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Constructing Corruption

Identifying the Enablers Helping Build Violent Kleptocracies

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For many years, the focus of anti-corruption efforts has been on kleptocratic leaders, their inner circles, and the finely honed craft of state theft. While these targets must continue to be investigated, it is clear that no kleptocratic regime works alone. In order to identify, secure, and move stolen assets and funds into the international financial system, kleptocratic leaders and their inner circles require a cast of enablers willing to lend their expertise to state theft.

The release of damaging data through projects such as the Pandora Papers and the Credit Suisse leak lays bare just how immersed in the movement of corrupt funds enablers and the structures they maintain are. Such leaks illuminate the need to focus much more intentionally on these enablers. This realization has occurred at multiple levels, with the Biden administration recognizing the need to address deficiencies in this area in the first-ever United States Strategy on Countering Corruption; the introduction in Congress of the ENABLERS Act,[1] which is aimed at making it harder for illicit finance to be housed in the US by requiring certain professional gatekeepers to the US financial system to put in place anti-money laundering (AML) procedures; and the issuance by the US Department of the Treasury of an advanced notice of proposed rulemaking to enhance the AML reporting requirements related to real estate transactions.[2] In addition, the European Parliament has called for focus on the role played by Europe-based enablers in corruption,[3] and civil society has published several recent reports and books looking at the role of enablers.[4, 5]

The Sentry's investigations have exposed numerous enablers operating in East and Central Africa, and, in the process, commonalities and characteristics have emerged that are likely applicable to other kleptocratic regimes. These traits include the ability to target countries with vast unexploited wealth, weak government structures, underlying corrupt practices, and conflict. Enablers often bring unscrupulous practices aimed at the enrichment of leadership and themselves, with little to no regard for the people.

This report looks beyond borders and reviews how enablers—including banks, financial institutions, and professionals, as well as less recognized international operators and insiders—help operate a "successful" kleptocratic regime. It highlights the importance of these enablers and their links to illicit financial flows and associated conflict and human rights abuses, and it provides a checklist for governments and financial institutions to apply when using financial tools of pressure.[6]

ENABLER PROFILE

The Bank

Kleptocracies need to move funds, so it is essential to have enablers within—or with access to—those institutions that hold, transfer, and invest money. The most obvious ways of moving the proceeds of a violent kleptocracy are for a financial institution to knowingly accept stolen funds, willingly turn a blind eye, or have insufficient protocols to identify them. While the first two categories require a level of criminal intent, often the lack of sufficient protocols in the third category is enough for enablers to prey on.

Insufficient protocols can include the failure to properly conduct know your customer (KYC) checks, which can lead to an absence of information on who is operating accounts and where their funds are sourced. They can also include the absence of proper training in how to identify potential suspicious customers or transactions, as well as the failure to provide ongoing resources dedicated to maintaining the highest banking standards. These weaknesses can be exacerbated by working environments that fail to encourage staff to take a risk-based approach to corruption and associated illicit financial flows—for instance by flagging or declining suspicious transactions—or that deliberately block staff from effectively reporting suspicious business or transactions.

The lack of adequate procedures is particularly advantageous when the financial institution in question is part of a correspondent banking relationship with other international financial institutions. In these instances, there is often no need for an illicit actor or their enablers to engage directly with larger banks in order to obtain US dollar accounts. Instead, banks and financial institutions with correspondent banking relationships may allow access to US dollar accounts and the international market without requiring customers to engage directly with US-based banks and their potentially heightened security checks or enhanced due diligence. Such relationships allow funds to flow more easily into the international financial system, where it can be very difficult—if not impossible—to identify onward money flows.

The fight against global kleptocracy is only ever as strong as its weakest link, particularly with regard to financial institutions, as global markets connect banks and institutions across the world. Red flags for susceptible financial institutions include:

THE BANK

- Insufficient or non-existent procedures for identifying customers or the sources of funds
- Operations in countries where banking sector regulators have little or insufficient oversight, either through lack of capacity or willful obstruction
- Close, opaque relationships between senior banking officials and leaders and their inner circles, including ownership or control of banks or other financial institutions by politically exposed persons (PEPs)

Case 1: Afriland First Bank[7, 8]

Countries: Democratic Republic of Congo, North Korea

In 2018, two North Korean businessmen formed a construction company in the Democratic Republic of Congo (DRC). The company erected statues and undertook construction projects in apparent violation of sanctions adopted by the European Union, the United Nations, and the US. Despite strict international prohibitions, these individuals obtained a US dollar-denominated account at the DRC affiliate of Afriland First Bank, an institution headquartered in Cameroon, likely due to weak internal procedures and a lack of robust checks.[9] This account enabled the North Korea-controlled company to move funds globally via the London-headquartered BMCE Bank International's Paris branch, which was the banking partner designated to process US dollar and euro transactions for Congo Aconde's account in the DRC.[10]

Case 2: Kwanza Capital and the Congolese Banking Sector[11]

Countries: Democratic Republic of Congo

Between 2016 and 2018, specialized financial institution Kwanza Capital, a vehicle that records indicate former DRC President Joseph Kabila's inner circle used to hold embezzled funds and the proceeds of corruption, made significant attempts to control around 28% of the country's roughly $5 billion banking sector.[12] Part of the prize was seemingly the established correspondent banking relationships Congolese banks enjoyed with US and European banks, which would provide Kabila and his network with direct access to the international financial market through which they could launder corrupt wealth.[13] While Kwanza Capital was ultimately unsuccessful, its attempt demonstrates the crucial role of financial institutions, even when they seem geographically removed from the financial centers of power.[14, 15]

Case 3: BGFIBank DRC[16, 17]

Countries: Democratic Republic of Congo, China

BGFIBank Group has been accused of involvement in serious corruption across various sectors in the DRC through its subsidiary BGFIBank DRC, which sat at the center of a complex web of transactions and was used to redistribute funds originally designated for projects to benefit the Congolese people.[18] Managed by Kabila's brother Francis Selemani,[19] BGFIBank DRC was the main financial institution used by Chinese businessman "David" Du Wei, a key international enabler discussed in this report.[20] Du moved $65 million through accounts for his shell company Congo Construction Company (CCC) at BGFIBank DRC, transferring $31 million to Kabila-linked entities and $8 million to commercial partners of the Kabila family.[21] Transfers to CCC were flagged by compliance officers at BGFIBank DRC's correspondent banks, and in response, BGFIBank DRC provided documents that bore clear indications of fraud and falsification.[22] In 2018, the chief internal auditor at BGFIBank DRC conducted an investigation into Selemani and other board members, uncovering evidence of fraud and giving the bank an "unacceptable" overall grade. It is unclear whether any actions were taken by BGFIBank Group in response to the audit.[23]

Case 4: Kenya Commercial Bank[24]

Countries: Kenya, South Sudan

Between 2012 and 2016, $3.03 million moved through the personal account at Kenya Commercial Bank (KCB) of UN-sanctioned South Sudanese General Reuben Riak.[25, 26] Recorded transactions include cash deposits and payments from international construction companies operating in South Sudan totaling more than $700,000. Additionally, $1.16 million in cash was withdrawn over the same period.[27] Between February and December 2014, South Sudanese General Gabriel Jok Riak, also sanctioned by the UN,[28] received large financial transfers to his personal bank account at KCB totaling at least $367,000—more than 10 times his estimated annual government salary.[29] Following these allegations, KCB has reportedly made efforts to eliminate the flow and receipt of conflict-related funds.[30]

ENABLER PROFILE

The International

Outside international assistance is often necessary to keep a successful kleptocracy running and may be provided by individuals, not necessarily from established professions, who work on deals in multiple unconnected countries. These individuals may be drawn in by a potent mix of underexploited natural resources and the weak—or, in some cases, absent—application of the rule of law. Whether by sourcing gold in the DRC, exploiting natural resources in the Central African Republic (CAR), or making suspect deals in South Sudan, international businesspeople working closely with political elites can be a necessary part of building a violent kleptocracy, bringing international networks and connections and the promise of access to international financial markets. Red flags for these individuals include:

THE INTERNATIONAL

- A close personal relationship with key leadership
- A track record of deals in seemingly unconnected countries where the only commonality is weak government and a lack of rule of law
- An ability to access international financial systems through multiple foreign companies, trusts, or corporate vehicles, often in high-risk jurisdictions

Case 1: "David" Du Wei

Countries: Democratic Republic of Congo, China

"David" Du Wei, a Chinese businessman and intermediary to several large Chinese corporations, positioned himself as an expert in safeguarding the African assets of Beijing's state-owned enterprises, particularly by warding off political risk through "countermeasures."[31] Exceptionally well connected and with a direct line to Kabila's family, Du's business often favored less-than-legitimate means to broker large-scale natural resource-linked infrastructure deals. Records contained in the Congo Hold-up leak, described as "the biggest leak of sensitive data in African history,"[32] show that Du moved millions of dollars through the shell company CCC using false justifications and sometimes even apparently forged documents.[33] The Sentry reported that, at particularly vital moments, "Du drove tens of millions of dollars through the international banking system into the hands of former DRC President Joseph Kabila associates—behavior that bore the hallmarks of bank fraud, money laundering, and bribery."[34]

Case 2: Dan Gertler

Countries: Democratic Republic of Congo

Israeli businessman Dan Gertler "amassed his fortune through hundreds of millions of dollars' worth of opaque and corrupt mining and oil deals in the Democratic Republic of the Congo."[35] Using his close friendship with Kabila, Gertler "acted as a middleman for mining asset sales in the DRC," with some multinational companies even having "to go through

Gertler to do business with the Congolese state."[36] According to the US Treasury Department, "between 2010 and 2012 alone, the DRC reportedly lost over $1.36 billion in revenues from the underpricing of mining assets that were sold to offshore companies linked to Gertler."[37] In 2017, Gertler and several entities linked to him were sanctioned by the US, with further sanctions applied on Gertler's network in 2018 and 2021.[38, 39] In January 2021, a license was granted that allowed Gertler to resume transactions with US persons and unblocked his frozen property.[40] The license was subsequently revoked by the Biden administration in March 2021, citing its issuance as "inconsistent with America's strong foreign policy interests in combatting corruption around the world,"[41] and Gertler remains under US sanctions. In February 2022, reports emerged that the Congolese government had entered into an agreement with Gertler for the recovery of oil and mining assets; however, the details of this agreement remain confidential.[42]

Case 3: Alain Goetz

Countries: Democratic Republic of Congo, Rwanda, Uganda

The corporate network controlled by US-sanctioned Belgian tycoon Alain Goetz has been involved in refining conflict gold sourced from mines controlled by armed groups in eastern DRC at the African Gold Refinery in Uganda and then exporting it through a series of companies to the US and Europe, ticking all the boxes of legitimacy, access to financial markets, and international connections that the international enabler can bring.[43, 44] Gold is a key driver of conflict in eastern DRC, and the Goetz network was implicated in the "illicit movement of gold valued at hundreds of millions of dollars per year" from the country.[45] In 2020, Goetz and his brother Sylvain were convicted in Antwerp, Belgium, of corruption-related offenses, and investigators are looking into allegations linked to Uganda.[46]

Case 4: Ali Khalil Merhi

Countries: South Sudan

Lebanese businessman Ali Khalil Merhi transitioned from wanted fugitive in Paraguay to Ali Khalil Myree, a well-connected businessman in South Sudan, operating numerous companies and rubbing shoulders with the political elite.[47] With a business empire spanning multiple countries, Myree incorporated several companies in South Sudan, sometimes with the relatives of senior political and government leaders, including the daughter of current President Salva Kiir.[48] Myree's companies secured lucrative government contracts and licenses for natural resources.[49] These companies were also used to send cash transactions to senior officials, including General Malek Reuben Riak, a since-sanctioned general in the South Sudanese army.[50, 51, 52, 53] In July 2020, Myree formally became South Sudan's honorary consul to Lebanon.[54]

Case 5: Aziz Nassour

Country: Central African Republic

Aziz Nassour, a Lebanese businessman with alleged links to terror financing and diamond trafficking in conflict zones, has become a power broker in CAR under current leader Faustin-Archange Touadéra.[55, 56, 57, 58, 59, 60, 61, 62] Nassour has previously been linked to counterfeiting, money laundering, and major diamond trafficking in conflict zones in the DRC, Liberia, and Sierra Leone.[63, 64, 65, 66, 67, 68] In CAR, Nassour has purportedly used this experience to assist Touadéra in concealing diamond, drug, and weapons trafficking, benefiting in turn by receiving public contracts to digitize government-issued documents.[69]

ENABLER PROFILE

The Insider

The insider is an individual linked closely to the inner circle of a kleptocratic regime, often coming from the same country or region as senior leaders. Insiders occupy different roles than international enablers. While they are sometimes described as advisors to leadership, they are often found at the very center of a regime, operating with complete trust and working not only on deals to enrich leaders but also often in direct partnership with them. Red flags for this type of enabler include:

THE INSIDER

— A close personal relationship with key leadership
— A vague role without an official title, neither within the civil service nor as an elected official
— Receipt of government contracts or apparent profit sharing with government officials

Case 1: Kudakwashe Tagwirei

Country: Zimbabwe

Trusted insider Kudakwashe Tagwirei, a Zimbabwean businessman and presidential advisor, has accumulated both wealth and power.[70, 71] The US Treasury Department imposed sanctions on Tagwirei and his company Sakunda Holdings in 2020, stating, "Tagwirei used a combination of opaque business dealings and his ongoing relationship with President [Emmerson] Mnangagwa to grow his business empire dramatically and rake in millions of U.S. dollars."[72] Multiple times, large-scale government procurement decisions made under questionable circumstances have greatly benefited Tagwirei. For example, in 2016, Sakunda Holdings won a $630 million contract to build an emergency diesel generating plant. The Sentry reported that "a forensic audit report commissioned by the Auditor General found that the Office of the President had interfered with the procurement process in favor of Sakunda, a company that didn't build diesel plants and hadn't bid the first time around."[73, 74]

Case 2: Al-Cardinal

Country: South Sudan

UK- and US-sanctioned Sudanese businessman Ashraf Seed Ahmed Hussein Ali,[75, 76] commonly known as "Al-Cardinal," was shown to be the trusted confidant of the South Sudanese political elite.[77, 78] Neither an elected official nor a civil servant, Al-Cardinal was "used by a senior South Sudanese government official as an intermediary to deposit and hold a large amount of funds in a country outside of South Sudan."[79] At the same time, he acquired personal wealth in a series of questionable deals over at least a decade, including arranging government vehicle purchases at inflated costs and engaging in business ventures with high-ranking military officials, including the then-chief of staff of the South Sudanese army, General Paul Malong Awan.[80]

Case 3: Benjamin Bol Mel

Country: South Sudan

In South Sudan, businessman Benjamin Bol Mel occupied three roles that should have raised significant concerns about conflicts of interest: president of a construction company; chairman of South Sudan's Chamber of Commerce, Industry, and Agriculture; and principal financial advisor and secretary to South Sudan's president. Bol Mel's company was awarded tens of millions of dollars in government road construction contracts, for which the government did not hold competitive tender processes.[81, 82] These contracts not only enriched Bol Mel but also appear to be oil-backed, no-bid contracts, thereby violating South Sudan's 2018 Public Procurement Act.[83, 84] Bol Mel was designated for sanctions by the US in 2017, along with two of his companies.[85]

Case 4: Francis Selemani

Country: Democratic Republic of Congo

Francis Selemani is the brother of former DRC President Kabila and served as managing director of BGFIBank DRC.[86, 87] Selemani and the Kabila family used a network of companies and the bank they controlled to misappropriate public funds, transferring millions abroad and purchasing millions of dollars in foreign real estate. Selemani personally managed the banking relationship with "David" Du Wei's company CCC, a conduit for tens of millions of dollars from major Chinese construction contractors that wound up in accounts used by Kabila and his inner circle, including Selemani himself.[88] Between 2015 and 2018, more than $12 million was sent to Selemani's own accounts and to companies he owned or controlled, according to BGFIBank DRC records reviewed by The Sentry.[89] The Sentry reported that, at the same time that money was transiting accounts "held by Selemani and companies linked to him and his wife, Selemani purchased 17 properties for a total of $6.6 million in the affluent suburbs of Washington, DC, and Johannesburg, South Africa."[90]

ENABLER PROFILE

The Professional

Running a successful kleptocracy is complex, and expertise is often required. Professional service providers—for example, lawyers or accountants—can therefore play a key role in drafting contracts, complying with (or avoiding) regulations, and providing advice on jurisdictions, litigation, and other legal niceties. In addition to this practical work, professional service providers can also offer a veil of legitimacy on an otherwise questionable deal. For instance, mentioning that a certain law firm or accountant is engaged on a particular project can help assert the image of acceptability while also providing protection should the project take a turn.

Given the trusted role that professional industries such as law and accountancy play in the proper running of business and finance, influential authorities—whether national or state bar associations or accountancy authorities—often oversee their practice. These regulators often possess the ability to investigate conduct and levy fines or disciplinary action where appropriate. Here, the question is often whether a firm is willing to either turn a blind eye or simply not conduct due diligence beyond the absolute minimum required in order to engage in lucrative work. Red flags for this type of enabler include:

THE PROFESSIONAL

— A track record of acting in countries and regions considered "difficult" or "challenging"
— A record of regulatory investigations, fines, or convictions
— High-profile relationships with leaders that may be publicly mentioned to augment credibility

Case 1: Law firm partner

Country: Democratic Republic of Congo

A partner at the French affiliate of a US-headquartered global law firm represented Kwanza Capital in its attempt to buy shares in a Congolese bank with valuable correspondent banking relations in the US and Europe.[91, 92] The partner also reportedly acted as an advisor for the financing of a major hydroelectric project in the DRC and has advised the state-controlled mining company Gécamines on a number of high-profile deals.[93]

Case 2: Advisors to Kudakwashe Tagwirei (corporate structures)

Countries: Zimbabwe

The complex corporate web of Kudakwashe Tagwirei, a Zimbabwean businessman and presidential advisor, includes companies and corporate structures not only in Zimbabwe but also in Mauritius, South Africa, Switzerland, and the Cayman Islands.[94] Such a complex structure requires a team of advisors and lawyers to operate and finesse the system in order to gain maximum financial benefit while staying entirely behind the scenes.[95] Tagwirei's team included corporate service providers in Mauritius,[96, 97] South African law firms,[98] and banks in Switzerland.[99]

Case 3: Real estate brokers

Countries: United States, South Africa, Democratic Republic of Congo, Zimbabwe

The role of professional enablers also extends to the acquisition of real estate.[100] Real estate professionals can provide valuable financial intelligence on possible money laundering schemes, but, in the US for example, they're subject to far fewer AML reporting requirements than financial institutions and, unlike banks, can choose whether to identify beneficial owners or report suspicious activity.[101] The Financial Action Task Force and the Egmont Group have warned that loopholes in the real estate sector can provide an "unregulated backdoor" to the global financial system.[102] Suspected stolen funds may be channeled via complex webs of companies and banks and ultimately used to buy property abroad, including in the US. For example, Selemani, described in this report, was able to purchase 17 homes across the US and South Africa using these methods, with seemingly no flags raised by real estate professionals working on the deals.[103] Tagwirei also used corporate vehicles to finance the purchase of a home in the upscale neighborhood of Borrowdale, Harare, in Zimbabwe.[104]

Conclusion

Enablers are of critical importance to violent kleptocracies, whether by moving money, housing money, or creating structures into which funds can be transferred. While the categories of enablers discussed should not be considered exhaustive, they do provide a starting point for the public and private sectors to play their part by identifying vulnerable countries or regions, flagging the presence of enablers, and increasing due diligence to ultimately change the cost-benefit analysis for enablers and the kleptocratic leaders they serve.

Significantly, kleptocratic leaders' heavy reliance on enablers and their expertise creates vulnerability and opportunity to gain leverage in countries where leverage is often considered scarce. By targeting enablers through financial tools of pressure and other policy actions, there is an opportunity to effect real change on the ground by disincentivizing the benefits to possible enablers, thereby removing the crucial layer of assistance that kleptocracies rely on.

Success when targeting enablers can be profound. In the case of Gertler, the network approach of sanctioning him, his business associates, and related entities is often cited as a significant reason for then-President Kabila's decision not to run for reelection in the DRC in 2018.[105] With a greater focus on the enablers, violent kleptocracies lose an essential ally in the finely crafted state theft that has besieged many states for too long.

Recommendations

Private sector

- Banks and other financial institutions should use the categories of enablers discussed to identify red flags and share typologies for the onboarding of new clients and the review of existing clients and their accounts, with a view toward enhancing due diligence checks.
- Banks and other financial institutions should increase their engagement with government, regional, and other public institutions to best identify the categories of enablers mentioned in this report with a view toward sharing intelligence, thereby ensuring that enablers are not able to move looted funds and profits.
- Banks and other financial institutions should adopt policies and processes that allow for clear lines of communication with civil society and journalists in order to act upon information relating to enablers.
- Professionals working in the legal, accountancy, and real estate sectors should similarly use the categories discussed to identify red flags both in client onboarding and in ongoing relationships. They should report suspicious activities to local financial intelligence units.

Public sector

- Government and regional bodies should prioritize and, when possible, fast-track the passage and adoption of legislation and regulatory action that targets the role of enablers.
- Government and regional bodies should use the categories of enablers mentioned in this report as a framework to identify countries that may be particularly susceptible to enablers, with a view toward the implementation of further pressure. For example, when one or more of the categories of enablers is known to operate in a country, this should trigger the deployment of financial tools of pressure.
- Governments and regional bodies should issue alerts or advisories focused on enablers that include real-world examples of the dangers of working and engaging with enablers in high-risk jurisdictions.

- The US, UK, EU, Canada, Australia, and other jurisdictions should prioritize applying targeted network sanctions via Global Magnitsky-style or other appropriate sanctions regimes against enablers, including those cited in the case studies above, who continue to assist kleptocratic leaders. Sanctions against enablers tend to be particularly effective given their access to the global financial system.
- The US, UK, EU, and other jurisdictions should increase the issuance of advisories and alerts focused on violent kleptocratic regimes and the enablers that benefit from them. Consideration should be given to enabler-specific advisories and alerts.
- Law enforcement agencies in the US, UK, EU, and other jurisdictions should prioritize the rising influence of enablers and their links to increased illicit financial flows and kleptocracy. Focused initiatives should be launched to investigate enablers' modes of operations, and suitable law enforcement tools should be engaged to disrupt, investigate, and prosecute, when possible.
- Regulated professions—for example, lawyers and accountants—should, through appropriate bar and accountancy associations, launch kleptocracy-focused initiatives to work with and train members on the dangers posed by kleptocracies, the commonalities across countries, and the links between corruption, conflict, and human rights violations.
- Countries susceptible to the presence and influence of enablers should conduct transparent and open reviews of consultants, businesspersons, and advisors working at high positions within government to best determine and remove unwanted influences.

Endnotes

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