

Governance and Corruption

Second Annual Anti-Corruption Symposium of Canadians for Accountability

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The respected international NGO Transparency International (TI), which confronts corruption worldwide (<http://www.transparency.org/cpi2015/>), is correct that no-one anywhere should be above the law or abuse voter-entrusted power for private gain. Corruption poses a threat to democracies and the rule of law, harms economic development, erodes the social fabric of nations and often factors in degrading the natural environment.

Volkswagen was shamed last year for cheating on emissions tests, but Prof Henry Mintzberg of McGill University noted that what Volkswagen did was part of a much larger problem:



(L)egal corruption... is ... prevalent. Goldman Sachs allegedly manipulated the market for recycled aluminum so that it could siphon off \$5-billion (U.S.) by moving ingots from one warehouse to another... (It) claimed to have broken no law... Our societies are being destroyed by... legal corruption.

A tsunami of world public opinion for better taxation and business governance launched by the recent whistle-blowing of the Panama Papers might succeed. Rule of law must return to replace rule by lawyers.

Let's look briefly at four countries with differing governance issues, including our own, mentioned in TI's 2015 study, starting with a well-governed and largely corruption-free African democracy: Botswana. In 2015, it ranked an admirable 28 among 168 countries and territories on TI's Corruption Perception Index (CPI)".

Botswana

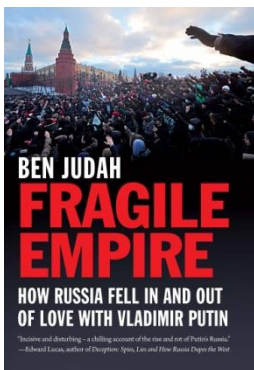
"In 1966, Botswana...was one of the poorest countries in the world. Since then, (it) ... has (tried) to escape the "resource curse", using the money gained from diamond extraction to reduce poverty from 50 per cent at independence to just 19 per cent in 2014 ... (It) spends 8 per cent of its GDP on education, (one of) the highest expenditures in the world, and (resulting) in nearly universal and free primary education... Botswana is a multiparty, parliamentary, democratic, republican state..."

“The government created an anti-corruption agency (which) has taken a leading role in investigating, preventing and educating on corruption... Botswana is perceived to be one of the least corrupt countries in Africa.”



Russia

TI ranked Russia 119th in its index. The Panama Papers recently exposed a billion-dollar money laundering ring run by Bank Rossiya, which became subject to EU and US sanctions after President Vladimir Putin annexed Crimea. A network of Putin’s cronies has moved about \$2 billion through a network of offshore companies. Predictably, he dismisses it all as “Putinphobia” in the West.



In his book *Fragile Empire* (2013), Ben Judah conducted interviews across Russia over several years and cares deeply for the well-being of the Russian people. Readers learn how, since 2000, Putin and his slogans ‘managed democracy’, ‘dictatorship of law’, and ‘vertical of power’, became in practice mostly corruption and bad governance.

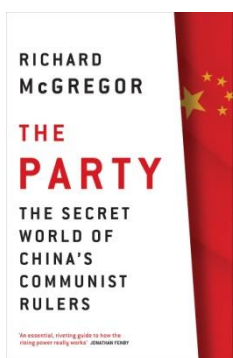
A ‘Videocracy’ resulted from Putin’s first term as president. Television news had undone earlier Russian leaders from Brezhnev to Yeltsin, so Putin seized the two largest networks and exiled their owners. “... TV editors (got) calls from ‘up top’ setting the agenda; the secret services (called) reporters to tell them (they’d) gone too far, and journalists were frequently murdered.” Russians relying on such televised news tend to remain highly loyal to Putin.

“The Great Turn” occurred in 2003 when Putin lurched towards totalitarianism. He had Mikhail Khodorkovsky, Russia’s richest oligarch, arrested and thrown into a Siberian prison after the other accused him of being “corrupt and incapable”. This was the ‘dictatorship of law’. Judah concludes that Putin was seen by many Russians in 2013 as “a thief who has stolen the state” by giving Russia “the formal institutions of a

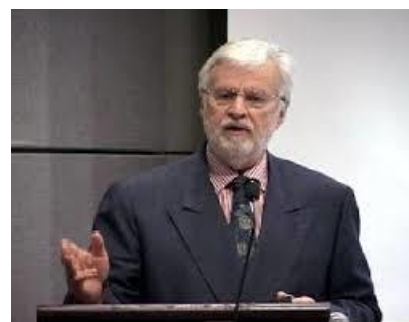
democracy, but gutting them of any meaning”. Like Yeltsin, concludes Judah, Putin cannot leave power for fear of arrest.

China

TI ranked China 83rd on its 2015 CPI. *The Party* by Richard McGregor, former *Financial Times* Beijing bureau chief, explains why in part: “China is deeply corrupt...Since 1982, about 80 per cent of the almost 200,000 officials disciplined annually for malfeasance by the Party received only a warning. Only 6 per cent were criminally prosecuted, and of them, only 3 per cent (were imprisoned.)”. Party member under a bizarre rule are not subject to laws applicable to ordinary citizens.



Last summer, President Xi Jinping, deploring ‘western-style freedoms’, launched an all-out attack on China’s fragile human rights legal community. These abuses were documented by the Canadian lawyer, Clive Ansley, who practised law in Shanghai for 14 years until 2003, when he could no longer



Clive Ansley

bear the charade of its ‘legal system’ and returned to Canada, explaining:

‘Trials’ are scripted theatres ...Chinese lawyers and judges who truly believe in the Rule of Law say...: ‘Those who hear the case do not make the judgment; those who make the judgment have not heard the case’... Nothing which has transpired in the ‘courtroom’ has any impact on the ‘judgment’.

The highest levels of the Party have looted immense wealth. Bloomberg reported in 2012 that President Xi’s family was “worth” several hundred million dollars. The Panama Papers increased international concern when the Mossack Fonseca law firm website indicated that most of its offices are in China. Family members of at least eight current or former members of the Politburo Standing Committee, Beijing’s highest decision-making body, have set up offshore companies. Xi’s vow to fight “armies of corruption” is thus seen as highly hypocritical.

Many foreigners who invest in China are harmed because of both systemic corruption and complete absence of the rule of law. President Xi has declared that China will not accept ‘Western style’ judicial independence and that the Party will continue to retain control over the “courts, the police, and procuratorate...” In short, Corruption is and will remain ‘The System’.



Greg Autry

Professors Greg Autry and Peter Navarro in California argue convincingly that consumer markets worldwide have been "conquered" by China largely through cheating on its trade agreements and membership in the WTO. The two conclude that the U.S. has



Peter Navarro

lost about 57,000 factories and 24 million manufacturing jobs mostly to China over the past two decades and say all nations should:

- define currency manipulation as an illegal export subsidy and add it to other subsidies when calculating anti-dumping and countervail penalties;
- respect intellectual property; adopt and enforce health, safety and environmental regulations consistent with international norms; ban the use of forced labour effectively—not merely on paper as now— and provide decent wages and working conditions for all;

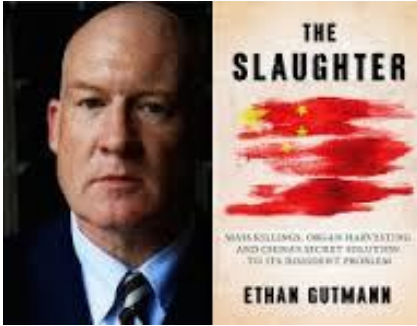
The Nobel laureate economist Paul Krugman has predicted that Beijing's ongoing refusal to let its currency float will cause retaliation in a world struggling with overcapacity. He adds that by displacing the output and jobs of other nations with its own low-wage goods, China is arguably the prime culprit in holding back a robust recovery in global economies.

Joe Nocera wrote not long ago in the *International New York Times* that China's "debt load today is an unfathomable \$28 trillion". The *Financial Times* reports that a "national team" of state-owned investment funds and institutions spent about \$200 billion attempting to prop up the Shanghai stock market. Large sums are being removed continuously from China by both nationals and foreigners; the regime has spent billions to manipulate its currency. The 'crony capitalism/Maoist governance/beggar thy neighbour' model is experiencing severe strains. There is a growing discord between the Party and the people of China.

David Shambaugh, named one of America's top 20 China watchers by the China Foreign Affairs University, is convinced that we are witnessing the "endgame of Chinese communist rule." He wrote:

- "In 2014, Shanghai's Hurun Research Institute... found that 64% of the 'high net worth individuals ... it polled—393 millionaires and billionaires—were either emigrating or planning to do so. Rich Chinese are sending their children to study abroad in record numbers..."

- “(Corruption) is stubbornly rooted in the single-party system, patron-client networks, an economy utterly lacking in transparency, a state-controlled media and the absence of the rule of law...Xi (is) a child of China’s first-generation revolutionary elitesThis silver-spoon generation is widely reviled in Chinese society at large”.



In a governance model such as this, it is no surprise that in his 2014 book, *The Slaughter: Mass Killings, Organ Harvesting, and China’s Secret Solution to Its Dissident Problem*, Ethan Gutmann explains how he arrives at his “best estimate” that the vital organs of 65,000 Falun Gong and 2,000 to 4,000 Uyghurs, Tibetans and House Christians were “harvested” in the 2000 to 2008 period under the

direction of Beijing’s party-state. These organs are obtained mostly for wealthy Chinese and “organ tourists” from abroad.

Canada

TI ranked Canada in 2015 at an excellent 8th place on its CPI index. We are privileged to live in a country where corruption is far less of a problem than in places like Russia and China, but we have no cause for complacency. Fighting corruption is like bailing a leaky boat: without constant bailing, it soon begins to fill up.

There is plentiful evidence that corruption has a hold in Canada – but the public doesn’t see this because it is rarely the sort of petty crime that affects citizens directly. Our problem is predominantly white collar crime carried out behind closed doors, often with the assistance of lawyers and accountants. Unfortunately such crime in Canada is rarely prosecuted or even detected. Let’s look at two of the agencies that should be leading the charge:

The RCMP has a dedicated white-collar crime unit (called IMET –Integrated Market Enforcement Team) formed in 2003 in the wake of the Bre-X scandal to police the financial services industry. IMET has secured few convictions during its entire history, despite repeated attempts to raise its game. It is perennially under-resourced with its staff often pulled away by the RCMP for other duties; it lacks the expertise required to go after major fraudsters, who tend to be highly sophisticated; and its priorities are controlled by a committee that includes representatives of the very organizations it is supposed to police. Some believe that IMET will never be effective unless completely restructured and set up as an agency separate from the RCMP.

The Canada Revenue Agency (CRA) – another agency charged with tackling white collar crime – has a reputation with some for pursuing smaller fry while giving the wealthy and powerful a free pass. For example, in 2013 a whistleblower revealed that Canadians have \$170 billion stashed in tax havens around the world. When this news made the headlines, a single tax dodger was named and shamed. CRA promised bold action, but then there was silence. CRA claimed recently to have assessed \$8 million in tax and penalties as a result of the 2013 leak. This seems a very low figure, given that Canada's tax losses due to offshore tax evasion are estimated to be about \$6-8 billion annually. CRA is now being given increased resources by the Trudeau government to go after offshore tax dodgers but it remains to be seen whether this – and the latest revelations in the Panama Papers – will stem the massive loss of public revenue.

What can be done about white collar crime? Research consistently confirms that the single most effective mechanism to detect fraud within organizations is information from whistleblowers. Alas, Canadian whistleblowers are at greater risk today than they were 20 years ago. The laws that have been passed – both federally and in some provinces – claim to protect whistleblowers while doing nothing of the sort. Rather, these laws protect those in power from whistleblowers. They accomplish this by forcing truth tellers into labyrinthine administrative procedures that seem designed to keep disclosures of wrongdoing secret, and by stripping whistleblowers of their free speech rights. At the federal level, more than \$50 million has been spent on whistleblowing agencies over the past 15 years with little result. It seems that all the activity was mostly theatre, designed to convince Canadians that the government of the day is doing something to protect the public interest.

The whistle blowing law passed by the Harper government in 2006 contained a requirement that there should be an independent review five years after the law came into force. This review should have been conducted in 2012, but didn't happen at all under the Conservatives. The review is now overdue by fully four years. Will the Trudeau government tackle the situation?

We need to demand better from all our leaders. There is no shortage of courageous Canadians willing to step forward to expose wrongdoing. We need to demand laws and agencies that will give them a fighting chance. It's the least we can do to protect them – so that they can protect us.

Special thanks to David Hutton, who helped greatly with the remarks here on Canada.



David Hutton