



## Session Report

*Please know you may design the structure of this report to better suit the session. It's important to capture the key outcomes and solutions proposed for the future.*

**Session Title:** Without Passing a Single New Law, What Could the US do Better to Tackle Money-Laundering in the Americas and Strengthen Cross-Border Enforcement?

**Date & Time:** Monday, 03.12.2022, 5:00 pm - 6:30 pm GMT -5

**Report prepared by:** Michael Hornsby, Project & Communications Manager, Anti-Corruption Data Collective (ACDC)

**Moderated by:** Zoe Reiter, Co-founder Anti-Corruption Data Collective (ACDC)

### Panellists:

- Lakshmi Kumar - Policy Director, Global Financial Integrity
- David Luna - Executive Director, International Coalition Against Illicit Economies (ICAIE)
- Jose Ugaz - International Council of Transparency International
- Mercedes de Freitas - Executive Director, Transparencia Venezuela
- Jason Buch - Investigative Journalist and author of 4-part series in Texas Observer "Follow the Money"

### Share the thematic focus of the session, it's purpose and corruption risks?

The session was themes around illicit financial flows, money laundering and illicit trade in the Americas, with a focus on innovative or sophisticated schemes employed by criminals and the corrupt to evade detection.

Panellists presented findings from their recent research or investigations that focused on these issues, and were asked to make non-legislative proposals for how US and other actors can tackle the problem.

## Summary of panellists' contributions & discussion points (please be as detailed as possible)

### **Zoe Reiter - Co-founder Anti-Corruption Data Collective (ACDC)**

It is important to focus keep focus on the Americas, while attention is rightly focused on Russia since the wholesale invasion of Ukraine.

With all the effort on new laws such as the ENABLERS Act, which we support wholeheartedly, it is important to remember that there are tools available that could be used better.

The session has 2 aims:

- Unpack the problems
- Propose some ways that existing laws could be used better / how to tackle the problem without passing a single law.

### **Jason Buch - Investigative Journalist and and author of 4-part series in Texas Observer "Follow the Money"**

Brief presentation of his *Follow the money* investigation series in Texas Observer:

- 2 DOJ investigations into state and municipal level PEPs in Mexico laundering proceeds of corruption into the US.
- Contractor paid kickbacks to officials; contractor owned part of a bank, which was used to bring in PEPs as customers. Bribes were paid within the bank. Plus, a professional money launderer was involved.
- Even at relatively low levels of political seniority and volume of cash, it shows the proceeds of corruption leave Mexico into the global / US financial system. Unusually, these cases were prosecuted by local prosecutors in Texas. However, after 2018, investigation trail went cold.
- Investigation showed that banks accepted preposterous answers as part of KYC / AML Due Diligence. As long as there was some explanation, the transactions continued.
- As long as big banks asked the question and issued a SAR, they faced no consequences.
- US Real Estate regulations – A Geographical Targeting Order was imposed on San Anotonio during the period of the investigations.
- Analysis by Global Financial Integrity was used in the reporting, looking at the impact of the GTO and whether properties included in the case were covered. Some were outside geographic coverage and the GTO does not include high value commercial real estate.
- Former governor of Chihuahua has been charged in Mexico. Mexican govt have identified other properties in the US linked to him, but no there has been uptake from the US authorities. Even though they have picked up other properties.
- Change in priorities under Trump administration towards migration and border issues. No system was in place for continuity after staffing changes.
- Moderator comment from Zoe Reiter: US Congressional Representatives have formed a countering kleptocracy caucus; only one representative from Texas. JB: They wouldn't comment for the story.

**David Luna - Executive Director, International Coalition Against Illicit Economies (ICAIE)**

- Evidence-base from academia and journalism helps inform international community on harms and scale on illegal economy.
- Is illicit trade a top 5 global economy? Possibly, yes. 4<sup>th</sup> by GDP. \$3 – 5 trillion.
- Information sharing across borders and sectors and regions is essential to counter the magnitude of illicit wealth.
- Important to work together and connect the dots to enhance dismantling of networks of officials, enablers, launderers.
- Civil society has some of the best strategic intelligence, inc. in dangerous contexts.
- ICIAE (fairly new National Security centric NGO in Washington DC; a convergence of approaches and skills) tries to pinpoint specific nodes and actors to ID and seize dirty money. Part of the work examines cross-border illicit trade; and identify who are the actors.
- The Chinese CCP fuels a lot of illicit trade, esp. through Belt and Road initiative.
- 37 ports identified in which CCP works with other criminal actors to control or have corruptive influence, allowing bad actors to traffic in drugs, people, counterfeit and other contraband.
- The infrastructure empowers illicit actors. Fuels instability and insecurity in many parts of world.
- Fentanyl crisis – research connects cross-points where Fentanyl enters the Americas. Links back to China.
- Moderator question (ZR): Report IDs role of illicit flows in funding of terrorist organisations like Hamas, Hezbollah and others. Is that adequately and widely understood?
- Answer (DL): Lots of great work on e.g. Hezbollah on illicit trade and finance. But more needs to be done. Need to think about other ways of educating communities of harms of terrorist and criminal syndicates and why it matters.

**Lakshmi Kumar - Policy Director, Global Financial Integrity**

- Illicit Financial Flows and Money Laundering is not just about the money. Product of history, economy and cultural context. Applies to US and Americas. Lack of US policies has an outsized impact in the region.
- GFI studied gaps in US regulatory frameworks on real estate by examining cases. Could track cases to countries. 54% from LAC region. UK similar story involving South Asia: historical and cultural context matter.
- Problem is not about what's happening in LAC alone.
- U.S. Private Investment Funds appeared in a leaked FBI alert involving drug cartels. Shows that cartels are sophisticated business people and investors.
- Money launderers are more sophisticated businessmen than Fortune 500 companies.
- US PIF market is 11 trillion; twice GDP of LAC region. Completely unregulated against money laundering.
- Risks in LAC have prevented growth of economies.
- 84% of Brazil Private Equity market is controlled by family offices in Brazil.

Wealth belongs to wealthy businessmen; high likelihood of previous corruption risks.

- Example: The PDVSA \$1bn scam involving Venezuela and using a US fake investment funds. Investment bankers spread Venezuelan dirty money around the world.
- Money flows out of region into PIFs in the US.
- Sefira case is an example of sophisticated investment vehicles. Money launderers are smart and we need to be smarter.

#### **Jose Ugaz - International Council of Transparency International**

- Corruption is a crime of power. Mobilizes vast amounts of money.
- Necessary to always review how authorities and the anti-corruption community deal with new mechanisms for money laundering.
- Presentation compared “traditional” money laundering through the Lava Jato case and new schemes appearing in Latin America related to trade.
- Trade is a new way of mobilizing huge amounts of assets, but taking advantage of reduced control currently in place.
- Summary of Lava Jato case. Companies established bribe schemes with political leaders to control investment projects.
- Lavo Jato money laundering scheme was traditional scheme. Involves several players. Commission charged by middle-men. Shell companies; real estate; bank accounts used. Odebrecht front men bought a bank; facilitated movement of assets.
- Trade-Based scheme: NTR Metals. ‘Peter Ferrari’ – linked to drug trafficking cartel. Moved into trade because goods can be moved without scrutiny and have high margins, e.g. gold.
- Illegal mining linked to other criminal activities.
- Money launderers moving to trade due to links and high margins.
- Gold sold to complicit US refineries with false documents.
- Was caught because one of the companies increased export in gold massively over 3 years.

#### **Mercedes de Freitas - Executive Director, Transparencia Venezuela**

- Presentation of research into Venezuelan corruption network around the world, involving 73 countries.
- TI Ven has identified 141 cases around the world linked to Venezuela in 25 countries.
- 57 are in the US. 173 people indicted. 69 convictions. 68 sentences. 47 fugitives. 27 Billion USD.
- The database features 2244 cases; 295 of which are in the US.
- OFAC has blocked 142 Venezuelans. And more than 160 companies.
- Case of Nervis Villalobos – former energy minister. Key piece of grand corruption network in Ven. Investigated in 14 cases in 5 countries. Linked to 6 businesses that are publicly owned. But controls 24 secretly in other countries. Associates control secretly 18 businesses around the world.
- US supports a lot of investigations; leads the way.

## **SOLUTIONS SECTION**

### **Lakshmi Kumar**

- 3 main recommendations
- Law enforcement should recognise sophistication of money launderers, which are moving into PIFs, renewable energy, etc. They need to have the training and resources.
- Countries linked to LAC need to understand risks.
- Brazil: Look at family offices and reporting structures to create better transparency opportunities.

### **Jose Ugaz**

- Technology. Corrupt have more available. Customs, etc. in govts are not using the same AI and other tools.
- Not enough coordination between authorities involved in AML investigations related to trade. Mining - drugs – gold – tax authorities need to coordinate better.
- Understanding, training, knowledge transfer between FIUs. Need to improve on trade-based ML schemes.
- Predicate offences not being focused on enough.
- Guidelines needed to avoid problems, such as current Lavo Jato cases. Agreement between authorities has been suspended. Informal communications have led to legal problems.
- US has to follow up more after plea agreements / DPAs are signed. Implementation of agreements not being tracked.

### **David Luna**

- Need to support investigative journalism and build the evidence base. TRACC looking at connections between corruption and illicit trade. Need to show law enforcement evidence to leverage coordinated action.
- Support Public Private Partnerships. Business community needs to help law enforcement ID threats.
- State Dept needs to have more difficult conversations with complicit governments in the region. Complicity between kleptocrats and terror groups.

### **Mercedes de Freitas**

- For ordinary people in Ven, it is not possible to make financial transfers. But the rich and powerful have established means to launder money: Corrupt actors are able to innovate but the official system is slow and rigid.
- Grand corruption cases are in multiple countries; investigations need to be in several countries as well. Need more than FIU cooperation. Need joint investigations between countries around unique cases.

### **Jason Buch**

- Local jurisdictions were leading investigations covered in his reporting. They need to be empowered. Big prosecutor offices are doing foreign policy in a sense. There are opportunities in training and empowering local US attorney offices and not waiting for senior offices.

- Reporting was supported by different actors. ACDC provided data analysis. This should continue and expand.
- Support for investigative journalism needs litigation such as motions to unseal cases.
- International collaboration between journalists. Jason Buch had shared evidence with Mexican journalists that led to critical stories.

**FLOOR QUESTIONS:**

**Question Ian Gary (FACT Coalition):** Where are the gaps in enforcement against predicate crimes in AML regimes?

- Jose Ugaz: In Ferrari case he was tried on predicate crimes in Peru, but ML case was tried in the US.
- David Luna: Important that authorities look at how an agency can leverage evidence not used in investigation of specific crimes? If other crimes surface, they often aren't shared with other specialists. Need more prosecution of other crimes.

**Question: Jonathon (HMRC in the UK):** Cigarette smuggling issue. In the US, same infrastructure for drugs trade is used for outward flows to export illicit products. What are US authorities doing?

- David Luna: Chinese CCP tobacco company controls huge market share. Leverage illicit trade hubs. More research on complicity of corrupt actors needed. Jurisdictions could do more and disrupt these networks.

**Question: Sophia (GIZ German development):** Some companies and banks are targeted with just fines. Are there more enforcement tools for accountability available?

- Jason Burch: One former DOJ official talked about how indicting bankers would deal with the problem. Questions about people in banks being culpable. That's something the DOJ has a hard time doing. DOJ need to look at non-traditional indictment targets. But they can be political donors. There is resistance to prosecuting people who aren't central to schemes.
- Jose Ugaz: Not an issue of lack of law or infrastructure but of political and institutional will to enforce the laws. Lava Jato case saw this change. In Peru, the last 6 presidents went to prison. A matter of dismantling impunity. Criminal system not enough to provide institutional will to make this work for everyone. Yanokovich is hidden by Putin in Russia, for example.
- Zoe Reiter: Big money and dirty money benefit from the same mechanisms. PIFs are an example.
- Civil society and investigative journalists can do more together at regional level to draw out clear linkages and do advocacy around connections. Too much focus on national security risks can lose the bigger picture. We need to think through ways that international corruption flows and global capital flows go hand in hand.

David Luna – Opportunity to involve the private sector. Works effectively in the US against counterfeiting with the Intellectual Property Rights Center, for example.



## **Rapporteur's name and date submitted**

**Michael Hornsby, 21.12.2022**