



# Shadow state structures and the threat to anti-corruption enforcement: evidence from Uzbekistan's telecommunications bribery scandal

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## Abstract

The role which corporate and financial secrecy vehicles play in enabling transnational corruption has justifiably received growing scholarly and policy interest. Less attention, however, has been given to the enabling role played by political secrecy vehicles. Political secrecy vehicles denote arrangements that allow individuals to clandestinely exercise public authority, which is concealed by a formal bureaucratic façade. This article develops analytical categories for deconstructing political secrecy structures and pinpointing the threat they pose to anti-corruption enforcement. These structures and threats are then empirically explored through an investigative case study. The case study plots how shadow political space in Uzbekistan and the simulacra of impartial public administration, was utilised by a kleptocratic syndicate to conceal an international bribery scheme, and then weaponised by the conspirators to successfully frustrate enforcement efforts in Europe. Drawing on key lessons from the case study, proposals are made for how the threats posed by political secrecy structures can be jurisprudentially and practically counteracted.

**Keywords** Corruption · Kleptocracy · Anti-corruption · Anti-money laundering · Bribery · Shadow state

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A growing body of literature has emerged documenting the role which transnational secrecy structures, such as, shell companies, professional nominees, bearer shares, trusts and numbered bank accounts, play in frustrating anti-corruption efforts (Bullough, 2018; Deneault, 2011; Harrington, 2016). It has also illuminated the critical role played by enablers from the advanced business services community, who tailor make the commercial subterfuge necessary for concealing corrupt deals and laundering the proceeds.

The point of these secrecy structures, and consequently why they have also attracted global attention, is their proven capacity to disconnect the conspirators and the illicit wealth from the underpinning predicate crime, so neither suffer sanction as a result (Platt, 2015). This occurs both by concealing the parties involved, and through manufacturing sham structures that simulate legitimate commercial relationships and financial flows (Lord et al., 2018). The intention is that the corporate and commercial simulacra will be accepted at face value by those with a duty to identify, report or investigate corruption and money laundering. However, reporting, research and advocacy, has begun to precipitate meaningful policy action and enforcement effort directed against corporate secrecy tools and enablers (Habershon et al., 2020).

Notably less research and policy attention has been given to the way in which state structures can act in an analogous manner, allowing hidden figures to make public decisions through nominee office holders, with a legitimising façade for the corrupt transactions manufactured by a compliant state bureaucracy. In this article high-stature figures that exert significant authority over state institutions without holding public office, will be referred to as shadow state actors. This phrase adapts the term 'shadow state' from a body of international research which has analysed the emergence of bifurcated formal and informal political structures in diverse regions, that allow powerful figures without requisite public office to covertly employ state institutions for commercial ends (Hussein, 2018; Reno, 1995; Work et al., 2022). The performative official decision-making processes, and associated bureaucracy, which conceals abuses of power by shadow state actors will be characterised as political simulacra, referencing that they aim to convincingly emulate rule of law, due process, and impartiality.

Shadow state actors and political simulacra can be observed, for example, in authoritarian regimes where political authority pools in the personage of high-status figures, rather than the institutions and processes which office holders are ostensibly a temporary custodian of (see Cooley & Heathershaw, 2017). This enables a wider circle of close affiliates, such as extended family, to systematically leverage this personalised authority for the purposes of directing the actions of state institutions, creating opportunities for misappropriating public assets, acquiring valuable rights such as mining licenses, or securing bribe payments from investors looking to enter politically controlled markets. This abuse of public power by shadow state actors from powerful dynasties is then hidden by a simulated set of sequences, where, for instance, ministers, departments, regulatory institutions, and the courts, each manufacture evidence that cloaks these illicit actions in formal procedure and authorisations.

The secrecy and simulacra allows the associated transactions, and the financial value they generate, to then be integrated into the legitimate economy. It also, as this

article will argue, creates a shield against law enforcement and asset recovery efforts, as prosecutors struggle to expose both how shadow state actors are situationally conferred with public authority and the inauthentic political simulations this authority is hidden within. This stems, we argue, from a baseline understanding of the state in anti-corruption policy and practice, that fails to give recognition to the plurality of ways in which state authority can be acquired and exercised.

In order to analyse the criminogenic properties of shadow state structures, the simulacra it uses, and the challenges which the former and latter pose to anti-corruption enforcement, this article will present an investigative data-set acquired over a six year fieldwork period. The data-set documents a multi-billion dollar kleptocratic syndicate that operated in Uzbekistan under the leadership of the President's daughter, Gulnara Karimova, and a bribery scheme it orchestrated in the telecommunications sector during 2004–2012, involving the multinational companies Mobile TeleSystems (MTS), Vimpelcom and Teliasonera. This data illuminates the mechanisms and methods through which Karimova navigated an intra-elite system to situationally acquire significant informal political authority over telecommunications, along with the offshore corporate structures her group used to conceal bribe payments solicited using this shadow authority.

Of notable importance, after a major leak to Swedish journalists exposed the bribery scheme, prosecutors in implicated jurisdictions successfully pierced the offshore corporate schema. However, in a number of key cases prosecutors were beset in their efforts by the political secrecy and simulacra used by the syndicate. To unravel the precise threats the latter pose, the article will trace how these political structures were weaponised to impede enforcement efforts in Sweden and Switzerland. It will also identify the vulnerabilities in anti-corruption legislation and enforcement, which enabled these efforts to succeed. In the final part of this article, attention will turn to steps that can be taken to address the jurisprudential and practical vulnerabilities which shadow state actors and their corporate clients exploit.

## **Foreign bribery and Uzbekistan's shadow state: the Karimova-telecommunications case study**

### **Methodology**

One of the authors initiated research on the Karimova syndicate in 2016 as part of a wider programme of criminological inquiry into the transnational structures and schemes critical to the reproduction of kleptocracy in Uzbekistan. The research took place in a repressive authoritarian context. Open criticism of ruling political families is forbidden. Independent Uzbekistani journalists and academics seeking to expose corruption at senior levels do so primarily in exile. In such an environment obtaining access to data on the illicit enrichment schemes orchestrated by ruling dynasties is extremely difficult.

To address this challenge, Lasslett engaged in practice-based skills development with a number of specialist investigative media organisations, collaborating with journalists at Radio Ozodlik, Open Democracy and The Guardian, to build a craft-based

understanding of investigative techniques that can enrich a criminological methodology on kleptocracy. In addition, a partnership was developed with a UK tech cooperative, Outlandish, in order to build a series of tools for scraping open-source data (corporate filings, judgements, government decrees) and then using machine learning to identify patterns and connections within the data. These investigative and digital methods were incorporated into the Uzbekistan research programme.

Because the population involved in the kleptocratic schemes under study is a small, privileged and powerful one, the case study methodology was used to focus on different elite clusters (Stake, 1995; Yin, 2003). As part of this approach the case of Gulnara Karimova, President Islam Karimov's eldest daughter, was selected for in-depth investigation. Not only was Karimova part of a major political dynasty, a transnational corruption scheme she was involved in was the subject of a rare internal leak and public exposure. This precipitated anti-bribery and anti-money laundering (AML) investigations in Switzerland, Sweden, the Netherlands, Norway and United States, resulting in prosecutions, asset recovery efforts, and the signing of deferred prosecution agreements with MTS, Vimpelcom and Teliasonera in the US. Also in a rare occurrence for a figure of such weight, Karimova had been arrested and then prosecuted in Uzbekistan for organised crime related offences, during a period when her father's health was in rapid decline and internal machinations associated with Presidential transition were underway. The leak, media coverage and subsequent prosecutions, generated leads and opportunities for building a diversified data-set.

Fieldwork involved the development of relationships with key sources, including, insiders from the Karimova group, former clients of the syndicate, international law enforcement, lawyers involved in related civil litigation, and civic actors who had been monitoring Karimova's activities. Building these networks of relationships and establishing trust, took several years of discrete trips to meet sources. Through these networks access was gained to a large cache of leaked internal documents from the Karimova syndicate, its corporate clients in the telecommunications sector, and exhibits/records produced through international enforcement efforts. These records were triangulated with open-source data acquired from court archives, public corporate registries, state portals and public leaks. Interviews were also conducted with two senior figures located inside the Karimova syndicate, four sources within the Uzbekistani state with direct knowledge of syndicate activities and a senior executive who had worked for one of the three telecommunication companies. As part of the fieldwork process, criminal procedures in Sweden, Switzerland, Norway, the United States, France, and the United Kingdom were monitored, including the collection of procedural and substantive judgements.

Triangulation of sources was a particularly important process for a number of reasons. Firstly, the investigative research aimed to build comprehensive understandings of hidden political and economic processes, the simulacra they were concealed within, and the systems they sustain and are sustained by. This required extracting data from hundreds of distinct sources and carefully piecing the data together to obtain a substantive empirical window into covert processes, mechanisms and structures. Secondly, the primary materials used were generated by different individuals and institutions for precise internal/external purposes, meaning that they give selec-

tive insights calibrated to that purpose. It was important from an integrity perspective that emerging factual conclusions were, therefore, verified by multiple data-points.

Triangulation took place through a triple-coding process (see Lasslett, 2017a, b). Data that pertained to social networks was coded using Maltego Casefile to iteratively produce directed graphs on the Karimova syndicate and its national/international networks, while categories drawn from social network analysis were used to interrogate network structures. Data relating to the transactions used to operationalise the telecommunications bribery scheme was mapped using timeline software Aeon, which helped model transnational event sequences. Finally, thematic analysis was used to inductively generate categories from patterns observed in the data (Braun & Clarke, 2006). This gave insights into the motivations, strategies, pressures, opportunities and constraints that shapes these schemes between the Karimova group and its corporate clients.

Aided by data-visualisation, these different mechanisms allowed the intentionally hidden networks, schemes and associated simulacra, critical to the telecommunications bribery scheme to be empirically defined and then embedded within a period of transition in Uzbekistan. From this construction a narrative could emerge which helped to explain how shadow authority is exercised in Uzbekistan, the mechanisms it operates through, why these mechanisms sustain over time, their criminogenic effects, and how these processes mediate through formal state structures, to create formal appearances that belie an unseen substance. This also enabled features of this system to be identified that were critical to impeding subsequent prosecutorial and asset recovery efforts.

The data-set on the Karimova syndicate and the telecommunication bribery scheme it co-authored will now be presented, focusing on the shadow state structures and political simulacra Karimova operated through. To situate the case study, certain overarching features of Uzbekistan's shadow state structure will first be traced.

### **Post-soviet transition in Uzbekistan and the emergence of a shadow state**

Under the leadership of Islam Karimov, Uzbekistan's inaugural post-Soviet President, the nascent Republic of Uzbekistan pursued a conservative path of transition, prioritising stability and gradual economic change. State-controlled entities and labour processes remained pivotal for orchestrating economic activity, spanning from finance through to exchange (Rasanayagam, 2011). Enabling legal infrastructure was established to support private capital circulation, albeit cautiously (Pomfret, 2000).

The Karimov regime's focus on national security and authoritarian consolidation led to the concentration of political authority within the executive branch, with limited oversight from parliament or the judiciary (Lewis, 2016). Though national elections occurred, they lacked substantive competition due to a prohibition of independent parties and candidates, rendering them tokenistic. This dynamic resulted in a select group of high-ranking executive officials amassing significant control over government business without formal checks (Rasanayagam, 2011; Zakirov, 2021).

Lacking a robust party system or representative democracy, the distribution of political power has been coordinated through an intra-elite system of alliances termed the 'clan system'. These elite clusters have been labelled 'clans' because the

alliances binding members together have rested in part on family and regional ties, creating groupings associated with different regions of Uzbekistan (e.g., Tashkent, Samarkand, Fergana) (Ilkhamov, 2007; Tunçer-Kılavuz, 2009). However, the alliances that bond elites together are flexible incorporating other ties such as business, education and kick-backs (Uzbekistani state official A, personal communication, 8 March 2017). These alliances, bridging government, security services, business, and organised crime, facilitate collaboration for mutual gain and have served as a platform for elite inter-generational transitions (Zakirov, 2021).

This intra-elite framework has also allowed high-stature individuals within influential clusters to wield systematic authority over state institutions without assuming official roles. Notably, in the case of high state officials with the most significant proportional share in concentrated political authority a dynastic dynamic has crystallised over the past two decades, where family members, including sons, daughters, wives, brothers, sisters, and niece/nephews, leverage their kin's power to seize their own discrete share in discretionary political authority which they can in turn use to exert control or influence over state agencies (Uzbekistani state official B, person communication, 17 September 2016; see also Ilkhamov, 2007; Tunçer-Kılavuz, 2009). In some cases, these dynastic actors will not have any formal role within the public state – this has been the case for family members of senior security service figures – in other instances they will take modest official roles that belie the much more significant political authority they wield. Formal office holders who fail to follow directives given by these powerful dynastic actors face the threat of demotion or imprisonment (Uzbekistani state official A, personal communication, 8 March 2017; Uzbekistani state official B, personal communication, 17 September 2016).

During Uzbekistan's political transition from the Soviet Union, a growing occupation of high stature families and the clusters they are part of, has been the utilisation of authoritarian state power to curate market conditions in ways that facilitates and accelerates their accumulation of private capital. Government shaped market processes, such as, the privatisation of state enterprises, the initiation of public-private partnerships, the award of government contracts, the issuing of operating licenses, the award of exclusive market opportunities by decree, control over banks and currency conversion, market regulation/oversight, provision of state guaranteed loans, granting of tax exemptions, state organised corporate raiding (expropriating rivals), state protected black market operations, are openings that have been exploited in different combinations by the ruling dynasties (see Lasslett, 2019, 2023; Lasslett & Uzbek Forum for Human Rights, 2021; Ilkhamov, 2007; Ruiz-Ramas & Hernández, 2021).

Together these dynamics point to the social grounds existing for a 'shadow state' structure, an influential space that exists beyond formal institutional boundaries, which enables high-stature elites to govern markets covertly (Reno, 2000; Work et al., 2022). However, formalised state institutions and the bureaucratic structures they operate through remain a critical part of the political terrain in Uzbekistan, providing the simulacra of benign public and regulatory agencies impartially implementing government policies. Shadow state scholars, observe in this respect, there is 'a bifurcated "state", one side of which is a supposedly "real" state of laws, policies, and bureaucratic structures that rationalize landscapes and another that exists in the

shadows of this façade violently capturing resources and cultivating collaborating elites with impunity' (Work et al., 2022: 5; see also Harriss White, 2003). In the case of Uzbekistan, data will now be presented which pinpoints the mechanisms that Karimova employed to govern telecommunications from within a shadow political space, along with the political and corporate simulacra that concealed the corrupt arrangements that emerged.

### **Karimova's shadow control of Uzbekistan's telecommunications sector**

Since 1991, Karimova's father President Islam Karimov had navigated the transitional space in Uzbekistan, along with several other figures, to successfully concentrate high levels of personalised authority. There had not, however, been a commensurate objectification of authority in formalised rules and processes, which demark lines of responsibility, generate transparent criteria and processes for the selection of office holders, and enumerate legitimate capacities and jurisdictional limits. This generated an environment of social anxiety within elite circles, where promotion or imprisonment are two foreseeable scenarios for state officials depending on their standing with those with the most concentrated levels of personal authority. This lack of clarity and certainty created a powerful motive force for strategically investing in the favour of higher stature figures and their families.

Upon her return to Tashkent from the United States in 2001, following her divorce from American-Uzbek businessperson Mansur Maqsudi, Karimova leveraged this dynamic, employing her father's status and her own unique access to the presidential circle, in order to build a network of loyal ministers and senior public officials. Karimova also established a dynamic business team around her to construct the onshore and offshore commercial structures needed to discretely operationalise and administer new commercial opportunities being opened up by her growing, personalised political authority. Known as 'The Office', it had approximately 45–60 employees working to both manage and conceal Karimova's business interests (Office of the Attorney General of Switzerland, 2018). Shell companies, referred to internally as 'dumpsters' and 'bins' (Office of the Attorney General of Switzerland, 2020), were registered in secrecy jurisdictions, which were owned and managed by nominees from 'The Office' (see also more generally, Cooley & Heathershaw, 2017; Heathershaw & Cooley, 2015). While the maze of transactions executed using these shell companies have subsequently been unravelled by law enforcement in Switzerland and the United States, it has been the mechanisms by which Karimova asserted shadow control over telecommunications that has proven more elusive.

Two senior managers from the Karimova group, who have since fled Uzbekistan, provide eye-witness accounts stating how Karimova's emerging personalised political authority was used to politically curate control over key economic territories, without any visible or auditable trail tying Karimova to the corresponding state institution's decisions. The first source is Farhod Inogambaev. Inogambaev provided a series of affidavits for legal proceedings initiated by a previous employer, Roz Trading Limited, a Cayman Island company owned by the Maqsudi family, Karimova's former in-laws. Inogambaev had worked as the chief financial adviser in Karimova's office from 2001 to 2003, before seeking sanctuary in the US. In these affidavits

Inogambaev states that in 2001 he was working in Dubai for the family of Karimova's ex-husband Mansur Maqsudi. Inogambaev testifies that he was forced to return to Uzbekistan and work for Karimova after his brother was taken hostage by the Presidential Security Service, and Karimova's Chief of Security on 24 August 2001 (Inogambaev, 2006). During his tenure at the Karimova organisation, Inogambaev attests that he had witnessed Karimova directing state bodies to take actions that were detrimental to the state's interest, in furtherance of her private business aspirations.

One example involves Inogambaev's former employer, Roz Trading – although not a telecommunications firm, the case precludes dynamics that would emerge later in the telecommunications sector. In the 1990s Roz Trading Limited had partnered with US soft drink giant, Coca-Cola, in a lucrative bottling joint-venture in Uzbekistan. Following Karimova's divorce from Mansur Maqsudi in 2001, the Uzbekistani joint-venture experienced a period of state-organised harassment. This included National Security Service raids of Roz Trading and Coca-Cola Bottlers of Uzbekistan (CCBU) offices, the interrogation of employees, and the initiation of legal action against Roz Trading by the Uzbek Anti-Monopoly Committee and the Ministry of Justice, leading to the eventual liquidation of its stake in CCBU (Roz Trading Ltd, 2006). According to Inogambaev:

She [Karimova] orchestrated every detail of the court proceedings against ROZ. For example, she told the prosecutors precisely what charges to bring and how to prosecute the case. Ms. Karimova knew that there was no merit to these charges. Ms. Karimova, through Alisher Sayfuddinov [Deputy Chief of the Presidential Security Service] and others, even told judges exactly what actions to take in the court proceedings against ROZ ... Ms. Karimova often wrote substantial portions of the decisions herself to make sure that they contained the exact language and ordered the precise outcome she desired. (2006: para. 28–9)

Even at this early stage Inogambaev's evidence points to Karimova's authority over senior state officials - in this case Alisher Sayfuddinov - who would ensure relevant state agencies implemented Karimova's directives.

When Coca-Cola contracted Washington DC consultants, Stonebridge International, to sure up its position in Uzbekistan, the consultants were advised by ministers and senior civil servants during a Tashkent trip that the actual figure with political authority over the future of Coca-Cola's Uzbekistani bottling operations was Karimova, for whom a number of key officials acted as an intermediary for (The Coca-Cola Company, 2002). Stonebridge's consultants noted that senior administration officials were anxious and fearful over their standing with President Karimov. According to a senior official from the period, this was a critical resource for Karimova: 'She would just say [to her father] "that minister I don't think he's doing his job very well" and you can be sure the next day that person is gone. And even the minister can end up in prison. You couldn't say no to her' (Uzbekistani state official B, personal communication, 17 September 2016).

Coca-Cola then pursued negotiations over the future of its Uzbekistani operations with Karimova through a number of her managers, including Inogambaev. Roz Trad-

ing's liquidated shares were ultimately acquired by Zeromax GmbH with Uzbekistani government approval and Coca-Cola's sign-off. According to Swiss Federal Criminal Police (2016) inquiries Zeromax GmbH financed offshore asset acquisitions for the benefit of Karimova, although Zeromax's shares were owned by an Uzbekistani gas and oil executive, along with his wife.

Inogambaev testifies that the same coercive methodology observed in the CCBU case was employed by Karimova in order to establish a personal propriety interest in the telecommunications sector. This began with Karimova's takeover of Uzdunrobota, a telecommunications joint venture between the Uzbekistani government and a US based company. Inogambaev states that 'without spending a penny' Karimova extorted a 20% stake in the venture from the private partner by threatening to destroy the company unless they acquiesced (2006: para. 20). Karimova held this interest through her offshore company Revi Holdings incorporated in the UAE. Karimova was then able to obtain a controlling stake over Uzdunrobota, according to Inogambaev, after she directed the government to allocate its shares in the company to her offshore holding company: 'Ms. Karimova directed the Government of Uzbekistan to transfer 31% of the State's ownership in Uzdunrobota to Revi Holdings, at no charge. The Uzbek State Property Committee acquiesced to Ms. Karimova's demands' (2006: para. 21).

Eye-witness testimony provided by executive Bekhzod Akhmedov indicates Karimova also used this personalised political authority and coercive methodology to assert control over the telecommunications market as a whole, which she then monetised by charging potential investors access fees. Having initially served as an executive at Uzdunrobota, Bekhzod Akhmedov became a senior manager within the Karimova organisation, coordinating her telecommunication interests, including as General Director of Uzdunrobota (United States Department of Justice, 2016). After fleeing to Russia in 2012 he provided evidence to Russian criminal investigators. Akhmedov claims: 'A personal agreement with Karimova and consideration of her interests were necessary conditions in any deal within Uzbekistan's telecommunications market' (Akhmedov, 2012: 14). To underwrite her political position as industry gatekeeper, Akhmedov states Karimova was able to disrupt telecommunication company services using state agencies.

One example given by Akhmedov involves Uzbekistani telecommunications provider Coscom, which was a target for acquisition by several foreign companies seeking a foothold in Uzbekistan. Akhmedov (2012: 13–14) argues when Karimova's interests were not accommodated in a proposed deal with a Qatari investor QTEL during 2006–07, Coscom's license was suspended for 10 days on spurious grounds which scuppered the proposed deal. Coscom would eventually be acquired by Teliasonera, with significant financial provisions being made by the Swedish multinational to secure Karimova's political approval.

What this initial dynamic points to, both through the case of CCBU and Karimova's entry into the telecommunications sector, is her capacity to leverage the Karimov family clout in a political environment marked by elite anxiety, in order to build a network of senior bureaucrats and ministers prepared to enact her decisions, despite their improper ends. This endowed Karimova with an augmented ability to instrumentalise diverse state institutions, without a publicly visible audit trail connecting

their actions to her instructions. However, informally her capabilities were becoming widely known. As a result, she was increasingly recognised within elite political and business circles as someone who could engineer decisive and abrupt action using diverse authoritarian state-mechanisms. For businesses such as Coca-Cola or Uzdun-robita, ruin or prosperity were two immediate, identifiable outcomes associated with their standing or lack of standing with Karimova, in an analogue to the social anxiety faced by state officials.

This reflects how the extreme concentration of personalised political authority in figures like Islam Karimov, in an environment marked by institutional arbitrariness, no effective rule of law, and individual insecurity, created the shadow space for relatives such as Karimova to exploit, with businesses and state officials alike seeing investment in the Karimov family, as a prudent method for securing their interests. Karimova's ability and willingness to abruptly use coercive state institutions to enforce her objectives and the apparent climate of fear it generated, intensified Karimova's autocratic authority. Accordingly, concentration of personalised power in the Karimov family, the autocratic state institutions they could command, the individual insecurity arbitrary rule created, associated elite survival strategies, and the climate of fear Karimova authored, were the different mechanisms that helped sustain her shadow authority during the described period.

It is also important to underline the bureaucratic form in which Karimova's orders were ultimately executed. The example of Roz Trading illustrates how a personal order to arbitrary liquidate a company of its assets, owing to personalised motives, was reconstructed through state machinery as a legitimate act of justice by the state, purportedly resulting from the violations of national laws by CCBU, which was adjudicated on by the courts. The subsequent transfer of the liquidated shares to Zeromax followed a similarly orderly process. What is generated out of this is the simulacra of a rule bound order, where action is taken by accountable institutions according to their circumscribed power. This simulation has important effects. It enables the beneficiaries of these processes to utilise these expropriated assets, using the simulacra to validate the legitimate origins of the wealth when required.

The next section will document and analyse how telecommunication multinationals, MTS, Vimpelcom, and Teliasonera, strategically navigated this informal system employing a bribery scheme to secure their interests in Uzbekistan's telecommunication market. Then we will examine how the shadow structures and bureaucratic simulacra these exchanges were laundered through, generated a shield that subsequently impeded international prosecutions and asset recovery efforts.

### **The telecommunications bribery scheme**

To operate mobile phone services in Uzbekistan telecommunication companies require a licence and the allocation of radio spectrum, which is issued by a national regulator the Uzbek Agency for Communication and Information (UZACI). Spectrum space for radio frequencies is finite. Governments can, accordingly, charge significant fees for mobile telecommunication licences and spectrum, which in large markets can net billions of dollars in public revenue (Sridhar & Prasad, 2021). Ostensibly the formal gate-keeper in Uzbekistan was deputy prime minister Abdulla Aripov who

was responsible for the telecommunications portfolio and head of UzACI. However, the evidence indicates for aspirants to the sector it was clear that the actual political gate-keeper was Karimova, who appropriated entry fees as private rents.

For example, the Dutch based Vimpelcom sought entry into the Uzbekistani telecommunications market through the purchase of Unitel in 2005, for US\$200 million. At the time Unitel had approximately 300,000 subscribers, making it the second largest mobile service provider in Uzbekistan (United States Securities and Exchange Commission, 2016: para. 18). However, to safely operate in Uzbekistan, Vimpelcom managers advised the company's board that it would also need to purchase Buztel for US\$60 million, an Uzbekistani telecommunication firm with a mere 2,700 subscribers.

Vimpelcom management explained that entry into the Uzbekistani market depended on the backing of a beneficial owner standing behind Buztel, who was anonymously referred to as 'the partner' (which was Gulnara Karimova). Management informed the board's finance committee: 'Due to certain political reasons (and this message should be taken by us as is), Buztel should be considered as an entry ticket into [the] Uzbekistan market and the buyer of Buztel would be considered a preferred buyer of Unitel' (Vimpelcom meeting minutes cited in United States Securities and Exchange Commission, 2016: para.19). The committee was also told that it is 'more important to follow the political requirements suggested for entry into the market versus [the] questionable risk of acquisition of Unitel as [a] standalone' (Vimpelcom meeting minutes cited in United States Securities and Exchange Commission, 2016: para.19). Were Vimpelcom to ignore these political requirements for market entry, management warned, the company would be placed 'in opposition to a very powerful opponent and [this] bring[s] [the] threat of revocation of licenses after the acquisition of Unitel [as a] stand-alone' (Vimpelcom meeting minutes cited in United States Securities and Exchange Commission, 2016: para.19). Vimpelcom accordingly purchased Buztel, this created the commercial simulacra through an associated set of deals, to ultimately solicit a payment of US\$57.5 million to Karimova through the offshore entity Takilant Limited (shares in Takilant Limited were formally held by a young manager working on Karimova's behalf) (United States Securities and Exchange Commission, 2016). A senior Vimpelcom executive notes reserving approximately 10% of investment for bribes in a region like Uzbekistan was more widely speaking established sector practice (personal communication, 2 November 2017).

Turning to the example of Swedish multinational, Teliasonera, they formed a similar view that to secure entry into Uzbekistan's telecommunications market, in this case through the acquisition of Coscom (known by the brand name UCell), required payments to Karimova. Teliasonera's board and management were familiar with the previously failed deal between Coscom's owner MCT and the Qatari company QTEL (Mannheimer Swartling, 2013), which was recounted in the interview excerpt above. Mitigating the political risk of arbitrary sanctions or indeed nationalisation were thus explicit board priorities (Mannheimer Swartling, 2013). In internal emails Teliasonera executives noted that they were working through 'very influential Eurasian people', as well as individuals on the ground close to the Karimov family, in order to identify the 'top elite who deal with the telecoms sector' (cited in US Department of

Justice, 2017: 8). Teliasonera executives later confirmed in internal emails that entry would be negotiated through ‘the Lady’ (Gulnara Karimova), whose ‘people were ready to meet on the subject’ (cited in Netherlands Public Prosecution Service and Telia Company AB, 2017: 3).

Following meetings with Karimova’s team an agreement was made over the summer of 2007 to pay Karimova a net sum of US\$30 million, and apportion her Gibraltar offshore holding company, Takilant Limited, a 26% interest in Coscom (Akhmedov, 2012; Netherlands Public Prosecution Service and Telia Company AB, 2017). Teliasonera approval was also given for a share option agreement that if enacted would see Karimova’s stake in Coscom potentially repurchased after 2009 by Teliasonera for a significant sum (20% was repurchased in 2010 for US\$220 million). In return for these accommodations, Teliasonera obtained the remaining shares in Coscom, and was issued with rights to 3G spectrum and number blocks ostensibly reallocated from a Takilant Limited subsidiary, which had acquired the spectrum shortly before the deal was concluded. To execute this transfer Takilant Limited formally repudiated this infrastructure in a letter to the regulator UzACI, which accepted the repudiation and then reallocated the frequencies to Coscom on 27 December 2007 (United States Department of Justice and Telia Company AB, 2017).

Once MTS, Teliasonera and Vimpelcom entered Uzbekistan’s telecommunications market, they each claim in agreed statements of fact further bribes were provided to Karimova, which were concealed using ostensibly legitimate commercial transactions, such as consultancy agreements, constructed offshore through secrecy vehicles owned on paper by proxies (United States Department of Justice, 2016). In return the Karimova syndicate would secure for its partners benefits and infrastructure, which would be allocated with official documentation issued by the state agencies responsible for matters such as frequency bands and the lease of fibre cables (Mannheimer Swartling, 2013).

There was, however, also a downside to the arrangements reached. The rights and benefits which the telecommunication companies enjoyed in Uzbekistan were not allocated by a formally authorised public power operating according to a transparent codified process, with safeguards in place. Instead, these rights and benefits had been allocated through a shadow system that operates outside public normative limits. This created a scenario where the telecommunication companies could be subjected to further demands for payment by the Karimova group, with the threat of arbitrary disruptions or liquidation as leverage. The latter could be executed by state agencies acting under a contrived public veneer, such as license breach or tax code violations. Concerns in this regard were circulated internally within MTS, according to their agreed statement of facts with the US Department of Justice.

During 2008 MTS executives deliberated on making a US\$50 million payment to the Karimova group in order to stop the official harassment of Uzdunrobota, noting ‘that “outright rejection of the payments” or replacement of Uzdunrobota’s management could lead to potential consequences, including “the Third Party [i.e., Foreign Official] creating difficulties (of various kinds)” for Uzdunrobota’s business, “suspension” of Uzdunrobota’s operations, or the forced sale of Uzdunrobota. Executive 1 noted that there were not “available legal options” to “provide reliable protection from the Third Party [i.e., Foreign Official]”’ (United States Department of Justice

and Mobile Telesystems, PJSC 2019: A-12/13) (the foreign official is Karimova). Subsequently a decision was made to pay the Karimova group US\$50 million, 'MTS hoped it could obtain ... "expansion of existing licenses," currency conversion [at the highly favourable official rate, for which government approval is required], and tax and customs benefits' (United States Department of Justice and Mobile Telesystems PJSC, 2019: A-12/13) (comment in square brackets added by the authors).

Teliasonera also faced informal pressure to increase the size of its payments to Karimova during 2009/10. Bekhzod Akhmedov (2010) reminded senior Teliasonera executives in an email the value which Karimova had generated for the company: 'Please note that Ucell has shown a substantial/dramatic growth in all aspects, reduced its market risks exposure drastically by becoming N2 operator in Uzbekistan ... [y]ou shall agree that in these things are not possible in very highly risky environment'. In a subsequent board memorandum Teliasonera executives justified increasing a proposed payment – from \$112.5 million to US\$220 – in order to repurchase 20% of Takilant Limited's 26% interest in Coscom (UCell) under the 2007 share option agreement, arguing: 'The objective is to maintain a good relationship with Takilant and extend the period they stay as a shareholder as long as possible. Certain issues we could need their assistance with are the conversion of Uzbek soms (UZS) into Swedish kronas (SEK) when U'Cell turns cash-flow positive, which is expected to occur in 2011, the assurance of renewal of licenses including a new LTE license and local support for sound pricing' (Kivisaari, 2010).

This example, and the case of MTS, both point to how the telecommunication companies negotiated informality and unpredictability in Uzbekistan's shadow state system. On the one hand, when pressed MTS and Teliasonera made additional payments to Karimova to preserve the positive relationship. On the other hand, they examined ways in which Karimova's shadow authority could be profitably used to create added value that might justify this additional investment.

To summarise, the bribery scheme and the evidence surrounding its orchestration, indicate that the investors were acutely aware they were entering a political environment where the clout of patrons mattered considerably more than formal rules, processes or indeed decision makers. The payments to Karimova's offshore entities and the equity interests gifted to her, bonded the telecommunication multinationals to Karimova's situationally acquired personal authority. This bond assured access to essential telecommunications infrastructure and to a protected market environment primed for profitability, while also acting as an insurance policy for obtaining advantageous decisions in areas marked by institutional arbitrariness, such as, currency conversion and tax. The use of opaque offshore companies owned and managed by nominees from Karimova's office, which received the bribe payments through ostensibly legitimate commercial transactions, helped conceal the corrupt scheme in conjunction with the bureaucratic structures governing Uzbekistan's telecommunication sector which consecrated the arrangements with the relevant official approvals.

This appears to typify a kleptocratic scenario. A shadow state actor draws on dynastic power to solicit bribes from multinationals, using an offshore edifice and a loyal domestic bureaucracy to generate the simulacra of legitimacy. After the bribe payments to Karimova were publicly exposed through a damaging leak, however, this edifice seemingly collapsed. Dutch and US governments reaching deferred

prosecution agreements with MTS, Vimpelcom and Teliasonera. In the Netherlands, Takilant Limited was charged with passive bribery, tried in absentia, and ultimately convicted (Court of Amsterdam, 2016).

However, by way of contrast prosecutors in Sweden and Switzerland faced proactive resistance from accused parties. It was argued in these jurisdictions that Karimova was a private businessperson without public authority over telecommunications, and could not as a result be considered a bribable official. In the next section we will examine these cases and identify the jurisprudential and practical reasons why the latter argument has proven effective in derailing anti-bribery enforcement efforts.

### **Political secrecy and state simulacra: a shield against international enforcement efforts**

Two specific elements constitutive of the offence ‘corruption of foreign public official’, as defined by the OECD Anti-Bribery Convention (OECD ABC) (1997), have impeded Swedish and Swiss prosecutors involved in enforcement activity related to the Karimova case. The first element is the requirement that a ‘foreign public official’ is the recipient of the solicitation. The second element is the performance or non-performance of certain action, which the official could have performed through their public function, in the interests of the person giving a bribe. For a bribe to occur, in short, there must be a public official and the value they receive from the bribe giver is for the performance or non-performance of their public function.

The OECD ABC defines foreign public official as follows:

“foreign public official” means any person holding a legislative, administrative or judicial office of a foreign country, whether appointed or elected; any person exercising a public function for a foreign country, including for a public agency or public enterprise; and any official or agent of a public international organisation. (1997, Art. 1(4)(a))

In the official OECD ABC commentary dating from 1997, it is noted by way of exception ‘in special circumstances, public authority may in fact be held by persons (e.g., political party officials in single party states) not formally designated as public officials. Such persons, through their *de facto performance of a public function*, may, under the legal principles of some countries, be considered to be foreign public officials’ (1997, para. 16) (italics added by the authors). Together these framings of the public official, reflect a wider challenge in how public office is defined. It presumes formalised state structures are genuine and substantive. It discounts the possibility that substantive public power could be informally exercised and then merely actioned by formal office holders. The Swedish and Swiss anti-corruption enforcement efforts exhibit the problems that emerge from such assumptions.

The Swedish case centred on the prosecution of three Teliasonera executives for bribery offences in Uzbekistan between 2007 and 2010. The District Court ruled that the Swedish law did not include *de facto* exercises of authority where an unauthorised person engages in the actual exercise of a public function (Stockholm District Court, 2019), although this position has received criticism as an overly narrow read-

ing of the applicable law (Messick, 2019). Nevertheless, this presented the prosecutor with an insurmountable challenge, according to the District Court the law only accepts as public officials those with a formal appointment or who have been officially delegated a function. As a result, the prosecutor had to place Karimova into the formal telecommunications governance structure, arguing she had been delegated this role by the President. The unconvinced District Court concluded contrariwise that the facts suggest there was a formal structure in place with a responsible Minister charged with overseeing telecommunications, who was also head of UzACI, whilst Karimova appeared by contrast to be a businessperson exercising private influence (Stockholm District Court, 2019, para.93). This, of course, was the precise impression the political simulacra in Uzbekistan was designed to emit. The court argued it could not be inferred from Uzbekistan's kleptocratic structure, or from the alleged role of the Karimov family within this structure, that President Karimov delegated to his daughter a position of trust in the telecommunications area (Stockholm District Court, 2019, para.76–77). With no audit trail to prove the latter, the prosecution failed.

In Switzerland, however, at the time the action was brought greater judicial latitude existed for recognising that shadow arrangements can in fact exist, which supersede formalised lines of authority. For example, in a case involving the family of Muammar Gaddafi the Swiss Federal Criminal Court (SFCC) accepted the prosecutorial assessment that Libya's formal political system was 'nothing but a façade' (SFCC, 2014). It also accepted the argument that actual power - such as that held by Muammar Gaddafi's son Saadi Gaddafi - 'depended directly on personal or family relations' with President Gaddafi, even though state institutions with official lines of control existed (SFCC, 2014). The indictment recounted in the judgement asserts, drawing on a police report, that within the Gaddafi regime a circle of persons existed which had effective power despite the lack of a formal title or governmental position. To name this fact, the police report used a phrase, 'the men in the tent', an allusion to the Bedouin tent where Gaddafi would stay and receive guests (SFCC, 2014).

Later in 2021, the Swiss courts considered whether Gulnara Karimova, like Saadi Gaddafi, could be considered a *de facto* public official, as part of a criminal case seeking the confiscation of US\$293 million in payments made to Karimova by MTS, Vimpelcom and Teliasonera. In its initial judgement the SFCC remarked that 'a *de facto* public official is a person who performs a task devolved to the State, without a legal link existing between the two. He derives the power he exercises over the state decision-making process from the personal bond, in particular kinship, which unites him to the political authority, which favours or at the very least tolerates this situation' (2021: para. 4.2.1). The judgement continues: 'This scenario can arise particularly in authoritarian (or, a fortiori, totalitarian) regimes where the rule of law is failing, and power is monopolized by one person (the autocrat) or a group of individuals (the oligarchs)' (SFCC, 2021: para. 4.2.1). Set against this definition the SFCC ruled, '...from the different means of evidence analyzed that E. [Karimova] was a *de facto* public official who exercised influence in Z.'s [Uzbekistan's] telecommunications market during the period relevant to these proceedings, i.e. between 2005 and 2012' (SFCC, 2021: para 4.2.4).

The judgement was appealed by Karimova's Swiss counsel. The SFCC's Chamber of Appeal (2022) criticised the original decision after Karimova's counsel argued that she was a private businessperson with no public authority over telecommunication decisions. The three-judge chamber argued that no probative evidence had been presented which could lead it to conclude that Karimova in practice held public authority in the telecommunications arena, for which she could be bribed. This public function could not be inferred from general facts, the court ruled, such as the Uzbekistani state's kleptocratic features, the stature of Karimova's father within that system, or the fact Karimova was a politically exposed person. When reflecting on the Gaddafi case and its applicability, the court remarked that on the basis of the evidence presented it could not conclude 'an organisation existed in Uzbekistan, of which C. [Gulnara Karimova] would have been member that is an organisation of the kind of the "men in the tent", a genuine institution holding effective power in the country [Uzbekistan] in question' (SFCC Chamber of Appeal, 2022: para. 2.6.1). It, therefore, found 'there is a lack of facts concerning the exercise of a specific state role in telecommunications' (SFCC Chamber of Appeal, 2022: para. 2.7.1). The Chamber of Appeal returned the matter to the lower court for reconsideration set against these instructions, where it currently remains pending the outcome of a Swiss indictment against Karimova filed on 28 September 2023.

Together these cases exhibit how intra-elite systems which formally distance corrupt political authorities from public power, provide a significant line of defence against anti-corruption enforcement. In the Swedish case, the prosecutor was jurisdictionally barred because the courts concluded that the national legislation only accepted a formal definition of foreign public official. Switzerland demonstrates, however, that the challenge goes further than refining definitions. In the latter instance the courts required proof a shadow structure exists that supersedes the formal institutional line of command, that the accused was a high-status figure within this informal system, and that they had as a result situationally acquired public powers in the arena over which the alleged illicit payments had been provided. This creates a steep evidentiary bar for prosecutors (Klein, 2023), especially if we consider that shadow state structures are informal and in Uzbekistan are underpinned by intangible assets such as personal alliances, family prestige and fear, with precise knowledge on who wields capital within this informal field and the breadth of their authority being reserved for insiders.

Following these decisions in Sweden and Switzerland counsels for Karimova and her co-accused Bekhzod Akhmedov have used the judgements to deny foreign bribery took place. In the latter case, Akhmedov's counsel has gone so far as to question the integrity of the deferred prosecution agreements secured by the United States' Department of Justice, arguing in the case of Teliasonera, 'nobody within the company believed that Gulnara had any official or unofficial influence over anyone within the Uzbek government who was relevant to Telia's business. Nor is there any evidence that Gulnara did in fact have any such influence' (Ray, 2021: 609). This is a reminder of how the visibility of political simulacra, and the invisibility of shadow structures, creates considerable space for counsels to stimulate doubt.

In the final section of this article we will consider methods for closing this space created by shadow state arrangements and associated forms of political simulacra.

## Sensitising anti-corruption efforts to shadow state actors

The Karimova case exhibits how political secrecy and simulacra can be weaponised to frustrate enforcement efforts. Then there is also the question of the dark figure of unknown cases, where political simulacra and shadow authority succeeds in enabling corrupt parties to successfully conceal and launder their transactions, without red flags ever being raised which might lead to enforcement efforts. Certainly in Uzbekistan the arrangements observed in the telecoms sector are not unique, and continue today in some of the country's most lucrative industries, with shadow figures from powerful family dynasties standing behind the formally responsible office holders. This raises the question of how to respond to the multiple different threats these type of secrecy arrangements pose.

The first step towards tackling the challenges presented by shadow state actors and the political simulacra they exploit, is building into the design of anti-corruption frameworks an explicit recognition that informal systems of political authority can exist in parallel with formal systems of official power and may indeed supersede them. The definition of public official proposed in key anti-corruption mechanisms such as the OECD Anti-Bribery Convention and the UN Convention Against Corruption, currently prioritise what Weber classically defined as the bureaucratic model for organising and conferring state power, where state authority 'is distributed in a stable way and is strictly delimited' (Weber, 1978: 956). Definitions of public officials and public office must be flexible enough to recognise alternative situations – i.e. *de facto* power – where this is not the case, for precise historical and political-economic reasons. However, jurisprudential amendments alone will not address the problem in full as the Swiss Chamber of Appeal decision is a reminder.

There is also a need to strengthen anti-corruption practice so it is more sensitive to the threats posed by shadow state actors and the political simulacra they exploit. Over the last decade a significant amount has been learnt about sham corporate structures, the jurisdictions they employ, the structures they involve, the red flags they emit and the enabling class that tailor these criminogenic vehicles. This knowledge has emerged from major leaks, in-depth qualitative investigations, systematic mix-method studies, and novel indexes, all of which has contributed towards a finer tuned understanding of the risks posed, how to identify them, the steps which policy makers ought to take to combat the opportunity structure, and the actions which frontline AML practitioners and law enforcement can take to detect and probe shams. The same process needs to be replicated with shadow systems of state power and the political simulacra they are concealed through.

The research on shadow states points to the plurality of regions and circumstances which allow political authority to be acquired informally and used for the enrichment of powerful elite clusters, a hidden process that can be concealed through a subordinate bureaucratic structure that simulates rationalised and impartial governance (see Harriss-White, 2003; Hussein, 2018; Reno, 1995, 2000; Work et al., 2022). It also contains details on how and why these realities have emerged and sustain themselves. However, there is a need to build on these embryonic tracts of knowledge to rigorously identify and further analyse geopolitical regions which are seriously impacted by grand corruption emerging from and enabled by shadow state dynamics.

There needs to be a conversation methodologically on how this might be done. Identifying and analysing dynastic cliques that have used authoritarian power in Uzbekistan to personally enrich members, for example, in each instance required insider access, leaked documentation, and a substantive period for modelling the data to a sufficient level of integrity it could withstand elite counter-offensives, including the threat of litigation. This points to the fact that conversations on methodology, also require serious consideration being given to how researchers can be protected. Researchers doing work on shadow states in precarious contexts, face the threat of state harassment, imprisonment and extra-judicial killing – Russia being a notable current example – such are the high stakes involved in preventing outsiders from penetrating the official political simulacra. Better assuring researcher security from both state harassment and legal harassment is a pressing priority.

Drawing on methodological innovations, there is a need to build publicly available sources of intelligence on the elite networks that operate in regions where shadow state structures exist. We have seen, for example, attempts in affected regions to build searchable public databases on elite networks, such as Ukraine's public register of politically exposed persons. There is also a need to model the red flags that are emitted by political simulacra, looking at how emerging public integrity indices might be able to use this knowledge to globally scale risk (see, for example, Mungiu-Pippidi & Dadašov, 2016). The indicia of shadow state networks, the political simulacra they generate, and the risks they pose from an anti-corruption and AML perspective, needs to be packaged into professional guidelines, such as the FATF methods and trends report, which can in turn strengthen the literacy of frontline actors.

Finally, there is a need to build knowledge that can address the kinds of questions posed by the Swiss Chamber of Appeal. Namely, what are the defining properties of shadow state structures operating in particular regions, and how are they exploited by shadow elites to enact corrupt schemes. This requires an understanding of the informal mechanisms and socio-symbolic systems that allow political authority incorporated into a public state, to oscillate beyond the public state as an organisational entity, redistributing authority in a personalised form to shadow state elites. Secondly and relatedly careful consideration should be given to how shadow state elites sharing in personalised political authority, who operate outside public normative limits, interact with actors in positions of institutionally inscribed power, such as, ministers, senior civil servants, security chiefs and judges, looking at what binds the latter to the former's directives. Thirdly, the methods used by shadow state actors in these enabling environments to capture markets and economic resources need to be identified. Fourthly, we need to map how shadow state elites conceal relationships and launder transactions, using different corporate, commercial and political structures.

It is hard to see how prosecutors will be well disposed to formulate this knowledge, given their mandate and focus. There is a need, therefore, for prosecutors confronting shadow state structures to incorporate external actors with relevant area expertise, who can as a knowledge community, help map these structures and more effectively evidence their features in a way that will meet the burden of proof required by courts.

## Conclusion

Research, media investigations and civic advocacy has brought to the fore the corruption risks posed by corporate secrecy, enablers and the jurisdictions that aid the production of commercial simulacra. State simulacra, and political secrecy structures, have yet to be subject to the same process of critical analysis and policy shift. This appears to reflect a misplaced faith which anti-corruption frameworks place in the authenticity of formal appearances state structures exhibit, which discounts the possibility they are serving a similar laundering function to corporate secrecy structures.

The case study presented here points, however, to the way in which intra-elite systems of distributing political authority in an authoritarian regime, enabled dynasties to situationally acquire public authority, misuse this authority for the purpose of personal enrichment, and then conceal this abuse both through offshore corporate structures and onshore political simulacra. This is not a problem unique to Uzbekistan, the literature on shadow states points to the broader existence of bifurcated state structures which are used to facilitate and conceal kleptocratic activity.

It is a phenomenon, therefore, that needs to be brought out into the open and treated with the same importance as corporate secrecy structures, not least because shadow state structures and political simulacra have proven to be an effective shield against prosecution and asset recovery efforts. Countering this threat will require legal reform, systematic knowledge of the indicia associated with shadow state structures and political simulacra, and the transfer of this knowledge to front line actors and law enforcement. It also demands methodological innovation, and investment in the frontline researchers documenting shadow networks and the political simulacra they operate through, with steps taken to protect them from both legal and physical threats.

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## Declarations

**Human participants and/or animals** The data-set that forms the basis for this article did not involve animals, but it did involve human participants.

**Ethics approval** Ethical approval for the inclusion of human participants in the study was given by the School of Applied Social and Policy Sciences Ethics Committee on 17 June 2016.

**Informed consent** Participants in this study provided informed consent in line with the process approved by the School of Applied Social and Policy Sciences Ethics Committee.

**Conflict of interest** The authors have no potential conflicts of interest to declare.

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