



HOW TO TACKLE THE PROFESSIONAL ENABLERS OF CORRUPTION

- The Paradise Papers revelations give an unprecedented insight into the workings of the shadowy system of tax havens and offshore lawyers. Lawyers should work to uphold both the letter and the spirit of the law, instead of helping the rich and powerful evade, avoid or skirt it.
- Whilst these new leaks are shocking in their scale, the story they tell is not a surprise. Time and again Global Witness has exposed lawyers facilitating corruption and money laundering – either handling dirty money or setting up shell companies for suspicious clients. These are not victimless crimes – they enable the plundering of government funds that should be providing essential services like healthcare and education to people living in poverty.
- Ultimately, lawyers must be held to account when they facilitate wrongdoing for their clients. We need tougher rules to tackle money laundering and white-collar crime and powerful regulators willing to fine those responsible and hold those at the top to account.

THE UK'S TAX HAVENS

It is no coincidence that more than half of Appleby's offices are based in UK tax havens: they are at the heart of the shadowy offshore system.¹ These secretive islands are ultimately the UK's responsibility, and the UK government must ensure that the professionals that operate there are regulated effectively. The UK can't let its tax havens be a wild west for dodgy business dealings

US LAWYERS

There are currently no rules requiring US lawyers to do anti-money laundering checks on their clients or on the money they handle. This leaves the US wide open to dirty money: it is a giant loophole that must be closed.

THE PROBLEM

Lawyers, and other professionals, can act as professional enablers of economic crime and corruption. This can be by creating criminal systems or failing to detect and prevent the flow of suspicious funds – either through wilful negligence or through outright incompetence. These problems are particularly notable in relation to lawyers' role in cases of corruption and money laundering.

ADVISING HOW TO MOVE SUSPECT FUNDS

An undercover investigation by Global Witness in 2016 exposed the role lawyers can play in advising how to move suspect funds into the US. Wearing a hidden camera, an investigator posing as an adviser to a foreign government minister met with 13 New York law firms. He asked the lawyers how to anonymously move large sums of money that should have raised suspicions of corruption. In all but one case, the lawyers provided suggestions on how the minister might get the money into the US without detection.²

HANDLING CORRUPT CASH

Lawyers have also handled corrupt or suspicious funds on behalf of their clients, avoiding the anti-money laundering checks that banks are supposed to do on their clients.

According to a US Senate inquiry, from 2004 to 2008, Teodorin Obiang, son of the President of Equatorial Guinea, used U.S. lawyers to move tens of millions of dollars of suspect funds into the United States. Two lawyers helped Obiang circumvent U.S. anti-money laundering controls by allowing him to use attorney-client, law office, and shell company accounts as conduits for his funds and without alerting the bank to his use of those accounts.³

Global Witness investigations have revealed how Teodorin enjoyed multi-million dollar spending sprees - a \$35 million Malibu mansion, speedboats and a fleet of fast cars - whilst earning a ministerial salary of between \$4,000-5,000 a month.⁴ Obiang was recently found guilty of corruption by a French court, ordering the confiscation of assets worth around £100 million.⁵

At the same time three quarters of the people of Equatorial Guinea are living in poverty, despite the country's huge oil wealth.

¹ Appleby has offices in 10 locations, of which six are UK-linked tax havens: Bermuda, BVI, Cayman Islands, Guernsey, Isle of Man & Jersey. The other offices are located in Hong Kong, Mauritius, Seychelles & Shanghai. <http://www.applebyglobal.com/>

² <https://www.globalwitness.org/en/reports/loweringthebar/>

³ <https://www.hsgac.senate.gov/download/report-psi-staff-report-keeping-foreign-corruption-out-of-the-united-states-four-case-histories>

⁴ <https://www.globalwitness.org/en-gb/campaigns/corruption-and-money-laundering/banks/secret-life-shopaholic/>

⁵ <http://www.telegraph.co.uk/news/2017/10/27/france-convicts-equatorial-guineas-vice-president-corruption/>

LACK OF REGULATIONS FOR FAILING TO PREVENT ECONOMIC CRIME

Economic crime includes corruption and money laundering, but also encompasses crimes such as fraud and false accounting. While there are some exceptions, such as the UK Bribery Act or the new ‘failure to prevent’ tax evasion offense, there is no UK law that creates a meaningful corporate offence for failing to prevent or facilitate economic crime. The UK government has recognised the weaknesses in the current system for holding companies liable for economic crime but has so far failed to act.⁶ The Ministry of Justice has yet to respond to a consultation about creating a new corporate criminal liability offense that concluded in March.

WEAK OVERSIGHT AND ENFORCEMENT

In the UK, the government’s recent money laundering risk assessment identifies lawyers as being a high-risk sector for money laundering. Despite this high risk, the legal sector made up less than 1% of reported suspicious transactions between October 2015 and March 2017⁷ – a level the government recognised as ‘low’. At the same time, the main body regulating breaches of UK anti-money laundering rules - the Solicitors Regulation Authority – can only issue fines up to £2,000 – though serious breaches can be referred to a disciplinary tribunal.⁸

THE SOLUTIONS

- All lawyers and similar professionals should be required to do the same anti-money laundering background checks that banks and other institutions are required to do. This should include when they are setting up companies or other arrangements for clients and when they are handling clients’ funds.
- Existing laws, such as the UK offence of the failure to prevent bribery, should be widened out to include all other economic crimes – making it much easier to hold corporate entities to account for committing or enabling economic crimes.
- Ensure there is consistent, effective regulation and oversight of key professions such as lawyers – and make sure those regulators are independent and have the power and will to levy serious penalties on those that break the rules.

⁶ https://consult.justice.gov.uk/digital-communications/corporate-liability-for-economic-crime/supporting_documents/corporateliabilityforeconomiccrimeconsultationdocument.pdf

⁷ <http://www.nationalcrimeagency.gov.uk/publications/suspicious-activity-reports-sars/826-suspicious-activity-reports-annual-report-2017/file>

⁸ <http://www.transparency.org.uk/publications/dont-look-wont-find-weaknesses-in-the-supervision-of-the-uks-anti-money-laundering-rules/>