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TRANSNATIONAL ASPECTS OF ANTI-CORRUPTION

Joseph Pozsgai-Alvarez ³¹

I am very glad to be invited to talk about the transnational aspects of anti-corruption, because even though the community or the field of corruption or anticorruption I should say, have had significant watershed moments in the past 30 years such as the funding of Transparency International, the signing of the UNCAC (United Nations Convention Against Corruption), the launch of the Open

Government Partnership even more recently in 2016/2017, the adoption of the ISO 37001 for anti-bribery administrative system, I think that's what we're seeing today with the last couple of years and especially right now is probably the period with more hectic international activities of cooperation to deal with the issue of corruption.

We had the White House Summit in December of last year having us one of the three main pillars that fight against corruption. Earlier in 2021 we had the US specialization on Corruption and of course now because of the new political realities in Eastern Europe, the war between Russia and Ukraine, many main actors around the world are dealing now with the issue of money laundry. So, I believe this is the perfect moment to talk about where we are at this moment in terms of the transnational aspects or transnational nature of corruption. What you're seeing here (in the graphic), and please bear with me a little, because I know that this may sounds exceedingly academic, but over the last 15 to 20 years we have seen a substantial growth in the number of publications every year com-

³¹ Osaka University. Intervenção proferida online em língua inglesa. (<https://doi.org/10.34628/wzh2-tq65>)

ing out on the subject of corruption. So, what you're seeing here right now is a frequency table based on a set of around 8000 publications on anti-corruption, gathered for a few years now.

As you see, every year we continue to see more publications, a lot more attention on the issue of corruption. If not just a matter of volume, but we also see a multiplication in the fields of studying that also start approaching the issue of studying corruption. That means two ones being traditionally economics and political science. Of course, we can also mention sociology around there, but business, psychology and even medicine and computer science have been growing or the level of attention they paid to the issue of corruption had been growing also very recently.

So, it's a very exciting time to be researching and discussing corruption. We all know it's a very interdisciplinary subject and finally after many, many years, it seems that interdisciplinary dimension of corruption is being more embraced by at least academicians, but hopefully also by practitioners.

Corruption, traditionally speaking, is not very well defined. Definitions are very complex as many legal documents prefer not to define corruption. Instead of a clear definition of it, what we have is a list of different criminal types that are considered to be either part of corruption or related to corruption. We have, of course bribery but also money laundering, obstruction of justice and nepotism, clientelism, among others.

The problem is, however, that if we consider corruption to mean many different things, that way that we accept or fight against corruption will depend on the type of corruption that we are affected by in our specific context, by how people in different countries perceive the dangers of that form of corruption.

A couple years ago, a colleague and I performed a survey across a number of countries in different parts of the world. On purpose, we tried to stay a little away of OECD countries, because we wanted to engage more in countries where normally, we would think, that certain part of the population has higher tolerance with corruption, meaning they are more willing to accept petty bribery or accept corruption in their political system. We asked hundreds of people

about how they felt in different instances and contexts, without actually using the word corruption, just describing scenarios that were reflective of typical cases of clientelism, conflict of interest and see how they felt about this. A couple of things stand out in this result that you're seeing right now in this slide: one is that there are certainly some countries that seem to be more tolerant of corruption than others. The least tolerant country in our slide was Spain and the most tolerant was Indonesia. However, not all forms of corruption are equally tolerable. Some of them are considered to be more damaging or less morally acceptable, whereas other parts of corruption were more morally unacceptable. And also, depending on the type of corruption, some countries would have lower image of that specific type of corruption, for example bribery affecting a public office, compared to bribery affecting a private office, compared with other countries. This is not that surprising. When we consider that over the past decades, the types of activities or behaviours that are criminalised in relation to corruption has also been evolving.

Things that were accepted in relation to international business and could even be tax deductible even in European countries are not being accepted, after the European Convention in the late 1990's. So, as our understanding of what corruption is continued to evolve. Also, our ethical opinion about it continues to be evolved.

So, why is this important? Corruption is very much connected to power. The problem is that different countries or different societies understand the distribution or the acceptable distribution of power in different ways. A corruption is very much connected with the idea of something that is entrusted to someone and that someone abuses the power that is entrusted to them. This is the more traditional definition of corruption.

However, not every country has the same opinion about if the power is being entrusted or if it is just being rewarded, because of the individual that is receiving that power. For example, lobbying in the US is more accessible than in many other Latin American countries. The idea of the president or Prime Minister employing members of their family, can be more accepted in some countries and less accepted in others.

So, the question is when we deal with public officials, the amount of power that they hold and that they manage, how much of it is being trusted by the population and how much of it is being used as a reward, because they end up winning that game of politics.

Now, if we accept that different societies perceive this distribution of power in different ways, and start comparing it or looking at the distribution of limits of corruption, according to the most reputable measurement of corruption that we have today, from Transparency International Corruption Perception Index, some interesting ideas start to emerge. What are some of the potential reasons that over the last 20 years, even though we continue pouring more and more financial resources and human resources, in the fight against corruption, it seemed that we haven't made enough progress in this field.

What you're seeing here (in the slide) is not that surprising. Most of the global North-Western, Europe, North America, Australia, New Zealand are considered to be less corrupt countries, compared to the global South, Latin America, Africa, South East Asia.

However, these images of corruption that we tend to use to rank countries or to distribute resources across different regions response to a very traditional understanding of what corruption is. The Transparency International index was not meant to actually provide a tool for public officials to address the issue of corruption, because, for example, Canada is less corrupt than Mexico, but doesn't give a lot of tools for Mexican officials to adopt the correct policies. What it does, however, is create political pressure for leaders to do something about this problem. So, in that sense it was very successful, but over the last 25 years we have kind of failed to move beyond this and actually start measuring in a clearer way that different types of corruption and their frequency and their impact in different countries.

Why is this important? What you're seeing here, compared to the previous image, is network mapping of links between different jurisdictions in terms of relevance for money laundry. So, this is

the geographic structure of shell companies, informed to us by the evidence of the “Panama Papers” and the “Paradise Papers”. So, these are only two sets of a growing sense of leaked documents that have been appearing over last years, and what we know now, and it was suspected before, is that many jurisdictions that according to Transparency International are considered to be the least corrupt. Actually, have a very big role to play when we consider not corruption as a domestic problem, but as an issue of transnational networks. What you’re seeing here is that preeminent countries such as the US, UK territories, Spain, Brazil, some other European countries as well become a lot more prominent and more important for the study of corruption than what Transparency International Perception Index indicated before.

Now if we look at a different index, very much connected with the issue of money laundering, we find these financial secrecy index. That ranks countries based on how easy it is or how friendly their legal structure is towards the creation of shell companies and hiding of assets either legal or illegal. In here we start seeing an inverse relation to that map of Transparency international. A country that we find at the top of the ranking, including the United States, Switzerland, Singapore, Luxembourg, Japan, Netherlands, many other countries that usually were considered to be role models in terms of what are the correct forms of anti-corruption institutions and policies, and if we compare each one side by side, we find that actually about half of those countries that are at the top of the Financial Secrecy Index are also considered to be some of the lowest corrupt countries in the world, by one of the most important measurements of corruption perception index. If I were to extend this list by another ten spots, we would also include here the United States and other Western countries.

What I’m trying to say with this is that the way that we have understood the fight against instruction is very much based on the idea of how corruption looks like in the global South, in developing countries. Because of this, our attention has been focusing on forms of corruption that are prominent or there are systemic in poorer countries. Not to say that they are not important, because they cer-

tainly are. However, for most of this time, we've been missing the other side of the coin, the importance of institutions that enable transnational corruption networks.

If I had to summarise what I've been talking so far, I would say that our traditional understanding of corruption has been primarily domestic. It has dealt with issues of bribery, even the sustainable development goal in this point of 16.5 deal with indicators of corruption that relate only to bribery and mostly to bribery of low-level and mid-level public officials. That type of corruption that it usually found in the global South. Traditional corruption is also often functional, because many of people living in the societies usually require that although they morally reject corruption, they find it that in their day-to-day life they don't have many options but to engage in corruption themselves. Because of this, corruption in this traditional sense is economically efficient of course, but not necessarily obstructive, because most of the money that is engaging in corruption, traditionally speaking, has a state within the borders of that country.

Now let's compare that to the issue of transnational corruption, which is in contemporary days, perhaps the most important type of corruption for us to tackle at this moment, because we know very little about it and we certainly don't have international organisations to deal with it. It is largely transnational, meaning that its main actors are not just grounded, rooted to the domestic environment, but even though that corruption or the extraction of resources illicitly may begin within one country, it normally moves away from that territory, gets longer somewhere else, and perhaps ends up being part in a third country, but it usually doesn't come back. Because of this, it is highly dysfunctional, and it is also highly extractive. So, it's not just inefficient, but we're seeing is that many of these countries in the global south, actually get these resources stolen from them because they end up being laundered in other jurisdictions and being used by real estate and luxury items or being part in the so-called tax havens that are not just like the Korean islands, the Bahamas, the Cayman Islands traditionally considered, but most of them today are in some American states, in the UK, Luxembourg

and in many other a considered to be higher income jurisdictions.

Because of this, I wanted to use this opportunity to stress the fact that when we talk about corruption, especially if we want to talk about transnational corruption, it is potentially more important and more valuable and certainly more efficient to stop thinking domestically in terms of the issues that are happening or taking place only within one country borders, but instead focus on these transnational networks. I wanted to just leave you with that idea. Thank you very much for your attention.

(Resumo em português)

Os últimos anos correspondem provavelmente ao período em que a cooperação internacional orientada para a luta contra a corrupção atingiu maior intensidade. É por isso um bom momento para fazer o ponto de situação. Nos últimos 15 a 20 anos assistiu-se a um crescimento substancial no número de publicações sobre o tema. Por exemplo, a tabela que aqui apresentamos considerou cerca de oito mil publicações sobre anticorrupção. Sabemos também hoje que se trata de uma matéria interdisciplinar, dimensão que finalmente parece estar a ser assumida nos meios académicos, esperando que em breve o seja também nos profissionais.

A corrupção, tradicionalmente falando, não se encontra bem definida. Definir é complexo e por isso a lei prefere frequentemente não o fazer. Em vez disso disponibiliza uma lista de diferentes tipos penais enquadrantes ou relacionados com a corrupção, como o suborno, o branqueamento de capitais, a obstrução da justiça, o nepotismo, o clientelismo entre outros. O problema é que se enquadrarmos a corrupção sob significados diferentes, a forma como a encaramos fica dependente da modalidade que afeta o contexto específico em que nos situamos e da forma como as pessoas em diferentes países percebem os seus perigos.

Realizámos em tempo um estudo em vários países do mundo tendo chegado a conclusões interessantes sobre maior ou menor tolerância cultural em relação à corrupção e sua variabilidade em função dos tipos em que se concretiza e do tempo. Observámos

também que está muito ligada à forma como o poder é percebido em diferentes países. Atividades comuns nuns, como o *lobbying* ou a nomeação de familiares para o governo, não são bem vistas noutros.

A medida hoje mais aceite de que dispomos é a do Índice de Perceção da Corrupção da Transparência Internacional. Sendo um instrumento importante de pressão política, não resolve o problema de saber como se resolvem questões concretas.

Por outro lado, tem-se verificado aliás, pelos “*Panama Papers*” e pelos “*Paradise Papers*” que os países considerados menos corruptos naquele *Index*, afinal são palco de atividades transnacionais corruptivas. Na verdade, se olharmos para um índice mais ligado à lavagem de dinheiro, como é o de Sigilo Financeiro, no qual a classificação de países reflete a maior ou menor complacência do sistema legal para a criação de empresas de fachada e de ocultação de ativos legais ou ilegais, constata-se então que cerca de metade dos países que estão no topo deste índice são considerados dos menos corruptos do mundo por uma das medições mais importantes do Índice de Perceção da Corrupção da Transparência Internacional.

Em suma, a perspetiva pela qual a corrupção é frequentemente encarada é na realidade essencialmente doméstica, faltando o outro lado da moeda, ou seja, o da importância das instituições que permitem redes de corrupção transnacional, essas sim pouco estudadas.