in using the techniques of interaction but also because officers gain more experience and are able to build on that to develop better strategies for future cases. One officer recalled that,

‘people will become comfortable over time – we got to a situation in [country X] where asking from the UK was easy because we had people there and they’d done it before, but when it came to asking other European countries they found it more difficult. But once they’ve done it [cooperation] with one case, they are much more willing to do it again, and then they start feeding that to other people... it becomes part of business as usual. Then people start thinking about the international aspect at the beginning. We see requests coming in much earlier than they would have done before.’ [02]

While initial requests and communication may happen remotely, individuals regard face-to-face meetings and also socialising together to be critical to building the kind of relationships that lay the groundwork for cooperation.

'I don't think there's a substitute for meeting in person. The drinks and informality that goes with it is a very important factor in building trust because it allows you [afterwards] to pick up the phone and make that request. It's a really important aspect. There was a country that had sent 24 letters of request and they had had one reply saying they couldn't help us. I asked, didn't you phone them up, or didn't you write a letter? And they said, "well we didn't know we could". Often national prosecutors are quite embarrassed to make these requests because they are imagining that an expert team will be taking apart their requests.' [08]

'In one case I knew, someone ...was trying to cooperate with an agency abroad and was getting stonewalled. Then he flew out there and had a beer with them and they started cooperating. Informal links really help with getting prioritised – if you get an email and you remember the person who it's from, you're more apt to respond. You can engage on a personal level.' [05]

On several occasions, respondents referred to these informal links, reinforced by in-person contact, as providing a kind of 'grease to the wheels' of the formal system. Rather than cooperation occurring institution-to-institution, and typically being beset by delays or hindered by lack of technical understanding, person-to-person communication allows for preparatory conversations that eventually make the formal interaction – which is necessary to ensure due process – go much more smoothly and quickly.



## 4. Conclusion

This research sought to understand how transnational cooperation among law enforcement can contribute to the global effort to tackle grand corruption, specifically by investigating one case study – the IACCC – which has been established with a view to overcoming obstacles to such interaction identified in past research and practice. Our research makes three contributions which can inform practice in longstanding transnational governance networks as well as helping to shape the design of new networks established more recently.

First, the research provides detailed insights into some factors that contribute to the success of transnational law enforcement cooperation in a particular context. The research shows that providing dedicated resources in particular areas can help to overcome bottlenecks. The IACCC is itself an example of this, as is the government-funded unit in the Central Authority that provides specialist MLA support. Moreover, this model of ringfenced funding could usefully be replicated in other areas, for example, to create a hub similar to the IACCC but focused on investigations rather than intelligence-gathering, or to create a dedicated unit for cases involving professional enablers. Ringfenced funding for particular functions helps to ensure that the combination of stretched resources and pressure to prioritise domestic violent crime does not crowd out attention to grand corruption cases.

Second, the research sheds light on how transnational networks to fight grand corruption are evolving, from purely facilitating operational exchange to providing a range of functions that build capacity, set standards and integrate knowledge. This is to a great extent made possible by creating contexts in which *informal* relationships can form and grow (although it is also clear that the formal intelligence-sharing alliance of the Five Eyes provides an important basis for trust in the IACCC). These types of relationships ensure that the IACCC contribution goes beyond sharing intelligence, to develop much broader and more strategic knowledge around the globe about how to design and tailor investigations, including where to focus, how much resource to use, how to sequence different steps, and when to convert informal conversations into formal requests. One officer referred to this as the importance of ‘telling the story, showing that senior people benefited’ [02], emphasising how important softer skills around constructing narratives are to law enforcement, particularly in such a sensitive area.

The IACCC’s ability to connect and assist partners which are relatively weakly resourced is also expanding the capacity of the collective effort, forming new and stronger connections among partners across professional, sectoral and national boundaries. For example, if referrals come into the Centre from NGOs, the IACCC needs to find a “customer” for the eventual product, such as an agency with the authority to prosecute. This sometimes happens in the course of developing the intelligence: if an asset is found in a third country, that country might be persuaded to initiate the prosecution. In such cases, the IACCC acts both as a beacon for evidence and as a matchmaker, joining those who have evidence to those with an interest in prosecuting. The IACCC therefore not only reduces distance, but also weaves a range of actors together into a common cause,

reaches out and cuts boundaries between lower- and higher-income countries, and extends more easily and effectively into previously “unreachable” territories. Much of this can be credited to its problem-solving approach and culture.

Third, this research demonstrates how this kind of substate transnational governance network can combine formal legitimacy with informal capacity. Whereas early work on transnational policing had argued that effective police cooperation requires formal structures and a supranational system of accountability to ensure popular legitimacy (Anderson, 1989), the IACCC experience suggests that softer and more informal forms of cooperation can complement formal cooperation, and even overcome some of the obstacles it faces. Legitimacy is drawn indirectly from the reputation of the state, while authority is based on knowledge and knowhow. Overall, the system contributes to collective global capacity to fight grand corruption by allowing agencies with weak resources and working in difficult political contexts to “outsource” some of their need for technical knowhow and capacity to external actors that are not under direct political control and/or are less vulnerable to political intimidation from vested interests. Thus, transnational networks operating in the sensitive area of corruption empower actors in high-corruption contexts by allowing them to access and borrow support from systems with stronger rule of law.

This study also raises a number of questions for future research. The findings suggest that the IACCC is improving efficiency through building informal relationships among partners that are not usually able to easily cooperate, but it is not clear how scaleable the IACCC is or to what extent it might be replicated. Some of our interview respondents suggested that, as its reputation for effectiveness spreads, the IACCC might soon become overburdened with demands for assistance; such a tiny organisation with fairly limited and insecure funding might not be able to respond adequately unless it is better resourced. Some respondents also suggested that existing networks are sometimes not trusted because they are too big: people are wary about sharing information with many partners, whereas the IACCC’s relatively tight core membership is easier to trust. Overall, this suggests that the size and structure of networks is important – an area that warrants more detailed research. Similarly, it would be useful to explore how incentives for participation in networks change as they grow and evolve. Finally, given the importance of informal cooperation for easing and facilitating formal cooperation, it might be helpful to explore what behavioural science can tell us about how to accelerate the creation of informal bonds among professional networks.

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