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# *MINIMISING BRIBERY AND CORRUPTION IN THE TIME OF COVID-19*

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Drago Kos, Sandrine Richard & James Wasserstrom<sup>1</sup>

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<sup>1</sup> Drago Kos is the Chair of the OECD Working Group on Bribery in International Business Transactions, Sandrine Richard is an auditor and expert in economic intelligence and protection of companies at the Institut National Des Hautes Études de Sécurité et de Justice in France and James Wasserstrom is a former senior anti-corruption advisor for the US government.

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## 1 Introduction

Though some saw a pandemic coming, no one was prepared for it and everyone worldwide is affected by it today. Politicians and healthcare professionals made mistakes at the outset, but that phase, with rare exceptions, is over. Some might have expected that we will be able to rely on high tech and medical knowledge and resources to respond to such challenges efficiently and in timely fashion, but instead we still rely on traditional but effective measures such as social distancing and quarantines.

The impact of the pandemic is influencing our lives so profoundly that some politicians have said we are at "war" against the virus. The number of casualties and the extraordinary size and scope of national resources needed to combat the "invisible enemy" makes the war metaphor resonate. But there are also other, less obvious markers of a wartime mentality: the lowering or suspension of existing democratic, legal, and ethical standards. Some basic functions of government, essential in peacetime, are downplayed or set aside. Two such activities are law enforcement and – especially - the suspension of less "urgent" criminality or non-violent crimes, such as bribery and corruption. It is a cliché that war brings out the best in a citizenry, but the other half of that axiom, often conveniently omitted to bolster a discouraged populace, is that it simultaneously brings out the worst. In this "war", the economic, social and political upheaval accompanying the disruption of normal times has brought, and will continue to bring out forms of bribery and corruption which are having and will continue to have harmful, possibly tragic consequences for many countries' democratic, health and legal systems. This will be especially so in states where such achievements are fragile, under endogenous or exogenous attack already. In the tech world, profiting from "disruption" of the status quo is the objective; in the fight against COVID-19, "disruption" could lead to profiteering, and worse. "White-collar crime" in normal times is often considered of lower priority than violent crime because it is less immediate and is mistakenly seen as "victimless" or that its victims are less needy of protection since they are not physically harmed. In the current "war", the theft of scarce resources needed to save lives both victimises and is violent.

This note explores whether nations facing the coronavirus pandemic are also facing other risks, that are endangering the rule of law, public finance, and media freedom, and, in general, democratic society. The note also describes options to help protect these pillars of our societies from themselves becoming hit by the pandemic.

## 2 Special conditions in the time of pandemic

The COVID-19 pandemic is affecting developed and developing countries simultaneously, the first such global health event since the Spanish influenza. Some see this pandemic as an opportunity of which to take advantage for personal benefit. Some in positions of authority, both public and private, may be

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tempted to abuse their power for private gain, to the detriment of the broader community or the government they represent. The fight against corruption must not be just set aside "for now".

Throughout June 2020, a wave of corruption incidents related to COVID-19 is already apparent. Transparency and accountability in some countries lost some of the importance, proving that the outbreak presents an opportunity for serious abuses<sup>2</sup>, often involving public officials.

Previous global health crises have shown us where abuses are most likely to occur:

- Emergency procurement of medical and personal protective equipment. Evidence from audits during the West African Ebola outbreak indicates that procurement procedures were widely disregarded.<sup>3</sup> In the case of COVID-19, considerable funding is being used to procure the equipment and other necessary infrastructure to ensure personal protection of medical and related personnel and to provide intensive care. This risks opening the door to many forms of fraud, waste and abuse of public resources;
- Pilfering of available supplies, and price gouging;
- Increases in substandard and fake medical equipment and pharmaceutical products entering the market;
- Opacity and corruption in healthcare workforce recruitment and management. Strong central and local leadership, backed by a healthcare workforce with real expertise is the cornerstone of an effective response to pandemic. However, corruption and lack of transparency will lead to the recruitment of individuals who are un- or under-qualified and incompetent;
- Petty corruption at the service delivery level. Some healthcare workers may ask for bribes, charge- or charge more - for services meant to be gratis. They may show favouritism, if they are not already doing so, skewing treatment for sick people based on family, ethnic or religious grounds. Forms of corruption perpetrated by patients themselves can also contribute to further disease spread, such as bribing enforcement officials to evade quarantine<sup>4</sup>;
- Opacity in the research and development of vaccines and medicines. There is a "global call" to advance the research and development of diagnostics,

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<sup>2</sup> <https://www.voanews.com/covid-19-pandemic/massive-covid-spending-could-unleash-surge-scams-experts-warn>.

<sup>3</sup> <https://www.bbc.com/news/world-africa-31461564>.

<sup>4</sup> As indicated by reports from Uganda, there are accounts of foreign citizens evading quarantine by bribing officials in Cameroon and Uganda, which inevitably leads to further spread of the disease, [https://www.newvision.co.ug/new\\_vision/news/1516840/coronavirus-foreigners-bribequarantine](https://www.newvision.co.ug/new_vision/news/1516840/coronavirus-foreigners-bribequarantine).

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therapeutics and vaccines to address the COVID-19 outbreak. This has caused a real "race", not only with the goal of preventing further infections but also to be the first to profit from it. This confluence of societal need and personal benefit drives market economic systems. Even in the best of times, however, the development, production and marketing of pharmaceuticals is opaque. In a crisis like this one, profiteering, manipulation of industry and market dynamics, supply and distribution chains for the sake of higher profits becomes almost normal.<sup>5</sup> Firms and those who regulate them risk setting aside the principles and regulations governing the pharmaceutical industry developed in normal times<sup>6</sup>, justified by the health emergency;

- Absolute focus of governments on protecting their citizens' lives, disregarding the need for necessary monitoring of all of the above.

### 3 Areas of increased corruption risks related to COVID-19 and how to decrease them

The following section explores COVID-19 induced increased risks to the rule of law, public procurement, transparency, the functioning of monitoring bodies, and media freedom.

#### 3.1 Rule of law

In a crisis such as the COVID-19 pandemic, law enforcement priorities change, shifting their focus to the protection of human lives or facilitation of the work of other responders in health and rescue services. Consequently, those tempted to break rules are in a much better position to do so and get away with it than in normal times. Add to that the overriding concern and urgency of a healthcare crisis, loosened rules, minimal oversight and massive infusions of loosely controlled financial resources flowing in and out of government budgets.

Countries competing against one another, and internally within themselves, have been systematically overpaying for supplies. Producers of the necessary equipment and anyone who can position themselves as intermediaries are in a paradise of oligopoly, picking and choosing to whom to sell, when and at what price. Reports have emerged of public officials, private companies and entrepreneurs abusing the current situation to enrich themselves, their political allies, parties, families and friends.<sup>7</sup> The overall global demand for the medical equipment creates the need to skip the queue in order

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<sup>5</sup> <https://www.dw.com/en/coronavirus-vaccine-where-profit-and-public-health-collide/a-53301729>.

<sup>6</sup> Ensuring strict adherence to regulatory procedures in research and development, scrutinising decision making, making the results of research publicly available, ensuring that the prices for any final products reflect the public investment made and not company interest for profit, securing equity in access for all nations without restrictions, <https://www.gilead.com>.

<sup>7</sup> <http://activehistory.ca/2020/05/profitteering-in-the-war-against-covid-19/>.

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to receive the needed equipment on time. In order to do so, some have paid off vendors.<sup>8</sup>

Elementary, old-fashioned fraud cases are also emerging. Some countries have purchased<sup>9</sup> equipment which was never delivered or was sub-standard. Therefore, they sometimes refuse to use it or recall it.<sup>10</sup> Some countries<sup>11</sup> have learnt the lesson and with the assistance of Europol are already actively countering such fraud and related offences<sup>12</sup>.

Some governments have insisted on the use of intermediaries. In anti-corruption theory and practice there is no brighter red flag for potential bribes and kickbacks. Selected intermediaries have friendly or even family relations with ministers. Comic, if it weren't so tragic, is a large contract signed by a national authority for the purchase of personal protective equipment with a company known for selling gambling machines for large casinos and no expertise in medical supply<sup>13</sup>.

Another very lucrative source of bribes and kickbacks is overpricing of either the products themselves<sup>14</sup> or of the transportation of those products. Recently, a government paid one fifth the price for urgent transport of equipment purchased directly of what it paid for the same means of transportation around the same time to one of its intermediaries owned by a "chosen" Individual.

The business of personal protection and other pandemic-related supply has become so lucrative that even the Mafia and other organized criminal enterprises are engaged in it.<sup>15</sup>

With law enforcement distracted by other pressing tasks, the governments having to navigate in securing needed medical and other supplies, the urgency of the crisis and the resultant relaxation of rules and regulations in procurement, the risks and actual cases of bribery, corruption and fraud are dramatically increasing during the pandemic.

There is one obvious, simple and feasible solution: given stretched resources, rather than effectively abandoning the fight against corruption, law enforcement or others with relevant authorities should establish smaller task-forces, across agencies as

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<sup>8</sup><https://china-cee.eu/2020/05/06/slovenia-social-briefing-purchases-of-medical-equipment-related-corruption-suspicions-and-the-public-response/>.

<sup>9</sup> <https://www.straitstimes.com/singapore/coronavirus-buyers-of-cheap-masks-lose-122000-to-overseas-scam>.

<sup>10</sup><https://www.scmp.com/news/china/diplomacy/article/3077428/netherlands-recalls-600000-face-masks-china-due-low-quality>.

<sup>11</sup> <https://www.politico.eu/article/criminals-are-exploiting-the-coronavirus-outbreak-warns-europol-chief/>.

<sup>12</sup><https://www.europol.europa.eu/newsroom/news/corona-crimes-suspect-behind-€6-million-face-masks-and-hand-sanitisers-scam-arrested-thanks-to-international-police-cooperation>.

<sup>13</sup><https://www.occrp.org/en/coronavirus/opaque-coronavirus-procurement-deal-hands-millions-to-slovenian-gambling-mogul>.

<sup>14</sup> <https://www.homecareinsight.co.uk/care-providers-urged-to-contact-cma-over-ppe-overpricing/>.

<sup>15</sup> <https://edition.cnn.com/2020/04/19/europe/italy-mafia-exploiting-coronavirus-crisis-aid-intl/index.html>.

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necessary, to devote their exclusive attention to countries' activities in purchasing urgent medical and personal protective equipment. This might have several positive consequences: maintaining, or raising guardrails and the likelihood of getting caught, so the risk/reward ratio calculation deters, rather than encourages potential criminality. Also, it enables the collection of evidence in real time, while fresh, rather than post-facto, when stale, after the pandemic, perhaps years later. Most importantly, it ensures that limited financial resources are applied with maximum efficiency and effectiveness when it is a matter of life and death to do so.

Times of crisis are also known as times for enrichment - of a limited number of individuals, of course. Some countries have grasped this concept, and are already acting proactively and preventatively.<sup>16</sup>

### 3.2 Public procurement

Normally, public procurement is heavily regulated to prevent waste and abuse of public resources. There are no ideal and absolutely airtight solutions even in normal times, so how should such rules apply in the current circumstances? In many national statutes, provisions are made for emergency procurement, which the COVID-19 crisis clearly demands. Such rules enable faster and easier purchasing procedures. Where countries do not already have such provisions in place<sup>17</sup>, they are introducing them quickly. The often-lengthy processes of open, competitive tendering, are being set aside or abandoned altogether, replaced by sole sourcing and other shortcuts, such as lowering dollar or volume thresholds for different types of procurement.<sup>18</sup>

The EU has a public procurement Directive<sup>19</sup> that allows the use of a negotiated procedure without prior publication in a number of limited cases. These cover the current situation. Nevertheless, in a desire to show responsiveness and assist Member States in this crisis, the European Commission published "Guidance from the European Commission on using the public procurement framework in the emergency situation related to the COVID-19 crisis" on 1 April 2020<sup>20</sup>. In short, the Guidance enables the following:

- in urgent cases, deadlines may be shortened significantly;
- the requirement for a minimum number of candidates is abolished;

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<sup>16</sup>Slovakia, <https://spectator.sme.sk/c/22366313/the-police-launch-prosecution-in-the-purchase-of-medical-equipment.html?ref=av-right>.

<sup>17</sup> For example, PR China in its PRC Government Procurement Law, Article 85, providing that normal procurement procedures do not apply to emergency procurements in case of serious natural disasters and other force majeure incidents, or to procurements that have to do with state security and state secrets, [http://www.fdi.gov.cn/1800000121\\_39\\_2099\\_0\\_7.html](http://www.fdi.gov.cn/1800000121_39_2099_0_7.html).

<sup>18</sup> <https://www.theguardian.com/world/2020/may/15/firms-given-1bn-of-state-contracts-without-tender-in-covid-19-crisis>.

<sup>19</sup> No. 2014/24/EU, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0024&from=EN>.

<sup>20</sup> [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020XC0401\(05\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020XC0401(05)&from=EN).

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- if this flexibility is not sufficient, contracts may also be awarded directly;
- the quick satisfaction of the needs of hospitals and other health care institutions should be considered urgent;
- to accelerate procurement, contracting authorities can contact potential contractors in and outside the EU by phone, e-mail or in person, hire agents that have better contacts in the markets, send representatives directly to the countries that have the necessary stocks and can ensure immediate delivery and contact potential suppliers to agree to an increase in production or the start or renewal of production.<sup>21</sup>

Some EU members issued such guidance even before the European Commission did<sup>22</sup>, mainly clarifying the conditions under which negotiated procedures without prior public notice or competitive tendering is permissible.

Some governments published guidance concerning public procurement with a very specific goal: to ensure service continuity during and after the current COVID-19 pandemic by maintaining cash flow in support of the supply chain and to protect jobs.<sup>23</sup>

The emergency does require easier and faster public procurement of personal protective equipment. However, any deviation from usual public procurement standards introduced in normal times increases the risk for fraud, waste and abuse. To minimise such possibilities, loosening the grip can be counterbalanced in other ways:

- introduction of additional safeguards for emergency procurement procedures (i.e. introduction of simple and clear criteria for the selection of contractors, strengthening of procurement bodies with appropriate technical experts, limits on pre-payments and only in recoverable escrow);
- additional regular timely public reporting of procurement authorities on their activities<sup>24</sup>;
- real-time external monitoring of activities by existing or new oversight bodies (audit, inspectors-general, law enforcement) of procurement authorities'

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<sup>21</sup> Pinsent Masons, *Public procurement parameters shift with Covid-19 pandemic*, Out-Law Analysis, April, 2020, <https://www.pinsentmasons.com/out-law/analysis/public-procurement-Covid-19-pandemic>.

<sup>22</sup> France on 18 March, 2020, through the Legal Affairs Department of the Ministry of Economy and Finance, see also: <https://www.august-debouzy.com/en/blog/1441-coronavirus-and-public-procurement>.

<sup>23</sup> UK, through Cabinet Office with the Procurement Policy Note (PPN) No. 02/20 on »Supplier relief due to COVID-19«, [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/874178/PPN\\_02\\_20\\_Supplier\\_Relief\\_due\\_to\\_Covid19.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/874178/PPN_02_20_Supplier_Relief_due_to_Covid19.pdf).

<sup>24</sup> In short intervals.



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application of crisis procedures, including immediate analysis of questionable contracts by oversight bodies;

- introduction of swift investigation of suspected cases of fraud, waste or abuse, and equally quick disciplinary or political sanctions<sup>25</sup> if proven.

It is also essential that "sunset clauses", that is clear end or renewal dates, be an integral part of the extraordinary application of easier and faster procurement procedures. These should include the process by which end or renewal decisions are made, and must include equal roles for both the executive and the legislative branches.

### 3.3 Transparency

Transparency is not a silver bullet against corruption, but it does make the activities of corrupt individuals harder. It forces them to look for new, more hidden ways to act nefariously. No country has ever won the fight against corruption by transparency alone. However, those with high levels of transparency<sup>26</sup> are much less burdened by corruption than those whose governments rely on secrecy and non-disclosure. Given the potential for abuses in today's exceptional circumstances, transparency in governance is even more essential.

Citizens look at government initiatives to combat COVID-19 with a combination of fear and hope, since their lives might depend on such efforts. Therefore, it is of crucial importance for governments to be as transparent as possible in their efforts to counter COVID-19<sup>27</sup>, including: organisation of medical facilities, introduction and enforcement of social distancing<sup>28</sup>, purchase and distribution of personal protective equipment, medical conditions in the field, composition of responsible governmental teams, etc. This is the only way to convince citizens to follow sometimes harsh quarantine measures and to remain calm in the flood of bad news.

Transparency with the purpose of informing people on general anti-virus measures is important but does not necessarily have any particular influence on the state of play in the area of corruption. For that, transparency in public procurement of the equipment must remain in place. It should not be "streamlined out" for the emergency. Only the fact that purchase of equipment and supplies is urgent cannot be sufficient basis for setting aside transparency of relevant decisions and actions. On the contrary, it is established fact that urgency and haste can open the door to losses and other serious problems, such as deliberate selection of low quality equipment and supplies,

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<sup>25</sup> If possible, other types of sanctions (civil, criminal) also need to be applied.

<sup>26</sup> For example, Scandinavian countries.

<sup>27</sup><https://thisisreno.com/2020/04/transparency-is-most-urgent-amid-coronavirus-emergency-opinion/>.

<sup>28</sup>[https://www.dailymail.co.uk/video/borisjohnson/video-2160008/Video-Boris-Johnson-vows-transparency-decisions-coronavirus-lockdown.html?ns\\_mchannel=rss&ito=1490&ns\\_campaign=1490](https://www.dailymail.co.uk/video/borisjohnson/video-2160008/Video-Boris-Johnson-vows-transparency-decisions-coronavirus-lockdown.html?ns_mchannel=rss&ito=1490&ns_campaign=1490).

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possibly in excessive amounts, which may be overpriced, unsuited to local conditions, or defective; contract steering to cronies and relations, inequity in distribution of and access to equipment, supplies, or expertise, etc.

There are good, viable options to confront those problems. Enhanced transparency is one of the most important tools. If governments are forced to expend enormous amounts of public funds in a very short period of time, they should expect that sooner or later somebody will start analysing carefully how they spent the money. If they are not sufficiently transparent and are caught red-handed in abuses while purchasing the badly needed equipment, the blow to their credibility and support will certainly diminish or even negate whatever positive political gain that their effective fight against the virus might have generated. Some governments do understand that possibility. Ukraine, for instance, has developed an online tool<sup>29</sup> showing all COVID-related emergency procurement, including the name of the items, their prices per unit, terms and suppliers. Ukraine is a laudable exception. But there are also countries doing the opposite by abolishing previously well-functioning systems for general control of public spending, hiding conditions for public tenders or keeping contracts and their terms confidential.<sup>30</sup> When these are dominant features of the accelerated purchase of medical and personal protective equipment, corruption threats are increasing significantly.

The solution is that safeguards enabling and ensuring transparency, which are developed in normal times, must remain in place in the time of crisis, too. If possible, and having in mind the risks emerging on the basis of urgency, huge amounts of equipment needed and considerable sums of money spent, those safeguards should be additionally strengthened, enabling even higher levels of transparency. Involving credible activists from civil society participating as observers is one obvious and easy way to facilitate integrity of the procurement process.

### 3.4 Functioning of monitoring bodies

It would be wrong to obstruct the governments in its fight against COVID-19. But it would also be just as wrong, if not more so, if certain officials and other individuals opportunistically take advantage of the pandemic for private enrichment or for undue political gain. Crises enable governments to justify the introduction of measures, which may or may not have a connection to relief, but are still represented as "urgent", "unavoidable" or "crucial". Politicians know that and cannot resist taking advantage. Some politicians have been very open on the tactic. Former Obama advisor and ex-mayor of Chicago, Rahm Emanuel, for example, has said, "You never let a serious

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<sup>29</sup><https://bi.prozorro.org/sense/app/fba3f2f2-cf55-40a0-a79f-b74f5ce947c2/sheet/c852ccc8-1477-4f40-b698-53ea7a57ce1c/state/analysis#view/q6zpiXHy>.

<sup>30</sup> <https://europeanwesternbalkans.com/2020/03/31/covid-19-pandemic-as-a-threat-to-the-rule-of-law-in-the-western-balkans/>.

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crisis go to waste. And what I mean by that it's an opportunity to do things you think you could not do before."

Given that stratagem, it is vital now more than ever that oversight and monitoring bodies redouble their vigilance – not to interfere with the efforts of their governments but to ensure that those efforts are still following basic democratic, legal and ethical principles. While governments should have more room to manoeuvre, the level of oversight and monitoring has to increase to counter profiteering, those who would use the critical situation for personal gain, or longer-term political objectives that would have been unacceptable to their constituents in normal times.

There are different layers of monitoring in every society. The first one is based on the balance of political powers between the legislative, executive and judicial branch. But there have already been successful attempts at temporarily diminution or removal of any role of the legislative branch in the current crisis<sup>31</sup>. However, it is never appropriate for legislators to sacrifice their monitoring function. This is particularly important in monitoring and ensuring proper budget expenditure. National parliaments should under no circumstances agree to any reduction of their control over allocation of funds and how they are spent. Such oversight in a crisis should be undertaken as close to real time as possible.

In most countries there are different types of audit agencies, authorised to control public finance expenditure. In normal circumstances, they perform their auditing role *ex post* and not quickly. Since circumstances worldwide today are far from normal, audit institutions can and should play a preventative role. Countries often have provisions in place to enable audit institutions to perform extraordinary audits close to real time. The current crisis with all the threats listed above, and with enormous amounts of national resources being spent very fast, raises the need for the use of emergency powers now. Of course, audit institutions in countries where suspected or proven cases of fraud, waste and abuse of public finance are frequent will have to be even faster than in places where such practices are notably uncommon. An additional warning sign for audit institutions is in those countries with histories of abuses where there are now significant deviations from regular procurement or other corruption-vulnerable rules and practices. A rule of thumb is that the greater the deviation, the greater the opportunity for abuse.

In those countries where there are specialised anti-corruption agencies, commissions, or committees, the nature and extent of the risks associated with, among others, the purchase of medical and personal protective equipment are broad enough to enable their engagement in this area, too. Normally, the work of anti-corruption institutions without law enforcement investigative powers differs from agencies with them. But there is no anti-corruption institution which at a minimum would not be in possession

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<sup>31</sup> <https://icds.ee/hungarys-coronavirus-law-how-power-becomes-unlimited/>.

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of administrative investigative powers. The most important issue for anti-corruption agencies now is their presence and engagement in this area. Some of these agencies have special powers to follow public expenditure on a daily basis<sup>32</sup>, which can also be a good source of information, including for further investigation, prosecution and recovery.

Banks and other financial institutions are normally one of the front lines in the prevention of money laundering and financing of terrorism. In this moment, they should scrutinize more, not less than pre-pandemic any transactions between the public and private sectors and among private companies themselves that seem suspicious. Some fine-tuning of that attention might be necessary, to enable banks to feed the relevant financial intelligence units with qualitative Suspicious Transaction Reports.

Last but not least, law enforcement agencies should also play their role in identification, prevention and suppression of offences related to the purchase of personal protective and other medical equipment and other COVID-inspired responses. One trend emerging is sudden changes in the managerial positions of agencies playing a lead role in the struggle against the virus in favour of cronies from political parties in power.<sup>33</sup> Such actions should immediately draw attention from oversight bodies, both official and unofficial.

But law enforcement may not have sufficient resources to attend to so many critical tasks simultaneously, even with the task force suggested earlier. Therefore, all official oversight bodies should be engaged.

The same applies to non-official organisations. Civil society activists active in the healthcare sector, or in the fight against corruption or, ideally in both, should be integral parts of official oversight bodies. If their participation is blocked for some obviously dubious reason, they should be encouraged in their monitoring activity and protected from retaliation by the local and international media as well as the international community.

It is clear that despite the basic requirement that governments should not be obstructed in their efforts to preserve as many human lives as possible, they should also not be allowed to misuse that noble mission for other purposes. The role of monitoring bodies in countries hit by the pandemic cannot be overstated.

## 3.5 Media freedom

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<sup>32</sup> Such as the Commission for the Prevention of Corruption in Slovenia with its project »Erar«, where data on all types and amounts for all public sector contractors are publicly available at its website, <https://erar.si/>.

<sup>33</sup> <https://www.total-slovenia-news.com/politics/5854-jansa-s-new-govt-confirmed-police-army-defence-intel-chiefs-dismissed#Police>.

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Independent journalists are often in danger because they report on corruption and at the same time can be exposed to its consequences. The safety of journalists reporting on the topic is an issue of concern at all times and especially so in countries where freedom of the press is normally under assault. Again, such concerns are heightened in times of crisis.

It is extremely important that the media continue to fulfil their role as information providers and guarantors of transparency in times of crisis. During this emergency, some media have already reported on corruption related to the purchase and sale of personal protective and medical equipment, trafficking in fake medicines and much more<sup>34</sup>. Where governments<sup>35</sup> are allegedly involved in those forms of corruption, the media have been heavily attacked with aggressive claims that such reports themselves are erroneous, distorted and politically motivated.<sup>36</sup> Whistleblowers, an essential element worldwide to the revelation of malfeasance, have faced even more hostile retaliatory measures for coming forward, either on inadequate medical responses to the pandemic<sup>37</sup> or on corruption emerging during the outbreak.

The media play a key role in providing accurate and reliable information to the public but also in preventing panic. In a crisis, while paying close attention to official messaging, they must be more than normally discerning of fact from spin, not less so, admittedly more difficult in today's highly competitive 24-hour news cycle and with the immediacy of social media. They must refrain from publishing, and thus amplifying, unverified stories. Rumours and disinformation are likely to cause harm to the public order and health safety. Journalists must be more diligent than usual in verifying any and all information before publishing it and refrain from publishing implausible or sensationalist stories that could cause panic. The flow of information about the pandemic should not be limited only to official communications. Journalists and the media, along with those outside government, independent researchers, scientists and other experts, and civil society should have the right to criticise decisions of the authorities and be given appropriate media attention. The story of Li Wenliang, the Chinese physician who blew the whistle on China's faltering response to COVID-19 and who was then subject to an official campaign of discredit and punishment for having done so, is an object lesson of what can happen if governments are allowed to suppress truth-tellers. Journalists must maintain some intellectual distance if not a strong degree of objectivity vis-a-vis governments' messages. It is not their duty to support politicians blindly. A justified criticism of obviously

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<sup>34</sup> <https://www.france24.com/en/europe/20200508-focus-covid-19-pandemic-fertile-ground-for-corruption-in-ukraine>.

<sup>35</sup> All or in parts.

<sup>36</sup> <https://www.total-slovenia-news.com/politics/6027-ruling-sds-criticised-for-attacks-on-mainstream-media-in-slovenia>.

<sup>37</sup> <https://whistleblower.org/blog/Covid-19-the-largest-attack-on-whistleblowers-in-the-world/>, mentioning countries like China, USA, UK, India and Poland.

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incorrect, misleading or even dangerous<sup>38</sup> messages of public officials does not make journalists "enemies of the state" but friends of the people.

It is also very important to keep in mind that "there can be no press freedom if journalists exist in conditions of corruption, poverty and fear".<sup>39</sup> Some politicians think that COVID-19 pandemic gives them the opportunity to either eliminate or at least significantly limit media freedom. The International Federation of Journalists is currently measuring the impact of the pandemic outbreak on the working conditions of independent journalists<sup>40</sup> around the world.

There are already an extraordinary number of controls imposed on journalists in countries where freedom of the press has been losing ground, with new bans on critical coverage of the national pandemic response, or shuttering independent media completely<sup>41</sup>. With the pandemic preoccupations of local populations as above, in this moment it falls to non-national media, media freedom, human rights-protection and other international organizations, and foreign governments in a position to be vigilant, to assist and, where possible, to exert political or financial pressure on governments to reverse such policies or tactics. Otherwise, media freedom in some countries might be at risk for years to come.

## 4 Cyber-security – A Warning

One of the survival tactics during the pandemic has been to move much more social, political and economic activity online. This has been a great enabler for those who can afford it to maintain livelihoods and social contact, among others.

But one of the negative consequences of the drastic growth in cyberspace operations is the perhaps exponential growth opportunity it presents for the burgeoning cyber-industrial criminal complex. Cyber-security experts have long warned that the vast majority of hacks are never detected. By the explosion in Internet activity during the current crisis, it is highly likely that cyber-criminality will be one of the unintended beneficiaries.

This issue has already gone far beyond hacking for various kinds of personal account information. There is already evidence that hackers steal information to commit other crimes, such as blackmail, extortion and tampering with electronic information for their own or their clients' benefit. In addition, there is growing business in hackers themselves not committing crimes beyond the wholesale theft of digitized information, which they then auction or sell off in lots on the dark web, with payment

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<sup>38</sup><https://www.marketwatch.com/story/trump-suggests-disinfectant-as-treatment-for-coronavirus-by-injection-inside-or-almost-a-cleaning-doctors-call-the-idea-dangerous-2020-04-24>.

<sup>39</sup> <https://www.ifj.org/what/press-freedom.html>.

<sup>40</sup><https://www.ifj.org/media-centre/news/detail/category/Covid-19-report-safely/article/survey-press-freedom-and-Covid-19.html>.

<sup>41</sup> <https://news.un.org/en/story/2020/05/1063152>.

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in untraceable cyber-currency. Cyber-security efforts in most countries and organisations are so far behind the criminal element in most instances that law enforcement and most governments either never detect such losses or do so long after they have any ability to recover stolen data. Experts have strong reason to believe cyber-criminals understand they can operate with almost complete impunity.

With automation of many government processes, such as procurement, it is probable that hackers have already captured or can capture whenever they so choose massive amounts of official data, including that which is intended to be shielded from public view. Already, there have been reports of manipulation of procurement related data.<sup>42</sup> With poorly-guarded portals, it would be child's play for a hacker working for a prospective supplier in a call for tender to view competitors' bid documents, proprietary information, pricing, etc., to gain an unfair edge. There is nothing stopping such individuals from altering a rival's submission.

Personal data collection, including but not limited to the apps on a telephone which are now primarily collecting information on users' behaviour and on what other apps are collecting, are a gold mine for cyber-criminal abuses. Cyber-surveillance poses a grave threat to human rights and democracy, of course. But it has created a splendid opportunity for new products and sales in the corruption industry. The ways to abuse such collection of information by corrupt officials or hackers to blackmail and extract bribes, or simply to sell data, provides virtually limitless ways for exploitation.

The potential for abuse of cyberspace by criminals is huge. Because of the borderless nature of such behaviour and data transmission, the latter's speed, as well as the technical issues, to tackle this hidden, growing threat will require technical research, new forms of international agreements, transnational law enforcement and other forms of cooperation and the training and engagement of far more cyber-crime specialists than actually exist today.

## 5 Conclusion

The human toll at the time of writing is approaching eight million cases, with more than 400,000 dead. That is twice the number who died when nuclear arms were used in World War II. Whom are we fighting this time - just nature or also ourselves?

The preceding sections highlight only some of the COVID-19 casualties to date, some of the intangible kind, in a different fight, against abuses of authority for personal gain by some of them at the expense of the rest of us. In the case of the pandemic, such abuses can turn out to be a matter of life and death. The cost in terms of human suffering, in terms of life and livelihood, is already incalculable.

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<sup>42</sup> <https://www.cips.org/supply-management/news/2019/december/phishing-attacks-targeted-procurement-portals-worldwide/>.



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The legitimate preoccupation with survival, however, does not apply equally to all, and equally everywhere. It affords those, especially in relatively rich countries, the luxury and privilege of not having to live in the moment, from day to day, but to think about what needs to survive more or less intact, or even improved once the virus is vanquished.

The costs around the world can be far higher in future than they are now if we who are in privileged positions get the message of this pandemic wrong. Rising corruption is a clear manifestation of getting it wrong. State capture will not be far behind. We must not let the pandemic become the excuse for democracies to become more illiberal, and the proto-authoritarian leaders among us to become more anti-democratic.

Whatever is happening "on the front line", transparency and accountability should not be lost in the haste to respond to COVID-19. The basic rules of functioning democracies, including the balance of powers, must remain intact and protected by all means. The rule of law should be ensured through increased level of activity of all relevant monitoring institutions and agencies in areas prone to abuse. Maximised flexibility of the rules on public procurement should be accompanied by enhanced supervisory mechanisms and levels of scrutiny. Existing rules and principles on transparency should not be diminished but rather upgraded. Activities of monitoring bodies in high risk areas should be maintained or even additionally strengthened to ensure prevention and accountability for potential misuses of the current situation. Last but not least, media should continue to function in conditions of maximum freedom.





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