



The Panama Papers

Educational standards in the USA are pretty low. Unlike Europeans, the great majority of Americans, even university educated ones, are conversant in only one language. The percentages of Americans who can't identify US states on a map are surprisingly high, and that gets much worse when it comes to foreign countries. It has long been the case that the only sure thing that most Americans could say about Panama is that there is a canal here.

Then along came a US-trained military dictator, a certified expert in psychological operations -- messing with people's minds -- and at least for a moment a lot of Americans could come up with General Noriega when the subject of Panama was

broached. The great Hearst chain newspaper pundit Ambrose Bierce, who ended up disappearing in another Latin American land, famously observed that war is how Americans learn about geography.

Time marches on and headlines take up new subjects, even in the dumbed-down US mainstream media, which due to diminished American economic power in the world and corporate profit taking have closed down most of their news offices abroad. So now the more recent headlines that will likely jog the American mind when the concept of Panama arises are about The Panama Papers.

Those, you might recall, are the archives of a Panamanian gone multinational law firm, Mossack Fonseca, which were leaked by a pseudonymous John Doe to a German newspaper, which were so voluminous that an international team of investigative journalists was brought in to make sense of, catalogue, publish and do follow-up investigations on them. Thus, The Panama Papers, a moniker that annoys many in Panama's business and political circles, and legal profession, to no end.

'Why not call them the Mossack Fonseca Papers?' one argument goes, 'as it's just a leak from one law firm that worked in multiple jurisdictions that should not be allowed to sully the name of all of Panama.'

Many of Panama's noteworthy reform advocates are lawyers, and perhaps the deafening silence from them, about what was after all was a monumental breach of attorney-client privilege, is easily understood. One prominent Panamanian who was educated as a lawyer and has fought and won some impressive legal battles, albeit never as an attorney, is entertainer Rubén Blades and he did issue an opinion. In his occasional online column Blades was aghast that the government of Denmark paid the International Consortium of Investigative Journalists (ICIJ) a reportedly large sum of money for a complete copy of their Panama Papers archive. This, Blades argued, was about a national government buying stolen property, the proceeds of a crime against a Panamanian law firm.

The sale of copies of the Mossack Fonseca trove was apparently not limited to Denmark, and the income and perhaps potential liability from that surely flowed with such massive leaks most probably was one of the reasons for the spinoff of ICIJ from its nongovernmental organization parent, the Center for Public Integrity. ICIJ went on to other leaks, in particular a comparable trove from a comparable law firm in Bermuda, the so-called Paradise Papers. So Panama was not so unique, nor Mossack Fonseca.

Meanwhile in Panama, prosecutors got onto the Panama Papers case. Although they made some confusing moves with international reporters tipped off at first, it wasn't about the international rogues gallery who used Mossack Fonseca to assist them in the laundering of the revenues generated by their various criminal enterprises, be they mere tax evasion or more widely reviled rackets. Panama's Public Ministry, headed by

an attorney general (Procuradora General de la República) is chosen by the country's unicameral legislature, the National Assembly. She says all the appropriate things about impartial justice and upholding the law no matter who gets touched. Everyone in her position, even the most obviously sleazy characters, always has. But in the Panamanian political culture attorneys general are in their actions largely beholden to the country's political caste and at the time Mossack Fonseca was integrally woven into the administration of President Juan Carlos Varela. Ramón Fonseca Mora was minister without portfolio in Varela's cabinet when the scandal broke, both the de facto presidential chief of staff and as the vice president of Varela's Panameñista Party the man who ran the day to day affairs of that political formation. There were members of the extended Mossack and Fonseca families sprinkled around in government posts, particularly in consulates where consuls get a percentage from each ship registry under the Panamanian flag that is processed in his or her office and from which an operative for a law firm whose clientele is drawn from the international rich and famous gets into a position to drum up new business.

So the Panama Papers investigation by Panamanian authorities was not very much about the corrupt politicians, tax cheats and underworld figures named or suggested in those documents. It was a whodunit about the identity of "John Doe" and his or her sources.

Wouldn't you just love it were it the musician who teamed up with Exene Cervenka to form the heart of the US West Coast punk rock band X way back when? This reporter's estimate is that the principal source of The Panama Papers leaks is someone who was working at Mossack Fonseca and was annoyed by something like a raise, promotion or partnership expected but not forthcoming, or general office politics rancor. Would more than one person have been involved, perhaps within the law firm or perhaps from without, before those emails were sent to the German newspaper? This reporter would expect so.

In the fall of 2017 there were some cryptic reports buried in the Panamanian media, about a guilty plea in the Public Ministry's Panama Papers investigation, involving someone working at one of Panama City's bank. The person, the bank and the details of the offense were not disclosed. So did they find the former law firm employee? Did they find the hacker? Did they find an accomplice of the person who actually obtained the files? Those things we don't know. We also don't know whether the reports were the product of a misleading press release by an attorney general who is under intense public criticism for her handling of a number of other public corruption scandals that at the time were far more prominent than the Panama Papers in Panamanian public discourse.

So, if there was such impunity and such tight protection of the Panamanian political caste, how is it that Ramón Fonseca and most of the Mossacks and FONSECAS in public posts lost their political jobs? Moreover, how come Ramón Fonseca went to jail for at least for a few months and the law firm ended up having to close?

Consider that Panama is not alone in the world, let alone full master of its own fate. It is a small country, an important regional air hub for the America, an even more important maritime crossroads for much of the world. Elite Panamanian fetishes about that golden city on the hill of cornered markets may have seeped so far into the fabric of isthmian society as to engrain the notion that our geographical position makes us indispensable to the world. A perusal of that part of Panamanian business history between the end of the the Spanish trade fairs and the onset of the California Gold Rush ought to spike such notions. So, too, should a consideration of the competition that's already out there and that which is coming – China's New Silk Road rail link across Eurasia, thawing Arctic shipping routes, an expanded Suez Canal, South American interoceanic railroad proposals and so on are the obvious ones. On top of that revolutions in manufacture by 3D printing and the materials used for that, the rise of renewable energy systems and the foreseeable phase-out of internal combustion engines are all bound to affect shipping and thus Panama's economic niche in the world.

The default position for more than a century was that the foreign power that claimed Panama as its back yard and by and large called the shots was the United States. But economic globalization on corporate terms, notwithstanding all of the claims of its American proponents, has entailed a great displacement and replacement of US power and influence. Along the way there has been so much short-term business thinking injected through the investment banking people into perceptions that find their way as revealed truths into the downsizing US news media – notions about other countries that are shorn of much knowledge of their cultures and histories, notions about leading personalities by and large shaped by those ephemeral individuals and their minders.

(One "emerging markets analyst," an American of Wall Street culture and possessed of an MBA, was starry-eyed and breathless about the political and economic genius circa 2007 of a certain self-promoting Panamanian political operative of that time. Was it all purchased hype, or was the analyst taken by surprise when his all-conquering genius quietly left public life ahead of the humiliating defeat that the party whose administration he served was about to suffer?)

All the rage among the emerging markets fans, a rage that took on a life of its own, was the much-heralded rise of BRICS, the acronym for an alleged bloc of the emerging economies of Brazil, Russia, India, China and South Africa. As in, for the hedge fund people, these were the economies in which to buy pieces of the action. Never mind that some of their leaders may have been gangsters, or fools, or narrow minded opportunists playing domestic hate cards – or most often, people from countries once colonized or oppressed whose notion of doing well for their constituencies did not include becoming economic vassals to a new set of masters.

China is the emerging, or probably better to say arrived, superpower in BRICS.

Bilateral relations may wax and wane, but it would be natural over the long term for India and Russia to be very concerned about China's rise. Brazil and South Africa, like Latin America and Africa in general, are seeing Chinese soft power displace the economic and increasingly even the cultural influences of the formerly dominant Western powers. Inside the Washington Beltway, are there neoconservative "experts" advising eternal warfare against all of Islam, or alliance with the Sunni jihad against Shiite Islam, or a Cold War II against Russia? The Chinese have to be laughing at the prospect of their principal 21st century rival wasting its resources and people on such things.

(Meanwhile, these words are typed on a Lenovo laptop, a Chinese brand that arose with a buyout of part of the once dominant US computer company IBM's assets.)

Chinese soft power was such that a Panama that showed impressive Gross Domestic Product numbers to the world and a skyline of largely unused upscale towers ended up ditching its old friend Taiwan because that gives Panama access to lines of credit it can no longer get on favorable terms from the traditional Western-dominated international financial institutions. The big ticket public works contract, with contracts awarded by rigged procedures and resulting in a 10 percent or more overcharge with corresponding skim kicked back to public officials? Panama has played that game big-time and seems indisposed to have any accountability for it. The gleaming in the daytime sun tower, with hardly any lights on inside when the sun goes down because its units are owned by people of all nations and all crimes and left unused except as bases for fraudulent tax claims that their fortunes came from these fabulous Panama City rents rather than the rackets from which they actually flowed? That's a bigger engine of the Panamanian economy that very many people want to admit.

Public works corruption? Panama is not the exceptional horrible example of this, although as a small country a few of the bigger ones will inflate our economic performance numbers more than comparable schemes will do in countries with larger economies.

Although the crooks of no single country have dibs on Panama, the Brazilian construction conglomerate Odebrecht is the all-time champ across the region. They get big contracts and funnel money to politicians in the United States, too, but the US Justice Department is interested in Odebrecht's activities in Latin America and Africa but not in Florida or other US states.

As these words are written in 2018, the president of Panama, Juan Carlos Varela, is in some political trouble because he took millions of dollars from Odebrecht. He initially denied all, but then after some months faced with three witnesses and a paper trail amended his story to say that the money received was not a bribe but rather a series of campaign contributions. But foreign campaign contributions violate Panamanian election laws and the attempt to disguise the money's Odebrecht provenance by running it through a loyal operative's foundation before it got to the Panameñista

Party's coffers will be popularly understood as money laundering even if attorneys wail about the supposedly unfair imprecision of that.

Odebecht, sometimes in consortia with other companies that have noteworthy US media ownership stakes or influences, does big business in many countries. Most Latin American countries have been caught up in Odebrecht scandals because Brazilian police have followed leads from a corruption scandal that arose from contracts between that company and Petrobras, the state-owned oil company. The US Justice Department stepping in early with a very scaled down indictment and consent decree, but the Odebrecht money laundering trail is long and complex, with strands running through Panama and some also crossing or ending in Spain, Andorra and Switzerland. The Swiss financial crimes investigators have been much more on the ball than the Americans and a lot of the Panama connections to the whole affair were uncovered or developed by authorities in Spain.

And who was the person who first told the tale of the Odebrecht money behind President Varela? It was Ramón Fonseca Mora, the corporate lawyer whose name is on Mossack Fonseca, whose stolen archives are popularly known as "The Panama Papers."

A big part of the now defunct Mossack Fonseca's business was the creation of chains of corporate shell companies across multiple jurisdictions with banking and corporate secrecy laws, by which large amounts of money moved around the world outside the view of governments and particularly their tax collectors.

"Money laundering" in its criminal law sense generally requires a predicate offense. The lawyers who organize the sorts of chains that Mossack Fonseca did – and be sure that not only was that firm not the only one doing such work in Panama, it probably was not even the biggest in that field – would prefer to style it that they are in the business of protecting people's economic privacy.

The big money in that sort of thing surely comes from public corruption, the various organized criminal rackets and large-scale tax evasion. But by population, if not by amount of money, might men who are hiding assets from wives or ex-wives in the course of or in anticipation of divorce proceedings be as large or larger a class of clients as the tax cheats? Could be. But that information is kept secret and the mostly men who write the world's money laundering laws and policies apparently do not want to go there.

The Mossacks, FONSECAS and those at the top of their profession, like the rest of Panama's economic elites and political castes, do not generally share their bounty. If money laundering is a powerful engine of Panama's economic growth, most Panamanians do not share in it. A few families get most of the proceeds, the rest of us mostly just get the inflation. Panama is one of the world's more unequal societies.

If you go online and get into a search engine and look up the Mossacks and the Fonsecas or so many of the other wealthy Panamanian families and the animals with which they associate, it's hard to find references to dogs or cats. Horses are another matter. Part of upscale Panamanian culture is about status symbol animals. The country has some notoriety as a market for expensive allegedly pedigreed dogs with forged papers.

Care giving, the teaching of which to children via the care and feeding of cats and dogs, is a part of the isthmian popular culture as it is elsewhere. But go out into some of the upscale Panama City neighborhoods and you see all these domestic servants walking the dogs and almost never a prominent member of the local oligarchy. The maid is the care giver and kids are raised to have better or at least more interesting things to do.

If dogs are a member of the family to so many people – that approaches the norm in Anglo-American cultures and is found among Panamanians as well – to others on the isthmus the family status of a dog or cat is something like a non-sentient mistress. *De afuera*. Fun to have around, but lacking the rights, privileges and status of membership.

That sort of hierarchy of loyalty and respect flows down to dogs and it also applies to employees. The source of The Panama Papers leak has never been positively identified to the public but by most indications it would have been somebody inside the firm, likely somebody who make a lot of money for Mossack Fonseca and expected more reward. A culture with rigid class divisions and which often celebrates betrayal is prone to that sort of thing.