

Jack Blum: The passage of a law signifies that society is telling the people who come under the law that this behaviour is wrong. And for the longest time, nobody thought it was wrong - that bribing to get a business deal was the way business was done. And the attitude in the business community was are you kidding? This is how we operate! You're going to make it impossible for us to be competitive around the world.

Naomi Fowler: President Jimmy Carter signed into law the Foreign Corrupt Practices Act in the United States in 1977. Its intention was to criminalise the payment of bribes by US firms and individuals to foreign officials in exchange for business deals.

Jack Blum: Between the time the bill was passed and the time it was really enforced or taken even remotely seriously was almost twenty years.

Naomi Fowler: This is the Corruption Diaries from the Tax Justice Network. I'm Naomi Fowler.

Jack Blum: When I was with my friends at the World Bank it began to be clear that we were beginning to hammer the top. So they at least had to give lip service to the problem of corruption, even if they said we're powerless to do anything about it. So, all of this took time, took time for the ideas to seep in and there began to be Commissions to talk about corruption. The UN took up the issue of corruption and there was a working group on corruption established in Vienna. And I remember going to one of the early meetings of the group and listening to some of the idiocy that was being promoted by different people at the time, there was a professor you'll be glad I don't remember his name so that we won't be sued, but this idiot, which he was, said the solution to corruption was repealing regulations of all kinds, because it was the regulations that made it possible for these government officials to demand bribes. And that particular school of thought got much more traction than one ever would have believed, simply because it was a kind of business community outlook that made them feel a lot better. When that guy started talking at this meeting in Vienna, I just picked up my chair and thumped it on the floor and walked out of the meeting, because it was such absurdity, such garbage that I couldn't abide it. But people began to hear this for the first time, they began to hear that corruption was a, a serious problem and that things had to be done about it.

It, it takes a long time for ideas to sort of penetrate and it takes a long time for people to absorb and really come around and think about things. So, the other thing that happened in the course of all of this was the whistleblowers who showed up and the disclosures that came about. And here one of the very most important things was the development of something called ICIJ, the International Consortium of Investigative Journalists. And I think I first spoke at a meeting of the International Consortium in 1999. And they were just beginning to put together the idea that if you were looking at some of these global issues, there had to be cooperation across borders, among journalists, because very few news organizations, and fewer and fewer as time went on, had the resources to send journalists all over the world to track down a variety of problems.

We then began to get disclosures on a grand scale that reshaped the world of thinking about offshore and the use of offshore to facilitate the corruption globally. The disclosures that were of principal importance were the Panama Papers and there I worked with the ICIJ

people to explain what they meant and give them a way of looking at the whole problem to sort it out.

Those papers disclosed a law firm in Panama that had thousands of clients who were all cheating on tax and setting up dummy corporations, bogus trusts, God knows what. And in the process you know, there was a woman who was president of something like 10,000 corporations. And all of this now became available to average people who are looking at it and saying, oh my God, what is this all about? And it became common knowledge through things like a movie called *Laundromat*, starring Meryl Streep, the idea that this was an industry, that this offshore world was providing a kind of plumbing system that allowed for the flow of illegal money and for keeping out of reach and off the books the funds that had been taken from people who were desperately poor. So, over time, we've had one disclosure after another.

To investigate criminal activity outside the borders of the United States by U.S. law enforcement is virtually impossible unless you have a very sophisticated government in the place where you want to do the investigation that's willing to be fully cooperative. And the reason there is that given the remnants of this intergovernmental refusal to allow the laws of one country to overlap the laws of another country, you can't get information, you can't send your police and investigators to another country. You can't compel people to deliver evidence and testimony in other countries. And as a result, a big complicated global investigation becomes a nightmare in terms of cost and manpower and just the sheer need to, to travel, to communicate. And police agencies, diplomatic agencies, all of the people who would be involved, turn out to not have the resources or the capacity to do what has to be done.

And that is ultimately the problem we're going to have to figure out a solution to. There can't be laws without enforcement. And right now the system for enforcement is you, the corporation, are supposed to report to us when criminal activity has occurred inside your corporation. And literally, there's been a press conference and the assistant attorney general in charge of the, the criminal division has said, you guys tell us when there's a, a violation and we'll be nice to you when we come to punish you for it.

Well, what happens if they don't tell that there's been a violation? Well, the risk then is that, well, maybe it'll turn up in a disclosure or somebody will be a whistleblower and say something about it. But by and large it really depends on the honor system. And that is not enough to give us something resembling real enforcement, and for that matter, real fear that wrongdoing will be identified and punished. So, the question is, how do we fix this international dilemma? And it's not at all a simple problem, simply because we've got 500 years of dealing with problems that cross international borders built on the concept of sovereignty and the right of every country to control all law enforcement activity within their own borders. And of course in the United States, we all want our constitutional rights. And the idea that some foreign policeman would come into the United States and say, you violated the law in our country and we're, we're gonna gather evidence and take you back, well, that's, that's a big problem. And what rights and how are they protected? And that would be true wherever you're looking at questions of law enforcement. But it's the kind of problem that has to be talked about and at least the beginnings of working toward a resolution have to come into play.

Now, there is a model for this, it's what happened in the United States. For the longest time in the United States, criminal law was a matter of state law only. And even today, 95 percent of all criminal investigation and prosecution is at the state level. If you go back to the movie Bonnie and Clyde it begins with a robbery at a bank in Texas. Bonnie and Clyde grab the money and then run like hell from the Oklahoma border. And when they get to the border, the cops from Texas are chasing them, but the cops from Texas have to stop at the state line, and they wave goodbye to the cops in Texas because they're over the border in Oklahoma. That, in essence, was the situation around the U.S. until we began to develop a federal level criminal law which had federal agencies that could now look at interstate activity and illegal interstate activity could be prosecuted at the federal level.

There's an elaborate legal system that sorts out whose law applies and which situation. We've worked on this and developed it over 60 years or 100 years or more of court opinions. And it's how to integrate local law with the kind of federal law. And it's a system that allows cooperation among law enforcement agencies and for example, when one state requests that somebody be extradited from another state it's mandatory, the Constitution requires, you know, you've got to respect what the other state is doing.

This kind of system that we worked out here in the United States to solve the problem of sovereign individual states is the kind of thing we have to begin to work on at a global level. Now, one of the proposals that I put forward that at least doesn't get huge laughs is the idea that where there are countries whose legal systems are quite similar, so for example, two common law countries like the United States and Canada, where should be able to come up with ways of empowering their law enforcement people to work across borders, so, I don't see any reason why we can't have a Canadian prosecutor come to a court in the United States using American law, asking for a search warrant that meets American legal standards to further that prosecutor's case in Canada. Likewise, I can see a situation where an investigator should be treated as you would treat an out of state cop or an out of state agent who's investigating a crime and allow them, subject to local law and procedure and constitutional rights, to operate and ask questions and get documents and build a case. And that ought to be reciprocal both ways, that you know, the FBI, following something, shouldn't have to go through a whole diplomatic charade to get to the point where they can get information from the Canadians. It ought to be that pretty automatically, they ought to be able to, under Canadian rules, using Canadian rules that protect the civil rights of the people involved, get the evidence they need to bring the case forward.

Now, in NATO, the concept has worked reasonably well because we have interoperability requirements on weapons. So everybody's supposed to use the same ammunition, there's a NATO standard. If we can do it with bullets, why can't we do it with law enforcement?

Naomi Fowler: The Corruption Diaries is a production of The Tax Justice Network, made by Naomi Fowler and Jo Barratt. Interviews with Jack Blum were recorded over several days at Jack's home in Maryland by Zoe Sullivan.