

ANTI-CORRUPTION HELPDESK

PROVIDING ON-DEMAND RESEARCH TO HELP FIGHT CORRUPTION

ANTI-CORRUPTION IN THE COMMONWEALTH

QUERY

How successful have Commonwealth member states been in fighting corruption? To what extent can any successes be attributed to their Commonwealth membership? How effective has the Commonwealth been, as an institution, in fighting corruption?

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SUMMARY

The Commonwealth supports member countries in their fight against corruption by providing assistance in drafting legislation, training public officials, promoting best practices, and connecting the public and the private sector to reduce corruption. In particular, the institution has focused on strengthening governance and the public sector, reinforcing the rule of law, improving transparency in the management of natural resources industries and supporting integrity in sport. In the last years, the Commonwealth has increased its interventionist role by pressuring member countries to comply with anti-corruption standards as a pre-condition for obtaining aid.

According to Transparency International's Corruption Perception Index (CPI), some Commonwealth countries are among the best performers in their regions. At the regional level, corruption perception of Commonwealth countries in Africa, Asia and the Caribbean is also better when compared to non-Commonwealth countries in those regions. These findings, however, do not necessarily mean that all members are successful at the country level. To what extent the Commonwealth has a positive effect in a country's performance to curb corruption is difficult to assess since its support is meant to have a long-term effect that is difficult to measure and contextual factors intervene in the anti-corruption dynamics of each country.



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1. THE COMMONWEALTH

Background

The modern Commonwealth was created in 1949 by Australia, Canada, India, New Zealand, Pakistan, South Africa, Sri Lanka and the United Kingdom as a “free association” of independent member countries. Its origins go back to the beginning of the twentieth century, when the British Commonwealth of Nations was created as an attempt to bind its members by fidelity to the British crown in response to autonomy claims of its dominions Canada, South Africa, Australia and New Zealand. Today, the head of the Commonwealth is Queen Elizabeth II, who has been in the role for over 60 years.

The Commonwealth is notable for its great diversity and scale. It has 53 members from five continents (19 countries from Africa, 7 from Asia, 13 from the Caribbean and Americas, 3 from Europe and 11 from the Pacific). Among their members are advanced economies with very high human development, such as – on a scale where 0 represents the lowest and 1 the highest level of human development – the UK (0.909), Canada (0.920), Australia (0.939) and New Zealand (0.915); and countries in the lowest positions of human development like Sierra Leone (0.420) and Mozambique (0.418) (UNDP 2016).

The populations of member countries range from India, with over 1.2 billion people to the Pacific island of Nauru with about 10,000 inhabitants, (Commonwealth 2018). Originally, Commonwealth countries had common ties to the British Empire. However, in the last decades, the Commonwealth has expanded to include other countries like Rwanda and Mozambique that were never part of the British Empire. The total population of the Commonwealth is around 2.4 billion people.

The purpose of the contemporary Commonwealth is to pursue common goals to promote development, democracy and peace among its members. It does this by providing technical support to national governments, exercising pressure for the adoption of democratic measures like elections, and supporting Commonwealth citizens (scholarships, supporting youth participation, empowering women).

Sixteen core shared principles included in the Commonwealth Charter (2012) guide the institution’s work and membership: democracy; human rights; international peace and security; tolerance, respect and understanding; freedom of expression; separation of powers; rule of law; good governance, which includes ensuring transparency and accountability and rooting out systemic and systematic corruption at national and international levels; sustainable development; protecting the environment; health, education, food and shelter; gender equality; young people in the Commonwealth; the needs of small states; the needs of vulnerable states; and the role of the civil society.

The Commonwealth Secretariat was established in 1965 with the mission of supporting member countries to improve the wellbeing of Commonwealth citizens and to advance their shared interests internationally. The Commonwealth Secretariat works on democracy, rule of law, human rights, governance, economic and social development, small states and youth development. Through the Commonwealth Fund for Technical Cooperation (CFTC), created in 1971, the secretariat provides technical assistance to its members on a demand-driven basis in order to respect country ownership development.

Another active arm of the institution is the Commonwealth Ministerial Action Group (CMAG), which is in charge of dealing with serious violations of Commonwealth principles. It engages proactively and constructively with members where Commonwealth values are at risk. CMAG’s mission is to help countries to agree on a plan to restore democracy and constitutional rule, and it has the power to suspend a country if necessary.

2. THE COMMONWEALTH WORK ON ANTI-CORRUPTION

The Commonwealth started to work on anti-corruption almost two decades ago with the objective of assisting member governments “to tackle systemic corruption by supporting the sharing of good practices, training and capacity building and policy research” (Commonwealth web). The anti-corruption efforts of the Commonwealth take place both at the country level and as a collective institution.

Anti-corruption support at the country level

At the country level, the Commonwealth offers anti-corruption support to its members according to four main lines of action:¹

- 1) Strengthening governance and the public sector by providing assistance to anti-corruption and public procurement agencies, assisting with national and regional coordination and ensuring the implementation of sound financial management standards.
- 2) Reinforcing the rule of law by offering guidance on the legal and technical aspects of implementing an anti-corruption strategy. To aid this, in 2011, the Commonwealth Law Ministers Meeting approved the Commonwealth Legislative and Technical Guide. In addition, the Commonwealth's Model Law on Integrity in Public Life helps government ministers and public officials on issues concerning codes of conduct, the promotion of integrity and identification of offences considered to be an abuse of power, misconduct and neglect of duty. At the Anti-Corruption Summit in London 2016, the Commonwealth announced an update to the Commonwealth model legislative provisions on money laundering, terrorism financing, proceeds of crime, civil forfeiture and sanctions (Commonwealth 2016). Finally, the Commonwealth has a mentoring scheme that facilitates short-term placement of criminal justice officials needing training. The work in the area of reinforcing the rule of law is framed by the Framework for Commonwealth Principles on Promoting Good Governance and Combating Corruption (2000) and supports the United Nations Convention against Corruption (UNCAC). Mauritius, Samoa, Uganda, Sri Lanka and Nigeria have benefited from some of these initiatives.
- 3) Improving transparency in natural resources management and development to prevent corruption in countries natural wealth and facilitate the translation into sustained economic and social development. In particular, the secretariat assists members to become compliant with the Extractive Industries Transparency Initiative (EITI), for example, by strengthening the rules concerning

financial reporting of natural resource revenues. As a result of the efforts to foster transparency and accountability in the extractive sector, the Seychelles was admitted at the EITI in 2014. At the moment, its compliance with EITI is pending assessment against the 2016 standard.²

- 4) Supporting integrity in sport, in particular, to strengthen the governance of sport and reduce the space for the manipulation of sporting competitions through betting or match fixing. The Commonwealth Advisory Body on Sport provides advice to governments on sport integrity issues.

Anti-corruption efforts at regional level

Some efforts have been taken at the regional level, in particular in Africa and the Caribbean. In 2011, heads of African national anti-corruption agencies established the Association of Anti-Corruption Agencies in Commonwealth Africa (AAACA). In the framework of this institution, the authorities responsible for anti-corruption agencies peer-review anti-corruption initiatives, benchmark their performance and exchange best practices. From this, Ghana and Nigeria have a bilateral agreement to combat trans-border crimes in West Africa. Also in Africa, the Commonwealth Secretariat, in partnership with the Government of Botswana and the AAACA, established the Commonwealth Africa Anti-Corruption Centre in 2013. One of the main services provided by the centre is capacity development programmes and training in management and leadership skills. Anti-corruption managers from Zambia, Lesotho, South Africa, Namibia, Mauritius and Botswana have received this training.

In 2015, 12 Caribbean countries established the Association of Integrity Commissions and Anti-Corruption Bodies in the Commonwealth Caribbean. The association supports cross-border cooperation and knowledge exchange. An example of this exchange is Jamaica's Office of the Contractor General sharing its investigative tools, compliance systems and procedures with Grenada's Integrity Commission.

Following the examples in Africa and the Caribbean, the Commonwealth Anti-Corruption Network intends

¹ This section is mainly based on the information available on the Commonwealth's webpage: <http://thecommonwealth.org/tacklingcorruption>

² <https://eiti.org/seychelles>

to expand to the Pacific and Asia to promote practitioner partnerships (Commonwealth Secretariat 2016). Several partnerships have so far taken place between anti-corruption agencies from Botswana and Zambia, South Africa and Botswana, Nigeria and Ghana, Trinidad and Tobago and Grenada, Australia and Nigeria, and Tanzania and Botswana. These partnerships consist in the exchange of positive experiences, managerial systems, supporting each other's initiatives, training and capacity building.

Anti-corruption as a collective institution

In addition to the actions taken at the national level, the Fighting Corruption, Promoting Good Governance report (Commonwealth Secretariat 2000) contemplates other anti-corruption actions in which the Commonwealth can act as a collective institution. Among the proposed actions are the adoption of a declaration that commits the Commonwealth to particular principles, standards and goals, and to support a global initiative against corruption to fill the gaps in existing instruments. This will also include work with other international agencies to develop effective standards to prevent laundering and corrupt practices in financial centres.

In addition, the report points to the importance of finalising and adopting a code of conduct on integrity in public office and a code for good corporate governance. In 2017, the Office of Civil and Criminal Justice Reform developed the Model Act on Integrity in Public Life. The act offers a model code of conduct for public officials, guidelines on conflicts of interest and legislative provisions specifically intended to meet the needs of small jurisdictions. The act covers ministries and non-elected public officials.

Finally, the report mentions the importance to the Commonwealth of supporting other international initiatives promoted by the Organisation for Economic Co-operation and Development (OECD), Transparency International's work on reporting international businesses' corrupt behaviour, the International Monetary Fund (IMF) regarding its Code of Good Practice on Fiscal Transparency, and the Council of Europe, among others.

In general, the interventionist intensity of the institution has been mild since it has mainly responded to the demand of member countries. However, the

appointment of Baroness Patricia Scotland as Commonwealth Secretary-General, in April 2016, seems to have involved a shift in the institution's engagement to fight corruption, turning the Commonwealth into a higher interventionist institution.

In March 2016, Baroness Scotland announced that, in the future, member countries might need to prove that they are meeting anti-corruption standards in order to get access to aid and loans (The Guardian 2016). The intention is not only to pressure members, but also to build a positive advantage to being compliant, transparent and non-corrupt entity in the Commonwealth (The Guardian, 8/5/2016). She proposed the Bribery Act as the standard for Commonwealth countries to adopt. The Bribery Act was introduced in the UK in 2010 to enhance British law on bribery and international bribery to better address the 1997 OECD anti-bribery convention. For Baroness Scotland – one of the architects of the Bribery Act – “it is the best standard internationally. It has extra territorial grip, it has got teeth, and it requires entities to ask themselves questions to ensure they have built a resilient system to fight corruption” (The Guardian 2016).

3. CORRUPTION AND ANTI-CORRUPTION IN COMMONWEALTH COUNTRIES

The diversity among Commonwealth member countries and regions makes impossible to generalise on their levels of corruption and the effectiveness of their path to fight it. Nevertheless, despite the differences, most developing countries in the Commonwealth have shared circumstances that have pushed them to address the problem of corruption: their dependence on external aid, and external and internal pressures to adopt democratic processes. After political independence from the British Empire, pressures to fight corruption have mainly come from international financial institutions and donors. These institutions conditioned their aid to the commitment of the countries to reduce corruption and demanded good governance and institutional reform connected with economic development.

In Africa, for example, many Commonwealth countries introduced anti-corruption legislation in the 1980s and 1990s as a replacement of the penal code provisions, the principal source of law to address corruption

during colonial times (Coldham 1995). The new legislations to fight corruption were based on UK law, in particular the Prevention of Corruption Acts 1889-1916, with local modifications in the creation of new offences and in the treatment of evidentiary, investigatory and enforcement matters (Coldham 1995).

The success of Commonwealth members in fighting corruption

Commonwealth countries are at the top and at the bottom of Transparency International's Corruption Perception Index (CPI) rank. New Zealand, for example, occupies the first position in 2017's CPI rank with a score of 89. Mozambique, on the other hand, occupies the position 153 out of 180 in the 2017 CPI rank with a score of 25.

Nevertheless, Commonwealth countries are among the least corrupt in their regions, according to the 2017 CPI. In Africa, four out of the five best performing countries belong to the Commonwealth: Seychelles, Rwanda, Namibia and Botswana, the latter of which is also at the top of the list. In the Asia-Pacific region, the top three performers are also members of the Commonwealth: New Zealand, Singapore and Australia. Similarly, Canada is the highest performer in the Americas and the Bahamas in the Caribbean.

Besides the ranking, two member countries of the Commonwealth have shown a statistically significant³ improvement regarding corruption perceptions in the 2017 CPI: Guyana and the United Kingdom. CPI data also shows three Commonwealth countries with a statistically significant decline in corruption perception between 2012 and 2017: Australia, Saint Lucia and Malawi. While the United Kingdom had a relatively constant improvement in corruption perception since 2012 (without variation between 2015 and 2016), Guyana has had more instability in its corruption perception trajectory (for an overview of corruption and anti-corruption in Guyana see Chêne 2010).

4. THE IMPACT OF THE COMMONWEALTH IN FIGHTING CORRUPTION

To determine if the success of Commonwealth countries abilities to counter corruption is due to their

Commonwealth membership is difficult for at least three main reasons:

1. The anti-corruption help provided by the Commonwealth has been in dependent to a large extent on being requested by member countries. Therefore, if a member did not demand that support, it did not receive the potential benefit of being Commonwealth member regarding anti-corruption.
2. The support provided by the Commonwealth, such as training public officials and technical assistance in drafting anti-corruption policies and legislation, are long-term initiatives whose affects are difficult to measure.
3. The context-dependency and multiplicity of factors affecting anti-corruption national dynamics makes it difficult to determine how much of the success can be assigned to Commonwealth membership. Factors such as political commitment, social trust towards government institutions and historical institutional traditions, among others, are important to the effectiveness of anti-corruption initiatives. In this sense, Acemoglu and Robinson (2012) argue that the differences in development among former British colonies is explained by the type of institutional configurations: those countries under inclusive institutions enjoy prosperity and sustainable development, whereas those countries under extractive institutions cannot bring sustainable growth.

Guyana's CPI score, for instance, considerably improved when the multiracial opposition coalition Partnership for National Unity and Alliance for Change, led by David Granger, won the elections in 2015. For the first time in 23 years, the opposition broke the monopoly of the ruling Indo-Guyanese party People's Progressive Party, in power since 1992 (The Guardian 2015). That change in government was followed in the last two years by the establishment of new laws and institutions to address challenges in procurement and management of local governments. The engagement of the government in an anti-corruption campaign, sanctions for engaging in corruption and not discrediting anti-corruption advocates by the government, positively influenced the perception of corruption in the Caribbean country.

³ A result is statistically significant when it is unlikely due to chance.

Although it is difficult to accurately assess the impact of the Commonwealth in anti-corruption measures at the country level for the reasons noted above, it is possible to identify if Commonwealth countries are perceived as more successful than non-Commonwealth countries by comparing the average of corruption perceptions by regions. In this doing, we can also identify the tendency of those perceptions towards improving or worsening over time.

In Africa, according to the 2017 CPI, Commonwealth countries are perceived as less corrupt than non-Commonwealth countries. In Commonwealth Africa, the average 2017 CPI score (where 0 is highly corrupt and 100 very clean) is 39 whereas in non-Commonwealth Africa it is 27. This positive perception in favour of Commonwealth African countries has been consistent from 2012 to 2017.⁴ However, the perception of corruption has worsened in both sets of countries; the scores in 2012 were 40 for Commonwealth countries and 29 for non-Commonwealth countries. The difference of around 11 points between the two groups has been consistent from 2012 to 2017.

The advantage of African Commonwealth countries over non-Commonwealth countries in corruption perception is corroborated by the World Bank Control of Corruption data from 2012 to 2017. In 2016, on a scale from -2.5 (weak) to 2.5 (strong governance performance), the average for Commonwealth countries in Africa was -0.31. This score indicates a considerably low governance performance in controlling corruption, though stronger than in non-Commonwealth Africa (-0.78). Contrary to the CPI, World Bank Control of Corruption data indicates a slight progressive improvement in Commonwealth countries from 2012, when the score average was -0.35. In non-Commonwealth Africa, between 2013 to 2016 the average score has not changed from -0.89.

In the Caribbean region, Commonwealth countries are also perceived as less corrupt (2017 CPI: 53) than non-Commonwealth countries (2017 CPI: 32). The World Bank Control of Corruption confirms this tendency with 0.43 score in 2016 for Caribbean Commonwealth countries and 0.32 for Caribbean non-Commonwealth countries. According to this indicator,

there has been a progressive tendency towards scoring weaker in governance performance in controlling corruption from 2012 to 2016 in both groups of countries. The average in control of corruption in 2012 was 0.58 for the Caribbean Commonwealth members and 0.48 for non-Commonwealth countries in the region.

Following data on perceptions of corruption in Asia, the CPI shows again a better score for Asian members of the Commonwealth (2017 CPI: 47) than for non-Commonwealth Asian countries (2017 CPI: 40). Contrary to Africa and the Caribbean, the tendency in corruption perception from 2012 has improved both in Commonwealth Asia (2012 CPI: 45) and non-Commonwealth Asia (2012 CPI: 37). The advantage of Asian Commonwealth countries over non-Commonwealth countries is confirmed by the World Bank Control of Corruption index, according to which, in 2016, the first group scored 0.09 and the second group -0.16. The positive progression of Commonwealth members in the region is also confirmed by the World Bank's index with a progression from 0.03 in 2012. Non-Commonwealth countries also improved, from -0.22 in 2012, though remain in negative values to the present.

It is not possible to determine from this data if the progress of Commonwealth countries in countering corruption at the country level is due to their membership of the institution. Nevertheless, the evidence suggests that there is a positive advantage to be able to counter corruption within the group when compared to non-Commonwealth countries.

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⁴ CPI data can only be compared from 2012 to the present due to methodological reasons.

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