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CPI 2023: TROUBLE AT THE TOP

Top-scoring countries have long fuelled transnational corruption. It's time they embrace change.

Transparency International's 2023 Corruption Perceptions Index (CPI) does not come with many surprises. Once again, the advanced economies of Northern and Western Europe, North America, and Asia Pacific top the ranking. While it may seem that they are winning the fight against corruption, that's far from the case.

Let us be clear: A high mark on the CPI means that a country is perceived to have low levels of corruption in its public sector. Top-scoring countries also tend to have well-functioning justice systems, stronger rule of law and political stability. Ironically, all of this has made these seemingly "clean" countries attractive to corrupt officials from around the world when choosing where to launder and invest their ill-gotten gains for safekeeping.

Large-scale corruption schemes may often originate from a country lower down the CPI ranking, but they almost always have a transnational element. Many cases have involved companies from top-scoring countries that resort to corruption when doing business abroad. Others have implicated professionals who sell secrecy or otherwise enable foreign corrupt officials.

And as we emphasise year after year, the CPI measures none of this.

Have top-scoring countries curbed corruption in the public sector?

Since 2012, when the CPI scores became comparable, fluctuations in the marks of countries featuring at the top of the index have been mostly insignificant.

Only **Ireland** (CPI score: 77 out of 100) and **Seychelles** (71) have seen their scores improve significantly since 2012. Both had started from lower baselines – 69 and 52, respectively – compared to other countries ranking high on the index.

In some countries, the CPI has also recorded worsening corruption levels. This includes **Australia** (75) and **Canada** (76), who dropped 10 and 8 points since 2012, respectively. When compared to their scores on the 2015 CPI, **Austria** (71), **Luxembourg** (78), **Sweden** (82) and the **United Kingdom** (71) have also declined significantly.

Insufficient accountability efforts

This year, our analysis explores the close connection between corruption and injustice. Unsurprisingly, countries where public officials are unlikely to face sanctions for corruption score poorly on the CPI. But high-ranking countries have an impunity problem of their own, even if this isn't reflected in their scores.

In fact, countries featuring at the top of the index have a poor record of prosecuting companies that pay bribes to win foreign markets, despite having had an international obligation to do so for more than 25 years. This is the case in the **Netherlands** (79), where authorities rarely punish companies bribing officials abroad. For example, Dutch authorities faced criticism for choosing not to prosecute Shell in a Nigerian oil bribery case. In light of shocking acquittals in Italy over the same case, the Netherlands should seek accountability and reopen the case.

Sometimes, top-scoring countries don't move against bribe-giving companies even after public officials' home jurisdictions investigate the case. In Namibia, several government officials went on trial for allegedly accepting bribes from an Icelandic company, Samherji, in exchange for fishing quotas. Meanwhile, **Iceland** (72) has not filed any formal charges against the company in the four years since the allegations emerged.

Despite the slow pace, there has been some effort to punish the "supply side" of foreign bribery. More often, however, even when those paying bribes are held accountable, the "demand side" of the transaction goes unpunished. In this context, addressing the demand side of bribery is an increasing area of interest for the anti-corruption community. In late December, the **United States** (69) passed into law the Foreign Extortion Prevention Act, which makes it a crime for foreign officials to demand or accept a bribe from any company listed on a US stock exchange, any US citizen or company, or while in the US.

The recently proposed EU anti-corruption directive also includes a similar provision which, if adopted, would require member states to make demand-side foreign bribery a crime. Some EU countries already criminalise both the supply and demand sides of foreign bribery. However, they rarely – if ever – move against foreign officials.

Top-scoring countries need to take even more action when transnational corruption schemes with links to their jurisdictions result in grave harm, such as gross misappropriation of public funds or serious human rights violations. It has become necessary for countries with relatively strong rule of law to devise new measures for tackling impunity for such grand corruption. In the EU, the proposed anti-corruption directive provides an important opportunity to do so.

Little oversight of out-of-line enablers

Cross-border corruption schemes would not be possible if corrupt officials and criminals were unable to enlist the services of enablers operating all around the world.

Some of the most notorious grand corruption scandals in recent history have involved money laundering through banks in EU countries such as **Denmark** (90), **Germany** (78) and **Sweden** (82). These governments' failures to adequately supervise banks is one of the reasons why a new EU-level anti-money laundering authority is now being created.

And while financial institutions have been in the spotlight for facilitating corruption and money laundering on a large scale, professionals working in the non-financial sector – like accountants, real estate agents, lawyers and corporate service providers – have often escaped scrutiny. Transparency International's recent report, *Loophole Masters*, shows that such professionals have been essential to corruption schemes originating from the African continent. Many of them were registered in countries scoring high on the CPI.

The analysis of past cases sheds light on the role of **Switzerland** (82) as an important hub where corrupt foreign elites can easily find intermediaries to create and manage companies and trusts for them. For far too long, Swiss lawyers have been able to do so without due diligence and reporting duties to detect money laundering. Last year, the Swiss government proposed new legislation to extend anti-money laundering obligations to lawyers and other professionals and, while there is much room for improvement, this is welcome.

However, this is not the first attempt to bring much-needed regulation to the sector. In 2021, following lobbying by the industry, the parliament watered down amendments to the anti-money laundering legislation during their final deliberations. As a result, lawyers and notaries were able to escape regulation.

Lawyers in the **United Kingdom** (71) also featured prominently in the African cross-border corruption cases analysed by Transparency International. Unlike Switzerland, the UK already subjects lawyers and other professionals operating in the non-financial sector to anti-money laundering regulation. However, compliance with these rules remains a problem. The UK now has an opportunity to improve its anti-money laundering defences by consolidating most of the organisations tasked with policing gatekeepers into a single statutory body.

Never-ending financial secrecy

There is no doubt that anonymous corporate structures are key features of cross-border corruption schemes. Recent years have brought progress, with more and more countries requiring companies to disclose their real or “beneficial” owners. But top-scoring countries still have a long way to go to ensure that no one can hide behind various types of secretive vehicles within their borders.

Companies now have to disclose their beneficial owners to a government register in the **United States** (69), where the corrupt and criminals have been able to set up anonymous companies with great ease. However, as things stand, it is unclear if information submitted by companies will be verified. Unless addressed, this would significantly jeopardise the impact of these new rules. Another potential loophole is related to trusts, which have also been known to be exploited by foreign elites, as not all such arrangements will have to disclose their ultimate owners.

Australia and Canada – both of which have declined on the CPI over the past decade – have also taken steps towards greater corporate transparency. **Australia** (75), which has been lagging behind its G7 and G20 peers on corporate transparency measures, has committed to a public beneficial ownership register and is planning to hold consultations in 2024. Meanwhile, **Canada** (76), where legislation to create a publicly accessible beneficial ownership register was approved in late 2023, can emerge as a leader on corporate transparency if the federal government is able to expeditiously reach agreements with all provinces to ensure comprehensive coverage.

Recent revision of the global standards on beneficial ownership transparency of companies and trusts is expected to spur much-needed change across the world, including in some of the top-scoring countries.

Last year, in an effort to meet the requirements of the new standard, the **Swiss** (82) government finally proposed to set up a beneficial ownership register of companies. To make the forthcoming register fit-for-purpose, it should collect information on the real owners of trusts, too. Considering their watchdog roles, it is also critical to ensure that civil society and media can access the data held in the register.

Thanks to this month's agreement on the new EU directive, civil society, media and other actors with "legitimate interest" will be able to obtain generalised access to beneficial ownership registers across the bloc. While welcome, this is a step backward from the previous regime when information had to be publicly disclosed. This regression follows the 2022 ruling from the EU's highest court which struck down public disclosure provisions in EU legislation.

One year after the ruling, Transparency International's analysis found that access to information about companies' real owners was significantly restricted for civil society and journalists across the EU. **Ireland** (77), for example, currently requires journalists and activists to provide not only proof that they are engaged in anti-money laundering work, but also demonstrate that a company of interest is connected to financial crime. In practice, this may hinder most access requests as this approach expects applicants to already know the very information they are seeking to uncover. With Ireland's importance as a financial centre growing, the country needs to ensure utmost transparency in the ownership of all types of vehicles that are currently vulnerable to abuse.

The ruling has also had a negative effect beyond the EU, with **Norway** (84) now backtracking on its plans to create a publicly accessible registry.

Even when countries have stringent beneficial ownership disclosure obligations in place, if these are not properly enforced, shady actors will take advantage. A July 2023 analysis of company beneficial ownership data in **France** (71) showed that nearly one-third of all active companies have not declared their beneficial owners. This includes foreign owners of French-registered companies, such as politically exposed persons from Russia and Latin America with luxury real estate dotted across the country. Overall, it's impossible to identify the beneficial owners of 61 per cent of all companies that hold real estate in France.

Positively, the **United Kingdom** (71) recently created a register of the owners of foreign entities which hold properties in the country. While this has already brought some transparency over who owns high-value real estate long-favoured by the corrupt, an analysis of the data contained in the register has revealed some shortcomings. Critically, the register does not contain information on the ultimate owners of foreign companies which are held by trusts. Following pressure from civil society and a cross-party group of parliamentarians, the government has launched a consultation on how this gap could be addressed. It is imperative that future changes include a solution for ensuring better access to information on these trusts for civil society and journalists.

Change is long overdue

Despite some recent advancements, countries ranking high on the CPI still are not doing enough to combat transnational corruption in which they are deeply complicit. To varying degrees, all have systemic flaws which allow dirty money to infiltrate the global financial system. They also fail to go after perpetrators of transnational corruption and their enablers.

There are a number of significant opportunities to correct some of this in 2024, and they cannot be wasted. Several of the top-scoring countries have a chance to make it harder for corrupt actors from around the world to launder and hide their wealth within their borders by eliminating some long-standing financial secrecy loopholes. Pending anti-money laundering reforms have the potential to extend regulation to professionals, such as accountants, real estate agents and lawyers whose services are in high demand by foreign corrupt officials. Ensuring that they are closely supervised is equally important.

Finally, countries that boast low levels of public sector corruption and strong rule of law should fully enforce anti-bribery rules and, when these are insufficient, devise new measures to combat transnational corruption. Failing to do so means perpetuating the cycle of impunity.