High Value' Migration and Complicity for Underdevelopment and Corruption in the Global South:

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‘High Value’ Migration and Complicity for Underdevelopment and Corruption in the Global South: Receiving from the Attic[*]

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‘The real thief is not one who steals valuables from the attic, but rather the accomplice who collects the loot to safety.’[1]

ABSTRACT

Through a focus on the ‘High Value Migrants’ programme of the United Kingdom, this article directs attention to how commercial migration laws and policies of developed countries could impact negatively on the global south. Drawing mainly on insights from criminology and development studies, it investigates how the commercial migration laws and policies, specifically the aspects that deal with encouraging or attracting ‘high-value’ foreign entrepreneurs and investors hold out the state as potentially complicit in corruption and underdevelopment in the global south. There is an important need to address the implicated migration laws and policies as a critical and integral part of the international efforts to combat corruption and promote peace and development in the global south. Reform of the implicated laws and policies is in the long term interest of all stakeholders.

INTRODUCTION

Corruption has developed into an issue of grave concern all over the world [2] as it continues to grow.[3] A recent global poll of 26 countries by the British Broadcasting Corporation found that 68% of respondents in the polled countries considered corruption as the most worrisome

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[1] West African idiom on crime and complicity of the accomplice who covers up through receiving the loot.

[2] H. P. Glenn, ‘The Future of the Future’ in Sam Muller et al (eds.) *The Law of the Future and the Future of Law* (Torkel Opsahl Academic EPublisher Oslo 2011) 385, 392 and N. H. and M. Camerer, ‘Introduction’ in J. Werve and Global Integrity (eds.) *The Corruption Notebooks 2006* (Global Integrity Washington DC 2007) 1.

[3] S. Zouridis, ‘The Rule of Law in the 21st Century: Bridging the Compliance Deficit’ in Muller, *et al* (eds.) op.cit., n. 2 p. 89.

global issue.[4] It was second only to extreme poverty which polled 69%.[5] Corruption came 'first' in ten 'mostly developing countries;' Russia, China, Nigeria, Peru, Ghana, Kenya, Philippines, Colombia, Ecuador and Egypt.[6] This confirms the view that the problem of corruption is worst felt in the global south with its many developing or underdeveloped countries than elsewhere.[7] The global south as used in this article follows the conceptual geographic division of the world into a global north and a global south, the 'North-South' divide. While there has been some push towards the breakdown of the dichotomy between the North (North America, Europe, Russia, Japan, Australia, and New Zealand) and the South (the rest of the world) his article shares the view that the dichotomy remains a reality despite some blurring which has taken place with the ascendance of globalisation processes.[8] In this vein, the global south as used in this article refers to the developing and underdeveloped countries mainly in Africa and Asia.

In similar vein, migration has become a complex and politically volatile issue around the world but especially so for developed economies like the United Kingdom and other member countries of the Organisation for Economic Cooperation and Development (OECD). The United Kingdom and other OECD countries have faced continuing challenges on migration principally from developing countries of Africa and South East Asia. Corruption, with its deleterious impact on socio-economic development is implicated in economic migration from developing countries of the global south to OECD countries like United Kingdom, Australia, and Canada. Yet, little scholarly attention has been paid to the possible link between the illicit transfers of corrupt gains from abuses of office, especially by Politically Exposed Persons, (PEPs) and the migration laws and policies of OECD countries like the United Kingdom that seek to attract so called 'high-value' migrants which include (though not limited to) foreign entrepreneurs and investors.

There is an important link between serious economic crimes like grand or political corruption and money laundering. This is a critical point in relation to PEPs - a high-risk category in the experience of corruption- because, as the discussion in part II shows, a disturbing proportion

[4] See BBC Global News, *The World Speaks 2011- A Major New Annual Poll from BBC Global News* (BBC World Service London 2011) 6.
[5] BBC Global News, op. cit., n.. 4, p.10.
[6] Id.
[7] Thus for instance, corruption ranked as the 7th issue of concern in the UK and Germany, 8th in Japan and 9th in Mexico of 14. See BBC Global News, op.cit., n. 4, p.6.
[8] M. Ould-Mey, 'Currency Devaluation and Resource Transfer from the South to the North' (2003) 93 (2) *Annals of the Association of American Geographers*, 463, 463.

of PEPs in many parts of the global south have been identified with corruption. It should be of concern that this category of people also constitutes a potential constituency for economic migration schemes like the United Kingdom's 'Highly Valued Migrants' category which seek to attract investors and entrepreneurs. The opportunity for money-laundering may not be pre-condition for the incidence of corruption. However, it is rational to assume, and research does support the view, that the opportunity for money laundering is key to the thriving of grand corruption since the former facilitates the processing and disposition of proceeds of the latter.

In this regard, a recent Global Witness report observes that 'Without access to the international financial system it would be much harder for corrupt politicians from the developing world to loot their national treasuries or accept bribes.'[9] In other words, reduced prospects for laundering the proceeds of corruption (or any other large scale economic crime for that matter) constitute a disincentive for grand corruption. From a criminological perspective, this point is critical in the fight against corruption; the risk of detection constitutes an important factor in the calculus of offending.[10] On this view, the opportunity to launder the proceeds of corruption constitutes an important factor in the calculation of corrupt public office holders.

This article directs attention to the important nexus between aspects of economic migration laws and policies of the United Kingdom (as an example of an OECD country) and the incidence of corruption and underdevelopment in the countries of the global south. The crux of the discussion that follows simply stated is that the category of economic migration policies such as the 'High Value Migrants' scheme of the United Kingdom (and some other OECD countries) has the potential to promote and facilitate corruption in the global south especially by PEPs. It is argued that there is potential complicity on the part of the developed countries through the instrumentality of migration laws and policies for political corruption and underdevelopment in the global south. There is an important and urgent need to address the implicated migration laws and policies of these countries as a critical and integral part of the international efforts to combat corruption and promote peace and development in the global south.

The article proceeds in this way. Part I provides conceptual clarification of key concepts of the article; Corruption, Politically Exposed Persons, Money-Laundering and Migration Law.

[9] Global Witness, *International Thief Thief: The Complicity of British Banks in Nigerian Corruption* (Global Witness Limited London 2010).
[10] See for instance B. A. Jacobs, 'Deterrence and Deterrability' (2010) 48 (2) *Criminology* 417, 441.

Money laundering distorts national and international economies. Part II examines the link between money laundering and corruption. Part III is devoted to the analysis of pro-corruption migration laws and policies of the United Kingdom with specific reference to aspects of its commercial migration policies. In Part IV, I discuss the connections among corruption, poverty, conflict and underdevelopment. The article concludes that the migration policies under consideration ought to be scrutinised to ensure they do not promote corruption in the global south.

I. CONCEPTUAL CLARIFICATIONS: CORRUPTION, POLICTICALLY EXPOSED PERSONS, MONEY-LAUNDERING AND MIGRATION LAW

It is relevant to briefly clarify what is meant by 'Corruption', 'Politically Exposed Persons' 'Money-Laundering' and Migration Law since all four are central to the discussion in this article. Corruption is a notably difficult concept to define.[11] Part of the difficulty in providing a uniform definition for corruption derives from corruption's multidimensional nature; 'what is considered a bribe or inducement in one society or culture may be regarded as a gift in another.'[12] Nonetheless, it has been suggested that there are 'symmetries of understanding on what constitutes corruption.'[13] The symmetries suggest a consistent feature of the various definitions of corruption is the notion that it is 'some form of deviation from acceptable norms that prevail (or at the least, are believed to prevail) in a particular context.'[14] Further, corruption, particularly political corruption, which is mostly implicated in this discussion, is generally recognised as abuse of office or position of public trust reposed in an individual, to secure personal benefits.[15]

In delineating political corruption, Inge Amundsen explains that political corruption occurs at the 'highest levels of the political system.'[16] This sphere involves politicians, elected or appointed government ministers, senior civil servants and other elected, nominated or appointed senior public office holders, holding positions of public trust (and power). Political

[11] See J. Gardiner, 'Defining Corruption' in A. J. Heidenheimer and M. Johnston (eds), *Political Corruption: Concepts and Contexts* (Transaction, 3rd edn. 2002) 25 and Susan Rose-Ackerman, *Corruption and Government: Causes, Consequences and Reforms* (Cambridge University Press, 1999) 91.
[12] H. O. Yusuf, 'Rule of Law and Politics of Anti-Corruption Campaigns in a Post-Authoritarian State: The Case of Nigeria' (2011) 22 (1) *King's Law Journal* 57, 60.
[13] Id.
[14] Id.
[15] M. Philp, 'Conceptualising Political Corruption' in Heidenheimer and Johnston, op.cit., n. 10, p. 42–58 and J. I. Ross, The Dynamics of Political Crime (Sage Publications Thousand Oaks 2003) 93.
[16] I. Amundsen, *Political Corruption* (2006) 6 *U4 Brief* 5.

corruption as a genre of political crime, takes place 'when these officials, who make and enforce law in the name of the people, are themselves corrupt.'[17] This category of people overlaps with PEPs described below.

The incidence of 'grand corruption' has led to the creation of a connection between money-laundering- otherwise a crime not limited to processing of corrupt loot- and the political class. This connection is reflected in the development of the term, 'Politically Exposed Persons.' In the words of anti-corruption campaigner, Robert Palmer, 'Politically Exposed Persons' are 'senior public officials, their immediate family and close associates.' However, as he further explains, being a PEP does not connote that every individual in that category is corrupt. The critical point is that individuals in the category 'are exposed to an increased corruption risk' because of their position in government, access to, or influence over those in power in the award of contracts, concessions, policy making, and so on.[18] In short, PEPs are those who by virtue of their public positions or closeness to those in such positions have the opportunity to use their power for personal (usually economic) gain in a manner that is detrimental to the public interest.

Definitions of money-laundering suggest it is a derivative crime. Nicholas Ryder's descriptive definition of money-laundering provides a good insight into the nature of the crime. According to Ryder, money-laundering is a criminal activity which involves 'concealing assets to avoid discovery of any *unlawful* activity that fashioned them.'[19] A similar definition is that 'money laundering is the process of disguising illegitimate income to make it appear legitimate.'[20] Both definitions, suggest that money-laundering as stated earlier, follows on the initial commission of a criminal act in a manner to disguise the taint deriving from the proceeds thereof. Notwithstanding the challenges of tracking money-laundering, analysts have identified three cognisable stages; placement, layering and integration.[21] Placement ('pre-wash') stage involves the introduction of the proceeds of crime into the financial. This may be done in a discreet manner to avoid the scrutiny of money-laundering reporting policy or legislation. The layering stage involves the launderer engaging in transactions that seek to distance the funds from their illicit source. The integration stage is

[17] Id.
[18] R. Palmer, 'Profiting from Corruption: The Role and Responsibility of Financial Institutions' (2009) 31 *U4 Brief* 1, 1.
[19] N. Ryder, *Financial Crimes in the 21st Century: Law and Policy* (Edward Elgar Cheltenham 2011) 10.
[20] Rose-Ackerman, op.cit., n. 11,.p. 190.
[21] Ryder, op.cit., op.cit., n 19, p.p. 12 and Brigitte Unger *The Scale and Impacts of Money-Laundering* (Edward Elgar Cheltenham 2007) 4.

that point at which the initially 'dirty' money having been 'cleaned' (at the layering stage) is re-invested into the economy.[22]

It is further apt to clarify the sense in which 'migration law' is used in this article, particularly in view of the divergence in the terminology relating to the issue in the United Kingdom (in focus), Australia and Canada to which some comparative references are made. Catherine Dauvergne's definition of migration law as 'the domestic law or laws which regulate the entry and stay of foreigners [into a particular country]'[23] is apt. Following Dauvergne's lead, 'migration law' covers the body of legislation that are commonly referred to as 'immigration and asylum' laws in the United Kingdom where both are further 'meshed with nationality law'.[24]

II. LINK BETWEEN CORRUPTION AND (INTERNATIONAL) MONEY-LAUNDERING

There is an important link between corruption and money laundering[25] as the two 'go hand in hand.'[26] This is particularly the case with corruption involving PEPs. Corrupt public officials, it has been noted will place the proceeds of their illicit gains where it is relatively safe, usually in foreign countries.[27] However, this connection remains relatively under-researched. This is problematic given the view that any serious effort to combat corruption ought to pay attention to how the proceeds are handled. Put in another way, there should be coordination between anti-corruption and anti-money-laundering initiatives because of the symbiotic relationship between the two. As Susan Rose-Ackerman argues, knowledge of relative ease to keep proceeds of bribery or other illicit funds outside of the source country encourages corruption.[28]

The difficulty of tracing and securing proof of corrupt practices makes corruption an attractive prospect. The effect of this difficulty can be analogised with the ambivalence that characterises the identification, classification, and prosecution of white collar crimes.

[22] Ryder, op.cit., op.cit., n. 19, p.p. 12-13.
[23] C. Dauvergne, 'Sovereignty, Migration and the Rule of Law in Global Times' (2004) 67 (4) *Modern Law Rev.* 588, 589.
[24]Dauvergne, op.cit., n. 23.
[25]A. Damais, 'The Financial Action Task Force' in W. H. Muller, C. Kand J. G. Goldsmith, (eds.) *Anti-Money Laundering: International Law and Practice* (John Wiley & Sons Chichester 2007) 63, 79.
[26]P. Lilley, *Dirty Dealing - The Untold Truth about Global Money Laundering, International Crime and Terrorism* (Kogan Limited London 2007) 3.
[27]P. Reuter and E. M. Truman, *Chasing Dirty Money: The Fight against Money Laundering* (Institute for International Economics Washington DC 2004) 149.
[28] Rose-Ackerman, op.cit., n. 11, p.p. 190.

Ambivalence on critical issues regarding the nature and operations of white collar crimes (and criminals) has created a situation whereby key actors in social and criminal justice policy, law enforcement agencies as well as the public are hardly able to follow more than a poor trail of that type of crime. Even the most basic question of whether white collar crimes constitute crimes at all, remains subject of debate.[29] In the same way, the difficulty of tracing proceeds of corruption from developing countries fosters the atmosphere of impunity that commonly characterise political corruption in those countries.

There is an established pattern whereby former colonial overlord-countries are the preferred destination of looted funds from their former territories. Financial institutions in the United Kingdom (along with Swiss Banks) have been choice 'recipients' of looted public funds from Nigeria for example.[30] The story is the same from Africa, Latin America, to Asia. Mobutu Sese Seko, former President of Zaire, (1965-97) allegedly stashed away an estimated USD 5 billion in Western banks.[31] Jean-Claude Duvalier, as President of Haiti (1971-86), the poorest country in the western hemisphere, is believed to have stolen USD 300 to USD 800 million while Mohamed Suharto erstwhile President of Indonesia, (1967-98) carted away an estimated princely figure of USD 15 to 35 billion from his country.[32] Ferdinand Marcos as President of Philippines (1972-86) is similarly thought to have embezzled an estimated USD 5 to 10 billion and Albert Fujimori, former Peruvian President (1990-2000) is believed to have stashed away USD 600 million.[33] The bulk of these stolen funds meant for development of various countries in the global south are generally believed to have found their ways into the financial institutions of OECD countries.[34] In this regard, Palmer notes that 'Kleptocrats' turn to the international financial system to launder the proceeds of corruption as the amounts involved are usually so large that they simply cannot be held in cash.[35]

The magnitude of the problem is illustrated in a report which states that (poor) developing countries lost between USD 850 billion and 1.06 trillion through 'illicit channels' in 2006 alone. This figure far outstrips USD 103.9 billion official aid provided during the same year

[29] For a discussion of this ambivalence, see D. Nelken, 'White-Collar and Corporate Crime' in M Maguire, *et al* (eds.) *The Oxford Handbook of Criminology* (4th Edition Oxford University Press Oxford 2007) 733-770.
[30] Global Witness, op.cit., n.9 .
[31] Amundsen, op.cit., n. 16, p.p. 3.
[32] Id.
[33] Id.
[34] United Nations Office on Drugs and Crime, *Crime and Development* (UNODC New York 2005) 91.
[35] Palmer, op.cit., n. 18, p.p. 1 and Global Witness, op.cit., n. 9..

by the 22 member countries of OECD Development Assistance Committee. [36] The figures suggest 'development efforts' in the poor countries would yield next to no results under the prevailing circumstances. Indeed, for those interested in the development of poor countries, 'decades of underachieving efforts might have illicit outflows as one underlying reason.'[37] Another report emphasises that most of the proceeds of high level crime in Africa, but especially those from political corruption is invested outside the continent.[38]

III. PRO-CORRUPTION MIGRATION LAWS AND POLICIES

Migration has emerged as an issue of serious concern for most OECD countries and certainly for all of the relatively high income ones like the United Kingdom. There is substantial panic at the current rate of migration particularly from developing countries to the developed (OECD) ones. The United Kingdom (and other OECD member states like Australia and Canada in particular), is witnessing a wave of migration that has led to serious socio-political and economic concerns. As a recent OECD publication states, 'Migration policies and the challenge of the integration of immigrants have risen to the forefront of the political agenda in many OECD countries.'[39] The media is awash with reports of a deluge of immigrants and asylum seekers. As Dauvergne rightly states:

> There is an international moral panic afoot about migration. Newspapers around the world report daily on illegal migrants arriving in boats, trucks, planes and trains. There are calls in Britain, Australia, Canada and elsewhere to alter the way refugees are treated, or even denied.[40]

The moral panic about migration from the latter part of the twentieth century has shifted migration from the paradigm of a legalised phenomenon (with which it started out at the beginning of that century), to an 'illegalized' one.[41]

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[36] A. Fontana, '"What Does Not Get Measured, Does Not Get Done": The Methods and Limitations of Measuring Illicit Financial Flows' (2010) 2 *U4 Brief* 1-4, 1 available at: http://www.u4.no/document/publication.cfm?3720=what-does-not-get-measured-does-not-get-done (last accessed 26 April 2011).

[37] Fontana, op.cit., n. 36.

[38] UNODC, op.cit., n. 34, p.p. 91.

[39] OECD, *A Profile of Immigrant Populations in the 21st Century: Data from OECD Countries* (OECD Publishing Paris 2008).

[40] Dauvergne, op.cit., n 23 .p. 588.

[41] C. Dauvergne, *Making People Illegal: What Globalization Means for Migration and Law* (Cambridge University Press Cambridge 2008) 1-2.

Dauvergne also directs attention to an additional complication to the issue of migration; real or perceived security concerns. She observes that the 'worldwide fear of terror has overlapped and intertwined with the fear of illegal migration. The prosperous West is under siege, this popular refrain tells us; the hordes are ascending.'[42] This overlap is evident for instance in the provisions of the United Kingdom's Criminal Justice and Immigration Act 2008. Essentially a key criminal justice legislation; with copious provisions on youth rehabilitation orders, sentencing, criminal appeals, pornography and sexual offences and so on, it also creates a 'special immigration status' for terror convicts.[43] The security dimension to the migration conundrum is not of further interest here, but it is appropriate to note that it is a dimension that resonates strongly in the policy and politics of migration-prone countries in recent times.

The much amended Immigration Act 1971 (and the Immigration Rules- 'the Rules'- made under it) remains 'the cornerstone of UK immigration law.'[44] In broad terms, the United Kingdom sets family reunion, economic and humanitarian grounds as migration routes. However, it is an aspect of the economic route which is of interest here. The economic route is generally divided into skilled migrants (workers) and commercial categories. It is the commercial migration laws and policies, specifically the aspects that deal with encouraging or attracting foreign entrepreneurs and investors that are relevant here.[45]

The United Kingdom now shares with Australia and Canada a Points Based System (PBS) for migration with significant similarities and emphases on economic migration. Each of them has at some point in time within the past two decades, integrated commercial immigration

[42]Dauvergne, op.cit., n 23 p. 588.

[43] Part 10 of the Act provides for a new immigration status for 'designated' foreign nationals convicted of terrorism or other serious criminal offences and their families who are liable to deportation under the migration laws but cannot be removed from the UK due to the operation of Section 6 of the Human Rights Act, 1998. See Sections 130-137 and schedule 27 of the Criminal Justice and Immigration Act 2008. There are also other immigration or immigration related (but substantively politically uncontroversial) provisions in Sections 27, 33 34, 93 to 96 and 146 of the Act. Part 10 has yet to come into force yet.

[44] Some of the other key legislation are the British Nationality Act 1981, the Immigration Act 1988, the Asylum and Immigration Appeals Act 1993, the Asylum and Immigration Act 1996, the Immigration and Asylum Act 1999, the Nationality Immigration and Asylum Act 2002, the Immigration and Nationality Act 2006, the UK Borders Act 2007. For a discussion on the interplay of the legislation, see I. Macdonald and R. Toal, *McDonald's Immigration Law and Practice* (First Supplement to the 7th Edition Lexis Nexis Edinburgh 2008) 1-10.

[45] Commercial immigration law also extends to that aspect of migration law that deals with those who migrate for work purposes and includes all types of economic migrants. See I. A. Mcdonald and R. Toal, *Mcdonald's Immigration Law and Practice* (7th Edition LexisNexis Edinburgh 2008) 582-664 on the UK categorisation of this which now bears a close semblance to the Australian model.

into their migration system under the rubric of economic migration.[46] The admission criteria for this category of migrants are based on the level of investment they are capable and willing to commit to their destination countries.[47] More applicable to this discussion is the special consideration that is given to entrepreneurs or investors or investors.[48] Each of the three countries have fast track settlement and citizenship as reward for bringing in foreign capital into (any of) them.[49]

In the United Kingdom, the policy is well captured in recent changes announced to the Points Based System by the Home Office regarding entrepreneurs and investors, part of which is worth quoting here

> Investors told us that what they value most is the ability to achieve settlement more quickly in the UK…Those investing £10m or more may apply for settlement after 2 years, and those investing £5m or more may apply after 3 years…an entrepreneur may apply for settlement after 3 years, instead of after 5, where he has created 10 sustainable jobs or generated £5m turnover over the 3 year period.[50]

This migration policy thrust reflects directly in the determination of migration applications; migration case-work. In migration case-work, there are typically three independent (though not necessarily mutually exclusive) factors considered in the determination of migration applications in the OECD countries in focus. The applicable factor (s) depends on the circumstances of the applicant or the nature of the application. Two of these factors, 'family reunion' and 'humanitarian assistance' appear to have been incorporated into migration case-work in fulfilment of regional and international law obligations. International human rights law (even if in less than a satisfactory manner in the view of some) mediates state sovereignty in the realm of migration. This is the case as the very status of refugees and asylum seekers

[46]S. Richardson and Lester, *A Comparison of Australian and Canadian Immigration Policies and Labour Market Outcomes* (The National Institute of Labour Studies, Flinders University Adelaide 2004) 14-17.
[47] For Australia and Canada see S. Yale-Loehr and C. Hoashi-Erhardt, 'A Comparative Look at Immigration and Human Capital Assessment' in M. Crock, (ed.) *Nation Skilling- Migration, Labour and Law in Australia, Canada, New Zealand and the United States* (Desert Pea Press Sydney2002) 18- 48 comparing the points based system in Australia and Canada.
[48] These are referred to as Tier 1 (Entrepreneur) and Tier 1 (Investor) respectively in the Immigration Rules. There is an ancillary group known as 'Self-Employed Persons/Individuals' that is not of further interest here.
[49] See Yale-Loehr and Hoashi-Erhardt, op.cit., n. 47 and Richardson and Lester, op.cit., n. 46.
[50] *UK Border Agency Statement of Policy: Changes to Tier 1 of the Points Based System* (March 2011) 2-3 available at:
http://www.ukba.homeoffice.gov.uk/sitecontent/newsarticles/2011/march/39-entrepreneurs-investors

are essentially creations of international law for instance.[51] For instance, the continued (even if in some cases, reluctant) incorporation of both values into various UK migration legislation, ministerial statements,[52] policy guidance documents and the case law, as matters of regional or international (and more recently, national) human rights[53] and, or, international humanitarian law obligations[54] demonstrate this fact.

However, it is the much less scrutinised third possible consideration; 'economic value' that is of interest in this discussion. State economic cooperation is a feature of the international economic system, at least from the perspective of the longstanding traditions (and practice) of international trade.[55] Migrants who follow this 'economic value' for entry into the UK fall into the category of what for the purposes of this discussion, will called 'commercial migrants' governed by commercial immigration law.[56]

It is interesting to note that this preferential treatment of the category referred to by government as 'high value' migrants'[57] constitutes an integral part of its policy commitment to 'reducing net migration in the UK to the tens of thousands.'[58] This preference for economic benefit through migration accords with the context of neo-liberal capitalism dominant in these countries. These commercial migration programmes designed as one commentator put it, to seek out the neo-liberal *homo economicus*[59] are not intrinsically objectionable. They have even been adopted by at least 29 countries all over the world.[60] However, the devil is in the detail. It is the potential for complicity in corruption and underdevelopment in the global south which such laws and policies may mask that is the

[51]For a discussion of how the operation of various international (and regional) human rights and humanitarian law instruments has mediated state sovereignty and migration, see D. Jacobson, *Rights Across Borders-Immigration and the Decline of Citizenship* (The John Hopkins University Press Baltimore 1997). For a discussion of the rights of refugees, asylum seekers as well as the right of migrant workers, see J. Rehman, *International Human Rights Law* (2nd Edition Pearson Harlow 2010) 641.

[52] Ministerial statements have become more important as an aid to determining the intention of the UK Parliament in legislation. This flows from the decision in *Pepper (Inspector of Taxes) v Hart* [1993] AC 593 which held that a court or tribunal may consider a clear statement made in parliament by a promoting minister to clarify an ambiguity on the face of the Act or more generally to clarify the meaning and effects of the new law. See for instance A. Singh, *Criminal Justice and Immigration Act 2008- Ministerial Statements* (ILPA London 2008) 5 available at: http://www.ilpa.org.uk/ (last accessed 23 May 2011).

[53] For an extensive discussion of this, see Mcdonald and Toal, op.cit., n 45 p.p. 391- 520. For the view that human rights has done little for illegal immigrants, see Dauvergne, op.cit., n 41 p.p. 21-28.

[54] Mcdonald and Toal op.cit., n. 45 .pp. 774-973.

[55] The OECD is a classic example.

[56]Mcdonald and Toal, op.cit., n. 45 p.p. 582

[57] UK Border Agency, op.cit., n .55 p.p. 1.

[58] Home Office, *Tier 1 and 2 Immigration Rules, Settlement and Asylum* (16 March 2011) 1 available at: http://www.ukba.homeoffice.gov.uk/sitecontent/newsarticles/2011/march/39-entrepreneurs-investors

[59]D. Ley, 'Seeking Homo Economicus: The Canadian State and the Strange Story of the Business Immigration Program' (2003) 93 (2) *Annals of the Association of American Geographers* 426.

[60]id.

source of concern as will be made clear presently. The concern is that such migration laws and policies promote corruption and at least indirectly, produce mass suffering elsewhere.

The critical question is who are the potential investors from the global south envisaged by these laws and policies? It is tall order to expect they will only be drawn from the numbers of ordinary, honest, hardworking, individuals who have, through their industry made good for themselves and acquired assets which, even by OECD standards, amount to a handsome fortune which they would be interested in investing in a developed country like the United Kingdom. What with the high cost of inputs, labour and tax regimes which have driven British (and other OECD member countries) citizens' owned industries (and in some cases, services) British and other to relocate to the global south? Recall also that majority of the 'world's poor' who live on less than a dollar or two daily are from the global south countries. It is logical and plausible to assume that at least some of the prospective entrepreneurs and investors capable and willing to invest in the country on the *quid pro quo* of expedited settlement or citizenship are more likely to be PEPs who have acquired illicit wealth through political corruption and require an avenue to legitimise them. As stated earlier, many PEPs from the global south, even without the prospect of OECD member countries' residency or citizenship have already found secure havens in the OECD countries for looted funds meant for development in their respective home countries. Therefore, the offer of residency or citizenship is in effect an icing on the cake; a welcome 'edge over the competition' for their loot and a route to legitimisation of the same.

Notwithstanding the foregoing reality, the relevant migration laws and policies of the United Kingdom are remarkably silent on scrutiny of the source of funds of the prospective entrepreneurs and investors. The Rules stipulate the requirements to be met for the grant of entry clearance, continued stay and settlement in the UK by these two categories of commercial migrants but does not refer to scrutiny of the source of funds of the applicant.[61] It is relevant to note in this regard, that the Rules contain omnibus grounds for refusal of any category of application.[62] However, these provisions referred to in the law and policy guidance as 'General Grounds for Refusal' and 'General Reasons for Refusing' (the grounds), do not make any reference to tainted funds, corruption or even terrorism, as one of a number of grounds for refusal of entry, continued leave to remain or settlement in the

[61] See Paragraph 235DB
[62] Part 9, Paragraphs 320-324.

United Kingdom. This is despite the fact that the criminal record of the applicant is one of the grounds for refusal. [63] Going by the policy guidance document, this latter provision contemplates fraud relating to the application for a visa, leave to remain (in the UK) or settlement as applicable and previous (or current) conviction history.[64]

Arguably, there is a further ground which, may be invoked to scrutinise the integrity (or otherwise) of funds of prospective foreign entrepreneur and investors. Paragraph 321 (iii) provides for situations where 'exclusion would be conducive to the public good.' Nonetheless, there is no reason to believe that exclusion from or refusal of either type of visa or leave to remain based on it, is within the contemplation of Parliament or policy thrust of the Home Office as currently constituted. Rather, it appears that exclusion for not conducing to 'the public good' is driven (essentially) by (national) security and public safety concerns. The policy guidance document elucidates that the exclusion provisions operate where there is reason to believe it is not in the public good to admit or allow a person to remain in the UK 'because of their character, conduct or associations.'[65] This may be because of their membership of a proscribed group, being suspected or war crimes or even where their presence may lead to the commission of an infringement of UK law or breach of public peace among others.[66]

In consequence, there are no provisions to scrutinise the integrity of the funds of prospective entrepreneurs or investors in the relevant legislation or copious policy guidance documents on this category of migrants in general. [67] Not surprisingly, there are also no specific provisions that demonstrate concern for, or awareness of the circumstance of corrupt PEPs who are well- positioned to take advantage of these migration schemes for money laundering. Hence, there is a real danger that the source of such wealth may be highly tainted. In light of this, there ought to be checks to forestall the introduction of corruptly sourced funds from being laundered through such otherwise 'neutral' laws and policies. The imperative of this is

[63] See Paragraphs 321 and 322.
[64] See for instance UK Border Agency, *General Reasons for Refusing- Section 1 of 5* (UK Border Agency 2011) 8-48.
[65] UK Border Agency, op.cit., n. 64, p. 19.
[66] See for the application of the provision see for instance *Dr Zakir Naik v Secretary of State for the Home Department & Anor* [2010] EWHC 2825 (Admin)
[67] The 5-part document is titled *General Reasons for Refusing* and altogether runs into three hundred and twenty one pages. See the Border Agency webpage http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/modernised/general-grounds-refusing/ (last accessed on 13 September 2011).

underscored by the reality that the financial institutions of OECD countries, as variously illustrated above, are advantaged in their access not only to lawful, but also, illicit funds in the global financial system.[68]

Here it is pertinent to briefly mention the operations of two important two global financial sector-centred groupings; the Wolfsberg Group and the Egmont Group. [69] The main aim of the Wolfsberg Group which comprises eleven leading (global) banks[70] is to develop standards for the financial services industry generally, and more relevant to this discourse, Anti-Money Laundering (AML) and Counter Terrorist Finance (CTF) policies. The group was since formulated and published a number of 'statements,' 'principles' and 'papers' to guide legislators and regulators on appropriate standards for the conduct of financial services in pursuit of its objectives.[71] A principal document it developed is the Wolsfberg Anti-Money Laundering Principles for Correspondent Banking issued in November 2002.[72] Of particular relevance here also is the Wolfsberg Group 'Statement against Corruption' made in 2007 in which the group expressed support for international efforts to combat corruption generally. This has recently been supplanted by the Wolfsberg Anti-Corruption Guidance issued in August 2011.[73]

The Egmont Group is made of Financial Intelligence Units (FIUs) from different parts of the world. This group is similarly committed to combating money laundering and financing of terrorism by improving and supporting the capacity of FIUs in the discharge of their functions. Its goals are advanced through the expansion and systematisation of financial intelligence information exchange, personnel training and better communications among

[68] Unger op.cit., n. 21, p. 12.
[69]For a description of the activities of the two bodies and their work, see D. Hopton, *Money Laundering: A Concise Guide for All Business* (Gower Publishing Limited Hampshire 2006) 14-16.
[70] These are Santander, Bank of Tokyo-Mitsubishi-UFJ, Barclays, Citigroup, Credit Suisse, Deutsche Bank, Goldman Sachs, HSBC, JP Morgan Chase, Societe General and UBS- set up in 2000 at a meeting held at the Château Wolfsberg in north-eastern Switzerland. See http://www.wolfsberg-principles.com/ (accessed 5 September 2011)
[71] These include the Wolfsberg Statement on Monitoring Screening and Searching (September 2003), Guidance on a Risk Based Approach for Managing Money Laundering Risks, and AML Guidance for Mutual Funds and Other Pooled Investment Vehicles all in 2006. See: http://www.wolfsberg-principles.com.
[72] For an analysis of how the principles came into being and its initial development, see M. Pieth and G. Aiolfi, 'The Private Sector Becomes Active: The Wolfsberg Principles' (2003) 10 (4) *Journal of Financial Crime* 359-365.
[73]Available at: http://www.wolfsberg-principles.com/pdf/Wolfsberg%20Anti%20Corruption%20Guidance%20Paper%20August%2018-2011%20%28Published%29.pdf (accessed 5 September 2011).

FIUs.[74] However, despite the operation of these two groups; private sector and governmental sector-led initiatives respectively, it is a notorious fact[75] that PEPs still penetrate the financial system of the OECD countries with disturbing impunity.

In contrast to the lax regime regarding the source of funds for investment in the United Kingdom, it, at least, in the last decade, developed a more articulated regime to counter terrorism funding which, as mentioned earlier, along with money laundering, also constitutes a major source of international financial concern. As a result of this regime, Charities for instance have been obliged-through a rash of legislation- to comply with an array of measures designed to prevent the funding of terrorist activities.[76] The latest and perhaps, most comprehensive, targeted legislation on terrorism-funding is the Terrorist Asset-Freezing e.t.c. Act 2010 (the Act).[77] The basis of the designation is essentially reasonable believe that such person is or has been involved in terrorist activity, or is under the direct or indirect control of a person so involved and HM Treasury considers it is necessary for purposes connected with protecting members of the public from terrorism that financial restrictions should be applied in relation to the person. [78]

The Act confers powers on Her Majesty's Treasury to designate a person (natural or legal) as being believed or suspected of involvement in terrorism. On such designation, HM Treasury has the power to impose financial restrictions on such persons. It has the power to freeze funds and economic resources of designated persons. It further has the power to restrict making available funds, financial services and economic resources to, or for the benefit of such persons. In light of this attention to the second arm of what is easily the more complicated aspect of financial intelligence,[79] current gaps with regard to oversight of the

[74]'Information Paper on Financial Intelligence Units and the Egmont Group' available at: http://www.egmontgroup.org/library/egmont-documents (accessed 5 September 2011).
[75] See the discussion in section two above.
[76] There well over half a dozen of successive legislation in this regard with each successor amending or revoking its predecessor. These include the Terrorism (United Nations Measures) Order 2001 (S.I. 2001/3365), The Terrorism (United Nations Measures) (Channel Islands) Order 2001 (S.I. 2001/3363), The Terrorism (United Nations Measures) (Isle of Man) Order 2001 (S.I. 2001/3364), The Terrorism (United Nations Measures) (Overseas Territories) Order 2001 (S.I. 2001/3366), The Terrorism (United Nations Measures) Order 2006 (S.I. 2006/2657), The Terrorism Act 2008, The Terrorism (United Nations Measures) Order 2009 (SI2009/1474), Terrorist Asset-Freezing (Temporary Provisions) Act 2010 e.tc.
[77] This piece of legislation either amends or revokes at least 18 other legislation on or relating to the issue. See Schedules 1 and 2 of the Act.
[78] Section 2 Terrorist Asset-Freezing e.t.c. Act 2010 (the Act).
[79] N. Ryder 'Charities and Terrorist Funding: Where Does Your Donation Go?' (2006) New Law Journal available at http://www.newlawjournal.co.uk/nlj/content/terror-funds (last accessed 27 October 2011).

source of funds for high value migrant prospects is arguably not so much of a *faux pas* but a convenient remiss.

Given the global and cross-border link between money laundering and corruption,[80] it is crucial that OECD countries make conscious efforts to block rather than facilitate the opportunities for laundering illicit gains from corruption by PEPs. Otherwise, they ought to be deemed liable for promoting poverty and underdevelopment of the global south and the recurring cycles of violence in that part of the world. The current laws and policies of the United Kingdom under consideration here with regard to entrepreneurs and investors, in as much as they do not demonstrate an awareness of the prospect of facilitating the transfer and legitimation of illicit funds by PEPs from the global south represents the manner in which law, as a mode of social ordering, facilitates and promotes irresponsibility as argued by Scott Veitch.[81]

IV. MAKING THE CONNECTIONS – POTENTIAL COMPLICITY IN CORRUPTION, POVERTY, CONFLICT AND UNDERDEVELOPMENT

The United Kingdom is a notable member of the Organisation for Economic Cooperation and Development. The principal concern of the Organisation for Economic Cooperation and Development, as the name suggests, is cooperation- essentially European - for economic development. While it was established by 18 European member countries (but also including in that number, the United States), it professes a mission of dedication to 'global development.' Not surprisingly, membership of the OECD which currently stands at 34 now includes not only the most economically advanced countries, but the 'emerging countries' of Mexico, Chile and Turkey. The OECD also works 'closely with emerging giants like China, India and Brazil' as well as 'developing economies in Africa, Asia, *Latin* America and the Caribbean.'[82] Given this background, it is logical to posit that the OECD will be concerned about and strongly involved with development efforts in the 'global south' since its mission is

[80]Lilley, op.cit., n. 38, p. 149.
[81] S. Veitch, *Law and Irresponsibility - On the Legitimation of Human Suffering* (Routledge-Cavendish Abingdon Oxon 2007).
[82]Organisation for Economic Cooperation and Development 'Members and Partners' available at: http://www.oecd.org/pages/0,3417,en_36734052_36761800_1_1_1_1_1,00.html (last accessed 25th April 2011).

'to promote policies that will improve the economic and social well-being of people around the world.'[83]

The scourge corruption poses to effective governance has become a source of major concern in the international system. The concern has been reflected in the enactment of not just national legislation but also, many international instruments directed principally at checking corruption.[84] Two notable such instruments are the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Bribery Convention) and the United Nations Convention Against Corruption (UNCAC).[85] The reason for concern for political corruption within the international system is the debilitating effect it has on state governance.[86] Analysts have noted that 'political corruption undermines political and economic development in many countries.'[87] PEPs, as stated above, are key players in political corruption. The argument here is that corrupt PEPs form an important category of potential entrepreneurs and investors targeted by the high value migrants' programme. The existing blind-spot of the financial regulatory regime on the source of investors fund can be construed even from a sympathetic perspective, as condoning corruption for economic profit.

There is recognition that an important linkage exists between corruption and underdevelopment. The World Bank, the United Nations Development Programme (UNDP), as well as the United Nations' Office on Drug and Crime (UNODC) all agree that corruption is the single greatest obstacle to global economic and social development.[88] Development efforts in the global south naturally suffer more from the problem of corruption than any other part of the world. A recent stakeholders forum hosted in Morocco observed that the

[83] 'About the Organisation for Economic Co-operation and Development (OECD)' available at: http://www.oecd.org/pages/0,3417,en_36734052_36734103_1_1_1_1_1,00.html (last accessed 5 September 2011).

[84] These include the Inter-American Convention against Corruption, adopted by the Organization of American States on 29 March 1996; the Convention on the Fight against Corruption involving Officials of the European Communities or Officials of Member States of the European Union, adopted by the Council of the European Union on 26 May 1997; the Criminal Law Convention on Corruption, adopted by the Committee of Ministers of the Council of Europe on 27 January 1999; the Civil Law Convention on Corruption, adopted by the Committee of Ministers of the Council of Europe on 4 November 1999; and the African Union Convention on Preventing and Combating Corruption, adopted by the Heads of State and Government of the African Union on 12 July 2003.

[85] Adopted by the United Nations General Assembly by Resolution No. 58/4 of 31 October 2003, entered into force on 14 December 2005. It had 151 state parties and 140 signatories as at 26 April 2011.

[86] John-ren Shen 'Designing the Role of International Institutions in Raising the Standard of Living in the Developing World' in John-ren Shen and David Sapsford (eds) Global Development and Poverty Reduction: The Challenge for International Institutions (Edward Elgar Cheltenham Publishing 2005) 23-52, 31

[87] Amundsen, op.cit., n. 16, .p. 3.

[88] UNODC, op.cit., n. 34, .p. 80-84.

high levels of corruption in the Arab region form an important part of the recent and on-going upheaval in that part of the world.[89]

As UNODC explains, corruption undermines democracy and the rule of law and delegitimizes the authority of the state which is then no longer viewed as a representative but an enemy.[90] Citizens are more prone to 'reclaim' their right to use force[91] in such circumstances of fractured state legitimacy. Not only does corruption severely compromise the ability of the state to promote development, but it also makes the break out of civic violence, and even civil war, a real possibility as has been witnessed in many parts of Africa.[92] Violent conflict can in turn accentuate the level of poverty leading to 'no-exit cycles of conflict,' with serious negative implications for effective governance and development.[93] The goal of achieving a more peaceful world requires focus on reducing poverty.[94] This is because among others, the incidence of violent conflict typically diverts resources required for socio-economic development and provision of infrastructure and social-services to armament. It also leads to loss of lives and destruction of property.[95]

Peace and conflict scholars have similarly pointed out that political corruption is a key trigger of conflict. Reviewing the incidence of corruption in Africa and its impact, Monty Marshall and Ted Gurr have expressed the view that 'grand corruption' is 'perhaps, the greatest threat to security and development in Africa.'[96] UNODC has observed in this regard that many of the countries perceived to be highly corrupt are either in conflict or recently emerged from it.[97] These sorts of findings roundly implicate some PEPs in countries of the global south. In light of this reality, inaction or negligence in policies like the high value migrant programme which has the potential to facilitate laundering of proceeds of corruption from global south by PEPs raises the spectre of complicity.

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[89]*Multi-Stakeholder Dialogue: Putting Anti-Corruption Commitments into Practice- Transparency, Participation and Rule of Law (*9-10 June 2011, Rabat, Morocco).
[90]UNODC, op.cit., n 34. p. 92.
[91] Id. at 87.
[92] Id. at 20.
[93]T. R Gurr, M. G. Marshall, and D. Khosla *Peace and Conflict 2001- A Global Survey of Armed Conflicts, Self-determination Movements and Democracy* (Centre for International Development and Conflict Management Maryland 2001) 13.
[94]P. Collier, et al, *Breaking the Conflict Trap Civil- War and Development Policy* (The World Bank and Oxford University Press Washington DC 2003) 176.
[95]B. Ikejiaku, 'The Relationship between Poverty, Conflict and Development' (2009) 2 (1) Journal of Sustainable Development 14, 16.
[96]M. G. Marshall and T. R. Gurr, *A Global Survey of Armed Conflicts, Self-Determination Movements, and Democracy* (Centre for International Development and Conflict Management Maryland 2005) 55.
[97]UNODC, op.cit., n. 34, p. 29.

The United Kingdom, as well as various OECD governments license and regulate the activities of their respective financial institutions and are expected to ensure their compliance with the respective countries' regional and international commitments on controlling corruption, financial crimes and money-laundering. However, the recent failure and near-collapse of the financial sector right under the noses of these same governments to the direct detriment of their economies suggests that even in cases where their national interests are apparently imperilled, the respective governments are either weak or negligent in their regulation of the financial sector. Inherent in this argument is a general failure of action. In light of this, an alternative, perhaps less morally inculpating (even sympathetic) way to view the situation is to argue that the failure of action is not so much one of moral complicity, but rather, one of negligent regulation. On this view, the burden of state complicity in harm as contemplated by Veitch could be mitigated somewhat when considered from the perspective of tortious liability of public authorities and the limitations that have been be set up to limit it for instance.[98]

A return to the analogy of torts law, specifically in the area of intentional tort, provides the basis for the second argument. This is an agency argument. As stated above, the three stages of money-laundering are placement, layering and integration. While each of these stages are passively condoned on the facts by OECD countries with regard to transfer of illicit funds derived from corruption, it is argued that migration policies like the high value migrant programme constitute a higher level of complicity in corruption in the global south since they potentially facilitate legitimation through integration of illicit funds from corrupt PEPs. This is because the other two stages are arguably largely within the direct control of private players whose activities the (OECD) state is meant to regulate in the first place.

It is important to note here that the migration laws and policies of the United Kingdom have become more stringent against even skilled migrant workers while simultaneously reaching out to the more privileged nationals of the global south. Accordingly, aspects of its skilled workers route have been 'refocused.' [99] Existing workers schemes have either been restricted

[98] For some of the debate on what should be the nature of and limitations on liability of public authorities for negligence in particular and state liability for tort in general under English and French Law, see S. Bailey 'Public Authority Liability in Negligence: The Continued Search for Coherence' (2006) 26 (1) *Legal Studies* 155, S. H. Bowman and M. J. Bailey, 'Public Authority Negligence Revisited' (2000) 59 (1) *Cambridge Law Journal* 85 and D. Brodie, 'Compulsory Altruism and Public Authorities' in D. Fairgrieve M Andenas and J. Bell, *Tort Liability of Public Authorities in Comparative Perspective* (British Institute of International and Comparative Law London 2002) 541 and D. Fairgrieve, *State Liability in Tort- A Comparative Law Study* (Oxford University Press Oxford 2003).

[99] Home Office, op.cit., n. 58, p. 1.

or scrapped altogether and supplemented with an 'Exceptional Talent'[100] scheme. This seeks to attract those who are 'internationally recognised as world leaders in their field' and also 'migrants who show exceptional promise and who are likely to become internationally recognised world leaders in their field.' [101] The United Kingdom's current approach forms part of a larger north-south migration policy contradiction. On the one hand, this approach promotes, even 'impose,' the mobility of capital around the world. [102] On the other hand, it discourages and sometimes outlaws labour mobility 'across international borders'. [103]

This approach is to be criticised two reasons. First is the obvious the impact of the brain-drain and fiscal implications for development of the global south. Second and more objectionable still, is the risk that a minority with access to public funds and patronages constitute a good number of potential candidates that will seek to take up the opportunities offered by the preferential migration opportunities in question. The lack of regulation on the source of funds of high value migrants creates a risk that this is a route into the west which may promote corruption. These realities inform the contention that the United Kingdom (and other OECD countries like Australia and Canada) should distance itself from policies that hold the potential to further exacerbate corruption in the developing countries of the global south.[104]

CONCLUSION – MERGING RHETORIC WITH PROACTIVE LAW AND POLICY

There is a need for more empirical research into the 'High Value' migrant process to assess the origins of the investments of such migrants. Ronaldo Munck has rightly observed that whereas migration is a global issue, studies of the phenomenon has proceeded largely from a 'decontextualised' paradigm in which the political economy responsible for 'migratory flows' is neither studied nor understood.[105] The article is hopefully a little contribution to correcting some of the obvious imbalance. Through a critique of the 'High Value' migrant category policy of the UK (as a mirror of similar migration schemes in some OECD countries), the position advanced in the foregoing discuss is the need to take cognisance of the impact of

[100] UK Border Agency, op.cit., n. 55, p. 2.
[101] Id. p. 6.
[102] Ould-Mey op.cit., n 8 p. 465.
[103] Ould-Mey op.cit., n 8 p. 465.

[104] The current UK Points Based System is officially modelled after that of Australia whose system has considerable affinity with Canada's system. For an account of how a parallel system in the United States which criminalises immigrants to the benefit of an array of the privileged sections of the society works, see D. Bacon, *Illegal People: How Globalization Creates Migration and Criminalizes Immigrants* (Beacon Press Massachusetts 2008).
[105] R. Munck 'Globalisation, Governance and Migration: An Introduction' 29 (7) Third World Quarterly 1227, 1228.

such ‘neutral’ policies and their implication for peace and development in the global south. This is important, no matter how marginal such impact may be. Incidentally, the impact of grand corruption for the global south and the north is not one that can be dismissed as of little consequence from the perspective of law, development and sustainable peace, regionally or internationally. Globalisation, with its intricacies has ensured that, or so one would like to think.

At first blush, there is a paradox in suggesting a change of the current migration regime in the United Kingdom specifically and some other OECD countries in general. Protagonists of such policies contend that the current regime best serves the socio-economic interests of the countries considered here in particular and other immigrant-prone countries in general. This is especially so in the current experience of economic recession with a focus on how to stimulate economic recovery and promote economic growth. However, without conceding that on a short-term view, this may be in the interest of those countries, it has been argued that aspects of the current migration regime are corruption-friendly.

There is ample evidence that financial institutions in the OECD countries are the major destination and beneficiaries of illicit funds from political corruption in the global south. Any law and, or, policy which even remotely advances that purpose stand only to be condemned by all well-meaning people everywhere in light of the analysis of its impact on the global south in particular and global economic and social development in general.

The professed goal of the OECD is to work along with its members and other countries all over the world ‘to build a stronger, cleaner, fairer world’ economy.[106] The thrust of the discussion above is that this declared goal is long on words and short in real commitment set against the current migration laws and policies of three of the leading member states considered here. That has to change not only to fulfil legitimate expectations within the context of international relations, but also for domestic socio-economic interests of the OECD countries.

The rhetoric of international commitment to global anti-corruption is one of the strongest in the international system in recent times. The OECD countries lead the campaign not only through the instrumentality of the OECD, but other fora like the international financial institutions (IFIs) especially the Breton Woods institutions. As a result, anti-corruption

[106] OECD, op.cit., n 83.

initiatives have for some time received serious attention from, and integrated into the operations of the World Bank especially. Such initiatives are welcome but it has so far been argued that there is a considerable deficit in the prosecution of that commitment. Indeed, that deficit amounts to a direct complicity in corruption and all of its attendant consequences including debilitating poverty and violence in the same countries which the commitments are directed.

There is an important case to be made for merging the rhetoric of the anti-corruption stance of the OECD member countries as reflected in many OECD statements and encapsulated in the Bribery corruption with 'positive' law and policies to check corruption. The advantages for all stakeholders are obvious; less corruption, more real investment in the global south and less economic migration, cost-efficiency in the long run, less socio-political tension in immigrant destinations, more peace and stability and economic development in migrant-source countries.

There is a better empirically supported and morally viable argument to be made for the view that from a robust and long-term perspective, aspects of the current migration laws and policies of the United Kingdom, Canada and Australia discussed above, have significant implications for not only the global south, but for the OECD countries too. This derives from the experience of corruption in those countries. It has become evident that corruption has attendant widespread negative and destabilising consequences for peace and socio economic development. It has led to state-regression, underdevelopment, poverty, spirals of violence, low-level internal conflict, national and even regional civil-war in poor and developing countries. The migration and asylum demands commonly generated by various combinations of these and related conditions in various countries of the global south suggest the need for an urgent rethink of laws and policies that promote their occurrence. A failure to reform the current migration regime in the direction of shutting the door against, rather than being at the least, potentially complicit in corruption by PEPs will return to haunt any country that has promoted it, even if only indirectly, sooner rather than later.