

## RALPH NADER RADIO HOUR EP 233 TRANSCRIPT

Steve Skrovan: Welcome to the Ralph Nader Radio hour. My name is Steve Skrovan. David Feldman is on vacation. He's in Poland. Poland Maine, where I imagine his hair is getting nice and fluffy from all that Poland spring water. But we do have the man who never takes a vacation, the man of the hour, Ralph Nader. Hello, Ralph.

Ralph Nader: Hi. Hello, everybody.

Steve Skrovan: We have another provocative show for you today, jam-packed with important information. On the program today, we will be joined once again by Israeli activist Miko Peled. Regular listeners may remember we first talked to Mr. Peled about a year and half ago. We talked to him about his autobiography, "The General's Son". In that program, Mr. Peled, argued that a two-state solution is no longer viable because Israel is simply not interested and apparently unwilling under any circumstances to compromise on the issue of the land. Well, he has a new book out now entitled, "Injustice: The Story of the Holy Land Foundation Five", which is a deep dive investigation into the trial of five Palestinian-American families from Texas and California.

Their charity, called The Holy Land Foundation for Relief and Development was accused of aiding Hamas, which is considered by the United States to be a foreign terrorist organization. They were first arrested back in 2004. They were eventually convicted, but the key witness against them was an anonymous Israeli intelligence agent. Contrary to the Constitution, the accused in this case were unable to face or cross-examine their accuser. So we look forward to finding out how all of that was rationalized. Also, we will welcome back old friend, Robert Weissman, the President of Public Citizen. Public Citizen has recently released two scathing reports, one is entitled "Corporate Impunity". Now, while the Trump Administration talks about being tough on crime, which I guess for him means separating immigrant children from their parents, they have a rather light touch, not surprisingly, when it comes to corporate white collar crime.

And the second report released just this week is an in-depth analysis of the judicial decisions and philosophy of Supreme Court nominee, Brett Kavanaugh. Without giving too much away, the report reveals that as a lower-court judge, Kavanaugh has voted for corporate interests and against the public interest, 87% of the time. And along those same lines, we'll check in as always with our Corporate Crime Reporter Russell Mohkiber. And if we have time we'll try to knock out some listener questions, but first, let's talk about what looks to be a miscarriage of criminal justice. Miko Peled, is an Israeli writer and activist living in the United States. He writes a blog dedicated to tearing down the wall between Israelis and Palestinians so that they can live as equal citizens.

Mr. Peled was born and raised in Jerusalem. His grandfather was a signer of the Israeli Declaration of Independence and his father was a general in the 1967 War. His latest work is entitled "Injustice: The Story of the Holy Land Foundation Five". Welcome back to the Ralph Nader Radio Hour, Miko Peled.

Miko Peled: Thank you so much. It's a pleasure to be with you again.

Ralph Nader: Yes indeed, welcome back. This is one of the great miscarriages of justice which has been relegated to the obscure corners of modern American history. And then to bring it down to the human level, I'm just going to quote, Miko Peled, the first paragraph of your book in your introduction. "At present yet precisely 7:00 AM Central Time on July 27th, 2004, the homes of Shukri Abu Baker, Ghassan Elashi, Mufid Abdulqader, Abdulrahman Odeh and Mohammad El-Mezain were raided by local and federal law enforcement. All five men, who would come to be known as the HLF5, were taken into custody four years and two trials later. All five were sent to federal prison, serving sentences ranging from 15 to 65 years." What's this about two trials? I thought you lose the first trial under American criminal law and they can't bring a second based on the Double Jeopardy Clause.

Miko Peled: Yeah, you know, Ralph, the things that were allowed to happen in this trial and that were unconstitutional and unprecedented and unheard of before this trial; the book is full of them and the story is full of these unprecedented and unconstitutional things that took place. It's really quite beyond belief. Not only that, but at the end of the first trial, which ended up with no convictions—it was a hung jury—one of the five, Mufid Abdulqader, was found not guilty on all charges. There were 32 charges, and the judge read "not guilty" 32 times, but when the jury was polled by the prosecution, suddenly one of the jurors stood up and she said, "No, no, no I didn't mean that." And even though the foreman showed that they all signed off on it, and even though the defense team protested, the judge allowed it and called the mistrial on him too. And now he is serving 20 years in federal prison.

It's hard to believe that these things take place. These and other things that took place in this trial, take place in a court of law here in United States, and of course people have no idea.

Ralph Nader: This trial that took place in Texas, got very little national attention by the press that often covers high-profile trials. But in this book, "Injustice", Miko Peled, you really went into the details, not only 20,000 pages of trial record, you went into the details of the life of these immigrants who came from Palestine. Why don't you describe what they came for and what they did and what their families are like?

Miko Peled: Sure. Well, these are all, you know, five men, all of their lives, like most Palestinians, were directly affected, perhaps the most Palestinians of that generation were directly affected by the occupation of their land, by the violence that had taken over their land, by the fact that they had no choice and they were not able to live there anymore. They're refugees. And eventually they all made their way into the United States, remained here, started families, started businesses, had a life, were part of the community--the larger Arab-Palestinian Muslim community--and decided it was time to give. And each one, each particular one in his own particular way contributed to the Holy Land Foundation and used that as means, not only to help to further their own desire to help the people, but also be a vehicle for other Palestinians and other Muslims who wanted to support Palestine that really had no way to do so.

So they put together this relief organization. And it was a clean operation, an honest operation; they were mostly volunteers. I think they worked on like a 91 cents to the dollar went straight to charity, which is really quite remarkable for a relief organization.

Ralph Nader: Charity in Palestine.

Miko Peled: For charity mostly in Palestine, but they also provided relief around the world when there were like, you know, either man-made disasters or issues of refugees or natural disasters (tornadoes, earthquakes, floods) here in the US and overseas. So they were there wherever they were needed. But their focus was definitely Palestine and the Palestinian people. That was the main focus.

Ralph Nader: And wasn't it true that the US government had, before 9/11, cooperated with them in some ways?

Miko Peled: Oh absolutely. They worked for the USAID. They worked with Red Cross. They worked with United Nations. They worked with everybody. Everybody collaborated with them because they had a stellar reputation. They had the highest ratings at every time they were rated as a relief organization. They got the highest rating. Their taxes were always filed on time. I mean every time that they were audited they were found to be completely legit and completely honest, and above board, and they did a remarkable, remarkable job, which is precisely what in the end caused their fall. This is precisely why they had to be brought down, because they were presenting a very positive image of all Palestinians because they were Palestinians--of a Palestinian organization--because that's how they are considered. And they were the largest Muslim charity organization in the US.

And they were presenting the Palestinian people in a light that people were not, you know, that was problematic for a lot of people.

Ralph Nader: And here is what started the process. You remember after 9/11, George Bush said on more than one occasion, there were these Al-Qaeda cells all over the country—sleeper cells—in order to aggregate even more power in the White House to do something allegedly about it. And when the press said, “Well, where are these cells?” Oh of course he pulled the Trump, it was like fake news. But he had to do something. So on December 4th, 2001, the Holy Land Foundation was shut down by President George W. Bush under Executive Order 13224. And as you say in your book, "Federal agents raided the charity's offices and seized all documents, assets and funds of the organization as well as personal property of the employees". Whatever happened to due process?

Miko Peled: There was no due process. There was a sense that now we could do whatever we want and there's a description in Paul O'Neill's biography (the Treasury Secretary). There was the sense of we've got to do stuff and we got to be able to do all the stuff without having to go through due process, because we need to move fast and we don't want to have to worry about due process and legalities-- those rights. And so they created an environment where this could happen and the President wanted something that he could announce. And the way they describe it is, well, let's just round up the usual suspects and the Holy Land Foundation was at the top of the list of the usual suspects, because they are Muslim, they're Palestinian, they were involved in charities, so they're sending money to Palestine. So it was kind of the perfect, they were the picture perfect suspects, if you will. And they closed them down and seized their assets. But what's interesting is their response to this was perfectly calm. They completely understood that United States was panicking. They perfectly understood that the government felt they had to do something and they perfectly understood why they were targeted, but they said, we did everything right. We have all the proof in the world that we did everything right. We're going to sue the government. We're going to utilize the means that this country has provided for us as citizens and everything is going to be fine. So of course they sued the government expecting that everything will be fine. And the judge threw out the case and all of the evidence that they presented the judge threw out as well. So they were in this reality, this new reality, where being a Muslim and being a Palestinian meant that your evidence and your case, even if it's a solid one, is not going to matter, because you're Muslim and Palestinian and that's what comes first. So she threw out the evidence. She threw out the case and they were just left like that with no explanation.

Ralph Nader: By the way, who represented them? What lawyers represented them? And was it mostly pro bono?

Miko Peled: They had a team of lawyers. I mentioned all of them in the book--Nancy Hollander, John Boyd, John Klein, a few others. These are stellar human rights lawyers, veteran human rights lawyers that have been doing this work for a very long time. They were paid a little sum by some of the money that was left and they were paid by a Muslim organization called the Muslim Legal Fund of America (MLFA), and they picked up some of the bill as well.

Ralph Nader: You know, your book, Miko Peled - we're talking with Miko Peled, the Author of the book "Injustice" on the prosecution of the Holy Land Foundation Five" - your book says at the beginning, "The prosecution's theory was that by supporting needy Palestinians, the Holy Land Foundation had 'freed up' Hamas's own assets to fund terrorist attacks and that if Palestinians knew that Holy Land Foundation would provide support for their families if assistance became necessary, they'll be more likely to become suicide bombers". Boy, that's a pretty lengthy sequence here. On that basis, the US aid to the Israeli occupation and all the innocent civilians in the thousands whose lives were lost by Israeli attacks in the West Bank and Gaza—the occupied West Bank and Gaza, an illegal occupation under International Law—would be prosecutable as well.

Is that the reason why in the second trial they brought in secret evidence? It seemed like, in the second trial, there was what the Texans used to call a hanging judge who just was very biased against the Defendant Five. Can you explain that?

Miko Peled: It gets worse. It gets worse. When you listen to some of the testimony by experts, and they had this PhDs of people like Matt Levine from here, from DC, people who sit on think-tanks and advise the president, these are terrorism experts. And what they were saying was, that it's well known that if somebody knows that the family will be taken care of, then they are likely to volunteer to become suicide bombers and terrorists. In other words, anyone of us, if we knew that our kids are going to get \$50 of \$100 a month, stipend, we would volunteer to become terrorists. I mean, that's the reasoning. So not only were they supporting terrorism, they were encouraging terrorism because they had an orphans program and they're providing some funds and some relief, mostly in kind, of very little money, but mostly in kind, but still they're providing relief to orphans.

So the rationale was so absolutely insane that you wonder how people didn't just stand up and laugh. So it means that, you know, if you and I knew that our kids are going to get \$50 a month, we would volunteer to become, you know, terrorists immediately, wouldn't we? That is the rationale. And the truth is they had, these were two intelligence people that came from Israel that testified anonymously. They came in the first trial and they came in the second trial. In the second trial, they didn't have a hanging judge. The second trial allowed--I mean the first trial was no friend of the defense for sure--and I show that in the book quite clearly. The second judge I think knew he had to convict. So he allowed evidence and he allowed testimony that even the first judge did not allow.

And when they went to appeal, the appellant court said, well, you know, there was no reason to accept the appeal because what happened in the second trial was harmless. And so they said, but wait a minute, there are certain aspects in the second trial, certain things that the judge allowed that the first judge did not allow. The first trial ended with no convictions, the second one ended with all convictions. How can you say it was harmless?

Ralph Nader: You know, just to broaden the context, Miko Peled, throughout American history, there have been immigrant charities. For example, Irish-American Charity sent to Ireland in the time of the IRA and the attacks and fight against the British in Northern Ireland. And they were never prosecuted saying that their money sent to poor people in Ireland was going to free up resources for the IRA. And all kinds of immigrant groups to Eastern Europe and elsewhere could have been prosecuted but they were not prosecuted. It sort of illustrates the unique bias and Islamophobia surrounded the case that your book "Injustice" has recounted in such detail. But the idea of anonymous, secret witnesses, in an open trial in Texas, is really irregular to the extreme. And that is of course what probably tipped the balance in terms of the jury. But let's put their names on the table here. What was the name of the prosecutor? What was the name of the judge?

Miko Peled: Well, Jim Jacks was the head prosecutor. The first judge was Joe Fisch. The second judge was Solis, Jorge Solis.

Ralph Nader: Okay, now were their decisions appealed?

Miko Peled: Yes. Well, the second judge, of course they went to appeal, and like I said, they showed that what the second judge allowed was unconstitutional and should never have been allowed, but the appellant court said, it was harmless and therefore it was okay. And when they came back and they showed that it wasn't harmless--that the second judge allowed all this information and all this testimony and actually got all convictions. So it wasn't harmless. But the Appellate Court just did not come back with a reply and that was the end of it. And the Supreme Court wouldn't hear the case. And President Obama was petitioned but he refused to commute the sentences, even though there was a campaign and there were several countries that were happy to accept them as citizens, if he commuted the sentence and deported them. But he refused to do that.

Ralph Nader: Did this case start in federal or state court?

Miko Peled: No, this was a federal case all along.

Ralph Nader: So it went up to the Circuit Court of Appeals and then the Supreme Court denied cert?

Miko Peled: Yeah.

Ralph Nader: And so they're left with prison sentences up to 65 years. Could you describe the five defendants, what their lives are like now? Where they are? What prisons they are? Can they be visited by their family, because I know you visited them all. You went back to Palestine. You met with their relatives and families. This is an extremely meticulous book. Could you describe what's their feeling? What's their attitude? Are they resentful? Are they angry? Tell us about these five people and give us their names.

Miko Peled: So yeah, these are the most, I have to say, these are the most remarkable people I've ever met in my life. And I'm not exaggerating one bit. Shukri Abu Baker is the first one I was in touch with. He was the CEO, and he was one of the two who received 65 years. And he is in Beaumont, in Port Arthur, Texas in a maximum security prison. It's a terribly dangerous prison, incredibly dangerous prison. I visited him several times. We become good friends. He's had some incredibly tough times. His daughter, one of his daughters was very sick, passed away. She was 26 years old. She passed away while he was in prison. He was not allowed to visit her. He was not allowed to see her. It is possible to visit, but the visitation is an enormously complicated process. First of all, it's far from where the family lives. Originally they were closer by to where the family live but then the prosecution demanded that they'd be sent to all this other prisons. And I should say that actually the first couple of years, after 18 months of being near and in Texas, not far from their families, they were sent to CMUs, (Communication Management Units), which are Guantanamo-like prisons--one in Indiana and one in Illinois. And so they were there for a few years. After that, they were released to the regular prison, what they call, general population, and they were spread around the country. So the first time I met Shukri was once he was in the regular prison in Beaumont Port Arthur. And the process of visitation is so humiliating and so heartbreaking that it's really, it's really... people have to see it to believe it.

And the families do go, but there are limitations. There are certain days that you can visit, certain hours that you can visit. As you can imagine, the large family traveling, flying or renting a car, hotels, it's an extremely, extremely, expensive and difficult journey, and quite often they will arrive and they will not be allowed in or the prison will be closed down because of a lockdown, because something happened in the prison. It's a very, very difficult process and it was heartbreaking for me and I'm not a family member. And it was heartbreaking for me. So that's Shukri and he is in Port Arthur. And the second gentleman who received 65 years is Ghassan Elashi. His daughter, Nhur is very active for several years trying to help him.

I was not permitted to visit him for reasons that I never got an explanation. I have no idea why. They are puzzling. I applied many, many times. He has moved to several prisons and every single time I was denied; my application was denied. Mufid Abdulqader, he is the one who was found not guilty at the end of first trial. And then he got 20 years. The only reason he was even involved in any of this, because he is just a volunteer, he really has nothing to do with the running of the organization. The only reason he was roped in was because his brother is Khalid Mashar, and Khalid Mashar used to be the head of the political bureau of Hamas for many, many years. Of course he hadn't seen him in three decades and they live on two different continents. But this was brought up many, many, many times, who his

brother is and how important family connections are in terrorist organizations. This is the point that was made by the prosecution. And I visited him. He is moved around also several times. I visited him in several prisons. Now he is in Seagoville, Texas. Let's see, then, I visited Abdulrahman Odeh a couple of times. He is also in Beaumont Port Arthur. He is in the medium security prison and then Ibrahim El-Mezain who is the elder of the group, I visited him in California. He was near LA, in the prison there for a few years and now he has just been moved again. I'm not sure where he is right now. They move them around all the time.

Ralph Nader: And how are they taking it? Some of them were put in solitary confinement. How are they taking their prison sentences?

Miko Peled: You know, Ralph, these men had gone through every stage of hell that you can imagine. These are fine men who tried to make the most of every situation. They are deeply, deeply religious, deeply, deeply spiritual men. I have never met more free, more determined, healthier, emotionally and spiritually, men in my life. I mean, they're sitting there in the prison wearing this prison uniform. They can't go to the bathroom without permission from a guard. And they sit there; and they're proud; and they believe in what they did; and they believe in the justice of their cause; and they know that they're innocent; and they are true believers. They believe that God has, you know, in Islam there is this belief that God would not burden you with anything unless he had the faith that you can handle it, that you can carry the burden.

So this is the burden that they were carrying. They teach the other inmates. They participate. They lead the prayers. They educate themselves. They read. I mean, these are very, very positive, incredibly positive people. And my biggest question was, how do they not lose their mind and suddenly they take you to solitary confinement with no explanation? Suddenly they take you and they move you to a prison, and you don't know where you're going to go. I described one of the journeys they had on a prison bus, for days on end they had no idea where they were going. And they're shackled, and they're handcuffed. And for them, only them, even though the bus is full of and then the plane is full of prisoners, they were given a special kind of device called the black box, which limits your movements. It goes over the handcuffs and limits your movement and they're sitting there like this for days on end, days and nights, I should say.

And they just believe that they are, you know, God is with them and God is watching them and God has a plan for them. And it's incredible the things that they have endured and continue to endure and the families continue to endure. And they do this as really free men. I've never seen such free men in my life.

Ralph Nader: Well, just looking forward here, their appeals have been exhausted, unless there is new evidence of criminal behavior in process of the prosecution, the cases are not likely to be reopened. We



make a big deal, our government, about political prisoners in Russia and Turkey and Iran. Why aren't some foreign countries making a big deal of the political prisoners in our country? Let's start with the Palestinian Authority, let's start with B'Tselem, the great human rights organization in Israel. Why aren't they calling for some sort of justice here?

Miko Peled: Well, you know, it's interesting. When I heard this case initially, I thought of Sacco and Vanzetti and I'm sure you know Sacco and Vanzetti, the two Italian immigrants that were wrongfully accused and executed. And I read about it ...

Ralph Nader: Yeah, that was in the late 1920s.

Miko Peled: Right.

Ralph Nader: Hugely controversial. They were considered anarchists in Massachusetts and many legal historians think they, Sacco and Vanzetti, were railroaded into their capital punishment.

Miko Peled: Right, and then Governor Dukakis eventually pardoned them, you know, a hundred years later. And there's a statue somewhere. There were songs written about them but when their trial was going on. There were massive protests—in Shanghai, in Tokyo, in London, in Paris, in LA—all around the world to support these people. All around the world, now mind you that people did not have telephones in those days, right; let alone, you know, cell phones and internet and all of this, right?

Ralph Nader: Yes.

Miko Peled: The entire world stood up and these guys, nothing, nothing, hardly any attention, hardly any protest. Now, the Palestinian Authority, B'Tselem, all of these organizations they're all fighting their own fights for survival too. I mean, the Israeli government just clamped down on the Palestinian National Fund because it provides stipends for the families of political prisoners held by Israel. And they're saying, well, these are not political prisoners, they're terrorists and therefore they're using the same rationale, the same logic, they're saying, well, they are providing funds for terrorist and therefore they have to be closed down.

Ralph Nader: And then the ditto-head, Donald Trump, has just cut over \$300 million contribution to UNRA, the legendary relief group for Palestinians and other poor people in that area. And he has just sidelined over \$200 million of congressional appropriations designed for Palestinian relief. Even Israeli

government sources wondered about how advisable that was in terms of instability. Why aren't people around the world calling the US government on this political prisoner situation?

Miko Peled: Well, either they are afraid or they don't care because they're not white. I mean the fact that these guys are not white I think is a big factor. If they were white, if they're not Muslims and Palestinians, none of this would have happened. They don't want to deal with terrorism. They don't want to deal with Palestinians. It's sticky; it's toxic. I mean, there are people, I mean, there are mosques in America that don't want to hear the story. They don't want me to come and talk about it, because they're so afraid of this. And so it's the same, people overseas, they don't want to anger the Americans. They certainly don't want to anger the Israelis, because Israel's fingerprints are all over this case, all over this case, the documents, the witnesses. The Anti-Defamation League started this whole witchhunt against these people.

Chuck Schumer and Anthony Weiner and all of these other Zionists were way early-on behind bringing down this organization and these people. So people do not want to get in embroiled in something that in the end might harm them and they don't believe it will lead to anything. I think that's why people are not involved.

Ralph Nader: But how about B'Tselem? They're a pretty fearless human rights group in Israel.

Miko Peled: Yeah, but they deal with issues in Israel, number one. And number two, they're under attack now by the Israeli government, too as being traders and colluding, you know, supporting terrorism. I mean, these same claims of supporting terrorism of anyone who touches Palestine is not unique to the United States. It started in Israel. It's gaining strength. It's been emboldened now. I have to say by the, in other words, the Israel government has been emboldened by what has happened here and it's greater success. In fact, the Shabak, the Israeli Secret Police on their website had an article congratulating themselves for helping with the trial of Holy Land Foundation Five. And so there is this sense that that we're not going to touch any of this, number one, because it's toxic, and number two, everybody is fighting for their life. Anybody who wants to speak for the Palestinians, in any way, shape, or form is going to be somehow tainted and accused of supporting terrorism.

Ralph Nader: So outside of a presidential commutation or pardon, there's no hope for these five men the rest of their lives or the rest of their sentences?

Miko Peled: Yeah. No, I don't think there is. The sad thing is there isn't anyone, and when they were petitioning Obama before he left, I visited several of them and they asked, "So what do you think? What do you think?" And I told them that I don't think Obama is going to commute the sentences of five

Palestinians convicted of terrorism charges. It's not going to happen. Politically, it's not feasible. And of course, he didn't.

Ralph Nader: This case sure reflects what happens when you have a breakdown of due process and you have a breakdown of the judicial process in American law. And what must it be like for you? You came over here and you settled in California, but you go back and forth to Israel and to Palestine. But I'm sure you came here thinking this is the land of the free, home of the brave. How does this case affect you? You immersed yourself for many months in this case.

Miko Peled: I worked for almost five years on this case and by the time I was working on the case, I was already... I pretty much knew what America was about, and so I was skeptical enough. But I have to say that I was absolutely shocked, absolutely shocked in reading the transcripts of the trials with the judges—what the judges allowed to take place in a courtroom--the nonsense, the lies. It was political nonsense. I don't know if it's ignorance or if it's just they don't care about the facts. But the ignorance that was displayed about the reality of Palestine, the reality in which Palestinians live, the lives of these men, you know, and I have to say, at first I thought the defense team must have been, you know, amateurs.

They were not. They were brilliant. These are caring, serious attorneys who almost all of them said to me, they would give the right arm if they thought they could release anyone of these guys, because these men were such a good men. And they were not given a chance. And when I read the transcripts—that's why I read so many of them. I read over 20,000 pages, because you have to read it to believe it. You absolutely have to read it to believe what went on in that courtroom. And the defense team just couldn't get a break.

Ralph Nader: Well, usually, when there are cases like this there are law review articles going into the details. Have there been any law review articles on this case?

Miko Peled: Not to my knowledge.

Ralph Nader: Well, if there are any law students or law professors or members of the Lawyers Guild listening to this program, see if you can pick this case up and at least start documenting it in law reviews and maybe beginning to raise the public consciousness of this case. Unfortunately we're out of time, Miko Peled. Thank you very much for coming on the show. Your book is "Injustice: The Story of the Holy Land Foundation Five", published by Just World Books in Charlottesville, Virginia. Hats off to Just World Books. And I urge people who are concerned about a travesty of justice in America to read this gripping book.

Miko Peled: Thank you so much.

Steve Skrovan: We've been speaking to Miko Peled, author of "Injustice: The Story of the Holy Land Foundation Five". We will link to that at [ralphnaderradiohour.com](http://ralphnaderradiohour.com). When we come back, we're going to talk about an in-depth report that has just come out on Supreme Court hopeful Brett Kavanaugh and another report on how, when it comes to corporate crime, the Trump Administration has a rather light touch. We're going to be doing that with the President of Public Citizen, Rob Weissman. Speaking of which, let's take a one-minute break and check in with our corporate crime reporter Russell Mohkiber. You are listening to the Ralph Nader Radio Hour, back after this.

Russell Mohkiber: From the National Press Building in Washington DC, this is your Corporate Crime Reporter Morning Minute for Friday, August 31, 2018, I'm Russell Mohkiber. A former snack food and corn-syrup industries lobbyist, appointed by the Trump Administration to set food policy at the US Department of Agriculture is in close contact with her former employers on major and wide-ranging nutrition policies. That's according to emails obtained by the Project on Government Oversight. Correspondence between three recent appointees and representatives from industry organizations including the Corn Refiners Association and the Snack Food Association show lobbyists proposing names of potential members for a federal advisory committee on sodium, producing talking points for Secretary of Agriculture George Sonny Perdue and seeking intelligence on agency policy decisions. Secretary Perdue seems to have installed that extra-large revolving door to usher in lobbyists and executives from giant corporations said the Union of Concerned Scientists. For the Corporate Crime reporter, I'm Russell Mohkiber.

Steve Skrovan: Thank you, Russell. You know, Ralph always characterizes George W. Bush as a "corporation disguise as a human being". I, myself would take that a little farther with our current president and say that Donald Trump is "a corporate crime disguised as a human being, a walking, talking, tweeting corporate crime." Our next guest is going to tell us about the light touch, the man of the people, Donald Trump, has had all the best people--his corporate cronies. Robert Weissman is a staunch public interest advocate and activist as well as an expert on a wide variety of issues ranging from corporate accountability in government transparency to trade and globalization to economic and regulatory policy. As the President of Public Citizen, Weissman has spearheaded the effort to loosen the choke hold corporations and the wealthy have on our democracy.

He has also been a strong voice in the fight against Wall Street greed and recklessness and has expanded Public Citizen's work to curb climate change and push for single payer Medicare for All healthcare system. Last month, they released a detailed report entitled, "Corporate Impunity: 'Tough on Crime' Trump is Weak on Corporate Crime and Wrongdoing". And just this week, they have released the

scathing report on the judicial record of Supreme Court nominee Brett Kavanaugh. Welcome back to the Ralph Nader Radio Hour, Rob Weissman.

Rob Weissman: Thanks for having me on.

Ralph Nader: Let's get right to it, Rob. This report that Public Citizen put out in conjunction with the Corporate Research Project of Good Jobs First is called "Corporate Impunity: 'Tough on Crime' Trump is Weak on Corporate Crime and Wrongdoing". And I must say I was astonished and I know a little bit about corporate crime. I was astonished by the figures, the total demolition of law and order dealing with the corporate crime wave in America under the Trump regime so far. But what astonished me was what the polling of the American people show who favor tough regulatory enforcement. Listen to this, listeners, if you don't believe there is left/right support for cracking down on corporate crime. What do these polls show, Robert Weissman?

Rob Weissman: Well, no matter how you divide America, everyone supports stronger regulatory enforcement. So nationwide it's about 87% to 12%, people saying they support, tougher regulatory enforcement. Once you hear that number you know it's basically everyone. But so democratic are 89%, republicans is over 85%. Every part of the country, you're well over 80% against some tiny number who think, well, regulatory enforcement is working okay. And it's easy enough to understand why people think this system is rigged. They're right and they see it manifested in the most obvious way which is corporate wrongdoers getting away with it and never being put in jail, not even being held accountable under the criminal law as against all too many people with direct experience with the criminal justice system and friends and family being thrown in prison for trifling, nonviolent drug offenses.

Ralph Nader: Yeah, they made you think yeah about it is getting away with it is the phrase on the minds of so many Americans. It's one reason why they come in at about 90% to break up the big New York Wall Street banks because they believe accurately that the banks got away with their wild speculation in crimes in 2007, '08 and crashed the economy, unemployed millions of workers and trillions of dollars lost in pension and mutual funds. And then they went to Washington and got a bailout. So we have what should be an unstoppable political force. When you get over 85% and higher of the American people who want the law to crack down on these corporate crooks, and President Trump and his appointees are doing the opposite. I mean they are, as you say in this report, which is 103 pages; we'll tell you how to get it in a moment. You're saying in this report, one regulator after another is making these amazing statements against their own oath of office, which they took to enforce the law. Do you want to give some examples?

Rob Weissman: Yeah, it is astounding and what they're doing is basically saying, look, we exist here in the regulatory agencies to serve our customers. Well, you might think their customer is the American public but you'd be wrong. If you're in the Trump Administration, what they mean by that is their job is

to help businesses they regulate. I think one of the most astounding ones is the low profile one in the area of nursing homes where they're engaged at the Centers for Medicare and Medicaid Services, which is part of the government that oversees and regulates nursing homes. So there's a very concerted effort to never fine nursing homes for abuse of their patients. Well, it turns out that over the last four or five years, 40% of the nursing homes in the country have been cited for a serious violation.

So that is happening all the time and anyone who's had family in nursing homes knows it's happening all the time. The Trump Administration effort though is one memo after another saying stop fining. Try to help them do a better job. Encourage them not to violate the law, but don't fine them. And that's just one exemplary part of the government. But it's everywhere. And the comments from people who are in charge of agencies are just astounding. They think their job is to help their companies. The Secretary of Agriculture, Sonny Perdue, said, "Government should make things easier for our customers whenever possible." That means to agri-business, not consumers. Ben Carson said that effective enforcement of the Fair Housing Act under President Obama was "ridiculous." Elaine Chao at the Department of Transportation said, "We don't believe that we, the government know best" as she was talking to industry about regulations. "We're partners with you" instead. Mick Mulvaney, who is moonlighting as the current acting director of the Consumer Financial Protection Bureau – which he's trying to destroy – when he came in said that he would no longer "push the envelope" when it comes to enforcement, that the agency is 'supposed to work for everyone,' the people who get credit cards but also the people who give out credit cards, the ones who are being preyed on by payday lenders, but also the people who make the payday loans. It's just astonishing.

Ralph Nader: Even worse, he was quoted in saying that one of the functions of the Consumer Financial Protection Bureau, which was enacted in order to police Wall Street, he said that one of the functions was to advocate for Wall Street. And then he makes this absurd comment, he's a lawyer too, former congressman from South Carolina. He said, the Consumer Financial Protection Bureau is ending "regulation by enforcement". Now when you have top government officials flouting congressionally enacted mandates to enforce the law and they systematically—this isn't just prosecutorial discretion—they systematically are shutting down the federal cops on the corporate crime beat. What kind of remedy do public interest lawyers or groups like Public Citizen have?

Rob Weissman: Well, in fact the remedies really aren't great on this. I mean, it's the kind of thing, as you know, that goes massively underreported. So they're able to...there's not a spotlight on it, so the spotlight can actually make a difference and even the focus on the CFPB with Mick Mulvaney has had a marginal impact. But in most cases, and some of the environmental areas are separate, where the government chooses not to prosecute a company for wrongdoing, there's not really much that citizens or citizen organizations can do. It's a little different in the environmental space where under a number of statutes affected parties, so a community that's affected can sue the polluter, the perpetrator

directly, not just for being affected by having to have to breathe polluted air, but for violation of the Federal Regulation.

And that's really a model of what we need much more of so that people can sue the wrongdoers directly when the government regulators choose to lie down on the job.

Ralph Nader: And you know, when you scuttle law enforcement, you're not only reducing penalties and fines on corporate violators, but you have more people in America dying from occupational disease, air pollution, water pollution, contaminated food, unsafe cars. More people are injured, more people get diseases, more people's life savings are fleeced. We had an expert on the program a few months ago, Rob, who is a consultant to AARP and the FBI. He estimated a trillion dollars of corporate rip-offs, so just traditional scams, cheating, payday loan rackets, et- cetera, a trillion dollars a year. So we're talking about real impacts on the people of our country by the Trump regime. And give us an idea of the Secretary of Education, this whole student loan is up to 1.4 trillion, you have for-profit rapacious universities emerging from any enforcement process by Betsy DeVos, Secretary of Education. Give us a skim on that one.

Rob Weissman: Well, you know, as you know, over the last 20 years or so, the for-profit predatory college industry has mushroomed out of control. And it's basically giving a community college level education for the better ones, but charging, you know, Ivy League tuitions. And the question is how are they able to pull this thing off? And the answer is they lure people in with deceptive marketing. Then they get the students who are often veterans or older students to get federal loan guarantees. So they're effectively drawing on money from the federal government that these people can never pay off. They can never pay off the loans, because they're getting such a shady education that the jobs they're going to get after finishing, if they're able to finish, are not going to give them income to pay back the loans.

So they built a whole business model on this, which is both throwing these people ruthlessly into bankruptcy and saddling them with these debts, like the last three decades, when they're really trying to live the American dream, and simultaneously ripping off the American taxpayer, who is the one who is guaranteeing the loans in the first place. The Obama Administration, to his credit, actually tried to do some decent stuff to crack down on this. Betsy DeVos has brought people in from the for-profit college industry to have the key position in the Department of Education overseeing the for-profit college industry. She has tried to undo the two main rules that the Obama Administration put in place to protect students from these rip-off colleges. And the result is going to be that 1.4 trillion, or the figure you're referencing, is going to get far, far worse until this thing is brought back under control. But it is completely the case of the industry in charge of the industry.

Ralph Nader: And the Department of Agriculture under Trump, they want to privatize otherwise meaning corporatize hog plant inspections, the kind of pork you get will be under this scheme, people working for corporations. There's got to be more legal remedies created, so people in this country can challenge a rogue government that operates this way and turns our public trust into private profit. One thing about this report that is unique, you have a list of all the fines, comparing the fines under the last year of the Obama Administration with the fines under the first year of the Trump Administration. You want to give some indication overall and a couple of examples?

Rob Weissman: Yeah. So this is stunning. But this is, what we're talking about is not just an impression and we weren't just collecting these outrageous quotes from agency leaders although the collections of quotes themselves is pretty stunning. We were able to—and we spend a ton of time on this—compile the total amount of fines of different agencies levied under the last couple of years of the Obama Administration and then compare it to the first year of the Trump Administration. And in almost every agency we looked at, the total amount of fines fell, and fell drastically. So at the Environmental Protection Agency, the total amount of fines fell by 94%. At the Department of Justice, which is of course the lead law enforcement agency in the country, the total amount of fines fell 90%.

Those are the two worst examples. But they're representative of what happened in basically every single agency under the Trump Administration.

Ralph Nader: But once this ...

Rob Weissman: And you say, that's not an abstraction, it's not just a matter of taking money from these corporations. It's sending a message to the corporations that they should just feel free to go ahead and violate the law. And when they violate the law, that's not just an abstract injustice. It's exactly what you said. It means poisoning people with unsafe air or dangerous food. It means stealing from them and getting away with it. It means selling them dangerous products that are going to injure and maim needlessly.

Ralph Nader: And how can people listening get a copy of this report? It's free. How can they get it?

Rob Weissman: The easy way to do is to go to [corporatepresidency.org/enforcement](http://corporatepresidency.org/enforcement) and there's a summary of it there and you can click through to get the whole 101-page thing but you get a very digestible version of [corporatepresidency.org/enforcement](http://corporatepresidency.org/enforcement).

Ralph Nader: Okay. You've just put out - Public Citizen - a pretty devastating report, very accurate report on the judicial record of Brett Kavanaugh who is up for nomination before the Senate Judiciary



Committee to become Associate Justice of the Supreme Court. Can you summarize that for people and then tell them how they can get that because the hearing is coming up fast by Chairman Grassley. He's rushing it even though there's huge amount of material has not been disclosed about Judge Kavanaugh in early September.

Rob Weissman: Well, the short version is that Judge Kavanaugh issued opinions that overwhelmingly favored business interests against the public interest. The slightly longer version is in what we did is, instead of just looking at all of the decisions, we looked at his opinions in split- decision cases. So he serves on an appeals court, the norm is that the three judges hear the cases that are brought before them. So a lot of the cases are decided three-zero, those often aren't really close-call cases. But if you look at the two-one cases, you can see where there were some matter of controversy. And you get a better insight into what the judge's philosophy is by examining those cases.

So we looked at all of the cases that were two to one where Judge Kavanaugh wrote a decision or where the full (undecipherable) panel considers something, and Judge Kavanaugh wrote a decision but there was a division among the panel. That narrows the universe to just over 100 cases. And when we looked at the business-law cases, or the ones relating to consumer environment and worker rights, we found quite startling results. So in the area of consumer and regulatory issues, Judge Kavanaugh decided 18 times for business interests, four times for the public interest. For the environment, he was 11 to two. For worker rights--both employment cases and union cases--it was 15 to two favoring employers, twice favoring employees. In cases brought by victims of police and human rights abuses, he decided against or he wrote opinions against the victims every single time, seven out of seven.

And the two significant anti-trust cases in which he was involved where there was split decision, he came out very strongly for the merging parties and against the government in each of those cases. So in instance after instance, he sided with business and against the public interest. And also, when you look at the record, what you see is that it was the outcome that seems to matter more than the theory. So he is very big -- writes very extensively about the issue of how much courts should defer to agencies. How much they should sort of give the agency the benefit of the doubt in a close call. And he's got an elaborate theory about it, but the answer is, he gives the agency the benefit of the doubt when they favor the corporation.

But when they're doing something that the corporations oppose, he gives them zero deference.

Ralph Nader: You know, he seems to me to be a cruel, brutish, smiling, convivial judge, which is what Reagan taught us, how to be cruel with a smile and get away with it. But this guy is over the top. I have never seen a nomination for the Supreme Court, a lifetime position, essentially a judicial dictator who is about to be confirmed unless the democrats become much more energetic in the house and people around the country contact the Senate Judiciary Committee and demand lengthy hearings, multi-day

hearings by the Senate Judiciary Committee, he's going to get through. And he can be the five-four tip on the Supreme Court and those five will become the lethal corkscrew twisting into the livelihoods, protections and rights of the American people and never mind liberal or conservative whether they're liberal or conservative, they're going to bleed under Judge Kavanaugh's pro-corporate prejudices.

So what do you tell people out there to do in the next couple of weeks?

Rob Weissman: Well, it's exactly as you just say. I mean, the focus right now is on the Senate Judiciary Committee. This is going to become the...well, who knows what Donald Trump is going to do. But it's more or less going to be the national spotlight issue for the early part of September. And the outcome is going to depend on whether or not the people speak up enough about it. I mean, particularly people in the states where republican senators who might be open to voting against him--Maine and Alaska especially. But there's going to have to be a lot more ferment if he's going to be knocked off his trajectory onto the court. I got to tell you, having read his decisions, it is exactly what you said they are. He's a great writer and he's very credentialed in the way that his advocates say, but he has extreme views.

Ralph Nader: Well, he was deeply involved in the Florida machinations during the 2000 election on behalf of the republicans. He was deeply involved for several years in the Bush-Chaney Regime. And in the Starr investigation of Clinton. He has a huge paper record, which the Republicans are refusing by and large to disclose, isn't that right?

Rob Weissman: Yeah, that's right. There's a process to review these records especially from the time of the Bush Whitehouse, which are in the National Archives. The archives said, you know, they're processing the materials. They have to look at it for various kinds of privacy and national security issues. It would take them to the end of October before they could get through the material. As you say, Chairman Grassley says, too bad, we're not waiting. So instead, the material that's become available, is being reviewed by a republican lawyer who is producing tens of thousands of documents most of which pages, most of which aren't very interesting, but out of something like three million pages that really ought to be reviewed and almost all of them released.

And as you know, I have to just say, like those are big questions and Senator Leahy who was Chair of the Judiciary Committee at that time that chair or ranking at that time that Judge Kavanaugh was confirmed to be judge, he has more or less said that Judge Kavanaugh lied to them at the time about what his role was in the Bush White House. And the only way to the bottom of that, which is a very serious accusation from a senator who is not prone to extreme rhetoric, is to actually see the underlying documents. But Chairman Grassley is rushing this thing through to prevent that from happening.

Ralph Nader: What happens if Democrats file Freedom of Information cases?

Rob Weissman: Yeah, it's so extreme what they're saying they're seeking not just the normal disclosure, which will be normally done for senate confirmation, but you know, we're using our formal legal right under the Freedom of Information Act. The problem is, is that, that's not likely to move fast enough to get the information out either.

Ralph Nader: As one of my law professors once told me, dictatorial procedures produce dictatorial results. How do people get a copy of this report quickly and it's free?

Rob Weissman: At [citizen.org](http://citizen.org).

Ralph Nader: And what do they ask for?

Rob Weissman: They'll see it right now. It's up on the main page of [citizen.org](http://citizen.org) on Judge Kavanaugh's record.

Ralph Nader: Get it, read it, send your comments to your members of the Senate from your state. It's not too late to stop 40 years or so of judicial corporate dictatorship in the name of Brett Kavanaugh. Thank you very much, Rob Weissman, President of Public Citizen.

Rob Weissman: All right, great to be with you guys.

Steve Skrovan: Well, that's our show for those of you listening on the radio. We're going to check out now. For you podcast listeners, stay tuned for some bonus material we call the wrap up and we're going to talk a little bit more to Rob Weissman about Kavanaugh and "Corporate Impunity." For Ralph's weekly column, go to [nader.org](http://nader.org), for more from Russell Mohkiber, go to [corporatecrimereporter.com](http://corporatecrimereporter.com); visit the American Museum of Tort Law go to [tortmuseum.org](http://tortmuseum.org) and check out the Tort Museum Bookstore for engrossing books and memorabilia. The producers of the Ralph Nader Radio Hour, Jimmy Lee Wirt and Matthew Marran, our executive producers Alan Minsky, our theme music Stand Up, Rise Up was written and performed by Kemp Harris, and the transcript of this episode, we will put up eventually in that [ralphnaderradiohour.com](http://ralphnaderradiohour.com). Join us next week when we speak to Rosemary Gibson, Author of China RX, about the dangers of drugs coming to us from China. Talk to you then, Ralph.

Ralph Nader: Thank you, everybody. Yeah, listeners, weigh in on the upcoming nomination hearings of Judge Brett Kavanaugh, weigh in with your two Senators.