CHAPTER 6

A look at the approach to corruption in Argentina

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ABSTRACT
The objective of this work was to analyze the phenomenon of corruption and its consequences in democratic societies. Therefore, a search for information was carried out on its generalities and consequences. Corruption negatively affects the public purposes of the Social Constitutional State of Law, economically disturbing the heritage of a nation, as well as the well-being of society, which negatively affects the quality of life of its citizens, as well as their human rights, social and economic

Keywords: corruption, dimensions and consequences, Argentina.

1 INTRODUCTION

In 2004, the United Nations pointed out the seriousness of the problems and threats posed by corruption to the stability and security of societies by undermining the institutions and values of democracy, ethics and justice. Although the term corruption is frequently heard, a clear definition is not always presented for its understanding, since its understanding is related to both the moral aspect, of the values established by society, and the legal aspect, especially with social customs, theft, robbery, illicit enrichment, improper favoring, kickbacks, bribery, etc. (Mileski, 2011; Martínez Cárdenas and Ramírez Mora, 2020; Katz et al, 2017). Several studies indicate that corruption, as well as violence and greed, is a condition of human nature influenced by the environment: family, religion, education, culture, training, etc., generating changes in the human condition, which generally tend to self-benefit (Batista, 2005). Seña (2002), points out that corrupt acts are those, carried out by two parts, which involve the violation or transgression in an active or passive way of a positional duty or of the function it fulfills. The author points out that this occurs under a normative system that serves as a reference, and are linked to an extra positional benefit, whose acts are generally performed under discretion or ignorance of society.

In this sense and according to the Corruption Perception Index 2018 (CPI) prepared by the Transparency International (TI) Organization, Argentina improved in recent years its location which can be attributed to the "Anti-corruption laws in force". While in the 2019 CPI, the country again increased its score, 49% of citizens indicated their position on an increase in corruption in the country in the last 12 months; 13% indicated that they experienced sexual extortion or know someone who went through this situation; 19% paid some bribe for services; 21% indicated that they were offered bribes in exchange for votes (Coralie Pring, 2019). In the CPI 2020, Argentina worsened its score, attributing this - as in most countries - to the social perception regarding the management of the health crisis exposed by the Covid-19

pandic (Transparency International, 2020). Therefore, in this article we will analyze the phenomenon of corruption and its consequences in democratic societies.

2 METHODOLOGICAL STRATEGIES OR MATERIAL AND METHODS

The information was obtained by accessing different sources of information from databases such as Scielo, Google Scholar and Redalyc, as well as from legislation, theses and digital journals. The words used as descriptors for the search were: corruption, public sector, causes and consequences of corruption. The information was compiled without time limit or geographic coverage, selecting documents related to the subject. The bibliography was categorized in order to cover the topic from its generalities to its consequences.

3 RESULTS AND DISCUSSION

3.1 GENERAL PRINCIPLES OF CORRUPTION

The notion of corruption is generally associated with the violation of the official's duty of probity in his personal enrichment, which does not only include economic enrichment. It can be defined as the deviation of the conduct of a public official, who deviates from the established norms to serve private interests (Huntingto, 1972). The way in which public power is distributed and exercised is an understood function of public administration, which must be dynamic and objective so that it is distributed equitably and correctly among citizens, taking into account their fundamental rights.

However, the actors of corruption involve the exchange between two wills, the transgression of a relationship of trust or the existence of a certain power of discretion on the part of whoever executes the corrupt behavior, in generally they are internal, proper to the system or assimilated by the system and its officials regardless of the position (Ferreira, Ruíz Díaz and Kunert, 2019). For Orellana, (2003) there are six different forms of corruption: micro-corruption, which is corruption carried out by officials (e.g., theft of office supplies); corruption carried out by managers (e.g., appropriation of public funds entrusted to them for administration); corruption carried out by a criminal association involving managers and officials; corruption carried out by an association between users and officials; corruption carried out by an association between users and managers; and finally, corruption carried out by an association between users, officials and managers.

The typology of corrupt practices is summarized by Gilli (2014), who mentions bribery, influence peddling and co-optation of the State, as some of them. In addition, the author citing Sautu, (2004), provides a broader classification of corrupt acts mentioning patrimonial transfers, granting of privileges, abuse of power, favoritism and clientelism, bribery, extortion, arrangements, fraudulent market alterations, use of and privileged information, among others. Knowledge of corrupt practices is a necessary but not sufficient condition for combating systemic corruption, being necessary to recognize criminal schemes and identify

their weaknesses in order to operate on them, with very few convictions in this regard (Labarqui, 2003; Piana and Arevalo, 2019).

3.2 FACTORS THAT INFLUENCE CORRUPTION

Among the factors that influence corruption and that theory points out as relevant are culture, level of development, degree of social conflict and political and economic institutions, which were addressed by Labarqui (2003). The author sought to verify the explanatory power of these factors and, in particular, to analyze the relationship between the type of regime and the level of corruption, as well as the relationship between economic freedom and corruption. He found that the level of development strongly conditions the quality of the state bureaucracy in terms of recruitment, professionalism, stability and level of remuneration. In addition, he points out that democratization does not necessarily imply an automatic reduction in corruption, since democracy may initially be associated with increased corruption, whether this is an appearance resulting from the greater freedom of the press in democracies, or whether it is a real increase resulting from activities inherent to democracy that may give rise to acts of corruption (such as electoral campaigns). However, he points out that countries that integrate tools such as transparency, accountability, citizen participation and economic freedom in their governance would effectively lead to a drop in corruption levels, reducing opportunities for corruption. He also points out that geographic-cultural differences are relevant in terms of corruption, since countries that have recently transitioned from authoritarianism to democracy and that have highly market-regulated economies have higher levels of corruption.

Miranzo Díaz (2018), points out among the subjective causes of corruption vanity, selfishness, personal satisfaction, craving for power or even social recognition. These behaviors lead to the loss of confidence in the public function, since whoever exercises the corrupt act lacks ethical values, honesty, responsibility, or the sense of public interest and of the Administration as a safeguard of the rights and interests of citizens, and which can also be explained from psychology (Julian and Bonavia, 2020). Furthermore, corruption is a risky behavior (Ackerman and Palifka, 2016), since the person who engages in it must dodge obstacles such as legal restrictions, internal and external controls, the possibility of being betrayed by colleagues or other people involved in the process, etc., and may or may not have the expected result of the act carried out (Fernández Ríos, 1999). In relation to this high rate of reiteration observed in workers who ever commit this type of irregularities, it is precisely a strengthened feeling of impunity, of being above the laws, institutions, and the rest of the elements of state control, as to lack of effective control and previous obstacles to corruption (Miranzo Díaz, 2018). An example of this can be extortion, whereby extra payments are demanded from taxpayers, extra payments to provide public services, such as, for example, the issuance of passports, and from the heads of officials who charge "rents" to their own subordinates by requiring them a certain fixed amount per month or week. Another example is the abuse of bureaucratic discretionary power, among which are carried out by ministers who "sell" their power; officials

who pocket percentages of government contracts, transferring the money to bank accounts abroad; officials who obtain government contracts for themselves, and political parties that use the prospect of coming to power and obtaining "rents" from international business in exchange for government contracts (Wainstein, 2003).

The strength of the regulatory framework in which corruption operates is an essential factor in achieving the eradication of corruption from the Public Administration in general and from public contracts in particular, so that a weakly constructed regulatory system enables, and even favors, irregular behaviors (Simancas Simancas, 2010). Moreover, for criminal law to fulfill its preventive functions, it must have sufficient motivational capacity to deter those who are willing to affect the assets that the legislator considers worthy of protection (Seña, 2016). The weakness of institutional procedures and mechanisms, with weak and incomplete procedures, with no basis in the principles of publicity and transparency, mean that, even if a State has exhaustive administrative and criminal laws to sanction and prevent corruption, these are not respected, making efficient institutional mechanisms for control, monitoring and good governance vulnerable.

The low professionalization of the public sector, that is, of those in charge of designing, directing and participating in a public contract or other administrative procedures, is one of the major doors to corruption. This is mainly due to the politicians' specific lack of specific knowledge of public management required in complex administrative processes such as public procurement, and additionally, they tend to be more exposed to conflicts of interest, being more easily affected by partisan or private interests (Kiltgaard, 2009). Also, the lack of technical or human resources in small public entities means that the civil servants or public employees in question do not have the capacity to specialize in a subject, while the number of people in charge of managing the procedures is reduced. This facilitates the participation of the political classes in a direct way, and on the other hand, the practice of bribes, favors, etc., due to the ease of detecting the center of decision in the development of a procedure, since it is enough to bribe one or two people in which the decision-making power is centralized. So the existence of an administrative body of public professionals, with permanence character, constitutes one of the best means for the prevention of corruption (Villoria Mendieta and Izquierdo Sánchez, 2016).

The lack of independence of managers and control bodies, given by an excessive dependence on their superior bodies, especially senior politicians, prevent their proper functioning, causing great legal insecurity and instability in public managers. This can seriously condition the controls carried out by figures internal to the Administration, who are in charge of evaluating certain activities of the entity beforehand. In addition, the lack of technical and human resources can hinder the tasks of intervention and auditing, as well as the obligations of transparency and publicity. Also, the lack of legal mechanisms that provide clarity and tools to the different actors within the contracting process, and that facilitate an integral performance of the same and an effective control, and not only formal control of the actions of public entities, represent a serious setback in the fight against corruption (Seña, 2016).

The decentralization of public spending, towards privatization and decentralization of political, democratic and economic management, affects the management of public funds, so that the decision-making power of the public function is found in a multitude of contracting entities of different sizes, which are responsible for awarding contracts and distributing public spending, assimilating more to a business model than to the traditional hierarchical line of the Administration (Bautista, 2007). This creates new incentives and general localist interests, giving rise to an agency contract situation in which the agent (the contracting authority) may differ in its interests from those of the principal (the State, other public administrations, etc.) and may give rise to conflicts of interest. Decentralization of the Public Administration also generates a "loss of control" of the activity of the contracting authorities - due to the difficulty in controlling public activity caused by the multiplication of entities to be audited, affecting the power and capacity to control and monitor the agent's decisions (Bardham and Mookherjee, 2006).

3.3 THE CONSEQUENCES OF CORRUPTION

Corruption is a phenomenon that reproduces itself in the face of the precariousness and fragility of the public sphere and of the sense of belonging to it, which is not only perceived in the administration of public resources, but also in all democratic and social processes (Arteaga, 2005). Rodríguez Arana (1996) states that possibly the most perverse effect of corruption is the distortion of the democratic system itself and the consolidation of a way of life rather distant from the habits and virtues proper to democracy, since it affects principles of objectivity, legality, transparency and accountability (Diez Getino and Torija Herrero, 2016).

Corrupt practices create an alternative channel for the processing of different administrative procedures and files, which, through the abuse of public funds, the acquisition of undue privileges and the generation of new rules of the game, replace and destroy the legal-democratic procedural framework, directly attacking the rule of law and governmental efficiency (Villoria Mendienta, 2006; Bautista, 2007). It also affects the very process of creation and planning of public policies and can culminate in an effect on the electoral behavior of voters, since it leads to disaffection and loss of confidence in the institutions, in the Government, and in the Public Sector in general (Lizcano Álvarez and Villoria Mendieta, 2013). The emergence of political ideals and with them the so-called politics of trust, in favor of the credibility, truthfulness and honesty of politicians, regardless of the ideology they profess, increases the population's trust in the Administration, as well as in their political representatives, institutions and public management (Thompson, 2001).

On the other hand, the World Bank has stated that corruption is one of the greatest obstacles to economic and social development, given that it weakens the rule of law and the institutional foundations on which growth depends (Mccarthy, 2015). Corruption has devastating effects on the market and market efficiency (Salinas Jiménez and Salinas Jiménez, 2001). In this sense, corruption can directly impact the citizen through price increases in goods and services produced by companies immersed in corruption (Diez

Getino and Torija Herrero, 2016). It also affects decision making in public spending strategy. In this way, unnecessary services and infrastructures are contracted, guided by corrupt interests -generally large infrastructures that are difficult to evaluate and control (Mauro, 1998). There is, in short, a loss of opportunity for society and for general interests, since these funds, invested in unnecessary aspects, ceased to be used to cover other essential needs of the Welfare State (Holmes, 2015).

4 CONCLUSION OR FINAL CONSIDERATIONS

Corruption is a phenomenon that has undeniably negative consequences, both from a utilitarian and ethical perspective, as it is a betrayal of duty, honesty and integrity in public functions. It undermines the foundations of civilization itself, of the rule of law and of the current democratic and economic system. The search for effective methods to combat corruption is essential for the promotion of economic development, quality of democracy and social justice. Structurally, the effects of corruption are accentuated in the economic development of the country, even more so for a sustainable economic development, since it also affects the incentive institutions.

Corruption represents an obstacle to the achievement of the public purposes pursued in a Social Constitutional State of Law, affecting economically the state patrimony and socially the general interest, due to its negative and destructive impact upon the quality of life of the population and human, social and economic rights.

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