



Renewing our Democratic Alliance

RENEWING OUR DEMOCRATIC ALLIANCE (RODA)

CONSULTATION REPORT – ANTI-CORRUPTION

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I) BACKGROUND

The Renewing our Democratic Alliance (RODA) Project is the product of a collaboration between the Canadian International Council and the Konrad Adenauer Foundation. Initiated in 2021, the RODA project focuses on shared Canadian and German foreign policy interests and values that seek the protection and enhancement of inclusive democracy and human rights as well as effective international cooperation.¹

The project's stated objective is to generate specific policy proposals on four topics, one of which is anti-corruption. These policy proposals are intended to create an agenda that will inform the work of government and civil society participants who agree to create a network for democratic solidarity.

This paper summarizes the input of a group of some 20 anti-corruption experts who met during two consultative discussions held on June 10th and August 15th, 2022.

II) CORRUPTION – WHY IT MATTERS

Given the nature of corruption and the fact that a lack of transparency is at the heart of most corrupt transactions, it is difficult to provide precise numbers to quantify the damage and the losses caused by corruption worldwide. That said, qualitative and quantitative estimates on corruption point to a large-scale problem.

For example, the Secretary General of the United Nations, António Guterres, has estimated that US\$1 trillion is paid in bribes annually, while an additional US\$2.6 trillion is stolen through corruption.² If accurate, these sums could represent approximately 5% of global GDP.

In a 2020 report, Canada's Criminal Intelligence Service estimated the scale of money-laundering linked to criminal and corrupt activities at between CDN \$45 billion and \$113 billion annually.³ The US-based

¹ <https://rodanet.org/>

² <https://dailytrust.com/amp/1trn-paid-in-bribes-2-6trn-stolen-annually-un>

³ <https://ag-pssg-sharedservices-ex.objectstore.gov.bc.ca/ag-pssg-cc-exh-prod-bkt-ex/1017%20-%20OR%20Criminal%20Intelligence%20Service%20of%20Canada%20National%20Criminal%20Intelligence%20Esti>

organization, Global Financial Integrity, estimates that between 2015 and 2020 more than US\$2.3 billion had been laundered through U.S real estate, plus millions more through alternate assets like art, jewelry, and yachts.⁴

And the damages wrought by corruption go beyond their financial cost. In a 2019 paper on the societal impacts of corruption, Paulo Mauro of the IMF said that “the cost of corruption is greater than the sum of lost money. Distortions in spending priorities undermine the ability of the state to promote sustainable and inclusive growth. They drain public resources away from education, health care, and effective infrastructure—the kinds of investments that can improve economic performance and raise living standards for all.”⁵

Anti-corruption activists agree that corruption is a cross-cutting issue that impacts political freedoms and the rule of law, undermines trust in government, contributes to environmental degradation, impedes human rights and acts as a driver of conflict.

III) CORRUPTION AND DEMOCRACY

It is generally agreed that we are witnessing a rise of authoritarianism and democratic backsliding throughout the world. Autocrats not only erode the freedoms of their citizens, manipulate the political system and stifle dissent, they often use their unchecked powers to enrich themselves. Russia is a prime example of such an authoritarian state. Its unprovoked war in Ukraine has given a new impetus to the fight against corruption by highlighting the prominence of Russian and other kleptocrats who have hidden their ill-gotten gains in rule-of-law countries of the Global North. In these countries, dirty cash is put to work with few prying eyes. Indeed, the West provides a great network of “enablers”, including financial, legal, accounting and public relations professionals who service kleptocrats. These enablers and their governments often turn a blind eye to the origins of their accumulated wealth.

Furthermore, corruption undermines trust and confidence in democracy and the rule of law by contributing to the growing inequality within states.⁶ Such inequality results when corrupt individuals, both inside and out of government, steal public funds, evade taxes, and engage in money laundering.

Corruption can also be a driver of civic unrest, acting as a catalyst for a change in government. Some populist leaders have taken up the language and tools of anti-corruption, but once in power, they quickly stifle efforts to fight corruption as they begin to create their own kleptocratic networks.

IV) GAPS IN ANTI-CORRUPTION EFFORTS

[mate%20on%20the%20Canadian%20Criminal%20Marketplace%20Money%20Laundering%20and%20Fraud%20-2020-.pdf](#)

⁴ <https://gfintegrity.org/report/acres-of-money-laundering-why-u-s-real-estate-is-a-kleptocrats-dream/>

⁵ <https://www.imf.org/Publications/fandd/issues/2019/09/the-true-cost-of-global-corruption-mauro>

⁶ U4 Anti-corruption Resource Center <https://www.u4.no/publications/correlation-between-corruption-and-inequality>

The key issue confronting our panel of experts was whether the current international framework is sufficient to tackle the grave threats that corruption poses today. Overall, it was agreed that while some progress has been made since the 1990s when corruption was still considered a cost of doing business. At the same time, there was a consensus that the architecture that has been built in the last three decades has not achieved its goals and that much remains to be addressed both at the systems level and in individual countries.

A prevailing view was that anti-corruption efforts often fail to address corruption from a global systems perspective. The battle against corruption is often focused on stopping individual transactions, namely bribes, and taking action against individual perpetrators. While such efforts are important, this approach leaves serious gaps, as it fails to address networks, the global movement of illicit funds, and norms that perpetuate corruption.

While most experts agreed that global initiatives are needed to combat corruption, they suggested that the ability of the current framework has been limited by several factors. Much of the current failure was attributed to weak enforcement by states of the obligations they incur when signing on to international treaties and other measures that they have agreed to. Forty-four states, including Canada and Germany, have signed the OECD anti-bribery convention which criminalizes foreign bribery, and 189 states are party to the United Nations Convention Against Corruption (UNCAC). However, most states have failed to follow through with effective enforcement of the domestic foreign bribery laws they enacted as signatories to the OECD Anti-Bribery Convention. According to a 2020 report by Transparency International assessing the enforcement levels of the OECD Convention, nearly half of world exports come from countries that fail to punish foreign bribery.⁷

Experts noted that even the Financial Action Task Force (FATF) - the money laundering and terrorist financing watchdog whose recommendations are committed to by more than 200 jurisdictions - while making a positive difference, was not as effective as it could be given the lack of economic consequences for those countries that are put on the FATF blacklist.

Participants therefore agreed that the priority at this time should be the consolidation of the international anti-corruption architecture and existing tools. The emphasis should be placed on expanding, strengthening, and most importantly, enforcing existing international instruments and ensuring that these obligations are incorporated into domestic law.

Governments should agree to benchmarks for implementing and enforcing treaties and follow through on other non-binding commitments, e.g., G-7 and G-20 commitments, backed by regularly scheduled peer reviews that include civil society. In a paper on *Addressing Corruption and Democratic Decline*, Transparency International stated that “one of the lessons from the 2016 London Anti-Corruption Summit was that the majority of country commitments could not be readily tracked, and of those that could be, only one in five have been fully implemented.”⁸

⁷ <https://www.transparency.org/en/projects/exporting-corruption>

⁸ <https://www.transparency.org/en/publications/summit-for-democracy-2021-addressing-corruption-democratic-decline>

This should also include a review of actions taken by countries of the North to monitor their corporations abroad, including in mining, oil and gas and other corruption-prone sectors and the use of tools such as Magnitsky Act sanctions to help further the anti-corruption fight.

Participants also blamed governmental inaction on the failure to prioritize corruption and to resolve the conflicting interests between trade, foreign relations, security and development policies on the one hand and anti-corruption policy on the other. Others noted that international efforts to tackle corruption are also weakened by the lack of cooperation from key countries such as China, Russia and India.

There was near unanimous agreement among participants that more resources, both financial and human, are needed for anti-corruption institutions, including policing, prosecution and financial intelligence units to operate more effectively.

An area of priority action identified by the participants was the creation and/or strengthening of laws to criminalize enablers of global corruption. Domestic anti-money laundering legislation should be expanded to include the enablers of corruption such as lawyers, the sellers of luxury goods and art as well as company formation agents, while also imposing new or stricter regulations, e.g., beneficial ownership transparency and campaign finance reforms. According to Transparency International, some of these measures should include: “ensuring adequate powers as well as technical, human and financial resources for supervisory authorities, law enforcement and financial intelligence units to carry out their responsibilities; countries that rely on self-regulatory bodies, e.g., professional associations to supervise gatekeepers’ adherence to anti-money laundering rules should consider government-led supervision or establish a government agency to oversee self-regulatory bodies’ supervision and examination efforts; subject gatekeepers to dissuasive and proportionate sanctions, ranging from license withdrawal to monetary fines for noncompliance with anti-money laundering obligations; sanctions should cover both legal persons and senior management.”⁹

While most discussion participants were from the ‘Global North,’ they recognized that their own countries had failed to fully address their roles in the global system of corruption. Participants felt that their governments and societies often see corruption as an ‘over there’ problem. When Global North countries do attempt to address corruption as part of their foreign policy, participants noted that there was limited integration between anti-corruption and policy areas such as human rights, environmental degradation, and conflict prevention.

An additional factor mentioned as a possible contributor to the lack of vigor in combating corruption is the popular perception of corruption, especially in the Global North where it is not experienced daily by citizens. Corruption is often seen as a nuisance rather than as a serious crime and does not create the sort of pressure that would stiffen the political resolve to address the problem at home and abroad. As noted earlier, the negative effects of widespread corruption, including money laundering, bribery of public officials etc., are more damaging to societies and their citizens, and a greater threat to democratic governance than classic street crime which, it is believed, receives far more attention and resources.

Weak enforcement is not simply a problem within state borders, but also between states. In many cases, governments do not share key data, like asset declarations and beneficial ownership information,

⁹ <https://www.transparency.org/en/publications/summit-for-democracy-2021-addressing-corruption-democratic-decline>

even though this information could be of great assistance in fighting corruption and would benefit from a systems-based approach. To achieve success at the global level, streamlined cross-border assistance is required in areas of information sharing, including declarations of foreign assets and beneficial ownership information for corporations and trusts. Specific recommendations may include: introducing digital reporting, public disclosure and automated exchange systems for assets and interests of PEPs¹⁰, and ensuring that relevant institutions have the mandate, capacity and will to conduct verifications and sanction non-compliance. Technology and data standards should be interoperable across countries and across other data sets concerning resource allocation decisions, e.g., public procurement, and political engagement, e.g., campaign finance.¹¹

A recent advance in information sharing is the Treaty on Exchange of Data for the Verification of Asset Declarations signed by a few Southeastern European states in 2021. This treaty will enable member countries to exchange data cross-border for the verification of assets disclosed in one country but located in another.

More countries could commit to becoming parties to the International Treaty on Exchange of Data for the Verification of Asset Declarations. Organizations such as Transparency International also promote the provision of more expert technical support for asset declaration systems to be provided by experts, including from civil society and multilateral bodies.

The failure to deal with corruption holistically was also identified as a weakness. Governments, both nationally and collectively, tend to address the effects of corruption in silos, whether it is money laundering, illegal drugs, human trafficking, environmental degradation, real estate market distortions or the stripping of state resources. As a result, law enforcement resources and government actions can be dispersed and unfocused.

In the forums where key international anti-corruption treaties and commitments are negotiated, the focus remains on nation-states as the primary actors. It was felt that civil society is often excluded or is only a minor participant in these forums even though civil society actors are often effective in tracking and investigating corruption and in proposing solutions.

Participants debated the usefulness of ‘naming-and-shaming’ countries that fail to meet their commitments. While some believe it is necessary to keep countries accountable, others felt the narrative should be more positive and focus on “white-lists” of countries that uphold international commitments and aim for a “virtuous cycle” of integrity.

Some experts suggested that an international Anti-Corruption Court, modelled on the International Criminal Court, would be an important additional tool in the fight against kleptocracy and grand corruption. Proponents see the court as a means of pursuing kleptocrats themselves, seizing their assets in the countries where the funds are being hidden and restricting their movements to avoid prosecution. The court would invoke its jurisdiction only if the country where the kleptocrat resides is unable or unwilling to prosecute. Proponents highlight the potential deterrence effect of such a court and believe that some of the administrative costs could be met by asset seizures and fines. Proponents recognize

¹⁰ Politically exposed persons

¹¹ <https://www.transparency.org/en/publications/summit-for-democracy-2021-addressing-corruption-democratic-decline>

that an anti-corruption court would not address all systems-level issues of corruption but would be complementary to existing tools.

However, many of the expert participants believed that devoting effort and money to establishing a court at this time would be a distraction from more urgent domestic and systems-based changes. Moreover, some believed that a court was unnecessary given existing extra-territorial agreements. Additionally, there was concern that establishing a court might offer a convenient diversion for countries that have failed to meet their existing obligations. Several were skeptical about the deterrent effect of a small number of high-profile convictions and questioned the ability of the court to gather evidence for a successful prosecution, given the current obstacles to information sharing. Finally, there was a view that key countries including the U.S., China, India and Russia, would not become party to the court, along with other major nations, and that corruption enablers in the Global North would also not be subject to the court.

As an alternative, some participants pointed to more nimble ad hoc structures that can be adapted to a local context, such as the International Commission Against Impunity in Guatemala (CICIG). CICIG was established by the UN as an independent body to investigate criminal groups that had come to dominate Guatemala. Its mandate was to collaborate with national institutions, such as the police, government ministries, and the existing court system. CICIG was considered a success until it was abolished by a new Guatemalan government, supported by the Trump administration. The same model was adopted without success in Honduras, but other models are available such as the judicial review process in Ukraine, or truth and reconciliation commissions. Similar efforts to combine both international and domestic expertise have had some success in Ukraine and Moldova.

Some participants expressed the hope that lessons learned in Afghanistan would be applied to the future reconstruction of Ukraine to prevent the risk of corrupt practices in that process.

V) PRIORITY ADVICE TO CANADIAN AND GERMAN MINISTERS

In proposing solutions, participants agreed that the priority should be the consolidation of both the domestic and international anti-corruption architecture and existing tools. The emphasis should be placed on expanding, strengthening, and most importantly, enforcing domestic laws that to curb corruption as well as obligations under treaties and conventions already in place. It was also felt that societies need to change their approaches to understanding and discussing corruption to tackle its systemic nature and combat this scourge sustainably.

The recommendations that follow reflect the inputs of the two groups engaged in the consultations. They are presented as guidance for the setting of priorities by the Canadian and German governments in furthering the fight against corruption at home and abroad.

1. Address the weaknesses in the implementation and enforcement of your country's existing anti-corruption commitments by:
 - Setting benchmarks, transparent goals, and reviews of progress.
 - Increasing human and financial resources for anti-corruption law enforcement, prosecution and financial intelligence units.
 - Expanding the formal inclusion of civil society organizations in the development and monitoring of anti-corruption instruments.

2. Create and/or strengthen laws to criminalize the enablers of global corruption and establish publicly accessible corporate and trust beneficial ownership registries.
3. Work with like-minded countries for a more systems-based approach to tackling corruption, including more information sharing, e.g., asset declarations, mainstreaming anti-corruption through foreign, trade, security, and development policies, viewing corruption in all its aspects as part of global phenomenon, and cutting off the global movement of illicit financial flows and kleptocrats.
4. Address impunity by promoting and using existing legal mechanisms, e.g., Magnitsky-type legislation, universal jurisdiction, ad hoc supra-national judicial models, and national models such as truth and reconciliation tribunals rather than focusing limited resources on establishing a new international anti-corruption court at this time.