Explaining Suspicious Wealth: Legal Enablers, Transnational Kleptocracy, and the Failure of the UK's Unexplained Wealth Orders

Unexplained Wealth Orders, introduced in the United Kingdom in 2017, were designed to tackle the problem of transnational kleptocracy. However, our research on real estate purchases in the UK by elites from post-Soviet kleptocracies demonstrates that incumbent elites are invulnerable to attempts to question the legality of their wealth while exiles from these states often lose their property. From our original dataset of properties, we take a single case on the margin: one of incumbents Dariga Nazarbayeva and Nurali Aliyev, the daughter and grandson of Kazakhstan's first president, Nursultan Nazarbayev who were subject to one of the few UWOs issued and thereby had their properties frozen. In a close analysis of the legal documents from this case, this paper analyses how the properties were purchased and how the sources of wealth were subsequently explained as legitimate. We elaborate an exemplary case of transnational kleptocracy revealing how British legal services actively, passively, and structurally enable specific acts of money laundering. We further expose how they effectively explain kleptocratic wealth and why they are likely to continue to do so despite recent changes to laws and regulations.

Keywords:

authoritarianism, kleptocracy, enablers, money laundering, UK, Kazakhstan

Acknowledgements:

This article is an output from a project funded by UK Aid from the UK Government for the benefit of developing countries. The views expressed are not necessarily those of the UK government's official policies. Further research funding to support the completion of the paper

came from the Economic and Social Research Council and the British Academy. Many thanks to Tena Prelec, David Lewis, Ricardo Soares de Oliveira, Alex Cooley, Casey Michel, Peter Sproat, Leila Nazgül Seiitbek, Anton Moisienko, Anita Clifford, Jonathan Fisher QC, Ben Keith, Stephen Fitzjohn, Kris Lasslett, and the anonymous peer reviewers.

Bios

John Heathershaw is Professor of International Relations at the University of Exeter

Tom Mayne is Research Fellow at the University of Oxford

Introduction

When Unexplained Wealth Orders (UWOs) were introduced in the United Kingdom, they were framed as a means to tackle two problems: organised crime and grand corruption emanating from kleptocracies (Cameron 2015). Although a global problem, defined as 'government[s] engaged in corruption and embezzlement to increase the personal wealth of government officials' (Black et al 2017), kleptocracy is often associated with Russia and the post-Soviet states. When the then security minister Ben Wallace made the case for UWOs he referred to a scandal that saw over $20 billion funnelled out of Russia, saying that 'we are not going to let it happen anymore' (Cordon 2018). The idea behind the introduction of UWOs is that it provides law enforcement with another tool in the freezing, and ultimately seizing of, property which is suspected to have been purchased via laundered money or corrupt capital. When a property is issued with a UWO, its owners must explain the sources of wealth behind the purchase. A failure to do so creates the legal presumption that the property has been acquired through the proceeds of crime and can thus be confiscated via subsequent civil recovery proceedings under the provisions of the Proceeds of Crime Act (POCA). However, despite much rhetoric by politicians and promises of up to twenty UWO investigations per year, only four UWO investigations have been reported since 2018, no UWO has been issued since July 2019, none have been issued against Russian nationals, only two have been issued against foreign political figures or oligarchs, and only one of these has been successful. This investigation, *NCA vs Hajiyeva*, featured UWOs issued against properties owned by a former Azerbaijani banker, Jahangir Hajiyev, and his wife, Zamira Hajiyeva. Even though the UWO was upheld, the properties are yet to be recovered and legal proceedings are still ongoing into 2022.

The second UWO case against a foreign political figure, *NCA v Baker*, was launched in 2019, with three orders issued on properties revealed during the course of the investigation

to be owned by Dariga Nazarbayeva and Nurali Aliyev, the daughter and grandson of Kazakhstan's autocratic first president, Nursultan Nazarbayev, whose rule of newly independent Kazakhstan ran from 1991 to 2019. However, the orders were dismissed by the High Court in 2020, which saw the National Crime Agency (NCA), the unit that led the investigation, landed with a £1.5 million bill in costs, a major setback in the development of this new piece of legislation. In legal terms, *NCA v Baker* appears to be a particularly flawed investigation, with the NCA not establishing the proper context of Kazakhstan's political economy, which allowed the president's family, including Dariga Nazarbayeva, to accrue billions of dollars in opaque and questionable circumstances. In political-economic terms, it is an extreme case of a more general phenomenon of transnational kleptocracy (Alicante 2019; Cooley, Heathershaw and Sharman 2018), where the elite networks and power relations of kleptocratic states extend globally to actors and jurisdictions supposedly governed by the rule of law. To understand the nature of transnational kleptocracy we therefore must analyse, not merely assess, the kleptocrats themselves but their enablers (Heathershaw et al 2021; Vogl 2021).

These two UWO cases illustrate a new struggle of global politics: the rise of transnational kleptocracy and its challenge to the international anti-money laundering regime (Walker and Aten 2018). Although there are legal grounds to explain why one case may succeed and another fail, there is also a troubling politics which lurks behind the problem. Outsiders and exiles from kleptocratic regimes may fall foul of anti-corruption measures like UWOs and are more likely to lose their properties, insiders and incumbents are rarely subject to effective freezing and confiscation of assets. This speaks to a wider phenomenon where incumbent elites from kleptocracies can launder their money and reputations and extend their networks into democracies while their political exiles and enemies exist in a situation of precarity. As there is no reason to believe that exiles are any more corrupt, and some reason to

believe that incumbency in government provides special opportunities for corruption (Rose-Ackerman and Palifka 2016), what we are witnessing in these cases is the subordination of the rule of law to the mechanisms of transnational kleptocracy. Given that we may be witnessing a new 'global patrimonial wave' (Hanson and Kopstein 2022), this challenge Responding to these concerns, in December 2021, the US government launched an anti-corruption strategy which framed kleptocracy as a national security threat and targeted its enablers (White House 2021). We therefore address a key conundrum of global politics: the role of legal enablers in jurisdictions supposedly governed by the rule of law in facilitating rule breaking by kleptocrats, specifically with respect to real estate purchases in the UK by post-Soviet elites.

To answer our question, the paper draws on a close reading of the 'extreme' and yet typical case of *NCA vs Baker*. On the one hand, the case is extreme because it is the one case of outright failure in the four known UWO cases (Searight and Gerring 2008). On the other hand, it is typical as part of a wider sample of real estate cases where incumbents retain their property and exiles lose theirs. To make sense of this apparent contradiction we must remember that single case method necessarily 'refers back to a larger sample of cases lying in the background of the analysis' (Searight and Gerring 2008: 301). The failure of the case demonstrates the power of incumbency in autocracy over the rule of law in a democracy. However, as a typical case of incumbency it also allows us to explore the casual mechanisms at work to achieve this troubling outcome (Searight and Gerring 2008: 299). We draw on extensive legal documentation and the opportunity to comment afforded to both the NCA and the lawyers of Dariga Nazarbayeva and Nurali Aliyev (Mayne and Heathershaw 2022). Our analysis details the practices of enabling as a causal mechanisms in both the purchase of the property and the subsequent explanation of the wealth. The relative wealth of information afforded by legal documents pertaining to *NCA v Baker* allows us to analyse an exemplary test case of the enabling of kleptocracy by British professional services.

We find that the information that was voluntarily provided by the respondents' lawyers was carefully crafted to present a false narrative – that of a separation of assets between Dariga Nazarbayeva and her criminal ex-husband Rakhat Aliyev. Unfortunately, the NCA did a poor job at interrogating this material. However, although the NCA's case failed in part because some aspects of its central argument – tying Nazarbayeva's property to Aliyev – were flawed, its central tenet – that there is little separation between Nazarbayeva and Rakhat Aliyev's wealth – is predominantly true. The paper first introduces the conceptual aspects of transnational kleptocracy and enabling before going to outline the supposed solution of UWOs. The second half of the paper digs deep into the *NCA v Baker* cases revealing how kleptocracy was enabled – actively, passively, and structurally – in the purchase of the property and explanation of the wealth. We conclude by reflecting on the inadequacy of regulation of legal enablers and enforcement of economic crime law in the UK and discuss the more fundamental changes required globally to begin to tackle transnational kleptocracy as a paramount problem of contemporary international affairs.

Transnational Kleptocracy and the Problem of Enabling

Transnational kleptocracy is an emerging area of research in the study of international relations. Most work on the topic takes an inside-out approach which emphasizes the power dynamics in kleptocratic states. Multinational firms have 'networked liabilities' when their affiliates are based in states governed by kleptocratic regimes and are therefore vulnerable to the selective enforcement or non-enforcement of property rights by the local authorities (Crasnic et al 2017). Concessions, it may be assumed, must be made if one wants to do business in such places. However, there is something excessively state-centric and unsatisfactory about explanations focusing on domestic institutions (Farrell and Newman 2014). These approaches assume that the kleptocracy problem may be tempered if great powers with large markets and high

regulatory capacity deploy a mixture of coercion and concessions to achieve regulatory compliance from their allies (Hakelberg 2020). And yet friendly kleptocratic elites from small states are often given a free pass by democratic governments, as apparently seen in the UK's relations with Gulf states (Wearing 2018). The clue to explaining this puzzle is found in accepting that public authorities are not the primary actor and that the private sector is far more powerful than regulators in global financial centres like London. In such places we must consider the phenomenon of enabling, specifically the transnational supply of services from lawyers based in democracies (Amicelle 2011; Helgesson and Mörth 2018). Insofar as these actors have 'transcended both public- and private-sector bureaucracies' (Harrington and Seabrooke 2020: 400), their work has huge implications far beyond their ability to affect the outcomes of the international AML regime.

According to research and advocacy by activist groups on transnational kleptocracy, grand corruption cannot be addressed without considering the Western 'enablers' of corruption (Bullough 2018; Burgis 2020; Cooley et al 2018; United Nations 2020; Zucman 2015). Kleptocrats looting their countries need the help of international firms and advisors to hide their money and prosper in the long run. In recognition of this, a host of new Anti-Money Laundering (AML) Regulations, investigative tools and enforcement actions have been introduced in recent years, including the UK's Unexplained Wealth Orders which are the focus of the present study (Keen 2017). These legal reforms and money laundering investigations often emerge from transnational activist networks involving groups such as Transparency International and Global Witness which have pitted themselves the kleptocrats and their enablers. The transnational activists' idea of such instruments is both to prevent money laundering in the destination country and also to have a 'boomerang effect' back to the home country, creating new opportunities for accountability, as envisaged in conceptions of transnational activism (Keck and Sikkink, 2014). Other legislation abroad, such as the U.S.

Global Magnitsky Act, aims to have a similar effect on corrupt behaviours in the home country. The logic of transnational activism is 'outside-in': that kleptocracy can be weakened at home if kleptocrats lose property abroad.

However, the problem with such transnational activism is that it assumes clear blue water between the inside and outside of kleptocracy. Yet kleptocratic transactions and the conditions which sustain them are undoubtedly global in that no region in the world is free from their nodes and transactions. As such, our research on kleptocracy requires, in Alexander Cooley and Jason Sharman's terms, 'a shift in the unit of analysis, to transnational networks, rather than just states' (2017: 746). This is a 'global' or 'transnational kleptocracy' composed of networks of sovereign elites and private sector actors at home and abroad (Alicante 2019). Cooley and Sharman (2017: 733) derive three points of significance with respect to these networks. First, corruption is not merely a problem of the 'developing world' but is better understood as emerging from the 'harmony of interests' between capital owners in the developing world and its servicers in the developed world (see also Galtung 1971). Second, the involvement of professionals in countries where the rule of law is high, rather than criminal figures, demonstrates 'the merging of the licit and illicit economies' in cases of corruption and money laundering. Finally, transnational kleptocracy is not merely about financial transactions but a series of social, economic and political goods – from school places to residency permits to political donations – that are serviced by professional enablers (Cooley and Sharman 2017: 733). Therefore, the logic of transnational kleptocracy is 'inside-out': that of extending the power of kleptocrats to spaces ostensibly governed by the rule of law. With respect to real estate, the logic of kleptocracy dictates that incumbent elites are able to acquire and retain property, while their exiles lose theirs.

[Table 1 somewhere here]

To assess the effect of transnational kleptocracy on the UK real estate market, we undertook a study of real estate purchases in excess of £1 Million in London and the south-east of England by 'high-risk' individuals from post-Soviet states. Our database contains 99 properties worth more than £2 Billion, all purchased between 1998 and 2020 (Heathershaw et al 2021). The owners of these properties were identified via painstaking investigations by journalists, activists, or, in some cases, us. For the purpose of analysis, we divide the owners into two categories. First, there are the owners which are government officials, heads of state companies, or their close relatives – including many close relatives of sitting presidents; we designated these as *incumbents*. Second, a smaller number of owners are former incumbents and businesspeople who have fallen out of favour – either under house arrest, in exile with asylum in the UK, an exiled relative or associate of an imprisoned former senior official, or a businessperson who was charged, imprisoned and/or exiled themselves; we denote all these as *exiles*. Only for 88 of the 99 cases do we have information on the outcome which is necessary to make the assessment. We subjected this medium number of cases to basic descriptive statistical analysis to assess the loss/retention of property. A very clear correlation emerges where 85 of 88 cases correspond to the inside-out logic of transnational kleptocracy where incumbents retain property and exiles lose it. In fact, no incumbents (0/73) lose their property. Just three of the cases are exceptions to the logic of transnational kleptocracy where exiles retained property (3/15 cases of exiles). Overall, these results suggest that incumbents retain property, exiles lose it, and that the inside-out logic of transnational kleptocracy has triumphed in the UK property market. These findings are illustrated in table 1.

These overall findings from the 88 cases beg subsequent questions about how the incumbency advantage is actualised by UK enablers on behalf of their kleptocratic clients. While the term 'professional intermediary' or 'enabler' appeared within policing and policy

discourse roughly a decade ago (Benson 2020: 1), the phenomenon had been noticed in academic criminology for longer, especially with respect to banking (Baity 2000), law (Levi and Middleton 2005) and middlemen (Gadde and Snehota 2001). A similar term is 'facilitator', described by a Soudijn as a category of 'experts at getting round anti-money laundering procedures' (2017, 148). For Bussell, this denotes 'individuals who 'facilitate' illicit transactions of some type between two or more parties' (2018: 465). The professions in which such enablers may be found include accountants, lawyers, company formation agents, real estate execs, PR executives and defamation firms. Many of these groups of enablers are referred to directly within UK AML legislation, as is laid out in Section 16 of the Finance (No. 2) Act 2017, which details changes to legislation regarding professions which are to be regulated under money laundering rules. With respect to the specific problem of tax avoidance, British authorities define an enabler as 'any person who is responsible, to any extent, for the design, marketing or otherwise facilitating another person to enter into abusive tax arrangements.' (HM Revenue and Customs 2018). However, tax avoidance, unlike tax evasion, is legal. Enablers are not criminal actors but part of legitimate businesses who typically operate within the law (Baity 2000). Indeed, their skill is to find the legal means through which financial secrecy, tax avoidance and the movement of money from kleptocracies may occur.

While typically legal, enabling is clearly framed in policy and public discourse as unethical. Professional bodies regard the term as a pejorative. For example, the Law Society identifies 'professional enabler' as a loaded term which suggests either complicity or negligence (Cross, 2018). However, any attempt to circumscribe enablers as wholly unethical or illegitimate is flawed as the boundaries between legal and illegal practices are blurred (Lord, Campbell and Wingerde, 2019; Benson 2020: 35). Indeed, many of the functions which enablers undertake such as using corporate vehicles, and the transfer of client funds or commodities investments, are not illegal in themselves, it is their misuse for illicit or corrupt

gain or profit which has criminal connotations. Only a very small proportion of firms and individuals within these sectors are found to be breaking the law. However, as noted by Lord (2019), enabling exists in a grey area. This grey area involves skirting the fringes of legality, exploiting legal loopholes and offering services to criminal, or at least corrupt, parties such as kleptocrats (Barrington 2020). This raises structural issues about the nature of regulation both of services and the professions themselves. In sum, this brief review of the literature suggests that the legal enabling of economic crime is sometimes active but more often passive. Beyond these questions of agency, enabling is a structural constant of transnational economic crime.

Unexplained Wealth Orders

These structural issues have been repeatedly emphasised by transnational activist groups. Campaigns by Transparency International and other organisations have highlighted the difficulty that law enforcement agencies have in investigating dubiously acquired wealth brought into the UK by businesspeople and public officials from overseas, especially in regard to real estate (Transparency International, 2017). According to Transparency International and investigative journalist group OCCRP, such investigations only had the possibility of success if the person 'had been convicted in their home country' (Foy and Thompson 2018). This problem likely fed into the thinking of an April 2016 Home Office and Treasury anti-money laundering action plan which stated that: 'in many cases the country in which the offences took place lacks either the will, the capability, or the human rights record that would allow effective cooperation to take place' (Home Office and HM Treasury 2016). UWOs were introduced as part of the Criminal Finances Act 2017 to address this problem. They are an investigative tool which allows the UK authorities to temporarily freeze properties and requires the respondent to present proof of the sources of funds for the purchase. UWOs effectively reverse the burden of proof whereby the owner must prove legitimate funds rather than law enforcement

demonstrating illegal capital. A 2017 impact assessment from the Home Office forecasted that there would be 20 UWOs per year (UK Government, June 2017). In April 2018, Donald Toon, Director for Economic Crime at the NCA, told the media that his officers were working on around 100 cases and that he expected about five more UWOs to be secured in the next three months (Holden 2018).

With the introduction of UWOs, UK government ministers invoked the language of the transnational activists. Although UWOs can be used to fight organized crime, a major part of the messaging surrounding this new investigative tool centred around the idea that they would be used to tackle 'grand corruption', also known as kleptocracy.For example, the then Home Secretary Amber Rudd said in 2016 that: '[UWOs] send a powerful message that the UK is serious about rooting out the proceeds of overseas grand corruption'. Rudd also quoted from Transparency International, which said that UWOs may be 'the most important anti-corruption legislation to be passed in the UK in the past 30 years', legislation that will 'make sure that the UK is no longer seen as a safe haven for corrupt wealth' (UK Government, November 2016). This message was reinforced by the then Security Minister Ben Wallace, who said in 2018 that the 'full force of government' would be brought to bear on foreign criminals and corrupt politicians:

> When we get to you, we will come for you, for your assets and we will make the environment that you live in difficult... If they are an MP in a country where they don't receive a big salary but suddenly they have a nice Knightsbridge townhouse worth millions and they can't prove how they paid for it, we will seize that asset, we will dispose of it and we will use the proceeds to fund our law enforcement.' (Cordon 2018).

The ‘fighting talk’ from government ministers regarding grand corruption put considerable expectation on UK law enforcement. It was therefore important that bodies such as the NCA that could issue UWOs selected the initial cases carefully, as the Director General of the UK National Economic Crime Centre, Graeme Biggar, commented after one UWO High Court hearing: ‘These hearings will establish the case law on which future judgements will be based, so it’s absolutely vital that we get this right.’ (Ottaway 2020). As Matthew Cowie, a former prosecutor at the UK’s Serious Fraud Office, commented: ‘It would be bad political PR and bad for [UWOs as an instrument] if they fail.’ (Foy and Thompson 2018). However, as of December 2021, only four investigations are known to have taken place that led to the issuance of a UWO (a total of 15 UWOs were issued across the four cases). In September 2021, a Home Office report said that not a single UWO had been obtained since 2019 (UK Parliament 2022).

NCA v Hajiyeva

A major reason for this slow progress appears to be the sheer complexity and costs of the UWO cases involving kleptocracy. The first and third investigations are the only known UWO cases involving ‘politically exposed people’, as of April 2022. These two cases feature individuals from the former Soviet republics of Azerbaijan and Kazakhstan respectively. The first investigation featured two UWOs issued on separate properties in February 2018. These were owned by an individual from Azerbaijan, Jahangir Hajiyev, and his wife Zamira Hajiyeva. *NCA vs Hajiyeva* is documented in several witness statements that have been made publicly available by the High Court. The NCA argued that the conditions for a UWO were met because, as well as Jahangir being a politically exposed person by virtue of his role at a state-run bank in Azerbaijan, his conviction in Baku was a strong indication that he was involved in serious crime. The crux of why a UWO was appropriate in these circumstances was summed up by an NCA investigator in one of her witness statements. She argued that Hajiyev’s ‘known

employment history and income is very difficult to reconcile with a property purchase of over £10 million' as his highest salary, including bonuses, was only around $70,600 with modest share dividends of just under $89,000 in 2008 (High Court of Justice 2018).

In response, Zamira Hajiyeva's lawyer argued that Jahangir could not give adequate answer to the order, as he was in prison as a result of an unfair and politically motivated trial (High Court of Justice 2018). Hajiyeva presented at least one document to the court: a statement of wealth that was submitted to a private bank in London in 2011 by her husband's wealth management company. This showed that her husband had since 1991 made millions of dollars from various businesses in Azerbaijan. The first entry in this list was a Baku-based company established in 1991 that, according to this document, made $20 million off a $1000 investment. However, a three-judge appellate panel rejected Hajiyeva's request for the UWOs to be dismissed, noting at a hearing in February 2020 that this document 'posed more questions as to the source of his wealth than it answered' as they were 'vague', with the document indicating that Hajiyev had earned the $20 million supposedly while studying for a doctoral degree in the USA and Russia (England and Wales Court of Appeal (Civil Division), 2020). These earnings were also not linked in any way to the property purchases. Hajiyeva's application to appeal to the Supreme Court was dismissed in December 2020. This now forced her to reveal the sources through which she and her husband used to buy the two properties. If she failed to do this, the NCA can launch separate civil recovery proceedings as, according to the UWO legislation, the properties would then be presumed to be 'recoverable' under POCA – in other words, obtained though unlawful conduct. The properties, as of May 2021, are still frozen by the NCA, with civil proceedings presumably ongoing or to follow.

The NCA vs Hajiyev case revealed the key role of legal enablers in both facilitating the laundering of criminally-acquired wealth and subsequently (but unsuccessfully) seeking to explain that wealth as having legitimate origins. The Hajiyevs employed a whole host of

enablers to get his money out of Azerbaijan and settle in the UK: six different law firms are mentioned in NCA witness statements related to the UWO investigation, involved in a variety of activities such as acquiring an investor visa, managing one of the companies involved in the property ownership, and acting for the company in the property transaction itself (High Court of Justice 2018). Two major London law firms, Mishcon de Reya and Herbert Smith (since renamed Herbert Smith Freehills) acted for Hajiyev in relation to the purchase of two separate properties, each of which was issued with a UWO. Herbert Smith also acted for Nurali Aliyev in the purchase of another property issued with a UWO in *NCA v Baker*, and Mishcon de Reya instructed the lawyers acting for Aliyev and Nazarbayeva in the UWO hearing.

NCA v Baker

The third ever UWO investigation, and the second targeting kleptocratic elites, with UWOs issued in May 2019, involved three different properties in London worth £80 million. Known as *NCA v Baker*, it implicated members of the family of the first president of Kazakhstan, Nursultan Nazarbayev. The UWOs and accompanying freezing orders were issued to a man named Andrew Baker, a British solicitor based in Liechtenstein, and four legal entities – three private foundations and a company – all of which were involved in the legal ownership of the three properties. Baker was the president of two of the foundations. The case is thus referred to as *NCA v Baker*. Baker's identity as a solicitor makes the legal enabling of the transactions in question explicit in the very title of the case.

The NCA believed the properties were bought with wealth acquired by Rakhat Aliyev, who was Nursultan Nazarbayev's former son-in-law and former Kazakh state official. However, court proceedings revealed that they were actually owned by Rakhat's ex-wife, Dariga Nazarbayeva, and their son, Nurali Aliev (High Court of Justice 2020). At the time of the issuance of the UWOs, Nazarbayeva was the chair of the Kazakh Senate. Nurali Aliyev is

an entrepreneur and a former deputy mayor of Astana, Kazakhstan's capital city. This investigation by the NCA appears to be built in large part on a July 2015 report by UK anti-corruption NGO Global Witness entitled *Mystery on Baker Street* (Global Witness 2015). This highlighted how a block of flats and offices located at 215-237 Baker Street and worth £137 million formed the central part of London property empire whose ultimate owners were at that time unknown but whose web of ownership indicated links to Rakhat Aliyev.

The NCA's case for issuing the UWOs was that it suspected that Rakhat Aliyev had been involved in criminal conduct and that both he and members of his family may thus have laundered proceeds derived from these crimes into the three properties (High Court of Justice 2020). At the time of his death by suicide in 2015 Rakhat Aliyev was awaiting trial in Austria for two murders allegedly perpetrated in Kazakhstan and was being investigated for money laundering in various European jurisdictions. However, the Global Witness report documented denials from the directors of the companies that Rakhat Aliyev had ever been the ultimate beneficial owner of the companies that owned the buildings, and subsequent investigations pointed more to Rakhat Aliyev's ex-wife Dariga Nazarbayeva and their son Nurali Aliyev (Global Witness 2015; de Haldevang 2018).

In addition to uncertainty regarding the defendant, there was some confusion about how certain came to be the target of the orders and not others. The three properties against which UWOs were eventually issued included only one of the properties mentioned in the Global Witness report, and did not include 215-237 Baker Street. Instead, UWOs were issued on two other properties not mentioned in the report by the NGO. This brought the value of UK property owned by Dariga Nazarbayeva and Nurali Aliyev to at least £217.5 million. In February 2020, the locations of the three properties were identified in media articles, as were the identities of the two individuals who beneficially owned them: Dariga Nazarbayeva and Nurali Aliyev (Casciani, Eriksson, Swann, 2020).

In response to the UWOs, the respondents through Mishcon de Reya voluntarily revealed that Dariga Nazarbayeva and Nurali Aliyev were the ultimate owners of the three properties, that there were no links to criminally acquired capital from Rakhat Aliyev, and that as a result, the orders should be dismissed. It backed up its argument by submitting 268 pages of documentation about the property purchases. Mishcon originally sought confirmation that any material it supplied would be held in confidence (High Court of Justice, March 2020). however, no such confirmation was given and much of this material was published in court documents, providing an illuminating window into the world of kleptocratic enabling. The NCA approached *NCA v Baker* on the back of a successful use of UWOs in what appeared to be a similar case (*NCA v Hajiyeva*). In fact, the court documents reveal remarkable similarities between the two cases – both feature bank chairmen (Hajiyev and Nurali Aliyev) using shell companies to acquire suspect loans from their own bank – despite the very different outcomes. They therefore allow us to probe the actions taken by lawyers and other professional services to enable the purchase of the property and the explanation of the sources of wealth.

How was kleptocracy enabled in the purchase of the property?

Academic literature on Kazakhstan has repeatedly highlighted the inextricable connections between business and politics (Nazpary 2002, Schatz 2004, Ostrowski 2009, Yessenova 2015, Cooley and Heathershaw 2017). According to the political scientist Eric McGlinchey (2011: 7), Kazakhstan has a 'dynastic' model of rule, while Dinissa Duvanova (2013: 81) remarks that the country is 'notorious for its administrative and political corruption'. The line between public and private in Kazakhstan is virtually non-existent, and is open to abuse by powerful politicians, their family members and their associates. According to KPMG, by 2019, the year Nursultan Nazarbayev stepped down as president (but retained his position as chair of the Security Council, a position he held until January 2022), Kazakhstan's richest 162 people own

55 per cent of the country's wealth (KMPG 2019: 24). Many of these individuals are members of the Nazarbayev family or have close connections to this family or other senior Kazakh politicians.

In the UWO case, the kleptocratic sources of wealth behind the purchase are clear. Nursultan Nazarbayev's son-in-law, Rakhat Aliyev, was a key part of Kazakhstan's kleptocracy. He abused his positions of power in the tax police and secret police in a criminal fashion to extort companies from rival businessmen (Global Witness 2015), generating capital that his family relied upon, using it to create companies in Kazakhstan that both he and Dariga Nazarbayeva then helped to build up. However, in January 2007, Aliyev overstepped the mark, kidnapping and ultimately murdering two bank officials. Aliyev also appeared to be agitating against his father-in-law by saying that he was going to run for the Kazakh presidency. Aliyev was quickly removed from all positions of power and a criminal case was opened against him in May 2007 in Kazakhstan and an international arrest warrant issued regarding criminal association, economic crimes, and kidnapping (later murder was added as a charge when the bodies of the bankers were found stuffed into barrels on a rubbish tip) (Global Witness,2015; Tagdyr, n.d).

One key question in the case was the extent to which it was Aliyev's clearly criminal wealth that was the source of funds for the property purchase. Aliyev was subsequently divorced from Dariga Nazarbayeva, something he claimed was performed without his consent, and that his signature was forged (Mayne and Heathershaw 2022: 44). It was clear that the divorce was used a pretext to transfer Rakhat Aliyev's business holdings directly to Nazarbayeva. She was also alleged in arbitration cases heard in the United States to have pressured Rakhat Aliyev's relatives to transfer their shareholdings in other businesses to her (SourceMaterial 2020). Nazarbayeva then sold the shares in two companies that had previously been owned by Rakhat Aliyev, a sugar company called JSC Kant and a Kazakh bank called

Nurbank, and invested most of the proceeds into property in the United Kingdom, two of which were subsequently issued with unexplained wealth orders. Therefore, the links to Rakhat Aliyev's wealth are clear from the evidence submitted to the court (Mayne and Heathershaw 2022: 37-38). It is highly likely that the properties were purchased with capital accumulated from criminal origins.

How could such kleptocratic wealth be laundered in this way? The first method used was a familiar one: *the layering of shell companies* and similar special purpose vehicles established by company formation agents and lawyers. The properties were bought using a bewildering array of companies, foundations and trusts. For example, a house on Denewood Road, located in the leafy north London suburb of Highgate, was held by Nurali Aliyev on trust for his mother, through a BVI company called Twingold Holding Ltd that was owned in turn by Nazarbayeva, Nurali Aliyev and a company called Sagitta Business Corp. According to Mishcon, Nurali was the beneficial owner of Sagitta. Nazarbayeva also bought a £40 million apartment in Mayfair using another BVI company called Dedomin International Ltd (Mayne and Heathershaw 2022: 42). This 'layering' of offshore companies is a standard technique used by kleptocrats to facilitate capital flight out of their home countries. All of these companies require registration agents, company directors and proxy shareholders, and presumably lawyers and wealth managers suggesting such structures and helping to set them up. All of the individuals involved will have varying degrees of knowledge of the beneficiaries, the sources of funds, and the reasons why such structures were being registered.

This technique of the layering of shell companies may be the reason why certain other properties were not included in the UWO issued. Testimony heard during the hearing suggested that the NCA could not unravel the ownership structure of the Baker Street property that featured prominently in the Global Witness report (High Court of Justice, March 10: 50). The enablers behind the obfuscation of ownership even appeared to modify the chain of ownership

to get around new transparency requirements: in early 2016, the UK government introduced a new disclosure element to UK companies, requiring them to publish details of anyone who controlled more than 25% of company shares – in essence beneficial owners, but dubbed in the register 'persons of significant control'. A few months before the requirement came into force, the ultimate legal owner of the UK company that owned the Baker Street property had been transferred to Landmark Network Real Estate Ltd, a company registered in Abu Dhabi, thus making it appear it had acquired a new beneficial owner. Landmark Network Real Estate Ltd had five owners, thus the UK company that Landmark in turn owned declared it had no persons of significant control, suggesting that the five owners of Landmark Network Real Estate Ltd each owned 20% of the UK company. This allowed it to avoid beneficial ownership disclosure and ensure that the Baker Street building's owners were kept secret. Investigative journalists at SourceMaterial highlighted links between Landmark and Dariga Nazarbayeva that the NCA did not seem to have unpicked prior to the issuing of the UWOs, leading them to theorise that this 'perhaps explains why [the Baker Street property] never featured in the 2019 McMafia [UWO] order' (SourceMaterial 2020). Subsequent investigations from 2020 (after the conclusion of *NCA v Baker*) established that in 2015 the Baker Street property was indeed owned by Dariga Nazarbayeva and their son Nurali Aliyev in a 90%/10% split. There is evidence to suggest that they continued to own this property at least until 2019 (SourceMaterial 2020). Its current ownership remains unclear – denoting success of the enablers to continue to obscure ownership.

A second means by which kleptocracy was enabled in this case is via the *concealing of clientelistic relations.* If the first reason involves active enabling in the design of complex ownership structures, the second is more passive as it involves the enabler simply not asking questions about business partnerships and relations between vendors and buyers. Only in cases of enhanced due diligence might we expect such questions to be asked. Otherwise, client

relationships that will be kept hidden from some of the legal enablers, preventing full knowledge of a potentially corrupt relationship that could trigger the reporting of suspicious activity to the authorities. For example, when Nurali Aliyev purchased a property in London in 2008, located on the so-called 'Billionaires' Row', he bought it for £39.5 million. However this was almost ten times less than what it was bought for by the property's previous owner, Hossein Ghandehari, who paid £4.21 million for it in July 2002 (Mayne and Heathershaw 2022: 42). Ghandehari, an Iranian investor, is the son of Hourieh Peramaa, a businesswoman originally from Kazakhstan, who also owns a house on the same road, which she bought for £50 million in 2008. In an article regarding this property purchase, Ghandehari said that his family has a personal relationship with Nursultan Nazarbayev (Bostock 2019). The purchase itself raised a suspicion that the deal was an example of a political elite using property to transfer wealth between themselves using UK real estate and aided by transnational networks.

This property was also issued with an unexplained wealth order. However, the National Crime Agency did not appear to examine the possibility of any further agreements between Ghandehari and Nurali Aliyev above that of the house purchase but focussed their attention on what Mishcon revealed about how Nurali Aliyev funded it. Here we find the usual 'offshoring' and 'layering' techniques, with the house purchased through another BVI company, Riviera Alliance Inc, which was wholly owned by another company owned by Nurali Aliyev, Greatex Trade and Invest Corp. Yet the payment itself was also routed through various companies: a $65 million loan issued by a Kazakh bank, Nurbank was received by one company owned by Nurali Aliyev, transferred to another company he controlled in a second loan agreement, and then sent to a third company, again owned by Aliyev. A transfer of £37.557 million was then made from this account to a client account held by Herbert Smith. To make matters even more suspicious, when the loan was issued in August 2008, Nurali Aliyev was Nurbank's chairman, a position he acquired in April 2007, and his mother, Dariga, was the bank's main shareholder,

having acquired her shares indirectly from Rakhat. During the court hearing, the lawyer for the NCA argued:

> This is just complexity for the sake of complexity. It is classic money laundering. Nurali Aliyev says that he got this money from a £65 million loan from his dad's bank, effectively, and then he is washing it between all of these different entities and there is no explanation… for this (High Court of Justice, March 10: 85)

Indeed, the fact that the money was loaned a second time to a further company was clearly unnecessary if Nurali owned both companies. A fair conclusion to draw is that Nurali was trying to obscure the origins of the loan and his ownership of the funds, which calls into question the legitimacy of the loan arrangement. When researchers asked Mishcon de Reya whether the loan had been paid back in full, the law firm did not respond (Mayne and Heathershaw 2022: 58).

A third means of the enabling of kleptocracy is structural: the *diffusion of responsibilities* across a variety of different enablers, both legal and financial. Again, behind this property transaction would have stood – along with Herbert Smith – a whole host of real estate agents, trust and service company providers, and bankers, all of which had responsibilities regarding the UK's anti-money laundering regulations regarding the conducting of enhanced due diligence regarding high-risk transactions and the reporting of suspicions of money laundering. With so many different enablers involved in a single transaction, without any having overall responsibility, they may have assumed that others were conducting the necessary checks. Indeed, the mere presence of others in any human activity make an individual less likely to take personal responsibility for reporting their suspicions. This is a well-known problem identified by social psychologists as leading to moral disengagement (Bandura 1999).

The general term ‘enablers’ conceals a huge variety of actors. What is interesting is how Dariga Nazarbayeva and Nurali Aliyev combined professional services of both high and low reputation to construct these company structures. Nurali’s company Greatex was, in turn, wholly owned by yet another company, Aldener International Inc, whose legal owners were Sarah and Edward Petre-Mears who held the company subject to a declaration of trust, presumably for Nurali Aliyev, although documents were not provided by Mishcon to the High Court to confirm this (High Court of Justice, April 8, Para 176.5.3). Sarah Petre-Mears, a UK-born woman resident in the Caribbean island of Nevis, has been identified as a ‘sham director’, as she controls more than 1,200 companies across the British Virgin Islands, Ireland, New Zealand and the UK, with *the Guardian* saying that: ‘Petre-Mears does not appear to need to know much about the people for whom she passes resolutions, allots shares and helps set up bank accounts. All she has to do is sign her name.’ (Ball 2012).

However, the question remains as to why competent legal firms proceeded with suspicious transactions. The conveyancing of both the Baker Street and the Bishops Avenue properties were done by Herbert Smith, a reputable London law firm who, unlike Petre-Mears would have been required to confirm the beneficial owners of the companies on whose behalf they were acting, and, as Nazarbayeva was, at the time of the purchase, the daughter of a politically exposed person, perform enhanced due diligence on the sources of wealth. The purchase of both properties would raise significant red flags – a bank chairman financing the purchase of a property through a loan granted by his own bank through a complex network of shell companies, and the sale of shares in a bank involved in high level accusations of criminal activity in regard to Rakhat Aliyev. However, the purchase was completed. We have no means of knowing whether enhanced due diligence was performed or a suspicious activity report submitted with regard to these transactions.

In sum, three features of the enabling of money laundering are visible from the NCA vs Baker documents: first, the layering of shell companies; second, inattention to hidden clientelistic relations; third, the diffusion of responsibilities among a network of enablers. These property purchases and ownerships were enabled by the constructions of chains of shell companies created by company formation agents and lawyers, some of which were designed to hide key relationships, such as the relationship between Nurali Aliyev and the $65 million loan from his family's bank which he used to finance the purchase of his house. These vehicles were accepted by major banks and law firms, apparently despite the checks that would typically be done where the buyers are politically exposed persons. Complex structures of ownership, multiple changes in ownership structure, and tax avoidance strategies were also techniques used in purchase and ownership. None of these techniques are themselves illegal. However, when applied to purchases where the ultimate beneficial owners were politically exposed persons and their sources of wealth may have been criminal, there are serious doubts as to whether the legally required checks on the persons and their wealth were undertaken adequately. Moreover, further questions arise as to how this suspicious wealth could possibly be explained by the lawyers of Dariga Nazarbayeva and Nurali Aliyev in the UWO case.

How kleptocracy was enabled in the explanation of the wealth?

On discovering that the beneficial owners of the properties were Dariga Nazarbayeva and Nurali Aliyev, the NCA could have amended the argument and/or reissued the orders as they still would have met the requirements – Nazarbayeva and her son were politically exposed people who held property worth over £50,000. However, it may be that fears that Nazarbayeva would have been able to easily explain her sources of wealth caused them to pursue the links to serious crime through Rakhat Aliyev, rather than the alternative third requirement – that the individual's known income was not sufficient to purchase the property. Therefore, the

challenge for the legal enablers was to disassociate their clients from the criminal wealth of Rakhat Aliyev.

The 248 pages of documentation submitted by Mishcon de Reya attempted to establish that the funds used by Dariga Nazarbayeva and her son to purchase the properties were not linked to Rakhat Aliyev's criminally obtained capital, and thus the UWOs had been issued in error. Two claims were made by the lawyers which enabled their clients to explain the 'legal' nature of their wealth. Firstly, Dariga Nazarbayeva received shares in a sugar company, JSC Kant, previously held by Rakhat Aliyev, as part of the divorce settlement, a company that the Kazakh general prosecutor had confirmed was not illegally acquired. Clearly reliance on such an authority is problematic, given the lack of independence of the Kazakh judiciary. However, this ruling aligned with the UWO legislation which states that income is lawfully obtained if it is generated legally under the laws of the country from where the income arises. Second, Mishcon claimed that Nazarbayeva's shareholding in Nurbank, the sale of which funded two of the UWO properties, was independent of Rakhat Aliyev, although a close analysis of Nurbank documents suggests that this was not the case (Mayne and Heathershaw 2022: 50-51).

Why did Mishcon de Reya succeed in making both these arguments? First, they were able to *provide specific evidence* gleaned from Kazakhstan where the defendants had formal and informal positions of influence. It appears that some of the material submitted by the lawyers was misleading, yet it was accepted by the judge at face value. For instance, SourceMaterial later claimed that the information submitted by Dariga Nazarbayeva was misleading, citing research that indicated that she may have sold JSC Kant to another company she controlled, which would therefore not represent a genuine sale, and not explain the wealth used to buy the property in Highgate (SourceMaterial 2020). However, the information submitted by Mishcon de Reya was not submitted as part of a witness statement, which meant

that certain provisions of the UWO legislation were not in effect, most notably the clause in the UWO legislation that makes submitting a false or misleading statement in response to a UWO a criminal offence. Mishcon claimed that: 'We categorically did not intend for the disclosure letter to replace compliance by Mr Baker and Manrick Private Foundation with the UWOs' (High Court of Justice 2020); however, the legal effect of the voluntary submission was clear.

Second, the legal enablers *established a non-kleptocratic explanation* for the sources of wealth. In court, the defence barrister framed the first defendant as simply a self-made woman. Clare Montgomery QC, representing Dariga Nazarbayeva, accused the NCA of 'an absurdly patriarchal view of the world… [that] there is a woman who is economically active throughout the period who might just have conceivably earned her own money through her own wits in support of the family rather than simply sitting back and taking what might be produced by her husband or son.' (High Court of Justice 2020, March 10: 29). Conversely, the NCA failed to establish this bigger picture of Nazarbayeva's wealth, as it did not submit expert witness testimony regarding the kleptocratic context in which the wealth was made. Although the NCA questioned certain aspects of the information provided by Nurali Aliyev and Dariga Nazarbayeva, what is noticeable is how much further critical analysis of the evidence could have been made not only in regard to its misleading and incomplete nature, but the kleptocratic conditions of Kazakhstan's political economy that allowed such wealth to be accrued. In response to this point, the NCA said that it

> argued before Mrs Justice Lang that the material [submitted by the defendants] was inadmissible or that no weight should be attached to it, highlighting that it was not supported by witness evidence or verified by a statement of truth, its provenance was

unclear, and there were grounds to believe that documents were forged. This was not accepted by the judge who accepted the truth of the documents.[1]

These arguments regarding provenance and forgery may carry greater weight if the NCA had submitted testimony regarding the kleptocratic nature of governance in Kazakhstan where property and law are not general rights but possessions of a ruling elite.

This highlights a third reason why the suspicious wealth was 'explained': *failures of investigation and judgment*. The UWOs were dismissed by the presiding judge, Ms Justice Lang, who ruled that the NCA had not demonstrated the link between the properties and Rakhat Aliyev. Ms Justice Lang commented that the NCA's underlying assumptions and reasoning were 'unreliable' and 'flawed' (High Court of Justice 2020, April 8). However, the judge herself appeared to accept and afford weight to information from Kazakh law enforcement bodies, and prepared with other material into a readable package by Mishcon de Reya, as ostensibly legitimate. Ms Justice Lang was happy to cite second-hand information from Mishcon in her judgement, noting that Nazarbayeva 'is a successful businesswoman who was named in Forbes list of richest people in Kazakhstan in 2013' (High Court of Justice 2020, April 8, para 68). The judge also did not question why Nazarbayeva and Aliyev had used such complex structures in the first place. During the High Court hearing, the NCA highlighted the 'very considerable steps' that were taken to hide Nazarbayeva/Aliyev's identities: 'a reasonable person is bound to ask why such a structure has been used, given its location (in an unusual jurisdiction), and the time, expense and risk likely to arise in using it.' (High Court of Justice 2020). Ultimately the judge sided with Mishcon de Reya which argued that the use of such structures was legal and recognised as legitimate by the UK government. However, according to Spotlight on Corruption, this may have been the first time where complex, unnecessary

structures were not in and of themselves accepted as grounds for suspicion and thus a basis for further investigation (Spotlight on Corruption 2021).

Comparison with the earlier UWO case suggests that the reasons why the suspicious origins of wealth were explained appear to have relatively little to do with the facts of the case, which are remarkably similar to that of Zamira Hajiyeva where the wealth was deemed to be unexplained. What made the difference in *NCA v Hajieyva* is that the enablers were unable to construct a narrative around the funds being used to purchase of the house – these were never submitted to the court, but presumably were related to Jahangir Hajiyev's earnings from his former bank, IBA. At the time of the UWO, Hajiyev had been dismissed from the bank, and jailed in relation to alleged fraudulent activities perpetrated using shell companies he controlled at the bank. Hajiyev's wife claimed that he was imprisoned after a 'completely unfair' politically motivated trial (High Court of Justice 2018). Thus, with new management at the bank, and Hajiyev no longer protected by Azerbaijan's security services or prosecutor's office, such information – key to the defence against a UWO – was not available to them.

In comparing the two cases, we can see that the 'incumbency advantage' visible in our general data has specific causal mechanisms that are present in the NCA vs Baker case. These mechanisms are seen in how the legal enablers of Mishcon de Reya were able to acquire evidence, challenge the kleptocracy narrative, and convince the judge. In *NCA v Hajiyev,* the judge ruled that that it was the income disparity that led him to uphold the UWO, rather than the allegations of serious crime (which were tainted by possible political motivations of a kleptocratic state) that led to his jailing. Yet without this fall from grace from the Azerbaijani business and political elite, the evidence to 'explain' Hajiyev's wealth may have been available to the enablers from Azerbaijan. In *NCA V Baker*, the judge accepted evidence from the Kazakh prosecutor's office (as the legislation indeed instructs her to do so), but she did little to interrogate – despite claims from the NCA that the information was incomplete, or even

possible forged – misleading evidence submitted by Mishcon de Reya. This was, however, in large part because the NCA did little to demonstrate the nature of Kazakhstan's kleptocracy, which would support the creation of misleading 'evidence' in favour of a member of the president's family.

These features of enabling are not unique to this case. Major law firms representing wealthy clients have far more resources to expend on cases that the poorly funded NCA. As noted by Spotlight in Corruption, the NCA's anti-corruption work budget has been just over £4 million annually since 2015 (Sinclair 2020), with a 2017 Home Office impact assessment predicting that the legal costs per UWO case would be between £5,000 and £10,000 (UK Government 2017, June). Judges in English courts in a system which lacks a specialist economic crime court are often called upon to make judgments on complex cases in countries where they lack contextual knowledge and expert witness testimony. As the Director General of the UK National Economic Crime Centre, Graeme Biggar, commented that he disagreed with the High Court's decision to discharge the UWOs: 'The NCA is tenacious. We have been very clear that we will use all the legislation at our disposal to pursue suspected illicit finance and, indeed, we will continue to do so.' (Sims 2020). However, the NCA's appeal was refused.

Conclusions

The purpose of this article has been to shed light on the enabling of transnational kleptocracy via the close study of an exemplary case where tens of millions of pounds in property purchases were made in London on behalf of members of Kazakhstan's ruling Nazarbayev family. In this case, we were able to study both the original transactions and their subsequent legal explanations. With regards to the transactions, we found three features of this enabling: their creation of complex offshore ownership structures; their apparent failure to ask questions about clientelistic relations which tie beneficial owners to criminal sources of wealth; the diffusion

of responsibilities among enablers without a single impartial overseer of the transaction. With regards to the explanation, we found a further three aspects: the provision of specific but questionable evidence from the country of origin; the crafting of a non-kleptocratic grand narrative on the sources of wealth; and failures of both investigation and judgment by the NCA and English court respectively. In both the laundering of money and the subsequent explanation of the wealth, legal enabling is an active, passive, and structural feature of kleptocratic relations.

The findings from this study also demonstrate that UWOs have hitherto failed as a specific instrument of the anti-money laundering regime. In March 2022, the Economic Crime (Transparency and Enforcement Act) was rushed through in response to the Russian invasion of Ukraine and included long promised legal reforms of UWOs. However, these changes – relating to the identity of the respondent and the issue of costs – will have little effect on the wider problem of legal enabling of economic crime and the failure of the current supervisory system to prevent it (Mayne and Heathershaw 2022: 6). A principal issue within the financial and non-financial sectors is that, as a result of the complex and diffuse supervisory system, one firm may be regulated by multiple bodies due to the activities their firm may conduct. This approach can lead to significant challenges such as a lack of understanding and communication between regulatory bodies, professional conflicts of interest, where individuals may be disinclined to report on their peers, and finally a lack of homogeneity with regard to quality of supervision across the board (FATF 2021; Rahman 2021: 4). These challenges can have an effect on the quality of supervisory standards across the board.

The story of the failure of UWOs speaks to wider problems of regulation and enforcement in Britain. The UK the system of loose- or self-regulation has been described as a ‘patchwork’, ‘structurally unsound’ and a form of ‘low-cost model which outsources the responsibility for regulatory oversight’ (Transparency International 2015: 8). A recent report

by Spotlight on Corruption highlighted further findings of concern specific to the legal sector including that 71% of firms visited by the biggest legal sector supervisor had not established an independent audit function to gauge the effectiveness of their anti-money laundering processes (Spotlight on Corruption, 2022 October). Despite the introduction of the Office for Professional Body Anti-Money Laundering Supervision (OPBAS) as the supervisor of supervisors, the regulatory landscape itself remains diffuse and inadequate. The latest OPBAS review reveals that 81% of the 22 professional body supervisors do not have an effective risk-based approach to supervising their members and that the firms whose activities pose the highest risk for money laundering are not being supervised in proportion to this risk (Spotlight on Corruption, n.d.). Furthermore, Wood (2020) notes an apparent reluctance to use more robust powers such as the naming and shaming of regulators and proposes a more 'uncompromising approach' from the UK government to meet the twin challenges of regulation and enforcement.

Finally, there are several important implications from this study for how we understand the nature of transnational relations in global politics. These pertain to the nature of transnational kleptocracy and how it frequently triumphs over transnational anti-corruption activism. Firstly, kleptocracy is transnational in nature because it demands networks of different professionals, including lawyers, located in various jurisdictions to move money around through chains of shell companies and provide safe havens for kleptocrats and their wealth in the form of residential real estate. Secondly, legal enablers not only exploit loopholes existing in rule-of-law jurisdictions like the UK but indirectly take advantage of the lack of rule of law of the home countries of kleptocrats by presenting evidence from the corrupt authorities of these countries. Thirdly, the current anti-money laundering system is wholly inadequate in dealing with kleptocratic flows, because it relies to a large extent on self-enforcement on behalf of the very individuals involved in the transactions and accept evidence submitted to the courts

from the country of origin as legitimate. Transnational activists may occasionally expose the tips of the icebergs of transnational kleptocracy, but it's legal enablers that make sure that what goes on beneath the surface remains hidden from the authorities.

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Table 1: 2 x2 matrix of findings with respect to (a) property in 88 known cases

	Inside-Out?	Outside-In?
Incumbents	100% (73/73) retain property	0% (0/73) lose property
Exiles	80% (12/15) lose property	20% (3/15) retain property
Overall	97% (85/88)	3% (3/88)

[1] Correspondence between the National Crime Agency and Prof. John Heathershaw, 28 January 2022