

Gatekeepers, Enablers or Technicians?

The contested role of lawyers as facilitators of kleptocracy and grand corruption

March 2025

This research is part of the Governance & Integrity Anti-Corruption Evidence (GI ACE) programme which generates actionable evidence that policymakers, practitioners and advocates can use to design and implement more effective anti-corruption initiatives. GI ACE is funded by the UK Foreign, Commonwealth & Development Office (FCDO). The views expressed in this report do not necessarily reflect the UK Government's official policies.

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Charity Number (England and Wales)
1185872.

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This report presents the findings of interdisciplinary academic research that explores the contested role of lawyers in relation to kleptocracy, state capture and grand corruption. Focusing on the role of solicitors in England and Wales, the research analyses the different narratives used to criticise and defend lawyers and law firms who act for the beneficiaries of kleptocratic wealth.

Conducted under the Anti-Corruption Evidence Programme, the project situates this lively debate about the role of lawyers as "*professional enablers*" on a sound evidential basis. The research involved a review of recent academic scholarship on transnational kleptocracy and legal ethics, semi-structured interviews with 28 experts (mainly lawyers), an analysis of 1,596 public comments posted in response to ten relevant media articles, and a review of the professional codes of conduct of 20 UK law firms.

While the full academic paper will be published in due course, this report highlights the key research findings and draws out relevant insights for policymakers, regulators and the legal profession. It explores how the services of UK lawyers can be used to facilitate and legitimise the global flow of corrupt capital, exposes the regulatory gaps in the UK's defences against this dirty money, and unpacks the most common arguments and counter-arguments in debates about whether lawyers should take on work which is "*lawful but awful*".

Particular attention is given to the perspectives of lawyers themselves, to understand how they position and perceive their own role in relation to kleptocracy, state capture and grand corruption. This not only reveals the ethical faultlines that divide opinion, but also points to powerful drivers of decision-making by law firms that help explain the shifting "ethics" of the legal profession in relation to clients with kleptocratic wealth.

Key findings

1. Transnational kleptocracy and grand corruption are sustained by global networks of professionals upon which corrupt elites rely to transfer and access their dirty money overseas. Lawyers often play a **keystone role within the global architecture of enabler networks**, offering a valuable suite of professional services and lending special credibility to transactions.
2. The Anti-Money Laundering (AML) regime is a vital safeguard against illicit finance, but its narrow focus on criminal activity means it does not adequately capture the proceeds of kleptocracy, state capture and grand corruption. This leaves a **major regulatory gap** in the UK's defences against dirty money, currently filled by the choices that lawyers and law firms make in accepting or refusing this work.
3. The contestation over labels – “*enabler*”, “*gatekeeper*” or “*technician*” – reflects **deep-seated differences in opinion** about the role and responsibility of lawyers when acting for the beneficiaries of kleptocracy, state capture and grand corruption. The interviews revealed four distinct perspectives among legal professionals:
 - a. **Reformers** approach the issues with a clear moral framing, and consider there to be a problem that requires attention from policymakers, regulators and the legal profession itself.
 - b. **Engaged sceptics** engage deeply with the moral debate and acknowledge the ethical complexities of client selection, but remain cautious about the unintended consequences of regulatory interventions.
 - c. **Minimalists** default to the standard conception which sets legality as the boundary for decision-making and dismiss broader moral responsibility while stopping short of defending the status quo.
 - d. **Defenders** not only reject the notion that there is a problem to be addressed but consider criticisms about the ethics of client selection to be misplaced and a threat to the rule of law.
4. The five most common arguments and counter-arguments advanced to defend or criticise lawyers reveal **key ethical faultlines** that policymakers and regulators must navigate when grappling with the role of UK lawyers in facilitating global illicit financial flows:
 - a. **Law as a business vs law as a public profession:** Lawyers compete for business in a commercialised and globalised market, but they are no ordinary market participants because as members of a public profession they have a primary duty to serve the public interest.
 - b. **Client interest vs public interest:** A lawyer's professional duty to act in their client's best interests may come into conflict with (overriding) professional duties that safeguard the wider public interest, with an urgent need for guidance on how lawyers should manage these conflicts.

- c. **Right to representation vs client selection:** Access to justice and the right to representation are fundamental principles that must be protected to uphold the rule of law, but they are often selectively applied or misapplied for commercial reasons in a way that ultimately services the interests of corrupt elites who have enriched themselves in contexts that ignore the rule of law.
 - d. **Neutral technician vs moral agent:** Some lawyers see themselves as neutral practitioners who advance their client's interests within the parameters of the law, but this view can allow them to turn a blind eye to how their specialised services can be used to exploit regulatory loopholes and legitimise corrupt capital.
 - e. **Individual accountability vs collective responsibility:** The accountability gap between the choices of individual lawyers and law firms and the broader social impact of the legal profession undermines coordinated efforts to tackle the profession's role in relation to kleptocratic wealth.
5. Several key drivers of decision-making around client selection help explain the **shifting "ethics"** of the legal profession in relation to kleptocratic wealth:
- a. **Firm culture** is increasingly shaped by commercial interests, with ethical considerations often treated as questions of AML compliance rather than embedded in firm culture.
 - b. **Geopolitical developments** can prompt reactive and selective "*de-risking*" by firms in relation to some clients with kleptocratic wealth, such as the Russian oligarchs, while applying a double standard to other high-risk work.
 - c. **Reputational interests** of law firms are often used as a proxy for ethical considerations, with the substantive problem of "*professional enabling*" recast as a reputational problem to be mitigated, managed or even marketed.

Policy observations

There are a range of potential strategies for addressing the regulatory gaps and ethical complexities around the role of lawyers in relation to kleptocracy, state capture and grand corruption – including legislative reform, regulatory interventions, and initiatives to drive norm-based culture change.

In considering what strategy – or combination of strategies – might be the most effective:

1. Understanding the contestation both within and outside the profession is important for identifying the sticking points in debate, building consensus for reforms, and ensuring any measures are fit for purpose.
2. The success of measures will depend on their ability to spur profession-wide changes, given the risk that isolated initiatives will simply displace "*lawful but awful*" work to other firms.
3. There is a need for practical guidance and training to help lawyers navigate conflicts between their client's interests and the public interest in a principled, consistent way.
4. Law firms offer a key entry point for driving norm-based change in the profession, particularly to ensure firm culture reinforces professional ethics guidance and training as younger lawyers enter the profession.