

RESEARCH ARTICLE

Weaponised legal dependence: How states repress their globalised oligarchs

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Abstract

States increasingly confront security threats from exiled economic elites who retain power through offshore wealth, political influence, and informational leverage. This paper introduces the concept of weaponised legal dependence to explain why and how states file commercial lawsuits against their own citizens in foreign courts – particularly in global legal hubs like London – to neutralise these transnational plutocratic threats. While conventional tools of transnational repression (e.g., extradition, abduction, information warfare) target dissidents' legitimacy or messaging power, only foreign litigation can directly constrain the material assets that underpin a plutocrat's influence. However, initiating extraterritorial claims is costly, risky, and entails a partial surrender of sovereignty to liberal jurisdictions. I argue that states resort to these legal strategies when they face power parity with plutocrats – situations where neither side has hierarchical control, prompting political conflict to spill into foreign legal systems under the guise of commercial dispute. Drawing on 60 interviews with legal practitioners and case studies from Russia and Kazakhstan, this paper shows how states instrumentalise the credibility of liberal legal institutions to reclaim offshore assets and delegitimise their rivals. In doing so, illiberal regimes exploit liberal infrastructure, turning courts meant to enforce commercial norms into battlegrounds of domestic power politics.

Keywords: elite conflict; extraterritoriality; oligarchs; transnational law; transnational repression; weaponised interdependence

Sovereign immunity is one of the central principles of customary international law. States aim to avoid ruling on one another's actions to ensure equality of treatment and prevent escalating geopolitical tensions, and states are generally expected to limit their activity in another country's legal system to guard their own autonomy. Yet there have been more than 20 instances of governments bringing commercial claims against their own citizens at the London courts alone, with cases initiated by a range of state entities, including from Angola, Nigeria, Pakistan, and Turkey. Claims are regularly worth hundreds of millions of dollars.¹

In these 'extraterritorial litigations', states *voluntarily* submit to the powers of a foreign court despite disputes taking years, costing millions of dollars to resolve, and potentially diminishing broader market confidence in the domestic regime. The legal process would inevitably involve hearings and witness testimonies, increasing the risk of exposing sensitive state information. The primary purpose of this manuscript is to illustrate how and why state actors can,

¹Based on author's coding of over 6,000 commercial judgements in London between 1996 and 2015.

and arguably must, weaponise the legal nodes of the global economy to tackle internal security threats.²

Stories abound, from China to Venezuela, of business elites who clashed with the state, seeking refuge in safe havens like London and New York.³ These ‘survivors’ have always cast a shadow over politics back home. But because of capital mobility and, in particular, offshore finance, they can continue orchestrating outcomes – they can keep funding parties, disinformation campaigns, and coups from abroad.⁴ A substantial body of work documents how states have turned their coercion toolkit transnational as well – they can extradite, kidnap, abduct, or conduct their own forms of information warfare.⁵ These methods have been used against fleeing plutocrats, activists, and dissident journalists, targeting their safety, legitimacy, and the information they possess. But these tools are incapable of negating a billionaire’s primary source of power: money.

Since plutocrats (1) often have corrupt business histories and (2) move to liberal jurisdictions where they have substantial assets, states can initiate commercial proceedings against their security rivals in the courts of major economic powers. I argue that states choose this method because it is the only means of transnational repression that can target a plutocrat’s legitimacy *and* material power at the same time. But since it risks revealing state secrets and involves a transfer of sovereignty, states cannot rely on this method for conventional political conflicts around regulation or redistribution. Incentives to turn to extraterritorial litigation only emerge when the balance of power between the state and the plutocracy is evenly matched, as power parity triggers conflict focused on shifting the future of the governance system away from the status quo.⁶

To illustrate these dynamics, I analyse legal battles from Russia and Kazakhstan, examining the clashes between Boris Berezovsky and the Kremlin, and Mukhtar Ablyazov against the Nazarbayev regime. I focus on these cases because they initially occupied opposite ends of the balance of power spectrum, but moved towards power parity in the early 2000s, pushing each state to use foreign courts. I support my claims by drawing on academic and journalistic accounts of these battles, readings of the legal judgements, and via 60 interviews I conducted with solicitors and barristers involved in the highest value extraterritorial disputes in London. Scholars expect that financial globalisation, and in particular hiding one’s assets, gives economic elites political protection,⁷ but I show that the wealth plutocrats can use as a weapon back home becomes a foreign legal liability.

We are clearly going through a new wave of weaponised interdependence.⁸ Economic coercion is generally considered an unencumbered choice – the United States is seen as having an unassailable arsenal that it is deploying at will. This manuscript instead focuses on how emerging markets that are deeply integrated into the global economy, and yet frequently challenge the security order, can

²Steven R. David, ‘Explaining third world alignment’, *World Politics*, 43:2 (1991), pp. 233–56; Eric A. Miller and Arkady Toritsyn, ‘Bringing the leader back in: Internal threats and alignment theory in the Commonwealth of Independent States’, *Security Studies*, 14:2 (April 2005), pp. 325–63, <https://doi.org/10.1080/09636410500234079>.

³Alexander A. Cooley and John Heathershaw, *Dictators without Borders: Power and Money in Central Asia* (Yale University Press, 2017), <https://books.google.com/books?hl=en&lr=&id=n8wCDgAAQBAJ&oi=fnd&pg=PP1&dq=heathershaw+cooley&ots=1JjQqU1SL&sig=SafPVuPfdWAMrBnzMPgj5Srrec4>.

⁴Joanna Lillis, *Dark Shadows: Inside the Secret World of Kazakhstan* (Bloomsbury Publishing, 2022); Cooley and Heathershaw, *Dictators without Borders*; Scott Radnitz, *Weapons of the Wealthy: Predatory Regimes and Elite-Led Protests in Central Asia* (Cornell University Press, 2010), https://books.google.com/books?hl=en&lr=&id=J9-M_UoSBEc&oi=fnd&pg=PR9&dq=weapons+of+the+wealthy&ots=tPcwVQCudu&sig=5NMTr1IU-V_wwfMIE6g3tMDRqM.

⁵Gerasimos Tsourapas, ‘Global autocracies: Strategies of transnational repression, legitimisation, and co-optation in world politics’, *International Studies Review*, 23:3 (16 August 2021), pp. 616–44, <https://doi.org/10.1093/isr/viaa061>; Alexander Dukalskis et al., ‘The long arm and the iron fist: Authoritarian crackdowns and transnational repression’, *Journal of Conflict Resolution*, 68:6 (13 July 2023), pp. 1051–79, <https://doi.org/10.1177/00220027231188896>.

⁶Ronald L. Tammen, Jacek Kugler, Doug Lemke, ‘Power Transition Theory’, *Oxford Bibliographies*, <https://doi.org/10.1093/obo/9780199743292-0038>; Jonathan M. DiCicco and Jack S. Levy, ‘Power shifts and problem shifts: The evolution of the power transition research program’, *Journal of Conflict Resolution*, 43:6 (December 1999), pp. 675–704, <https://doi.org/10.1177/0022002799043006001>.

⁷Jason Campbell Sharman, ‘Chinese capital flows and offshore financial centers’, *The Pacific Review*, 25:3 (2012), pp. 317–37.

⁸Henry Farrell and Abraham Newman, ‘Weaponized interdependence’, *International Security*, 44:1, pp. 42–79.

exploit the nodes of the global economy to neutralise their adversaries at home. The instances of statecraft described in this article illustrate that countries outside the core members of the liberal international order need to engage with the very foreign courts that make the system they disdain function. It is the only way they can get the wealth that the state's rivals hide and abscond with due to financial globalisation.

At a surface level, this could be considered a victory for neoliberal institutionalists. Rather than arbitrarily disposing of their opponents, governments must fight through a predictable, transparent process. The dream for designers of the incumbent order was a separation of business and geopolitics, but by using commercial courts as vehicles for their statecraft, regimes can undermine their security threats by explicitly appealing to that separation. Because international trade and finance require engagement with British and American courts, and because these courts provide access to legal expertise on the system's loopholes, illiberal regimes learn to arbitrage liberalism. The market for legal expertise ensures that foreign courtrooms become part of their repertoire to consolidate power and promote illiberalism at home, with the unwitting assistance of institutions committed to upholding liberal principles.

When states fear elites abroad

Globalisation has turned diasporas into central players in nominally domestic political conflict. Their ability to influence emigration flows, keep economies stable through remittances, and financially support political parties all while outside their home jurisdiction give them unexpected weight in a host of developing economies.⁹ Important work in the civil war context further shows how this external financing can be decisive for the longevity of rebel efforts and the likelihood of peaceful resolutions.¹⁰ Much of this research focuses on large immigrant blocks and their ties with their families and home communities, but recent scholarship has begun to instead emphasise the asymmetric role that diaspora elites, and in particular political exiles, play in influencing politics at home.¹¹ Their role is frequently destabilising.

While many of the findings above can cut both ways – economic emigrants can often be useful to or challenging for their home governments – Krcmaric and Escribà-Folch¹² illustrate why states generally fear elites that have absconded: exiled leaders increase the likelihood of both coups and civil society protests. They can take three indirect steps to shape the political sphere at home. They may fund opposition parties, as Charles Taylor consistently did after he left Liberia with some \$200 million dollars stashed abroad.¹³ They can continue to provide motivation for their sympathisers back home, staying in contact with them, and feeding them critical information about the government apparatus, as Marcos attempted after he was forced out of the Philippines.¹⁴ Finally, they can garner the support of the state's international rivals, promising they would make better partners at home, as former Haitian ruler Jean-Bertrand Aristide accomplished while exiled in the United States.¹⁵ In sum, political elites can pose a serious threat to regime stability even when they flee their home country.

⁹Margaret E. Peters and Michael K. Miller, 'Emigration and political contestation', *International Studies Quarterly*, 66:1 (2022), sqab088; David Andrew Singer, 'Migrant remittances and exchange rate regimes in the developing world', *American Political Science Review*, 104:2 (2010), pp. 307–23.

¹⁰Idean Salehyan, *Rebels without Borders: Transnational Insurgencies in World Politics* (Cornell University Press, 2011), <https://muse.jhu.edu/pub/255/monograph/book/43917>; Idean Salehyan, David Siroky, and Reed M. Wood, 'External rebel sponsorship and civilian abuse: A principal-agent analysis of wartime atrocities', *International Organization*, 68:3 (2014), pp. 633–61.

¹¹Cooley and Heathershaw, *Dictators without Borders*; Fiona B. Adamson, 'Non-state authoritarianism and diaspora politics', *Global Networks*, 20:1 (January 2020), pp. 150–69, <https://doi.org/10.1111/glob.12246>.

¹²Daniel Krcmaric and Abel Escribà-Folch, 'I'll be back? Exiled leaders and political instability', *Journal of Conflict Resolution*, 67:2–3 (February 2023), pp. 402–27, <https://doi.org/10.1177/00220027221115622>.

¹³Krcmaric and Escribà-Folch, 'I'll be back', 407.

¹⁴Krcmaric and Escribà-Folch, 'I'll be back', 407.

¹⁵Krcmaric and Escribà-Folch, 'I'll be back', 408.

Transnational plutocratic threats

Scholars have generally missed out on the fact that these same mechanisms of influence can be wielded by even those who were not part of the formal government apparatus yet possess material and instrumental power. More specifically, plutocrats, individuals with substantial concentrations of monetary wealth that can be used to defend their political and social positions,¹⁶ have become increasingly dominant players in developed and emerging market contexts alike.¹⁷ A vast body of research in comparative political economy illustrates how the super-wealthy fund civil society groups, finance regime change, and even become foreign policy players in their own right.¹⁸ This inter-elite competition has led to recurring clashes between the plutocratic class and the state in a wide range of contexts¹⁹ – the losers of which now frequently find themselves abroad.

The clearest threat that exiled plutocrats pose to the state, then, comes from funding opposition groups, be they parties or armed groups, while the elite is stationed abroad. Consider the case of Boris Berezovsky. Part of the cabal that brought Vladimir Putin to power, Berezovsky was one of the biggest winners from the 1990s privatisation process in Russia. After falling out of favour with the Putin regime and fleeing to London, his non-profit became a central player in organising protests across Russia. He took out ads in major institutions like the *New York Times* and the *Financial Times* criticising Putin's approach to human rights.²⁰ But he truly made the fight transnational, targeting Putin's allies inside and outside his homeland, including funding part of Ukraine's Orange Revolution, which removed Moscow-backed Viktor Yanukovich.²¹

Beyond financing the opposition, exiled plutocrats can garner international support and legitimacy that place pressure on their home state in the way that Aristide did with Clinton. This would be particularly effective when major powers have interest in the country, be it for geopolitical or economic reasons, and when a new leader is seeking to still develop their own power base. Isabel Dos Santos, daughter of Angola's multi-decade former dictator José Eduardo Dos Santos (JES), illustrates this process in action. She built up a diversified portfolio of revenue, including in banking, real estate, and catering, at home via connections to her father, before investing abroad, most notably in Portugal.²² Her use of offshore havens was used as part of a broader probe when João Lourenço (JLo), who replaced JES in charge of Angola, cracked down against the incumbent plutocrats. But even after she fled the country, having lost her domestic revenue streams, she was able to perpetually challenge JLo through foreign media outlets. She was even a parallel state presence at international forums hosted by China and Russia, nominally attending as a private businesswoman.²³

Plutocrats who were once seen as part of the regime also frequently have information that can be damaging to the state. Their wealth often gives them access to knowledge on the corruption and backroom deals that are frequently used to buttress state cohesion. By virtue of not having been part of the formal governing coalition, their revelations are arguably more credible than those brought up by former politicians as the motives can appear less self-serving. These dynamics are

¹⁶Jeffrey A. Winters, *Oligarchy* (Wiley Online Library, 2011), <http://onlinelibrary.wiley.com/doi/10.1002/9781118474396.wbept0726/full>.

¹⁷Daniel Krmaric, Stephen C. Nelson, and Andrew Roberts, 'Billionaire politicians: A global perspective', *Perspectives on Politics* 22: 2 (Jun 2023), pp. 357–371 (Rüdiger Wolfrum ed., 2009)

¹⁸Radnitz, *Weapons of the Wealthy*; Miles M. Evers, 'Discovering the prize: Information, lobbying, and the origins of US–Saudi security relations', *European Journal of International Relations*, 29:1 (March 2023), pp. 104–28, <https://doi.org/10.1177/13540661221115961>.

¹⁹Douglass C. North, John Joseph Wallis, and Barry R. Weingast, *Violence and Social Orders: A Conceptual Framework for Interpreting Recorded Human History* (Cambridge University Press, 2009), https://books.google.com/books?hl=en&lr=&id=e48I6-Xgt8UC&oi=fnd&pg=PR1&dq=north+weingast+institutions&ots=VLbQK6xwwA&sig=U4TnMb6RTkbi8pDjojYc_1ZSW3o.

²⁰Ricardo Soares De Oliveira, *Magnificent and Beggar Land: Angola since the Civil War* (Oxford University Press, 2015).

²¹Rui Santos Verde, *Angola at the Crossroads: Between Kleptocracy and Development* (Bloomsbury Publishing, 2022).

²²Ricardo Soares De Oliveira, *Magnificent and Beggar Land: Angola since the Civil War* (Oxford University Press, 2015).

²³Rui Santos Verde, *Angola at the Crossroads: Between Kleptocracy and Development* (Bloomsbury Publishing, 2022).

heightened by today's social media environment, where plutocrats have a readymade platform to air their grievances and build up their own online support base even if their reach is channelled by 'troll farms'. Guo Wengui is commonly known as Miles Kwok in the United States. Wengui made his initial wealth from a series of real estate transactions in China's booming property market in the 2000s but was soon caught up in Xi Jinping's anti-corruption probe. He fled to New York and began making a series of claims about the corruption at the top of the Chinese Communist Party (CCP), including accusing Wang Qishan, head of the anti-corruption drive and widely considered the second-most powerful man in China, of having hidden stakes in the mammoth conglomerate HNA.²⁴ The CCP was eventually forced to respond through its own information warfare to curtail the influence of the 'secrets'.

How states respond to transnational plutocratic threats

The analysis above, and that employed by the likes of Winters²⁵ and Krcmaric and Escribà-Folch,²⁶ relies on a power resources approach to political competition.²⁷ More specifically, it sketches out three types of resources that elites may possess that allow them to challenge the regime from abroad: money, legitimacy, and information. But the impact of globalisation cuts both ways. An important body of recent work on transnational repression illustrates that economic integration and porous borders do not prevent the states from coercing their populations, be they civilians or elites.²⁸ It simply changes the toolkit. According to work by Dukalskis et al.,²⁹ there were over 1200 instances of transnational repression between 1991 and 2019, where states attempted to coerce their populations outside their borders. Targets include former allies, activists, journalists, opposition figures, and even everyday citizens. In this section, I sketch out how the most common tactics can be potentially deployed against plutocrats and why the conventional toolkit is lacking.

A standard liberal account of how states could regain control of individuals outside their borders would look to the use of the international treaty system: states can request to extradite dissidents. Successfully bringing them home would limit their ability to share information with potential state rivals, as the state would be able to more effectively surveil the citizen at home. A successful, or even failed, extradition attempt will likely dent the individual's wealth given they would seek to defend themselves in court – but that effect would be muted for plutocrats worth hundreds of millions if not billions. A successful extradition would certainly hinder the legitimacy of the target, as a foreign (neutral) court would have deemed them to have broken the law. But a failure to extradite could just as easily increase the actor's ability to garner foreign support; it would lead viewers to see the state's legal actions as politically motivated. Extradition, then, has the potential to most directly hinder the informational power of an elite but risks increasing legitimacy without substantial material losses for the individual.

Extradition is governed by a patchwork of bilateral treaties that, as recent research documents,³⁰ are a function of geopolitics. Any regime critic worthy of a threat would likely have chosen a new residence with the treaty structure in mind, diminishing the likelihood of success. An alternate, extra-legal method to bring a citizen home is by kidnapping or abducting the individual. Following the same logic as extradition, this does hinder any information resources that the citizen possesses. Failure would once again increase their potential to increase foreign support, as it paints the state in a negative light. Moreover, it is likely to come with far higher material costs for the state. Legal

²⁴ 'Exile Guo Wengui Casts Shadow over China's Party Congress', *Financial Times* (17 October 2017).

²⁵ Winters, *Oligarchy*.

²⁶ Krcmaric and Escribà-Folch, 'I'll be back'.

²⁷ Walter Korpi, 'Power resources approach vs. action and conflict: On causal and intentional explanations in the study of power', *Sociological Theory*, 3:2 (1985), pp. 31–45.

²⁸ Tsourapas, 'Global Autocracies'.

²⁹ Dukalskis et al., 'The long arm and the iron fist'.

³⁰ Daniel Krcmaric, 'Nowhere to hide? Global policing and the politics of extradition', *International Security*, 47:2 (2022), pp. 7–47.

fees will pale in comparison to foreign entities needing (even temporarily) to cut ties with a regime seen as blatantly flouting the norms of the international system. But a successful kidnapping or abduction would still have limited impacts on the material power that could be wielded against the state – the money and property will still exist abroad. Even if the individual is assassinated, those assets would still be governed by foreign laws and could quickly pass on to the hands of their family/fellow regime critics.

But the threats that individuals may pose to a regime based on information, and the ability of the state to respond, has substantially changed in the last two decades. The internet and more specifically the rise of social media platforms that operate as our primary information ecosystems allow the state a direct method to respond to and undercut any criticisms. The use of troll farms and misinformation campaigns against dissidents, be they journalists or activists or plutocrats, has been substantially documented by political scientists.³¹ Rather than attempting to censor these platforms, and thereby regime threats, it is shown to be a far more effective tactic to flood the information zone, muddy the political debate, or push trending topics away from those that could most harm the state.³² Campaigns directly against the threat can further cause them to lose international legitimacy and possibly future material gains (loss of future business deals), but again it would do little to impact the actual wealth of the individual involved barring any costs associated with trying to respond to the campaign.

In sum, extradition, assassination, or public attacks can undermine potential threats to informational and legitimacy-based power resources held by activists and political rivals, but prove insufficient for undercutting the material power resources wielded by the plutocratic class.

Why states need to give up sovereignty to tackle plutocrats

While extradition, abduction, or misinformation, then, all have potential value to the state, they primarily target information and legitimacy sources of a plutocrat's power. They could be impressively effective against activists (primarily high informational power) or politicians (primarily high legitimacy), but they fail to hit at a plutocrat's offshore wealth. Ten per cent of global wealth – twice the size of Germany's economy – now resides in offshore financial centres.³³ The opacity of ownership created by webs of shell companies means both governments and banks struggle to decipher the ultimate beneficiaries of the money that flows through tax havens and eventually into the mainstream financial system.³⁴ Plutocrats are the biggest winners with the vast majority of money moved abroad by those belonging to the top 0.01 per cent of the wealth distribution.³⁵ These patterns hold true for a wide variety of countries, even those with very low tax rates like the United Arab Emirates, Saudi Arabia, and Venezuela.

Moving money to places like the British Virgin Islands or Mauritius means that when conflict emerges, a plutocrat's home state would fail to expropriate a plutocrat's funds. The opacity of these flows further ensures that the state never really knows where this money is hidden, let alone how much money a plutocrat has been able to siphon off. Critically, when plutocrats are in exile, they will have access to the millions of dollars they have sheltered in foreign jurisdictions, allowing them access to the essential power resource needed to influence politics at home.

States, then, need to find methods that rest beyond the conventional toolkit of extraterritorial control to tackle these emerging security threats. But they are not powerless if they manage to blend

³¹ Margaret E. Roberts, 'Resilience to online censorship', *Annual Review of Political Science*, 23:1 (11 May 2020), pp. 401–19, <https://doi.org/10.1146/annurev-polisci-050718-032837>.

³² Mary Gallagher and Blake Miller, 'Who not what: The logic of China's information control strategy', *The China Quarterly*, 248:1 (2021), pp. 1011–36.

³³ Annette Alstadsæter, Niels Johannesen and Gabriel Zucman, 'Tax evasion and inequality', *American Economic Review*, 109:6 (2019), pp. 2073–103.

³⁴ Jason Campbell Sharman, *The Money Laundry: Regulating Criminal Finance in the Global Economy* (Cornell University Press, 2011).

³⁵ Alstadsæter, Johannesen and Zucman, 'Tax evasion and inequality'.

the lines between economics and politics. Elite economic actors often gain their wealth through murky deals. Academic and journalistic accounts on the rise of plutocrats, particularly those in emerging markets, are filled with details on tax evasion, fraud, and even contract killings.³⁶ Or, as one lawyer told me, 'You only become honest when you've made a billion.'³⁷ This (perception of) corruption can be used as a cudgel, not just at home but also abroad. As another professional at a top London law firm noted, 'Most [extraterritorial] cases involve some corruption that we were all aware of, but no one did anything about it until there is a reason to remember.'³⁸

Based on an individual residing in a liberal economic power and/or having substantial assets in the jurisdiction, the state will be able to initiate fraud or corruption related cases against the individual. The money and mobility of elites – the factors that initially make them security threats capable of undermining state prerogatives – can then become a liability.

Nonetheless, there are inevitable costs associated with filing a commercial claim in foreign courts that the other tools of repression lack. Just as plutocrats will be forced to spend money to defend themselves, the state will have to spend millions to initiate and continue these cases. They can take years to resolve, tying up the government in contentious litigation that could spill over to negatively impact investor sentiment. Moreover, if the state loses, the case could cause substantial embarrassment and lead domestic and international audiences to question their capabilities and instead side with a plutocratic challenger, heightening the threat the individual poses. Initiating proceedings is also a voluntary act, a de facto transfer of sovereignty to the jurisdiction hearing the claim. While one could view extradition similarly, it fits with the expected norms of the international system. Weaponising the commercial sphere, which has always been regarded as its own silo in the liberal international order, does not. There would further be hearings and witness statements released that could risk revealing the inner machinations of the regime that go beyond the information that the plutocrat may possess.

To understand when states are willing to take such risks, and the transfer of sovereignty extraterritorial litigation entails, we need to factor in the hierarchical nature of the global economic and legal system, and then consider conditions when plutocrats pose an existential threat to the state.

Weaponised interdependence through commercial law

Over the last two decades the United States has become adept at using the nodes of the global economy to coerce its geopolitical rivals – turning networks intended to promote economic integration into tools of statecraft.³⁹ This power rests on the ability of the hegemon to cut off adversaries from the use of the dollar. What differentiates it from prior eras of sanctions is the ability to not just cut ties between the sender and the target but to de facto diminish the ability of a rival to trade with any part of the global economy. This is most notoriously achieved by cutting off banks from the SWIFT network for payments. British courts can act in a similar chokepoint fashion that virtually any state can take advantage of against a plutocrat.

More specifically, the London commercial courts have the power to issue worldwide freezing orders against an individual accused of fraud, preventing them from accessing and moving their money.⁴⁰ The order applies to not just their assets in the host forum's jurisdiction but instead to an individual's global asset footprint up to the size of the overall claim. In the same way that banks follow the dictates of the United States in fear of being cut off from New York, they willingly enforce

³⁶ Alex Cuadros, *Brazillionaires: Wealth, Power, Decadence, and Hope in an American Country* (Spiegel & Grau, 2016), <https://books.google.com/books?hl=en&lr=&id=Z4BcDAAQBAJ&oi=fnd&pg=PA3&dq=brazillionaires&ots=09BMbgIBMk&sig=A5rV6krbYWLgX1bU7-fDvGkgyZ0>; Paul Klebnikov, 'Godfather of the Kremlin: Boris Berezovsky and the Looting of Russia', 2000, http://www.dtic.mil/dtic/aulimp/citations/gsa/2001_112382/78329.html.

³⁷ Lawyer1, July 2018.

³⁸ Lawyer2, January 2018.

³⁹ Farrell and Newman, 'Weaponized interdependence'.

⁴⁰ Kern Alexander, 'The Mareva injunction and Anton Piller order: The nuclear weapons of English commercial litigation', *Florida Journal of International Law*, 11 (1996), p. 487.

freezing orders from the United Kingdom as they could be held in contempt of court and risk their licence to operate in one of the essential hubs of the global economy. Even when they lack a physical presence in the jurisdiction, they often have correspondent accounts in the United Kingdom to facilitate international trading activities, thereby increasing their incentives to follow the legal dictates. When the United States decides to engage in weaponised interdependence, it usually justifies the endeavours along security lines. When weaponising the London legal system, the power stems from turning de facto security threats into economic criminals through commercial claims.

As part of the freezing order process, the accused individual will have to detail where their money is hidden and how their wealth is structured, and if they lie, they again can be held in contempt of court and risk jail time. While the United States has used infrastructure like SWIFT to spy on the financial machinations of its threats, using a worldwide freezing order compels the target to provide an adversary with that very information.

Elites can choose between over three dozen tax havens, and each has the appeal of strong property rights. But there are still international mechanisms to acquire that wealth and those means are again unevenly distributed, with the United Kingdom standing at the top of the hierarchy. Due to treaties dating back to the 1920s, London judgements can be used to access the wealth of most of the Commonwealth countries and territories, including the likes of Mauritius and Singapore, which are central sites of plutocratic wealth protection.⁴¹ The United Kingdom's reciprocal treaty arrangements with the European Union allow British judgements to be enforced in Cyprus, Malta, and the Netherlands, which are essential to the corporate shell game. The Lugano Convention ensures enforcement in Switzerland, which remains a central node for elite private banking.⁴² In sum, the United Kingdom's judgements can be enforced in 19 of the top 20 offshore financial centres identified by the Tax Justice Network.⁴³ In contrast, Russia and China only have a handful of such reciprocal arrangements.

Courts in major economic powers are, then, one of the most powerful tools states have to neutralise the financial wealth of their opponents – the nodal nature of the international legal system provides states the key to unlock the multi-layered, multi-jurisdictional portfolios of plutocratic security threats. I identify two channels through which states seek to neutralise threats to their power posed by plutocrats.

First, they could enforce a domestic judgement in a foreign court. For example, if the state has a domestic fraud judgement of \$50 million, it could take it to a jurisdiction where the plutocrat has a multi-million-dollar home and attempt to seize it through the host's courts. The system, much like the extradition architecture, relies on a mix of bilateral treaties and international legal norms of comity and reciprocity.⁴⁴ Success relies on the judge finding the home judgement credible.

Second, the state could initiate new proceedings in a foreign court. London and New York both allow any party, regardless of their residence or legal status, to sue an individual or company that spends significant time in the British or American jurisdiction.⁴⁵ In the United Kingdom, the boundaries of 'personal jurisdiction' are especially expansive since central parts of a business transaction, such as how the money was routed, can even oblige the London High Courts to hear a

⁴¹ Pinsent Masons, 'Enforcing England and Wales Judgments Abroad', Pinsent Masons (1 April 2013), available at: <https://www.pinsentmasons.com/out-law/guides/enforcing-england-and-wales-judgments-abroad>.

⁴² Craig Tevendale et al., 'Enforcement of Court Judgments in the UK, the EU and Turkey after Brexit & Enforcement Strategy', Herbert Smith Freehills | Global Law Firm (17 August 2021), available at: <https://www.herbertsmithfreehills.com/insights/2021-08/enforcement-of-court-judgments-in-the-uk-the-eu-and-turkey-after-brexit-enforcement>.

⁴³ Based on author's calculations. The only exception is China.

⁴⁴ Ralf Michaels, Recognition and Enforcement of Foreign Judgments, in Max Planck Encyclopedia of Public International Law (Rüdiger Wolfrum ed., 2009); Christopher A. Whytock, 'Domestic courts and global governance', *The Tulane Law Review*, 84 (2009), p. 67.

⁴⁵ Rachael Mulheron, 'Asserting personal jurisdiction over non-resident class members: Comparative insights for the United Kingdom', *Journal of Private International Law*, 15:3 (2 September 2019), pp. 445–89, <https://doi.org/10.1080/17441048.2019.1691311>; John N. Drobak, 'Personal jurisdiction in a global world: The impact of the Supreme Court's decisions in Goodyear Dunlop Tires and Nicastro', *Wash. UL Rev.*, 90 (2012), p. 1707.

claim.⁴⁶ In other words, the British courts often see themselves as the appropriate forum to resolve disputes for a broad swath of the global economy, including when plutocrats flee to the jurisdiction or have decided to guard their wealth through the United Kingdom, as is notoriously common. As one lawyer who had worked on a number of cases involving state-owned enterprises said:

It's very common to see a claimant that may not be based here but the defendant has come here to escape... the downsides of parking your ass here, in a relatively tolerant, safe place, is that you make yourself a target.⁴⁷

Starting a case in a place like London has several benefits that allow the state to repress transnational elite threats. First, it will give them access to the injunction measures that the jurisdiction permits. Most importantly when aiming to defeat plutocrats, suing an individual for fraud in London will allow the state to obtain a worldwide freezing order, as referenced above. A freezing order would not only prevent an individual from living their preferred plutocratic lifestyle, but it would also substantially diminish their ability to execute the actions that make them a transnational threat – if they only have limited access to their money, they will struggle to fund and spur opposition back home. Proceedings will likely last longer than the first channel, costing the state more money, but also draining an opponent's war chest even further.

In contrast to any of the conventional methods of transnational repression – extradition, abduction, or misinformation – extraterritorial litigation through nodal courts is the only method that can directly hamper the material power of a plutocrat that has effectively offshored their wealth. A win for the state, the claimant in these cases, would place any information that the plutocrat has into question – who is going to believe a fraudster convicted by a neutral court? The same logic applies to the international legitimacy of the actor. One's ability to garner political support from abroad will suffer with a conviction from New York or London.

A loss for the state could, however, have dire consequences. With a misinformation campaign, the state can influence how and where the information spreads. By contrast, a plutocrat could reveal the information that gave them power in a respected public record. The legitimacy of the actor, having withstood a long-term legal assault, will also see a substantial increase when the individual can point to the years-long legal assault mounted against him. But a loss could still drag on for years, neutralising their wealth during the proceedings assuming a successful freezing order is acquired.⁴⁸

When states weaponise foreign courts

Given the potential to empower a rival, coupled with the transfer of sovereignty extraterritorial litigation involves, states are not going to use foreign courts for any conflicts that emerge with economic elites, say over taxation or regulation – we need a theory for when the plutocrats pose a meaningful security threat. Drawing on comparative political economy scholarship on the stability of state–business ties, and international security theories of conflict, I argue that the balance of power between the state and the plutocracy dictates when states will deem it necessary to pay the aforementioned costs to weaponise foreign courts.

Power parity leads to the transnationalisation of domestic conflict

In many democracies, we expect that politicians are highly dependent on plutocrats. They control capital and the money that is necessary to finance a campaign and keep an economy growing.⁴⁹ Russia in the 1990s is a case in point. Alternatively, we have theories around developmental states

⁴⁶Delphine Nougayrède, 'Outsourcing law in post-Soviet Russia', *Journal of Eurasian Law*, 3:6 (2014), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2433771.

⁴⁷Lawyer3, February 2018.

⁴⁸One could add that the home state could sanction the individual, barring its citizens from transacting with the fleeing plutocrat to a list of options. This method is rarely outright used. But this would again only impact their future revenue streams or limit access to banks that hold large amounts of the plutocrat's wealth and further have strong ties to the state's jurisdiction.

⁴⁹Charles E. Lindblom, 'Politics and markets', *Ethics*, 92:4 (1982), pp. 720–32, <http://philpapers.org/rec/LINPAM-7>.

with their embedded autonomy, or highly autocratic countries where capital is completely subservient to the state. This is the lens through which most scholars view contemporary China. We then frequently but implicitly explain outcomes in relation to the distribution of political resources between the business class and the state, as the distribution creates an ordered set of interactions between the two entities. What counts as a political resource is likely to vary by specific country settings, but it would inevitably include important material factors such as ownership of the economy and state capacity as well as ideational features such as the strength of belief in markets as a governance mechanism.

More specifically, scholars have found two clear patterns creating stability: situations of ‘capture’ where plutocrats monopolise the power resources⁵⁰ and, at the opposite end of the spectrum, where the state has the power resources and thereby ‘control’ over the plutocracy.⁵¹ In neither of these situations should we expect to see the weaponisation of foreign courts as a clear hierarchy is established. Instead, it is the middle of the power spectrum where stability is disrupted,⁵² in other words, contexts of ‘competition’, where we should expect the state elites to seek to neutralise their rivals using foreign courts.

Under conditions of relatively equal power, a sovereign will view the independent plutocrats with their own revenue streams as a potential threat. Independent plutocrats could try to fund opposition parties to ensure that rules will fall more in line with their interests or to increase their potential rents. This dynamic could make a leader increasingly concerned with their tenure and creates clear incentives to bring the business elite into line. On the other side of this coin, would-be oligarchs are aware that their very presence acts as a threat to the sovereign, making the plutocrats concerned with the potential that the sovereign will attempt to bring them down.

Plutocrats will generally prefer to avoid conflict with the state as it will maximise their ability to maintain their wealth. Some will likely attempt to directly align themselves with the sovereign. But, given the lack of guarantees that they will not be targeted after giving up some of their resources, a plutocrat should only be willing to do so up to the point where they can still pose a threat to the sovereign.

In this non-hierarchical context, any sudden changes to balance of power will instigate conflict over the future of the system⁵³ – with plutocrats seeking to move toward capture and the state moving toward control. Given that we are talking about plutocrats, whose primary power resource is wealth, global macroeconomic volatility is most likely to trigger power shifts that result in competitive environments. This could cut both ways, as crises could lead to substantial cuts to their wealth while liquidity booms could empower them. Neither set of actors will be satisfied with this equilibrium as it leaves the potential for conflict intact, minimising their ability to invest and garner more resources. Plutocrats will take measures that will move toward capture, while the state will respond with measures that seek to assert control. For plutocrats that could be resorting to a coup, or for the state imprisoning or eliminating individual plutocrats.

These methods would not be resorted to in conventional forms of political conflict that most scholars associate with the influence of plutocrats. In electoral settings, two candidates often fight over formal authority over the system despite being backed by rival clans of plutocrats. But the expectation of future elections ensures that the system will largely remain the same, giving losers another chance at the power levers. In more authoritarian settings, elites often fight over the spoils

⁵⁰ Joel S. Hellman, Geraint Jones, and Daniel Kaufmann, ‘Seize the State, Seize the Day: State Capture, Corruption and Influence in Transition’, *Journal of Comparative Economics*, 31:4 (2003), pp. 751–773; Anna Grzymala-Busse, ‘Beyond clientelism: Incumbent state capture and state formation’, *Comparative Political Studies*, 41:4–5 (2008), pp. 638–73.

⁵¹ Stephen Haber, Noel Maurer, and Armando Razo, *The Politics of Property Rights: Political Instability, Credible Commitments, and Economic Growth in Mexico, 1876–1929* (Cambridge University Press, 2003), https://books.google.com/books?hl=en&lr=&id=znZ8Y8lO7_4C&oi=fnd&pg=PR3&dq=violence+property+rights&ots=wpYSC-mOE5&sig=9l-CK3fY41E9CRS_foUOFuzzJLA.

⁵² Tammen et al., ‘Power Transition Theory’; DiCicco and Levy, ‘Power shifts and problem shifts’.

⁵³ Robert Powell, ‘The inefficient use of power: Costly conflict with complete information’, *American Political Science Review*, 98:2 (May 2004), pp. 231–41, <https://doi.org/10.1017/S000305540400111X>.

of the government's control over the economy – there is frequent internal conflict in China or Saudi Arabia that typifies systems for state control. But as long as no one is fighting over who gets to decide, whether the CCP will be in charge or the Saudi monarchy has the final say, there is no question of anarchy and thereby the need for establishing a new stable system.

Crucially, collective action amongst a plutocratic class is often difficult to sustain, especially as the opposing coalition usually has its own divisions and conflicts.⁵⁴ This creates an opening for the state: the sovereign can take on specific plutocrats, rather than the class as a whole, to pre-emptively dispose of future threats in a fashion resembling a preventive war. Other than eliminating a political challenger, an attack can illustrate to the rest of the independently wealthy who exactly is in charge. Successful targeting may then diminish the commitment problem: as they seek to maintain their income streams, plutocrats will generally refrain from taking actions that could make them the next 'example'.

The sovereign, filing through its own commercial entities, may then choose to go after the plutocrats with waning power in foreign courts to ensure that they are unable to pose a future threat. Importantly, these individuals are still plutocrats – they have wealth and with it instrumental power to shape the balance of power and can thereby continue to pose a threat from abroad. They can keep funding opposition parties or disinformation campaigns from outside their home jurisdiction. The private threat remains, but it is now transnational. Taking the costly measure of weaponising foreign courts will further illustrate to other potential rivals the lengths to which the sovereign will go to dispose of a threat to gain or maintain control.

Weaponised legal dependence in action

To illustrate the presence of these incentive structures, and how they shape the likelihood of weaponising foreign courts, I examine Russian and Kazakh state use of the British legal system. I chose these two cases as they each represent a transition from one balance of power in the case of 1990s' Russia, the epitome of capture, and in Kazakhstan as a template of control, to conditions of competition in the 2000s. This transition makes visible shifting incentive structures in two divergent regime types. Moreover, it allows us to rule out processes of deinstitutionalisation or the emergence of populist politics as alternate explanations for the rise of state–plutocratic conflict. While Russia did experience those politics, Kazakhstan avoided those trends. In the case of Russia, we observe the first method at play: enforcing domestic judgements abroad. In Kazakhstan, the regime pursued de novo extraterritorial cases.

In line with a number of legal scholars, I consider lawsuits as akin to bargaining failures.⁵⁵ Litigation needs to be considered the final step of a broader dispute resolution process that usually begins with informal negotiations and only ends in the courtroom once all other options have been exhausted⁵⁶ – parties that litigate have recognised substantial grievances that collapse the bargaining space.⁵⁷

While some extraterritorial litigations may occur for purely functionalist reasons (claimants only seeking to correct an economic wrong), we would expect the costly measure of the courtroom to only be taken in exceptional circumstances. This could occur for purely legal or economic reasons – a fraudster that has run away from the country, who has blatantly stolen from the state, may still be financially worth pursuing and unwilling to give back any ill-gotten gains. That would

⁵⁴Milan W. Svolik, 'Power sharing and leadership dynamics in authoritarian regimes', *American Journal of Political Science*, 53:2 (2009), pp. 477–94.

⁵⁵Robert H. Mnookin and Lewis Kornhauser, 'Bargaining in the shadow of the law: The case of divorce', *The Yale Law Journal*, 88:5 (1979), pp. 950–97.

⁵⁶Kathryn Hendley, Peter Murrell, and Randi Ryterman, 'Law, relationships and private enforcement: Transactional strategies of Russian enterprises', *Europe–Asia Studies*, 52:4 (2000), pp. 627–56.

⁵⁷William L. F. Felstiner, Richard L. Abel, and Austin Sarat, 'The emergence and transformation of disputes: Naming, blaming, claiming', *Law & Society Review*, 15:3/4 (1980), pp. 631–54, <https://doi.org/10.2307/3053505>.

be the system mostly working as intended, but those cases would occur through the same legal methods as a weaponised process targeted at a rival.

The analysis draws on both academic and journalist accounts. The final decision to weaponise foreign courts is taken by state actors that are nearly impossible to access, with strong incentives to obfuscate what is happening. I circumvented that obstacle by focusing on the other individuals deeply involved in the process of weighing the merits of an extraterritorial legal conflict – the British legal establishment. I conducted 60 extended interviews with solicitors and barristers involved in nearly all the intra-Russian and Kazakh disputes heard in front of the British courts. I identified them by analysing public court documents and the Chambers rankings of legal professionals with just under a 40 per cent response rate. I focus on London because it is the central node in transnational law and its judgements can tap into the offshore financial network.

The case studies begin by outlining the structural political conditions in the country, delineating what shifted them toward power parity, and thereby anarchy, between the state and the plutocracy. Next, I outline the conflicts between the state and the specific plutocrats, delineating how the plutocrats remained threats from abroad before illustrating the legal strategies used to target them. I then focus on how the political stakes of the conflicts prevented settlement, which would be seen as the rational outcome as argued by many law and economics scholars, but the goals of these cases go beyond a pure economic logic:

If the state is involved they basically want to crush the people...and whoever might want to settle would be blamed for trying to help the fraudster...it's a power-play.⁵⁸

Russian legal disruption

The rise of Boris Berezovsky and Mr. P

As a member of ‘The Family’ that managed the Yeltsin administration, Boris Berezovsky was at the centre of a political system synonymous with the term ‘state capture’. Cars, banking, and eventually oil via the infamous ‘loans for shares’ privatisation process formed the basis of Boris’s billionaire status. Berezovsky even convinced Yeltsin to hand over control of ORT, commonly referred to as Channel 1, the large state-owned TV channel.

Despite an ally running the media apparatus, Yeltsin’s popularity hit a low point in 1998 with another economic crisis and ever widening inequality. Yeltsin was going through prime minister after prime minister and needed someone he could control and count on protecting his interests once he was inevitably booted from office. It was during these heated weeks that Boris Berezovsky apparently suggested Putin would be the ideal fill-in.

Overseeing the Chechen War, Putin became more popular than even Berezovsky could have dreamed. The economy had begun to rebound, buoyed by a recovery in oil prices.⁵⁹ Putin also had the support base of the *siloviki*, the security services, that virtually no Russian leader had enjoyed in decades. In other words, the timing put Putin on a path to reassert the Russian state’s authority over the incumbent oligarchy that was managing the economic and political system. As Sakwa summarised⁶⁰ ‘A new model of political economy was to emerge in which the notion of an “oligarch” as a politically independent entrepreneur was to become anachronistic. Putin’s attempts to restructure Russian political economy signaled a sea change in the legal environment.’

The fall of Berezovsky

The state’s unforeseen legitimacy and rise in global oil prices shifted the balance of power toward competition. Putin soon attempted to renegotiate the informal bargain between the state and the plutocracy, illustrating the new power of the state by going after Berezovsky’s longtime rival

⁵⁸ Lawyer4, July 2018.

⁵⁹ Between 1996 and 2006, Russian state revenue from oil increased tenfold from \$14 billion to \$140 billion (Sakwa 2014, 33).

⁶⁰ Richard Sakwa, *Putin and the Oligarch* (I.B. Taurus, 2014), 44.

Vladimir Gusinsky; Berezovsky was furious.⁶¹ He expected a continuation of state capture, so he used his media empire to criticise any mistake that the state made. The goal was to illustrate that Putin still needed big capital's backing. But Berezovsky was forced to leave Russia because of the alleged corruption he used to build up his wealth.

State-owned airline Aeroflot was in tatters following the transition from Communism, but its international nature made it an asset to any plutocrat looking to diversify and safeguard their wealth. Berezovsky borrowed a page from his fellow plutocrats by gaining managing control over Aeroflot so that he could transfer some of those foreign funds into his own accounts.⁶² While there was an initial investigation in 1999, when Yeltsin was still in charge under conditions of capture, Berezovsky was able to quickly to squash it using *kompromat*.⁶³ The charges were eventually brought back up after Berezovsky and Putin began to clash. The rumours of a new criminal investigation into Aeroflot were confirmed on 1 November 2000, by the Deputy Prosecutor Vasily Kolmogorov.⁶⁴ This was within two days of Berezovsky boarding his private jet to permanently flee Moscow.

Taking the chase extraterritorial

When Berezovsky fled, with a billion-dollar golden parachute from his business partner Roman Abramovich, the Kremlin's hope was that the former oligarch would turn into an afterthought of the 1990s. Berezovsky's incessant criticism of the Putin regime, and his funding of NGOs and opposition parties, instead made his personality loom large across contemporary Russian politics. This instigated the Kremlin's attempts to extradite Berezovsky from the United Kingdom. In addition to charges related to conspiracy to commit a coup, the Aeroflot fraud charges were one of the major focal points of the Russian government's case. But the outright animosity between the state and Berezovsky made the United Kingdom grant Berezovsky asylum in 2003.⁶⁵ The result was infuriating, souring UK–Russian relations, and set the stage for a legal battle that would stretch over a decade.

As Berezovsky continued his battle with the Russian state from London, he opened a new front by suing Abramovich for \$5.6 billion through the London courts. Everyone knew what he was going to do with any potential winnings:

For Boris it was his way, his plan to expose his enemies. He enjoyed the wealth and all that comes with it...but he wanted the money for the power it would give him to further his causes in the former CIS countries to destabilise the pro-Putin regimes...then eventually Putin.⁶⁶

The prosecutor's office in Russia ramped up its Aeroflot cases. In November 2007, Berezovsky and Glushkov were put on trial, and eventually sentenced to six years in absentia. 'Moscow's Savelovsky Court convicted Berezovsky of fraud and found him jointly and severally liable with Mr. Glushkov to pay Aeroflot over 200 million rubles. The judgment took effect in February 2008, after Moscow City Court dismissed Berezovsky's appeal.'⁶⁷ In 2011, the Golovinsky Court approved adjusting Aeroflot's claim for inflation, taking the total to 2 billion roubles. Berezovsky, of course, refused to pay as he sat in London looking for ways to make more money, with his fortune taking a massive hit after the financial crisis.

⁶¹ Arkady Ostrovsky, *The Invention of Russia: From Gorbachev's Freedom to Putin's War* (Penguin, 2017).

⁶² Chrystia Freeland, *Sale of the century: Russia's wild ride from communism to capitalism* (Little Brown, 2000), 36–137.

⁶³ Klebnikov, 'Godfather of the Kremlin'.

⁶⁴ Hollingsworth and Lansley, Londongrad, 90.

⁶⁵ BBC News, 'UK Grants Asylum to Russian Tycoon' (10 September 2003), available at: <http://news.bbc.co.uk/1/hi/business/3097880.stm>.

⁶⁶ Lawyer 5, July 2018.

⁶⁷ Ingrid Burke, 'London High Court Allows Aeroflot Appeal in Berezovsky Case', RAPS (16 January 2014), available at: <http://www.rapsinews.com/news/20140116/270462492.html>.

With the defendants now stationed abroad, the state was left with little choice but to make its claims extraterritorially. Aeroflot filed a case in London seeking to enforce their domestic judgments against the Russian state's political opponents. Although initially rejected by the courts in 2012, Aeroflot appealed the case. Before any conclusion could be reached, Berezovsky was found to have committed suicide in his home outside London in March 2013 after losing his case against Abramovich.

The extraterritorial case is part of the state's arsenal

A 'fraud' that most elites in Russia knew about in the 1990s dragged on through the 2000s and was eventually brought into the London courts. A couple of lawyers I spoke to viewed *Aeroflot v. Berezovsky* as nothing more than a standard fraud claim, but to many others there is little doubt why there was no settlement. The stakes were less economic and more political, with the potential to reshape the balance of power. As one lawyer summarised, 'They were out to get him...and everyone knew... It would have gone away if it wasn't a political opponent.'⁶⁸ Aeroflot fully had that right given Berezovsky's new residence in London – as long as Aeroflot was after the money, they had a legitimate claim.

Although the way Berezovsky and Glushkov appeared to handle the Aeroflot accounts was morally questionable, they used loopholes in Russian law that several other plutocrats had also taken advantage of. One lawyer plainly described it as 'tit for tat'.⁶⁹ The timing of the case further suggests that the stakes went beyond a commercial motive. 'It's strange, the timing. Any lawyer, if we are in England is going to tell you to move as quickly as possible but they waited. In that situation it's unusual that's for sure.'⁷⁰ It appears to some that the cases were strategically timed to counter some of Berezovsky's political pressure. One lawyer was explicit in saying that the bringing of the judgement to London as Berezovsky brought his claim against Abramovich was likely a coordinated effort to delegitimise Putin's opponent. It was 'an opportunity to kick a man when he's down.'⁷¹ Even if the claim failed, they would succeed in questioning his legitimacy and force him to exert substantial effort to clear his name:

It was a way to put pressure on people who have run away from Russia. They were after the person's money...the worst case is that you drain their money through the legal fees.⁷²

None of this is to say that Aeroflot did anything legally wrong. They were completely within their rights to bring a case to London with Berezovsky using the city, and its huge army of professional services, as his base. These are the rules of a liberal system. Once Berezovsky died, there was a general air of expectation that the case against him would soon be called off – the trustees of Berezovsky's estate eventually settled for 82 million pounds.

English law with Kazakh characteristics

Given its substantial reliance on the USSR, Kazakhstan was the last of the former members of the republic to declare independence. Nursultan Nazarbayev, the incumbent ruler, recognised the need to liberalise the economy and opted for a Yeltsin-esque shock therapy treatment. While at the surface, privatisation looked like a recipe to place the state in a subservient position to the band of plutocrats that would form from the kick-starting of a market economy, Nazarbayev took great pains to ensure the state would remain in charge. First, a host of international companies were brought into the mix to leverage the abundant and diversified natural resources that the country is blessed/cursed by; the likes of Shell and Chevron had become major players in the economy in

⁶⁸ Lawyer6, January 2018.

⁶⁹ Lawyer5, July 2018.

⁷⁰ Lawyer7, February 2018.

⁷¹ Lawyer8, January 2018.

⁷² Lawyer10, January 2018.

the early part of the 1990s.⁷³ Unlike Yeltsin's experience, the actual transfer of wealth was not done to a band of already super-wealthy. Instead Nazarbayev was able to channel substantial wealth to his own political backers and family members.⁷⁴ More patronage than political survival. The 1990s were, then, largely a success for the Kazakh state and Nazarbayev. But that economic success also bred the grounds for political threats.

The rise of Mr. Ablyazov

Starting in 2001, Mukhtar Ablyazov entered a decade of political turmoil. After co-founding an opposition party, the Democratic Choice of Kazakhstan (DCK), his assets were seized, and Ablyazov was soon thrown behind bars. He weaved himself out of Kazakh prison and nominally out of its political scene after explicitly agreeing to stay out of the game, publicly decrying his previous actions. He appeared to retreat to Moscow where he took on the chairmanship of Bank TuranAlem (BTA). The bank's remarkable growth in the coming years reasserted his instrumental power and steadily shifted the balance of power toward competition. BTA became one of the biggest players in the region's finance,⁷⁵ with Ablyazov's wealth soon measured in billions. It looked like a new political war chest.

His success was largely driven by the surge in global liquidity of the mid-2000s that empowered many emerging market plutocrats, who were able to easily borrow on international markets for the first time. Those changes shifted the power balance squarely toward competition, by giving Ablyazov the exorbitant funds that he lacked when he started DCK. We know how that global liquidity party ended, and BTA looked like it was going to be another casualty of the bankruptcies and bailouts of the Global Financial Crisis. In February 2009, Kazakhstan's sovereign wealth fund took over the bank after it looked on the verge of default, putting in a \$1.4 billion balance sheet injection for an 80 per cent stake in the company.⁷⁶

A few years earlier, the fund had been restructured and allowed the president to have any final say on investments.⁷⁷ The incumbent BTA team was adamant that they were not at risk, and even as property prices were suffering, Ablyazov held firm. Once the Kazakh state upped the bank's capital requirements, its fate was sealed.⁷⁸ With BTA now in state hands, EY was replaced by PwC as the bank's auditors. The new team found a \$10 billion blackhole in BTA's balance sheet.⁷⁹

London courts will make you reveal your assets

On the basis of a transaction with a UK domiciled shell company worth approximately \$285 million, BTA bank established jurisdiction against Ablyazov and eventually a host of other defendants.⁸⁰ The bank argued these individuals had aided Ablyazov's fraud, which ranged between \$6 billion and \$10 billion. The first crucial legal step in any of these fraud-related cases, as discussed in previous sections, is the acquisition of a worldwide freezing order. BTA acted swiftly and received several favourable judgements that would legally force Ablyazov to detail all his offshore holdings.⁸¹ Next, they sought a receivership order that would move legal authority over any companies, real

⁷³Sebastien Peyrouse, 'The Kazakh neopatrimonial regime: Balancing uncertainties among the "family," Oligarchs and Technocrats', *Demokratizatsiya*, 20:4 (2012), pp. 349–50.

⁷⁴Peyrouse, 'The Kazakh neopatrimonial regime', 358.

⁷⁵Cooley and Heathershaw, *Dictators without Borders*, 57.

⁷⁶Cooley and Heathershaw, *Dictators without Borders*, 60.

⁷⁷Saulesh Yessenova, 'The political economy of oil privatization in post-Soviet Kazakhstan: Life worlds of oil and gas', in Hannah Appel, Arthur Mason and Michael Watts (eds), *Subterranean Estates* (Cornell University Press, 2018), pp. 291–306, <https://doi.org/10.7591/9780801455407-017>.

⁷⁸Adam Hug, 'Kazakhstan at a Crossroads: Governance, Corruption & International Investment', *The Foreign Policy Centre* (12 September 2010) available at: <https://fpc.org.uk/kazakhstan-at-a-crossroads-governance-corruption-international-investment/>.

⁷⁹Tom Burgis, *Kleptopia: How Dirty Money Is Conquering the World* (William Collins, 2020), p. 105.

⁸⁰Cooley and Heathershaw, *Dictators without Borders*, 61.

⁸¹Delphine Nougayrède, 'The use of offshore companies in emerging market economies: A case study', *Columbia Journal of European Law*, 23 (2016), pp. 413–15.

or shell, associated with Ablyazov to third-party professionals. They then moved to guaranteeing mandatory disclosure orders over individuals that could have valuable information on Ablyazov's commercial dealings, including legal services providers in a range of offshore jurisdictions and Ablyazov's brother-in-law.

The worldwide freezing orders proved to be the beginning of the end for Ablyazov. Over a series of hearings, BTA's representatives in London showed that the defendant had repeatedly lied about his offshore wealth structures. They soon revealed over 500 more entities for which Ablyazov would be deemed the beneficial owner. In sum, the offshore empire appeared to have more than 1000 intricately interconnected companies, with Ablyazov's name rarely ever mentioned in the legal documentation – family members and beneficial owners were his *modus operandi*.⁸² For the failure to disclose his assets, and lying under oath in the process, Ablyazov was held in contempt of court and handed a 22-month prison sentence, but he managed to physically exit the jurisdiction just before the judgement came down.⁸³

English courts as the ultimate condemnation

There have been more than 70 judgements issued in proceedings related to the Ablyazov affair – there are few if any cases that have impacted English law more. Ablyazov did attempt to have the dispute dismissed on the grounds that it was politically motivated. While the courts recognised that the circumstances of the case were truly unlike any that they had previously presided over, the case was seen as legitimate for a host of reasons, including the legal fact that the bank was its own entity separate from Nazarbayev and the state, the fraud had occurred before the change in ownership, and it was legitimate to seek out the fraudulent funds when BTA was in such dire financial conditions.⁸⁴ Moreover, even if getting rid of a opposition figure was 'collateral purpose', it did not constitute an abuse:

the elimination of Mr. Ablyazov as a political opponent would appear to be clearly illegitimate because it is far removed from the remedy which the law gives for misappropriation of assets... However, the elimination of Mr. Ablyazov as a political opponent is said to be the consequence of undermining and damaging Mr. Ablyazov's reputation and facilitating the expropriation of Mr. Ablyazov's assets worldwide... Mr. Ablyazov's reputation is likely to be undermined and damaged and his assets are likely to be seized in order to execute the judgment. Thus those consequences cannot be an illegitimate purpose of the proceedings.⁸⁵

English courts handed down judgements worth over \$4 billion against Ablyazov. Even with these losses Ablyazov was not deterred. Moving to France to escape a new set of government authorities, Ablyazov ended up in a foreign prison for 3.5 years before escaping extradition charges by the skin of his teeth. According to leaked documents, BTA bank spent nearly \$500 million on lawyers to chase down Ablyazov's wealth and, with that, his instrumental power.⁸⁶ Ablyazov's name is now just as synonymous with fraud as any real or feigned democratic aspirations.

Competition, rather than capture or contestation, leads to weaponised legal dependence

The manuscript focuses on the Russian state's battle against Boris Berezovsky and the Nazarbayev regime's conflict with Mukhtar Ablyazov, but these tactics are not a function of post-communist

⁸² Nougayrède, 'The use of offshore companies', 411.

⁸³ Cooley and Heathershaw, *Dictators without Borders*, 61.

⁸⁴ See *JSC BTA Bank v Mukhtar Ablyazov*, Roman Solodchenko, Drey Associates Limited, Zhaksylyk Zharimbetov [2011] EWHC 1136 (Comm), 2011 WL 1151520 and *JSC BTA Bank v Mukhtar Ablyazov and others* [2011] EWHC 202 (Comm), 2011 WL 398113.

⁸⁵ *BTA Bank v Ablyazov* [2011] EWHC 1136 (Comm) para. 53.

⁸⁶ Burgis, *Kleptopia*, 256.

transition – the majority of post-Soviet states (11/15) have never surrendered sovereignty to the London courts. Another exception is Tajikistan, which spent nearly 5 per cent of the country's GDP on legal fees for a case against a director of their state-owned aluminium company, suggesting more than basic economic logics were at play.⁸⁷ These dynamics are instead fundamentally about sudden shocks to domestic balance of power arrangements and the ensuing fallout. The British courts recently heard claims by the Angolan state against the former ruling family.⁸⁸ The new head of state, João Lourenço, was brought to power amidst an oil crash that rocked the country, leaving the state in a particularly precarious position. The multi-decade dictator, José Eduardo Dos Santos, even moved millions of dollars from state coffers into his own accounts prior to his removal from power – leaving him and his family with a substantial war chest to regain control.⁸⁹ The Angolan state then sought to freeze \$500 million through London.

The argument further helps us understand the 'dogs that didn't bark'. South Africa has recently taken the mantle of 'state capture' from 1990s Russia following the revelations detailing the links between the Gupta family and the Zuma administration.⁹⁰ Despite ensuing political scandal, and the Guptas fleeing, the South African government has not filed international commercial cases against the oligarchs. They have failed at extradition, but no commercial claims where the state's secrets or its reliance on other plutocratic actors could come to attention. At the other end of the spectrum, despite Saudi Arabia experiencing a crackdown of the tycoon class once Mohammed Bin Salman came to power – the infamous Ritz-Carlton affair that turned the luxury hotel into a prison for some of the Saudi super-wealthy – no extraterritorial cases were initiated. The plutocrats have not appeared to ever actively seek or have the material means to change the system. The system was defined by state control. The crackdown was a reminder of who is in charge, and an internal redistribution of rents. According to the lawyers I spoke to, the limited extraterritorial activity goes back to the lack of political conflict in settings of state control: 'In Saudi and other Middle Eastern countries, they are smaller and less likely to fall out. They know where they sit.'⁹¹

China similarly has little need to resort to foreign courts. In recent years there is little doubt that private capital has made substantial strides – a host of successful tycoons has formed through the private enterprises, but they have seen their economic fortunes deteriorate as the Chinese state seeks to keep them in check, most notably through a decade-long corruption drive and the regulatory shackles put on the tech sector. These disputes have not boiled over into foreign courts because they were gradual and never reached a disequilibrium of state competition.⁹² Or, as one lawyer said, 'People are more afraid of stepping out of line... The collapse hasn't happened in China... the regime is still there. It [extraterritorial cases] requires a rupture.'⁹³

Conclusions

Subjecting your most valuable state companies to the jurisdiction and authority of ideological and economic rivals contradicts much of what we would generally expect from revisionist actors. Yet we have seen governments from a range of emerging, illiberal economies use foreign courts to file cases against elite co-nationals. I argue that states weaponise the nodes of the global legal economy

⁸⁷ Olga Hryniuk, 'The Enduring Saga of Tajikistan's TALCO Dispute: CIS Arbitration Forum – Online Journal about Dispute Resolution in Russia, Ukraine, Kazakhstan, Belarus and the Region', CIS Arbitration Forum (15 January 2018), available at: <http://www.cisarbitration.com/2018/01/15/the-enduring-saga-of-tajikistans-talco-dispute/>.

⁸⁸ Verde, *Angola at the Crossroads*.

⁸⁹ Verde, *Angola at the Crossroads*.

⁹⁰ Karan Mahajan, 'How the Gupta Brothers Hijacked South Africa Using Bribes Instead of Bullets', Vanity Fair (3 March 2019), available at: <https://www.vanityfair.com/news/2019/03/how-the-gupta-brothers-hijacked-south-africa-corruption-bribes>.

⁹¹ Lawyer11, January 2018.

⁹² Yan Xu, 'Fragile fortune: State power and concentrated wealth in China', *Politics & Society*, 51:4 (14 September 2022), pp. 597–624, <https://doi.org/10.1177/00323292221124408>.

⁹³ Lawyer12, February 2018.

to target their exiled plutocratic security threats, using a logic of network effects that we generally associate with only the infrastructural power of the United States.

When states are the initiators of these extraterritorial disputes, they arbitrage the legitimacy of the transnational legal market for domestic political gains. A rich tradition of socio-legal scholarship demonstrates that ostensibly impartial legal systems may become vehicles of power consolidation.⁹⁴ While many scholars have scrutinised the passage of new laws as tools for entrenching existing power inequalities,⁹⁵ others have examined how court cases themselves can be leveraged for political purposes.⁹⁶ Because plutocrats now hide and protect their wealth abroad, the perceived independence of British and American institutions is precisely what make them such valuable weapons in contemporary power struggles.

From the United States⁹⁷ to Kenya⁹⁸ to Singapore,⁹⁹ scholars have documented how domestic courts can be strategically used to counter elite opposition. The extraterritorial disputes I analyse signify these dynamics unfolding transnationally under commercial pretences, with the need and effectiveness of these strategies magnified by offshore finance. Although important recent work on 'lawfare'¹⁰⁰ draws attention to how courts can become tools to threaten civil society leaders and sites of geopolitical conflict,¹⁰¹ I illustrate that the same liberal legal systems plutocrats use to silence investigative journalists¹⁰² can be turned against them by their home state.

While the broad jurisdictional rules of global commerce may permit autocratic actors to achieve their illiberal ends, that does not change the fact that these rules primarily exist to promote international economic exchange and have been highly successful in increasing cross-border lending and foreign investment. Moreover, the cases under investigation rely on fundamental principles of commercial law and inevitably blend in with genuine attempts by the state to tackle corruption and fraud. How to balance these competing effects raises important normative questions for proponents of both liberalism and globalisation as it is the predictability and openness of the system – its core tenets – that are leading to its exploitation.

When *Forbes* began collecting data on billionaires in 1987, fewer than 30 could be identified in emerging markets. Come 2015, the number had risen more than 20-fold to over 600. Globalisation has turned the upper echelon of economic elites into a structural force in most countries. The bulk of scholarship on contemporary oligarchs tends to focus on the ways in which globalisation has become central to cementing plutocratic status. Moving money offshore is seen as a method to arbitrage the law, gain new methods of financing, and acquire anonymity.¹⁰³ The super-rich have even used their foreign corporates to de jure claim they are foreigners in their homeland, suing their

⁹⁴Tom Ginsburg and Tamir Moustafa, eds., *Rule by Law: The Politics of Courts in Authoritarian Regimes* (Cambridge University Press, 2008).

⁹⁵Risa L. Goluboff, *The Lost Promise of Civil Rights* (Harvard University Press, 2009); Tamir Moustafa, *The Struggle for Constitutional Power: Law, Politics, and Economic Development in Egypt* (Cambridge University Press, 2007).

⁹⁶Rachel E. Stern and Kevin J. O'Brien, 'Politics at the boundary: Mixed signals and the Chinese state', *Modern China*, 38:2 (2012), pp. 174–98; Anthony W. Pereira, *Political (in) Justice: Authoritarianism and the Rule of Law in Brazil, Chile, and Argentina* (University of Pittsburgh Press, 2005).

⁹⁷Steven M. Teles, *The Rise of the Conservative Legal Movement: The Battle for Control of the Law* (Princeton University Press, 2008).

⁹⁸Fiona Shen-Bayh, 'Strategies of repression: Judicial and extrajudicial methods of autocratic survival', *World Politics*, 70:3 (2018), pp. 321–357.

⁹⁹Jothie Rajah, *Authoritarian Rule of Law: Legislation, Discourse and Legitimacy in Singapore* (Cambridge University Press, 2012).

¹⁰⁰Siri Gloppen, 'Conceptualizing lawfare: A typology & theoretical framework', *Center of Law and Social Transformation Paper*, Bergen (2018), pp. 1–31.

¹⁰¹Orde F. Kittrie, *Lawfare: Law as a Weapon of War* (Oxford University Press, 2016).

¹⁰²Laura Lee Prather, 'SLAPP suits: An encroachment on human rights of a global proportion and what can be done about it', *Northwestern Journal of Human Rights*, 22:2 (2023), p. 49.

¹⁰³Gulnaz Sharafutdinova and Karen Dawisha, 'The escape from institution-building in a globalized world: Lessons from Russia', *Perspectives on Politics*, 15:2 (2016), pp. 361–78, <https://doi.org/10.1017/S1537592717000068>; Sharman, 'Chinese capital flows and offshore financial centers'.

home state through international arbitration venues.¹⁰⁴ Collectively, financial globalisation is fundamentally regarded as a set of tools that weakens the state in relation to its 'domestic' plutocracy, creating the grounds for more capture style dynamics. But given the often-corrupt transactions that are associated with gaining billions, plutocrats frequently have fraudulent and murky business deals clouding their past. By filing commercial claims abroad, either by enforcing foreign judgements or initiating new proceedings, the state can damage both the coffers and reputations of fleeing economic elites.

Although scholars of economic statecraft largely view using the nodes of the global economy as a power resource, weaponising nodal courts is largely a necessity – a dependence – because the legitimacy of rule of law countries is needed to acquire offshored wealth or ruin the reputations of a state's plutocratic rival. Security scholars have substantially expanded the range of tools considered effective in power politics.¹⁰⁵ This paper is a call to re-examine the international repertoire that can be used to tackle internal threats. States can attempt foreign killings, kidnappings, extraditions, and harassment campaigns and, as I show, weaponise commercial courts. These tactics are not restricted to conventional authoritarian regimes – the Modi government in India has recently been linked to assassinations on foreign soil, but it has also been a claimant in major cases against fleeing oligarchs like Vijay Mallya. The balance of power more than regime type appears to drive transnational repression, but how states choose between these different strategies, and when they may undercut each other, is a critical next step in understanding the politics of extraterritorial control and the dilemmas that plague any attempt at a liberal order.

Video Abstract. To view the online video abstract, please visit: <https://doi.org/10.1017/S0260210525101216>.

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¹⁰⁴Paula Ganga and Nikhil Kalyanpur, 'The limits of global property rights: Quasi-experimental evidence from the energy charter treaty', *Energy Policy*, 167 (2022), p. 113034.

¹⁰⁵Stacie E. Goddard, Paul K. MacDonald, and Daniel H. Nexon, 'Repertoires of statecraft: Instruments and logics of power politics', *International Relations*, 33:2 (June 2019), pp. 304–21, <https://doi.org/10.1177/0047117819834625>.