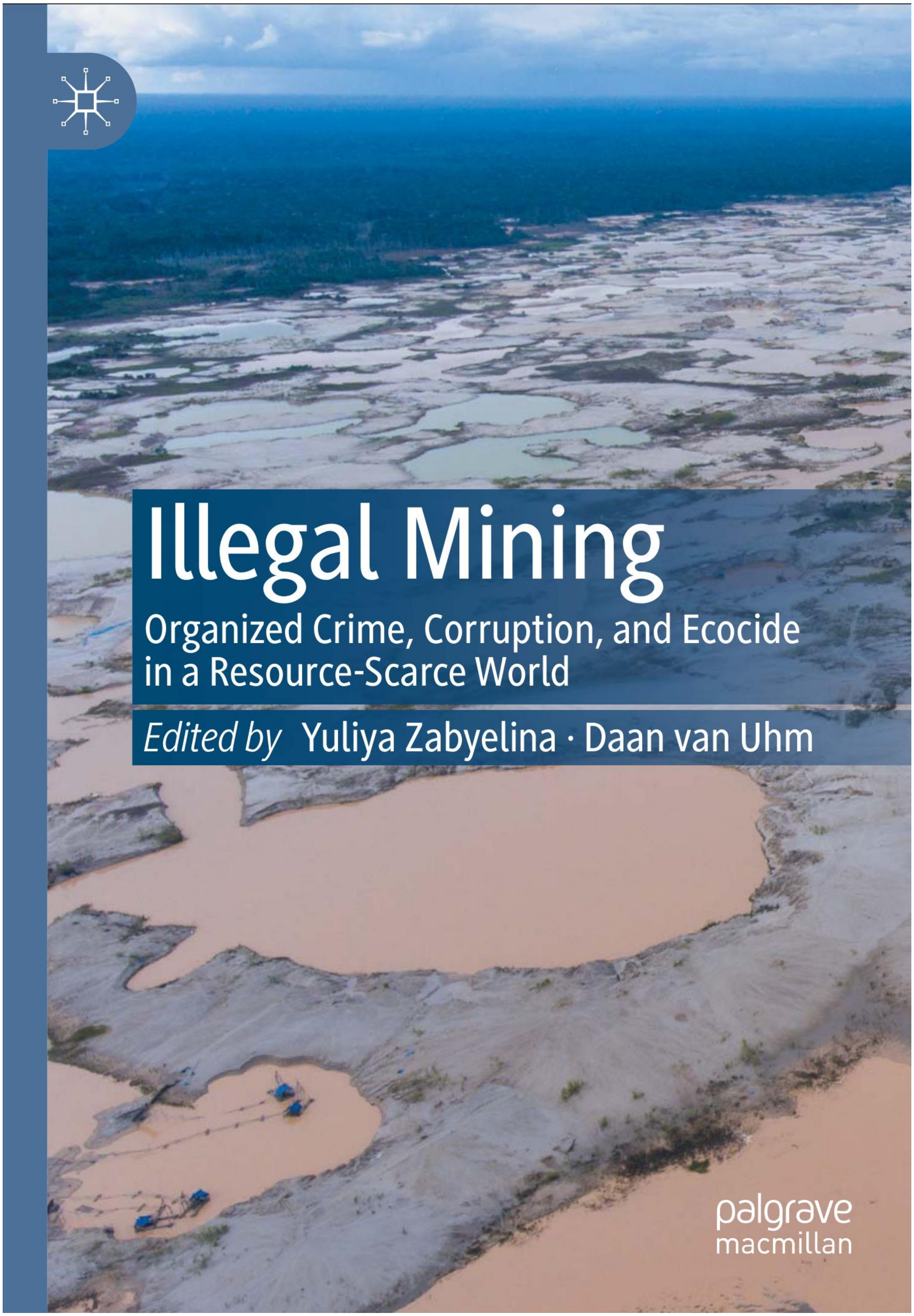

Illegal Mining

Organized Crime, Corruption, and Ecocide in a Resource-Scarce World

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Why Organized Crime Seeks New Criminal Markets

Jay S. Albanese

Introduction

Every person and every State is concerned about organized crime, but the ability to anticipate and respond to it remains difficult. This chapter seeks to clarify what organized crime does, how criminal markets are chosen for exploitation, and how specific markets can be identified and minimized.

An organized crime group (OCG) was defined by consensus of the Member States of the United Nations (now ratified by 190 of the 193 UN members). Under the United Nations Convention against Transnational Organized Crime (UNTOC Article 2a), an "organized criminal group" was characterized by the four following general elements:

1. A structured group of three or more persons;

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2. The group exists for a period of time;
3. It acts in concert with the aim of committing at least one serious crime;
4. To obtain, directly or indirectly, financial or other material benefit.

The definition of the *crimes* committed by these groups was much less specific in nature: "serious crime means an offence punishable by a maximum penalty of incarceration of at least four years" (Article 2b).

What is needed is a better specification of the offenses considered part of organized crime, how and why these offenses are selected by organized crime groups, and the methods by which these activities evolve or change over time. Such knowledge is required to develop more effective prevention and intervention strategies against organized crime. This chapter aims to provide concepts and evidence to assess what organized crime does, how criminal markets are chosen, and what might be done to anticipate and respond to criminal groups expanding into new illicit markets.

What Organized Crime Does

The United Nations Convention against Transnational Organized Crime (UNTOC) avoids specifying precise offenses characteristic of organized crime, but individual States must do so in order to target their prevention, legislation, and enforcement efforts. Organized crime does what traditional street crimes do not: rather than individual illegal acts carried out for personal or financial profit, organized crime is a continuing criminal enterprise that operates rationally and systematically, protecting itself through corruption and intimidation. A definition reads,

> Organized crime is a continuing criminal enterprise that rationally works to profit from illicit activities that are often in great public demand. Its continuing existence is maintained through corruption of public officials and the use of intimidation, threats or force to protect its operations. (Albanese, 2015, p. 4)

Therefore, the ongoing nature of organized crime groups makes it more serious, permanent, and harmful than the crimes of individuals acting alone. The nature of organized crime activities emerge around the available opportunities to profit from illicit activity. Three kinds of factors shape this activity: push factors, pull factors, and problems with rule of law. These are summarized below:

> *Push factors*: disparate socioeconomic, labor, development conditions which spur irregular migration, and smuggling and trafficking of goods, services, and people.
> *Pull factors*: local and global supply and demand for illicit goods and services not available in the legitimate marketplace.
> *Rule of law*: weak or corrupt governments, which are unable or unwilling to enforce the rule of law within their jurisdictions.

How Criminal Markets Are Chosen

The precise illicit activities of organized crime are those that can be exploited systematically to ensure an ongoing criminal enterprise. Therefore, the activities undertaken exploit criminal markets rather than reflect short-term crimes or operations.

Conceptually, the criminal markets exploited by organized crime groups are of three types: (a) providing illicit goods; (b) illicit services; and (c) infiltration of business or government. Table 2.1 below summarizes the three types of criminal markets exploited by organized crime and the specific types of crimes in each of these categories (Albanese, 2012). It can be said that all organized crime activity works to exploit at least one of these nine general types of criminal activity within the three overarching categories.

The activities of organized crime continuously evolve when new opportunities emerge—resulting from *globalization*, in this context manifested by a growing ease of travel and availability of information communication technologies. It is important to recognize, however, that specific crimes change with newfound access, available technology, growing cybercrime capabilities, and ease of international movement of

Table 2.1 The criminal markets exploited by organized crime

Provision of illicit goods	Provision of illicit services	Infiltration of business or government
Drug trafficking	Human trafficking	Extortion & racketeering
Stolen and banned property (including natural resources)	Fraud and cybercrime	Money laundering
Counterfeiting	Commercial vices (especially sex & gambling)	Corruption

Source Albanese (2012, p. 2)

people, goods, and money, but the underlying nature of the activities themselves remain constant—organized crime groups seek lucre and low risk.

Table 2.2 illustrates how traditional and modern forms of organized crime reflect the same underlying conduct in which perpetrators seek financial or other material benefit. Although the precise criminal offenses

Table 2.2 The common underlying nature of older and newer forms of organized crime

Original activity	Modern version
Local numbers and lottery gambling	Internet gambling at international sites outside national regulation
Heroin, cocaine trafficking	Synthetic drugs (less vulnerable to supply problems)
Street prostitution	Internet prostitution and trafficking in human beings
Extortion of local businesses for protection money	Extortion of corporations, kidnappings, piracy for profit
Loansharking (exchanging money at interest rates above the rate permitted by law)	Money laundering, precious stones, commodities
Theft and fencing stolen property	Theft of intellectual property, Internet scams, Trafficking globally available goods (e.g., weapons, wildlife, natural resources)

Source Author's own elaboration

change over time, the nature of illicit conduct by organized crime is remarkably constant (Albanese, 2012).

How Organized Crime Groups Select Individual Criminal Markets

The method by which organized crime selects criminal markets to exploit is important to understand, because this is where prevention and intervention efforts can be targeted. As a preliminary matter, it is important to recognize that the influence of organized crime groups can come externally or internally. External organized crime groups can infiltrate legitimate business or government agencies to engage in corruption or illicit trafficking activities. Internal organized crime occurs when the agents inside a legitimate business or government agency engage in systematically corrupt conduct, operating it as a criminal enterprise.

The executive director and a salesperson (the "insiders") at a bank's precious metals desk in New York, which invested in precious metals on behalf of investors, provide a case example. However, the insiders at this legitimate bank engaged in widespread fraud and market manipulation by placing orders they intended to cancel before execution (Deceptive Orders). In thousands of sequences, the insiders were charged with placing Deceptive Orders for gold, silver, platinum, and palladium futures contracts in order to inject false and misleading information into the markets about the genuine supply and demand for precious metals futures contracts. The purpose was to trick other market participants into reacting to apparent changes in supply and demand by buying and selling precious metals futures contracts based on false information that would profit the insiders (US Department of Justice, 2019). In this case, the insiders used their positions of legitimate employment to run an ongoing illegal racketeering enterprise (the ultimate charge against them) involving fraud in the precious metals markets.

Whether or not organized crime operates externally or internally to an existing enterprise, it can be noted that it is "a system of patron-client relationships that interweaves legitimate and illegitimate segments" of society. Sociologist Joseph Albini recognized this relationship in his study of mafia groups in Sicily of 100 years ago. He concluded there existed a position for a Mafioso (or "gambellotto" in Italian) who was an individual entrenched in a patronage system. The client was the landowner and the Mafioso collected rents (often using extortion threats) "as a patron to the peasants: for whom 'he promised work and the continuation of contracts'" (Albini, 1971, pp. 133–135). Therefore, clear parallels exist among various cases of organized crime, in which individuals and groups exploit their access or position to profit from illicit activity. These patron–client relationships form flexible networks of insiders or outsiders who come together when opportunities exist for illicit profit on a systematic scale.

With regard to the select of markets for exploitation, there are two major approaches to explain the involvement of organized crime groups in specific markets: *situational crime prevention* and the *enterprise perspective*.

The situational perspective requires that crime prevention be directed to five areas (Clarke, 2005, pp. 46–47)

- increase the effort for offenders (e.g., target hardening, controlling crime facilitators);
- increase the risks (e.g., surveillance of offenders, victims, locations);
- reduce the rewards (e.g., removing targets, reducing profitability);
- reduce provocations (e.g., reducing temptations, avoiding disputes); and
- remove excuses (e.g., alerting conscience).

The precise approach to be taken to achieve these five goals depends on the specific crime and underlying preparatory behaviors, but empirical efforts have shown that it is not always clear which specific methods or approaches can be expected to have an impact on organized crime activity (Finckenauer & Chin, 2010; Kleemans, Soudin, & Weenik, 2010; von Lampe, 2010, 2011). It is a limitation of the situational crime prevention perspective, therefore, that the precise strategies or methods for reducing opportunities for organized crime may not be apparent.

A second perspective to explaining organized crime's selection of criminal markets focuses on enterprise. The enterprise model of organized crime emerged from the observation that organized crime operates as a business. Dwight Smith developed this idea most explicitly using a *spectrum-based theory of enterprise*. He concluded that organized crime develops from "the same fundamental assumptions that govern entrepreneurship in the legitimate marketplace: a necessity to maintain and extend one's share of the market" (Smith, 1980, 1990, p. 360). This perspective sees the formation and operation of organized crime groups as similar to legitimate businesses in responding to the needs and demands of suppliers, customers, regulators, and competitors in delivering their products and services. According to Smith, the primary difference between organized crime and legitimate business is that organized crime groups deal in illegal products, whereas legitimate businesses do not (ibid.).

A number of empirical studies of specific organized crime activity support the enterprise perspective. A study of drug markets found them to consist of "individual entrepreneurs and small organizations rather than massive, centralized bureaucracies," and that they were "competitive" rather than "monopolistic" in structure and operation (Adler, 1985, p. 80). An examination of bookmaking, loansharking, and numbers gambling in New York City found they were "not monopolies in the classic sense or subject to control by some external organization," but rather "economic forces arising from the illegality of the product tend to fragment the market," making it difficult to centralize or control these illegal activities on a large scale (Reuter, 1985, p. 10). An analysis of organized crime in Russia pointed to overlaps with white-collar crime (the need for "insiders" who become part of the criminal scheme) and the utility of "enterprise" as a central concept to explain this relationship (Gerber, 2000). Similar findings were discovered in a study of Chinese Triads (Lo & Kwok, 2017). The use of "enterprise" to guide organized crime investigations has been shown to be effective in addressing a "full range of criminal activities," rather than a particular suspect, and "determining which components allow the criminal enterprise to operate" (McFeely, 2001).

The enterprise model views organized crime as the product of market forces, in the same way these forces cause legitimate businesses to flourish or die in the legal economy. Both legal and illegal enterprises exist to survive and make a profit. Whether the product is narcotics, stolen property, counterfeiting, or illicitly extracted metals and minerals—discussed in this edited volume—organized crime groups must account for *supply* (of illicit product needed). In addition, the nature and location of product *demand* (by potential customers) must be accounted for, plus the *regulators* who might put them out of business (e.g., law and effective enforcement), and *competitors* (other criminal groups and products in the illicit marketplace) that might reduce their profitability or even their survival in the market.

Why (Not) Illicitly Extracted and Traded Metals and Minerals?

Illicitly extracted metals and minerals might seem an unlikely market for exploitation by organized crime. However, criminal enterprises select markets to exploit using the same considerations and legitimate businesses, asking the question "Is it possible to survive and make a profit in the market, given the existing nature of the supply, demand, regulators, and competitors?"

Figure 2.1 provides a diagram of the pressures on criminal enterprises that might seek to exploit the market for illicitly extracted metals and minerals. This diagram is based on a preliminary examination of a sample of existing empirical studies that address these markets. The illicit markets for metals and minerals have been the subject of research, including those focusing on cobalt, copper, diamonds, gold, mercury, sand, tantalum (coltan), uranium, among other rare resources (see Crawford & Botchwey, 2017; Davis, 2010; Evans, 2019; Hunter, 2018; Lewis, McNeill, & Shabalala, 2019; Mahadevan, 2019; Moran, McBain, Kanemoto, Lenzen, & Geschke, 2014; OECD, 2019; Ruggiero, 2017; Shor & Weldon, 2010) and are given in-depth analysis in the current collection.

In each category of Fig. 2.1, it can be seen that specific indicators can be developed to measure the nature and extent of supply, demand, regulations, and competition.

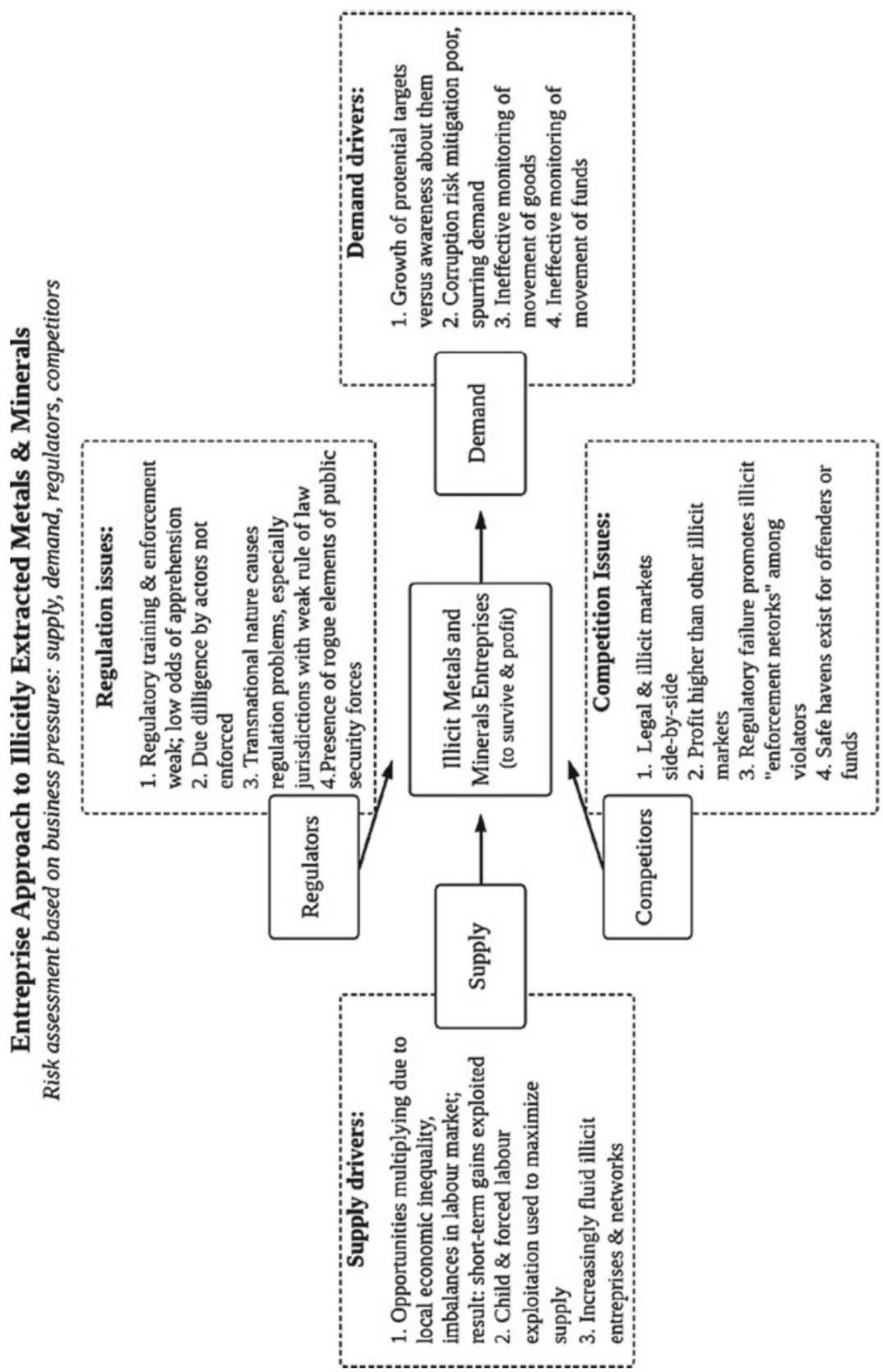

Fig. 2.1 The enterprise approach to illicitly extracted metals and minerals (*Source* Author's own elaboration)

a. *supply* (availability, ease of movement);
b. *demand* (the level of demand, and whether it is elastic or inelastic);
c. *competition* from other groups and products (profitability, history of organized crime in that market, and impact the resulting harms); and
d. *regulators* (ease of entry into the illicit market or product based on existing regulations and any special skills needed, the capacity and effectiveness of law enforcement in that jurisdiction, and government corruption levels).

This is a preliminary theoretical examination, but it can be seen that further empirical study might be used to sharpen these indicators, which can then be used to better target and intervene in the illicit markets in metals and minerals.

Future Directions

Indicators for each of these variables noted above can be gathered for different illicit products, making it possible to assess the *comparative risk* of organized crime involvement for different types of products and illicit markets. This risk is noteworthy especially in the case of metals and minerals, where scarcity and the environmental consequences of their illicit mining contribute to longer-term harms beyond the illicit activity itself. A UN global assessment of organized crime concluded that "strategies aimed at the groups will not stop the illicit activities if the dynamics of the market remain unaddressed" (UNODC, 2010, p. 5).

Understanding the operations, method, and, notably, transformation of organized crime enterprises is needed to carry out effective prevention and control of these activities. It is hoped that this edited collection will indicate an important vector in assessing the vulnerability of different criminal markets for criminal penetration and the location of the pressure points for law enforcement intervention when organized crime creates or exploits new criminal opportunities.

References

Adler, P. A. (1985). *Wheeling and dealing: An ethnography of an upper-level drug dealing and smuggling community*. New York, NY: Columbia University Press.

Albanese, J. S. (2012). Deciphering the linkages between organized crime and transnational crime. *Journal of International Affairs, 66*(1), 1–18.

Albanese, J. S. (2015). *Organized crime: From the mob to transnational organized crime*. London and New York, NY: Routledge.

Albini, J. L. (1971). *The American Mafia: Genesis of a legend*. New York, NY: Irvington.

Clarke, R. V. (2005). Seven misconceptions of situational crime prevention. In N. Tilley (Ed.), *Handbook of crime prevention and community safety*. Portland, OR: Willan Publishing.

Crawford, G., & Botchwey, G. (2017). Conflict, collusion and corruption in small-scale gold mining: Chinese miners and the State in Ghana. *Commonwealth and Comparative Politics, 55,* 444–470.

Davis. G. A. (2010). *Trade in mineral resources*. Economic Research and Statistics division (Staff Working Paper ERSD-2010-01). Geneva: World Trade Organization.

Evans, S. (2019, July 3). Inside Tanzania's mineral trading hubs. *Mining Technology.com*. https://www.mining-technology.com/features/inside-tanzanias-mineral-trading-hubs/. Accessed 12 December 2019.

Finckenauer, J. O., & Chin, K. (2010). Sex trafficking: A target for situational crime prevention? In K. Bullock, R. V. Clarke, & N. Tilley (Eds.), *Situational prevention of organised crimes* (pp. 58–80). Devon, UK: Willan Publishing.

Gerber, J. (2000). On the relationship between organized and white-collar crime: government, business, and criminal enterprise in post-communist Russia. *European Journal of Crime, Criminal Law & Criminal Justice, 8,* 327–342.

Hunter, M. (2018). *Curbing illicit mercury and gold flows in West Africa: Options for a regional approach*. Vienna: United Nations Industrial Development Organization.

Kleemans, E. R., Soudijn, M. R. J., & Weenink, A. W. (2010). Situational crime prevention and cross-border crime. In K. Bullock, R. V. Clarke, & N. Tilley (Eds.), *Situational prevention of organised crimes* (pp. 17–34). Devon, UK: Willan Publishing.

Lewis, D., McNeill, R., & Shabalala, Z. (2019, April 24). Gold worth billions smuggled out of Africa. *Reuters*. https://www.reuters.com/investigates/special-report/gold-africa-smuggling/. Accessed 12 December 2019.

Lo, T. W., & Kwok, S. I. (2017). Triad organized crime in Macau casinos: Extra-legal governance and entrepreneurship. *British Journal of Criminology, 57*(3), 589–607.

Mahadevan, P. (2019). *Sand mafias in India: Disorganized crime in a growing economy*. Geneva: Global Initiative against Transnational Organized Crime.

McFeely, R. A. (2001). Enterprise theory of investigation. *FBI Law Enforcement Bulletin, 70*(May), 19–26.

Moran, D., McBain, D., Kanemoto, K., Lenzen, M., & Geschke, A. (2014). Global supply chains of coltan: A hybrid life cycle assessment study using a social indicator. *Journal of Industrial Ecology, 19*(3), 357–365.

OECD. (2019). *Interconnected supply chains: A comprehensive look at due diligence challenges and opportunities sourcing cobalt and copper from the Democratic Republic of the Congo*. Paris: Organisation for Economic Co-operation and Development.

Reuter, P. (1985). *The organization of illegal markets: An economic analysis*. Washington, DC: US Department of Justice.

Ruggiero, R. (2017, May 24). People and wildlife are both casualties of illicit mining. *National Geographic Society*. https://blog.nationalgeographic.org/2017/05/24/people-and-wildlife-are-both-casualties-of-illicit-mining/. Accessed 13 December 2019.

Shor, R., & Weldon, R. (2010). An era of sweeping change in diamond and colored stone production and markets. *Gems & Gemology, 46,* 166–187.

Smith, D. C., Jr. (1980). Paragons, pariahs, and pirates: A spectrum-based theory of enterprise. *Crime and Delinquency, 26*(3), 358–386.

Smith, D. C., Jr. (1990). *The Mafia mystique* (Revised edition). Lanham, MD: University Press of America.

UNODC. (2010). *The globalization of crime: A transnational organized crime threat assessment*. Vienna: United Nations Office on Drugs and Crime.

US Department of Justice. (2019). *Superseding indictment charges former precious metals salesman with racketeering conspiracy*. Washington, DC: Office of Public Affairs.

von Lampe, K. (2010). Preventing organised crime: The case of contraband cigarettes. In K. Bullock, R. V. Clarke, & N. Tilley (Eds.), *Situational prevention of organised crimes* (pp. 35–57). Devon, UK: Willan Publishing.

von Lampe, K. (2011). The application of the framework of situational crime prevention to organized crime. *Criminology & Criminal Justice: an International Journal, 11,* 145–163.