Transatlantic Initiatives to Counter Kleptocracy: A Post-Brexit Discussion with Andrew Mitchell MP

TRANSCRIPT

Discussion

- Ben Judah, Research Fellow, Hudson Institute
- Rt. Hon. Andrew Mitchell MP, Former Secretary of State for International Development

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Ben Judah:

Hello and welcome to the Hudson Institute. Thank you once again for coming to one of our events focusing on corruption and kleptocracy around the world and what the United States and today the United Kingdom can do about the issue. I'm Ben Judah. I'm a research fellow at the Kleptocracy Initiative. It's my great pleasure to welcome the right honorable Andrew Mitchell MP, Britain's former secretary of state for international development who has been one of the most important parliamentarians working on our issue for many years now. Thank you very much for joining us here in Washington.

Just to structure our event a little bit, I thought Andrew would speak maybe for seven, eight, maybe even 12 minutes to outline how he views this critical issue for our times. Then it will be my questions for maybe half an hour. Then we'll open it up to the floor for all of your patiently waiting questions here. Thank you once again for joining us.

Andrew Mitchell:

Good afternoon, everybody. It's a great pleasure to be back in Washington again and particularly discussing this very interesting subject. My visit is sponsored by the British Foreign Office. It's an area where there's plenty of debate in the United Kingdom and the government doesn't always agree with the benches in the House of Commons. Much of the progress we have made recently on this issue has arisen from across party lines where the House Commons has obliged the government to go further than the government initially wanted.

I think it's worth first of all saying something about the extent to which money laundering and kleptocracy is taking place. The national crime agency in Britain, which is a sort of, it's not really an FBI, but originally it was set up to be a little like the FBI, reckons that about a 100 billion pounds of money laundering takes place every year through London and British entities.

I've always worked on the basis of probably about 40% of the money laundering that takes place goes through Britain or British entities, which is the overseas territories and the crown dependencies of Guernsey, Jersey and the Isle of Man. That would mean, and no one has a clue really whether these figures are accurate or not, but that would mean a little about 250 billion pounds of money laundering was taking place every year.

Now that is a figure which dwarfs the flows of investment into Africa. It certainly dwarfs the development of aid flows into Africa and indeed total amount of remittancing as well. We're talking about a very large amount of money. I don't know whether any of you have seen the wonderful Netflix program Narcos. The thing that struck me almost immediately on watching this very interesting and no doubt, slightly figurative take down of Pablo Escobar in Colombia, was the importance of money laundering. Indeed getting rid of the narco dollars was so difficult that at times they were reduced to bearing the money in various strategic places around Columbia. Indeed Pablo Escobar's mother sat on a sofa, which was made up of a million dollars, which was put in place of the springs.

If you can stop money laundering, you don't only bring to justice, or have the chance to bring it to justice, villains. You also start to close down their activities. It was when the law enforcement authorities went after the money above all that the drug running was closed down. Now, given the scale and given the importance in terms of closing down villainy, you can see that a really effective regime that would deal with this is incredibly important for all of us. It's a great pleasure
to hear that there is legislation going through on the Hill at the moment, I think through in the House and now approaching the Senate designed to implement on a federal basis registers of beneficial ownership.

We got into this in Britain. Britain has given quite a good lead on this because in the 2012 G8, it was a top priority of the British government to focus on transparency as a way of attacking money laundring. As David Cameron, our former prime minister used to say, "Sunlight is the best disinfectant." Transparency, shining a light on corruption and this sort of activity is the best way to clean it up. We introduced open registers of beneficial ownership, which means that if you go and you ask the register who owns this particular block of flats, they will give you, in Britain, you will get an answer to that question. Which you won't get in many parts of the world, but it is the thrust of what we're trying to get to.

Now if you do that in Britain, if you have a block of flats which you think is owned by a Russian oligarch, the answer you get back may well not be the name of the oligarch. It may be the ABC "Cayman" Company. That is why unless you have universal open registers of beneficial ownership, you don't get to the necessary standard to be able to identify who people are. The argument for open registers is that closed registers only enable the law enforcement authorities and NGOs and investigative journalists are not able to access them. Only the law and order authorities and the revenue authorities are. That is a very substantial progress, but it doesn't enable you to join up the dots. It is only when you can join up the dots that you can more easily identify who the money launderers are.

Now the problem if America doesn't introduce these registers, these closed registers of beneficial ownership, is that the attack on money laundring will falter. If American now proceeds and does introduce these registers, because the American law enforcement is so much better than in most other parts of the world, there will be a real chance for America to mount the argument that everyone should at least try to come up to the standards of transparency and probity in this area that America will then have legislated for. That would be a colossal piece of progress, because eventually you will raise the standards of everyone by proceeding upon that basis.

The fight against dirty money and money laundring is a bit like the fight against malaria. You try to narrow the footprint as best you can of malaria and then eradicate it. We in Britain now have imposed open registers of beneficial ownership on the overseas territories. That's the British Virgin Islands, Cayman and other territories principally in the Caribbean. The crown dependencies, which are, as I said the Isle of Man, Jersey and Guernsey, they now have agreed to implement these open registers. The European Union requires all its members to introduce open registers within the next couple of years. That is part of the reason, along with pressure from the British Parliament, why the crown dependencies have agreed these open registers.

What that will do is it will mean that villains will be less willing to run the risk of placing their money and less able to place their money in British dependent territories and crown dependencies. They will look elsewhere. As with malaria, the more you narrow the footprint, the more they will have to place their money in less well-governed spaces, in territories where they won't sleep so easy that their money is safe and sound. That's how you start to dismantle this whole process.
I would argue that the British regulatory advances and progress in this area coupled with the very strong American enforcement processes of law and order, that is an unbeatable combination going forward, which can make a real dent in all of this. What are we aiming to get to? We're aiming to get to, of course, to a universal standard where everyone is doing the same thing. That will be some years off, but every journey starts with a small step. The steps that we and you have introduced certainly do make considerable progress on that.

I think the final thing I would just like to say is that in Britain there's been a sort of an alliance between people on my side of the fence and my particular interest in all of this has been money laundering and principally the stealing of funds from Africa and Africans by bent politicians and warlords and corrupt business people. That's been my main focus. The focus on the other side of the aisle, on the Labor side, has been more I think going after people who are not paying tax, particularly people in the digital economy who are not able to be taxed in the same way as the physical economy can be taxed.

We've sort of combined those two from slightly different perspectives. That's how we were able to persuade the British government to introduce these open registers of beneficial ownership. Often in legislatures when you can get agreement across the aisle like that, you can really make progress. It seems to me that in the US you are, I hope, about to manage to secure that agreement after a lot of discussion. If that is the case, then the awesome power that America will bring to this fight against corruption and dirty money will be both enormously welcome, but also highly effective.

**Ben Judah:**

Thank you very much Andrew for such a brilliant press of the challenge that we're facing from the villainy of international illicit finance and the solution that's being advanced in order to tackle it. I guess my first question is almost a personal one is when did you first come aware of the scale of this problem?

**Andrew Mitchell:**

When I was the British development secretary, I had the opportunity to spending five years in opposition preparing for the job. Being in opposition is a terrible experience. You can't do anything, but you can plan for the day when you may have the privilege of being in government to implement it. I became aware that really very substantial sums of money were being siphoned off away from people, particularly in the developing world, but particularly in Africa where there was an inequality of arms between governments knowing the value of what they had underneath the surface and businesses, extractive industries knowing what there was. That meant that the deals that were cut were bad deals.

There's a chap called to Sir Paul Collier, who's a development economist at Oxford University who wrote a brilliant book called The Plundered Planet. His case is that you need to ensure that there is equivalence of information between countries and aggregate developers so that a decent deal is done, which gives a fair return to the people developing the mineral resources and a fair return to the country which hosts them.

We live in a world where the DRC is one of the most ungoverned difficult countries in the world. You have this extraordinary situation where some of the poorest people are living on top of
some of the richest real estate. How you exploit that real estate is central to development. With that learning, you then start to ask where all this money is going. That's when you start to follow the flows and understand. Then as development secretary, I tried to make sure that we bore down on theft for example from this very famous case in Nigeria where a lot of money was looted and the looters came to live in Britain.

The governor of the state who had conducted this looting had divided it up between himself, his wife and his mistress. We set about trying to get the money back for Nigeria. President Buhari has been extremely successful in Nigeria in getting back looted funds and inviting those who had been identified to give back the money or go to prison for very long periods of time. Most of them decided to give back the money, which is probably a sensible decision. In dealing with that policy area, that's how you get to understand if not the extent of these flows, the corrosive effect these flows have on development.

Ben Judah:
Tell us more about what steps you took in government and what roadblocks you came up against in terms of lack of information or poor systems blocking kind of action in this zone.

Andrew Mitchell:
The willingness of Britain to take action resulted from a quite extraordinary alignment of the stars. Because you have the sort of left of politics who are anxious to tax as much as possible to bear down, obviously on failure to pay taxes, but also the left traditionally has wanted taxation of 80% indeed under labor governments in the 70s. It got up to 98% as the top rate where you would keep just two pence of a pound. It's hard to believe that that was the case.

The left wanted to raise more money. The right under George Osborne, a very brilliant chancellor exchequer in Britain, introducing austerity measures wanted obviously to raise as much taxes possibly could by any means in order to help fund the cuts that were necessary. Because at that stage, every three pounds Britain had spent in the public sector, one pound was borrowed. That's unsustainable.

The stars aligned and the determination to boost taxation revenue wherever possible meant that there was far more of a fluid agenda about how do you get hold of these funds. That is what led to transparency. Then the initiative at the G8, which was, I think it would be fair to say it was very much David Cameron's and George's and also my initiative to try and go after these funds. To try and get a universal standard over many years. Which is why the progress has been made in the US at the moment on this issue, this very issue is so encouraging and so important. But, that was really where we came to. For the reasons I've said, I knew how corrosive this was. We agreed to spend more money on recoveries and so forth in tackling dirty money.

Now you talk about the roadblocks to that. There's a wonderful man called Bill Browder, who may be known to people in here whose lawyer in Russia, Mr. Magnitsky, was murdered by the Putin regime. He had made it his life's job now to try and make sure that Russians can't behave in that way and can't do so with impunity. The Magnitsky Law, which was passed I think first in America and subsequently in Canada and now indeed we have it in Britain. The Magnitsky law was designed to bear down on both funds and visas for people who behave very badly. It was particularly aimed at the Russians.
Now one of the things that Bill Browder discovered was that there is a very sharp contrast, the point I made earlier, between the very effective American law enforcement agencies and Britain's law enforcement agencies, which are not of the same quality. Indeed Bill Browder has letters back from six of the agencies in Britain explaining to him why it wasn't their job to pursue this Russian money that he wanted pursued.

Trying to make sure that the British agencies learn from their American equivalents and get better at law enforcement was one of the barriers, the fact they hadn't got that skill. I think it's getting better now. The fact that people like Ed are here in Washington from the National Crime Agency in Britain is an important part of Britain trying to raise the standards in this area where America is, I think without question, the best in the world.

Ben Judah:

Maybe you could tell our audience a little bit more about the sort of constitutional peculiarities of the United Kingdom, the crown dependencies and the overseas territories existing under different legal regimes when you entered government? Then the steps that have been taken in order to correct that you outlined in your opening remarks.

Andrew Mitchell:

Yes. These were quite contentious issues in Britain. Because although Britain introduced open registers from 2016 of beneficial ownership, the overseas territories did not. But the overseas territories, and particularly the crown dependencies, argued that their registers were much more effective and accurate and clean than the British register at Company's House in London.

This is true. It's partly because, and again I'm not sure why the argument hasn't been more effectively made, but the Treasury has not supplied adequate funding to the registry in London at Company's House to keep up to date. That is a serious issue and one I hope maybe dealt within the in the budget that's coming up on March the 11th.

Though we have the open registers, the overseas territories and crown dependencies didn't. The control that London has over the overseas territories is very different from over the crown dependencies. The overseas territories are a relic of empire. They are by and large, they're not exclusively small island states, which either did not wish or could not stand on their own two feet and therefore they remained as overseas territories of Britain. They are all the ones that one knows about in the Caribbean.

For some of them, they would not be able to earn their living without providing for companies to be able to register there. The fact that companies can register there is a serious source of their income. Also if they were to be deprived of that income, they could then become a charge on the British taxpayer development funds because they wouldn't be able to make their living without that support. It's a complex issue and basically ...

So it's a complex issue. And basically my argument was that if they clean up their act, then there is a substantial amount of business including banking business, which they cannot do at the moment. And I see that Cayman has been blacklisted now in the last few days as well. But so they clean up their act, they would be able to do more business and it's quite important to understand the BVI for example, which are widely regarded as having cleaned up their act are able to act as places where funds can be invested. If you like a sort of tax neutral aircraft carrier
where all of us, if we were minded to invest in an international fund, whether it's a property fund or a high tech fund, can invest our money tax neutrally in those locations. But then we pay tax when we take it out and that is completely legitimate and it's not always understood, particularly by the British press. That sort of business is absolutely right and proper and indeed earns money for those territories in a proper way.

And American banks might well use the Cayman or BVI for that sort of work if the act was cleaned up. So Britain was in a position to impose registers of beneficial ownership on the overseas territories. The government was disinclined to do so because they didn't want to force them to do it. And then by an amendment to a bill in the House of Commons, we said that they would have to have open registers of beneficial ownership by 2021 and that if they didn't introduce them themselves and also improve their registers, then we would legislate for them through an arcane Imperial mechanism called An Order In Council, which is an order signed by the Queen on the advice of the government. And that was then amended by the foreign office to give them an extra two years, which was very naughty of the foreign office to do it. But this is an environment where you must not allow the best to be the enemy of the good. [crosstalk 00:23:19] And so we decided to suck it up. So, that solves the overseas territories.

Now the crown dependencies are very different kettle of fish. These are ancient dominions with parliaments of their own of 800 years standing. Their registers are unlike the overseas territories, in very, very good order and they bitterly resented being told by Westminster and by London what to do and they have agreed to implement open registers of beneficial ownership now because they don't want Westminster legislating for it. And under a report, the Royal commission set up in the 1970s, Westminster is able to legislate on issues to do with their foreign policy.

In other words, had they wanted to join the Warsaw Pact rather than NATO, Westminster would have stopped them, London would have stopped them from so doing. And also in areas where international criminality was at stake and we argued the both these two are relevant and therefore we could legislate and the territories have decided in my view wisely, that they will introduce these registers and as I said in my opening remarks, they need to do so really by the time the EU does or thereabouts, otherwise they will be caught between the open registers of the EU on the one hand and the open registers in Britain, which will be an uncomfortable position for them.

Ben Judah:

There's no firm deadline on them?

Andrew Mitchell:

They have agreed I think by 2023 and we will seek to hold them to that whether the British government would seek to hold them by that. I think there would be a bit of a fight, but I think probably the British government would encourage them to stand by the word that they have already given.

Ben Judah:
Fascinating. So we've talked a lot about beneficial ownership, as a tool to combat global illicit finance. What other components make for a successful anti money laundering regime, which the ones that you think that Britain is developing or that Britain lacks aside from effective policing?

Andrew Mitchell:

Well, the great problem with these initiatives is that you've got to try not to impede the honest people who are carrying out that trade, but also not to introduce the sort of things which do impede honest people but don't really hinder villains, villains find a way around it. And one of the problems is that on the whole, the villains are two steps ahead of the law enforcement authorities in Britain. I don't think it's so in the States, but I think it is true in many other countries and it is true I think in London. And these are known as KYC procedures, know your client, and the closed registers are fine in respect of the law and order authorities and the revenue authorities. The case for open registers as I said earlier, is that it allows you to detect wider villainy and the problem is that that only if you have those open registers, I think, do you have a chance in the end of outwitting the very expensive and clever lawyers and accountants who help with the money laundering industry.

Now, one of the things that we could do is we could introduce a law which says that it's not just the villains who are held to account, it is the people who facilitate their funding. So that would include lawyers and accountants and would be a very interesting innovation. And that is something that the government are seriously looking at. So if you said that at one level, if you put your client into a fund or an instrument that is subsequently found to be a form of tax evasion, you are as liable as your client is for the penalties of that. And I think that is a very interesting and innovative way of going after this.

Ben Judah:

And that would indeed echo how in Victorian London, pickpocketing was brought under control, which was such an epidemic in Victorian London. And that was why the original law on that against the handling of stolen goods was brought into effect.

Andrew Mitchell:

Yes, it's a very good analogy actually, it's a very good analogy.

Ben Judah:

There was simply no way that the British police and the constabulary at the time could have prevented the pickpocket epidemic of Dickensian London.

Ben Judah:

So jumping forward to our own time, does this cover trusts and what should the UK government and the United States be doing with this other legal category as we've been talking about companies?

Andrew Mitchell:
Well trusts, which are not exclusively by and large, I think are a very British centric instrument are too complicated for us to tackle at the moment. And logic would dictate that trust should be on our agenda but for now they are not. And I think it's important in all of these things to try and not bite off more than you can chew. So we focus on corporate ownership and 25% significant ownership as well. And the argument against open registers, which I think it's important to inject at this point, the best argument, there are one, two arguments. The best argument is the privacy argument and the fear that if you are a Mexican, a wealthy Mexican, if it is revealed that you are the owner of a very substantial holding or company, then you could be subject to kidnap or your children should be subject to kidnap.

And we thought about this because it didn't seem to be the best argument that was put out, but we rejected it firstly because that is a law and order issue really. And secondly, I think it is fanciful to suggest that it was by having that information from an open register, that large wealth holdings where known. I mean I think there are many ways of knowing large ownings of wealth are held. They may well appear in other countries. They may well be highly subjective and not objective or particularly accurate. They may come from people driving large cars or owning big houses and so on. And many years ago there was, I think a thing called the sumptuary tax, which was designed to people realizing this, would put their money into art facing inwards into their houses rather than great gables and gates outside, which struck me as very inventive, creative way to try and tax wealth. But I think wealth is sufficiently visible for that argument, the kidnap argument, if you like, to be put to one side.

Ben Judah:

And coming to the... I'm very impressed that we got this far into the conversation without talking about Brexit, but the time has come. Sort of, what does a Brexit mean for the UK's reforms, it's legal architecture? Potentially, could the European Union leverage over the UK or force the UK into alignment permanently with European legislation on this matter?

Andrew Mitchell:

Well the fifth eco... I think we're ahead of Europe on much of this and the fifth economic directive brings open registers into play in the European Union. Of course the problems that we are addressing today are particularly London centric problems and overseas territories and crown dependency problems. So, in terms of the scale of the issue, if not the fact of it, the rest of Europe is relatively smaller.

Now, what does Brexit mean for this? I think honestly not very much. I think that Britain will continue through the fact, I hope we will continue the fact, that while America is a military superpower, Britain is a development superpower. And I think that Britain, I hope will continue to innovate and come up with clever ways to bear down on this sort of villainy and others will hopefully take up some of our ideas and the instruments that we use. And just as I hope Europe will learn from Britain on some of this, I hope we will all learn from America in terms of the enforcement because you can do the regulatory stuff, which Britain is I think quite good at, the EU is not too bad at as well. But at the end of the day, if you haven't got the enforcement mechanisms and effective enforcement mechanisms that come out of the US you need a marriage of both to be really effective.
So I think that Britain with its emphasis on, and also the sort of academic work of people like who I mentioned before, all of this I hope will mean that Britain makes a real international contribution to transparency and openness and all the things that we talked about and have made good progress on since the British G8 in 2012. I mean Brexit will have, there'll be many difficulties with Brexit, which we can't currently foresee. But the direction of travel is now clear. And you know, Britain believes in the international rules based system, Britain will argue for a universal standard on all of this tackling of money laundering and Britain with its seat as one of the permanent five on the UN with its being the second most powerful member of NATO with the very important Commonwealth relationships. So North South relationships with stem from that.

Britain is a European power. I mean we're not leaving Europe, we're leaving the European Union. All of these things mean that Britain stands at a crossroads in the world and has stood for some very important values in some very dark places in the world. Values of free speech, human rights, liberty within the law, and so on. And I hope very much that all of those things will be advanced by Britain just as much outside of the European Union as we did when we were within it.

Ben Judah:

So a question I'd like to ask you is, if we're sort of aiming for a new international standard, we want to follow the American example and learn from them on more effective policing. Could this be embedded in new international institutions? Should a new internet, a new global standard, the beneficial ownership be defined in either the IMF, World Bank, should a new anti klepto force be set up? And there's very much a debate about this on the democratic side. And one of the debates the other night, Joe Biden, the former Vice President and a presidential candidate said that NATO should fight corruption. So I'm just sort of curious what your expertise would assess this sort of talking point.

Andrew Mitchell:

Well, I'm not sure that NATO is necessarily, I mean, you're going to shoot people and there should be no due process and so on. But I'm not sure NATO is the right instrument. Although I may be misinterpreting his argument on that, but the importance of having a universal standard, it doesn't really matter who enforces it. It's to get people to sign up to a universal standard. And remember my analogy with the fight against malaria, the more people who are prepared to do that the better.

And I think there is a real opportunity now, this is really my central message that if this legislation goes through on the Hill, to try and persuade everyone to come up to the standards that America has then enshrined in law. Let that be the bedrock for universal standard, which in Britain we've gone further. That's fine. We should go further because of our special relationship with the overseas territories and the crown dependencies, and so forth, and the pivotal position of London. But let's try and use the American drive of having got this through Congress and the Senate. Let's try and use that to drive a universal standard and get as many people as possible to sign up to it. And then if they won't sign up, well why won't they sign up? And let's try and understand what the reasoning is, why they won't sign up to something as important as this is to
make our world a less unjust and fairer a place where dirt poor Africans don't see the wealth of their country when they've got little enough as it is stolen by clever people.

**Ben Judah:**

Thank you, thank you very much. So I mean now is the time to kind of open us up for questions from the audience. We already got a question that's shot up. If you could please introduce yourselves and just, thank you so much for your answers and our good friends at the embassy just asked me to say that your views are of a member of parliament and are not the views of the British government at this time? [crosstalk 00:16:31].

**Andrew Mitchell:**

Well some of them are. Some of them are the views of the British government. I think what I'd say about a universal standard would certainly I think receive a strong support. What I say about the importance of the crown dependencies and the overseas territories, the government's getting there. But it would be, it's absolutely right to say as the embassy would wish you to say, that I'm not speaking here for the British government, because I'm not.

**Ben Judah:**

Just take another two questions please. The gentleman at the back with the glasses.

**Audience Member:**

Hey, thanks for being here. I'm curious if you could unpack what you see as the set of incentives for, you talk about the overseas territories bringing up their standards. If this is a way that has allowed them to make so much money. Can you tell me more about what would be in their economic self-interest to bring their standard of laws up to code? Thanks.

**Ben Judah:**

Thank you. And one final question. The gentleman in the white, or is it cream shirt? Cream, oh, sorry.

**Audience Member:**

And made very interesting comment about the government seriously considering actions against facilitators of corruption, the lawyers, the accountants and whatnot. Could you go into that a little more detail about any specific policy they have in mind and the politics behind it and just a little more detail about that please.

**Ben Judah:**

Thank you. So just to sort of say, three questions there. Effects on taxpayers, the incentives for the overseas territories, and the question of facilitators and what exactly Her Majesty's government is thinking about.

**Andrew Mitchell:**
Well, I can't, on the facilitators, first of all, I can't tell you where the debate has got to, but I can tell you that the debate is very live. And nor can I remember whether there was anything at all about this in the Queen's speech, whether I think there are indications of the government introducing legislation to which this might be relevant. But on the subject of going after facilitators, that is a very live issue in Britain and the subject of much discussion at this time.

On the incentive to the, I mean, let's be clear about the overseas territories that I'm not saying that there is a mechanism today which they could implement, which would mean that all this money that they're getting for having all these shell companies registered on their high street, that would replace it. I'm not saying that, but what I'm saying is that first of all, it is unacceptable that they should make their living out of laundering dirty money.

Full stop. And I put to you the argument that is sometimes put, that if they don't make their living that way they'll become a cost on the British taxpayer. I'm saying that that is absolutely unacceptable, that they should earn their living in that way.

But what I'm saying is that, if they clean up their money, being a tax neutral territory, then it may well be that, for example, American banks, which at the moment would not or could not go there, because of your anti-corruption laws, to do business, might feel that that aircraft carrier analogy, whereby international funds can be invested in a tax neutral location, so long as taxation on any profits is paid on the way out, when the money is taken from that tax neutral jurisdiction back to their own countries, where they are domiciled.

So, that is the point I'm making. And, of course, the genius of the private sector is, that all sorts of things can be done, which none of us can think of, at the moment, thanks to the entrepreneurial spirit. And I think there are other ways in which these territories could use financial expertise and acumen. But I summate that point against the background that there is never a case for people being allowed to make their living as of laundering dirty money. And let me just add another point to this.

As you narrow the footprint, this is the point that is quite important, I think, for Delaware, for example. As you narrow the footprint, if Britain is successful at stopping, through this device, very large amounts of money laundering, and if Britain is responsible, one way or another, for up to 40% of the money laundering, and you take that out, and those locations are no longer available, you're going to have some really very unpleasant funding. Funding from the sex trade, the drugs trade, and other illicit, horrible, illicit businesses, going into respectable places. And that's something that all of us should be very concerned about. As you narrow the footprint available, that will inevitably be one of the effects.

Now, I'm not absolutely certain I understood fully your first question. If I've understood from your pressie, it is to what extent, in these territories, is this the stealing of money that should be paid in tax, and to what extent is it not?

**Audience Member:**

What I mean is they are stolen or locked away by the government, the attorneys or financial institutions. In other words, the taxpayer don't have lost the money already, and -

**Andrew Mitchell:**
Taxpayers have lost the money already?

**Audience Member:**
Lost all account, all their income, because they have been...

**Andrew Mitchell:**
Yes. I don't have any estimate of that loss. But I think, if I'd understood you correctly, you were talking about the facilitator role, in facilitating this money being removed.

**Audience Member:**
Not necessarily facilitator. It may be government officials, or police, or law enforcement, there's some-

**Andrew Mitchell:**
Being involved themselves in corruption?

**Audience Member:**
Law enforcement, or police, or somewhere financial institution or taxpayers money or account. So-

**Ben Judah:**
Well we do have some estimates, actually, from the kleptocracy initiative, which I can send you afterwards, which might help-

**Andrew Mitchell:**
Well no one really, no one really knows what the ... and I stuck my neck out in saying ... using the national crime agency figure of 100 billion and extrapolating from that, what these flows of money would be. So no one really knows how big they are. What we know are that they are very substantial. And what we also know is, that the different mechanisms which you described are all in play. They're all in play. And they get more and more sophisticated as the law and order facilities track them down and close them down. They get more and more sophisticated as they need to in order to stay one step ahead of the-

**Audience Member:**
The treasury department. They put it in their own pocket.

**Andrew Mitchell:**
Yes, yes, yes, yes, yes.

**Ben Judah:**
Thank you. And just the gentleman in the Cream had a question about facilitators.
Andrew Mitchell:
I did that one first.

Ben Judah:
Oh, you did that. Sorry. So gentleman in the back.

Audience Member:
Thank you. My name is Tim Lowe. I'm a UK based independent consultant, and I should declare an interest, because last year I co-authored a paper for UK government on "Towards a global norm of beneficial ownership" and I'm here in Washington this week on a followup project for UK government, looking at the private sector use-case for beneficial ownership, and how the private sector can be galvanized towards promoting public registers of beneficial ownership.

My question is, in the context where the private use-case is kind of binary, on whether you have private or public registers, because unless the register is public, the private sector businesses can't get access to that information and use it for their due diligence, and use it for their understanding who they're doing business with, and who they are, who their supply chain are, et cetera.

How strong do you think we can make that business case for public registers? How do we galvanize that private sector initiative, I suppose, in order to promote public registers over the private registers that are only available to law enforcement?

Andrew Mitchell:
Well, it's an extremely good point. And I haven't dwelt on that today, because I think that the private sector has a whole raft of other mechanisms for finding out who they are doing business with. But there is no doubt at all that also is a good argument in terms of business facilitation for having public registers of beneficial ownership.

I mean, I'm not here to ... it would be impertinent and wrong of me to argue that what's happening on The Hill is flawed by not being in favor of public registers of beneficial ownership, because the gain of this legislation that's going through The Hill, at the moment, is so, so great. But, but Britain has taken the view that just allowing the law enforcement authorities and the revenue authorities to have access is not sufficient.

And we are clear, principally, because of the release of information in the Paradise and the Panama Papers that unless you can join up the dots, which is what transparency gives you, you cannot adequately track down malfeasance, and it makes it much, much easier for bad people to keep one step ahead of the law enforcement authorities. Indeed without public registers, there's a very strong argument that the law enforcement authorities, in spite of the access that they have, are fighting with one hand behind their back and a patch over their eyes. So it's a further good argument for public registers, but we mustn't get hung up on the best being the enemy of the good, or maybe it's the other way around.

Ben Judah:
And the gentleman with the beard, here.
Audience Member:
Thank you. My name is Michael Locnain. I'm involved in as an instructor in financial crime investigations. In fact, I'll carry your comments on training the government in Ethiopia in two weeks. So you're concerns about Africa, I will be happy to carry forward in that discussion.

I'm a big fan of what's going on in the UK. I'm very excited, as Ed will tell you, about the role of JMLIT. I think it's-

Andrew Mitchell:
The role of?

Audience Member:
JMLIT. The Joint Law Enforcement Money Laundering Intelligence Task Force. Fantastic work. The problem with the registry, in the US, and I'm wondering how you resolve it in the UK is, who's actually validating the information as it's being presented? In the United States, it's going to be at the state level. But I can tell you that there's nothing that says what level of due diligence, to the information provided, has to be done to prove the information is actually true and accurate. So it's not necessarily connecting the dots, it's the color of the dot. So, are we relying too much on the connecting as opposed to the value of the information that's being gathered?

Andrew Mitchell:
Yeah. Well the first of all, thank you very much for going to Ethiopia. Ethiopia is a country that is seriously on the up now. And it's very good news that you're engaging with them on something like this. I think it's really helpful. I mean. The point you make about who is checking out that the information is properly tabulated and accurately tabulated. Open registers, of course, are a huge boost for the accuracy, because they are more ... it is more likely that investigating journalists or NGOs with a specialty in this area will spot if the information is not correct. So open registers gives a small boost to accuracy, in any event.

Andrew Mitchell:
But secondly the way in which we deal with this issue today is, we impose a duty on the person filing information to get it right. That's what happens with our taxes in the UK. I don't know whether the revenue authority in the States operates on the same basis, but we have to submit the information to the inland revenue, and if we deliberately mislead them we're liable for prosecution. So the answer to your question is there should be a proper balance here, that you have to give the right information, and if your phone not to have done so, then you are subject to sanction.

Ben Judah:
So I think we've got time for three more questions. So, the gentlemen in their front row. The front row, in the blue shirt, and then the gentleman just behind him, with the cream tie. And the gentleman with the fine little lapel, there.
Audience Member:

The question is about the balance between privacy rights and public information. So there's this sort of dual debates between GDPR, privacy rights, online versus open information. And sort of one of the concerns about public registries is, that adversaries might take that information and use it, the way that companies have sort of monetized your internet usage information and done ... so there's sort of a fear of that ... I'm just curious if you've discussed that, or have any thoughts about it.

Andrew Mitchell:

Well, I take the view that that open registers are a bit of a defense against that happening. Because closed registers, you may be subject to bribery or to other negative effects, which closed registers themselves could facilitate.

Andrew Mitchell:

So I take the view that ... we're talking about quite substantial holdings, people who are able to plow their business through the companies, because there's a rule of law, and company law set up which helps them to pursue their business and, and make their profits and so on.

Andrew Mitchell:

I think that that the privacy argument can be massively over done. And we never really have much time for that. There's a kidnap argument, which is a sort of subset of it, which worried us a bit, but we we talked to people who are experts in this area, and we just thought, in the end it was not a satisfactory argument. And I think that's more or less what's happened in the States as well. The argument was put up about kidnap, but I don't think it's held much sway on The Hill. At least, that's what I've been advised.

Ben Judah:

The gentleman in the cream tie.

Audience Member:

Thank you very much. I want to return to a comment you made just previously about the need for transparency and sanctions for those who falsify information. And then you had made the comment about facilitators, that being a facilitator or an enabler is not a criminal act. So my assumption is, that in spite of beneficial ownership legislation, whether it's private or open, that the real beneficial owners aren't going to put, assuming their kleptocrats or terrorists, are not going to put their names on those documents. It will be done by a facilitator, and their information will be the only thing that we know. So, what can be done? And I think there are things that could be done to investigate that, even if it's criminalized ... we got to find out who the real owner is, even if the facilitator is thrown in jail. So how can you pursue the chain all the way back to the real beneficial owner?

Andrew Mitchell:
I mean, I think there's a difference between holding the facilitator to account for the client they're acting for, because they have to satisfy a whole separate set of KYC laws and procedures on that. It's more, when the facilitator is enabling the client to do something that is wrong, and is subsequently is said to be wrong.

So for example, in Britain, if a facilitator puts you into an instrument, that is subsequently found to be tax evasion, or at the time is tax evasion, under the current law, it is the person evading the tax who pays the penalty and is held to account, not the facilitator who put them into. It is that equation, which I think we are looking at changing, and I think we should look to change. [crosstalk 00:57:55] I think I heard you say that, that's something slightly different. The-

Audience Member:
Well yeah, now I understand what you were saying. The person who's breaking ... you're saying, currently it's not illegal for the facilitator to advise the client improperly-

Andrew Mitchell:
Well, he's not held to account ... he or she's not held to account for it.

Audience Member:
My concern is that it is the kleptocrat, who is laundering money, through a facility, in order ... will continue, in spite of beneficial ownership legislation, to not put their name down as the real beneficial owner, but to use an enabler or facilitator, to be the front person and disguise their real identity.

Andrew Mitchell:
Yeah. Well, the answer to that is, I think, clear. It is that transparency and openness, in all its forms, makes that more difficult. Where you have secrecy and extreme privacy, you hamper the ability of exposing that wrongdoing.

Ben Judah:
Now the gentlemen over here.

Audience Member:
Thank you so much for this fascinating conversation. Following up on that question, my question is, within the CFA process, for example, there's the requirement to abide by either CFA Institute standards of professional conduct, or local law, whichever is stronger, and an obligation to abide by the integrity of capital markets, before your duty to client, before your duty to your firm, before yourself. Within that context, what is the opportunity for professional associations and civic society, more generally, to support good norms within the international financial environment, in terms of countering kleptocracy?

And also I know some clients in sub Saharan Africa, for example, who value and appreciate the CFA charter for example, because of that requirement to abide by the stronger of the two standards, and they see that as a competitive advantage for their enterprise.
Andrew Mitchell:

So, in a choice between the local standards or the international standards, of the CFA, they must abide by the CFA standards, if they are stronger. Well that is the universal ... that is exactly the approach which I am hoping America will stand up for. That there should be a universal floor ... that is, a floor like that, not a mistake. That we all accept as an international norm, and which we then seek to police and seek to get everyone to agree to.

I think we are getting there. If you think how much progress we have made already with these registers, be they open or closed, and the at least theoretical, and I think practical benefit it is in law and order, combating terrorism and tax fraud and tax evasion and so on. Then if we embarked further down this route, if we have this universal agreed minimum approach, if you like, and in particular if we're able to give greater assistance to civil society, the experts like Transparency International and so on, who are really very good at this now, and who are seeding a learning and an understanding of how you bear down on this, along with better law enforcement, taught and seeded by the Americans and so forth, and better regulations to deliver as well. All of these things mean that you're putting far more weight into the law abiding, anti money laundering, side of the equation, and less opportunity for bad people to keep one step ahead of the forces of goodness and light, which are coming after them.

Ben Judah:

Thank you. Thank you very much. And it's been a real pleasure, especially in these sort of fractious and divided times, to hear about the bipartisan work that has been transforming our legislative framework in the UK. So thank you very much for being here today with us, and I'm sure everyone else enjoyed it just as much. So join me for a round of applause.

Thank you.