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The Money Mule: Its Discursive Construction and the Implications

Rainer Hülse*

ABSTRACT

The proceeds of cybercrime are typically laundered by money mules—people used by criminal organizations to interrupt the financial paper trail by transferring money for the criminals. This Article analyzes the discursive construction of the money mule in documents of national and international anti-money laundering authorities such as Financial Intelligence Units (FIUs), Europol, and the Financial Action Task Force (FATF). It shows how case study narratives, visualizations, and metaphors contribute to an understanding of the money mule as an innocent victim of organized crime networks from West Africa and Eastern Europe, supported by money remittance companies like Western Union. These constructions have several implications: First, they make awareness-raising campaigns the key policy response “at home” (i.e., in countries in the North and West). Second, they imply a policy reaction of playing tough with “sovereigns on the margins of the law” deemed “abroad” (i.e., countries in the South and East). And third, they direct blame and responsibility towards financial transmitters, but they let banks get away.

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I. INTRODUCTION

According to law enforcement authorities, the proceeds of cybercrime are typically laundered by so-called money mules, used by cybercriminals to break the paper trail of money stolen from people's bank accounts or credit cards through Internet fraud such as phishing. The criminals normally recruit money mules in Western countries so that they do not have to transfer the stolen money directly to their own bank accounts, as this would make it rather easy for law enforcement to discover the beneficiaries. Often, at least according to the sources examined here, the money mules do not know that they are part of a criminal operation, as they have replied to fake job offers or scam emails, which make them believe they work as "financial agents" for legitimate companies. The criminals transfer the proceeds of their crime to their "financial agents" bank accounts and then ask them to withdraw the money and pay it to a money transmitter like Western Union or MoneyGram, to transfer it to the criminals in Eastern Europe or West Africa. For his or her services, the money mule receives a commission.

This Article takes issue with the role of the money mule in international money laundering. However, instead of addressing the topic from an objectivist and positivist perspective which seeks to

identify the principle facts, variables, and causal mechanisms, the Article looks at the money mule from the inter-subjectivist and post-positivist perspective of discourse analysis. The goal of such a discourse approach is to understand how what is considered the taken-for-granted reality (here, of money laundering) has been constituted in discourse.

The first Part of the Article reconstructs the international discourse about the money mule in order to identify the content of the mule-constructions: How is the money mule process constituted in discourse? The money mule is typically characterized as an innocent victim who is not aware of the criminal nature of what he or she is doing but simply wants to earn some extra money. The criminals, according to the discourse, are not some petty criminals, but members of complex networks of organized crime. The criminal organizations are directed either from Eastern Europe, notably Russia or Ukraine, or from West Africa, especially from Nigeria. As the money is sent there via money remittance companies like Western Union, these companies constitute part of the problem.

The second Part of the Article reconstructs the discourse with a view to understanding the discursive mechanisms which establish the money mule reality: What are the discursive mechanisms through which the money mule is constituted? Here, narratives, visualizations, and metaphors bring about the money mule reality: rather than offering only dry numbers and abstract descriptions, reports of FIUs and other actors make use of narratives so that the money mule case studies they present almost read like crime thrillers. Also, pictures, photographs, and figures help one see and understand what money mules do and who they are, and so do the different metaphors which structure the discourse, most obviously the mule metaphor, but also metaphors like phishing and orchestration.

The third Part of the Article inquires into the effects of these constructions, assuming that they make possible certain kinds of policies while excluding others, as certain measures appear normal in the light of the above constructions, whereas others are virtually unthinkable. Which (policy) reactions do the money mule constructions make possible, and which become impossible? The construction of the money mule as an innocent victim directs anti-money laundering towards public awareness-raising campaigns, while making it difficult to articulate policies which seek to deter the money mule through harsh penalties. Also, the construction of the money transmitter companies as quasi-accomplices of cybercriminal networks enables anti-money laundering measures targeted against these companies, whereas banks do not play much of a role in the fight against money-muling. And finally, the construction of Western Africa and Eastern Europe as the home bases of cybercriminals brings about anti-money laundering policies that seek to rule out money laundering in these places rather than in the West—although

one can hardly claim that countries in the North and West, Switzerland for example, are immune to money laundering.

The approach of this Article is based on post-structuralist discourse theory and method, which enjoy considerable popularity in the discipline of International Relations (IR), though arguably more among European than American IR scholars. In particular, this Article builds on authors who have argued that discursive mechanisms such as narratives,¹ pictures,² and metaphors³ should come under scrutiny, because one can only understand how exactly reality is being made, if one studies the precise discursive means of reality production.⁴ While methodological rigor is a stranger to poststructuralism—some proponents of discourse analysis even claim that it is an attitude rather than a method—it is important to make transparent what this Article is doing. Most importantly, to clarify the sources used for this discourse analysis: this Article focuses on official discourse, including not only documents published by international organisations such as the Financial Action Task Force (FATF), the FATF-style regional body MONEYVAL, or the EU law enforcement agency Europol, but also of national authorities like FIUs or the police. This Article also includes statements and interviews by officials of the above organizations. When talking about documents, this not only includes written documents such as typology reports or annual reports (though they are principal sources), but also educational videos published by law enforcement agencies or posters and flyers by these same actors.

As far as the time frame of the analysis is concerned, this Article goes back as far as possible, in annual reports for example, to find out when the money mule first entered the discursive stage. Research revealed it was around the year 2005 that the money mule first appeared in official documents.

With regard to geographical focus, this Article focuses on how the money mule is constructed in the OECD world—that is, in

1. See generally ALEXANDER SPENCER, *ROMANTIC NARRATIVES IN INTERNATIONAL POLITICS: PIRATES, REBELS AND MERCENARIES* (2016).

2. See generally David Campbell, *Geopolitics and Visuality: Sighting the Darfur Conflict*, 26 *POL. GEOGRAPHY* 357 (2007), <http://www.sciencedirect.com.proxy.library.vanderbilt.edu/science/article/pii/S0962629806001466> [<http://perma.cc/9LZB-S34K>] (archived Aug. 29, 2017); Lene Hansen, *How Images Make World Politics: International Icons and the Case of Abu Ghraib*, 41 *REV. INT'L STUD.* 263 (2015), <http://proxy.library.vanderbilt.edu/menu> [<https://perma.cc/PFY9-AGDD>] (archived Aug. 29, 2017).

3. See generally Rainer Hülse & Alexander Spencer, *The Metaphor of Terror: Terrorism Studies and the Constructivist Turn*, 39 *SECURITY DIALOGUE* 571 (2008), https://www.researchgate.net/publication/249687972_The_Metaphor_of_Terror_Terrorism_Studies_and_the_Constructivist_Turn [<https://perma.cc/H2PV-9XT2>] (archived Aug. 29, 2017).

4. See Jennifer Milliken, *The Study of Discourse in International Relations: A Critique of Research and Method*, 5 *EUR. J. INT'L REL.* 225 (1999).

countries of the North and the West. Therefore, this Article only covers FIU reports of countries like Switzerland and Germany, not of Ghana or Guatemala (which normally do not publish such reports anyway), and of international organizations that are firmly rooted in the Western hemisphere like Europol or FATF, the latter having started out as a club-organization set up by the United States.⁵

Within IR, there is now a considerable body of literature on money laundering, most of which focuses on the global governance of anti-money laundering.⁶ Whereas some authors focus more on international organizations like FATF,⁷ others are interested mainly in those countries which are hesitant with regards to the implementation of anti-money laundering regulation.⁸ There is also IR literature on organized crime, including cybercrime.⁹ The role of money mules, however, remains largely unexplored, not only for IR, but for the social sciences more generally, where work on money mules or physical cash smuggling more broadly is the rare exception.¹⁰

The remainder of this Article is organized as follows: The next Part reconstructs the content of the money mule discourse, i.e., the principal constructions of the money mule process (Part II). In the subsequent step, the Article examines the discursive mechanisms through which these constructions are established (Part III), before turning to the possible effects of the money mule discourse (Part IV). In the Conclusion, the Article briefly discusses how the money mule could become such a big issue in anti-money laundering circles (Part V).

5. See Rainer Hülse, *Even Clubs Can't Do Without Legitimacy: Why the Anti-Money Laundering Blacklist Was Suspended*, 2 REG. & GOVERNANCE 459, 460 (2008), <http://onlinelibrary.wiley.com/doi/10.1111/j.1748-5991.2008.00046.x/epdf> [<http://perma.cc/UL5Q-EJ9V>] (archived Aug. 29, 2017).

6. See, e.g., J.C. SHARMAN, *THE MONEY LAUNDRY: REGULATING CRIMINAL FINANCE IN THE GLOBAL POLITICAL ECONOMY* (2011).

7. See, e.g., Rainer Hülse & Dieter Kerwer, *How International Organizations Rule the World: The Case of the Financial Action Task Force on Money Laundering*, 2 INT'L ORG. STUD. 50 (2011), http://journal-iostudies.org/sites/journal-iostudies.org/files/JIOS201121final_5.pdf [<https://perma.cc/E8N4-DJ78>] (archived Aug. 29, 2017).

8. See, e.g., J.C. Sharman, *Power and Discourse in Policy Diffusion: Anti-Money Laundering in Developing States*, 52 INT'L STUD. Q. 635 (2008), http://www.jstor.org/stable/pdf/29734254.pdf?refreqid=excelsior:445177bdc354bd9a264da0411b4e70d8&sseq=1#page_scan_tab_contents [<https://perma.cc/7XRZ-KXLQ>] (archived Aug. 29, 2017).

9. See, e.g., ANJA P. JAKOBI, *COMMON GOODS AND EVILS? THE FORMATION OF GLOBAL CRIME GOVERNANCE* (2013).

10. See Rutger Leukfeldt & Jurjen Jansen, *Cyber Criminal Networks and Money Mules: An Analysis of Low-Tech and High-Tech Fraud Attacks in the Netherlands*, 9 INT'L J. CYBER CRIMINOLOGY 173, 174 (2015), <http://www.cybercrimejournal.com/Leukfeldt&Jansen2015vol9issue2.pdf> [<https://perma.cc/69HZ-GHRM>] (archived Aug. 29, 2017).

II. THE REALITY CONSTITUTED BY THE DISCOURSE (CONTENT)

This Part reconstructs the money mule discourse in order to identify its principle constructions. It begins with the key figure, namely the money mule, then looks at the criminal that stands behind the mule, and finally reconstructs the role of financial institutions.

A. *The Money Mule*

Who are the money mules who are portrayed as vulnerable targets of criminals? According to the principle narrative, the typical mule is a young male person in a Western/Northern country, looking for extra income. Often the mule is a student, who is tricked by criminals and therefore not aware of having committed a crime. The mule is constructed as an innocent victim rather than a criminal. The following paragraphs look at these constructions in more detail.

Whereas the criminals behind the mules are said to reside abroad, the mule is normally from a developed country in the North/West.¹¹ And, typically, the mule is portrayed as a white person.¹² In the case studies by the Swiss FIU, the mule is almost always a Swiss national,¹³ and Europol illustrates the money mule

11. However, a Moneyval report claims that this is a recent development, as money mules used to be mostly from less developed countries. See MONEYVAL, *Criminal Money Flows on the Internet: Methods, Trends and Multi-stakeholder Counteraction*, COUNCIL OF EUR. 1, 49 (2012), <https://rm.coe.int/research-report-criminal-money-flows-on-the-internet-methods-trends-an/168071509a> (last visited June 14, 2017) [<https://perma.cc/MU6X-AEXH>] (archived Aug. 29, 2017). Also, evidence by the Swiss FIU sheds doubt on the money mule being an innocent Westerner, given that in one year 1/4 of all convicted money mules came from Western Africa, and 61% from Nigeria. See Bundesamt für Polizei/fedpol, *Geldwäscherei, Geldwäscheurteile in der Schweiz* 5 (2014), <https://www.fedpol.admin.ch/dam/data/fedpol/kriminalitaet/geldwaescherei/geldwaeschereiurteile-d.pdf> (last visited June 14, 2017) [<https://perma.cc/5J2B-U45G>] (archived Aug. 29, 2017). And yet, the dominant picture given in the discourse is that of the mule being from the North/West.

12. See Polizei Niedersachsen, *Ratgeber Internetkriminalität*, Video Podcast Nr. 3 - Finanzagent-Unseriöse Job-Angebote, <https://www.polizei-praevention.de/downloads.html> (last visited Jan. 1, 2017) [<https://perma.cc/88VP-R4JJ>] (archived Aug. 29, 2017); Europol, *Money Muling: Public Awareness and Prevention*, EUROPOL (2016), <https://www.europol.europa.eu/activities-services/public-awareness-and-prevention-guides/money-muling> (last visited June 14, 2017) [<https://perma.cc/9LFT-AZLH>] (archived Aug. 29, 2017).

13. E.g., MROS, *Annual Report by the Money Laundering Reporting Office Switzerland* 2013, FEDERAL OFFICE OF POLICE 1, 49 (2013), <https://www.fedpol.admin.ch/dam/data/fedpol/kriminalitaet/geldwaescherei/jabe/jb-mros-2013-e.pdf> (last visited June 14, 2017) [<https://perma.cc/NS8E-VUAE>] (archived Aug. 29, 2017) [MROS 2013].

process in a chart that describes three mules, all of whom hold accounts in EU countries.¹⁴

Moreover, the mule is portrayed as a person seeking extra income. Three groups of people stand out as particularly vulnerable due to their precarious economic statuses: *First*, senior citizens, as they not only may need some extra money but also supposedly are less capable of handling spam email. In many of the case studies presented in official documents, the money mule is a retired person.¹⁵ *Second*, students are the targets most often referred to. They often search for jobs and may therefore look at the fake-job advertisements the criminals use to try to hire mules. In this vein, Europol not only mentions students as an important target group, but also on its posters displays pictures of young people that look like students.¹⁶ *Third*, migrants and refugees are also said to be likely mules. This is due not only to the fact that they are typically economically underprivileged, but also to the fact that they are unfamiliar with the judicial system of their host countries, especially when they have only just arrived.¹⁷ Also, they are in particular danger of becoming mules because they may be approached from criminals from their own communities and because they are familiar with financial transmitters such as Western Union, as they use these to send money home to their families.

Young people are held to be more likely to be used as mules than older people. Europol makes this explicit when it claims that the typical mule is eighteen to thirty-four years old.¹⁸ This is underlined by most of the visual data analyzed, where young people also figure most prominently.¹⁹ This is hardly surprising, given the fact that

14. See Europol, *Why is Cash Still King? A Strategic Report on the Use of Cash by Criminal Groups as a Facilitator for Money Laundering*, EUROPOL (2015), <https://www.europol.europa.eu/publications-documents/why-cash-still-king-strategic-report-use-of-cash-criminal-groups-facilitator-for-money-laundering> (last visited June 14, 2017) [<http://perma.cc/A2DA-KSEP>] (archived Aug. 29, 2017) [hereinafter Europol, *Why is Cash Still King?*].

15. E.g., ACCC, *Targeting Scams: Report of the ACCC on scams activity 2015*, ACCC (2016), <https://www.accc.gov.au/system/files/Targeting%20scams%20-%20report%20of%20the%20ACCC%20on%20scam%20activity%202015.pdf> (last visited June 14, 2017) [<https://perma.cc/74J8-P6W5>] (archived Aug. 29, 2017).

16. See Europol, *Money Muling Posters*, EUROPOL (2016), <https://www.europol.europa.eu/publications-documents/money-mule-posters> (last visited June 14, 2017) [<https://perma.cc/HH3U-NB76>] (archived Aug. 29, 2017).

17. See Europol, *Money Muling: Public Awareness and Prevention*, *supra* note 12; see also THOMAS HEILMANN, BERLIN SENATOR OF JUSTICE, *quoted in* DER TAGESSPIEGEL, WIE KRIMINELLE UNBEDARFTE BEI GELDWÄSCHE EINSpannen (Feb. 20, 2016), <http://www.tagesspiegel.de/wirtschaft/vorsicht-scheingeschaefte-wie-kriminelle-unbedarfte-bei-geldwaesche-einspannen/12990218.html> (last visited June 14, 2017) [<https://perma.cc/K4WG-KC6Q>] (archived Aug. 29, 2017).

18. See Europol, *Money Muling Flyers*, EUROPOL (2016), <https://www.europol.europa.eu/publications-documents/money-mule-flyers> (last visited June 14, 2017) [<https://perma.cc/QR5J-VCHD>] (archived Aug. 29, 2017).

19. See Polizei Niedersachsen, *supra* note 12.

students are singled out as the most likely target group of money launderers.

The gender of the money mule is rarely made an explicit issue. The exception is Europol, which writes that mules are predominantly male.²⁰ Gathering from pictures and videos which form part of the discourse, the mule seems more likely to be male than female.²¹

Typically, money mules are portrayed as “ordinary everyday citizens”²² unaware of being part of a criminal operation.²³ The mule transfers money through his or her account believing that this is “part of the job”²⁴; after all he or she has been hired by a company as a “financial manager.” Hence the money mules are “unsuspecting account-holder[s]”²⁵ or “credulous individual[s],”²⁶ and—most often—they are “innocent victims,”²⁷ “misused”²⁸ by “fraudulent criminal organisations,”²⁹ which “dupe”³⁰ them into money laundering. However, while the “innocent victim” is clearly the dominant narrative, it does not go entirely uncontested. Moneyval, for example, declares it a “naive image” now questioned by the police and by banks, as they have experienced “numerous instances where it became apparent that the mule was fully aware of the illegal nature of his/her deeds.”³¹ A report by Swiss law enforcement authorities

20. See Europol, *Money Muling: Public Awareness and Prevention*, *supra* note 12.

21. See Europol, *Money Muling Posters*, *supra* note 16; Polizei Niedersachsen, *supra* note 12.

22. See Tasmania Police, *Woman charged with money mule offences*, TASMANIA POLICE (Feb. 20, 2016), <http://www.police.tas.gov.au/news-events/media-releases/woman-charged-with-money-mule-offences/> (last visited June 14, 2017) [<https://perma.cc/6XGZ-S9Y5>] (archived Aug. 29, 2017).

23. See, e.g., MROS 2013, *supra* note 13, at 46 (providing case studies); MROS, *Annual Report by the Money Laundering Reporting Office Switzerland MROS 2015*, FEDERAL OFFICE OF POLICE 1, 46 (2016), <https://www.fedpol.admin.ch/dam/data/fedpol/kriminalitaet/geldwaescherei/jabe/jb-mros-2013-e.pdf> (last visited June 14, 2017) [<https://perma.cc/8C92-PTGH>] [hereinafter MROS 2015]; US-CERT, *Understanding and Protecting Yourself Against Money Mule Schemes*, US-CERT (2011), <https://www.us-cert.gov/security-publications/understanding-and-protecting-yourself-against-money-mule-schemes> (last visited June 14, 2017) [<https://perma.cc/9RZF-NMS2>] (archived Aug. 29, 2017).

24. See Europol, *Money Muling Posters*, *supra* note 16.

25. “Finanzagenten” *Gesucht: Stellenangebot mit Folgen*, <http://www.polizei-beratung.de/themen-und-tipps/betrug/finanzagenten.html> (last visited Feb. 7, 2017) [<https://perma.cc/P4ST-CQRK>] (archived Aug. 29, 2017).

26. MONEYVAL, *supra* note 11, at 48.

27. Europol, *Money Muling Posters*, *supra* note 16.

28. MROS, *Annual Report by the Money Laundering Reporting Office Switzerland MROS 2007*, FEDERAL OFFICE OF POLICE 68 (2008), <https://www.fedpol.admin.ch/dam/data/fedpol/kriminalitaet/geldwaescherei/jabe/jb-mros-2007-e.pdf> (last visited June 14, 2017) [<https://perma.cc/J35X-XE24>] (archived Aug. 29, 2017) [hereinafter MROS 2007].

29. See *id.*

30. See Europol, *Money Muling Posters*, *supra* note 16.

31. MONEYVAL, *supra* note 11, at 48.

claims that it has become a challenge for criminals to find people naive enough to be recruited as mules.³²

B. *The Criminal Behind the Mule*

Having reconstructed the making of the money mule, one now turns to the criminals behind the mule. Who are they? How are they organized? Where are they from? What is their background? In the following paragraphs, this Article will show that typically they are cybercriminals who have stolen money through Internet fraud, especially phishing. They belong to well-organized criminal networks, from either Eastern Europe or Western Africa. Yet, their education seems to be rather basic, given the poor language in their recruitment emails.³³

The money mule typically launders money that results from cybercrime. In a 2016 Europol operation against money mules, for example, 90 percent of the money mule transactions discovered were linked to cybercrime.³⁴ The cybercrime practice most often mentioned in relation to money mules is phishing, where criminals manage to hack the bank account of their victims and then transfer money from that account to the mule's bank account.³⁵

The analyzed reports emphasize that contrary to what one would expect: it is not petty criminals but complex criminal organizations that are behind the money mule. As the president of Eurojust puts it: "It is important to understand that money laundering may on the surface seem to be a small crime, but is orchestrated by organised crime groups."³⁶ Europol, for example, describes the structure of one criminal network, where an "aggregator" collects the money of several mules, then transfers the money to a "mastermind," who pays the

32. Melani, *Informationssicherung. Lage in der Schweiz und International. Halbjahresbericht* 2016/I (JANUAR-JUNI) 41 (2016), <https://www.melani.admin.ch/melani/.../halbjahresbericht-2016-1.html> (last visited June 14, 2017) [<https://perma.cc/K8T9-JPYJ>] (archived Aug. 29, 2017).

33. Brooke S. Charles, *The Most Common Schemes for Targeting the Unknowing Money Mule*, SECURITY INTELLIGENCE (Sep. 16, 2014), <https://securityintelligence.com/the-most-common-schemes-for-targeting-the-unknowing-money-mule/> (last visited Aug. 29, 2017) [<https://perma.cc/9NRH-CD7T>] (archived Aug. 29, 2017) (noting that the recruitment emails have poor grammar).

34. See Press Release, Europol, Europe-Wide Action Targets Money Mule Schemes (Mar. 1, 2016), <https://www.europol.europa.eu/newsroom/news/europe-wide-action-targets-money-mule-schemes> (last visited June 14, 2017) [<https://perma.cc/P4GP-BGTD>] (archived Aug. 28, 2017).

35. Europol, *Money Muling: Public Awareness and Prevention*, *supra* note 12; MROS 2015, *supra* note 23, at 14.

36. John Leyden, *178 Arrested in Pan-European Money Mule Crackdown*, THE REGISTER (Nov. 22, 2016, 12:59 PM), http://www.theregister.co.uk/2016/11/22/european_money_mule_crackdown (last visited Feb. 7, 7.2.2017) [<https://perma.cc/88EM-6KZ5>] (archived Aug. 28, 2017) (quoting Michèle Coninx).

cybercriminal.³⁷ Moneyval talks about money mules being “orchestrated by large organised crime networks,” which are managed by a “central data manager.”³⁸

The reports also discuss the origin of the criminals behind the money mule and find two main regions where the criminals are based: Eastern Europe and West Africa. Eastern Europe is said to be the home of many cybercriminals, and therefore money mules are frequently linked to this region. The Swiss FIU, for example, discovered that a Swiss mule has transferred money to “Eastern Europe,”³⁹ and so has Moneyval.⁴⁰ Particular countries are also being named, most often Russia and Ukraine,⁴¹ but Czechia, Tajikistan, and Moldova are also on the list.⁴² Europol even finds a hierarchy with the above-cited “aggregator” of the money laundered by mules sitting in Ukraine, whereas the “mastermind” resides in Russia and the “cybercriminal” working for him is based in China.⁴³ However, China is otherwise rarely mentioned when it comes to the phenomenon of money mules. Instead, the Chinese seem to be leading figures in physical cash transport.⁴⁴

Africa, especially Western Africa, is the other world region described as the home of the criminal organizations behind the money mules. The Annual Reports of the Swiss FIU, for example, reference not only Africa⁴⁵ and “African fraudsters,”⁴⁶ but also “West Africa.”⁴⁷ However, it is almost one country only that is being mentioned in this respect, namely Nigeria. For example, the US National Risk Assessment argues that “Nigerian criminal enterprises are among the most aggressive and expansionist of the international criminal groups . . . infamous for their financial frauds.”⁴⁸

37. Europol, *Why is Cash Still King?*, *supra* note 14, at 41.

38. MONEYVAL, *supra* note 11, at 50.

39. MROS 2007, *supra* note 28, at 68.

40. MONEYVAL, *supra* note 11, at 50.

41. Bundesamt für Polizei/fedpol, *supra* note 11, at 6.

42. MONEYVAL, *supra* note 11, at 49.

43. Europol, *Why is Cash Still King?*, *supra* note 14, at 41.

44. *Id.*

45. MROS, *Annual Report by the Money Laundering Reporting Office Switzerland* MROS 2012, FEDERAL OFFICE OF POLICE 41 (2012), <https://www.fedpol.admin.ch/dam/data/fedpol/kriminalitaet/geldwaescherei/jabe/jb-mros-2012-e.pdf> (last visited June 14, 2017) [<https://perma.cc/BJ7Z-3REZ>] (archived Aug. 28, 2017) [hereinafter MROS 2012].

46. MROS 2013, *supra* note 13, at 50.

47. MROS 2015, *supra* note 23, at 47.

48. Adam J. Szubin, DEP'T OF THE TREASURY, NATIONAL MONEY LAUNDERING RISK ASSESSMENT 2015, at 18 (2015), <https://www.treasury.gov/resource-center/terrorist-illicit-finance/Documents/National%20Money%20Laundering%20Risk%20Assessment%20E2%80%93%2006-12-2015.pdf> (last visited June 14, 2017) [<https://perma.cc/EV94-9JRK>] (archived Aug. 28, 2017)

C. *The Financial Institutions*

The credulous mules are misused by Eastern European or Western African criminal organizations. The mules receive stolen money in their bank accounts and are then asked to withdraw it and send it to the criminal organization. How so? In almost every account of money laundering through money mules, the mule transfers the money to the criminals by using a money remittance company such as Western Union. This subpart reconstructs this linkage of the mule to the money transmitter.

One of the most striking features of the money mule discourse is the omnipresence of money transmitters. While the money mule normally receives the stolen money in his/her bank account, banks no longer play a role after the mule's cash withdrawal from that account. In order to transfer the money to his or her "employer," using the services of money transmitters is "by far the best established money mule *modus operandi*."⁴⁹ The main advantage of these companies is said to be the fact that they provide a relatively anonymous transaction process that enables the criminals to break the paper trail. "Because of the nature of the money remittance industry, a transaction-based system is in place meaning there is no 'long term' customer relationship, and few details around a customer are kept."⁵⁰ This kind of money transfer is also described as cheaper and faster than regular banking, apart from the fact that the criminal organizations often reside in countries with underdeveloped banking systems.⁵¹

The one company that almost stands as a synonym for money transmitters is Western Union. The company is a well-known brand, and one police video analyzed showed the money mule carrying the money to a branch of Western Union.⁵² Official reports, too, are quite explicit: Europol, for example, finds that for money transfer "most commonly Western Union, but also MoneyGram, Web Money, PayPal, Ukash"⁵³ are being used. The Swiss FIU, to name another example, makes explicit mention of Western Union and MoneyGram.⁵⁴ Hence, while Western Union has almost become a synonym for money transmitters, there are also other companies providing similar services.

49. Europol, *Why is Cash Still King?*, *supra* note 14, at 41; see also MROS 2015, *supra* note 23, at 46–47; "Finanzagenten" *Gesucht*, *supra* note 25 ("[T]he financial agent is to transfer the amount of money that third parties have transferred to his account as quickly as possible by means of cash or by means of financial transfer service providers to a foreigner.").

50. Europol, *Why is Cash Still King?*, *supra* note 14, at 31.

51. Bundesamt für Polizei/fedpol, *supra* note 11, at 12.

52. Polizei Niedersachsen, *supra* note 12.

53. Europol, *Why is Cash Still King?*, *supra* note 14, at 41.

54. Bundesamt für Polizei/fedpol, *supra* note 11, at 7.

As already mentioned, it is the transaction-based nature of money transmitters, in contrast to the client-based nature of banks, which makes them prone to money laundering. What is more, according to the FATF, money transmitters “tend to lack the capacity, experiences and resources to implement AML/CFT requirements.”⁵⁵ That is, money remittance companies often are not capable of monitoring transactions sufficiently. In addition, these companies are not always trustworthy, as criminals have been reported to undercut financial transmitters, so that single employees of such a company could be on a criminal organization’s payroll, or even an entire branch could be run by a criminal organization with the main purpose of laundering money.⁵⁶

This Part has reconstructed the reality that is being shaped by the discourse on the money mule and has shown that this discourse generates a specific understanding of the practice: the money mule is normalized as an innocent victim in the West and North, the criminals behind the mule are complex cybercrime networks from the East or South, and money is normally laundered by using the service of a particular type of financial institution, namely money transmitters. The following Part turns to the discursive means through which this reality is constructed.

III. HOW THE DISCURSIVE REALITY IS CONSTITUTED (MECHANISMS)

Whereas the previous Part reconstructed the content of the discourse, this Part is interested in the mechanisms: How exactly does one come to understand what a money mule is doing? What are the discursive mechanisms that shape the view of mules, criminals, financial institutions, and law enforcement? In the following paragraphs, this Article will point to three discursive means and show how they operate in the money mule discourse: narrative, visualization, and metaphor.

A. Narrative

Discourse-oriented scholars in IR have taken a growing interest in the narrative structure of texts.⁵⁷ Their principle argument is that

55. FINANCIAL ACTION TASK FORCE, MONEY LAUNDERING THROUGH MONEY REMITTANCE AND CURRENCY EXCHANGE PROVIDERS 38 (2010), <http://www.fatf-gafi.org/media/fatf/ML%20through%20Remittance%20and%20Currency%20Exchange%20Providers.pdf> (last visited June 14, 2017) [<https://perma.cc/N8PN-YBQG>] (archived Aug. 28, 2017).

56. *Id.* at 39.

57. RONALD R. KREBS, NARRATIVE AND THE MAKING OF US NATIONAL SECURITY (2015); SPENCER, *supra* note 1; Hedemi Suganami, *Narrative Explanation and International Relations: Back to Basics*, 37 MILLENIUM J. OF INT’L STUD. 327 (2008).

most texts are organized in the form of narratives, because it is by telling (and listening to) stories that one makes sense of the world. In this subpart, the Article will show that this is certainly true for many of the documents in the discourse on the money mule.

Narrative elements are found in money laundering typology reports, especially in the examples or case studies presented to illustrate money laundering techniques.⁵⁸ However, the stories told in these reports pale in comparison to the thrilling narratives developed in the Annual Reports of the Swiss FIU. In these reports, money laundering comes alive; sometimes they read more like detective stories than dry law enforcement accounts. Take a look at some of the titles given to the case-narratives: “Co-worker gone bad—Personal corruption at company’s expense,”⁵⁹ “A life of luxury at the expense of policyholders,”⁶⁰ “Disco fever—Fraud involving fake contractor invoices,”⁶¹ “A misguided pharmaceutical trainee—Illicit trade in narcotics,”⁶² and “Blinded by love—Romance scam and money mule.”⁶³

Analyzing these case stories in more detail, one can easily see their narrative structure. The case study “Blinded by love—Romance scam and money mule,”⁶⁴ for example, starts out by introducing the setting: a current account that “did not draw any particular attention for years until one day several wire transfers were made to a country in Africa.”⁶⁵ This makes the bank suspicious, and therefore the bank—obviously the good guy here—investigates. It questions the account holder called X, the suspicious character in this plot, and X begins to tell his bank a complicated story of how he fell in love with a woman Y from abroad, and how he had become acquainted with her over the Internet. This woman, of course, is the bad character here: She told the account-holder a story of her deceased father and the financial problems that resulted from his death, the reason why she needed money, asked the account-holder to help, and “X was only too willing to oblige.”⁶⁶ As it turned out, Y had deceived X, the latter being “[b]linded by love.”⁶⁷ A criminal investigation was launched against X, which was tragic for him as he was more a victim than a

58. *E.g.*, MONEYVAL, *supra* note 11, at 49–50.

59. MROS, Annual Report by the Money Laundering Reporting Office Switzerland MROS 2014, FEDERAL OFFICE OF POLICE 41 (2015), <https://www.fedpol.admin.ch/dam/data/fedpol/kriminalitaet/geldwaescherei/jabe/jb-mros-2014-e.pdf> (last visited June 14, 2017) [<https://perma.cc/XD54-ET5V>] (archived Aug. 29, 2017) [hereinafter MROS 2014].

60. *Id.* at 44.

61. *Id.*

62. *Id.* at 47.

63. *Id.* at 48.

64. *See id.* at 48.

65. *Id.*

66. *Id.* at 48.

67. *Id.* at 48.

culprit. Yet, the law enforcement authorities did not manage to track down the woman Y, perhaps because—and this is the narrative’s concluding sentence—she “may not even exist.”⁶⁸

Note that here there is a multi-layered narrative, one could call it a Matryoshka-narrative, entailing several stories. First, the principle story told by the report, then the story told by X to his bank, and lastly the story Y told X. Interestingly, the report itself uses the semantics of narrative—a chart that illustrates the complexity of the case reads “Story told by Y.”⁶⁹

While it may be surprising to learn that official annual reports read like detective stories, this is less surprising for the video material analyzed in preparation of this Article.⁷⁰ The video recounts the story of a money mule—the basic ingredients being an innocent victim, a criminal hiding behind a computer, and the police successfully investigating the case—so that the money mule can experience the cathartic moment of realizing what he or she did. The narrative closes with a direct address to the audience, revealing the story’s moral, namely to be very careful, because if not, anyone may unwittingly become a money mule.

B. Visualization

As with narratives, discourse studies in IR also led to the discovery that pictures or images play an important role in the construction of reality.⁷¹ Most of what one sees of the world are representations—the representation of war in the television news, the representation of terrorist attacks on the front page picture of the newspaper, the representation of quantitative findings in the charts of scientific texts, or the representation of the structures of organized crime in the figures used in books. Such visual representations are powerful tools of reality construction because they simplify and make one actually picture what is going on. In the following paragraphs, the Article will show that visuals play an important role in the money mule discourse, distinguishing between photographs, stylized pictures, and abstract figures.

When it comes to photographs, Europol’s discourse contributions stand out, especially its recent “Don’t be a Mule” campaign.⁷² On its website, Europol provides posters and flyers for download that explain what mules do and how to avoid becoming one. While both posters and flyers include text, they are dominated by images. In the

68. *Id.* at 49.

69. *Id.* at 48.

70. *See* Polizei Niedersachsen, *supra* note 12.

71. *See* Campbell, *supra* note 2, at 377, 380 (explaining that photographic representations of violence in Darfur manifest global power dichotomies, and influence how the outside world views the conflict); Hansen, *supra* note 2, at 268–9.

72. Europol, *Money Muling: Public Awareness and Prevention*, *supra* note 12.

first example, one of altogether four campaign posters, there are portrait photographs of four people plus a photograph of a handcuffed hand holding 50 Euro-bills. This ensemble of photographs visualizes how “innocent victims”⁷³ may end up as jailed money mules.



“I thought it was part of the job”

MONEY MULING HELPS PERPETRATE CRIME

IGNORANCE IS NO EXCUSE Criminals will try to dupe innocent victims into laundering money on their behalf by making the job offer seem as legitimate as possible.

Be wary of adverts that are poorly written with grammatical errors and spelling mistakes.

#dontbeaMule

Created by Europol



Source: EUROPOL⁷⁴

While the above poster makes use of photographs, the other campaign posters and the flyer use more stylized images, reminiscent of a comic strip. The flyer below depicts a stereotypical representation of a cybercriminal sitting in the dark as well as a young man in the light, whose shadow is a mule. The overall arrangement on the flyer and the dotted lines are supposed to visualize the connections between the people involved. Strangely, one then sees the

73. Europol, *Money Muling Posters*, *supra* note 16.

74. *Id.*

cybercriminal a second time, now holding a board that reads “Acting as a money mule is illegal.”⁷⁵ Cybercriminals as educators? This seems a rather odd idea and hints at Europol not having worked very carefully when putting together the poster.

MONEY MULING

The mule is a person who transfers illegally obtained money between different payment accounts, very often in different countries, while earning a commission payment

Direct contact in person or through email

Seemingly legitimate job adverts (i.e. money transfer agents)

Online posting

Social media (i.e. Facebook posts or closed groups)

Instant messaging apps

Criminals recruit victims using different methods

They can even copy a genuine company's website and have a similar web address to make the scam seem authentic

The most targeted profiles are:
Newcomers to a country
The unemployed, students and people in economic distress
Men (more likely than women) particularly those aged 18-34

WARNING SIGNS TO LOOK FOR

Unsolicited emails or contact over social media promising easy money

Job opportunities offering significant money for little to no effort, without listing education or experience requirements

Job duties are not described, except using your bank account to move money around

All interactions and transactions regarding this job will be done online

Adverts claiming to be an overseas company seeking 'local/national agents' to act on their behalf

An e-mail address associated with the offer using web-based services (Gmail, Yahoo!, Hotmail, etc.) instead of an organisation-based domain

Poor sentence structure with grammatical and spelling mistakes



and allows organised crime groups to launder and move funds around the world easily

WHAT CAN YOU DO?

► If you have received suspicious e-mails, do not answer them or click on any links

► Check the details of any company that makes you a job offer (particularly if located overseas)

► Never provide your bank account details to anyone unless you know and trust them

► If you think you are involved in a money muling scam, stop transferring money immediately. Notify your bank, the service you used to conduct the transaction, and your national police

Created by Europol

#dontbeaMule



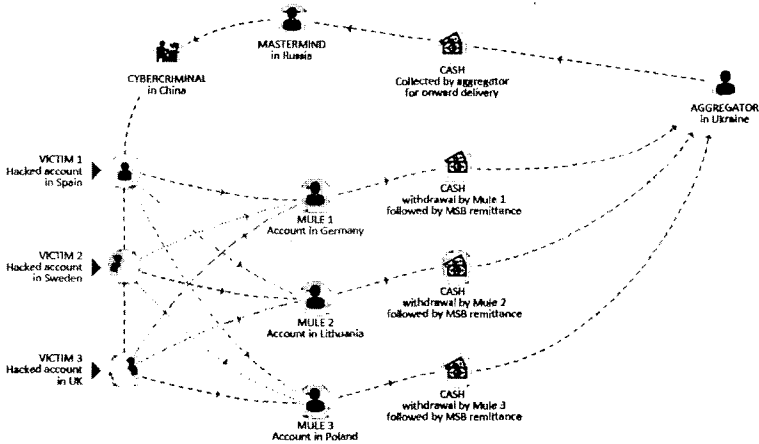
Source: Europol⁷⁶

Figures are also important in the visual representation of the money mule. Whereas pictures are to be found mostly in campaign brochures, figures are frequently used in the more technical annual

75. Europol, *Money Muling Flyers*, *supra* note 18.

76. *Id.*

reports of FIUs and in research reports by international authorities. Mostly, they illustrate the process of money laundering through money mules, demonstrating how the different actors involved—here victims, mules, aggregators, masterminds, and cybercriminals—hang together. See, for example, a figure from Europol’s report “Why is Cash Still King?”⁷⁷ which displays the money laundering cycle and the various actors involved:



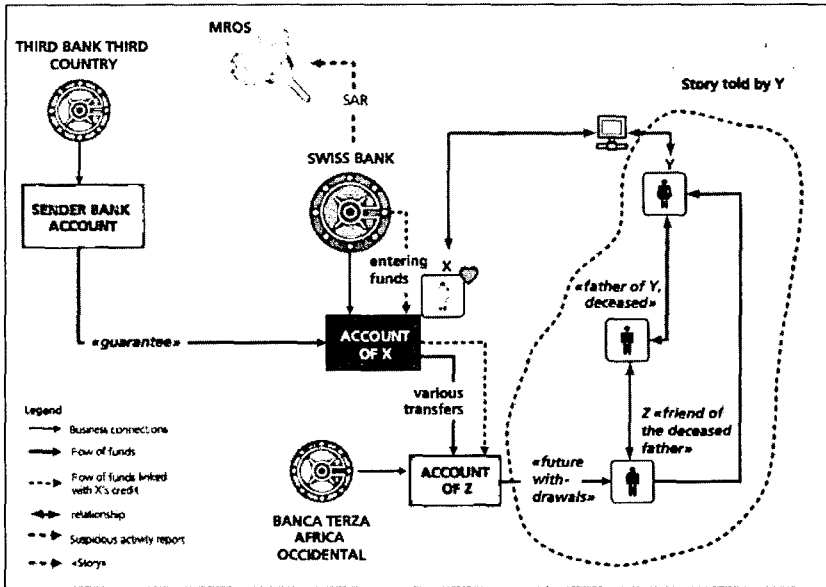
Source: Europol⁷⁸

Another example is a figure found in an annual report of the Swiss FIU.⁷⁹ It is interesting not least because it tries to visualize a rather complex criminal operation, which would be difficult to understand without such an illustration. The “story told by Y” refers to the “romance scam” already mentioned in the subpart on narrative:

77. Europol, *Why is Cash Still King?*, *supra* note 14, at 41.

78. *Id.*

79. MROS 2015, *supra* note 23, at 48.



Source: MROS⁸⁰ 2015: 48.

C. Metaphor

Yet another discursive means of reality construction discussed in IR is metaphor.⁸¹ Metaphors project the reality of a source domain, usually from everyday life worlds, onto the target domain (i.e., the object that is being metaphorized). This way, abstract phenomena are made accessible, and they can be understood in terms of the everyday source domain. Hence, theorists of metaphor argue, the analysis of the principle metaphors employed in a discourse enables one to discover the understandings attached to the object. The key metaphors that structure the discourse under study here are the mule, money laundering, orchestration, and phishing.

The key metaphor, obviously, is the mule. The act of withdrawing money from one's bank account and bringing it to a money transmitter to have it sent abroad is thus understood as something akin to what a mule does: mules, which are horse-donkey hybrids, are known for their ability to carry heavy loads. Projecting the animal onto the realm of money laundering thus emphasizes the physical aspect of carrying cash, of actually taking the money from the bank and going to the money remittance company. Money mules in this sense are cash couriers, though they normally do not carry it across borders, unlike the cash couriers described in the Europol

80. *Id.* at 48.

81. See, e.g., Rainer Hülse, *Imagine the EU: The Metaphorical Construction of a Supra-Nationalist Identity*, 9 J. OF INT'L REL. AND DEV. 396; Hülse & Spencer, *supra* note 3.

report on cash referred to above.⁸² That money laundering involves a simple act like carrying cash from A to B is something understood through the use of the money mule metaphor. Apart from that, the mule metaphor frames the money laundering person as a passive agent, directed by others. One would hardly say that a mule has much agency. It may have ideas of its own, but it ends up doing exactly what its owner tells it to do. Nor would one assume that the mule knows what it is carrying; it neither cares about nor is able to understand the load on its back. In this sense, the metaphor, too, constitutes the money mule as an innocent victim, which, as already seen, is one of the principle frames applied.

While the mule is the discourse's central metaphor, one encounters many other metaphors in the various reports and documents. The discourse on the money mule is embedded into the wider discourse on money laundering, and the money laundering metaphor also makes frequent appearances in the money mule discourse. I have analyzed the money laundering metaphor elsewhere,⁸³ but suffice it to say in this context that it applies dichotomies of clean/dirty to the field, interpreting the act of money laundering as a transformation of something dirty into something clean. This, I have argued before, attaches a rather positive meaning to the act, which possibly makes it difficult to convince the audience of money laundering actually being something bad. This puts the mule, too, in a positive light, as it helps with cleaning up.

Other metaphors frequently employed in the money mule discourse include orchestration and phishing. Orchestration is used to describe how criminal organizations direct different mules and thus to point out that the entire process is highly organized and carefully planned.⁸⁴ Do not, the orchestration metaphor warns, underestimate the sophistication of money laundering through money mules, as the latter do not simply launder the money of some petty crime, but of organized crime.

Finally, the term phishing, a neologism and also a metaphor, is used to describe the cybercriminal act of obtaining sensitive information on people's bank accounts, passwords, credit card details, etc., in order to transfer money from these accounts to accounts controlled by the criminal.⁸⁵ This is widely described as the main predicate offense to money laundering by money mules, and it compares what cybercriminals do to fishing: cybercriminals like

82. Europol, *Why is Cash Still King?*, *supra* note 14, at 19.

83. See generally Rainer Hülse, *In Paradise: Metaphors of Money-Laundering Brighten Up the Dark Side of Globalization*, in *METAPHORS OF GLOBALIZATION: MIRRORS, MAGICIANS AND MUTINIES* 98 (Markus Kornprobst et al. eds., 2008).

84. See, e.g., Europol, *Why is Cash Still King?*, *supra* note 14, at 33 (describing Chinese money laundering efforts as "carefully orchestrated transactions").

85. See *id.* at 18 (describing role of money mules in phishing attacks and other cybercrimes).

fishermen use baits in order to catch fish.⁸⁶ Again, this possibly contributes to playing down the crime: fishing is not something particularly bad, and therefore neither is laundering. Hence the use of the phishing metaphor trivializes the criminal act.

This Part has shown how three different discursive mechanisms, namely narratives, visualizations, and metaphors, shape the reality of the money mule. In the following Part, the Article takes the analysis one step further by reflecting on the general implications of these constructions and their specific implications for policy development.

IV. WHAT FOLLOWS FROM ALL THAT? (IMPLICATIONS)

In the previous Parts, the Article inquired into the discursive making of the money mule reality. The money mule, it could be said, was the dependent variable. In this Part, the money mule turns into the independent variable as this Article focuses on the implications and on the constitutive effect these constructions have: What are the consequences when the money mule is constituted as an “innocent victim?” What are the implications when one views the money transmitter company as all but an accomplice of money mules? And what are the consequences when one sees the money mule as being run by organized crime syndicates from Russia, Ukraine, or Nigeria?

A. *Educating Citizens, Rather Than Punishing Them*

The money mule, according to the discourse, is an innocent victim rather than an actual criminal. The dominant construction conceives of the mule as unaware of having committed a crime, as he or she is tricked by the criminals’ fake-job offer, for example, and believes that what he or she does is “just a job.” This subpart discusses two implications of this understanding of the money mule.

First, understanding the money mule to be an innocent victim largely precludes going after the mule with tough measures. Rather, this understanding of the mule normalizes a soft handling of detected money mules. And this is in fact what happens, according to the reports of the Swiss FIU, which describe how most money mules get away with no or only small penalties because of the difficulty of proving that a mule is aware of the crime.⁸⁷ If the mule is understood as a victim rather than a culprit, then the task is not so much one of punishing, but of helping him/her, and as a preventive measure, to

86. See FINANCIAL ACTION TASK FORCE, *supra* note 55, at 24 (describing a typical criminal money-remittance scheme and stating that such a scheme is usually used to launder money originating from phishing).

87. See, e.g., MROS 2015, *supra* note 23, at 49.

help the ordinary citizen not to fall prey to the money laundering criminals. This is the rationale behind information campaigns like the one Europol launched in March 2016: they seek to educate the public and raise awareness of the money mule threat. And they do so by providing concrete information on how to detect a job scam, for example.⁸⁸

Second, if sovereigns react to the danger of their citizens becoming money mules by educating them, this has implications for the citizens. The information campaigns by Europol and others give clear advice on how to behave, for example, by warning citizens never to give away confidential account information, etc. Hence the sovereign is not taking full responsibility for ruling out money laundering through money mules. Rather, the sovereign insists that every citizen is responsible for his or her deeds and therefore needs to be alert. In the Foucault-inspired IR literature, such sovereign conduct is known as “responsibilization,” a technology of governance at a distance, which is typical for our current governmentality.⁸⁹ Rather than telling their subordinates what to do and threatening them with sanctions should they not follow their instructions, sovereigns, at least according to students of governmentality, increasingly rely on smarter means of shaping their citizens’ behavior, “responsibilization” being one such means. It is the citizens’ responsibility to behave carefully when online and to keep in mind the behavioral guidelines published by the authorities. If they do not, they will be held responsible for the consequences.

Summing up, the “victimization” of the money mule enables a policy response characterized by education and awareness-raising rather than by discipline and punishment. The implication of a policy that tries to solve the money mule problem by educating citizens, is a shift of responsibility from the sovereign to its citizens.

B. Being Hard on Money Transmitters, Not on Banks

As shown above, the money mule discourse singles out money remittance companies as the type of financial institution most vulnerable to misuse by criminals, to the extent that the money mule and the money transmitter seem to be a natural match. In the case study narratives of FIUs, mules regularly use the services of Western Union, and the FATF dedicates an entire report to money transmitters (and currency exchange providers).⁹⁰ Banks, in contrast,

88. See Europol, *Money Muling: Public Awareness and Prevention*, *supra* note 12.

89. See Oded Löwenheim, *The Responsibility to Responsibilize: Foreign Offices and the Issuing of Travel Warnings*, 1 INT’L POL. SOC. 203, 214–15 (2007); Ole Jacob Sending & Iver B. Neumann, *Governance to Governmentality: Analyzing NGOs, States, and Power*, 50 INT’L STUD. Q. 651, 657–8 (2006).

90. FINANCIAL ACTION TASK FORCE, *supra* note 55.

do not figure very prominently in the money mule discourse; apparently banks are not used much by money mules. Hence what one sees is the construction of a binary opposition: banks/money transmitters, the former positively and the latter negatively connoted.

This binary opposition is particularly curious when it emanates from reports of the Swiss FIU, considering that Swiss banks like UBS and Credit Suisse have been involved in several major money laundering cases. Even with a focus only on money laundering through mules, it seems like a questionable construction. In the first stage of laundering through money mules, banks certainly do play a role, as cybercriminals steal money from bank accounts of their victims by transferring this money to the bank accounts of their mules. The mules then withdraw the money from the bank and bring it to a money remittance company like Western Union. Hence, it certainly would be possible to also discuss the role of banks with respect to money mules and for the authorities to think of measures that would make it difficult for cybercriminals and mules to use bank accounts. And yet, the discourse puts a strong focus on money transmitters; they are constituted as the “bad guys” when it comes to money laundering through money mules. The money mule discourse “problematizes” money transmitter companies. With a view to the IR theory of securitization,⁹¹ one could even argue that money transmitters are being “securitized” (i.e., declared to be a security risk).⁹² This enables anti-money laundering policies which aim at better controlling the business of money transmitters, while at the same time making it less likely that the authorities go after banks when trying to solve the problem of money mules.

What is more, the delegitimizing effect the money mule discourse has on money transmitters extends to the people using their services, too. Money transmitters are mostly used by migrants who send money earned in countries of the North and West to their families back home in the South and East. With the problematization and securitization of the companies through which migrants transfer their money, the migrants, too, become suspicious.⁹³ Is it really clean money a migrant or refugee hands over to a Western Union agent, or could it be that he or she is a money mule helping to clean dirty money by sending it to a Nigerian criminal network? And indeed, this implication of the “securitization” of money transmitters and, in consequence, also of the migrant, is already being observed on the

91. See generally Barry Buzan et al., *Security: A New Framework for Analysis* (1998).

92. See William Vlcek, *Securitizing Money to Counter Terrorist Finance: Some Unintended Consequences for Developing Economies*, 16 INT'L STUD. PERSP. 406, 414–16 (2015).

93. *Id.* at 415.

ground, as it translates into concrete policies. The German police are planning money mule information campaigns which are tailor-made for refugees, because they are considered to be particularly vulnerable to becoming money mules.⁹⁴

In sum, an important implication of the money mule discourse is the delegitimization of money transmitters and a general suspicion with regards to their clients. This ideational effect may have material consequences, too, as it enables authorities to take a tough stance on money transmitters, but not on banks.

C. Blaming Other Countries, Rather Than Oneself

Part II showed that the discourse on money mules makes a distinction between the money mule and the criminal with respect to their respective countries of origin: Whereas money mules are typically located in countries in the North or West, the criminals are from countries in the South or East. Combined with the construction of the mule as an “innocent” victim, this amounts to another binary opposition with the innocent, thus positively connoted North and West as opposed to the criminal, thus negatively connoted South and East.

What are the implications of such a construction? Basically, the expectation is similar to the one in the previous section: It reinforces anti-money laundering activities’ focus on the perpetrators from the South and the East. Countries like Nigeria and Ukraine are similar to Western Union and MoneyGram in that they are linked to money mules. Like the latter financial institutions, the former countries enable money laundering by mules due to a lack of capacity to rule out the practice, but also due to a lack of political will. In this sense, Eastern European and Western African countries are constituted as tolerant of criminal networks, if not even as outright accomplices of the criminals. This construction enables the fight against money laundering to concentrate on these countries, as it establishes a particular understanding of the problem: Whether money laundering by mules can be ruled out, very much depends on Eastern European and Western African countries’ behavior.

Again, this is a questionable construction. While it may certainly be true that countries in West Africa and Eastern Europe lack adequate anti-money laundering measures, the anti-money laundering record of countries in the North and West is not above reproach, either. Take a recent ranking on anti-money laundering by the Basel Institute, in which Switzerland, for example, only takes a mid-range place, between Malaysia and the Senegal.⁹⁵ Seen in this

94. See HEILMANN, *supra* note 17.

95. BASEL INST. ON GOVERNANCE, BASEL AML INDEX 2016 7, 9 (2016), https://index.baselgovernance.org/sites/index/documents/Basel_AML_Index_Report_20

light, the money mule discourse seems to tie in nicely with the discourse on money laundering generally, where “money laundering havens” in the South and East seem to get the majority of the blame. Although there are well-known “pockets of secrecy”⁹⁶ in the North and West, like the state of Delaware or the Channel Islands for example, the United States, the United Kingdom, and Switzerland point their fingers to Nigeria, Russia, Panama, or Vanuatu. Thus they shift the blame to countries in the South and the East, and they divert international attention to these places. Or, to put it differently, the binary opposition of North-West/South-East established in the money mule discourse enables international policies that clean up the laundry, but only the laundries in the South and the East.

An explicit connection to the conference theme sums up this point: The money mule discourse constitutes sovereigns like Nigeria or Ukraine as being at the margins of the law, here international anti-money laundering provisions. No evidence in the discourse could be found showing that these sovereigns are perpetrating money laundering themselves. However, what one can see is that these sovereigns are characterized as enabling cybercriminals to commit their crimes and then enjoying the monetary fruits of the cybercriminals’ work. Hence sovereign conduct is constituted as a serious problem indeed, but certainly not the conduct of Western sovereigns. Rather than questioning its own conduct, the West shifts the blame and points to sovereigns it almost habitually suspects to act “on the margins of the law.”⁹⁷

V. CONCLUSION

This Article is an attempt to make sense of the money mule discourse, as shaped by authorities in the OECD world. In a first step, the Article reconstructed how the discourse constitutes the key figures involved, showing that the money mule is mostly seen as an innocent victim of criminal organizations from Ukraine and Nigeria, helped by the services of money remittance companies such as Western Union. In a second step, the Article analyzed the discursive means which produce this very reality of the money mule, arguing that narratives, visualizations, and metaphors play a crucial role. Against this background, in a third step the Article inquired into the

16.pdf (last visited June 14, 2017) [<https://perma.cc/V2N2-4WXP>] (archived Aug. 23, 2017).

96. JOSEPH E. STIGLITZ & MARK PIETH, *OVERCOMING THE SHADOW ECONOMY* 14 (2016), <http://library.fes.de/pdf-files/iez/12922.pdf> (last visited June 14, 2017) [<https://perma.cc/TE6F-BHS8>] (archived Aug. 29, 2017).

97. VANDERBILT JOURNAL OF TRANSNATIONAL LAW, *2017 Symposium, Sovereign Conduct on the Margins of the Law*, <https://www.vanderbilt.edu/jotl/symposiums/sovereign-conduct-on-the-margins-of-the-law-a-symposium/> [<https://perma.cc/HT8H-SM6Z>] (archived Aug. 29, 2017).

implications of these reality constructions, claiming that the money mule discourse enables certain kinds of policy reactions, while precluding others. Hence one sees policies such as awareness-raising campaigns by the police, and one sees sovereigns in the OECD holding countries like Ukraine and Nigeria and companies like Western Union responsible for enabling mules to launder money. Alternative policies are difficult to think of, because the dominant discourse on the money mule does not allow for different realities which would bring about such alternatives.

As for a conclusion, let me reflect on a puzzle I stumbled across while writing this Article: From my earlier research on money laundering I knew that money launderers use highly sophisticated techniques and complex financial instruments to disguise their actions. FATF, for example, emphasizes that one of the difficulties with fighting money laundering is that the criminals always seem to be one step ahead. On its website FATF declares: "The methods used to launder proceeds of criminal activities and finance illicit activities are in constant evolution: as the international financial sector implements the FATF standards, criminals must find alternative channels."⁹⁸ Their laundering techniques are highly innovative and are therefore difficult to anticipate and detect by law enforcement.⁹⁹ However, one can hardly say that laundering by using money mules is an elaborate method. In fact, having someone to physically carry cash from the bank to the money transmitter seems to be a fairly old-school method of breaking the paper trail. And still, organizations like Europol but also FIUs like the Swiss MROS dedicate considerable attention to the money mule. Why is that? Is it that money laundering by mules really is an important yet underestimated method? Or do Europol and MROS exaggerate the threat of money mules? And if so, what is the reason for exaggerating?

It is difficult to find exact numbers on the significance of the money mule, yet the limited data there is indicates that money mules are responsible for approximately 10 percent of all suspicious transaction reports and hence, as a shortcut, for the total amount of all laundered money. For example, in 2014 in Switzerland 8 percent of all money laundering verdicts relate to phishing as the predicate offense. And the authorities write that in most cases the phishing money is laundered through money mules.¹⁰⁰ In Germany in 2015, 9 percent of all suspicious transaction reports were related to money

98. FINANCIAL ACTION TASK FORCE, *Topic: Methods and Trends*, [http://www.fatfgafi.org/publications/methodsandtrends/?hf=10&b=0&s=desc\(fatf_releasedate\)](http://www.fatfgafi.org/publications/methodsandtrends/?hf=10&b=0&s=desc(fatf_releasedate)) [<https://perma.cc/4SSQ-6TMA>] (archived Aug. 24, 2017).

99. See Rainer Hülse, *Creating Demand for Global Governance: The Making of a Global Money-Laundering Problem*, 21 GLOBAL SOC'Y 155, 172–5 (2007).

100. Bundesamt für Polizei/fedpol, *supra* note 11, at 6.

mules, a number that has experienced a strong decline since 2011, when 31 percent of all reports were due to money mules.¹⁰¹ While it is difficult to judge whether 10 percent makes for an important problem or not, the conclusion one can draw from these numbers is that the money mule is less important today than it was five years ago—its relative importance is in decline. Against this background the Europol campaign “Don’t be a mule,” launched in March 2016, seems to be something of a latecomer.¹⁰²

And yet, it is not surprising that the money mule figures prominently in the anti-money laundering discourse. The money mule, after all, makes for a good symbol of money laundering. Whereas it is difficult for the ordinary citizen to understand what exactly is going on when money is being laundered with derivatives, for example, it is much easier to understand what a money mule is doing. The gripping narratives, telling visualizations, and comprehensible metaphors all contribute to one having a clear and vivid idea of how laundering through mules works. There is nothing like this with respect to other forms of money laundering, except perhaps for the cross-border cash courier, a close relative of the money mule that also makes for good pictures and is thus easy to grasp.

While this Article does not go as far as arguing that law enforcement agencies pay considerable attention to money mules because this is the laundering technique they best understand, from a sociological institutionalism standpoint, law enforcement, too, depends on a certain degree of public support. If law enforcement authorities can show that they dedicate considerable resources to a problem the public does understand and recognize to be of importance, then this gives legitimacy to the authorities. Put differently, Europol puts its focus on the money mule less because it is so great a problem, but more because it is can be constituted relatively easily as a problem the audience understands and in result wants Europol to address. Hence, it is not least because it can be narrated well that the money mule is targeted by anti-money laundering authorities.

101. BUNDESKRIMINALAMT, JAHRESBERICHT 2015 FINANCIAL INTELLIGENCE UNIT (FIU) DEUTSCHLAND, at 41 (2015), https://www.bka.de/DE/AktuelleInformationen/StatistikenLagebilder/Lagebilder/FinancialIntelligenceUnitDeutschland/financialintelligenceunitdeutschland_node.html (last visited June 14, 2017) [<https://perma.cc/FT7C-BU8Z>] (archived Sep. 24, 2017).

102. Europol, *Money Muling: Public Awareness and Prevention*, *supra* note 12.