



Safe Harbor No More The UK and International Kleptocracy

By Oliver Windridge

The United Kingdom enjoys the dubious honor of being a destination of choice for laundering the proceeds of grand corruption.^{1,2} Kleptocratic leaders across the world, including from Sudan, South Sudan, and the Democratic Republic of Congo (DRC), target the UK to spend their ill-gotten gains on property, education for their children, and luxury goods. They enjoy the largesse of the UK while presiding over some of the world's most serious human rights violations, their states often on the verge of collapse and characterized by violence and weak institutions.

These illicit financial flows from violent kleptocracies can be disruptive to the UK's business and investment interests overseas, and they have the potential to damage the UK's position as a leading international financial center. The flow of international illicit finance into the UK also undermines the country's stated aim of supporting and promoting rules-based international systems,³ and the British government has identified corruption as a cause of conflict and instability.⁴ It has made clear the vital importance of preserving the UK as one of the world's leading international financial centers with a strong and open economy.⁵ This is especially important given the UK's position as one of the leading foreign investors in Africa,⁶ and the British government intends to grow investment in Africa further,⁷ with the goal of becoming the largest G7 investor in the region by 2022.⁸

To disrupt the international illicit financial flows that underpin this reality and make it difficult for kleptocratic leaders to use the UK as a safe harbor,⁹ the British government, finance sector, law enforcement, and other related industries should use existing tools to impose immediate measures on corrupt leaders and their networks of enablers. In concert with the European Union, the United States, and others, the UK should adopt innovative and hard-hitting new policies and legislation to target violent kleptocratic leaders where it hurts the most—their pockets. A proactive approach that stems the flow of illicit finance will not only ensure that the UK can protect its own reputation, but it will also allow the UK to play a leading role in dismantling the financing of Africa's deadliest conflicts.

Corrupt Actors

Leaders

The leaders of the kleptocratic nations at the heart of The Sentry's work use international illicit financial flows for two intertwined purposes: to fund ongoing conflict and for personal enrichment. For example, the illicit natural resource trade



in the DRC generates \$1.25 billion per year, and according to British government reports, this money finances more than 8,000 armed fighters who are destabilizing the country.¹⁰

For many leaders, the lure of the UK is clear. Property can be purchased in an open market with little regulation on foreign ownership or on the use of complex trust and company vehicles to disguise and protect beneficial owners. In London in particular, property is a reliable investment with the potential for significant profit. Additionally, money can be housed in some of the world's leading financial institutions in one of the oldest and most established banking environments, providing instant prestige. Luxury goods from top brands can be purchased at leading retail destinations, instantly displaying status and wealth. The younger members of kleptocratic leaders' networks can secure education at some of the world's most exclusive private schools, ensuring entry into the upper echelons of global society. These hallmarks of British luxury—whether it's a Savile Row suit, a Mayfair apartment, a prestigious private education, or a Bentley motorcar—act as magnets for kleptocrats seeking to use the spoils of corruption to acquire the appearance of power and membership in the international system, both of which are key factors in maintaining an iron grip on their impoverished nations.

Enablers

While kleptocratic leaders enjoy the lavish lifestyle available in the UK, they cannot achieve it on their own, nor do they necessarily want to be directly linked to their illicit wealth. As a result, they often rely on influential enablers to assist and facilitate their access.

Friends and family act as enablers by allowing their names and identities to be used to move money out of home countries and into the international financial system. This is often done to avoid using the name of the kleptocratic leader, with the enabler acting as a quasi-trustee for illicit gains. This off-the-books approach frequently involves a chain of enablers and is designed, at least in theory, to protect kleptocratic leaders from potential legal actions or political attacks for overt corruption. The friends and family enabler role can involve opening bank accounts, setting up and operating businesses, and buying and holding property in their name. These enablers therefore hold, sometimes literally, the keys to a kleptocrat's vault of dirty money, and so complete trust between kleptocrats and their enablers is vital. However, this trust means that leaders can only rely upon only those closest to them, allowing for clear links to be uncovered in the operation of these schemes.

In addition to using family and friends as trustees or nominee shareholders and directors, kleptocratic leaders may also employ professional enablers, including UK nationals or residents. Whether businesspersons, lawyers, bankers, real estate brokers, or accountants, these individuals work alongside kleptocratic leaders to provide professional services, or they own company shares and are closely linked to the movement of money into and out of the UK.¹¹ For example, The Sentry has pinpointed several UK shareholders in companies implicated in the theft of state resources in South Sudan and has identified British businesspersons who appear to be using their companies as vehicles through which South Sudanese elites can secure lucrative government contracts.^{12, 13} Additionally, The Sentry documented some of the assets accumulated by professional enablers at the heart of kleptocratic regimes, including the purchase of million-pound London properties.¹⁴

The Tools

Fortunately, the UK has an intricate web of legislation and regulation designed to catch kleptocratic leaders and their enablers. These tools are broadly divided into three areas: anti-money laundering measures, network sanctions, and law enforcement. These areas coexist and overlap, but all are key to stemming the flow of illicit finance into the UK and



leveraging real change. While the framework is largely in place, the UK must use these tools boldly and effectively.

Anti-money laundering regulations

When money is the key driver, as is the case for international illicit financial flows into the UK, banks are never far away. The UK has one of the largest, oldest, and most respected banking industries in the world. This elevated status brings with it the allure of providing a kleptocratic leader with a veneer of legitimacy, a stable location for investment, and open access to the international banking market. Banks are often the first line of defense against the laundering of criminal proceeds. Major financial institutions hold significant amounts of information and data from which specialists charged with investigating illicit financial flows may unearth evidence of the often-complex webs of transactions that trace back to kleptocratic leaders.

But the potential anti-money laundering issues do not stop with banking products. When the proceeds of kleptocracy are laundered in the UK—for instance, through the purchase of property and other assets—parts of the UK’s economy are also open to exploitation.¹⁵ The British government has highlighted the risk of UK trust and company service providers acting as vehicles for “the circumvention and contravention of financial sanctions.”¹⁶ In addition, London is home to many of the world’s leading financial technology (FinTech) firms and to the oldest and most well-respected gold market in the world. Whether dealing in gold, as has been done for hundreds of years, or working on cutting-edge digital financial platforms, London holds a unique place in global financial markets to which kleptocratic leaders seek access.

The UK government has increased its response to the myriad challenges illicit financial flows present to the UK.¹⁷ Most recently, the National Economic Crime Centre (NECC), in conjunction with the then-Foreign and Commonwealth Office (FCO) and the Department for International Development (DFID), issued an alert on illicit finance risks associated with South Sudan.^{18, 19} This alert notified financial institutions and other industries of the dangers of illicit financial flows from South Sudan, and it is the first country-specific alert of its kind issued in the UK.²⁰ The alert also demonstrated how coordinated cross-governmental initiatives can be used to highlight areas of serious concern to the UK’s financial center on rule of law issues, particularly in corruption-prone states such as South Sudan. Further NECC alerts can help to create a global trend of alerts from international financial centers.

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In addition, the UK has taken a leading role in new and innovative collaborations between the public and private sectors to combat money laundering. This includes the establishment of the innovative Joint Money Laundering Intelligence Taskforce (JMLIT). Created in 2015 and hosted by the National Crime Agency (NCA), JMLIT membership includes Her Majesty’s Revenue and Customs, the Serious Fraud Office, the City of London Police, the Metropolitan Police Service, the Financial Conduct Authority, and the fraud prevention service Cifas, together with 40 financial institutions, and aims to exchange and analyze financial information linked to money laundering and other economic crime threats. According to the British government, “The JMLIT operates on both a tactical level, through its operations group, and at a strategic level, through Expert Working Groups that focus on key priority areas such as bribery and corruption, trade-based money laundering, terrorist financing, and money laundering through capital markets.”²¹ The JMLIT has resulted in the improved exchange and analysis of financial intelligence between the public and private sectors, leading to several other countries establishing similar public-private information-sharing platforms.²² Since its launch, the JMLIT has been involved in hundreds of law enforcement investigations that resulted in over 150 arrests and the seizure or restraint of over £34 million



(approximately \$45 million), demonstrating the impact that effective private-public engagement can have.²³

The British government has also stated that it is making efforts to reform its Suspicious Activity Reporting (SARs) regime.²⁴ Recent leaks from the US Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) relating to the use of SARs have brought the need for reform into sharp relief. However, more creative solutions are also required, such as the issuance of financial advisories and public notices that can assist in sharing vital information across private and public sectors.

Improvements are planned for ownership transparency, as well, to prevent criminals from using complex corporate structures to conceal their involvement in illegal activity and to launder their proceeds.²⁵ The UK has begun to reform beneficial ownership regulations, most notably through the introduction in 2016 of the first public register of people with significant control over companies, or beneficial owners, but a truly comprehensive transparency of ownership regime is required to prevent kleptocrats and their enablers from hiding their ownership of entities and presence in the UK, including in Crown dependencies and overseas territories.²⁶

Sanctions

The UK has long recognized sanctions as effective tools to advocate for and encourage change in some of the world's most repressive nations, and for decades the country has enjoyed a leading role in guiding, creating, and implementing sanctions designations emanating from the UN and EU. The role of sanctions is likely to come into even sharper focus as the UK government fully implements its newest sanctions legislation, the Sanctions and Anti-Money Laundering Act 2018 (SAMLA).²⁷ This legislation is necessary to provide coverage for EU sanctions regimes that will cease to apply in 2021 following the UK's withdrawal from the EU. It also provides the UK with the power to create its own autonomous sanctions regimes, offering a real opportunity and greater flexibility to aggressively target leaders of violent kleptocracies and their network of enablers through the use of network sanctions. In particular, SAMLA gives the UK, for the first time, the power to impose sanctions in the interest of international peace and security and to provide a deterrent to or accountability for gross violations of human rights,²⁸ meaning that the UK can pursue leaders and enablers who are financing ongoing conflict. In July 2020, this power resulted in the launch of the Global Human Rights sanctions regime, a human rights sanctions program with jurisdiction over three key human rights, and the simultaneous designation of an initial 45 individuals and companies.^{29, 30} While this program serves as a welcome starting point, its scope does not currently include corruption. This absence should be addressed, with corruption added as a sanctionable criterion as soon as possible. Only with the power to sanction for both human rights abuses and corruption can any sanctions program hope to fully influence the behavioral changes that are the goal.

Targeted sanctions can be an effective tool when used appropriately, but they are not a complete answer to some of Africa's deadliest conflicts. Effectiveness depends not only on the careful designation of sanctions, but also on the clarity of messaging surrounding designations and on their ongoing maintenance and enforcement.³¹ In the US, the Global Magnitsky program has resulted in sanctions designations that have directly impacted individuals and their networks who otherwise may never have had to account for their actions. While no two countries are the same, the US Global Magnitsky program does demonstrate how targeted network sanctions can be an effective tool of financial pressure.

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Law enforcement

Completing the UK tool kit is UK law enforcement and the important role it plays at both the international and domestic levels. The UK is home to several law enforcement agencies that can help stymie illicit financial flows. These agencies include the Serious Fraud Office (SFO), with a remit to investigate and prosecute serious or complex fraud, bribery, and corruption,³² and the National Crime Agency (NCA),³³ within which are housed the National Economic Crime Centre (NECC),³⁴ the International Corruption Unit (ICU),³⁵ and the International Anti-Corruption Coordination Centre (IACC).³⁶ Alongside the UK's Foreign, Commonwealth and Development Office (FCDO), the NCA can look beyond the UK's borders to ensure that kleptocrats cannot gain a foothold in the UK.

In the past decade, UK law enforcement agencies such as the SFO and NCA have obtained modern and pioneering legislative powers to freeze and seize UK-based assets and funds, directly affecting the flow of international illicit finance into the UK. Some of these powers dispense with the need for a criminal conviction before going after assets that law enforcement agencies suspect may have been acquired as the result of illicit behavior—so-called “civil recovery powers.” For example, unexplained wealth orders (UWOs) can be used to freeze assets and compel individuals to explain the source of wealth used to purchase assets. If no reasonable explanation is given as to how such assets were acquired legitimately, they can then be seized permanently under associated civil recovery powers.³⁷ UWOs have already been used to seize property worth millions of pounds related to jurisdictions outside Africa and could have a similar impact on African kleptocrats looking to use their ill-gotten gains to purchase property and other assets in the UK. For example, the NCA has successfully seized property worth tens of millions from the family of a senior Azerbaijani banking official.³⁸ The NCA successfully argued that the official's legitimate salary would never have allowed him and his family to acquire and enjoy the luxury London home, golf course, and £16 million (over \$21 million) in Harrods' goods at the center of the legal claim.³⁹ Such a disparity between an official's salary and assets will be familiar to many following the spending of African leaders. Alongside UWOs, account freezing orders (AFOs) can freeze illicit funds in banks and building society accounts; the funds can subsequently be forfeited.⁴⁰ The NCA recently used AFO powers to freeze over £100 million (approximately \$133 million), and these orders could have a significant impact if used on corrupt leaders housing illicit finances in British banks.⁴¹

In addition, UK law enforcement is armed with legislation that applies to the criminal conduct of kleptocratic leaders and their enablers, such as the bribery of foreign public officials, which is covered under the Bribery Act 2010,⁴² and wide-ranging money laundering offenses, which are covered under the Proceeds of Crime Act 2002.⁴³ Using all of these authorities in concert, UK law enforcement can further disrupt kleptocratic leaders' wealth by targeting their property, luxury goods, and bank accounts while also pursuing criminal prosecutions of leaders and their networks of professional enablers.

Conclusion

The UK government has made it clear that international illicit financial flows undermine all three of its national security objectives: to protect its people, to project its global influence, and to promote prosperity.⁴⁴ However, the UK remains high on the list of desirable destinations for kleptocratic leaders. With some of the world's most respected financial institutions, a lucrative property market, and access to luxury goods and lifestyles, it is no wonder that many of those gaining so much from the world's deadliest conflicts choose to move their money to the UK. To disrupt this illicit financial flow, the UK has a wide range of tools at its disposal. Both the public and private sectors seem aware of the danger, and encouraging signs have begun to emerge, not least of which is the UK's recently published Economic Crime Plan. Indeed, as the



chairman of UK Finance notes, “Simply put, we want the UK to be the safest and most transparent place in the world to conduct financial business.”⁴⁵ British financial institutions, government departments, and law enforcement must ensure that the UK operates a robust anti-money laundering framework, aggressively imposes and implements network sanctions, and uses relevant legislation to prosecute and seize assets connected to kleptocratic leaders and their networks. By using the tools available in a consistent, bold, and effective manner, the UK can ensure it is a safe harbor no more.

Recommendations

- The UK government must continue to approach the issue of international illicit financial flows holistically, requiring input from both the private and public sectors. No one agency, government department, civil society organization, or private institution can effect real change alone.
- The UK government must partner with financial institutions to effectively implement and strengthen anti-money laundering regulations, including by issuing further alerts, executing a root-and-branch review of the SARs regime, and strengthening legislation.
- The UK government should embrace the opportunities afforded by the new Global Human Rights sanctions regime and commence with an autonomous sanctions program that uses targeted network sanctions against kleptocratic leaders and their enablers.
- The UK government should complement the new Global Human Rights sanctions regime with the addition of corruption—either as part of the new regime or as a stand-alone regime running in parallel—as soon as possible.
- UK law enforcement must use all the tools available, whether criminal legislation or civil asset recovery powers, to investigate, identify, and seize or freeze assets in the UK and halt the flow of international illicit financial flows into the UK.



Endnotes

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