HOUSE OF COMMONS

Foreign Affairs Committee

Oral evidence: Use of strategic lawsuits against public participation, HC 1196

Tuesday 15 March 2022

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Watch the meeting

Foreign Affairs Committee Members present: Tom Tugendhat (Chair); Liam Byrne; Alicia Kearns; Stewart Malcolm McDonald; Andrew Rosindell; Bob Seely; Henry Smith; Royston Smith; Graham Stringer.

Justice Committee Member present: Dr Kieran Mullan.

Questions 1-65

Witnesses

I: Catherine Belton, Author of "Putin's People"; Tom Burgis, Investigative Journalist, *Financial Times*; Susan Coughtrie, Project Director, Unsafe for Scrutiny, Foreign Policy Centre; and Arabella Pike, Head of Publishing, William Collins.

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Examination of witnesses

Witnesses: Catherine Belton, Tom Burgis, Susan Coughtrie and Arabella Pike.

Q1 **Chair:** Welcome to this afternoon's session of the Foreign Affairs Committee. We are looking at dark money in the UK and particularly SLAPPs legislation, and we have a very strong panel. I am going to ask them to introduce themselves. Arabella, why don't you start?

Arabella Pike: I am Arabella Pike, the publishing director at William Collins, which is an imprint, specialising in non-fiction, of HarperCollins Publishers.

Catherine Belton: I am Catherine Belton, author of "Putin's People".

Tom Burgis: I am Tom Burgis. I am on the investigations team at the *Financial Times* and the author of "Kleptopia: How Dirty Money is Conquering the World".

Susan Coughtrie: I am Susan Coughtrie. I am project director at the Foreign Policy Centre, where I research SLAPPs, particularly when there is a relation to journalists uncovering financial crime and corruption. I am also a co-founder and co-chair of the UK Anti-SLAPP Coalition.

Q2 **Chair:** Thank you. Catherine and Tom, I am going to ask you to start and just talk a little bit about your books. Catherine, why don't you start? Talk a little bit about your book, what it covered, very briefly—I know it is a very long book—and what action was brought against you.

Catherine Belton: I spent about seven years working on the book. I was trying to track what happened to the security services following the Soviet fall—how was it that Putin managed to come to power, then accumulate so much power, first at home politically, and then begin this process of infiltrating western democracies and seeking to divide them abroad? It was a long process. I tried to speak to as wide a range of sources as possible. I drew on relationships that I had built while working as the *FT*'s Moscow correspondent. There, I had been able to build quite strong relationships with senior Russian businesspeople and former and current Government officials, so I felt I had a unique opportunity to try to piece together the 30-year history of Russia since the Soviet collapse.

I was very lucky in how the book was received after it was published, but less lucky when, nearly a year after its publication, all of a sudden we faced a legal claim from Roman Abramovich, who was saying that the book contained a number of false and defamatory claims against him, including by daring to say that he had a close relationship with Vladimir Putin, and the suggestion made by three credible witnesses—three former close associates of his—that he had acquired Chelsea football club on Putin's orders. These were the issues that he was taking most umbrage at.

Shortly after his claim, we received a barrage of further claims, first from Mikhail Fridman and Petr Aven of Alfa Group; they have also since been sanctioned. On the same day that Mikhail Fridman filed his claim for

defamation against the book, we received a letter of complaint from Alisher Usmanov, another Kremlin-linked billionaire who has also since been sanctioned. Then, a little while after that, we found out from the *Financial Times* that Rosneft, the Kremlin oil champion, had also filed a claim against the book in the London High Court—it was a blank claim, so we didn't even know what it was about—as had another Russian billionaire.

The amount of claims we were facing was unprecedented. Our lawyer, Caroline Kean of Wiggin, said that she had never seen a legal attack of such scale and intensity. I remember getting an email from Arabella saying that it looks like the book is under concerted attack. They were trying to apply meanings to the book that didn't even exist within its pages; these were really exaggerated claims. And quite frankly, when we were facing this at the beginning, I didn't know whether the publisher would be able to withstand the barrage of claims. This was five big cases from some of the world's richest men, all at the same time, and I didn't know whether we would have to withdraw the book. Thankfully, HarperCollins put up a robust defence; we had a brilliant legal team, and we were able to rebuff most of them.

I will give you a very short, potted history of what happened with the cases. There was a preliminary hearing on meaning, in which we had been seeking to throw out some of the exaggerated claims. Shortly before that, Abramovich upped the pressure even further by filing the same case in Australia, so it was clearly aimed at intimidating HarperCollins out of defending the claim by essentially doubling the costs. Our lawyers there asked the judge to rule on whether this was an abuse of process, because it was clearly harassment and intimidation. Luckily, again, HarperCollins were not deterred. We continued to defend the claim.

We were able to reach a settlement with Mikhail Fridman and Petr Aven of Alfa Group before that case went to trial, in a preliminary hearing for the meaning of the claims complained of. The changes we made were absolutely tiny, but again, they made much hay of this in the press, claiming victory even though we had made very small changes indeed. Essentially, these changes were made because we had too many cases to deal with and not because there was anything wrong or we couldn't defend them.

With regard to the Rosneft, Kremlin oil champion, trial, we had the meaning hearing for that and, thankfully, our legal team was able to convince the judge to throw out three of the Rosneft claims—they were so preposterous. This was a Kremlin oil champion trying to say that we had defamed it by saying it had participated in the expropriation of Yukos, the Russian oil major, when this was already a very well known fact. It had been a matter of international litigation and had been written about thousands of times in the international media, yet HarperCollins faced a big legal claim, with massive, long legal letters flying back and forth, and Rosneft continued to pursue this in the courts until the point where it was

forced to withdraw it because the judge ruled that what we had written was not defamatory.

With regard to Abramovich, at the meaning hearing the judge also threw out his most exaggerated claim. He claimed that, in the book, we had written that he had a corrupt relationship with Vladimir Putin and was making payments into Kremlin slush funds. Now, I could have tried to write about the corrupt relationship with Vladimir Putin—indeed, we had evidence to show this—yet I had not written that in the book. In fact, some of my sources said that Roman Abramovich should have given me a bouquet of flowers for writing about him so nicely in the book and going easy on him. Instead, we faced this lawsuit.

The judge threw out the claim. What she said was that the book had said that he was "under the control of President Vladimir Putin". This was something that was going to be much more difficult for him to attack and deny, so shortly after that ruling, we received an offer from him in which we could preserve most of the main claims that he had attacked in the book, just softening some of the language and adding to his previous denials.

This was a lengthy process; to fight all five claims it cost my publisher £1.5 million. There were some things that I would have liked to have kept in the book about Fridman and Abramovich, but in the end we agreed to remove them because they were minor points and if we had continued to defend the case it would have cost £2.5 million in the UK court, and a further £2.5 million—if not more—in Australia.

The cases really show just how important it is that there are better defences for journalists. No matter how good the sourcing is on some of these claims, and no matter how great the public interest, the cases are just too expensive to defend. The system is stacked in favour of deep-pocketed litigants from the outset. My cases are now pretty well known, but they are just the tip of an iceberg; there are journalists who have been censoring themselves, particularly about the activities of Russian oligarchs, for a very long time.

Q3 **Chair:** Thank you very much indeed. Tom, will you give us a precis of your work, and the actions used against you?

Tom Burgis: Sure. I used to be a correspondent in Africa, and that is where I became interested in corruption and how corrupt regimes use fear and violence to maintain control, which allows them to go on looting their countries. I went on to work more in the former Soviet Union, and my book is an attempt to show how the kleptocrats of the world are uniting—forming alliances—not just with each other but with powerful figures in the western democracies.

In 2020, when Arabella was preparing to publish the book at HarperCollins, we did fact checking; we wrote to everyone in the book, in the normal way, putting the facts in it. We got legal responses, a lot of them quite menacing, from Carter-Ruck, Schillings—the usual firms—

running to 600 pages, or twice the length of the book itself. We dealt with that; we made adjustments where there were legitimate factual points, and by and large the manuscript came through as planned.

One of the main examples in the book about how the kleptocrats of the world are uniting is the group known as the Trio. They are three oligarchs from the former Soviet Union called Alexander Machkevitch, Patokh Chodiev and Alijan Ibragimov—let's just call them the Trio for today. They come from central Asia, but they are very influential in Moscow. One of them has since died, but I think it is best if we call them the Trio. They controlled what used to be one of the richest companies listed on the London stock exchange, Eurasian Natural Resources Corporation, which is essentially a load of Kazakh mines gained in the pretty ropey privatisations at the fall of communism. They had then gone shopping in Africa and bought a load of mines in Congo and so on. This was all in this FTSE 100 company, ENRC, which is the target of the Serious Fraud Office's biggest current criminal corruption investigation.

Before publication, through their lawyers Taylor Wessing, they made objections that some of our material, they said, was based on confidential documents. These documents weren't properly considered confidential; we went ahead and published that material and published an account of how this trio of oligarchs had got so rich in ultra-corrupt places. One of the accounts in the book is how three potential witnesses in the Serious Fraud Office's criminal case had died in suspicious circumstances. One was found in the back of a burned-out car in Johannesburg—that is André Bekker, a geologist who had knowledge of a deal potentially involving an inflated price for a mine in South Africa. The other two were people who had worked for the Trio's mining company; they were found dead in the US. The book doesn't say who committed these murders, if murders they were—far from it—but it does say this is something that is of public interest and worth paying attention to: the deaths of potential witnesses in a major UK corruption case. I would argue that it is harder to think of a bigger public interest than that.

Anyway, the book came out, and that is when this lawfare against it began in earnest. In the UK, through their London company, they retained Taylor Wessing; and in the US, they retained Boies Schiller. It was Boies Schiller that made the first moves. Without notifying us, they tried to get a subpoena in a New York court to try to force, among other things, the US arm of HarperCollins to reveal anything they might have known about my sources. Those are the sources in a book about the survivors of massacres and torture, and so on. It should go without saying that I would never dream of revealing any details about the sources I spoke with, but it should also be obvious that they take enormous risks to help make this information public.

On the demand for me to reveal my sources, the Reporters Committee for Freedom of the Press in the US—the organisation founded by Ben Bradlee and others—said:

"Permitting Eurasian Natural Resources (ENRC) to obtain confidential newsgathering materials in this case—in circumvention of well-established protection for reporters' sources and work product—would have a severe effect on the ability of the news media to investigate matters of public concern, now and into the future."

But the oligarchs pressed on, possibly because that was their intent.

The next thing they did was to accuse me in public court of being corrupt. This is from a Boies Schiller lawyer—they demanded to see details of what I was paid by the publisher: "These materials may also demonstrate whether Mr Burgis was paid by third parties to publish the book as part of a negative PR campaign against ENRC."

That was backed up by a UK lawyer, Niri Shanmuganathan, who is a star reputation management partner at Taylor Wessing. He gave a declaration to the court—

Q4 **Bob Seely:** Sorry, what was the name?

Tom Burgis: Niri Shanmuganathan of Taylor Wessing. His website says how good he is at stopping stories appearing in the press.

Chair: Including his own name?

Tom Burgis: Under his own name.

Chair: Well, he hasn't stopped his own name appearing in the press. You just used it.

Tom Burgis: I see what you mean. That's true, but he is very good at stopping larger stories appearing. Niri wrote this:

"Mr Burgis's compensation and who he received it from is also very relevant to determining whether he had a reasonable belief that publication of the allegations was in the public interest, particularly if those who paid him also had axes to grind."

It is blindingly obvious that my contract with HarperCollins is not going to contain details of my secret kickback arrangements with the enemies of some oligarchs, so the only reason to put this on the public record is to insinuate that I am corrupt. Of course, there is no evidence for this statement. I am not corrupt; I would live in a bigger house if I was. None the less, these statements remain on the record. In the US system, it is very easy to obtain these documents, and that record will always say that I am a bent reporter.

Then there was an extraordinary development in the UK. This is a letter from Quinn Emanuel. It is a global firm, but this is from the London office. It went not to me but to a man called John Gibson, who used to run the Serious Fraud Office's investigation. At the time of this letter in 2020, he had gone back to private practice, so by then he was just a lawyer in private practice. The Quinn Emanuel letter sent to John Gibson began by describing me—in inverted commas—as a "journalist", who had been

publishing "malicious and false accounts" about ENRC, the Trio's company. Then it says:

"ENRC believes that on 29 September 2020, you"—that is John Gibson—"met with Mr Burgis at an underground car park near the National Theatre, London"—five minutes' walk from here—"in a clandestine manner, and that the meeting was deliberately set up in this way to avoid detection. You attended this meeting with notebooks and folders, one of which appeared to be an orange/red notebook."

How could they possibly have known that? Obviously, I would never discuss a meeting with a source, but this is now all a matter of public record in court filings. This meeting had been arranged using an encrypted messaging app—that is also in the court filings—and it had been held in a place where we wouldn't have mobile phone reception, in case anyone tried to remotely activate the mics on our phones.

I have learned to take these precautions in Angola, Kazakhstan and so on, but I have learned that you now increasingly have to use them in London, such are the legions of private spies working for oligarchs and other rich and powerful people who monitor anyone they deem a threat. You have to use them even when you are going for a relatively humdrum meeting with someone who might have understanding of the legal system if you are aware that they might be of interest to oligarchs. That line, "You attended this meeting with notebooks and folders, one of which appeared to be an orange/red notebook," was, in other words, "You were being watched." What is the purpose of that if not intimidation? And that was said completely shamelessly by Quinn Emanuel.

Q5 **Bob Seely:** Sorry, which company?

Tom Burgis: Quinn Emanuel.

Q6 **Chair:** This is connected to ENRC?

Tom Burgis: Quinn Emanuel were retained by ENRC in this aspect of it, which is against Gibson—

Chair: You will be relieved to know that ENRC wrote to us to state that they weren't murderers—I know the first thought that came to your mind when you thought of a lawyer was to check whether they were murderers, but they felt that ENRC should state on the record that they are not murderers because otherwise people might think that ENRC are murderers, and it would be unfortunate if people were to think that ENRC are murderers.

Tom Burgis: It would, and this brings me perfectly to the next and final chapter of what happened in my case. There is obviously a one-year statute of limitations on defamation, so just before the one-year anniversary of the book coming out, when perhaps we would have gone for a negroni instead, we were notified by Taylor Wessing that ENRC were going to sue over the book. It was a very specific part of the company. When the Serious Fraud Office's corruption investigation began in 2013,

one of the things these oligarchs did was relocated their corporate headquarters, delisted from the London Stock Exchange and shifted the whole thing to Luxembourg. They kept a holding company here, which is called ENRC Ltd and has one employee. It is simply a piece of paper, really; it is a vehicle for taking in dividends from African mines and mines elsewhere and passing them on to the headquarters in Luxembourg—

Chair: They don't murder people in Africa either. I just want to be clear that ENRC are not murderers.

Tom Burgis: No—and their point was what I had said in my book was that this holding company had murdered or procured the murders of the three people I spoke of earlier. That is, André Bekker, James Bethel and Gerrit Strydom, the latter two being the two that died in the US. I do not think that any sane publisher would have picked up a book that did contain that meaning without pausing and saying, "Is it possible for holding companies to murder anybody?" That was the meaning that Taylor Wessing's suit on behalf of ENRC Ltd, the oligarchs' London company, attributed to the book. They also launched a parallel suit—so, there was one again me personally and HarperCollins, and another against me personally and the *Financial Times*, where I had published a longer magazine piece shortly after the book came out about those suspicious deaths.

Earlier this month, to our delight, Mr Justice Nicklin threw out the case against me and HarperCollins in a matter of hours, giving judgment on the day. We heard yesterday that Taylor Wessing have withdrawn the case against the *FT*. If I could read a brief passage from Mr Justice Nicklin's ruling, he said, "Most strikingly, the impression I got from reading the Book was that ENRC was the corporate front—'a charade'—for the Trio", that is, the oligarchs, "and it was used by them for criminal activities including corruption, money laundering, theft and embezzlement." He goes on, "At the hearing I asked Ms Page"—that is Adrienne Page, the QC for ENRC—"whether the Claimant's decision not to complain of this or any similar meaning was deliberate. She confirmed that it was." He found that there is no meaning in the book that a holding company murdered anybody.

Q7 **Bob Seely:** Are they admitting to the fact that they have committed fraud? They were not arguing about the fraud and the embezzlement and the major criminality; they were just arguing about whether they killed three people as well.

Chair: Well, they were arguing specifically as to whether the holding company had killed three people, not any of their other attached vehicles. Is that correct?

Tom Burgis: Yes, the claim was brought in the name of the holding company in London, but Mr Justice Nicklin's ruling makes it clear that the meaning he finds in the book is that the entire corporate paperwork, if you like, is clearly just a front for some human beings, some oligarchs. The point he is clearly trying to make, which he put in his judgment having

raised it earlier in the hearing, was that ENRC chose to sue and did not sue on the meaning in the book, which he found to be that this company was used by the oligarchs for criminal activities including corruption, money laundering, theft and embezzlement.

I sat there thinking of my tremendously brave sources. Congo, where I have watched children starve to death, has the potential to be one of the richest countries on Earth, but it is being looted constantly by its own rulers. Companies such as ENRC, at the time one of the biggest in the FTSE 100, are profiting from that. It struck me as absurd and grotesque that we were sitting in court talking about an absurd meaning being attributed to a book.

To conclude, HarperCollins was on the hook, had things gone badly, for more than £1 million. It stood magnificently strong. The *FT* has now won as well. Winning these cases, settling them and making them go away is not a complete victory. There is money that will not be got back that could have been spent on other books. I am speaking generally now, and Catherine might have thoughts on this too, but there is always a danger, as I know from conversations with colleagues, that you become an expensive and problematic journalist. In an era when the newspaper business model remains broke and oligarchs are amassing more and more wealth, this inequality of arms is extraordinary. Insurance premiums are going up.

I am not going to plead pity for journalists when pregnant mothers are being shelled in Ukraine, but I think it is important to understand how this works practically. The psychological pressure that these firms bring to bear is really clever. The letters—such as those from Carter-Ruck, Schillings, Mishcon de Reya, Taylor Wessing and so on—are often written in a tone of righteous indignation, where the "journalist" has behaved appallingly and in bad faith. There is never any question of, say, having made an honest mistake. I have spent quite a long time trying to realise why so many journalists—even really courageous ones—will recoil and walk away from a story when a letter from one of these firms comes in. It is because you risk humiliation in the public square. The letters go to your editors, publishers and lawyers, and you are cast as the most monstrous, scheming and corrupt version of yourself. That is how it works, quite apart from the massive threat of costs.

I would also add, to second Catherine's point, that we are incredibly lucky to have had an individual publisher, Arabella, who has got a spine of titanium, as does also the institution behind her. I have had the *FT* four-square behind me as well, but these cases are very much the exception. Catherine used the analogy of an iceberg, and quite rightly. There is an enormous tonnage of information that belongs on the public record about all manner of questions, but especially about these questions of corrupt money poisoning the UK and emboldening dictators around the world. We have realised in the last few weeks that it is absolutely vital that that information never comes near the light of day, because the most successful reputation management work is done entirely in confidence.

Q8 **Chair:** Can I pick up on that? This Committee has been looking at that since 2017, and it is one of the things we have been very clear on for four or five years now. This is not just about avoiding tax abroad or hiding misdemeanours abroad. It is actually a direct threat to the United Kingdom. One of the things, though we may not always like it, that we value in this country is a free press and freedom of speech. Can you go back, both of you, to talk briefly and personally about the effect of silence? Tom, you spoke about somebody clearly using intelligence-gathering methods that you would expect from a James Bond movie—following you into a car park to try to get information on a meeting you had. Surely, it left you feeling pretty intimidated, finding out you had been followed in such a way?

Tom Burgis: Yes. I would just add that the biggest thing that keeps you awake at night—I think Catherine would agree with this—is not the risk to oneself but to the sources. These are the people who take the biggest risks, and the prospect—although not in the case of that meeting in a car park, which was actually relatively anodyne—that you could slip up in such a way that would lead to a source being exposed, whether in the UK, Kazakhstan, Angola, or wherever it may be, is the nightmare.

On the practicalities of doing journalism, especially since this event, when we discovered about the surveillance, we have had to go to huge lengths with counter-surveillance drills, which you will be familiar with. Journalists in London have to use those—in London! I mean, we are used to doing that stuff in Kazakhstan. It actually means, just practically, day to day, that the hours that you have to spend going to and from places to try to ensure that you are not being followed, and things like that, are actually becoming a pretty standard part of investigative journalism in London.

Q9 **Chair:** Catherine, do you have anything to add?

Catherine Belton: Tom's point about the protection of sources is key. While I was going back to sources after facing the claims, one of my sources, who I had gone to visit, did get an email with a death threat, just hours after I had visited him. Then, shortly after that, his house was under very clear surveillance; I have seen the videotapes. A guy on a bicycle with a very large camera rode up to his gates and made a great display of taking a picture. A few hours after that, his house was passed by several Jeeps, which slowed down when they passed the gates. Those were all expensive Jeeps with tinted windows. The emails with death threats kept coming. Of course, that had a chilling effect.

I did not go and see that source after that. We remained in contact, but I certainly didn't risk visiting him to talk about what had been going on. That would have been potentially crucial, too, because that was somebody who I might have drawn on as a witness for one of the cases, and there is no telling what bearing that might have had on our defence. I will not say which case it was involving, because it could have been the claimant, the Kremlin or the FSB undertaking those tactics—we just do not know—but the witness was certainly being intimidated.

Q10 **Chair:** Who do you think was providing the services of the cyclist with the camera, or the person who followed you, Tom?

Tom Burgis: I don't know.

Catherine Belton: We don't know.

Q11 **Chair:** You both were lucky to find Arabella and HarperCollins, clearly, in these circumstances, because they put their resources and muscle behind you. Is this an issue that is silencing journalists, in a different way, by simply not finding publishers? Are you aware of that?

Tom Burgis: I think that is the case—well, as in book publishers?

Q12 **Chair:** Yes—or indeed newspapers, actually.

Tom Burgis: Yes, well, I think that within newspapers, people self-censor, and then just get bogged down in increasingly overstretched newsrooms working on something for a long time that lawyers keep blocking, then move on to the next story, following the path of least resistance. I know that friends who are trying to put books together are finding, with some publishers, that there is a massively reduced appetite for anything that could face legal risk. Anecdotally, you hear that there are publishers that are trying to share the risk of legal costs with authors, which essentially makes it impossible. However attached you might be to a book, you cannot voluntarily put your family's home on the line, so I think it is having that chilling effect, yes.

Q13 **Chair:** And this is, therefore, silencing free speech in the UK.

Tom Burgis: Yes. What is happening here is that, especially in this moment when we are realising what a terrible threat dirty money is to our democracy, we turn to journalists and say, "Ride to the rescue. This is your job. Please root out this dirty money wherever it is," and what do we find? Our greatest obstacles are not GRU hit squads or cyber-attack teams; it is firms in London working, day in and day out, to attack free speech in the interests of very rich and powerful people who rightly deserve scrutiny.

Q14 **Chair:** Would you say that our law courts are becoming tools of intimidation?

Catherine Belton: For sure. You can see that in coverage of Russian oligarchs now compared with two weeks ago. It is as different as night from day. Before, it was almost like a reign of terror. A lot of the oligarchs were deploying aggressive reputation managers and lawyers. You certainly never heard about Abramovich being close to Vladimir Putin or being an enabler of his regime until very recently. I do not think it can be a coincidence that the "Panorama" programme about the sources of Abramovich's wealth and how he had acquired his fortune through rigged privatisations and corrupt payments was aired just yesterday evening. It seemed to take an inordinate amount of time to be broadcast.

It is clear that a lot of journalists have faced a barrage of threats and intimidation, and our democracy has been so much poorer for it, because

we have not been able to learn properly about the backgrounds of these individuals. The entire population should have known the story about how Roman Abramovich won his fortune, but they had been deprived of that until now.

Chair: Yes, I was interviewed for that programme in 2018.

Q15 **Bob Seely:** I want to ask two questions. The first is about the material that you left out of your book, Catherine, but I will come to that. To make sure we understand all this, who are the law firms? Who are the private eyes? Which are the leading law firms involved in harassment suits against journalists, misuse of libel law, misuse of data protection? Who are the private eyes? Who are the reputation managers? I want to check that we understand the systematic intimidation that is taking place.

[Stewart Malcolm McDonald took the Chair]

Catherine Belton: There is a huge array of law firms, but some of the names are quite well known now. We have Harbottle & Lewis, who represented Abramovich. We know that they sent a flurry of legal letters to numerous newspapers even before they reached my book. At the beginning of last year after Alexei Navalny was jailed, his closest associates had called for him to be sanctioned and called him a key enabler of the Putin regime. However, every time a newspaper tried to report that claim, even though it was clearly in the public interest and coming from credible sources who were close associates of Alexei Navalny and in a position to know, they would face a barrage of letters and would either retract the publication or just not publish at all. It is very clear that Harbottle & Lewis has played a key role in that.

There is Schillings, which is well-known for its very aggressive tactics in defence of Russian oligarchs and making sure nothing offensive against them is ever printed. We have Carter-Ruck, which is well known in *Private Eye* by a different name that I will not repeat. That is led by Nigel Tait. Again, it is famous for protecting the reputations of people who have been close to Vladimir Putin. Even before "Putin's People" was published, we had a very long run in with Carter-Ruck over how we depicted one of Putin's closest allies, Gennady Timchenko. He was one of the first to be sanctioned by the US back in 2014 as holding investments for Putin, yet we still faced a lengthy stand-off that delayed the publication of "Putin's People" by six months.

We have CMS, which worked for Mikhail Fridman and Petr Aven. The solicitor there was Geraldine Proudler, who somehow was on the board of *The Guardian* trust, defending media freedoms yet still saw fit to go after journalists such as me for public interest reporting, and also represent a former FSB colonel who tried to sue Bill Browder over something that was clearly in the public interest.

Q16 **Bob Seely:** That was the allegation that CMS represented either a Moscow crime group or somebody who was a front for a Moscow crime group while they were attacking Browder.

Catherine Belton: Yes, because they were receiving funds supposedly from a senior FSB officer whose official salary was far less than the legal fees that they were receiving, and I think there was clear evidence that there was a cut-out—an intermediary—in play who was paying CMS, and it had clear links to organised crime.

Tom Burgis: Can I just add one point about Carter-Ruck?

Q17 **Bob Seely:** Yes. And if you feel you want to get other names out there, please let me know.

Tom Burgis: Yes—Catherine has touched on the big ones. With Carter-Ruck and Nigel Tait, one of the things they are up to at the moment is with regards to the Charlotte Leslie case that you have talked about. I will just briefly sketch that.

Charlotte Leslie used to be an MP—a Conservative MP. She lost her seat and she became director of the Conservative Middle East Council, taking delegations of MPs to the middle east. To put this as pithily as possible, she became concerned, I think about 18 months ago, that a big Conservative donor called Mohamed Amersi wanted to kind of muscle in on this territory and take over some of those relationships. She looked a little into his background and she tried to raise some concerns within the party; she wrote a memo that went to Nicholas Soames and then to Ben Elliot. I know this case because I was the one who broke it, so I am speaking as a reporter in this instance.

The response was that Mohamed Amersi, the donor, got hold of these memos that Charlotte Leslie had written on his background and he retained Nigel Tait at Carter-Ruck—actually, Mishcon de Reya first and then Carter-Ruck—and they started sending a lot of letters to Charlotte Leslie. Mohamed Amersi told me he spent £300,000 on legal fees in the first months. That was by July last year. There is now a data protection claim that he has brought and that is coming to court soon. There is another defamation claim against Charlotte Leslie that has begun.

Amersi is not here to put his side, so I will put it. He would say that she has maligned his reputation and he has a right to protect it. Charlotte Leslie would say that he is using a kind of legal sledgehammer against her.

Q18 **Bob Seely:** Sorry, just on that point, to get to the issue, these aren't nice people protecting their reputations; you're saying this is systemic warfare or systemic attempts to silence freedom of speech. Yes?

Tom Burgis: Well, I would say that there is a legitimate interest in looking into these figures. I would say that in all these cases we are talking about, the danger is that people of immense wealth and influence are shielding themselves from the democratic scrutiny that keeps the system honest. That's what's happening across the board.

I think that what is quite extraordinary in the Charlotte Leslie case is that one of the things that Carter-Ruck, as I understand it, is demanding that Charlotte Leslie do is political. This is not going after a journalist; this is

going after someone who is, as she would say, trying to exercise some legitimate scrutiny over a powerful figure, but outside journalism. One of the things that she's being asked to do, on pain of all manner of ruin and legal costs, is to not obstruct the political ambitions of Carter-Ruck's client, Amersi. Essentially, as I understand it, that is a political demand. It is not just to retract a story or something like that; it is, "Take this political action," which I think puts it in a slightly different category. But, yes, essentially this is all about, "Do the rich and powerful get to avoid scrutiny that all the rest of us face?"

Q19 **Royston Smith:** Sorry, Tom, were you saying there was more litigation against Charlotte Leslie coming, or in progress?

Tom Burgis: There is a data protection claim against her and CMEC, which is being heard in the High Court in a couple of weeks. And a defamation proceeding has been commenced, but as I understand it the particulars of the claim haven't been served.

Q20 **Alicia Kearns:** Just a quick follow-up on that evidence—and thank you all ever so much for coming to give evidence today. When we look at this package of measures that these PR firms, reputation firms and law firms pull together, what is the lawfare package that they offer to these oligarchs, because it's not just limited to what they do within the courts? Ultimately, it's to destroy the individual every single way in their will and their ability to fight.

I am also aware of the use of the "without prejudice" in order to freeze people and stop them being able to speak. Would any of you be able to talk more about that overall package that these firms put in place to really crack down on people?

Susan Coughtrie: Certainly what Tom and Catherine were saying about the court cases being the tip of the iceberg is very true. In our research, we have seen that it is the bit that happens that is unseen, in the letters that get sent to journalists who are writing stories—pre-publication threats, basically, although sometimes afterwards as well. As Tom has already described, those can be very vicious in a way and very intimidatory, often going out—as journalists have reported to us—immediately in response to right-to-reply requests.

Standard journalistic practice is to approach the person you are investigating, asking them for their right to reply and for additional information—journalists want to make sure that they get their story correct, the facts correct—but rather than get that information, they get diverted into this quasi-legal process where they have an entangled and often protracted back-and-forth, trying to find out what they can and cannot publish. Often the letters come marked "Private and confidential" or "Not for publication", so what is the point of sending this information to journalists who are then told that they cannot publish it? Moreover, they cannot—often do not want to—talk about the fact that they have been threatened. The whole process becomes like a vacuum of information.

Not every case we see would necessarily go to the extent of surveillance and smear campaigns, but that is a common enough feature. It is not just law firms with legal advice; it is reputation management services and, given the frequency of the cases, they have a relationship with those other tactics. How that is happening is unclear, but certainly PR and private investigations seem far less regulated—we are concerned about the regulation of law firms not being sufficient, but we do not see enough in that area either.

Tom Burgis: It is definitely a package. You tend to get the law firm and the PR firm—they all do public bits of PR and what is called black PR, the no-fingerprints work—and often a private intelligence firm of former British special forces, intelligence or police, which can give access to law enforcement agencies and things like that, as well as the actual boots-on-the-ground techniques of finding people and so on.

Q21 **Alicia Kearns:** On that point about regulation, I am interested in any views you might have—submitted as written evidence afterwards, if that is easier—of what sort of regulation is needed. In the same way that Bob rightly asked you to name the law firms, there are companies such as K2 Integrity, and we should be naming all the investigators. You are welcome to do that in a moment. Also, our sanctions regime has absolutely gone after the oligarchs, but why do you think that we have not gone after—or do you think that we should be able to go after—the law firms, the PR agencies and the private investigators? Obviously, they are not personally responsible—it is a complicated one, but how do you think that we do go after them, because they are part of the problem?

Arabella Pike: I am not sure I am qualified to comment on that.

Tom Burgis: Sorry, will you clarify the question? Are you talking about the enablers?

Alicia Kearns: Yes, how do we go after the enablers? Without the enablers, oligarchs would not be able to protect their ill-gotten gains. Essentially, if we want to sanction them, we have to sanction the lawyers who will now be spending vast amounts of the wealth working through how to protect them from the new legislation we are bringing in to tackle them.

Arabella Pike: It is very complicated. When you get into regulating law firms, "Everyone has a right to justice" is the standard response.

To go back to your earlier question about the package offered, that is also difficult to answer, because lawfare/SLAPPs are used for multifarious purposes. Both Tom and Catherine's cases differ markedly in the tactics used, as they do in the many other SLAPPs that are going on at the moment. Sometimes, it is rewriting history, which we have seen from Abramovich in an absolutely concerted effort over the past three or four years. Until recently broadcast on the Chelsea football club website were all the actions that he has won against an assorted variety of newspapers and publishers, often to overturn things—as we saw in the "Panorama"

programme last night—that he himself has admitted to in open court in his case with Boris Berezovsky.

Sometimes it is getting in the way of publication, stopping writers such as Catherine and Tom from publishing what they want. Sometimes it is just the intimidation of the costs, the hassle and that fear we all have—as Tom said, the fear of becoming the most expensive journalist in the room. Publishers feel that as well. Can you continue to publish books that are costing millions of pounds purely to get them to the bookshop? These are very live questions being asked in publishing companies in London and elsewhere in the UK, because we are commercial organisations. We have a belief in publishing public interest work—we certainly do at HarperCollins—but that does come with consequences.

Tom Burgis: Could I add one tiny point? We do have some good written evidence that Caroline Kean has developed. She is the solicitor who worked on both our cases. None of us are lawyers, but there are people doing work, which I am sure they would be glad to share with you, specifically on SLAPPs and the actually quite straightforward reforms that could be made to make it much harder to abuse the legal system in this way.

Arabella Pike: And within the legal framework that there is at the moment, rather than having to throw it out and rewrite it. There are various tweaks to the Defamation Act 2013 that could be made, in terms of building up protection for overtly public interest publications. I am talking about borrowing from the US, where there is a requirement for the claimant to prove malicious intent for the publication—that is, deliberately, with an intention, publishing false information, lies—and also looking again at the repetition rule, which we came up against, particularly in the Abramovich case. He complained suddenly about things—very small things—that Catherine wrote in her book that have been published not only many, many times in the Russian media, but in the American media and, I think, in the UK. Also, at HarperCollins we published a book by Dominic Midgley that repeated many of these allegations about Chelsea and Abramovich—in 2014, I think it was—to no complaint whatsoever. But suddenly, in 2020-21, he's mortally offended by the repetition of these allegations.

Chair: Thank you. We will go to Kieran and then Graham.

Q22 **Dr Mullan:** I want to pick up on the issue about the enablers and particularly the solicitors. You won't be able to answer on what the rules and regulations are, but certainly I think they are obliged to not be paid with corrupt money. I just wonder: from your perspective as investigative journalists, how easy would it be for an oligarch to be able to produce a reasonably credible narrative of how they got their money, such that you would objectively think a solicitor would be being reasonable in accepting it? Keep in mind that some of this money's corrupt origins are from decades ago and it has kind of been cleaned up in many transactions over a very long time. Can we really expect solicitors to get underneath all that and say, "Well, actually, I think your money is corrupt"?

Susan Coughtrie: Sorry, I know the question is for the journalists, but wouldn't a big clue be the fact that they are seeking to take legal action against journalists who are investigating them for financial crime and corruption? Therefore that should be an additional flag as to why there should be an investigation into the source of their income—where it is coming from—where they are paying for these legal services.

Certainly there is, under the Proceeds of Crime Act, a requirement to report where you think that the source of money is tainted, but legal advice is not covered by anti-money laundering regulations. If you are buying a house with dirty money, you go through more checks than you do if you are giving legal advice to a client who wants to, potentially, sue a journalist. If a journalist is investigating someone for financial crime and corruption, they are quite motivated to use, potentially, their ill-gotten gains—to throw quite a big wedge of that towards shutting down and suppressing that information.

There are certain cases where you could clearly put a big question mark over where that money is coming from, and I think lawyers could do more to do that, but I think there also should be, first of all, as I mentioned, expansion of anti-money laundering regulations in that area and, then, more powers for the SRA to really crack down and make sure that lawyers are doing their homework in that regard. The SRA has now, for the first time, included SLAPPs within some of its guidance, which is great, but I think a lot more could be done in that area.

Tom Burgis: I will just add a sentence to that, which is that that's the whole game you're talking about. Is the past real? Are we allowed to examine it? Are we allowed to discuss the origins of the fortunes of people who have become some of the most influential people in British society and western society more broadly? Or are we not allowed to discuss that? That's the whole picture. All of this is part of that struggle for people who make enormous amounts of wealth, in league with violent, corrupt dictators, in trying to erase their past and transform themselves into people of standing and influence in democracies, where they can, among other things, hide from the corrupt dictators under whom they have prospered. What you are describing is the centre of the struggle, and these reputation management law firms are the tip of the spear—to mix metaphors—in trying to make the past off limits despite the influence of their clients within our political and cultural life.

Arabella Pike: There has to be more that somebody like the Law Society could do in terms of reinforcing "know your client" regulations. I do not think it is complicated, but it is about boosting those compliance roles within those firms to ensure there is proper scrutiny of who these clients are and where their money is coming from.

Tom Burgis: There is also no incentive. As I understand that, even in our cases, which we are talking about today, I do not think the law firms that brought the cases will be out by a penny. They obviously get their costs; it is just a question of who is going to pay them. We have had discussions with a lawyer who is horrified at the way his profession is going. He says,

"This isn't going to change while the financial incentive of the law firms is to rack up huge costs." Those costs themselves are the chill—are the weapon.

I talk to people in the private intelligence world, who ask, "Who is the tail and who is the dog here?" In some cases, I know pretty confidently that the particular oligarch or kleptocrat who is threatening me with all sorts of things has no personal awareness that this is going on. It is his No. 5 guy. It is his London guy dealing with the partner at the law firm. Anecdotally, I hear the claims that partners make about what they can deliver for their clients—"This journalist will never write again" or "will never write about you ago," or, "Nothing about you will ever go in the paper. It will all be lovely." They obviously cannot achieve any of that, but they are driving their fees. The oligarch's henchman can go home and say, "We can deliver all this stuff." Everyone is making a great deal of money, and huge amounts are being censored from the public records, but the law firms have no skin in the game.

Q23 **Dr Mullan:** The point you make is one about proportionality—if someone is coming to you to help defend significant and serious corruption allegations, your levels of assurance should be really high.

Susan Coughtrie: Absolutely.

Q24 **Graham Stringer:** You paint a pretty disturbing picture. Of the things that you have mentioned, what is it that makes London attractive? Is it the independence of the courts? Is it that high-quality investigative journalism takes place here? Is it the high quality of the law firms, which are willing to do whatever it takes? What makes London attractive for this kind of action?

Catherine Belton: I think it is the sheer cost of the proceedings here because, as you have seen from my cases, it costs so much just to reply to a letter from a London law firm. Very often, that in itself has a chilling effect and requires journalists to censor themselves, rather than force their editors into a lengthy process.

There was an article in *The Observer* recently about my cases and how just fending off the barrage of five claims cost HarperCollins £1.5 million. That is compared to a case in France, which again was only one case, where a very highly reputed analyst—he is not a journalist—is fighting off a claim from Russia Today, the Kremlin propaganda arm in France. It has cost him €10,000 to fight one claim, yet here it would cost that amount just to fire off a letter.

It is the chilling effect of the costs, because legal services here cost so much. There was reform in 2013 of the libel law, which enabled journalists to have this public interest defence. You no longer had to defend claims on issues of purely whether you could prove it was true or not; if there was a legitimate public interest in reporting what you had written, and you had gone through all the responsible journalism steps—that is, sent off the right-to-reply questions and everything—you could continue to publish, as long as you were able to demonstrate that.

The way the system has been constructed is that proceedings are so lengthy, and it can take a year, if not two, to defend something on public interest grounds, that it will end up costing your publisher more than £1 million, or sometimes £2 million, to defend it, because you go through this disclosure process, which can take months. You have to hand over all your computers and mobile phones, which go to a third party. They are checking everything you have done, and the process is so elaborate that it essentially squeezes everything out of your publisher, and the costs are enormous.

Arabella Pike: It is instructive to note that Catherine was sued by the oligarchs and oil firms that have already been mentioned in the UK, and was not sued by any of them in the US. The law here makes it easier to bring these cases, and to rachet up the costs and take them to a certain level, than it does nearly anywhere else in the world.

Q25 **Graham Stringer:** So you are saying it is the cost of our courts and City of London legal firms, rather than the structure of the defamation laws themselves.

Arabella Pike: No, it is both.

Catherine Belton: It is both, yes. Defending a claim on the grounds of public interest takes a year or two, and the process is unwieldy. It is really burdensome. There has to be a way to cut off these cases at an earlier point when you can demonstrate you are writing something in the public interest.

Susan Coughtrie: I wanted to add something as to why the UK, and London in particular, is so attractive. It is an issue with the Defamation Act 2013, which was supposed to clamp down on libel tourism, but because London in particular and the UK is such a hub for dirty money, the things people do with that money—investment visas, buying property, establishing companies—help them establish a reputation here, which gives them that link and that reputation that they can then defend through the libel courts. We have spoken to journalists who are not based in the UK, who are not investigating corruption in the UK, who have no connection to the UK themselves or in what they are investigating, but are still getting letters and are still concerned that they could be threatened here because the person they are investigating has some connection to the UK.

Tom Burgis: Definitely.

Susan Coughtrie: And that is enough to warrant bringing a case, or at least for lawyers to be able to write these letters. It is one thing for a journalist who is based here in the UK, who maybe works for an established media outlet and has in-house legal counsel who can look at that letter and see through potential bluster, respond robustly and see it off. It is quite another thing for an investigative journalist who is based in Malta or in other parts of the world. I mention Malta because of Daphne Caruana Galizia in particular, but there are other places that letters have

gone to, and it is a lot harder for them to be able to respond to these letters—to get the resources and find a lawyer who knows the UK legal system.

That is just writing the first response, let alone then seeing it through, so you can understand why journalists fold. It threatens their financial stability too much, and as Tom touched on before, this kind of investigative journalism is not cheap. It is really specialised, it takes a long time, and those who do it are often working on quite tight resources. I think those who are being investigated by them know that, so these kinds of legal tactics are a way to drain that money and that time. Also, as has been touched on by Tom and Catherine, there is a psychological impact. A lot of the journalists we speak to talk about how there is this legal cover to everything, but it has a very high personal cost as well. That sometimes gets missed in the discussion.

Sorry, I am dominating a bit, but we were talking about the law. We talked about regulation, but the law is another thing. I think there would be ways to introduce procedural reform through an anti-SLAPP law that would bring in these elements of early dismissal, making sure that you do not get to a stage where costs have really ratcheted up and journalists are being forced to disclose information through deep discovery processes, which would therefore make it very unattractive for people who are looking at using this kind of legal intimidation moving forward. It is both sides—the law and the regulation—but bringing it into the public domain is really key. Obviously, Tom and Catherine's cases have done that, but this is not a new phenomenon. It did not start two years ago; we have looked at many cases that have had the same impact, but have been a lot less covered.

Q26 **Graham Stringer:** Finally, can I pursue that point? Tom mentioned in answer to a previous question that he had some solutions. I would like you to expand on that, because I am not clear in my own mind how the experience that you have had is different from the rest of the legal system. I was once on the receiving end of a very rich man who pursued me through the courts. I went to see a very good firm of solicitors in the City and they said, "This isn't about justice—this is about the depth of your pockets." What you are describing is pretty appalling, but that is the British legal system, so what are your solutions? What would be your recommendations?

Tom Burgis: None of us are lawyers, but your point goes to the absolute core of it, which is that it is war by costs. As our cases bring forth, the actual legal arguments advanced were in some cases completely absurd and never really stood any realistic prospect of success, but that doesn't stop the costs going up and up and up.

The work that has been done by Caroline Kean that can be shared is an expert lawyer's view on the legal procedures, but it seems to me that the key things, as Susan was saying, are to be able to check these proceedings for whether they are SLAPPs and whether they are abusive at a really early stage, before the costs can get too high. That seems a

reasonable principle to be acting on. We already have these early meaning hearings, where the judge says, "I am a reasonable reader. I have read the book—this is what it means." There was the glorious one we had last week when Mr Justice Nicklin read the book very well.

You could have—this is one of the points that Caroline Kean has been writing about in her ideas on this—at that stage an assessment of whether the matter is very clearly not a matter of public interest. That could create an early hurdle for a claimant to have to go over. If you were having designations of claimants as public figures, you would then require them to be able to show at a really early stage, as they do in the States, some evidence of malice on behalf of the journalist.

There was one other, wasn't there—the early cut-off rule—

Susan Coughtrie: Something we see a lot is journalists being pursued individually—either completely individually, as you see in the case of Carole Cadwalladr, who was sued for comments relating to a TED talk and another talk, with the TED talk and tweet pursued. That excludes journalists, sometimes, from the support that Catherine and Tom have had in the case of HarperCollins. Those tactics could definitely be addressed in making some legal changes so that you can't take that kind of approach; if a work is in the public interest, you would have to show a pretty high bar as to why a case should be taken forward.

Tom Burgis: On the early cut-off point—it has come back to me—there is this question of harm. This is about corporate claimants; that is who we were all dealing with. In my case, we didn't get round to it because the case was thrown out, but one of the next points we would have raised was to say, "This holding company, which says it has been accused of murder, how can it be allowed to bring a claim? What reputation does it have to defend?" This is one of the things that Mr Justice Nicklin got into more broadly—this question of corporations being put up as shields and weapons for individuals.

This is another suggestion that the expert lawyers are looking into—the idea that you would have to at the outset demonstrate harm. If you were a corporate claimant, that means you would have to be able to show in your accounts that you had lost money because of this publication. That is not something for a trial two years later, when a brilliant journalist like Catherine has been taken off the field for a year. That would be another early cut-off.

Exactly as you say, I think it is all about preventing costs being used as a weapon, by assessing these questions really early on. It is ultimately in the interests of justice, isn't it—that these things are done expeditiously? It seems to me that that is exactly the right question.

Chair: I recognise a lot of what you are saying. I was once targeted by an oligarch who made a lot of money from the former Soviet Union. I was pursued over a tweet. It didn't come until I mentioned it in Parliament. It was made clear to me from my lawyer that it was because of the

parliamentary privilege that I have that it was done—to try to shut me up. I will say no more than that.

Q27 **Bob Seely:** Can I just check, Catherine, what material you felt you were not able to put into your book that you now maybe wish you had?

Catherine Belton: There were several points that we did agree to remove, just because we had faced such a barrage of claims and there were just too many to deal with—the costs were too high. For instance, Mikhail Fridman was the first case—

Alicia Kearns: He has been sanctioned today. I thought you might be pleased to hear that.

Catherine Belton: Okay. That was the first case that we settled at a very early stage, before it ever went to trial. When I wrote in the late '80s that he had had the support of a progressive element of the KGB when he set out in business, trading commodities, he complained that that suggested that he was part of Putin's corrupt KGB capitalism that was seeking to undermine democracy across the globe. In fact, I had not written that. But on the very specific point of him having the support of the KGB in the late '80s when he set out in business, we agreed to remove those three sentences that referred to that claim, because it made no difference, essentially, to the narrative of the book. If you read the context, you would agree and come away with that suggestion anyway. It did not make that much difference, but it was important to keep. In fact, a former Government official said that he would have been willing to come forward and testify on the record, had it gone to trial, that Mr Fridman had indeed received such support.

Q28 **Bob Seely:** But why would Mr Fridman object to you saying that he was backed by a "progressive" element of the KGB?

Catherine Belton: Indeed. It was not even a defamatory claim. Our lawyer was quite convinced that he did not have a leg to stand on on it being defamatory. Yet he had also filed a data protection suit in which he said that it was inaccurate. Again, this former Government official was willing to go forward and testify, had it gone to trial. There was also evidence on the record from the National Security Council, and I quoted the Russia Director at the White House, Tom Graham, saying on the record that entrepreneurs of any standing from that era all had backing from this progressive element of the KGB. Tom Graham would have stood by those words had it gone to trial, yet we agreed to remove it because we were facing five claims—it was too expensive and it actually made no difference to the narrative of the book.

On the Abramovich case, we were able to keep in the book most of the main claims that he attacked. For instance, on the Chelsea purchase, when we settled, Mr Abramovich's press people got most of the UK press to write that we had admitted that it was a false claim and that it had been removed from the book. In fact, that wasn't the case—far from it. In fact, that claim is still there—the quotes are still there.

Q29 **Bob Seely:** What was the PR company?

Catherine Belton: He has a press spokeswoman for Chelsea FC called Rola Brentlin, and I had it on good authority from two journalistic sources that she was threatening legal action against any journalist who did not print the Chelsea FC version of the settlement.

Q30 **Bob Seely:** So, more intimidation.

Catherine Belton: More intimidation.

Arabella Pike: I can second that. I got it from two other journalists about her threatening legal action unless they changed the story that they had written reporting the settlement.

Catherine Belton: For instance, *The Daily Telegraph* wrote in a headline that HarperCollins had admitted that it was a false claim that Abramovich had bought Chelsea on Putin's orders. In fact, we had not admitted that—far from it. We had agreed to soften the wording, so instead of quoting three former associates as saying that he had purchased it on Putin's orders, it quoted those three former associates as saying that he may have purchased it on Putin's orders. For us, that is a win because we get to keep that claim in the book, and then he was able to add to his denial.

In hindsight, perhaps we should not have removed a bit that I was annoyed about removing, but in the end we did so because it would have cost £2.5 million to go to trial and defend it, even though we had a very good public interest case and three credible sources speaking about how Abramovich was Putin's representative and how he had shared his wealth with the Kremlin. I think we all understand now, from the sanctions that were issued last week, that that is indeed the case.

This is something that I have been reporting for a long time, and I have had multiple credible sources. It had also been an allegation that had been put specifically to Abramovich's then spokesperson, John Mann, who had responded not by denying it, but by saying merely that he had not seen any evidence of it. That response was recorded in the book. We had the email trail of John Mann signing off on that response. Yet in settling we ultimately agreed to remove those two sentences from the book because had we continued to insist on keeping them, it would have cost my publisher more than £5 million.

Q31 **Chair:** Arabella, HarperCollins has published Tom's book and Catherine's book. Could you talk a bit about and get into the weeds of how you go through the decision to determine how much risk you are willing to take in defending those publications? What kind of process do you go through at HarperCollins?

Arabella Pike: Pre-publication, or post—once we have faced legal action?

Chair: Give us both.

Arabella Pike: We are a serious list. We publish a lot of history, politics, books in the public interest of various different kinds. All our authors sign

an author contact with us whereby they agree to engage comprehensively in a legal review process. The book is read by trained lawyers, and anything that is deemed difficult to support, defamatory, abusive—whatever it might be—is flagged. We will then discuss it in a long conference with legal representation, me, and the relevant author. All our books go through that sort of due diligence process before they are published, which any responsible publisher would do. The same thing happens in newspapers. You have to engage an analytical brain and consider that what you are publishing is true—to the best of your ability—and in the public interest, and that you can stack it up. We do that.

Catherine has already mentioned the Timchenko hiatus that we faced before the book was published—that caused a delay to the publication date, but we got through. Afterwards—I repeat what was said earlier—the case against "Putin's People" has been described as the defamation case of the century. It is completely unprecedented in the wealth and standing of the complainants against the book, and in the concerted timeframe with which the cases were all launched, which, again, I think is indicative of their being SLAPPs. They were all launched in a very short period right at the end of the statute of limitation of 12 months post-publication.

Then, you kind of reel for a bit because those letters are—as has also been mentioned and as I have described them—baroque and prolix in uber measure. The Rosneft one from Carter-Ruck ran to 17 pages of very, very exaggerated language and claims, three of which were then thrown out by the judge. Again, that ratchets up costs, so you reel a bit, and then you consult and go through the process of thinking, "What is going on? Is there any truth to this? No. How serious are these allegations?" The vast majority of the allegations made in the complaints we faced are relatively trivial. That is the other point that I think marks them out as SLAPPs: they more or less universally massively exaggerate what is actually said in the book, article, documentary, tweet or whatever it is.

With advice—we were very lucky in working with some absolutely phenomenal legal brains—you go through it all. It was not helped in Catherine's case by the fact that we were all in lockdown, and we did not feel that it was safe to discuss on an online platform a degree of evidence that needed to be discussed—that goes back to something that Tom mentioned about the cyber-techniques of some of these people. Obviously, we were going to defend our authors—we stand by these books—and that is what we did.

Catherine keeps mentioning the costs. The reason we decided to remove that line about Fridman, for example, was not just the cost; it was the intellectual energy that a small team of people can have. We felt that there was a tactical advantage in trying to get rid of the more minor claims—Fridman and Aven being two of them—in order to concentrate on the big ones, which included Abramovich in the case of "Putin's People".

Tom's case raised a whole different gamut of themes and problems, which goes back to the point I made earlier: none of these SLAPPs are the same.

These lawyers are using the law tactically, and very cleverly sometimes, in order to twist and turn to their client's advantage.

Chair: Briefly, I will let Alicia in. Then I will come to Kieran and then Liam.

Q32 **Alicia Kearns:** Just a really quick one. I suppose you could now republish the book with everything about Fridman, because he cannot take you through the courts. He is sanctioned, so he cannot spend a penny here. Maybe there is an updated version, and anyone who wants to make a point and take a stand against dirty roubles will buy the book—both books, obviously; I will not pick one or the other.

We are at risk of talking consistently about Russian oligarchs. I worry that when we talk about the current situation with sanctions, we are very focused on Ukraine, but there are destabilising actors in the Balkans and so on who we should sanction. When you look at SLAPPs across the piece—this question may be one for you, Susan—are their particular industries where these equivalents are coming from? Are the types of actors who are using them definitely from a certain set of countries, or is it 90% Russia oligarchs? What is the picture?

Susan Coughtrie: I would say that it is absolutely not just Russian oligarchs. I think this has highlighted a system that is in play but that is being used by a lot of different actors from all over the world. It is important to connect the dots with the redress of financial crime and corruption. One example would be that of Paul Radu, who is a Romanian citizen and the co-founder of the Organised Crime and Corruption Reporting Project, which does amazing global investigations that join the dots about how kleptocracy happens. He was sued in London by a sitting Azerbaijani MP a couple of years ago. It took two years for the case to come to trial. OCCRP continued to investigate and found more information that they had to share as part of disclosure rules, and the MP decided to withdraw the case and settle on favourable terms for OCCRP, so the article stayed online, albeit with a disclaimer. But some of that information was sealed in proceedings, and it was only in January this year that the National Crime Agency won a civil case to seize £5.5 million from the family of the MP who sued him here in the UK.

The Azerbaijani laundromat, which was the investigation that the articles were part of, is about corruption that happened a decade ago. During that time, something like $2.9 billion was funnelled out of the country, involving the use of four UK shell companies. In the meantime, there was a huge crackdown on civil society in Azerbaijan, including the arrest and imprisonment of independent journalists, one of whom, Khadija Ismayilova, worked on the case of the Azerbaijan laundromat. She was released from prison but subjected to a travel ban, which she was relieved of only last year.

If Paul and his colleagues at OCCRP had given in and removed that information, there would be no redress. Of course, the family claim no wrongdoing and all the rest of it, but they are not the only people who have had money taken from them in the last year following the

information that has come up through the Azerbaijani laundromat. I say all that just to emphasise that journalists are often the ones who are at the frontline of discovering information about financial crime and corruption. If that link goes, you lose the ability to follow up with law enforcement, who are often, as we have already discussed, underfunded. Then there is a ripple effect into the countries that we are talking about: Russia, Azerbaijan and many African countries. This is exactly the same kind of situation, and it is happening all over the world.

Tom Burgis: Can I pick up on that? My stuff is a bit more global. My previous book, "The Looting Machine", which had another big legal read and a few legal attacks on it—although not quite to the same extent—was about the oil and mining industries. You asked about which industries, and the global oil and mining industries are the engine of all this corruption.

I will give you two brief examples. It is very wise to point out that this is not simply a case of Russian oligarchs. With these law firms that are kind of equal opportunity wagers of lawfare, the money can come from anywhere. It is also true—and this is the point of my book "Kleptopia"—that these kleptocrats are uniting. One of the characters in the book, Billy Rautenbach, is a big guy in mining in southern Africa—he is from Zimbabwe—and one of his threatening legal letters insinuated that he would have me arrested under criminal defamation laws if I set foot where he had influence. He was involved in the deal under which the Mugabe regime in 2008 confiscated a platinum mine and gave it to Billy Rautenbach's offshore company. He sold it to one mining company, registered in London, and that mining company provided the $100 million with which Mugabe brutalised the opposition and stole the election. That condemned the Zimbabwean people to another 12 years of his rule. Because the country has been so immiserated, that amounts to about a quarter of their life expectancy. Then the London company that had done this deal cashed out by selling the mine and a few other bits and pieces to the Trio—the people who then went on to sue me and who have huge influence in parts of Moscow and started off working with a company connected to the KGB. See how all these things sit together.

The other big figure in the oil and mining industry that we have tangled with for years was Beny Steinmetz, a Franco-Israeli billionaire. In 2013, in the *Financial Times*, I and some colleagues wrote the first story about how he had corruptly acquired the world's biggest untapped iron ore deposit—again, oil and mining, every time—in Guinea Conakry, the Republic of Guinea, as opposed to the various other Guineas. I have spent some time there and it is a really benighted place, cursed by its own resources, with coup after coup. Everything is terrible, such as maternal health. From before we wrote that first story and pretty much up to the point seven years later when a Swiss court convicted Steinmetz of corruption, we battled an onslaught from Mishcon de Reya.

When I started on this story, I was quite new to investigative work, and it is terrifying because you think that you will bankrupt the paper or ruin your career—you wonder how you will pay the mortgage and so on. The

allegations that they made—in a letter to my editor at the *Financial Times*—included that I had gone to the Kruger national park, which is a beautiful safari park, in South Africa. I have never been there—I hear it is very nice—but the visit was supposedly part of the inducements that had been given to me by Steinmetz's enemies in Guinea. It was a complete fabrication, but when they throw enough of this stuff, the worry is that people start to say, "Well, there's no smoke without fire. Maybe this guy is on the take, have we checked?" and so on.

Those are my two examples to say that this is across the board and a global problem of dirty money suppressing scrutiny: it is absolutely not limited to Russia.

[Tom Tugendhat took the Chair]

Q33 **Liam Byrne:** Just to follow up on that point, you say it is not limited to Russian oligarchs, but the cases seem to be pursued in the UK. Why are our courts being singled out from courts all over the world to attack journalists? I was talking yesterday to Scott Stedman from *Forensic News*. He is being sued by Walter Soriano, who is a British Israeli. *Forensic News* has a grand total of six subscribers in the EU and the UK. They probably bring in about $30 a year for *Forensic News*, yet Justice Warby ruled that because there was a subscription page up for the EU and the UK, the business was established under our GDPR laws. So $30 of subscriptions have now triggered something like $40,000 to $50,000 of legal costs. Scott has never been to Britain. The case is about a British Israeli, yes, but it is not really a publication with much of a presence in the UK. Why are our courts being chosen as the battlefield of choice by oligarchs in trying to silence the truth?

Susan Coughtrie: It is clear that it is harder for the defendants to defend a case here, so it is attractive because there are a lot of hoops that a defendant has to go through—cost, length of time, burden of proof being on them—and as we were saying before, the cost can ratchet up really quickly. We do see that people who have a more tenuous link to the UK are still finding ways to bring cases here, even if it seems more obvious that the jurisdiction should be elsewhere. In the *Forensic News* case, they are a US outlet. They are here and are being sued not just as the outlet, but four of their journalists individually as well, and that is not possible to do in some other jurisdictions.

Another case that is ongoing at the moment is a Swedish business publication called *Realtid,* which publishes online but in Swedish and primarily for a Swedish audience. They are currently being sued in the UK by a Swedish businessman who I understand is largely domiciled in Monaco but has a company that is registered here and property. Here in the UK, he can sue not only the publication but the journalists individually, which as we were saying really ratchets up the pressure and the intimidation, and the costs are much higher than if he had sued them in Sweden. Interestingly, he is not suing them in Sweden, and as far as I am aware Walter Soriano is not suing *Forensic News* in the US, which would be the obvious choices.

The case against *Forensic News* has been going on now for 18 months, and my understanding is that the costs are much beyond what you are talking about, not least because one of the ways journalists try to deal with these cases is either through meaning hearings or jurisdictional hearings, to try to challenge early on that this is not the right jurisdiction. If they lose those, they have to pay costs to the other side, before a trial has taken place on whether or not the facts of the case are fully established.

I mentioned *Realtid;* their jurisdictional hearing was last March and they are awaiting a judgment for that. We are now a year later, so they are sitting there all that time, waiting to know whether or not they are going to have to go to trial, and their house and funding is on the line. During that time, they are restricted in what they can do and what they can write about. They could continue investigating the subject or the person they were originally investigating, but that could end up being a loss for society because that information is now challenged, suppressed or not in the public domain while this is going on.

We talk about the Russian oligarchs and information now coming out into the public domain, but a lot of this was known before; it is just that people did not feel able to put that out there. Similarly, in Carole Cadwalladr's case, a lot came out in the trial in January, yet not enough investigation has gone on since that trial was launched against Carole, which was almost three years ago. You do see a hands-off effect around particular people who pursue legal threats.

Q34 **Liam Byrne:** What you are describing is that if you are rich and you want to intimidate a journalist, the English legal system is the biggest, hardest bat you can pick up and swing.

Susan Coughtrie: Yes.

Q35 **Liam Byrne:** Is that a shared view?

Susan Coughtrie: Yes

Arabella Pike: Yes.

Catherine Belton: Yes.

Tom Burgis: Yes. Catherine put it really well earlier: it is just really easy to ratchet up costs, which in the absence of real legal argument are the actual weapon.

Arabella Pike: There is also the matter of the main defences: truth and public interest. If you go for public interest, it is really the journalist on trial, not the complainant.

Susan Coughtrie: That is a really key point. What you see is suddenly a focus on the journalist's behaviour—what did the journalist do? This is what I was saying about hands-off on the people who are actually the subject of the investigation. The attention is diverted away from them and

whatever they are doing, to how these journalists behaved when they were reporting.

Q36 **Dr Mullan:** Just to give some context, I am very interested in this area and very supportive of everything you have said about the deleterious effect this is having on our society, but as a Committee and as MPs we are always conscious that when we make recommendations or suggest laws, they apply to everyone. When you are looking at an extreme situation, it can seem self-evident—"Oh, we should just change the law and it will help"—forgetting that there is a whole spectrum of people who would be affected in the same way.

I have personal experience—different from that of all the other Committee members—of the other way around. A blogger wrote something about me that was totally untrue, and I had to take legal action to get it taken down, so some of the things you identify as obstacles for you were important for me to be able to pursue that case. I get the sense that actually, but for the costs issue, you could have successfully defended that stuff.

You mentioned the fact that the allegations were not new but had been made many times. Had you been more confident that you could afford to go to court, the judge could have taken that into account in how he awarded damages. When you talk about cost control, I assume that you are not saying that you do not want to spend more than £10,000. You would probably expect a publisher to have a significant figure available to spend towards defending something like that. It is just extreme costs that mean all those other safeguards. For example, judges would be able to take into account the pre-action protocol if they weren't genuinely seeking to settle your claims. However, to get to that point, you take a very big risk from a costs point of view. Would that be a fair interpretation? That is particularly to Arabella, as a publisher having to fight it.

Arabella Pike: It would. I don't think any of us on this panel are recommending a change of the law to give carte blanche to journalists, or anybody else, to write whatever they want—far from it. However, one of the recommendations our lawyer has made about the public interest hurdle is that, by a tweak of the law—not rewriting the law—a judge could read the book, article or tweet and decide very quickly if that publication was in the public interest. If it was, the case could be dismissed on the basis that the complainant has a genuine right of reply, and that is recorded in the next edition of the book, article or documentary series—whatever it is. That would be quite an easy way of doing it. It is the public interest threshold that is absolutely key, as well as the serious harm one. If somebody is just writing something disobliging that is an invasion of someone's privacy and is not true, clearly the law has to be there to protect that individual. That is not what we are talking about here; this is something different. It is like a many-headed monster that is used to clean up people's pasts, manage their current reputation and business interests and silence scrutiny. It tends to be used by the very rich.

Q37 **Dr Mullan:** Individually, if you felt that your costs were going to be capped, how much of an impact would that have on you? Does it have an

impact on you beyond just the costs, or is it the costs that really get at you? You mentioned a few times about losing the family home, and all the rest of it.

Tom Burgis: In practice, my publisher and my newspaper bore the costs even though I was a named defendant. It is conceivable that if they had been able to demonstrate that I was taking backhanders, quite reasonably the publisher and the paper would have said, "Okay, you are on the hook for this". I was a named defendant, so I guess there is some conceivable way that, while also not being corrupt, I could have ended up with personal costs.

It is more about the chilling effect much earlier on in the process, where a journalist is thinking that they have a great tip from a source, or an editor is thinking whether they invest more time in something, all the way up to senior editors and publishers wondering if they publish. It is at that stage that they are weighing—in the case of newspapers—pretty threadbare editorial budgets against the cost of defending it.

Q38 **Chair:** Thank you. Henry, you were going to come in, but before you do, I will pick up on the area that Kieran was touching on. Clearly, there is a balance here between the rights of individuals to protect themselves, and the rights of many others to freedom of speech. The balance that you have been pushing for—for understandable reasons—is from the journalist's perspective. What reforms to our laws do you see as beginning to redress that balance in a more reasoned way, so that you have the right to free speech but, as Kieran put it, you also have the right to take action against the genuinely litigious and nuisance blogger? What reforms to the SLAPPs legislation would make a difference?

Arabella Pike: I have touched on that briefly, so I will not repeat myself, but we will lodge a written document with you after this, which has more coherent suggestions from an expert lawyer in this field. To do my layperson's best to summarise, first of all the public interest criteria should be put in place early in the proceedings once the particulars of a claim are lodged, so that a judge can decide whether or not this thing is in the public interest. I would suggest a publication touching on foreign affairs and the business interests of very rich and powerful people, UK-based or international, or perhaps the safety of an electronics gadget for wide consumer distribution in the UK. It is things like that. It is not the sex life of an MP or the goings-on of Johnny Depp. It is a different type of publication that we are talking about. That would be one easy measure.

The second would be this case of serious harm, and for the complainant to have to show to the judge early on that actual serious harm has been suffered by whatever has been published. The repetition rule, which I have touched on before, is vital. We have this thing that repetition is no defence in libel. Any editor or writer is taught that from the beginning. Just because you repeat something that has been widely published before, you cannot rely on that being a defence. That is good when you are dealing with recent gossip. If somebody is just retweeting something defamatory about an individual in a relatively short period of time, that should still be

prevented. I am talking instead about historic allegations about an individual that have been widely published to no complaint whatever, and for them to then be published 10 or 15 years later, and then suddenly to a £1.5 million lawsuit. Something is going wrong there, and just a little tightening of the law might be able to fix that.

There are other issues about privacy and human rights that someone else might wish to speak to.

Susan Coughtrie: Through the UK Anti-SLAPP Coalition that I co-chair, we have already looked at this issue. We held some roundtables with media and law experts last year, to try to see what could be changed within current judicial guidance and civil procedure rules to satisfy the principles of early dismissal, limiting costs and everything that we have talked about. While some of those things could be achieved to a certain degree through tweaking of pre-existing, we felt that an anti-SLAPP law would be needed to bring in procedural reform that would sit across all the laws that are used for this purpose, because it is not just libel, as has already been indicated, but GDPR, privacy and others. This would be a way to put in early filter mechanism cost controls, and quite specifically with the public interest remit at the forefront. So we think that it is very feasible. We are working with Caroline and other lawyers to draft what that would look like, and we would be happy to submit that in due course.

We see this as something that is quite an easy step once thought through enough, and it would make access to justice more equitable because at the moment if you want to take a case forward—I do not know about your personal circumstances—it is not cheap to defend your reputation, and that means it is often in the purview of the super-rich. Even having some of these changes might, hopefully, make a system that is more accessible for everyone.

Dr Mullan: I can confirm I am not super-rich.

Tom Burgis: I just want to add this from a contact, an appalled lawyer from within this world, who says that the one key thing to address is the extent to which the lawyers, who in some cases behave disgracefully, have no penalty for that. If a bank does what their client wants and launders $100 million of drug money, the bank and the bankers face penalties. If the lawyers engage in reprehensible conduct, they keep their fees. What this appalled lawyer suggested to me was that surely there could be a way—if a firm was found to have brought a SLAPP, that their fees could be forfeit in that case, or could be at risk. It is obviously delicate territory, but is there a question about—if a lawyer or a law firm behaves so egregiously in their oligarch client's demands, contrary to their own code of conduct, and brings a case that is clearly an abuse of the process, should they incur a penalty themselves?

Q39 **Chair:** I am going to jump in for a second, because this is an area that we looked at in the 2018 "Moscow's Gold" report, because there is a difference, or we think there is a difference, between the so-called cab rank principle, whereby lawyers are just lined up and you choose the next

one in line, because you have the right to justice, and lawyers who go out to places that have extremely disreputable individuals and positively seek out those individuals to help them launder. All of them use the same defence, which is, "Everyone has the right to access to justice."

I think—certainly the Committee in 2018, which was of course a different Committee, was rather of the opinion—that there is a difference between access to justice and using justice as a means of laundering your reputation and your goods. I think that is a wider debate, so I will not get further drawn on it, if that is all right—

Tom Burgis: You can take a client on without doing everything they ask of you, surely.

Chair: Yes. Sorry—I am not disagreeing with you. I am just saying that I will not go further on it, because I think it raises a huge number of questions that groups like the Solicitors Regulation Authority should look at. In fact, in our report in 2018 we questioned whether a law firm—Linklaters, in that case—really could possibly meet the standard required of a regulated solicitor, given the way that it was working out of Moscow, and I think you could raise questions about law firms that you have mentioned today.

However, the reason I am moving on is because I think that is a very large question and one that is not quite in the remit of this Committee right now. So, I am not denying your point; I am just moving on from it.

Q40 **Liam Byrne:** While we are on legal reform, one of the virtues of the approach you set out, Susan, is that it provides a filter, which is actually in the hands of a judge to make some discretionary judgments about procedure and therefore costs. While we have you here, do you think you could give us all a flavour of some of the problems with GDPR? Certainly the right hon. Member for Haltemprice and Howden (Mr Davis), who is in the Public Gallery today, and I, together with Bob Seely, heard quite a lot of evidence about the way in which data subject to access requests are now showered on journalists like confetti. We have heard about hack and leak, whereby people hack information and leak it deliberately in order to then sue journalists for defamation.

So, we clearly have got a problem with several bits of our legislation, but could you just give us a sense of your experience of how GDPR law is being misused in order to rack up these costs to chill what you write?

Susan Coughtrie: I think what we see is that all possible claims are deployed in these letters. Often it is not just libel; it is a combination of different things. Catherine and Tom could probably better speak to what the experience is of getting GDPR claims and what that means for them.

Catherine Belton: In the Fridman and the Aven cases, for instance, they were essentially using GDPR claims again to whitewash their histories. I think that is because there is a much longer statute of limitations on filing a GDPR claim; under libel, you only have one year. Under GDPR, it is six years. In both the Fridman and the Aven cases, they were filing data

protection claims essentially as a reputation-whitewashing issue, rather than an issue of—they could claim—

Q41 **Liam Byrne:** Hang on—just unpack that a bit.

Catherine Belton: For instance, in Aven's case, he said the fact that we had written that he had supported Vladimir Putin in the well-known oil-for-food deals of the early 1990s was inaccurate. Actually, it was accurate and it was a question that went to his reputation. We had letters in which Putin had written to Petr Aven, the Alfa oligarch, saying, "Please grant me permission to issue these licences to conduct Alfa food deals." At the top was Aven's signature, saying, "Yes, you may operate in this way." It was a reputation issue for him. He did not want to be seen as having supported Putin in any way. However, because he personally was behind on the statute of limitations—it was already beyond the year—his lawyers issued a data protection claim saying it was inaccurate. It was accurate. It was an issue of reputation rather than accuracy.

Q42 **Liam Byrne:** So they are arguing that you were misprocessing private information?

Catherine Belton: Yes.

Arabella Pike: And using GDPR to essentially disguise what is a defamation claim. They are beyond 12 months, we would argue. It is a way of getting around the statute of limitations.

Q43 **Liam Byrne:** Yes, so very tactically versatile?

Arabella Pike: Indeed.

Tom Burgis: It also allows people to go for your source material—and I recall Schillings doing this—saying that any source material you may have is their confidential property and therefore you are prohibited from using it.

Q44 **Liam Byrne:** So if you are a journalist and are sharing a particular bit of information with somebody in order to check it, for example, would people try to aim a GDPR claim at you on the grounds that you were communicating or processing information in a way that was wrong?

Tom Burgis: I think it is more about receiving.

Catherine Belton: Journalists have protection under GDPR to protect the identities of their sources. It is more about when it is used against people such as Charlotte Leslie, who does not have the same type of protections that journalists do, or when it is corporate due diligence people getting completely showered with these data protection claims in order to force them into divulging their sources. That is when it becomes a dangerous misuse of the law.

Q45 **Liam Byrne:** If, for example, you were hired by a regulator to check on a firm that might be applying for a banking licence, you could be vulnerable to being attacked under GDPR by the organised crime group trying to get this licence.

Catherine Belton: Yes. I have heard of instances where an investigator or regulator has recommended that bank accounts are not opened for various billionaires or kleptocrats because of their corrupt connections. That kleptocrat then sends data protection claims across the regulation industry, trying to force these people to divulge their sources. They try to find out who could have been the source of this derogatory—in their minds—recommendation.

Q46 **Liam Byrne:** What is the impact on regulators?

Catherine Belton: It is enormous.

Q47 **Liam Byrne:** What are the consequences?

Catherine Belton: The consequences are that you cannot close down your financial system to people with illicit wealth, because they are able to wield this powerful tool. We do not know enough at the moment about its use, but it is certainly something that has to be investigated more.

Q48 **Liam Byrne:** So these tactics are being used to basically tie regulators' hands? We ask them to do a job, which is to protect our financial system and maintain its integrity, but they are being stopped from doing that job by this weakness in our court system.

Catherine Belton: Yes, and it is also clearly seen in the Charlotte Leslie case. All she was trying to do was conduct very basic due diligence into the background of a major donor to the Tory party. From what I understand, most of her investigation was based on doing open-source checks on Google, yet she is facing this unprecedented harassment through data protection claims.

Tom Burgis: There is also simply the gumming up of the newsroom. We had a subject access request recently, submitted by Carter-Ruck on behalf of one of its clients, and this procedure is so untested. It has rarely been tested in the Information Tribunal, so newspapers are having to go through the enormous process of checking all the information they hold for anything that pertains to that person who has made the subject access request and then, piece by piece, work out on what grounds the journalistic exemption would apply. I suppose to an extent that is justified. You have to use these journalistic exemptions properly, but that is an enormous operation of editorial time. At the same time, in parallel to that, there is the use of confidentiality, which overlaps in some way. It is about people using essentially the right to privacy to shield really powerful people on the grounds of an expectation of privacy for them and their family from—in some cases, most recently with Bloomberg—having it reported that they are the subject of a criminal investigation, for instance.

Q49 **Liam Byrne:** In summary, then, you are saying that this war on truth is stopping journalists writing about the truth, stopping good people like former MPs sharing the truth, and stopping regulators using the truth to stop bad actors accessing our financial system?

Tom Burgis: Yes. It's a scorched-earth policy on the past, and once you've done that, you can rewrite the present as you please, using the

other parts of your operation—the propaganda operations, the PRs and so on.

Q50 **Bob Seely:** Can I follow up Liam's excellent line of questioning, because this is very important? When it comes to SLAPPs, effectively the abuse of libel is a SLAPP, because a SLAPP is a strategic lawsuit against public participation, so it is anything that I can throw at you that will make your life uncomfortable and unpleasant, stress you out, destroy you financially because I can't destroy you physically. I could if you were in Moscow—I would just kill you—but because you're in London I can't just physically destroy you, so I will do it financially. When you are talking about SLAPPs, you are effectively talking abuse of data protection, or you are talking about the abuse of libel. Are you talking about anything else when you're talking about SLAPPs, or are those effectively the two bits of ammunition—the tools—that all these enablers, who we haven't had very nice things to say about, and/or the oligarchs they serve, use? Or are there others?

Tom Burgis: And confidentiality. That's the third one, I think.

Q51 **Bob Seely:** Confidentiality? I thought that was part of data protection.

Tom Burgis: I think they're sometimes slightly separate. It is the right to privacy as opposed to the right to your own data. They are similar, but I think different statutes are being used.

Q52 **Bob Seely:** Right; okay. If one wanted to tackle this, as well as strengthening the public interest defence, you would do an amendment to libel law, you would do an amendment to data protection and you would do a redressing of the balance around the right to privacy. Those are the main areas—the route that you would take—if you wanted to undermine the fairly wretched SLAPP industry in this country. Is that correct?

Tom Burgis: Correct.

Bob Seely: Lots of people are nodding. Thank you.

Chair: We are coming to the end. I will close with a few questions, although I will look around to see whether anybody else wants to jump in.

Liam Byrne: I think this is a hybrid war on truth.

Q53 **Chair:** It's quite an extraordinary series of testimonies that you have given, and extremely powerful, raising huge questions.

May I move on to a very specific Bill that went through Parliament yesterday—the Economic Crime (Transparency and Enforcement) Bill. I am sure various of you followed it, if not for direct interest, then because it touches on so many of the kleptocratic elements you have written about. How much do you think the overseas beneficial ownership provisions—the publication of UK property—will make a difference to these kleptocracies?

Tom Burgis: There are some big loopholes in it.

Chair: Go on.

Tom Burgis: Correct me if I'm wrong, but isn't it still possible to use a nominee instead of a human being as the named beneficial owner, and in some cases a corporate person? I understand that in certain circumstances you can not name a human being. I should also say that enforcement is crucial. There was a brilliant bit of Global Witness research a few years ago, which looked at the registry of persons of significant control at Companies House. I think there are criminal sanctions—correct me if I am wrong, but severe sanctions of one sort—for failing to provide truthful information about the human beings who own a UK-registered company. I think the Global Witness research found that 4,000 of the named people of significant control were supposedly aged less than two, and one had not been born yet. If it's not getting policed, what's the point of it?

Q54 **Chair:** This is the NCA point?

Tom Burgis: And the SFO, yes.

Chair: Indeed.

Q55 **Liam Byrne:** On the point about nominees, are you referring to trusts?

Tom Burgis: I am not entirely clear—

Q56 **Liam Byrne:** There is a loophole on trusts?

Tom Burgis: But that would be another one. Basically, if it is not a 100% rule that says, "Name the human being," the global secrecy industry is designed to find the next mask they can use.

Liam Byrne: Yes.

Q57 **Chair:** There are other elements in that Bill, but when you look at it as a whole, do you think it will make it easier to write books like yours, and to uncover who owns what, or do you think that those loopholes are frankly too big?

Tom Burgis: To go one step further back, for me, the point of this work, and the reason why the freedom of speech in the UK is so important, is that there are many people beyond the UK who depend on it. Susan was touching on some of that earlier. There is no accountability for corruption in Russia, Congo or Kazakhstan, but when Arabella publishes one of these books, or the *FT* puts something on its front page, that can have a significant effect on the ability of these kleptocrats and their allies to maintain their power at home. As well as the corrupt wealth, that means maintaining their regimes of fear. We do this work on behalf of the people who got tortured after a massacre in Kazakhstan, or the people starving to death in the eastern Congo.

Now, we can slam the front door, pretty ostentatiously, and say, "You're not going to come in and buy our football clubs any more if you're close to one kleptocrat," but there's a big sign saying "The back door is still open" while any form of financial secrecy is still allowed. I think it really is as simple as that. We have become inured to this idea that it is permissible to

operate in our economy in disguise. If you or I tried to open a bank account without giving our name, that would not be a very long conversation. However, if you're rich enough—

Q58 **Chair:** And you are not even a politician. I can't tell you how long it takes to open one then.

Tom Burgis: But while it is possible to operate in the economy in secret—an idea that has become so pervasive that we maybe do not realise how strange it is—then all of these moves are just dealing with a symptom. It is similar to whack-a-mole, isn't it? There will be another secrecy mechanism that arrives. Putin will find another proxy who will be able to operate—not just in buying property, but in moving money into the political system, the legal system, and so on.

Susan Coughtrie: It is two sides of the same coin—media freedom and anti-corruption—because media freedom is affected by corruption. The countries that are most corrupt have the lowest levels of media freedom.

Q59 **Chair:** Surely it ties into political freedom as well.

Susan Coughtrie: Absolutely. But then we also find out about corruption because of media freedom and the work that journalists like Tom, Catherine and others do. Anything that can be done to improve anti-corruption and increase transparency will also help media freedom. The US has already taken a bit of a step in that direction by recognising the role of SLAPPs as part of the tactic, including in their anti-corruption strategy. I think that there were some moves within the debates on the Economic Crime Bill to introduce SLAPPs. I think that recognition of how these things operate is important, because you cannot tackle one without the other, effectively.

Q60 **Chair:** One of the things that has come up pretty clearly, not just today in this session but over the last few weeks, is the connection between media freedom and political freedom, and the importance of calling out dirty money, not just in our economy but in politics. That is certainly something that has raised its head in various different ways.

Catherine Belton: That has obviously become increasingly important for our democracy. Obviously, there are still major loopholes behind using hedge funds, for instance, as major donors to political campaigns. Hedge funds were major donors to the Vote Leave campaign, and yet they still do not have to disclose who their clients are or the source of their financing.

It is fine to have the Economic Crime Bill, but without devoting more resources to the NCA, we are still operating blindly. The NCA was not able to properly investigate the source of Arron Banks's donation to the Vote Leave campaign because its jurisdiction stopped at the Isle of Man company, which was co-owned by Arron Banks and gave him the funds to make the donation. I think that Liam Byrne has been working on legislation that would improve transparency and ban offshore companies from making such loans to political campaigns.

Q61 **Bob Seely:** I do not think we have particularly covered this: how has this

happened? How have we allowed a free press to live in fear of oligarchs and their legal enablers, rather than the other way around? Has this been a boiled frog situation from the early 2000s, or were there some significant legal cases where freedom of speech was collapsing under the weight of the assault and abuse by the oligarchs, kleptocrats and organised criminals and their enablers and facilitators?

Tom Burgis: At one stage of this whole saga, Ian Hislop—probably the most sued man in Britain—kindly gave me a call and we had a chat. I think we would all agree he provides a magnificent voice through *Private Eye* about a lot of this stuff, and he did so even before it was fashionable. *Private Eye* has been fighting these fights and calling out these companies for years. Its business model is very stable: a print publication sells copies. What has changed for the newspapers is the point about equality of arms that has come up repeatedly.

There have been these two opposite trajectories in recent years where, basically, the internet has destroyed newspapers' business models and newspaper budgets have shrunk—reporting staff numbers have shrunk, so one reporter will be doing the job that five used to do. Newspapers are expected to put out more copy, churn out more and more copy and get more and more clicks. At the same time, the global kleptocracy has amassed more and more wealth as it has gone global. That has led to this extraordinary inequality of arms, where you have got very stretched publishers versus kleptocrats and oligarchs with essentially limitless money. That is why these arguments often aren't about the law at all—it is just a battle of who can weather the costs.

Q62 **Bob Seely:** It is about using the law to destroy you and silence truth.

Tom Burgis: Yes, but they are not using legal arguments; they are just using the threat of the cost.

Arabella Pike: And twisting the law for their purposes. I do think there is a problem with the law in this country. The reason that they are using English courts to do this, instead of American courts, is written in the two jurisdictions; it is the differences in their laws.

Q63 **Bob Seely:** It is because of the capped costs, but also because you have to defend yourself. You have to prove you are telling the truth in this country, because of the way the libel laws are structured. It is a combination—

Tom Burgis: If you run a truth defence.

Bob Seely: You have got to defend yourself. You have got to prove that what you are saying is true. There are limitless costs. It is a combination of those two things that allows allegedly bad people to basically silence people who want to expose what they believe those people have been up to.

Tom Burgis: Nick Cohen wrote a good column on this in *The Observer*. He has been great on all of this. He basically said that he can write what he wants about Boris Johnson—he is a public figure, notwithstanding your

case, who should expect some scrutiny and some mud to be slung at him. That is legitimate in a democracy. However, people of possibly equal influence—dare we say greater, in some cases—are completely shielded from that kind of scrutiny. In the US, there is a much more blanket approach to a public figure—towards anyone of great wealth and influence, not simply those involved in politics. I think that is the difference here, isn't it?

Arabella Pike: Yes, it is.

Q64 **Dr Mullan:** Just for the record, the remain campaign had big donations from hedge fund managers, too. I think it is important that people understand that.

The example I look at, which is much simpler, is whiplash reform. There is not necessarily anything wrong with the law but, over many years, more and more people—solicitors—who shouldn't really behave in that way saw that it was a way they could get money, and people on the receiving end of the claims started to think it was not worth the fight. It became a vicious cycle, with people realising even quicker that they could get money, until we took a step back and said, "There's nothing wrong with the law here, but the way it's done is wrong, so we'll cap what you can get from it." That has already started to settle the whole thing down.

There is a complicated way of looking at it, but there is also just a question of making it a bit more of an even fight and lowering the thresholds for it all, without having to get into what are sometimes quite balanced questions such as how much a public figure should expect to take.

Tom Burgis: But they can only do this because certain parts of the procedure—Caroline Kean expresses that very well in what she has written—are not, as I understand it, what Parliament intended, but are being used or abused to allow massive costs to be run up.

Q65 **Dr Mullan:** Yes, but there are downsides to tweaking procedures in both directions. They can only abuse procedures because they have an unlimited amount of money to keep going at it. If they have to get it all done within a certain pot and if they are more even with a publisher or newspaper, it is not so easy for them—they only have so much money to spend. They will spend it anyway, but then they can claim it back.

Tom Burgis: This goes to Tom Tugendhat's question of a moment ago about the inequality of arms. Look at the way in which the SFO and NCA have to deal with things. There is a bit in my book about the Serious Fraud Office's case against the Trio and their company, and how—back of an envelope—they make in two or three days the Serious Fraud Office's annual budget. They spent half a billion pounds to fight it.

Dr Mullan: Yes, absolutely. The SFO might have a couple of solicitors versus 20—

Chair: I was speaking to the NCA about this the other day, and one of the things that was made very clear to me was that they had to take a

decision as to whether to blow half their budget or more on a single action. You can understand why, if you are running a major national police force—which the NCA is, in effect—that has implications, including for other individuals that you might wish to bring action against.

I am going to bring this session to a close. As I do, I say a huge thank you to all of you, who in different ways have demonstrated immense courage in standing up for what I think are the essential values of the British people and these islands. I think that those really matter and are what Parliament should be championing. I am enormously grateful to all four of you, personally and I think on behalf of the Committee as well.

We are going to be looking at this, and I know that not just you four present, but others will have watched this. I suspect that some of m'learned friends will have watched it, some with horror and some with joy. We are happy to hear views on this, and people might wish to write to us to say that they are not murderers. We are very happy to make it clear that ENRC claim not be murderers; I will leave that to the judge to decide. Sorry; I do not wish to over-link their name to murderers, because clearly they are the ones who have decided that that is their best defence, although who runs their PR is open to question. Others will have different views, however, and so I end this by inviting comment on what legal aspects could be changed, improved or adjusted in order to make sure that we maintain freedom of the press but also the defence of reputation, which all of us have the right to enjoy as well. On that basis, thank you very much.