

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

Jack Blum: We had a meeting with the president of Nigeria who then directed the Department of Justice and the Treasury people to work with us in their efforts to recover money.

Naomi Fowler: In the previous episode Jack Blum described his visits to Nigeria, and in this episode Nigeria is again our starting point. But it's not the end point. The Tax Justice Network's focus has always been on tackling the *global system* that's facilitating the stealing. And there's good reason for that. Because stolen assets, illicit financial flows, almost always end up in the wealthiest, most powerful countries, many of which are, of course, former colonial powers. Those are often the same powers who left such negative impacts in so many countries that persist to this day.

Jack Blum: I learned a lot about the problems of making the justice system work.

In this case, there were several smoking guns and a lot of information was available about how the country had been looted. So, what happened, uh, there was that money had been transferred directly from the account of the Central Bank to the accounts of the President of Nigeria and his son and a whole series of offshore corporations. And there we said, well, we'll help you deal with the governments to see how you can get the money back and so forth and so on. We thought we had pretty substantial support from then President Obasanjo.

What happened thereafter was that there was a sort of giving of information about how much of this money had wound up in Switzerland, how much of the money wound up in Liechtenstein and how much of the money had wound up in the U.S., very substantial amounts in all three places.

The difficulty in Liechtenstein was particularly of interest to me. This is before I got involved with the client who took records from LGT Bank. But I volunteered to go to Liechtenstein and talk to the man who was in charge of money laundering prevention. Believe it or not, they had such a person, and see what could be done to facilitate the return of money that had clearly come from Nigeria, back to Nigeria.

I wound up going to Liechtenstein. It's not terribly difficult to get to. And got into a conversation with the guy who was in charge of keeping track of money laundering control and regulating those banking matters. What I discovered was that there were a half dozen corporations that had been formed, whether it was in the form of the Liechtenstein Anstalt, I don't remember, but the response I got was, well, that's all very interesting, but the Liechtenstein law says the only time we can give the money back is if it's the proceeds of a crime. And by proceeds of a crime under our law, we mean that the criminal has been convicted. I said, excuse me, we've got a problem here because the president who stole the money died in office. And under the common law, which is the system in effect in Nigeria, you can't have a criminal prosecution after somebody died. But here's the record that says the money went directly from the central bank to these entities. Well, no, nothing we can do. The door is locked. And it turned out that there were a group of Liechtenstein lawyers, each one who represented each of the

corporations, who were all busily defending the corporations from any attempt elsewhere to get the money back. I don't think I ever found out whether eventually that money came back or not, but it certainly illustrated the degree to which the support industry in Liechtenstein profited from the kind of thievery that was going on. And it was the kind of thing that, as an outsider, you're kind of astonished by the brazenness of, but it's the way of life for a lot of the people who are enriching themselves, and they think it's perfectly normal business.

Namoi Fowler: Drawing on many experiences of this kind, Jack Blum wrote reports for the United Nations on how to tackle money laundering and the legal challenges around sovereignty.

Jack Blum: I, I came up with the idea that one of the most important things that could be done to inhibit grand corruption would be to make sure that the beneficiary of the grand corruption didn't get to enjoy the fruits of the theft. Now, what had been going on, and it went on repeatedly, was we supported governments around the world that were utterly corrupt, where the head of the government was stealing the country blind, but the attitude was he may be a thief, but he's our thief, he's with us against the commies.

An illustration of that was Marcos in the Philippines where Marcos and his wife Imelda were notorious in terms of the amount they took, brazen, outright stealing of government assets and a division of government assets among friends, and then when the time came and the people rebelled and all of a sudden Marcos was forced to flee the country, we provide the means of exit. We take Marcos and plop him in Hawaii. And Marcos' assets are now hidden in a welter of offshore entities and fairly difficult to find. We fly Marcos out with virtually all of his toys and Imelda kept lots of her clothing and so it went.

That pattern followed time and again. It happened with the Shah of Iran. It happened with Baby Doc Duvalier in Haiti where Baby Doc was literally flown out of the country with his toys and Air Force cargo planes which then delivered him to his place in the Riviera. And I thought that that money should be recovered and the message should be you can't profit from what you stole. But it turned out that what went on in a lot of these situations was the way the U.S. government got these various thugs to leave their control of the country was to say, hey, we'll take care of you and you can keep what you stole. So, in the case of the Congo, the President of the Congo wound up going to Mauritania and he was flown there with the assurance that he wouldn't be bothered. Mobutu Sese Seko, the same thing happened with that absolute thug from Uganda, wound up going to Saudi Arabia, and living out his retirement happily in Saudi Arabia, and on and on and on. It's a very tiresome list, but the question really is why should they be able to, after the things they've done, keep what they've looted from the country they've just looted. And this is central to the question of corruption. Because, if you can't keep your loot, you might actually think that maybe instead of looting the country, my job is to make it a better place. And we really had to turn around that attitude. I tried to figure out, okay, how will we go about making it possible to recover the money once one of these people has departed, and now we're going to actually go after what has happened to what they stole?

And I came up with a number of proposals. The first proposal would have been treat it as criminal proceeds, and we'll go after it. But the problem there is, first of all, proving the various crimes and relating the crimes directly to the money, and always the need to prove in

criminal matters beyond a reasonable doubt, which in complicated financial cases is a stinker, you really have a hard time with beyond a reasonable doubt. And then also there's the issue of personal criminal responsibility. And that is an equally difficult problem in complicated financial cases because there's so many intermediaries involved and who ordered what and when and how. And that detail is, is very difficult.

And then I thought, well, the answer, if we can't go the criminal route, the answer has to be a civil recovery. And now the question is who will undertake the civil recovery? The country that's just been looted typically doesn't have the resources to go chase the money. And to go out and to hire private counsel to try to recover the money is an incredibly expensive proposition. The places and the court cases that have to be brought make, make, make the expense overwhelming, make the detail that has to be followed and all of the work that has to be done very extensive, the travel, all of the things involved in the recovery require tremendous will.

So what I thought would work would be if we put together a team of people who were familiar with international recovery operations and finding assets and claiming them and funding that through an initial grant from let's say the World Bank or the IMF, and then having this group of people become self funding by using the proceeds, or some share of the proceeds to cover the expenses of whatever it was they had covered. Well, I was met by a wall of opposition from all kinds of folks who thought, oh, we can't do that, we can't create a new bureaucracy, we don't want any more people in international organizations, we don't want a new international organization. And finally, they beat me down.

Now, I had been the chair of an experts group on asset recovery. And in the course of that, I really came to understand a lot of the really intractable issues that we would confront. Some of the matters are ones that you can't understand until you put around the table people from the world's different judicial systems and different traditions of law. So, the group, the experts group I had included a prosecutor from New York, a prosecutor investigator from London, a South African prosecutor, a Swiss examining magistrate, a, a group of incredibly smart, skilled people who were prepared to tackle the problem. And we had in the room the UN experts who were in the process of working on a draft international convention on controlling corruption. This discussion around the table put some facts that most people don't even begin to understand in front of the UN people who'd never heard any of this before.

So, for example, there's no method to compel the attendance of a witness across borders. There's no way to compel a foreign government to allow the deposition of one of its citizens in a foreign case. In some countries, you can't summons a, a person even to come to court. You have to ask for what's called a letter of rogatory. And then the only way that person can be questioned is with written questions asked by a local judge who then will provide the written answers to the investigators. Well, what that means is that there's no real ability to investigate a case because any investigator worth his salt, and most certainly a financial investigator, knows you can't ask just a question, you have to be able to follow up, and follow up, and follow up again. And there's no system to do that. So, the international criminal justice system doesn't work in these matters and the civil system doesn't work particularly well. There are tools you can use, there are things you can go after, and that depends on whether you're working in a civil law jurisdiction or a common law jurisdiction. It depends on who is signatory to which of a variety of treaties and conventions and whether they'll honour

those treaties and conventions. And in the end, this is a, a, a real issue of the way the international legal system cannot cope with sophisticated financial crime, with disappeared assets, with bringing people to account, at least in terms of the finances of what, what they've undertaken.

One of the saddest aspects of what my work at the U.N. led to, or, the conclusion of my work at the U.N. came from was the fact that the man who had been willing to push the idea of civil recovery, [unconfirmed name] was also a man of very questionable morality and that he was fired from his job as UN Under Secretary for improprieties involving the chartering of a yacht, the hiring of a couple of secretaries, he got himself into a mess. And as a result, he lost his job, and when he went, so did the project that I was working on.

We did manage to get the whole business of cooperation and asset recovery written into these various conventions. But the problem is the conventions are all hortatory, in that what they ask you to do is something you do voluntarily. So each country is supposed to pass laws that facilitate, but it doesn't *require* the passage of laws that facilitate. The consequence of all of that is that we, we have something that is, sounds good, that points in the right direction, which may or may not come to fruition sometime this century.

Namoi 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.