Corruption and financial crime are tarnishing even the world’s most reputable democracies. What will it take to repair Canada’s image?

Canada is suffering from a serious “trust gap.” Transparency International’s 2019 Corruption Perception Index, released in January 2020, no longer considers Canada one of the top 10 “cleanest” countries in the world. “Canada fell from ninth to 12th,” says Transparency International Canada executive director James Cohen grimly. “It is an unusually large drop, and part of an overall decline since 2012.” The index is compiled from 13 varied data sources measuring business practices, regulations, expert opinion and surveys on the prevalence of corruption and corporate malfeasance worldwide. As a result of these latest findings, Canada is now listed as a “country to watch,” alongside Saudi Arabia and Angola.

Keeping this sort of company likely conflicts with most Canadians’ view of their own country as a snow-white paragon of propriety. And while Canada has a long way to go before it reaches Angolan levels of tolerance for corrupt behaviour, Cohen cites the SNC-Lavalin affair and
rampant money laundering in British Columbia’s casino and real estate sectors as key reasons for Canada’s recent fall from grace. “There is a perception out there that governments and institutions don’t listen to the public and that the system is rigged against them,” says Cohen. “That leaves the average person feeling powerless, and we need to overcome that trust gap.”

Canada is not alone among developed countries suffering a reputational blow. In recent years, both Australia and the United Kingdom have also seen their Corruption Perception Index rankings fall as a result of financial concerns—a series of banking inquiries in Australia and an auditing crisis in the U.K. Meanwhile, major firms in Iceland and Sweden have been implicated in international bribery scandals, and the largest bank in Denmark has been tied to money laundering operations emanating from Russia and Estonia. No country appears immune to this sort of bad behaviour, and these revelations are doing significant damage to public confidence in institutions and government regulators.

To grasp the scale of this growing sense of dissatisfaction, consider another survey from the global communications consultancy Edelman. The firm’s 2020 Trust Barometer, also released this past January, found a majority of respondents across all developed countries no longer believe they’ll be better off in five years; a stunning 56 per cent think capitalism is doing more harm than good. (Canada was one of only five countries in which a majority still support capitalism.) This rising sense of despair curiously coexisted with a rather healthy global economy, long before the COVID-19 pandemic rattled markets. Once, economic growth was sufficient to nurture faith in the future. Today, growing populist anger and a steady supply of crises have eroded that faith and threaten to undermine democracy across the globe. “We are living in a trust paradox,” reads a statement from Edelman. “The battle for trust will be fought on the field of ethical behaviour.”

This global malaise has been a long time coming. And we’ve seen plenty of efforts at correcting course over the years to no apparent effect. The United Nations Convention Against Corruption, which came into force in 2005, claims to be a comprehensive, “legally binding” corruption-fighting tool, yet its signatories cover nearly every egregious case cited in Transparency International’s latest report. The same goes for the OECD’s Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, which dates back to 1999. Such efforts have clearly had little impact on stemming bad behaviour and financial crimes. Real, tangible progress in fixing the trust gap will not be found in more plenary sessions or high-minded rhetoric, but through granular, detail-focused efforts carried out on a country-by-country basis. And it’s here that accountants have a big role to play, says José R. Hernandez, a Canadian CPA, PhD and principal in the Zurich-based risk consultancy firm Ortus Strategies. “The trust gap is one of the most important subjects facing the accounting profession and democratic institutions,” he says. “Accountants are an integral part of business and markets, serving as important gatekeepers to prevent corruption, bribery and money laundering. And we have a leadership role to perform.”

Fixing what ails Canada requires that we first recognize how we got into this situation. “Canada’s resource-rich and stable economy, as well as our open and perhaps naïve culture, have made our country a haven for bad actors,” says Hernandez. “Dirty money has to find a home somewhere, and a country such as Canada with so many desirable assets is going to attract that sort of activity.” White-collar crime erodes trust and causes substantial damage, as the B.C. money laundering scandals make plain.

In 2008 and again in 2014, the Financial Action Task Force, a little-known but influential international standards-setting body, called out Canada for “a significant set of deficiencies” regarding our ability to determine the true owners of private corporations—what is called beneficial ownership transparency. This is a key factor in cracking down on financial criminal activity and corruption. A 2016 evaluation report again cited the ability of firms to operate in relative anonymity as a major weakness in our defence against money launderers. But it wasn’t until the B.C. money laundering and SNC-Lavalin scandals of the past several years that regulators and politicians began organizing a fulsome response. “There is a heightened sense of urgency in Canada now,” says Hernandez, who is CPA Canada’s representative on the federal government’s Advisory Committee on Money Laundering and Terrorist Financing. “We may be falling behind other developed nations. Some of these laws probably should have been passed five years ago.”

The process of repairing Canada’s reputation began in earnest with the 2018 federal budget, which included amendments requiring most federally incorporated private companies to maintain an accurate register of all “individuals with significant control”—for example, someone with an interest of 25 per cent
or more of the shares of the company. In tandem with these changes were new anti-money laundering rules issued by the Ottawa-based Financial Transactions and Reports Analysis Centre (FINTRAC), along with a suite of related reforms from other oversight and regulatory bodies. The Federation of Law Societies of Canada, for example, last year created a model set of anti-money laundering rules to be implemented by provincial law bodies, including strict client-verification procedures and a ban on lawyers accepting cash payments of more than $7,500. The Investment Industry Regulatory Organization of Canada (IIROC) has similarly established new rules for its members on cash deposits and client risk assessments, which take effect in June 2020. When everything is up and running, Canada will have a more robust and modern system for tracking who moves what money where.

The most significant aspect of this new regulatory regime would be the creation of a registry, or registries, of beneficial ownership. Other components include tighter rules for “money services businesses” engaged in moving funds around the world, and a broader definition of what forms of money must be tracked, including digital currencies, prepaid cards and e-transfers. There are also new rules requiring the reporting of numerous small, suspicious cash transactions as if they were a single transaction.

The changes mean “Canada is mirroring global standards,” observes Daniel Leslie, a lawyer with Norton Rose Fulbright and an expert on anti-money laundering and financial services. But, he points out, we are doing so in a uniquely Canadian way. As with many other aspects of Canadian federalism, creating a new national initiative for anti-money laundering is neither simple nor easy. Most corporate registration is a provincial matter, and the creation of a Canada-wide registry of beneficial ownership requires more than just changing a few federal rules. “It is now the responsibility of the provinces and territories to introduce those requirements,” says Leslie. It’s up to each individual jurisdiction to ensure its own registry integrates seamlessly with those of all other provinces and territories—a process that will inevitably involve complications. Of particular interest to the accounting profession, Leslie adds, due diligence expectations are now embedded in all stages and aspects of these anti-money laundering rules.

While creating a functional registry is crucial to repairing Canada’s international reputation, the actual form and role of this registry also remains uncertain. Leslie expects it to be a closed system, with information about significant owners of a corporation available only to financial regulators, police and businesses with a relevant interest in the firm, such as creditors.

Cohen, of Transparency International Canada, instead advocates for a publicly accessible registry that anyone can use. He envisions a registry that includes legal name, corporate address and birth month and year—or, better yet, a system of unique national identification numbers that would allow key individuals to be tracked without invading anyone’s privacy. Cohen believes giving access to the public will allow more eyes to review the system and deter those who would abuse the corporate registry. “If Canada is open to global money, we need to be open to global scrutiny as well,” he says. “We think it will help prevent illicit finances from getting in.”

Such a broadly accessible registry would also offer important advantages for accountants doing their due diligence, notes Hernandez. It would be easier to spot bad actors, thus improving the reputation of the entire business community. “Crime and dirty money hate transparency. But transparency does not come for free: We need to give up some privacy, build adequate infrastructure and educate ourselves to do business with better safeguards,” he says. “Businesses need to know who is behind the money in the organizations they deal with. You don’t want to be involved with dirty money, but finding that out requires a lot of research, time and money.”

However, even a fully public system has drawbacks. Carol Bellringer, an FCPA and the former auditor general of Manitoba and B.C., believes there will be complications in building and maintaining such a massive, publicly available registry across multiple jurisdictions. “You have to weigh the costs and benefits,” she says. While she acknowledges the appeal of making so much information public, “it’s not always practical.”

This tension between balancing privacy with disclosure is similarly reflected in Prime Minister Justin Trudeau’s 2019 mandate letter to Navdeep Bains, an
FCPA and the minister of innovation, science and industry. In it, Trudeau calls for “a national approach to beneficial ownership so that law enforcement...have the tools to crack down on financial crime in real estate while respecting Canadians' privacy rights.” A national consultation process took place earlier this year, but there is no timeline for when a registry will be up and running.

Even if Canada nails down how its beneficial ownership registry will work, a registry alone will not rectify Canada’s sagging reputation on corruption and transparency. More effort needs to be put into enforcing current laws, both to ensure bad actors are put away and to deter others, according to Toronto CPA Jennifer Fiddian-Green, a former member of the RCMP’s financial crimes unit who is now a partner and lead of Grant Thornton’s forensic investigations practice. “We need to have more consequences for this sort of illegal activity,” she states, observing that proceeds-of-crime charges are often bargaining chips that get negotiated away because they’re considered less consequential than other criminal charges. Canada’s relaxed attitude toward prosecuting white-collar crime was another major criticism made by the Financial Action Task Force. “We need to change that story.”

To bolster its own enforcement story, FINTRAC now publicly discloses all money laundering penalties. And the Criminal Code has been updated to make it easier to prosecute anyone engaged in money laundering activities by adding “recklessness” to the definition. “This is a vast improvement,” says lawyer Leslie. “Previously, in order to criminalize money laundering, you had to prove knowledge or intention. Now it is sufficient to show a person was merely aware there was a risk the funds were derived from criminal activity, and continued to participate” in a “reckless” way.

It may be years before Canada’s international reputation is fully restored, but Canada is finally making the changes necessary to repair its trust gap and return to the highest global standards for fighting money laundering and corruption. Amid all these repairs, accountants are ideally suited to ensure the new regime functions properly. “As a profession, we are experts in all the areas these new rules touch on,” says Bellringer. “We establish internal controls, make sure they’re working and then verify that information. It will be up to us to make it work.”

Fiddian-Green goes further in sketching out an opportunity for accountants to play a major role in ensuring Canada is safe from money laundering activity. “Accountants need to go beyond debits and credits and make sure we really know who our clients are, what services they need and how they’re going to use them, because clients potentially carry risk for accountants,” she says. In this way, accountants can become Canada’s first line of defence by helping clients to avoid getting entangled in dirty money and to spot new sources of dirty money as it tries to enter Canada. “No one wants to let illegal activity in the country,” she says. “Accountants need to do more.”

**AUSTRALIA**
Following widespread outrage over domestic banking practices—including bribery, falsifying documents and charging fees to dead clients—Australia created a Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry. Last year, the commission’s final report demanded sweeping changes to business and remuneration models across the mortgage, insurance, fund management and financial advice sectors, and chastised regulators for being too close to bank management. The government has promised to implement all recommendations.

**ESTONIA**
It has been called “the biggest scandal in Europe”: Between 2007 and 2015, an estimated US$230 billion in dirty money, much of it from Russia, flowed through a single Danske Bank branch in Tallinn, Estonia. At one point, the tiny office accounted for nearly 10 per cent of Danske Bank’s total annual profit, all without attracting proper scrutiny from regulators or the bank’s headquarters in Denmark. The case has led to numerous criminal investigations, and authorities around the world are expected to issue fines. Last year, the bank was permanently expelled from Estonia.

**MALAYSIA**
Between 2009 and 2015, an estimated US$4.5 billion was looted from the sovereign wealth fund 1Malaysia Development Berhad (1MDB) through deliberately complex and deceptive financial transactions and the misuse of American law firm trust accounts. Much of this money was spent on luxury real estate and private art collections. Financier Jho Low, a Malaysian government advisor, is accused of money laundering and bribery by the FBI and remains a fugitive. Goldman Sachs, which raised US$6.5 billion in bonds for 1MDB, is also under investigation for bribery.

**SWEDEN**
Earlier this year, Swedish telecom giant Ericsson agreed to pay a fine of more than US$1 billion to U.S. authorities after admitting it paid bribes in China, Vietnam, Indonesia, Kuwait and Djibouti to win contracts. This is the second largest fine ever imposed under U.S. anti-bribery legislation, and dwarfs the US$62 million in total bribes paid out. While firms can have their fine reduced if they cooperate with authorities, Ericsson received only a partial reduction because it failed to disclose all relevant materials, was late in providing key documents and did not adequately discipline certain employees.
Inside Peter German’s mission to stop the flow of dirty money

BY ADRIENNE TANNER
PHOTOGRAPH BY TROY MOTH

A man in a dark jacket approaches the cash cage at a B.C. casino, carrying a red cloth shopping bag. Flanked by security guards, he slides the bag across the counter, and a casino employee dumps out its contents: stacks of $20 bills bundled in elastic bands, just like in the mob movies. The cashier lines them up in even rows and begins to count. The sum, in excess of $250,000, will be exchanged for chips and later cashed out in the form of larger-denomination bills and cheques. This is how dirty money becomes clean.

Video footage of this transaction—just one of countless such exchanges that have taken place over the past decade—provided a visual punch to the release of “Dirty Money,” an explosive report on money laundering in B.C. casinos. At a June 2018 press conference in Vancouver, the report’s author, lawyer and former RCMP deputy commissioner Peter German, stood by as the security camera feed rolled. The source of the money, he told reporters, was the drug trade—mostly proceeds from opioid sales controlled by organized crime. “You’ll notice the elastic bands around the wads of twenties,” he said. “That is not how the banks issue cash.”

“Dirty Money,” along with a subsequent report that German released in March 2019, sent shock waves through Canada’s political, legal, business and law-enforcement circles.
German’s findings drove home just how deeply money laundering has permeated not only B.C.’s gambling industry—an estimated $100 million in dirty money has passed through the province’s casinos—but also other industries where large sums of cash are still commonly accepted. German estimated that a staggering $5 billion was laundered in B.C. real estate in 2018 alone, which reportedly caused the average cost of a Metro Vancouver home to rise by five per cent. The auto industry is also infected: In one of the reports, German details how a money launderer walked into a car dealership with $200,000 in cash and purchased a luxury vehicle; when the bank later asked dealership staff about the provenance of the money, they said it was from a car sale. No further questions were asked.

German’s most alarming finding is that all this financial crime has gone largely unpunished. Even though, for instance, B.C. casinos log suspicious transactions, enforcement stemming from those logs has been practically nil. In a statement, former RCMP assistant commissioner Kevin Hackett called the report’s findings a "snapshot in time" and said that they didn’t reflect every money laundering case. He wrote that eight of the RCMP’s 40 "prioritized projects" in B.C. involve money laundering, and that the force is also assisting a number of national and international money laundering investigations.

Nonetheless, money laundering remains rampant because it is impossibly complex, costly to fight and receives little public attention, probably because the exchange of bills seems like a victimless crime. It isn’t, German insists. Laundering deprives governments of tax revenue and enables corruption, as it cleans the proceeds of bribery, embezzlement, illicit drug sales and other financial crimes. Dirty money has a steep human cost, too. “Thousands of families have lost sons or daughters due to opioids, fentanyl, heroin, cocaine,” says German. “That’s why this is important.”

In May 2019, with German’s reports in hand, the B.C. government announced it would launch the Cullen Commission, a public inquiry into the province’s money laundering problem that will have more legal authority than German did to compel witness testimony and gather evidence. The wide-ranging commission will analyze several B.C. sectors, including law and accounting, which are self-regulated at the provincial level. Currently, accountants and accounting firms have reporting obligations under federal anti-money laundering and terrorist financing legislation. The commission’s broad-ranging terms of reference indicate that it is to make recommendations that it considers “necessary and advisable” in respect to the regulation of the professional services sector, which includes law and accounting. Opening statements began in February, and the main hearings will begin in September.

But a provincial inquiry can only go so far, because money laundering isn’t restricted to any one province. Wherever there is organized crime, there is dirty money that needs to be cleaned. A follow-up report on money laundering in real estate led by Simon Fraser University professor Maureen Maloney estimates that $47 billion was laundered through Canada in 2018. In 2015, Canada’s money laundering problems were estimated to be the worst in Alberta, which topped the chart at $10.2 billion, followed by Ontario at an estimated $8.2 billion. German says no one knows the true total.

“All the things that make Canada a wonderful place to live also make it desirable for organized crime: large ports and airports, modern banking and communication, large ethnic diasporas, easy land access to the U.S.,” says German. “Plus, we have established organized crime networks, relatively mild criminal sanctions, a forgiving justice system and difficulty investigating and prosecuting financial crime.” Art Vertlieb, a B.C. lawyer who has known German for years, says it’s essential that governments across Canada tackle the problem. “Wherever you have corruption, it can erode the social, legal and economic fabric of the country,” he says. “It’s like a cancer.”

In the wake of “Dirty Money,” the 2019 federal budget allocated $200 million over five years to anti-money laundering measures, including a task force and extra RCMP funding. Still, German argues that more is needed. In the past, pressure from the international community has compelled the Canadian government to make necessary legislative changes and dedicate the proper resources to eradicate money laundering. “Unfortunately, that’s what it may take again,” he says. “I put it down to political and bureaucratic will. We have a pretty comfortable lifestyle and tend to turn a blind eye.” But thanks to German, money laundering is no longer a problem that Canadians can ignore.

Cananda’s foremost money laundering expert stands with the ramrod-straight posture of a Mountie, but there’s no stereotypical cop stiffness in his speech. Instead, he has a warm, self-deprecating demeanour. At 68, he divides his time between practising law, consulting on financial crime and criminal justice, acting as president of the International Centre for Criminal Law Reform at the University of British Columbia, and spending time with his family—
he and his wife, another retired Mountie, have two adult daughters. He wrote Proceeds of Crime and Money Laundering, Canada’s leading textbook on the topic, in 1998, and updates it six times a year.

German was born in Vancouver in 1952 and grew up with two goals: become an RCMP officer and become a lawyer. Most people would have jettisoned one dream for the other; German achieved both. As a young beat cop, he was stationed in tiny rough-and-tumble communities in Atlantic Canada. He took a break from police life to complete a law degree and work as a lawyer in Prince George, B.C., but he returned to the RCMP in 1986, resuming his ascent to deputy commissioner, the second-highest position in the force. Along the way, he earned five university degrees, including a PhD in law, most of them as an active Mountie. His friends and colleagues describe him as curious, ambitious and tireless. “He’s notorious for not sleeping,” says John Dickson, a fellow lawyer and former RCMP officer. “You’d get emails from Peter at all hours of the night. He’s one of those guys who will sleep four or five hours, if that. Otherwise, he’s working.”

Former colleagues say German’s even-handedness and superb investigative instincts have allowed him to stickhandle some of Canada’s most high-profile and politically sensitive inquiries with almost no allegations of bias. In the early 1990s, he led the investigation into “Bingogate,” a scam that funnelled the proceeds from charitable bingo games and lotteries into the B.C. NDP coffers; the ensuing scandal brought down the NDP government of the day. (The irony that German now works for another NDP government in B.C. is not lost on him. “I’m not a political animal,” he says.) Six years later, he was asked to assemble a new team to assume conduct of the Airbus investigation after the original case—examining allegations that senior Progressive Conservative staffers profited from kickbacks from the sale of Airbus jets to Air Canada—ended in disaster. A key player in the scandal, Karlheinz Schreiber, was later arrested, deported to Germany and charged with fraud, bribery and tax evasion.

B.C. Attorney General David Eby considered German’s reputation for impartiality a plus when selecting him to write “Dirty Money.” “If I brought someone in who had even a hint of being in the bag for the NDP, the findings wouldn’t be credible,” he says. German’s work is beyond reproach, says Ernie Malone, a retired RCMP chief superintendent and accountant who worked alongside German in Vancouver. “If there’s one word that stands out with Peter, it’s integrity.”

German’s “Dirty Money” report outlines just how complex modern money laundering schemes have become. The document describes in detail the “Vancouver model,” a term coined by John Langdale, a professor at Macquarie University in Australia. The model is meant to circumvent Chinese currency restrictions, which limit the amount of money that can be removed from China. The process begins when a Chinese resident transfers money, obtained either legally or illegally, to an underground banker in China. The resident then flies to Vancouver, where they meet the banker’s accomplice, who presents them with their cash in Canadian currency, predominantly $20 bills sourced from drug sales. Finally, the resident buys chips at a casino, gambles and cashes out, leaving with higher-denomination bills or a cheque. Everyone involved gets what they want: The resident removes money from China, Canadian criminals clean their cash and the underground bankers take a cut.

Stopping schemes like these is incredibly challenging and expensive, says German, partly because of the legal and
accounting expertise needed to tackle them, but also due to their transnational nature. Adding to the difficulty are Canada’s “clunky” money laundering laws, which make it a challenge to meet the bar for a criminal prosecution, says CPA Jerome Malysh, a former RCMP sergeant and forensic accountant who assisted with the “Dirty Money” report. In the U.S., every industry is required to report cash receipts over $10,000. Canada, meanwhile, has a hodgepodge system of reporting requirements. Securities laws are provincially controlled and inconsistent. In most provinces, registered ownership—which can differ from beneficial ownership—is the focus, making it challenging to identify who owns what, be it real estate or corporations. (Following German’s reports last year, B.C. established the country’s first beneficial ownership registry.) “ Casinos, banks and credit unions report,” says German. “But the auto sector, boats, auction houses, private mortgage companies, real estate appraisers—none of them report.” When one loophole closes, organized criminals move to another. For instance, B.C. has introduced new anti-money laundering legislation, but the number of suspicious cash investigations in Ontario doubled in 2018, according to Global News. German describes it as playing a game of whack-a-mole. Still, all the reporting requirements in the world won’t help if there is no enforcement. The RCMP invested heavily in fighting commercial crime in the wake of the Enron scandal in the early 2000s, when German was the top officer in charge of financial crime. But in recent years, the force has shifted resources away from financial crime, possibly because money laundering cases are so difficult and costly, and so rarely produce convictions. A recent Toronto Star investigation showed that, between 2012 and 2017, 86 per cent of charges for laundering the proceeds of crime never made it to trial. Such charges are often resolved by guilty pleas to other, usually drug-related, charges. As a result, the RCMP have moved on to “easier and better things,” says Malysh. In December, the RCMP disbanded Ontario’s financial crimes unit to focus on national security, organized crime and drugs, the Toronto Star reported. “At the municipal level, a lot of police departments still have financial crime units,” says Malysh. “But they’re not doing money laundering.” For one, he says, money laundering prosecutions are a federal responsibility. Plus, “They can’t afford it.” Yet German remains optimistic. His reports include a series of recommendations for fighting money laundering, including implementing expanded cash reporting requirements, devoting more resources to enforcement and prosecution, improving mandates for regulators such as FINTRAC, addressing beneficial ownership of corporations and trusts, and sharing more information between law enforcement, industry and regulators. B.C. has moved quickly to adopt some of German’s recommendations, such as mandatory money laundering courses for realtors. The full list of fixes may seem overwhelming, but German argues that they are not impossible. “Just look at the United States. They’ve already done it,” he says. “It just requires political will.”
If Canada is serious about fighting financial crime, why aren’t we properly protecting the whistleblowers who expose it?

I n September 2019, when a whistleblower accused Donald Trump of engaging in an illegal quid pro quo, the U.S. president and his allies agitated for the identity of the anonymous intelligence officer to be revealed. Thanks to the strength of U.S. whistleblower protections, the complainant’s name remains unknown. Elsewhere around the world, however, those who speak up about wrongdoing are often left high and dry.

Canada is no exception. In fact, according to top experts in the field, our nation has some of the world’s worst protections. “Currently, Canada’s whistleblower law is the object of consistent international ridicule,” says Tom Devine, the legal director of the Government Accountability Project (GAP) in Washington, D.C. “It’s regularly held up as an example of free-speech rights that are false advertising in practice.”

The law Devine refers to is the Public Servants Disclosure Protection Act (PSDPA), which came into effect in 2007. The first law of its kind in Canada, it established an integrity commissioner to receive complaints from federal public service whistleblowers who’ve suffered reprisals, as well as a tribunal to hear their cases. That may sound good on paper, but it’s been a failure in practice. Just eight cases moved to the tribunal in its first 10 years. Of those, only one whistleblower had the stamina to complete the process—and she lost her case.

BY MICAH TOUB
“I was scared to death. I was afraid to not have a job. But you can’t jeopardize your ethics for one role.”

In the private sector, the situation is even worse. Section 425.1 of the Criminal Code—established in 2004—is armed to punish employers who take revenge on whistleblowers with up to five years in prison. But David Hutton, senior fellow at the Centre for Free Expression’s Whistleblowing Initiative, says that, to his knowledge, the law has never been used. “The whistleblower has no way to initiate action against those taking reprisals; the police have to do it,” he says. “But whistleblowers are trying to expose something that the powers that be do not want exposed, so to think the police will support them is a stretch.”

Exacerbating the problem is the fact that each province has its own laws. As a result, it can be difficult for a would-be whistleblower to determine how to report wrongdoing and what protections they might have, depending on their jurisdiction. Hutton says these provincial laws tend to follow the same ineffective mould as federal legislation.

Amid the dearth of laws protecting whistleblowers, the Ontario Securities Commission (OSC) decided in 2016 to try the carrot approach, establishing a program to compensate whistleblowers for reporting wrongdoing. In 2018, the OSC said it had received 200 tips. A year later, it announced it had paid out $7.5 million to three recipients. Still, it’s impossible to know how well protected any of those tipsters were. Hutton says even big money doesn’t necessarily equal adequate protection: “The reward might not be that much benefit if you’re blacklisted in your career and rendered unemployable.”
Without robust whistleblower protection, Canadian companies and the country’s public service are losing out on a primary source of information. According to a 2018 report from the U.S.-based Association of Certified Fraud Examiners, 40 per cent of occupational frauds become known through tips, and about half of those come from employees.

The Canadian Standards Association, which published guidelines for companies that want to implement their own whistleblower processes, cites studies proving that “speak-up culture” promotes trust in management and has the potential to lift the company’s bottom line. The benefit for senior executives, says Hutton, is that they stay out of jail and prevent “a huge scandal blowing up around something they weren’t aware of.”

Given the lack of protections, it’s not surprising that employees who witness wrongdoing often stay mum. Dave Angot, a CPA who helped expose a multi-million-dollar insurance fraud in Saint John, N.B., took that leap despite the possibly dire consequences. In 1998, he began his first director of finance role at a local insurance-finance company and settled in by combing through recent financials. Certain transactions struck him as suspicious—a six-figure insurance policy for a small contractor, for example. When he started digging, he realized every problem account led back to one insurance agency. “We thought it was a few bad accounts,” he says. “Maybe something cooked up to cover some short-term losses.”

Angot eventually discovered the fake accounts were actually part of a long-running fraud perpetrated by his firm’s largest customer, a well-respected local business magnate. The board of directors at Angot’s company pressured him to keep quiet: They didn’t want to lose their biggest source of business, which could cause the company to collapse. Despite the gag order, Angot decided to speak up. “I felt everyone deserved a right to know, here and now,” he says. “If you have someone in their 70s working for your business and their life savings are tied up in it, you might want to give them the opportunity to understand what’s going on.”

Angot’s gambit, and the two-year ordeal that followed, ended up leading to a conviction—but many aren’t as fortunate, and many more wouldn’t take the risk in the first place. “I was scared to death. I was afraid to not have a job, and I thought that growing my career was the most important thing in the world,” Angot remembers. But he never seriously considered burying the impropriety he’d discovered. “You can’t look at the role as the only thing you have. The foundation is your decision-making and your ethics, and you can’t jeopardize that for one role.”

Historically, the U.S. has done the best job of protecting whistleblowers. Although its public service protection—the world’s first, instituted in 1978—now suffers from degrees of political interference, the country has about 60 laws protecting everyone else. “Nearly the entire private sector, and all government contractors, are governed by best-practice free speech rights,” says Devine.

The U.K. has also earned praise for its Public Interest Disclosure Act (PIDA), a piece of legislation from 1998 that safeguards whistleblowers from “detriment”—that is, dismissal or other reprisals made in retaliation for a whistleblowing disclosure. Unlike most legislation, it applies not only to public-sector employees but those in the private and charitable sectors as well.

Devine says the European Union is set to be the new standard-bearer for whistleblower protections. Late last year, it adopted a directive to protect whistleblowers—standards that must be implemented by all member countries within two years. The directive includes many of the things that other countries have failed to achieve, including guaranteed due process, legal assistance for whistleblowers, protection against criminal or civil liability for breaking non-disclosure agreements and taking evidence, and a reverse onus of proof that requires employers to prove action taken against a whistleblower was not a reprisal. Devine says the rest of the world may eventually follow the EU’s lead. “We’re in the midst of a global revolution for freedom of speech, at least in terms of rights on paper,” he says.

Samantha Feinstein, the deputy director of GAP’s international program, studies how well the world’s whistleblowing laws work in reality. She estimates that more than 100 countries have protection for at least some of their workers. “For the most part, though, whistleblowers are only prevailing at most 25 per cent of the time, even when they survive procedural challenges and receive a decision acknowledging that their rights were violated,” she says. “In large countries such as the U.S., the success rate is roughly 10 per cent.”

Trump’s impeachment put whistleblower protections in the spotlight, and Hutton hopes that the issue keeps gaining momentum in both the public and private spheres. “We’ve seen supposedly reputable banks and insurance companies setting up horrible schemes to defraud their customers. We’ve seen corporations that pollute the environment or sell drugs that are going to kill people,” he says. Whistleblowers represent a defence against such activities. Without them, he says, “There’s no limit to the harm that the private sector can do to us in the pursuit of money, or to what government may do through incompetence or corruption.”

—With files from Matthew Halliday