

The Panama Papers and the UK Overseas Territories

Written by Peter Clegg

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PETER CLEGG, APR 14 2016

The release of the so-called “Panama Papers” has highlighted once again the key role played by the UK’s Overseas Territories in the Caribbean, along with Bermuda, in the offshore financial sector. The leak of 11.5 million files from the database of Mossack Fonseca, the world’s fourth largest offshore law firm, placed the British Virgin Islands (BVI) into particularly sharp focus. A series of revelations were reported involving the territory and its offshore sector, involving political leaders and their families, several Conservative politicians and donors, and property magnates. There were associated concerns over due diligence and transparency.

Although the vast majority of the cases reported were not identifying illegal activity, the revelations of tax avoidance and in some cases evasion have struck a chord with many concerned about the impact of austerity and growing inequality. However, little is likely to change.

The leader of the UK Labour Party, Jeremy Corbyn, argued that if the territories did not get their house in order direct rule from London should be considered. He drew parallels with the decision of the last Labour government to impose direct rule on the Turks and Caicos Islands (TCI), although his comparison was a poor one. Corbyn suggested this was done because of economic failings after the global financial crisis, but in reality it had much more to do with the high level of corruption that was found in the TCI at that time.

In addition, he failed to appreciate the overly burdensome commitment direct rule brings. The previous Labour government was very reluctant to intervene in the TCI, and the time and resources it has taken to institute reform in the territory has been high. The suggestion that a larger number of territories could be taken over at one time is not at all feasible – although in theory this power is at the UK’s disposal.

There are other reasons why fundamental change will not come. First, the offshore sector is extremely important to the economies of many territories both in terms of GDP and employment. For example, in the BVI around 60 per cent of its annual revenue is derived from offshore financial services. Bermuda and Cayman Islands also have sizeable interests in the sector. As a consequence, the UK does not want to turn the clock back to when budgetary aid was provided, and so there is no desire to close or restrict these offshore industries. Second, there is also a large dose of hypocrisy on this issue, which will prevent significant further action. Many of the largest and most secretive offshore jurisdictions are in Europe (Switzerland, Luxembourg, Germany, and the UK); while the US states of Delaware and Wyoming are also key players.

So what will happen? The main focus is on the issue of beneficial ownership – who actually owns the companies. The UK will establish soon a registry of ownership that will be open to the public; but the territories have refused to go that far. In the past few days it has been agreed that they will establish registries, but they will be open only to law enforcement agencies. On the news Foreign Office Minister James Duddridge congratulated the territories on their “superb progress”. Also, on the same day as the BVI agreed to the registry Prime Minister D. Orlando Smith called for greater autonomy from the UK – something that London may well consider in the medium-term. So despite the furore in recent days, the territories’ offshore financial sector is secure, and the BVI (and other territories) may soon get greater control over their own affairs.

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