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Lawyers as money laundering enablers? An evolving and contentious relationship

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ABSTRACT

Using limited datasets and case studies drawn from the Global North and South, this article critically considers the available evidence about the involvement of lawyers in elite money laundering and attempts to control their involvement. In addition to lawyers' lobbying and drafting laws, the normal focus of the 'enablers' discourse is on lawyers using expert knowledge and legal professional privilege/professional secrecy to facilitate frauds and to conceal the criminal origins of the funds of others. In few known laundering-for-others cases there is much evidence that lawyer assistance goes beyond doing their normal business: setting up constructions for clients that avoid external scrutiny is usually legal. It is implausible to fully resolve the extent to which lawyer 'enablers' are, respectively, naïve, negligent, wilfully blind and/or intentionally criminal. Within-firm supervision and both real and expected regulatory/criminal justice/reputational controls may have an impact, but the evidence base for assessing control effectiveness remains weak.

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Introduction

In recent years, academics, asset recovery professionals, investigative journalists and NGOs as well as the Financial Action Task Force (FATF) and some law enforcement agencies have shown interest in lawyers and other professionals as crime enablers, though until then, the main focus of money laundering research was on criminal organisations and the financial sector, plus the politics of Anti-Money Laundering (AML) control. This neglect is surprising. Especially since the 1960s, lawyers, accountants and policy entrepreneurs have devised ways of making their jurisdictions and themselves richer by out-competing others with secrecy and tax avoidance measures, irrespective of the ethical basis for the wealth they are attracting. Little interest was taken at the time by the colonial powers in the broader socio-economic impacts on crimes and on tax evasion outside the havens: but since the 1980s, accelerating this century and intensifying via sanctions on elite Russians from March 2022, counter-pressures have developed from the AML and anti-corruption movements. These include Recommendation 22 of the FATF which specifies but cannot directly enforce due diligence and record keeping for all legal professionals around the world when acting for clients¹.

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The forms of lawyer engagement with money laundering

Some law enforcement and international bodies refer to lawyers as ‘enablers’: this label may reflect and reinforce a cynical Al Capone view of the legal profession as ‘the legitimate rackets’. The alternative – ‘gatekeepers’ – is arguably a much more neutral term since gates also keep people out. But ‘enablers’ also reflect a crime script approach to broader models analysing the necessary and contingent factors in *how* criminality works, moving away from purely legal culpability issues. This has positive and negative consequences in side-stepping what lawyers knowingly or recklessly did when assisting criminals or how they deflected their own and others’ suspicions that they might be handling crime proceeds: those ‘others’ include their firm’s own legally mandated ‘internal cops’ – designated Money Laundering Reporting Officers (MLROs), who usually also have fee-earning jobs in all but the largest firms. Do uber-wealthy unconvicted ‘good clients’ who generate high fees for multiple transactions – perhaps including threatening journalists/publishers with defamation lawsuits – become ‘undesirable’ only *after* they are named on a formal Sanctions list? Even without that mandatory basis, some such very profitable clients are turned down by law firms, bankers, and even PR agencies as ‘outside their risk appetite’, but data on the extent to which this happens (or on how many Suspicious Activity Reports are made by lawyers on elites) are unavailable.

Contemporary studies (including those by Carlo Morselli on organised crime and on corruption cartels) reveal little about how *active* is the role of (some or all?) lawyers in ‘organized’ and in ‘white-collar’ crimes of different kinds². Most laundering does not need to be very skilful³ but some are extremely elaborate. Inter-party settlements in private arbitrations and civil suits yield large apparently ‘clean’ payments, which can be a highly efficient method of laundering significant wealth.

NGO writing on lawyers traditionally is partisan, confronting lawyers in OECD countries for actively assisting very rich individuals and businesses in minimising their tax contributions. Demarcating this from *criminal* money laundering on behalf of such persons and of ‘ordinary’ organised criminals⁴ is not easy, even if financial intelligence data can potentially be collated for multiple transactions for the same or different people, whether in their roles as primary offenders or as professional enablers. In keeping with routine activities theory (RAT) favoured here, lawyer crime-enabling needs to be understood in relation to the roles and clientele of different firms:

- (a) the ‘retail’ sector – High Street and local/international firms offering a range of commercial services, including company incorporations that may not require lawyer sign-off;
- (b) the ‘bespoke’ sector – more elevated (not always large) law firms, plus in-house ‘family offices’⁵ – offering large corporations and High Net Worth individuals a range of off-the-shelf and more expensive services (including ‘reputation laundering’); and
- (c) litigators and criminal defence firms with expertise in handling and if possible deflecting major white-collar and money laundering investigations, which can involve parallel civil and criminal proceedings in multiple jurisdictions.

The last category might be thought of as the most legitimate form of lawyering, except – as sometimes happens – where lawyers commit crimes in support of their clients (or for themselves personally). One might think of this typology as a spectrum of the ecology of crime facilitation or inhibition. There are small law firms that operate locally – though they may have much expertise in avoiding controls, and larger firms like Mossack Fonseca (dissolved within 2 years of the Panama Papers exposé in 2016, closing its 44 offices) and Appleby's (flourishing despite its prominence in the Paradise Papers exposés) that have or had major practices in such jurisdictions⁶. Trust and company service providers (who normally employ at least one lawyer, invariably so in Panama) may offer retail services including 'nominees for sale' to beneficial owners⁷.

In a business procurement setting, effort may be made to conceal large bribes via a network of business entities, often offshore, whose creation often requires a lawyer⁸. However, rather than being boutique services designed for particular clients – which may suggest active conspiracy (or deception of lawyers by their clients) – many of these constructions offer routine shielding from external scrutiny, though the shielding techniques can shift with legislation or more/less active regulation, an aspect often neglected in static RAT.

The impact of technologies on money laundering appears to be mostly in encrypted communications, electronic funds transfers, cryptocurrencies and in the global trust and company services available to both licit entrepreneurs and full-time/part-time criminals, plus the rules prohibiting most law enforcement from keeping electronic surveillance over lawyer–client interactions unless a judge can be persuaded that the lawyer is reasonably suspected of crime. This century, hacking and insider leaks have exposed many laundering transactions to the outside world, analysis of which is facilitated by Artificial Intelligence and fast electronic searches, and by task-sharing among multi-national investigative journalists.

Kleptocracy, organised crime and lawyers

A 2015–2020 dataset of more than 100 real estate money laundering cases from the US, UK and Canada shows the percentage of gatekeepers who are lawyers/law firms to be 22.86% in Canada, 29.41% in the UK, and 35.71% in the US⁹: but what are we to infer from this, beyond that lawyers set up domestic and overseas legal entities, sometimes act as 'signatures for sale' nominees, and purchase commercial and residential properties for clients through trust or client accounts? This tells us very little about whether lawyers actually suspected or had any strong reason to suspect their clients of crime at the time they undertook the work; nor what skill sets lawyers brought to the table to add to clients and their advisers, which (if any) clients they reject, or which actions proposed by clients or by colleagues they refuse to undertake. Lawyers are not obliged – or arguably even allowed – to tell other firms when they reject or discard a client. It would be surprising if all lawyers behaved similarly, but neither advocacy critiques nor legal sector public relations explicitly address the variation in cross-border or between-firm conduct issues, though Reports such as 'The UK's Kleptocracy Problem' aim to implicate 'the UK' as a Prime Suspect in what Bullough (2022) has cleverly labelled 'Butler to the World'.

If the sums are large enough, kleptocratic or other bribe-money laundering may lead to intersection with 'the Wealth Defense Industry'¹⁰. As Winters puts it: 'Oligarchs are those rich enough to convert their money into professional firepower needed to defend their

wealth and incomes¹¹. This defence of corporate and/or individual clients may take the form of libel actions or the threat thereof, for example, in the plaintiff-friendly London High Court, or efforts to repel recent legal instruments such as Unexplained Wealth Orders, which aimed to take away questionable assets, but have hitherto had little success¹². So sometimes in alliance with other professionals, businesspeople and politicians, lawyers are important from lobbying and legislative drafting to negotiating deals and court representation, or arranging 'Golden Visa' citizenships or political asylum for uber-rich clients: but conceptualising and demonstrating when those ways are and are not *criminal* remains challenging.

In the recent wave of books on kleptocrats in various parts of the world, the principal 'baddies' are the corrupt 'oligarchs' (past and present fused into one category) and their political and business connections. Belton (2020) explicates the system of state-controlled extortion and manipulation in Russia, and how the US and UK failed (or decided not) to deal with it. Many beneficially owned companies and Limited Liability Partnerships (LLPs) were created to assist the schemes, but the lawyers hardly get a mention in any of the texts on Putin or on the Mafia. Within Russia, lawyers may be less important for their skills because the legal system is set up to deliver the outcomes the in-group wants¹³. One might hypothesise something similar for corruption by the Chinese leadership's inner circle and the laundering of that proportion thereof that is transferred overseas¹⁴.

Netto (2019) shows how corruption occurred and was sustained in Brazil but its extensive discussion of lawyers does not suggest them as the originators or major facilitators of the bribery schemes: rather they were heavily involved in mitigating the culpability and criminal liability of both professionals and politicians in negotiated justice in Brazil¹⁵. A similar tale applies to State Capture in South Africa¹⁶, where one allegedly corrupt firm – T-Systems – conducted a compliance check on a well-connected intermediary with a view to employing him, and on legal advice engaged him informally instead, reducing legal risk for the firm (until detected). None of the principal parties in the alleged Gupta-Zuma State Capture alliance were lawyers, except for criminal justice personnel who allegedly were bribed or intimidated into inaction¹⁷. Nor did lawyers feature much in the Panama papers or the Odebrecht scandal which followed it, though they were included in the broader category of 'intermediary' in the social network analysis¹⁸. Investigative journalists sometimes focus on the role of particular law firms in acting for kleptocrats in a series of property purchases in the UK, but their culpability is usually inferred circumstantially by innuendo rather than by 'proof' of guilty knowledge¹⁹. How could it be otherwise unless the lawyers were the targets for the Sting or primary offenders gave evidence against them?

A study of Deutsche Bank noted that in 'Moscow, a lone lawyer without any experience in compliance simultaneously served as Deutsche's local head of compliance, head of legal, and chief anti-money-laundering officer. The bank's due-diligence procedures there consisted of little more than asking customers to fill in a brief form stating where they got the money they were seeking to use'.²⁰ Otherwise, lawyers only appear when making introductions, denying misconduct of their clients, or negotiating deals for them with the authorities²¹. However, lawyers and notaries objectively assist corruption where the amounts involved are large enough to require legal entities that obscure ownership and control of assets. Lawyers' offices and files also may often shield clients from

surveillance because of the sacred quality of lawyer–client interactions, which can be opened up in democratic Rule of Law countries only where lawyers are ‘reasonably’ suspected of assisting their clients or others in ongoing or future crimes²².

Some examples of AML ‘failures’ are available in datasets and case studies of grand corruption. For example, pooled law firm accounts – in which banks see only the name of the law firm, not the client – were used in a multibillion-dollar corruption and fraud scandal involving a Malaysian state investment fund 1MDB. They also played a part in a range of narcotics, Ponzi and kleptocracy schemes over a decade²³.

The World Bank analysis²⁴ of 213 ‘grand’ corruption cases between 1980 and 2010 found that over 70% involved the use of at least one corporate vehicle (817 such vehicles in all), which partly or wholly concealed beneficial ownership. The US had the highest number of registered corporate vehicles, followed by the UK and its crown dependencies and overseas territories (over which the UK government and regulators have no direct control). Grand corruption investigations show the regular use of professional surrogates, often Trust and Company Service Providers [TCSPs] offering nominees and trustee services; lawyers also fulfilled such roles²⁵, which normally involved some personal interaction with the client²⁶. But information about how particular lawyers and law firms are recruited (or alternatively, are avoided) is scant. Reputation or knowledge from shared vices (and intimidation) may play a part, as they do in classic ‘organised crime’ cases²⁷.

Several Filipino banks were owned by Ferdinand Marcos’ close associates during his Presidency, so much layering of his looted wealth could be done domestically²⁸. With lawyers’ assistance, bank accounts and other assets were held in the names of companies from Panama, Switzerland and the Netherlands Antilles, as well as to trusts in Hong Kong and the Cook Islands, and a series of 16 Liechtenstein foundations with signatory powers vested in a Swiss lawyer. Periodically, the foundations were dissolved and the accounts transferred to a newly-created company and then back to a new foundation, obscuring the money trail and making it longer and more expensive to follow. Because the Swiss lawyers intermediated between the Marcos family and the banks, financial records were covered by professional secrecy, in addition to the strict bank secrecy then permitted and zealously enforced in Liechtenstein and Switzerland.

Two Beverly Hills lawyers helped Teodoro Obiang, son of the President of Equatorial Guinea, circumvent AML and PEP controls at US financial institutions by allowing him to use attorney-client, law office, and shell company accounts as conduits for over \$100 million and without alerting the bank to his use of those accounts 2004–8. If a bank uncovered Mr. Obiang’s use of an account and closed it, the lawyers helped him open another²⁹. Each allowed his own attorney-client and law office accounts to accept millions of dollars in wire transfers from Equatorial Guinea, moving those funds into other Obiang-related accounts, and using them to pay Obiang-related bills and expenses. Both lawyers pleaded the fifth amendment before the Senate PSI hearing, and neither was disciplined for their conduct by the California Bar, though one of them did receive two minor disciplinary ‘convictions’ before and after the Obiang period for unrelated matters.

Part of the more recent vast Odebrecht corruption scandal³⁰ involved a major Swiss law firm as intermediary and a small Costa Rican law firm as a more active part of the money laundering network, but as with many other cases, there were a large number of off-the-shelf corporations with nominee ownership that were simply used as throughputs for money and fake invoices, though Odebrecht took this a stage further by acquiring an

Austrian offshore bank in Antigua – Meinl Bank – to pay bribes more efficiently³¹. So without a ‘smoking gun’ email or contemporary surveillance trail, the level of lawyer *knowing* participation in the bribery schemes is usually a matter of interpretation.

In the course of international meetings or touting for business, large companies and wealthy elites may reach judgements about which individual lawyers and firms are likely to be responsive to ‘business development’ proposals. However, as is the case with auditors of major pseudo-legitimate firms such as Bernie Madoff’s, the Global North law firms detectably involved in grand corruption cases are not usually elite but are small or second-tier ones. In some Nigerian cases, very small firms of lawyers and intermediaries are selected and ‘groomed’ for their roles. (Though one experienced lawyer stated to me that elite firms sometimes pass on to other firms some clients ‘on the edge’ of their risk appetite, thereby reducing their firms’ own reputational and liability risks.)³²

One of the most prominent examples of such a ‘grooming’ was when a Halliburton subsidiary paid bribes to secure a £4bn contract to build a natural gas plant in Nigeria. Jeffrey Tesler, a white 63-year-old North London solicitor, admitted routing payments through bank accounts in Monaco and Switzerland between 1994 and 2004. He arranged for \$1 m in \$100 notes to be loaded into a pilot’s briefcase and delivered to a politician’s hotel room to finance a political party in Nigeria, which won the election. Tesler was jailed for 21 months and was struck off as a solicitor. His sentencing hearing detailed how he became an important player on the world’s largest civil construction project in 1993 (but not why he was selected), and his thrill at this. Journalists added: ‘Nine of [Tesler’s] 12 accounts instructed HSBC to keep all correspondence under lock and key in a bank safe’³³.

In other cases involving lawyers, lengthy personal connections – for example, relationships acquired during colonial liberation struggles – are turned into conduits for embezzled funds. Mr Meer, a partner in a small London law firm that acted for Nelson Mandela and in other high profile African and Indian cases, moved millions of pounds out of Zambia for the ultimate benefit of former President Chiluba, apparently believing he was acting for the Zambian Security Services. The High Court ruled that Mr Meer had behaved dishonestly, disregarding Law Society advice not to allow client accounts to be used as bank accounts. However, the Court of Appeal ruled that the more probable explanation for his conduct was that he was honest if foolish and had little understanding and observance of money laundering compliance³⁴. So the lawyers were ‘let off’, and a Zambian court later refused to enforce the English High Court ruling that Mr Chiluba return the \$46 m he allegedly stole during his 1991–2001 presidency: in 2009, Chiluba was acquitted of theft by a Zambian magistrate, though two co-accused were jailed for 3 years.

A more sophisticated case involved UK solicitor Bhadresh Gohil, who was convicted in 2010 for helping James Ibori, governor of Delta State in Nigeria 1999–2007, channel stolen funds through shell companies and offshore accounts and purchase an English country house and a \$20 million private jet. Gohil was central in stealing \$37 million from two Nigerian states, setting up front companies to issue fake consulting invoices at way over normal rates. Sentencing him to 7 years’ imprisonment, the judge observed: ‘it is said the real villains are in Nigeria, but this fraud required special expertise and you lent yourself to it’³⁵. By June 2022, the attempt to confiscate up to \$39 million from Gohil had not been resolved.

Bigger firms may have excellent due diligence *procedures*, but except where competent MLROs control them, trust and over-confidence can override procedures: we do not know how frequently because much abuse remains hidden. A Dutch notary cited in the Panama Papers was disciplined for creating a corporate vehicle used to launder money: the Panamanian client had been referred by a Dutch Trust provider with whom the notary had worked frequently³⁶.

Not all UK corporate vehicles require human persons to be directors or partners or to hold UK bank accounts, so foreigners can set up UK corporate vehicles (on behalf of UK people too) for which bank accounts in other jurisdictions can be created and through which illicit funds can be siphoned. Loopholes allowed account filing obligations to be circumvented, though now all accounts are required to identify Persons of Significant Control. The abuse of Scottish Limited Partnerships by organised criminals and kleptocrats to launder money and the slow response of the government and regulators were regularly criticised, though SLP use began to drop as controls were threatened³⁷. Companies House has never had the resources or legal mandate to verify the information on the present UK Companies Register, though in the aftermath of the invasion of Ukraine, long-delayed reforms are being implemented in the Economic Crime (Transparency and Enforcement) Act 2022 and a prospective Economic Crime Bill³⁸: actual human resources and technologies rather than simply structural changes may determine what can be done to reduce fraud and corruption in the aftermath of these reforms, though there may be some deterrent effect anyway.

Law firms in the United States have been highlighted in cases of grand corruption (less so in money laundering generally). In 2016, Global Witness conducted an undercover simulation in which a supposed adviser to an African minister of mines wanted to deposit millions of dollars. Lawyers from 12 of the 13 law firms he visited in preliminary meetings suggested using anonymous companies or trusts to hide the minister's assets, 11 recommended using American companies. To move the funds, suggestions include using the law firms' own bank accounts and having the lawyer act as a trustee of an offshore trust and open a bank account. Only two of the law firms told the investigator that they could not help. The simulation stopped before the point at which any firm took on (or rejected taking on) the fake client, so internal controls might have stopped some or all of them³⁹. Global Witness showed that Jho Low, a defendant in the multi-billion-dollar 1MDB fraud case on the Malaysian public, used law firm Shearman and Sterling's Interest On Lawyer Trust Account (IOLTA), which pools clients' money for short periods before being spent on large acquisitions, to shift some \$368 million from his Good Star account in Switzerland into the US⁴⁰. The firm did *some* diligence and apparently were satisfied of his *bona fides* by his use of a prestigious Swiss bank and relationships with sovereign wealth funds in Malaysia and Abu Dhabi. Jho Low held funds in the IOLTA for over a year, using them to purchase luxury properties and his expenses, transferring \$25 million to accounts at Caesars Palace and the Venetian Casino in Las Vegas and spending over \$4 million on private jet rental. Low used a DLA Piper client account to buy a \$200 million stake in the Park Lane Hotel in New York. The law firms (including adviser Baker McKenzie) claimed they had no reason to suspect the funds were proceeds of crime, though Shearman and Sterling were joined to one of many lawsuits⁴¹. To date, there appears to be little appetite or legal basis for regulatory disciplinary action against lawyers in the US for this kind of conduct.

Legal constructions for hiding beneficial ownership have been criticised by academics, asset recovery specialists, NGOs, investigative journalists and law enforcement⁴². Some lawyers may believe they have a moral obligation to protect client wealth from unfair or oppressive regimes, though ‘oppression’ can be constructed extremely flexibly: from leftist Latin America or China to social democracies with above-median tax rates or that otherwise are deemed to threaten family dynastic wealth. Transactions that avoid monitoring and tax can generate large fees for lawyers and accountants unless ruled unlawful. Much of the money highlighted in the reports on international corruption and fraud cases is spent on conspicuous consumption or displays such as private jets, large villas and fleets of luxury cars. Though high-end property in major global cities has historically also been a good investment for the shell companies that nominally have purchased and own them (despite now being required to pay significant taxes), other expenditures are rapidly depreciating assets far from the sober integration of criminal wealth into the licit economy. This does not fit the Placement-Layering-Integration ‘crime script’ that has been the conventional wisdom of money laundering ‘typologies’ from before *The Godfather* era rather than being based on empirical knowledge of serious offender careers. It resembles more closely what Platt (2018: Ch.2) has termed the ‘Enable, Distance and Disguise’ Model.

ENABLE: A criminal appoints a corporate service provider or a law firm to set up and administer a company on her/his behalf. The financial system is thus ENABLING the criminal to generate the first disconnection between the individual and the company. The professional provider appoints a director (nominee director) to manage the assets of the company and beneficial ownership is obscured through the use of nominee shareholders and a deed of trust between the parties.

DISTANCE: The company instructs professional service provider to open bank and brokerage accounts to deposit the money generated by the proceeds of crime. The criminal is thus generating a second disconnection, generating DISTANCE between the proceeds of crime and the ultimate use of the funds.

DISGUISE: A professional service provider sets up a trust for the ownership of the luxury good, which is administered by a trust company and its trustees. The trustee in turn owns a company which acts as a registered owner of the luxury good. In this way, the connection between the criminal and the luxury good is DISGUISED, hence creating a third disconnection.

Global South lawyers and laundering

Except where lawyers are also accused of fraud⁴³, little attention has been paid to laundering by Global South lawyers. Kenyan lawyers assisted in illegal local and national land grabs for their own enrichment and those of other elites, manipulating letters of allotment to identify suitable plots of public land to be targeted for illegal allocation, concealing ownership identities and acquiring changes in land use⁴⁴. Despite a Commission’s recommendations, no action was taken against the lawyers by the professional bodies or by the courts. Later scandals involved elite local lawyers in alleged forgery of titles to land, defrauding banks⁴⁵. In some countries, ‘family lawyers’ represent elite families, but local lawyers are not sufficiently well connected to do international work and they engage large international law firms. Levi has argued that though they may want to have many assets abroad – indeed may need to do so because the local market cannot absorb their massive thefts – most kleptocrats need to keep significant funds and assets locally to stay in power⁴⁶. Thus, in-country commercial and private real estate and

corporate deals may be handled by local firms, without forming part of international criminal or asset recovery cases or receiving the publicity generated by NGOs or by newspapers such as Sahara Reporters which show photos of their luxurious foreign assets.

Lawyer regulation within the anti-money laundering complex

In a broad (and relatively mundane) crime control context, Garland notes that politicians often pretend a sovereignty over crime problems that they do not actually possess and make symbolic moves that merely appear to impact on crime(s): he does not articulate the extent to which they do this *knowingly*⁴⁷. Twenty years later, this control mimicry has intensified with the globalisation of criminal supply and money chains, even though even Mafia generally keep assets close to home. Garland's perspective on the culture of control has seldom been extended to studies of the control of elite and alleged misconduct, yet many efforts against kleptocracy, management frauds and money laundering also manifest more symbolism than substance, even when the offenders are 'organised crime' types that sometimes threaten nation states⁴⁸. In keeping with their worldview that everything that enables money laundering needs to be criminalised and regulated, policy-makers and law enforcement have been determined to expand Anti-Money Laundering (AML) to the legal and other professions, and this has proceeded internationally, even if quite unevenly. This may get a political upgrade with the Biden administration's anti-corruption strategy and promise to beef up AML⁴⁹, but Australia, Canada and the US currently are outliers in their resistance to the regulation of lawyers and to requirements for them to report suspicions of their clients to the 167 national Financial Intelligence Unit members of the Egmont Group in 2022, though this may be changing⁵⁰. How important is this regulation or its absence?

Work inflows to law enforcement and mutual assistance authorities arise from criminal cases begun at home or abroad, and in addition to Suspicious Activity or Transaction Reports (SARs/STRs) from regulated persons – which sometimes come from lawyers but which seldom *initiate* investigations on their own – intelligence comes from organised crime investigations, insiders seeking a better deal for themselves, and journalistic exposés. Controls over the legal profession constitute part of the general 'responsibilisation' process in which the State outsources policing costs and duties to the private sector.

The FATF, OECD and the UN have 'soft law' monitoring mechanisms which aim to reduce serious crimes for gain and terrorism⁵¹. Though poor/non-existent controls over lawyers have not thus far tipped any jurisdiction into the non-cooperative 'grey list', the broadening of money laundering predicate offences from drugs trafficking and 'organised crime' to include transnational bribery and foreign tax evasion, and requirements to give special attention (Enhanced Due Diligence) to PEPs (people holding high political office and their relatives) brings lawyers more clearly within the ambit of criminal and regulatory penalties. However, major countries such as Australia and the US have been particularly slow to adopt even serious *self*-regulation of lawyers. Few Caribbean countries have demonstrably serious regulatory processes for lawyers. There is little hard evidence about how frequently or rarely 'the legal profession' – or particular individuals/firms – are *consciously* engaged in money laundering, but it is difficult to generate such evidence, absent large numbers of criminal or regulatory cases, or systematic mystery-shopping exercises.

Hiding crime proceeds and minimising taxes are shaped by the frameworks and practices of regulation and criminal enforcement, whose primary goal may be prevention but may also be counteracted by lobbying⁵². The governance of the legal profession varies between nations (or sub-nationally in some Federal jurisdictions)⁵³. In addition to identifying who their clients are, lawyers in most countries are obliged to scrutinise sources of wealth and sources of the particular funds, to check if these may plausibly be proceeds of crime. How hard and with what skills they look are not obvious to outsiders⁵⁴. In-house corporate and government lawyers are not included in the comprehensive typologies and guidance issued by the FATF, which includes examples of what they regard as Red Flags – which should be better termed Amber Flags since few are *certain* to lead to laundering on their own⁵⁵.

There are many approaches to the regulation of misconduct by lawyers and their obligations to report clients whose transactions raise suspicions, reflecting different constitutional provisions (e.g. Canada), different cultural traditions about state interference with the legal profession and different levels of bargaining power and social prestige of lawyers⁵⁶. Normative attempts at international principles have been attempted, though these are quite high-level in their analysis to allow for big variations in both rules and practice, and their impact on what lawyers do is poorly understood⁵⁷. Using interviews with samples of lawyers, Helgesson and Mörth (2016) have shown important differences between how English and Swedish lawyers approached their EU AML obligations 2012–14, Swedish lawyers being more cautious than English ones about taking on clients but less willing to report suspicions to the central Financial Intelligence Unit (FIU). (Though in addition to legislative changes in 2017, the money laundering scandals that subsequently engulfed Swedbank and other regional banks may have/should have shaken their confidence in their judgements about who is and who is not ‘suspicious’.) Svenonius and Mörth (2020) have sensitively analysed the differences in professional culture and organisation between French and German lawyers which ‘produce’ different forms of resistance to AML compliance.⁵⁸

In ‘offshore’ jurisdictions, gatekeepers are regulated by the Financial Services Commission and must show that they are fit and proper to act (though the succession of data leaks of actual behaviour suggest the criteria or operational monitoring may be lax). In others, such as the US, the only controls are by the state bars, which historically have done little with respect to AML and according to two experts (interviewed September 2021), dedicate almost no resources to AML enforcement. On the other hand, the UK, a powerful founder member of FATF, has had early detailed regulation and relatively high lawyer reporting of suspicious transactions throughout this century. (Though there are ongoing battles over whether this is high enough – 3,006 in 2019–20, constituting 0.52% of UK suspicious activity reports⁵⁹ – or whether the reports reflect the most harmful crimes and criminals actually suspected or who ought to have been suspected.) Legal sector AML guidance in England and Wales now runs to 212 pages, plus free/paid for outreach seminars and an advisory hotline to experts⁶⁰. Regulators push lawyers’ attention towards particular risks, and responses by them depend on how bad the public reputation of the client is and on the risks that taking on such a client are deemed to pose for the firms or the individuals, often guided by paid-for global risk-rating agencies. All UK law firms appoint MLROs, and major firms may have those who are highly expert and vigilant, but the blocking of ‘bad clients’ depends on the firm hierarchies. Few

signals from the UK government this century would have made lawyers avoid Russian ‘oligarchs’ as clients before 2022, and the relevance of long-past unprosecuted conduct to a future-oriented, ‘risk-based’ approach is contestable.

The rules and regulatory requirements in many countries state that the lawyer must check out who the beneficial owners are, normally against commercially supplied lists of persons against whom there is ‘adverse media’, and then make a risk-based decision whether to take them on, act for them, or reject them or terminate an existing relationship. Taking them on has a cost, and the more extensive the enquiries, the more costly it is, and this has to be borne out of the firm’s overheads. They also check Designated Sanctions lists, which is not a risk-based but a mandatory refusal to transact. Regulators vary in the competence and enthusiasm with which they monitor and critically review the way lawyers do this.

For example, the UK Law Societies and the Solicitors Regulation Authority (SRA) now make it abundantly clear to solicitors in training courses and in circulars that they must not allow their client accounts to be used as a banking service on their clients’ behalf. Indeed, in 2021–22, the SRA prosecuted a now prominent sports lawyer and elite law firm Mishcon de Reya for using the firm’s client account improperly – though the lawyer was acquitted by the Solicitors’ Disciplinary Tribunal – and (in separate cases) fined Mishcons and a former partner for not doing or not recording adequate due diligence on clients from known ‘high-risk jurisdictions’, despite the firm having self-reported the failures⁶¹. Misuse of client accounts constitutes one ‘crime script’ for lawyers’ involvement in serious crimes for gain, but the preventative pressure is on a broad array of scrutinies, impacted by government regulation and approved professional guidance.

Discussion and Conclusions

Having set the scene in broad international regulation, this article has considered empirically the role of lawyers in grand and meso-level corruption (including that connected with ‘organized crime’) and reviewed some responses by the legal profession to attempts to control money laundering. If they had been acting for apparently licit (however ‘unattractive’)⁶² clients, few lawyers’ actions would be criminal *per se* (though their actions might still have deleterious social consequences): they are ‘enabling’ commercial behaviour normally unless the extent of the obfuscation puts their conduct beyond the legal pale. However, ‘enabling’ is often used in a much broader sense to mean assisting money and reputation laundering irrespective of the awareness that funds originated as proceeds of (sometimes contestable) crime. This may be associated with a lack of intensive or even basic due diligence about the genuine identity and connections of the client, but sometimes it appears merely to mean they did not stop the money moving. ‘Equality of arms’ is usually regarded as a cry of help for resource-poor defendants against the State⁶³, but in oligarch or white-collar crime settings, it can be applied to poorly funded and out-skilled State institutions against mega-rich and well-connected defendants or potential defendants, who can rapidly exhaust the tightly budgeted resources of most State bodies or investigative journalists, raising difficult issues – normally ignored – of what caps on funding levels are appropriate for both private and State parties to ensure ‘fairness’.

Though triangulation/testing of claims and perspectives is often challenging or even impossible, the management of 'global bads' by both criminals and their would-be controllers can be studied through a range of methodologies: e.g. investigations and civil/criminal court cases, data aggregation from leaks and public procurement records, media exposes, autobiographies, and official statements from public and private bodies, interviews, participant/non-participant observation, and real-world experiments in audit/mystery shopping,⁶⁴ plus regulators' systematic reviews of case files for compliance with process⁶⁵. Searches for commonalities in lawyers' business facilitation for offenders might generate information for education, warning, regulatory or criminal action.

However, investigating and researching what lawyers do and do not do is particularly challenging because of client confidentiality and legal professional privilege/professional secrecy, which normally makes direct observation (and even memoirs) of lawyer–client interactions impossible; and in democratic Rule of Law societies, official intercepts of conversations are legal only when a high threshold of suspicion of the lawyer – rather than of the client – has been met. Thus, it is exceptionally difficult to test diametrically opposed claims that such conscious facilitation is merely the product of a few rotten apples rather than being a widespread reflection of criminogenic pressures such as *anomie* or greed. There is not yet evidence of the malign effect of Alternative Business Structure (non-lawyer) ownership of English law firms upon deliberate money laundering by lawyers, but pressures from the firm (in generating fee income) and from personal lifestyle (net income, vices or even intimidation) might reduce the conscientiousness of due diligence⁶⁶. The 'non-shareable problems' identified by Cressey's influential work on embezzlement and 'the fraud triangle' in an environment where all accountants *could* break the law⁶⁷ are not likely to be universal features of lawyer 'enabling'. However, unlike the few academic studies of how lawyers negotiate their conflicting obligations to government and to professional secrecy, NGO and pressure group studies of 'lawyers as enablers' have not hitherto been much interested in seriously accounting for individual cases or even within-country variations in willingness to launder. The exception is the highlighting of what one might usefully call 'Enabler States' such as Delaware, Nevada, South Dakota and Wyoming, which will present a reform challenge for the US Federal government in an activity – Corporate Registries – which traditionally has been devolved to the States, for which it is a source of profit.

Assessing the extent of lawyers' conformity with AML regulation is difficult. No data are available by law firms on the number of clients and/or proposals that are turned down by law firms or individual lawyers because they suspect that they are attempts to launder money. (The legal obligation to report suspicions of persons who have not yet become clients is a very grey area, though the private Bar in the US does not yet have an obligation to file SARs.) Nor is the *proportion* of larger and smaller or prestige firms that are engaged in money laundering readily knowable.

No jurisdiction has resolved the problem of how to assess lawyer performance in anti-money laundering and the effects of AML efforts on crime investigation and crime reduction. The kind of behaviour lawyers might be expected to report varies from the modest income ordinary divorcing couples may fail to disclose to tax or social security officials, through the purchase of homes and small businesses in poor areas at home and overseas, to multi-million dollar business deals and luxury home purchases for the

beneficial ownership of overseas public officials, businesspeople and those engaged in organised or white-collar crimes. As one international lawyer and expert commentator put it to this author (September 2021):

The difficulty is that now wealth management professionals have to consider tax, AML/CFT, anti-corruption, and sanctions/export control. Not every wealth manager can afford the resources to meet these requirements, especially for a one-off transaction. And FATF, G7, OECD are comprised of financial/law enforcement officials which do not have to subject their enforcement and regulatory initiatives to budgets. They can propose the problem and of course the solution, allow some stakeholders to make comments, and then debate in private, with no official record and then promulgate the solution, expecting every country from Bangladesh to the US to implement the standards equally. And there is a lot of minilateralism, where one country finds a few other countries to take an initiative and then through FATF, G7, etc. make the new rules the international standards accompanied by black and grey lists: the new way of making and enforcing international financial law.

It seems reasonable to obligate lawyers to consider the legality of sources of funds and the rationale for legal constructions before they undertake services for clients⁶⁸. However, whatever it does for their sense of virtue, an individual lawyer's refusal to act for a suspect achieves little for society unless it becomes known to other lawyers, law enforcement or the public, and unless it disrupts offending in some way or leads to prosecution and/or enhanced asset recovery. Though prosecutions other than for self-laundering are rare, the extension of overseas tax evasion and bribery/corruption as predicate offences for money laundering is a potential game changer in the volume of crimes that touch upon the work of the transactional lawyer. Despite two decades of FATF grey- and black-listing for AML deficiencies, no country has yet suffered severe sanctions for its failure to require lawyers to report suspicions, nor is it evident what level of reporting by lawyers is sufficient to evidence 'adequate' social responsibility – judgements about this may depend on the dramaturgy of the crimes/social harms.

This generates a more fundamental empirical question for those proclaiming the dangers of asymmetries in AML regulation. There is insufficient specification and measurement of counterfactuals. Is there more crime/more laundering in Canada and the US than Mexico because the US and (as upheld by the Supreme Court) Canada⁶⁹ are reluctant to regulate the legal profession actively? Is there more crime in Australia than in New Zealand partly because Australian lawyers have few AML obligations? If greater scrutiny were applied to clients, and American lawyers reported more of them or more serious transactions as SARs to FinCEN, would anyone follow-up the reports and would kleptocratic property purchases, frauds or other crimes decline in the US? Are UK lawyers cleaner or dirtier than those in continental Europe because they make more SARs and because some EU/EFTA Member States have elaborate self-regulation but no formal state supervision? If Switzerland's proposed reforms were only symbolic, why did its lawyers fight so hard against changes in reporting rules (ultimately winning) in 2019–21? Did they simply fear for their incomes, or did this also reflect a scepticism (or sociopathy) about the effects on crimes elsewhere? Does it make sense to speak of *national* enabling risks without assessing the incidence and prevalence of lawyers' active assistance in laundering? 'Enablers' is a negative label applied to sectors of professionals, whether they (or more accurately, some of them) consciously or unconsciously assist in disposing of the proceeds of crimes. We sometimes blame lawyers for assisting with money laundering when the

bigger problem arguably is national provisions for company and property/beneficial ownership registration which they use without *needing* to have conscious involvement with predicate offenders. We pay insufficient attention to how ‘normal’ or abnormal are lawyers’ actions on behalf of clients of whose criminality they may have no knowledge (and perhaps prefer to remain ignorant and talk to clients in ways that avoid actual knowledge of criminality, which would oblige them ethically to stop representing them).

Though record-keeping is a craft rather than an unfiltered reflection of ‘what happened’, it would be beneficial to analyse leaked data to see what sorts of services the lawyers provided and test whether high-status law firms had referred the clients on to lower status ones or to firms in other jurisdictions⁷⁰. This might help us understand the political and cultural power of national legal professions, their vulnerability to international controls, and the effects of different models of self- and governmental regulation on levels of compliance.

There are difficult issues in devising a socially optimal method for getting lawyers to root out the sources and beneficial owners of client money: requirements to see the passports of well-known millionaires certainly will not achieve that. In the case of grand corruption, accountability – in civil courts, criminal courts and the media – may take years, if it ever happens. As Russian sanctions bite, and beneficial ownership processes generate more transparency, lawyers not prepared to be conscious criminal enablers may have to turn down more wealthy clients, as they and other professionals come under further scrutiny, as recommended by Moneyval (2022). Although the evidence base is far too weak currently to show what sorts of firms and individuals are (and are not) engaged in criminal grand corruption and organised crime schemes, or how and why particular lawyers are recruited (or not recruited) for these ‘enabler’ roles, and how they are inhibited by firm MLROs, this article has shone some light on the ways that lawyers assist major crimes, using case studies and distinguishing between their merely licenced roles and their detailed knowledge/skills from litigating and defending/prosecuting major financial crimes. Much research on these matters remains to be done.

Notes

1. R.22 provides that the customer due diligence and record-keeping requirements of the Recommendations apply to legal professionals when they prepare for and carry out certain specified activities for their clients, namely: Buying and selling of real estate; Managing of client money, securities or other assets; Management of bank, savings or securities accounts; Organisation of contributions for the creation, operation or management of companies; and Creation, operation or management of legal persons or arrangements, and buying and selling of business entities.
2. See, for example, Morselli and Giguere (2006), which mentions lawyers but does not allocate them a significant role. Except for the chapter on money laundering, ‘lawyer’ appears twice in the entire volume of a recent major set of organised crime studies: Reuter and Tonry, *Organizing Crime*. Benson – *Lawyers and the proceeds* – is one of the few scholars to have focused explicitly on professionals who enable money laundering. For a broader discussion of the white-collar/organised crime overlap, see Levi (2019), ‘Theoretical Perspectives’.
3. Levi and Soudijn (2020). ‘Understanding the Laundering’.
4. Levi and Soudijn, *ibid.*; Levi (2020), ‘Making sense’, Benson (2020), *Lawyers and the proceeds*. Sometimes the lawyers are also offenders, though this article does not deal with ‘lawyers as fraudsters’, e.g. ‘Beginning in 2016, [Mark] SCOTT formed a series of fake private equity

investment funds in the British Virgin Islands known as the 'Fenero Funds'. SCOTT then disguised incoming transfers of approximately \$400 million into the Fenero Funds as investments from 'wealthy European families', ... SCOTT layered the money through various Fenero Fund bank accounts in the Cayman Islands and the Republic of Ireland. SCOTT subsequently transferred the funds back to Ignatova and other OneCoin associated entities, this time disguising the transfers as outbound investments from the 'Fenero Funds'. DoJ, <https://www.justice.gov/usao-sdny/pr/former-partner-locke-lord-llp-convicted-manhattan-federal-court-conspiracy-commit-money>.

5. Collins (2021).

6. The proportion of clients of these law firms who are engaged in illicit activity has not been seriously analysed to date. See Fitzgibbon, 'Offshore Magic Circle' Law Firm Has Record of Compliance Failures' for a good discussion of the range of ways in which Appleby's catered for – and sometimes turned down – clients. Appleby Global Services' Cayman Islands website (<https://www.applebyglobal.com/locations/cayman-islands/>) is truthful but does not mention Caymans' grey-listing by FATF as a higher risk jurisdiction for money laundering in February 2021 when it states (4 May 2022):

The Cayman Islands have branches of 40 of the world's 50 largest banks. It is the leading offshore jurisdiction for the registration of investment funds and is the second largest captive domicile in the world with more than 700 captives. The jurisdiction is also recognised in providing trusts, structured finance, company and partnership formation and vessel and aircraft registry services.

The availability of expert professional advice and the reputation for being a respectable and well-regulated financial centre with a stable and business-friendly government have contributed to the success of Cayman's financial services industry. Listed on the OECD's white list, service providers adhere to all relevant international compliance standards and are committed to supporting global efforts to fight financial crime.

The above firms were not in the premier rank of offshore firms, 2018–20, though Appleby's was close. See <https://www.blglobal.co.uk/BusinessNews.aspx?id=top-offshore-law-firms-ranking-revealed>.

7. See e.g. Neilson and Sharman (2022) Judah and Sibley (2018), *The Enablers*; Shaxson (2011), *Treasure Islands*.

8. Though it is not always concealed. A former senior Glencore executive stated prior to 2002, he used to go to London with £500,000 in cash to pay bribes to intermediaries, though this does not happen any more: Blas and Farchy (2021), *World for Sale*, 311. Canadian construction industry bid-rigging seemed not to need sophisticated laundering structures: Reeves-Latour and Morselli (2017), 'Bid-rigging networks'.

9. Kumar and de Bel (2021). See also Heathershaw et al. (2021), *The UK's kleptocracy problem*. The above authors imply that selling expensive legal or other professional advice (for example, on political or public relations) to the mega-rich is not ethically defensible. There are indeed difficult boundaries between fair defence, 'equality of arms' and Strategic Lawsuits Against Public Participation (SLAPPs) used to silence and harass journalistic critics by forcing them to spend large sums to defend baseless lawsuits.

10. Collins (2021).

11. Winters (2011) 27. The Pandora Papers gave rise to journalistic exposes of the role of law firms in reinforcing the public profiles of the super-rich as well as in offshoring their wealth: but the extent to which this conduct is properly defined as criminal remains debatable.

12. Moiseienko (2022). Of course, aggression in pursuit of client interests may be regarded as a virtue if one approves of the cause.

13. Firestone (2008). Belton, *Putin's People*; Unger (2018), *House of Trump*; Browder (2016, 2022), *Red Notice* and *Freezing Order*. However, Belton and her publisher were sued for libel in London by Roman Abramovich and others named in the book, some plaintiffs losing; although Abramovich has since been sanctioned, the book will be reissued with the moderation/clarification of some allegations against him in relation to Putin. See Abramovich v HarperCollins and Belton [2021] EWHC 3154 (QB); and <https://pressgazette.co.uk/putins->

[people-journalist-and-publisher-settle-roman-abramovich-libel-claim/](#). The defendants paid around £1.5 million to fight the case. In a separate case, Kazakh company ENRC unsuccessfully sued Tom Burgis and HarperCollins over allegations in *Kleptopia*, but ENRC later succeeded in civil actions against their former defence solicitor and the Serious Fraud Office: see [2022] EWHC 1138 (Comm). For a podcast discussion of media – <https://soundcloud.com/foreign-policy-centre/unsafe-for-scrutiny-how-unchecked-kleptocracy-is-undermining-media-freedom-and-eroding-democracy>.

14. <https://www.economist.com/special-report/2021/06/23/trying-to-heal-the-partys-wounds>; Shum (2021), *Red Roulette*.
15. See Netto (2019). For a more formal approach to network analysis, see Costa, *Revealing the networks*; and Garay-Salamanca et al., *The 'Lava Jato' Network*.
16. Paul Holden, unpublished evidence to Zondo Inquiry into State Capture, and articles such as <https://www.dailymaverick.co.za/article/2021-06-25-following-the-money-asset-forfeiture-unit-has-grounds-to-seize-optimum-coal-mine-witness-paul-holden-tells-inquiry/>.
17. Zondo, *The Judicial Commission* (2021). The report does mention the resistance of some in-house lawyers to the corruption of state-owned institutions.
18. Kejriwal and Dang (2020), 'Structural studies'. Kejriwal and Cherifi (2021), 'On using centrality'.
19. Private Eye, January 2022 'Better call Saul', about the boutique London firm Raymond Saul & Co acting for the Azeri Aliyev family and earlier for Pakistani ex-President Asif Ali Zardari.
20. Enrich, *Dark Towers*, 199. This role concentration has subsequently changed, due to international pressures on the Bank.
21. One study of massive corruption among global commodity traders does not even have lawyers in its index – see Blas and Farchy, *The World for Sale*.
22. S. 330 of the Proceeds of Crime Act 2002 creates the offence of 'failure to disclose' when a person knows or suspects, or has reasonable grounds to knowing or suspecting, that another person is engaged in money laundering. A policy change in June 2021 states that where there is subjective suspicion or (objectively) reasonable grounds to suspect money laundering, prosecutions for failure to disclose may be brought even *where it cannot be proven* that any underlying money laundering was '*planned or undertaken*'. This may affect lawyers, though 2005–2019, there were only 58 prosecution case files and 14 convictions for failure to disclose, none of them against lawyers.
The seizure of documents from lawyers has become less uncommon. For example, in Germany, strong limits on the seizure of documents by virtue of lawyer-client privilege apply only in criminal, not in civil, cases. In England and Wales, privilege may also be more limited if the documents originate from a third party. There is a trend to distinguish between client communication and documents produced by third parties, even if kept on behalf of the client. See e.g. <https://www.allenoverly.com/en-gb/global/news-and-insights/publications/internal-investigations-documents-seised-in-lawful-law-firm-raid>; <https://ul.qucosa.de/api/qucosa%3A33904/attachment/ATT-0>; <https://www.dlapiperintelligence.com/legalprivilege/>.
23. Ensign and Ng (2016).
24. Van der Does de Willebois, E, Halter, E, Harrison, R, Park, J and Sharman, J, (2011).
25. *Ibid.* 94–95.
26. <https://www.lawgazette.co.uk/news/firm-reveals-link-to-abacha-case/35338.article>.
27. Levi and Soudijn. 'Understanding the Laundering'; Middleton and Levi, 'Let Sleeping Lawyers Lie'.
28. Chaikin and Sharman (2009), P. 170–71.
29. PSI (2010), *Keeping Foreign Corruption Out*. Subsequently, Teodoro has settled with the US for \$30 m, had \$27 m of cars sold by Swiss prosecutors, received in France for embezzlement a 3-year sentence in absentia, a €30 m fine and large asset freezing orders, and has been placed on the UK Sanctions List, preventing him from using UK banks or travelling to the UK.
30. Costa (2021).

31. 'No One Has Ever Made a Corruption Machine Like This One', <https://www.bloomberg.com/news/features/2017-06-08/no-one-has-ever-made-a-corruption-machine-like-this-one>
'No One Has Ever Made a Corruption Machine Like This One',
32. Interview, July 2021. Because of legal professional privilege issues, it is not possible to test this assertion.
33. <https://www.icij.org/investigations/swiss-leaks/files-open-new-window-182-million-halliburton-bribery-scandal-nigeria/>
34. Attorney General of Zambia v Meer Care and Desai (A Firm) and others, [2008] EWCA Civ 1007.
35. <https://guardian.ng/news/uk-to-seize-39-million-from-lawyer-who-helped-james-ibori/>; R and Bhadresh Babulal Gohil and Ellias Nimoh Preko [2018] EWCA Crim 140;
36. Lord, Campbell, and Van Wingerde (2019), 1217–36. Alternatively put, he successfully turned a blind eye until he was caught. See also International Union of Notaries (2018), 'Good practices'.
37. <https://www.bellingcat.com/app/uploads/2019/09/Smash-and-Grab-The-UKs-Money-Laundering-Machine.pdf>
38. Schalchi and Mor (2022), *Registers of beneficial ownership*.
39. Global Witness, *Lowering The Bar*.
40. Global Witness, *The Real Wolves*.
41. Mere suspicion would not have been enough to render their behaviour unlawful. According to 18 U.S. Code §§ 1956–57, criminal liability for money laundering requires knowledge of the criminal origins of assets, so suspicion is not enough. 'Willful blindness' is recognised in U.S. federal criminal law – but not in e.g. New York State Courts – as a culpable state of mind, a substitute for the *mens rea* requirement of actual knowledge. Having a suspicion and yet transacting without adequate CDD would usually be a violation of compliance duties in other jurisdictions like the UK. Later civil proceedings have joined Shearman and Sterling in one of many lawsuits, alleging breaches of statutory and/or regulatory duty to dishonest assistance and aiding and abetting the transfer – see <https://www.theedgemarkets.com/article/red-granite-pictures-ny-law-firm-riza-aziz-named-suit-1mdb>, 8 June 2021).
42. Belton, *Putin's People*; Burgis (2020), *Kleptopia*; Sharman (2017), *The Despot's Guide*; Bullough (2018), *Moneyland* and *Butler to the World*.
43. E.g. <https://www.theguardian.com/world/2021/jan/22/australian-greg-sheppards-law-firm-says-charges-over-png-mine-fund-are-politically-motivated>, though Sheppard is a long-term expat.
44. Manji (2020).
45. 'Top law firms caught up in Sh450m CBA loans fraud', <https://www.businessdailyafrica.com/news/Top-law-firms-caught-up-in-Sh450m-CBA-loans-fraud/539546-4625274-6ej371/index.html> (Accessed 19 December 2021).
46. Levi (2012), 'How Well?'
47. Garland (2001).
48. Halliday, Levi and Reuter, 'Why Do Transnational'; Halliday (2018) 'Plausible folk theories'; Amicelle and Iafolla (2018), 'Suspicion-in-the-making'.
49. The White House, *United States Strategy*. See, more generally, Pieth, Low, and Bonucci (2013), *The OECD Convention*.
50. Australian Senate (2022), 'The adequacy and efficacy'.
51. Levi and Gilmore (2002), 'Terrorist finance'; Halliday, Levi and Reuter (2020); Vogel and Maillart (2020), *National and international*.
52. Rostain and Regan (2014). See also McBarnet (2006), 'After Enron?' Block (2020), *Masters of Paradise*, notes that after earlier IRS investigations in the Bahamas, Burton Kanter, a distinguished offshore tax expert lawyer, was acquitted in 1977, but a legal partner of his was convicted of conspiracy to avoid taxes via Castle Bank in the Bahamas. See also Block and Griffin (2002), 'Transnational Financial Crime'.
53. See Helgesson and Morth (2016); Tsingou (2018), 'New professionals'; Abel et al. (2022), Summerlad, Hammerslev and Schultz, *Lawyers in 21st-century Societies*.

54. For those public officials and their families deemed to qualify as Politically Exposed Persons, scrutiny expectations are higher. See e.g. Sharman, *The Despot's Guide*; Collins, *The Wealth Hoarders*.
55. FATF (2019). See Annexe 5 for Red Flags of suspicion.
56. Nougayrede (2019).
57. IBA and Secretariat of the OECD (2019); FATF, *Guidance For A Risk-Based Approach*.
58. For a sharp and detailed comparative analysis of national variations in European AML law, policy and practice, see Vogel and Maillart, *National and international*.
59. UKFIU (2021).
60. *Legal Sector Affinity Group (2021)*.
61. 'Cleared lawyer must pay £534,000 defence costs, SDT rules', *The Law Gazette*, 6 December 2021; 'Mishcon fined over money laundering failures', *Financial Times* and other papers, 6 January 2022, reporting a fine of £232,500, plus a further £50,000 towards the costs of the investigation into poor record-keeping.
62. 'Unattractiveness' is a subjective construct. Post-Ukraine invasion 2022, a large range of sanctioned Russian alleged kleptocrats suddenly became 'unattractive' to Western business partners, law and PR firms, real estate agents, stock exchanges and yachting harbours around the world, who previously had been happy to accept large amounts of their money. This is a form of negative elite labelling largely ignored by social scientists.
63. See e.g. Wallis (2021) on the way the Post Office used its resources and social capital to bully and trick hundreds of UK postmasters into pleading guilty to frauds they had not committed.
64. Findley et al. (2017).
65. Financial Services Authority (2011); Solicitors Regulation Authority (SRA) *Anti-Money Laundering (2021)*.
66. Middleton and Levi (2008). This can require some collective blindness where work is done in teams.
67. Cressey (1953).
68. But how are lawyers (or indeed, bankers) to make these judgements in relatively opaque economies, such as China and Russia? And because the origins of wealth are so hard to verify, should we truly expect bankers and lawyers not to deal with any such money?
69. Bromwich (2018), '(Where Is) the Tipping Point'. See also *Groia v Law Society of Upper Canada 2018, SCC 27*.
70. Obviously the Panama Papers would show 100% commonality with Mossack Fonseca, since the firm was the source of the leak! The firm did sell its products to many law firms around the world.

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