



# Virtual Event | Obiang's Kleptocracy in Equatorial Guinea

## TRANSCRIPT

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- Casey Michel, *Kleptocracy Initiative Adjunct Fellow, Hudson Institute and author of American Kleptocracy (forthcoming 2021)*
- Nate Sibley, *Research Fellow, Kleptocracy Initiative, Hudson Institute*

Disclaimer: This transcript is based off of a recorded video conference and breaks in the stream may have resulted in mistranscriptions in the text.

A video of the event is available: <https://www.hudson.org/events/2015-virtual-event-obiang-s-kleptocracy-in-equatorial-guinea-92021>

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Hudson seeks to guide public policy makers and global leaders in government and business through a vigorous program of publications, conferences, policy briefings, and recommendations.

**Nate Sibley:**

Okay. Well, hello and welcome to Hudson Institute for today's discussion on the West African nation of Equatorial Guinea and the transnational corruption of its ruling Obiang family. I'm Nate Sibley. I'm a research fellow here at Hudson's Kleptocracy Initiative. I'll be moderating the discussion today.

Equatorial Guinea is a country rich in natural resources, including being one of Africa's biggest oil producers, yet most of the population scrapes by on just a few dollars per day, in poverty and without access to basic services like health care and education. That's primarily, at least in my view, due to the mismanagement and corruption of the authoritarian ruler, Teodoro Obiang who has occupied the presidency since, I think, 1979.

Today though, we are going to be mostly talking about his son and heir apparent, Teodorin Obiang, who, in his official position given to him by his father, of course, is Equatorial Guinea's vice president. Teodorin earns around \$100,000 annually, yet US authorities have estimated his net worth in the hundreds of millions, \$300 million I think it was, almost none of which is held or spent in Equatorial Guinea itself.

Indeed, Teodorin Obiang is widely considered to be one of the most egregious and indeed extravagant examples of a globe-trotting kleptocrat in the world today. We're going to be discussing the effects of Obiang's corruption on Equatorial Guinea, the money laundering loopholes in a global economy that make it possible and international efforts to go after his stolen wealth and try and provide some measure of justice for the people of Equatorial Guinea, including some recent developments from just the past couple of weeks in this case.

I'm joined and I'm very delighted to extend a warm welcome to four expert colleagues to help me work through these issues today. First up, we're going to be hearing from Tutu Alicante. He is a human rights lawyer and the founder and chief executive of EG Justice, which is the only organization dedicated to promoting human rights, democracy and rule of law in Equatorial Guinea.

Then, we're going to hear from Sara Brimbeuf. She is advocacy manager at Transparency International, France, which, along with other French NGOs, pioneered civil society efforts to pursue Obiang's wealth through the French civil courts. Then, we're going to hear from my Hudson colleague, Casey Michel. He's an adjunct fellow also at the Kleptocracy Initiative. He is also the author of the forthcoming book, *American Kleptocracy* published by Macmillan in November. And he'll thump me if I don't remind you to preorder it. That book examines Obiang's antics in the US as one of its major themes.

Last but not least, we're really honored and delighted to have a representative from the US Department of Justice joining us today to discuss America's case against Teodorin Obiang. A very warm welcome to Adam Schwartz who is the deputy chief of the international unit in the Money Laundering and Asset Recovery Section of the Criminal Division, as I said, of the US Department of Justice.

We're going to kick off with a round of opening remarks where our experts give us an insight into their involvement, their experience or their observations relating to the case, then we'll just move into the discussion and have some questions. As I mentioned just before we started, Tutu, would you mind giving us an introductory, overview, who is Obiang, what has the effect of his corruption been in Equatorial Guinea? There we go.

**Tutu Alicante:**

Thank you very much, Nate. I should also thank the Hudson Institute for this awesome opportunity. Every time I get a chance to talk about Equatorial Guinea, my favorite subject, I'm delighted so thank you very much. I also want to say hello and thank the esteemed colleagues that we have here, all of whom have vast experience working on Equatorial Guinea, particularly on the issues that are of concern

to the people of Equatorial Guinea, issues of corruption, issues of human rights, the rule of law, et cetera. So thank you very much.

Thank you for the audience. I think Equatorial Guinea suffers, among other things, from the isolation, not being known. So, I'm glad you're able to tune in and learn a thing or two about the Equatorial Guinea. I tend to tell people that, when you're talking about Equatorial Guinea, you have to change your frame of reference. And that's because, you're talking about a country that in many ways does not fit where it sits in Africa. We are the only Spanish speaking country in a sea of English speaking and in a sea of French speaking countries.

But we're also the country with the highest GDP per capita in a section of Africa that is particularly very poor. It's a country with the longest serving, stronger ruling, rather I should say, head of state in the world, something that does not fit. So it's good to start with that type of frame. Obiang took power in 1979. Think about 1979, for those of you that are Americans, that's when President Carter was president.

For all those years, for four decades basically, we've been subjected, in Equatorial Guinea, to one of the most authoritative, one of the most repressive regimes in the world. If you look at the statistics by Freedom House, you'll see that Equatorial Guinea is ranked as not free right there with countries like North Korea, Turkmenistan, and a few others. If you look at Transparency International records in terms of corruption, you also see that Equatorial Guinea is ranked among the most corrupt in the world.

And that's because you have a situation where one person, President Obiang and his family, absolutely control all branches of the government, that's the judiciary, that's the legislative branches and certainly the executive branch. Absolutely control to the fact that, Obiang is the president, one of his sons, who we'll be talking about today, is the vice president, another son, Gabrielle, is the Minister of Mines, his niece is in charge of finance and so on and so forth.

So you're talking about perhaps one of the best examples of a completely captured state, that is Equatorial Guinea, where systematic corruption, graft, embezzlement, nepotism, cronyism, all these different facts converge in such a way that, again, to think about Equatorial Guinea, you have to think about something that most of us are not used to seeing. Why is that corruption possible? Well, Equatorial Guinea is the third largest oil producing nation in Sub-Saharan Africa, that is, after Nigeria and Angola in Sub-Saharan Africa.

That, for a country of about a million people, has generated GDP that is, GDP per capita-wise is on par with countries like the UK or countries like Italy, et cetera. But again, because of the graft, the embezzlement, the corruption that I talked about, we do have, in Equatorial Guinea, the widest gap between that income per capita, that GDP per capita and Human Development Index. That is how this corruption is possible, that's how this imbalance is possible.

But clearly, oil is not being produced by Equatorial Guinea companies, you have American companies, Exxon Mobil, Marathon, Hess, Chevron, et cetera, operating in Equatorial Guinea. They've been there since the beginning, mid-1990s. I tend to think that, it is this confluence of Western enterprises accustomed to operating in rule of law countries, but it got to a Equatorial Guinea where the political system was fragile, the legal system was non existent and advantage was taken on certain situations and have created the perfect kleptocracy in Equatorial Guinea.

A perfect kleptocracy is also possible thanks to bankers, thanks to lawyers, thanks to accountants in places like the United States because, in United States or France, they will be discussing and other places because you realize that all the millions and millions and hundreds of millions of dollars that have disappeared from Equatorial Guinea have not been invested in Cameroon, Gabon, or Congo Brazzaville, has in fact been used to purchase mansions, cars, private jets and luxury lifestyles in places like Paris, Geneva, Las Vegas and these places.

That money does not enter those countries without often the tacit, the explicit help of lawyers, accountants in those countries. So I will stop there for now. Certainly, I'm here to ask any other additional questions in terms of the background, but hopefully we can focus on the specific cases in many of these places that I've mentioned, Paris, France. We know, for instance, that the UK recently sanctioned Teodorin. That's something that we can look at, why has that happened in a place where Teodorin has not invested as much money as, say, the US or France or Switzerland? But happy to be here again.

**Nate Sibley:**

Tutu, thank you. That was a wonderful overview, well, of the nature of government in Equatorial Guinea and the role that corruption has played in stripping it off its natural wealth and plunging its people into poverty. But Obiang has not been unmolested in his efforts to launder the proceeds of his corruption around world. One of the most interesting ways in which he has been pursued is by civil society. That effort began in France.

Sara, we're delighted to have you here representing TI France today. I wonder if you could tell us a bit about, forgive my pronunciation, as you can hear, I'm English, we don't always pronounce French very well, but the biens mal acquis case? What was that and why was it so important?

**Sara Brimbeuf:**

Well, thank you very much, Nate. I'm really happy to be here today to discuss the biens mal acquis case. The pronunciation was quite okay, literally meaning, ill-gotten good cases. It all started 15 years ago when several French society organizations filed criminal complaints against foreign leaders and their families suspected of having laundered public funds in France.

One of these leaders was Teodorin Obiang. The aim, with those criminal complaints, was to show, to illustrate the cost of corruption to give an image, to embody money laundering in Western countries. It started 15 years ago and it has ended quite recently, about a couple of weeks ago, in July 2021, with a decision from the Supreme Court upholding Teodorin Obiang's conviction and confirming the confiscation of all of his assets in France, amounting to approximately, sorry, \$175 million.

The French biens mal acquis case is really interesting in many aspects, but I'd like to develop three lessons we can learn from this case. The first lesson is, as you were mentioning, this is the role civil society organizations can play in the fight against corruption. This case in France was triggered by CSOs. The first five criminal complaints were in 2007 and those criminal complaints were all dismissed because the French public prosecutor's office at the time ruled that the offenses were not sufficiently proven.

The advocate really filed to add legal standing recognized and to gather more evidences and, eventually, they succeeded. In 2010, the CSOs, including TI France, were about to act to stand in this case and to trigger the investigations. That really changed the way France is now dealing with corruption because, from no action before 2007 against foreign leaders, French allies, et cetera, now we have, 15 years later, about 20 ongoing cases against foreign leaders from Africa, but not only, from Central Asia, from Asia and from Europe as well.

So this is a drastic change in the fight against corruption in France. The other lesson is that, it is possible to fight kleptocracy and corruption even when the country of origin does not help. In the Obiang case, in France, there were no cooperation from Equatorial Guinea authorities. But despite this absence of cooperation, French justice was able to identify, to seize and confiscate Obiang's assets.

They could do so because they used a really interesting tool we have in the French criminal code, which is the presumption of money laundering. With presumption of money laundering, French Justice can just reverse the burden of proof and require the perpetrators to prove the licit origin of his funds and goods.

In cases such as the Obiang case in France where international cooperation faces a dead end, these kind of tools can really have a decision impact.

The last lesson I'd like to share is that, holding trials and public hearings is really a symbol of justice in these corruption cases. During those 15 years of proceedings, French Justice has been highly criticized by the Obiang's defense. It was called a racist justice or a neocolonial one. In this context, choosing to have a trial was really the best response to those criticisms.

Obiang's conviction followed a fair and equitable trial. We exhausted all the evidence available in the French and came to the supreme court after 15 years. Public hearings gave the opportunity for French CSOs and other parties to the process to witness, to give testimonies about the impact of corruption in Equatorial Guinea. Tutu was one of these witnesses. At the end of the day, it was quite a long process, but it really strengthened the legitimacy of Obiang's conviction and it contributed to depoliticize the whole process.

I'd like to end on the last note which is that, parallelly to the judicial proceedings, civil society organizations in France has conducted an active advocacy towards the adoption of a responsible repatriation law. Such a law was adopted a couple of weeks ago, in August 2021. It enshrines different principles of transparency and accountability.

It now opens a new chapter in the Obiang case in France, the restitution chapter. On this matter, we are really closely looking at what is going on in the US to really take example and maybe find a good option to return Obiang's confiscated assets to the people of Equatorial Guinea. Thanks.

**Nate Sibley:**

Well, thank you, Sara. I think it's so important to hear about, we don't get many success stories in the fight against corruption. I don't want to portray this as a complete success story, Obiang is still at large in the world still laundering money, but what you and your colleagues did in France is just an amazing example of innovation and carving out a role for civil society and something that most people would assume is just a criminal justice matters, but which sometimes the arm of criminal justice cannot reach across borders.

So, really innovative approach. Thank you for explaining that. Of course, France was not the only country that Obiang moved his ill-gotten gains to. In quotes, but he managed to spend a lot of that money in the US in quite a spectacular style at times, in ways that can seem comical to us sitting comfortably in the West, but probably not very funny if you're in Equatorial Guinea and watching him spend all the money that he stole from you.

Casey, we mentioned your forthcoming book, I hope I'm not giving anything away in your publishing, but Obiang's adventures in the US, his antics, are a major theme. I wonder if you could talk about that and some of the loopholes that not only facilitate or incentivize this kind of money laundering from the proceeds of corruption out of the developing world.

**Casey Michel:**

Absolutely. Thanks, Nate. Obviously, thanks to everyone else for being with us today. Thanks to the Hudson Institute for this fantastic conversation on certainly an overlooked figure and overlooked phenomenon within the broader world of kleptocracy. When we discuss kleptocracy, when we talk about the rise of this kind of governance structure, not only for Equatorial Guinea, but around the world, and the roles and relationships that Western jurisdictions or Western polities have with these regimes, with the kleptocrats themselves, it's very much a symbiotic relationship.

That is to say, it requires multiple jurisdictions to oversee and to accelerate these illicit financial flows, these transnational financial flows of ill-gotten gains, of dirty money, of funds and finances linked to regimes like the Obiang's in Equatorial Guinea and then to find and access the industries and the jurisdictions that allow for the hiding, the laundering, the cycling and eventually the using and enjoyment of these funds. That's what kleptocracy really is, it's the multi-jurisdictional, transnational flow and then eventual laundering of illicit financial funds.

But there's a reason we're talking about Obiang, there's a reason we're talking about Equatorial Guinea today. There's a reason that an American federal investigator who tracked down Obiang and his assets described Obiang, unlike all the other kleptocrats that have raised to the US for years upon years upon years, as, as he said, the poster child of kleptocracy. That's obviously one of the things we're talking about today.

I know I have a few minutes to discuss everything that Obiang was doing in the US, but it's difficult to get everything in, in those few minutes. I've tried to make a list of all the industries that he accessed, of all the, as we say, American enablers that he brought into his org, that is to say, who were enabling the movement of, the hiding of, the laundering of and then eventually the enjoyment of all of this money that he has continued stealing year upon year upon year from the people of Equatorial Guinea.

Here's just a quick list of some of the industries, some of the figures and some of the folks on the US side. That is to say, the American nationals that helped make this cycle of hundreds and hundreds and hundreds of millions of dollars of illicit or ill-gotten funds available to Teodorin. We have American lawyers and American law firms, we have American escrow agents, we have American bankers and so-called private bankers, we have American Shell company operators, we have American luxury goods dealers.

Those are the ones selling the luxury boats, the luxury yachts, luxury watches, things like luxury cars. At one point, Teodorin was considered, not only the biggest luxury car customer in California alone, but across the entire US, which gives you a sense of the kind of fleet, the amount of luxury cars he was buying for himself. I've already lost track of the number that I'm at.

We have luxury, real estate more broadly. Teodorin purchased, in the mid-2000s, a \$30 million mansion, a beautiful palatial estate in Malibu, California, which was at the time one of the most prominent real estate purchases in, not only California, but across the country writ large. And then, we have American arts and auction houses as well. I think if folks are coming into this discussion with some exposure to Teodorin, some exposure to the Obiang's family, they maybe familiar with the fact that Teodorin is now the world's biggest collector of Michael Jackson Memorabilia.

I'm a Michael Jackson fan, I like him as much as anybody, but he's got Michael Jackson's crystal studded gloves, he has all these gold plated records, he had all of these life-sized statues that the Americans fortunately were able to seize from him. On and on and on it goes. I don't know, Tutu, if we're ever going to meet up in Malabo to be able to see the crystal-studded glove in person. But who knows, hopefully, someday.

Anyways, all which just to say, you have this entire range, this entire potpourri of options for Teodorin, for his family, for his friends, for other kleptocrats to freely, legally and easily access here in the US, to move, hide, launder and then enjoy their funds. Maybe we can go to some of these specific loopholes that he exploited maybe a little bit later on. But all of these industries that I just listed, all of these figures that I just listed, did this perfectly legally, at least so far as they are able to handle, move, hide and use any kind of funds that they would like perfectly freely.

They don't have to concern themselves with the source of those funds, they don't have to concern themselves whether or not they're working with one of the most despotic regimes on the planet, just so happens that Teodorin had a number of American lawyers effectively in his pocket that were helping

him navigate some of these systems he wasn't familiar with. Otherwise, we know all of this, because there were significant Senate investigations into these systems.

We know all of this because of the wonderful work that the DOJ has done. I wanted to highlight the range of those, but I also want to highlight, before we go into further discussion, the fact that, even though in 2014, we had a significant settlement between the US and the Obiang family, then obviously we saw the finality of that settlement just a few weeks ago or earlier this month. Even though Teodorin has been subject to high profile investigation after high profile investigation, I just want to highlight the fact that he has not stopped, not just transnationally, not just in Equatorial Guinea, he has not stopped in the US.

He's now the Vice President of Equatorial Guinea, he has diplomatic immunity. In 2018, he was right back in the US, in New York, in Hawaii, in Las Vegas partying to his heart's content and then flying a number of American celebrities back to Equatorial Guinea to put on this incredibly lavish private birthday party for him. It was like nothing had changed. Even though he didn't have access to the mansion, even though he had lost some of his Michael Jackson memorabilia, he has still continued.

So many of these loopholes and so many of these industries and these American enablers are still available to Obiang, to his family, to others like him, which is why I'm so happy we're discussing him, his father, that regime what he's done today.

**Nate Sibley:**

Well, thank you, Casey, for that, as you said, very truncated whirlwind, but the great overview of all the sorts of things he's been up to in the US. Of course, it's horrible to hear the extent to which Americans were helping to launder his money and help him party away the proceeds of corruption, of money that belong to Equatorial Guinea.

But partying in the US and using the US dollar also makes them vulnerable to US law enforcement, which if you've followed Kleptocracy Initiative's events and publications, you know kleptocrats around the world, the moment they get really scared is the moment that the Department of Justice or the FBI come knocking. So that's why we're very pleased to have Adam with us today to tell us a bit about America's case against Obiang, including some recent developments in the past couple of weeks, which have been so hinted at and we'd love to hear a bit more about. Adam, over to you.

**Adam Schwarz:**

Well, thank you, Nate. Thank you to the Hudson Institute for bringing us all together. Most importantly though, I do want to recognize the efforts of each of the panelists in the fight against global corruption. The fight against kleptocracy is truly a worldwide effort. It includes, not only the work that I do as a prosecutor and the help of law enforcement that I receive, but there's also regulators, foreign service officers and governments around the world.

As Sara mentioned, there's all the work that the NGOs do and all the work that people like Tutu do. Sitting in the United States and in other countries, we don't necessarily know what's going on in the ground or on the ground level, both from a political standpoint and from a social situation so the work that you do is vitally important in the fight against corruption. As Sara mentioned, it truly is highlighted here in the case against Teodorin Obiang with EG.

Our case, Casey did mention that there was a Senate investigation looking into some banking regulations involving the Obiang family, but our investigation and what ultimately led to our civil forfeiture complaints started out of the cases that civil society groups led by Transparency International France filed in 2008. Those efforts highlighted for us that they were continuing violations and continuing activity going on by specifically Teodorin Obiang.

That led to DOJ starting its investigation that ultimately led to the filing of our first civil forfeiture complaint against Teodorin Obiang. I should actually properly say against property owned by Teodorin Obiang in the United States. Casey highlighted the main piece of property. That initial complaint was a number of Michael Jackson memorabilia, there was a Ferrari that was located in the United States at the time and, most importantly, a Malibu mansion that he had purchased for \$30 million.

We looked, as you can see, if you go back to the filings that were made long ago in 2011, we were saying that this property was proceeds of corruption, specifically embezzlement, extortion, theft and misappropriation of funds that rightfully belonged to the people of Equatorial Guinea. We said that he was able to purchase this property and that these transactions were money laundering violations.

We moved for civil forfeiture, and I apologize, I don't remember who highlighted this, but because a lot of the evidence is located in a foreign country and the civil society organizations are not receiving cooperation from the government, sometimes we're limited in the evidence that we can obtain or, if the individual is not located in the United States, we cannot get jurisdiction to criminally prosecute these individuals. So we moved forward in this case with a civil forfeiture complaint.

After we filed the complaint, we found additional property located in the United States, specifically the Gulfstream jet that Obiang had purchased with what we contend were illicit proceeds. We moved forward with our case. As Casey mentioned, these individuals have lawyers, accountants and other people who help them launder the funds. But once DOJ or another law enforcement organization comes knocking, they have lawyers who are able to represent their interests and are able to defend them against the allegations that we make.

In this case, Obiang had very competent attorneys who fought extremely hard to try and get the charges against him dismissed in our case and tried to retain the property. Fortunately, we were able to beat back many of those challenges and, importantly, the courts decided that these cases should go on. I think the specter of having to answer formal discovery in the United States, provide information to the United States about the origin of funds, sit potentially for a deposition in the United States, these are all things that encouraged Obiang ultimately to settle the case.

As you mentioned, we were able to resolve the case in 2014. We reached a relatively unique structure, which I'll get into later. But for various reasons, from 2014 to 2021, we were involved in negotiations with Obiang as well as the government of EG to try and figure out a way to use these funds to return them for the benefit of the people of EG rather than for the benefit of Teodorin Obiang.

As you all mentioned, we ultimately announced, just last week, that we had reached an agreement with the United Nations and with a group called Medical Care Development International to provide COVID-19 vaccinations as well as other medical supplies to the people of EG. They will be returning approximately \$26 million in funds to purchase vaccinations and medical supplies for the benefit of the people of EG and we're thrilled.

I think, ultimately, as Sara mentioned, there's a lot larger amount of money and issue in France, but we think this first effort at repatriating funds for the benefit of the people of EG will be a huge benefit and, hopefully, will be a roadmap on how funds that are forfeited can ultimately be returned to the country and put to good use.

**Nate Sibley:**

That's fantastic. Thank you so much, Adam. I'm hoping for this to become a discussion where we ask each other questions or bring up any issues we thought may not have been covered in the opening remarks, but I'm going to use my moderator privilege to start with a question. I'm going to go back to you, Tutu, if that's all right. We've heard just from Adam and from Sara about how the US and French law enforcement civil society went after this stolen wealth, but also, we've also heard from you and



from Casey about the role of Western enablers, as we call them, the lawyers, the bankers and so on who launder the money.

I wanted to ask you, ordinary people in Equatorial Guinea, how do they view this case? Are they aware of the extent of their ruler's corruption or, because it's always been this way since 1979, as you said, that they're inured to it now? Also, were they aware of the transnational element? Do they have concerns about the fact that so much of their money, are they aware that it's being spent in France, in the US and elsewhere and what do they feel about that?

**Tutu Alicante:**

Thank you for that question. Thank you, Adam, for talking about the important work that DOJ has done as far as, first of all, unveiling the nature of corruption, the DOJ, I'll say, prior to that the Senate investigators, and going after those assets. Earlier, I talked about Equatorial Guinea as a very peculiar country. One of the pernicious effects of that kleptocracy and that repressive regime on the country is the absolute lack of information that pervades in Equatorial Guinea.

Equatorial Guinea has one national TV/radio station which is basically a propaganda machine for the regime and has one private TV/radio station which belongs to Teodorin, which is a propaganda machinery for to Teodorin, and that's it. So information that goes into the country is filtered through these two channels. So, the average person in Equatorial Guinea knows from day one that Teodorin has been abusing the system.

And this is because, Teodorin was made Minister of Agriculture when he was 19 years old and that corruption started then. That showing off his lavish lifestyle started then. So we know that. What people do not know is how bad that is outside Equatorial Guinea. What they don't know is the viciousness of people like Teodorin. I sometimes think that people here in the US, people outside Equatorial Guinea do not understand how merciless someone like Teodorin is.

We're talking about an individual that, even after this case has started in the US, managed to escape with some of the statutes money. The private jet, he managed to escape with it, et cetera. An individual that, in the case in Switzerland, managed to repurchase most of the cars. An individual that, in the midst of being sanctioned by the UK, is currently, today as we're speaking vacationing, right next door in Sardinia, in Italy.

So, this is the type of individual we're talking about, I don't know, unrepentant. Perhaps, that doesn't even do justice to these people. These are people that absolutely do not care. It is painful to most Equatorial Guineans to then say that what should be the obligation of the Government of Equatorial Guinea of providing COVID relief becomes the place to put assets seized elsewhere, particularly, when just two weeks ago, you have the IMF giving Equatorial Guinea again for COVID \$67 million.

Many of us working in anti-corruption would want to say funds being restituted to Equatorial Guinea being pulled in places where civil society, where people fighting inside the country can combat kleptocracy, can combat corruption. I think that is where we need to put our money. That's that's my opinion and that's the opinion of many Equatorial Guineans.

Again, it is very important that we fight COVID, but we cannot allow Teodorin to be in Sardinia with yacht Ebony, which was, by the way, confiscated by the Swiss and then given back to him. We cannot allow him or, personally, as an Equatorial Guinean, I do not understand, how do we allow Teodorin to be vacationing in Sardinia with a yacht that is worth \$100 million? Ice, the other yacht worth \$150 million, is in Genoa docked over there and we are giving this money to solve problems that the government should be solving.

Many people do not understand, why is the IMF legitimizing what is happening in Equatorial Guinea? Why are these monies being restituted being put in places where the Government of Equatorial Guinea should step up and do what governments have to do?

**Nate Sibley:**

Fantastic. Thanks. Casey, did you want to say something?

**Casey Michel:**

Yeah. I just wanted to jump in on Tutu's comment. I think, Tutu, you used the term unrepentant which I think is such a fantastic term to describe everything we've seen from Teodorin over the last decade, 15, 20 years, ever since the first investigations began into the sources of his wealth, began into how he was using and abusing this wealth, his ill-gotten gains in the Western.

To go back to one of my earlier comments, one of the reasons that we see this clear unrepentance is that, again, I don't want to take anything away from everything, all the incredible successes that DOJ has had on this front and other investigators have had on this front, one of the reasons is, to get back to my earlier comment, regarding the specific role of American enablers, the specific role of Western enablers, Western industries. Just to highlight again, one role within that, that of American lawyers working on behalf of Teodorin, working on behalf of his illicit financial network.

You think of American lawyers as well as Canadian lawyers, they have far freer rein to work with kleptocratic figures, oligarchic figures than even those lawyers working in the European Union, even those attorneys and barristers working in the United Kingdom who do have some regulatory oversight stemming largely from the Financial Action Task Force. These are details we don't need to go into, but all which is to say, American lawyers and Canadian lawyers as well are far freer to work with any individuals from any sources of income that they want, any kleptocratic sources of income that they want.

We don't have to get into discussion about by or how everybody deserves proper legal representation, what I really wanted to highlight, just to get back Tutu's comment about the unrepentance, is that these certainly American lawyers are effectively one-stop shops for kleptocrats around the world to be able to access American Shell companies, American trusts, American foundations, American luxury goods dealers, American real estate, et cetera, et cetera. Not just that they're defending them in court or defending them post any kind of legal action, but even anti-that, even before that.

They are the ones allowing access to law firm, bank accounts, access to the legal services and attorney client privilege when it comes to setting up the Shell companies to purchase the real estate, when it comes to setting up the accounts to purchase the private jet, when it comes to setting up the accounts to move and hide and launder that money. Sorry, I've gone on for long enough. But because that, among a broad array of loopholes, still exists, in fact, there's no real reason for Teodorin to be repentant.

None of the lawyers that he worked with have been disbarred, none of them have been penalized, none of them have been punished in any way, shape or form and we know exactly what they were doing. We have access to their emails, they're publicly available, most certainly in my book, but also the Senate investigations into their work on behalf of Teodorin. I'm not surprised, I suppose, that he isn't nearly as repentant as he should be because these loopholes still exist, because all of these services still exist.

**Adam Schwarz:**

Now, if I could jump in here.

**Casey Michel:**

Yeah, sure.

**Adam Schwarz:**

I don't want to go into the whole structure of people who are assisting in moving money, but I do want to highlight though that I think this case really shows that the efforts that groups like FATF and other regulatory changes that the United States specifically have been making are successful. In this case, as some of the pleadings in the court case show, earlier in the year, we actually had to move to enforce the settlement agreement because, while we had put some of the settlement proceeds aside to dedicate to a charitable purpose, there was actually an allegation that Obiang and his lawyers made that the real estate agent who sold the Malibu mansion breached his fiduciary duty in the sale and that there were...

What actually happened was that, he purchased the property on his own and then refurbished the property, flipped it and sold it for a much greater amount. I don't remember what the exact amount was. But Obiang and his lawyers actually settled their dispute with the real estate agent and I think obtained somewhere between \$6 million and \$8 million. And then, Obiang, well, he originally told the court that he would use that money for the benefit of the people of EG and it would remain in his lawyers bank account.

And then, through the process of banks having to report suspicious transactions, we discovered that Obiang had actually transferred that money from his lawyers bank account to lawyers representing the government of EG and that they were trying to get around providing these funds back to the people for the benefit of EG. So we were able to go to the court and say that these funds should be brought back into the purview of the 2014 settlement and we were able to recover those funds and add them to the amount of money that we're returning to the people of EG.

So, while I recognize there still are problems and obviously the system does allow people to move money if people are not doing the reporting that they're supposed to be doing, when that reporting happens, we are able to hopefully combat this movement of money before it gets too far along the way to recover. I just wanted to point that out because I think this is, at least, a partial success story in that sense.

**Nate Sibley:**

Totally agree. Thank you. Sara, go ahead.

**Sara Brimbeuf:**

Thanks. Just, it was on France as well, when Teodorin Obiang was convicted for the first time in France in 2017, the one we were missing were Teodorin Obiang's funds. Although the court mentioned in its decision the role of French banks and even the role of French Treasury in allowing of funds from Equatorial Guinean Treasury going directly to private, Teodorin Obiang's funds to buy or to purchase mansions, cars, et cetera, but now things are starting to change in France at least.

We have other trials going on further investigations regarding other leaders from government from Congo, et cetera. In those cases, enabler lawyers, real estate agents et cetera, banks, are being targeted and prosecuted. They may face criminal sanctions which is also a strong symbol of justice. So maybe targeting kleptocrats was the first step, but now I think, at least in France and in Europe, and as Adam was saying, the second step is, it's still a challenge, but I think enablers will start to face as well to answer their acts and may face sanction as well.

**Nate Sibley:**

That's fantastic. Thank you, Sara. One of the statement I just remembered, because it was a burning question while you were talking earlier about how you were able to use all these interesting or the courts and the lawyers, were able to use all these interesting legal provisions you have in France, for example, the presumption of money laundering which reverses the burden of proof. Something I've come across in the UK, that sounds similar to what we call unexplained wealth orders, which are still in their infancy and being tested.

But my question is, do you think biens mal acquis case, again, forgive the pronunciation, was that a unique set of circumstances that allowed TI and others to pursue that so successfully? Admittedly, it was hard work and it took a long time, was that because of the specific legal provisions you have in France and the particular circumstances of the Obiang himself, his money, where it was deposited or whatever, or do you think that it is a model that you would like to see civil society groups pursue more aggressively around the world in their own countries? Would you like to see and do you think it'd be possible for like US NGOs to start launching civil cases against kleptocrats keeping their money in New York or Miami? Are you aware that other groups have tried to emulate your success? You see what I'm getting at. Is it a model for future civil society efforts or was it a specific unique set of circumstances?

**Sara Brimbeuf:**

I don't think it was a unique circumstances. When we filed criminal complaints in 2007, French anti-corruption decision did not have legal standing in those cases. We visited the law actually. We had released a historic decision in 2010 which recognized our legal standing, our legitimacy to stand those cases. And then, this case was tried in 2013 law. The French law just recognized the anti-corruption legal standing.

Again, prevention of money laundering, this did not exist in 2007. It was created in 2013 building on those practical cases. I think CSOs have may really move legislations in the good direction. They can build the law, they can really point loopholes in legislations. And really, those strategic litigations is part of an advocacy. As we saw it in France, it works. Really, we have a different anti-corruption landscape now in France compared to 15 years ago.

But France is a civil law country. It's really different from the UK or the US so I don't think it can be replicated at the same, but giving CSOs at least a voice in those trials in a way or in another way can really change things in a good direction. Just as other examples about where CSOs trigger or are trying to trigger anti-corruption, we can look at [inaudible 00:46:21]. They are really good examples from Ecuador.

Also, we can look at Spain where I know that CSOs, the investigation is still ongoing, but they've also filed a criminal complaint against Teodorin Obiang. Ideally, we would like to see, not the French model, but at least to see this model at the European level. That could be really, really great, to have something harmonized and at the European scale.

**Nate Sibley:**

That's great. We can talk about next steps. I always like to finish by talking about what we would like to change in our respective countries to make these sorts of things easier. We'll come to that in a minute, but we should talk a bit about the settlement that happened a couple of weeks ago. Adam, I wondered, this is obviously was a long time in the making, could you expand a bit on some of the difficulties you encountered in dealing with the other side and forming up the settlement? Why did you choose this sort of model for the settlement? Do you anticipate particularly any sort of difficulties in its implementation and all the steps that can be taken if it's not implemented properly? I don't know if you'd be able to get

the money back and try again or, but give us a bit more on some of details around this settlement, if you will.

**Adam Schwarz:**

Sure. I think it bears mentioning that this was really one of the first settlements that the United States Department of Justice entered into after we established the Kleptocracy Asset Recovery Initiative. So, in many respects, it was new to us in trying to figure out how to repatriate these funds. We recognized early on the difficulty in, how do you repatriate funds back to a country where the party who you are alleging took the money illegally is still in power?

So we created this structure where we thought that, rather than giving the money back to the government, we would try and find a charitable organization or an NGO that could receive the funds and spend it on behalf of the Government of EG. I also just want to highlight that, the majority of the funds would be treated that way, but then there was an additional \$10.3 million in money that would be forfeited to the United States government that we would then use at our discretion for the benefit of the people of EG.

Really, the biggest difficulty in this case is obviously, we are hamstrung as the United States because we don't control the Government of EG. So to the extent that they have a different idea of what they want to use the funds for than we do, it was very hard to reach an agreement. We actually went through three different proposals with different organizations trying to figure out how to use these funds, and all of them collapsed for various reasons.

So we had ultimately a provision in the settlement agreement where, if the parties could not agree on how to use the funds, we would create a three-person panel. Each party would nominate someone to that panel and then there would be a panel chair either that the parties jointly agreed to or that the court would nominate and those three individuals would meet and decide on how they believe the funds should be used. So we ended up having to go to the panel because the parties couldn't figure out what to do with these funds after six and a half years.

That panel was established in January of 2021. The panel members included the United States ambassador to Equatorial Guinea, EG's ambassador to the United States and then the court actually decided that a former US ambassador to EG would be the chair of the panel. I would really just like to commend the efforts of the panel. They did in essentially six months what the two governments could not do in six and a half years.

They identified a need, obviously COVID is a problem all around the world, it's a problem in EG as well. Once we were able to identify the need, the panel was able to work relatively quickly to identify an organization that could implement a program. We discussed how that would be done, the various challenges that they might deal with in terms of infrastructure in delivering the vaccinations throughout EG. But really, within six and a half months, we were able to come to an agreement on how to use those funds.

There were some difficulties as is detailed in the court pleadings, but thanks to, from my perspective, specifically the US ambassador, Ambassador Stevenson, I think we were able to work expeditiously. And then, also on my side, Jean Patton, who is in our program operations division, was really able to work through a lot of the issues in terms of potential accountability concerns that we had in how these funds would be used.

So, from our standpoint, being able to work with reputable organizations, obviously, like the UN and MCDI, we feel fairly confident that these funds are going to be used for their intended purpose. There are obviously audit provisions in terms of the use of these funds. So if we are seeing, after getting

reports from these organizations, that they're, for whatever reason, unable to provide the services that we expected, when I say we, I mean both the United States and the Government of EG.

Because, in order to operate in EG, there has to be some approval from the EG Government to do so. So they have recognized that these needs exist, they have been incentivized to work with these organizations to provide these services. If either party is not satisfied with how these organizations are operating, the court in the United States still retains jurisdiction over the settlement agreement and we can bring those problems to the court's attention and hopefully come to some sort of resolution.

In terms of clawing back the funds, it remains to be seen how that would work. I think we have to be very cognizant of the fact that we want and expect these funds to be delivered for the benefit of the people of EG. To the extent some of these funds have been delivered for that purpose, I think we, as the United States, would have to think long and hard about how we would try and claw back that money that has already been provided for those valuable services.

**Nate Sibley:**

Fantastic. It's a perennial problem. Asset recovery and repatriation is going to occupy many Kleptocracy Initiative events to come, I think, and hopefully more and more as you catch more and more kleptocrats, Adam, within your team over at DOJ. Casey, I just wanted to kick it over you because, you're my co-host as a Hudson fellow. If you have any questions for our panelists, any sort of observations you wanted to offer, I'm hogging it so far.

**Casey Michel:**

No, of course. Two quick observations and then one quick question. Just building off of what Adam just said regarding the settlement, obviously, the years long efforts and finding some kind of agreeable form of restitution then obviously the work of the panel, there's there's two things that stood out to me just from the news in the last few weeks. One is that, this is, frankly, a remarkably creative way of being able to repatriate those funds.

Obviously, you couldn't have imagined even as recently as two years ago that it would be structured as COVID-related vaccines, but I just wanted to say, talk about taking advantage of some of the broader context within these discussions or surrounding these discussions. I know, Nate, you just mentioned difficulties as it pertains to asset repatriation. We've seen that time and again just in the US, in and of itself, whether it's Malaysia, Uzbekistan, Kazakhstan just a few years ago, trying to find creative forms of being able to repatriate that.

So the fact that the US was able to settle upon the structure of using this to fund COVID vaccines, I think, is remarkable testament to some of the creativity within that. Beyond that, at a greater level, I know I rattled on a little bit earlier about how unrepentant Teodorin is but this is proof, everything that we've seen out of France, in recent years as well, that Teodorin is not a touchable.

He might like to think that he is, he might like to act that way and certainly, when he's back in EG, he might like to surround himself by those who claim he is untouchable as he continues this presumed assent to the presidency moving forward, but he no longer is. I think that is also a testament to the fact that, when the US first created or initiated Kleptocracy Asset Recovery Initiative back in 2010, that was so much of the sentiment behind that, that these figures, these kleptocratic, oligarchic figures were operating with the notion that they themselves were untouchable.

Again, it's all these broader systems and systems of enablers that lead them to think so, that lead them to do that conclusion. But the fact remains, these figures, Teodorin especially who for years and years and years had operated, doing whatever he wanted, however he wanted, wherever he wanted, is no longer untouchable, I think is a testament to the work of American investigators, American prosecutors.

I think, to see that expand obviously elsewhere a year since leads me to my question which, Sara, I know we were talking beforehand, before this conversation of a legacy of the biens mal acquis case, the legacy of the efforts to go after Teodorin in France. I was wondering if you could just expand upon what you think legacy in France as well as maybe more broadly in the European Union or elsewhere, it will be of the biens mal acquis case. The fact that it can work and the fact that somebody like Teodorin can be successfully targeted, what do you think the legacy will be?

**Sara Brimbeuf:**

I think the legacy is, we have changed a lot basically in France from 10, 15 years ago when the first criminal complaints were filed. The hope to have a final conviction and the confiscation of all these assets were really low. It was really an untouchable idea. We came and succeeded, we came to that.

So, I would like the legacy to just expand at the European level. That would be great. I think this is the next challenge because, still, in Germany, in Spain, in Italy, in other EU countries, there are stolen assets, there are proceeds of corruption, launder, et cetera. Another hope could be to have the enablers, I think, to be held liable for their action.

But the legacy is that, since such organizations, we're just really few human and financial resources, we rely on public sources because we find the criminal complaints building on a public report just to written by a small French NGO. One of the writer was just an intern. He was doing a six months internship and he just read all those public sources, he crossed newspapers. 15 years ago, there were really few public sources, but we succeeded.

So it shows that, when it does not work, it's just the lack of political willingness. We can do with few, but we could do really a lot with political willingness and financial resources, et cetera, et cetera. I hope this legacy would be that it is possible but we have to want actually.

**Nate Sibley:**

We're actually coming right to the end of our time now, I'm afraid. I usually do a round of final thoughts from everyone, but as I saw, again, the one I can't pronounce very well, Equatorial Guinea that we've got speaking today, Tutu, I wondered if you could close us out with some final thoughts. Particularly, I wondered if you had a message to, we've heard a lot about the enablers, do you have a message to those in the West who think it's okay to launder the proceeds of corruption and what would your messages as an Equatorial Guinean be to them?

And then, also, what would you like to see? Are there any sort of reforms, big changes you would like to see to help stop the kind of corruption that we've seen in the case of your country being laundered in the West? Thanks.

**Tutu Alicante:**

Thank you, Nate. I think Casey was right when he said that it's impossible to discuss everything that needs to be discussed here today in one hour given the people that we're talking about, but certainly there are a few things. I think, I want to start by perhaps a message to the US Government as a whole. The DOJ has done a great job and I recognize all that, but I think the US Government is still operating.

When you look at Equatorial Guinea, which I have described to you, I hope I described to your audience, as a country that's particularly different because of the confluence of kleptocracy, repressive regime for four decades. So we're talking about particularly a case that freedom as compared to Turkmenistan or North Korea. We're not talking about not even Venezuela or Ecuador.

I think the US still hasn't shifted how it addresses Equatorial Guinea and that is fundamentally a problem here. We're still looking at Equatorial Guinea with a false dichotomy of human rights and energy security. As long as that and neocolonial perception, I think, if that doesn't change, if the US doesn't change or pivots away from oil, human rights so we can actually work on promoting democracy, promoting human rights, promoting rule of law in Equatorial Guinea, they will have fundamental problems.

To come back to the DOJ settlement, for instance, if we think, again, I value only what has been done over here, I value the COVID vaccine, et cetera, but if we think a US ambassador, a former US ambassador and an Equatorial Guinea ambassador can come up with a better idea of what can help Equatorial Guineans, the civil society from those countries, then we're missing a big part of what makes restitution effective in places like Equatorial Guinea.

That is something that has to change from the top in terms of how the US look countries like Equatorial Guinea, countries like Uganda, countries like Rwanda and many other countries that suffer from this type of kleptocracy and repressive regimes that we suffer from. So that has to change, basically. Then, the other issues, I think I recently wrote a piece for the National Endowment for Democracy talking about the importance of us thinking about, how do we approach this with the mentality of strategic litigation?

Litigation that combines the work of lawyers, the works of journalists, the work of local activists in the country, the works of institutes like Hudson Institute, et cetera, to put pressure on these regimes. That is critical. It's true, that type of strategic litigation approach that we go back to the US and countries like the UK and the EU and talk to them about the importance of sanctioning under Magnitsky, under Khashoggi Act and all these different acts to restrain, to make the world a much smaller place for the likes of Teodorin and these guys.

So, using all those sanctions, but multi-jurisdictionally, it's critical for us to achieve what we want to achieve here. And then, the last thing I'll say, I think, considering everything that has to be fixed, one thing that the US, France, Switzerland and others should be doing is thinking about, okay, how do we create a fund that gets all these, that pulls all this money together, talk to civil society from those countries, they are aware of what the problems are and put this money to the best use of the people that does not take away the responsibility of the government to do governance?

Then, when governance does not exist, then we're thinking about it differently by thinking that Teodorin is going to allow certain things to happen in Equatorial Guinea where money is from the settlement or where money from the IMF. So there are certain things that have to change, but a lot of it has to involve DOJ, French Government, Swiss Government, talking to civil society from the country, they understand the country. I'm sorry, I'm taking so much time but I'll stop there.

**Nate Sibley:**

That's all great stuff. Thank you so much. There's so much to think about, so much work to do for everyone working on these issues in their various capacities. On which note, it is time to say goodbye though just for now. I think, as all of you have complained, there's no way we can fit everything about this case, the sprawling kleptocracy into one hour so maybe we'll have to make it a series or something and get you all back.

But, Sara, thank you for all your pioneering efforts in France. Tutu, thank you for all the work that you do and the risks, frankly, that you and your family put yourselves into to highlight the abuses going on in Equatorial Guinea. Thank you, Adam and your team at the DOJ, for keeping kleptocrats up at night being one of the only forces in the world that that does that. We wish you all the best with what was clearly like a challenging long push to get a settlement. We hope that it goes well. We look forward to following the case more closely. But thank you.



Thank you, Casey, my co-host. By way of thanks to Casey, buy his book. Preorder it, it's coming out in November and there's so much more. All this stuff we've barely grazed today about Obiang is in there. So I hope the audience will order that and have a good read. But on that note, it's goodbye from us for now. Thank you all.