

## Assistant Attorney General Lanny A. Breuer Speaks at the 26th National Conference on the Foreign Corrupt Practices Act

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Thank you, Homer, for that kind introduction. This is the third year in a row that I have had the privilege of addressing this conference. It is an honor each time, and I am delighted to be here with you again today.

In at least one respect, this past year has been no different from the two years that preceded it: The Justice Department has been vigorously enforcing the Foreign Corrupt Practices Act and achieving strong results. As we speak, in federal court in Washington, D.C., we are in the middle of our fourth FCPA trial of the year – more than in any prior year in the history of the Act. And just two weeks ago, we secured the longest prison sentence – 15 years – ever imposed in an FCPA case .

In other respects, however, the world has witnessed historic changes in the last year that highlight the importance of our mission to fight corruption at home and abroad, including by enforcing the FCPA. Having addressed you on two prior occasions, I know that you are all well aware of the Justice Department's enforcement record. And during this conference, you will be hearing many expert analyses of our recent enforcement trends. So, what I want to do with you today, rather than tell you about our cases, is to place our FCPA work in context and share with you my perspective on recent efforts to amend the Act.

Last December, in what led to a period that many have referred to as the "Arab Spring," a young Tunisian man named Mohammed Bouazizi had his fruit cart confiscated from him and subsequently set himself on fire. As President Obama said in a speech last May, Bouazizi's "act of desperation tapped into the frustration felt throughout [Tunisia]," leading hundreds and then thousands of protesters to take to the streets and demand the ouster of a dictator who had held power for more than 20 years.

Why did Bouazizi and his countrymen and women feel so desperate? There were undoubtedly many reasons. But one was surely the pervasive corruption they were up against.

Corruption is commonly defined as the "abuse of entrusted power for personal gain." Bouazizi faced corruption at the most personal level. His fruit stand and electronic scale were arbitrarily taken from him by a municipal inspector, who also humiliated him with a slap across the face, and authorities refused to give him back his property. Bouazizi's tale is not unique across North Africa and the Middle East. And, of course, the problem of corruption is not limited to that region of the world.

Corruption corrodes the public trust in countries rich and poor and has particularly negative effects on emerging economies. When a developing country's public officials routinely abuse their power for personal gain, its people suffer. At a concrete level, roads are not built, schools lie in ruin and basic public services go unprovided. At a more abstract, but equally important, level, political institutions lose legitimacy, and people lose hope that they will ever be able to improve their lot.

The fight against corruption is a law enforcement priority of the United States, and it is also a personal priority of mine. There are few more destructive forces in society than the effect of widespread corruption on a people's hopes and dreams, and I believe it is incumbent upon us to work as hard as we can to eradicate corruption across the globe.

Putting aside for a moment our enforcement of the FCPA, as head of the Criminal Division I have set out to combat corruption in three principal ways. First, through criminal prosecution of domestic officials who abuse their power for personal gain. Second, by assisting foreign nations to strengthen their government institutions so that they can more effectively resist the corrosive effects of corruption. And third, by focusing on identifying and repatriating the proceeds of foreign official corruption.

In the United States, thankfully, we do not contend with the same, systemic corruption that Mohammed Bouazizi was facing. Nevertheless, corruption remains a problem here, and we treat it that way. At the Justice Department, we have a dedicated group of criminal prosecutors – in the Public Integrity Section – whose sole task, along with the nation's 94 U.S. Attorneys' Offices, is to prosecute corrupt federal, state and local officials. These are not easy cases. But they are essential to preserving the integrity of our democratic institutions. Moreover, we could not be effective abroad if we did not lead by example here at home.

Indeed, I have not been shy about spreading our message. When I travel abroad – to Romania, for example, where I was last month, or to Ghana and Liberia, where I led a U.S. delegation last spring with Assistant Secretary of State William Brownfield, or to Russia and the Ukraine, where I have also traveled as Assistant Attorney General – I always raise the issue of corruption, often challenging foreign audiences to make the fight against corruption a national priority, just as we have done in the United States.

We cannot eradicate corruption solely by bringing prosecutions in U.S. courtrooms. We need strong partners across the globe who are equally committed to that fight and who have the capacity to carry through on that commitment. For that reason, in partnership with the U.S. Department of State, we have for years placed legal advisors and law enforcement professionals in countries around the world, including throughout North and Sub-Saharan Africa and the Middle East, to work with foreign prosecutors, judges and police to develop and sustain effective criminal justice and law enforcement institutions.

In a shining example of these capacity-building efforts, after years of work by Criminal Division prosecutors, the first-ever jury trial in post-Soviet Georgia is beginning this week. The trial is a historic event for the developing Georgian democracy and a feat about which we can all be proud .

Since I became Assistant Attorney General, we have also devoted countless resources to helping the Mexican government improve its prosecutorial and investigative institutions. Members of my leadership team and I have traveled to Mexico dozens of times in support of these efforts. As just one example, over the past several months prosecutors and others in my Division have worked tirelessly with Mexican officials to help them develop a viable witness security program.

Which leads me to one more point I want to make about our capacity-building work. It is performed by heroes. We may all to some degree underestimate the sacrifice of those who travel without their families to Mexico and Iraq and other hotspots to assist foreign nations develop their criminal justice institutions. But, having met so many of these public servants – as they leave and when they come back – I have developed profound admiration for the work they do and believe we should all be grateful for their service.

Finally, I am firmly convinced that we cannot win our fight against global corruption unless we deprive corrupt foreign officials of the ability to use the United States as a safe haven for their ill-gotten gains. That is the purpose of our now fully operational Kleptocracy Asset Recovery Initiative . With this initiative, which I told you last year we were developing, we are working hard to identify, and recover, the proceeds of foreign official corruption through civil forfeiture.

Last month, we announced our most significant Kleptocracy actions to date: two civil forfeiture complaints filed against \$70 million in assets allegedly belonging to Teodoro Nguema Obiang Mangue, a government minister for Equatorial Guinea and the son of that country's president. According to the complaints, despite an official government salary of less than \$100,000 per year, Minister Obiang corruptly amassed wealth of more than \$100 million. Among the items that we are seeking to forfeit are \$1.8 million worth of Michael Jackson memorabilia, a \$38.5 million Gulfstream G-Vjet, a \$30 million house in Malibu, California and a 2011 Ferrari valued at more than \$530,000.

With our comprehensive approach to fighting corruption – through criminal prosecutions of corrupt officials, foreign institution building, the Kleptocracy Initiative, and, of course, enforcement of the FCPA – it is my great hope that we may give even louder voice to the Mohammed Bouazizis of the world, who want, and deserve, an even playing field.

Indeed, the fight against corruption is an urgent battle – one that, at this historic moment, we must forcefully pursue.

As we have been working – in all the ways I've mentioned – to fight corruption at home and abroad, I am aware that there have been a number of efforts made this year to amend the FCPA, by the Chamber of Commerce and others. We in the Justice Department are always open – and I personally am – to working with Congress on ways to improve our criminal laws. That said, I want to be clear about one thing with respect to these proposals: we have no intention whatsoever of supporting reforms whose aim is to weaken the FCPA and make it a less effective tool for fighting foreign bribery.

Indeed, at this crucial moment in history, watering down the Act – by eliminating successor liability in the FCPA context, for example – would send exactly the wrong message. Particularly since it has become increasingly clear over the past year that the trend across the globe is toward criminalization of foreign bribery. The U.K. Bribery Act took effect in July. Russia recently passed an anti-bribery law; has ratified the U.N. Convention against Corruption; and is expected soon to accede to the OECD Anti-Bribery Convention. China, too, recently passed an anti-bribery law and is an observer at the OECD's Working Group on Bribery.

Of course, passage of foreign bribery laws in China and Russia will not cure the problem of corruption in either country. When I traveled to Russia earlier this year, I made the same point there. A stark reminder that the road ahead is long is that, in a report released last week, China and Russia ranked 27th and 28th, respectively, out of 28 countries on Transparency International's 2011 Bribe Payers Index, which ranks the world's largest economies according to the perceived likelihood that the country's companies will pay bribes abroad. Nevertheless, the steps taken in China, Russia and elsewhere are important ones. The history of the FCPA illustrates why. Its passage in 1977 was a milestone. But it took decades for the Act to become as strong an enforcement tool as it is today. Having come this far, on what I believe is a noble journey, we cannot, and should not, start going backwards. On the contrary, the United States must continue leading the charge against transnational bribery.

As I told you last year, we absolutely take considered suggestions about FCPA enforcement into account. Indeed, over the past year, I've met with a number of industry groups to hear their perspectives. Recently, for example, I participated in a business roundtable discussion at the Department of Commerce, during which industry representatives expressed their views on a wide range of issues related to the FCPA. I was personally taken by the thoughtfulness of the roundtable's participants and have come to appreciate very much the continuing dialogue my team and I have been having with the private sector. In addition, last year, in response to the OECD's Phase 3 Review of our enforcement efforts, we began further developing our "lay person's guide" to the FCPA and consolidating within it much of the information that is already available on the Criminal Division's website. And, in 2012, in what I hope will be a useful and transparent aid, we expect to release detailed new guidance on the Act's criminal and civil enforcement provisions.

As you know, the FCPA was the first effort of any nation to specifically criminalize the act of bribing foreign officials. In 1976, following certain prosecutions for illegal use of corporate funds arising out of the Watergate scandal, the U.S. Securities and Exchange Commission issued a report in which it determined that foreign bribery by U.S. corporations was "serious and sufficiently widespread to be a cause for deep concern." S.E.C. investigations revealed that hundreds of U.S. companies had made corrupt foreign payments involving hundreds of millions of dollars. With this background, the Senate concluded that there was a strong need for anti-bribery legislation in the United States. "Corporate bribery is bad business," the Senate Banking Committee said in its report on the legislation. "In our free market system it is basic that the sale of products should take place on the basis of price, quality and service. Corporate bribery is fundamentally destructive of this basic tenet."

That was true then, and it's absolutely true now. In the United States, we have taken a strong stand against corruption, and the tide has been turning that same way in many countries across the globe – both as measured by the number of nations that have passed anti-bribery statutes in the past decade and by the recent popular uprisings that have been fueled, at least in part, by public outrage over corruption.

This is precisely the wrong moment in history to weaken the FCPA. To the contrary, whether or not certain clarifications to the Act are appropriate, now is the time to ensure that the FCPA remains a strong tool for fighting the ill effects of transnational bribery. There is no argument for becoming more permissive when it comes to corruption. Indeed, for the reasons I have articulated, we may together have no greater mission than to work toward eradicating corruption across the globe. The FCPA is an important mechanism for holding individuals and corporations accountable for fostering corruption abroad, and for motivating others to act responsibly. We must ensure that it stays that way.

As Assistant Attorney General, I have made fighting corruption around the world a top priority for the Criminal Division. At a time when people across the globe are taking to the streets in frustration over the widespread corruption that exerts a stranglehold over their aspirations, the urgency of this fight is plain. We must, and we will, devote ourselves to continuing it.

Thank you.