

Corruption, a scourge that flagrantly violated the ethics of the public servants in Colombia

La corrupción, un flagelo que vulnera flagrantemente la ética del servidor público en Colombia
A corrupção, um flagelo que viola flagrantemente a ética do servidor público na Colômbia.

DOI: <https://doi.org/10.21803/penamer.15.30.478>

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Abstract

Introduction: In this article, the scourge of corruption in Colombia is addressed as a virus that has spread to all sectors of the country and that to all lights, is opposed to the ethics that every public servant should have, becoming a transcendental issue that occupies the first attentions in the control agendas, it was kindly posed as an **objective**, to analyze the way in which the realization of activities generating corruption are totally opposed to the parameters established by ethics in public servants, based on the qualitative- descriptive **methodology**, where a review of articles in scientific journals on the subject was made, in addition to some newspapers in its electronic form, as well as consultation of official pages of the state, reaching the **conclusion** that any dishonest conduct by a public servant nullifies his ethics, but beyond that, it generates a direct impact on citizens who are the recipients of the actions of such servants, in addition to causing an impact on the economy, since investors would not be interested in investing in a country with high levels of corruption.

Key words: Corruption; Public Servant; Ethics; Scourge; Violation.

Resumen

Introducción: En este artículo, se aborda el flagelo de la corrupción en Colombia como un virus que se ha expandido a todos los sectores del país y que a todas luces, se contraponen a la ética que debe tener todo servidor público, convirtiéndose en un tema trascendental que ocupa las primeras atenciones en las agendas de control, se tuvo a bien plantear como **objetivo**: analizar la manera en que la realización de actividades generadoras de corrupción se contraponen totalmente a los parámetros establecidos por la ética en los servidores públicos, basado en la **metodología**: cualitativa- descriptiva, donde se realizó una revisión de artículos en revistas científicas sobre el tema, además de algunos diarios en su forma electrónica, así como consulta de páginas oficiales del estado, llegando a la **conclusión**: de que cualquier conducta deshonesto por parte de un servidor público anula su ética, pero más allá de eso, genera un impacto directo en los ciudadanos que son los destinatarios de las actuaciones de dichos servidores, además de originar un impacto en la economía, ya que los inversionistas no tendrían interés en invertir en un país con altos índices de corrupción.

Palabras clave: Corrupción; Servidor público; Ética; Flagelo; Vulneración.

Resumo

Introdução: Neste artigo, o flagelo da corrupção na Colômbia é tratado como um vírus que se propagou a todos os sectores do país e que se opõe claramente à ética que todo o funcionário público deve ter, tornando-se uma questão transcendental que ocupa as primeiras atenções nas agendas de controlo, foi gentilmente colocado como um **objetivo**: analisar a forma como a realização de actividades geradoras de corrupção se opõe totalmente aos parâmetros estabelecidos pela ética nos funcionários públicos, com base na **metodologia**: Qualitativo-descriptivo, onde foi realizada uma revisão de artigos em revistas científicas sobre o assunto, para além de alguns jornais na sua forma electrónica, bem como a consulta de páginas oficiais do Estado, chegando à **conclusão**: que qualquer conduta desonesta de um funcionário público anula a sua ética, mas, para além disso, gera um impacto directo nos cidadãos que são os destinatários das acções desses funcionários, além de originar um impacto na economia, uma vez que os investidores não estariam interessados em investir num país com elevados níveis de corrupção.

Palavras-chave: Corrupção; Funcionário público; Ética; Flagelo; Violação.

¿Cómo citar este artículo?

Asprilla, E. (2022). La corrupción, un flagelo que vulnera flagrantemente la ética del servidor público en Colombia. *Pensamiento Americano*, e#:478. 15(30), 1-8. DOI: <https://doi.org/10.21803/penamer.15.30.478>



Introduction

The issue of corruption is a global issue, therefore, Colombia is not exempt from presenting cases of this nature, although efforts have been made to put a dam to contain it, it has been growing to the point that this virus has been spreading throughout all sectors of the country, This has led it to become a true pandemic that has the public administration in intensive care and directly affects the vital organs of ethics of those who perform public functions and carry out these dishonest practices, but also of the citizens as direct recipients of the impacts of such actions.

We were interested in developing this research, given the importance of the topic under study, the quality of the subjects that develop corruption activities, its impact on society and, in addition, it is a current topic that will generate new knowledge, which will be at the service of public servants, students, professors, researchers and the community in general.

The purpose of this article is to show the polarity that exists between corruption and the ethics of the public servant, focusing on the Colombian case; first, the concept of public servant in Colombia will be addressed, followed by the section on ethics and corruption, then 3 of the most notorious cases of corruption will be mentioned, followed by a brief analysis of the consequences of corruption and, finally, the conclusions of this research will be offered.

Public servant in Colombia

When speaking of public servants, the mind immediately goes back to Germany, since it is considered "the cradle of the modern civil servant and the administrative career" (Martínez and Ramírez, 2008, p.21). The same authors state that Germany is regarded as the classic nation of civil servants in Europe, as is China in Asia and Egypt in antiquity, and that in addition to this, civil servants were called royal servants in the eighteenth century, and by the end of the eighteenth century they were called servants of the state, until they came to be called civil servants, a name that arose in the nineteenth century and is still used today.

To refer to a public servant is to refer to someone who serves the public, that is, someone who provides a service to all citizens, landing a little on the Colombian level and in accordance with the provisions of Article 123 of the Political Constitution of Colombia (CP) "Public servants are the members of public corporations, employees and workers of the State and its decentralized entities territorially and by services. Public servants are at the service of the State and the community (...)" from the above it can be inferred that public servants are those elected by popular election, whether they are members of a corporation such as the municipal council, Departmental Assembly or Congress of the Republic and mayors and governors as heads of the decentralized territorial entities, in addition to those who are linked to the public administration through an employment contract, or to positions that are freely appointed and removed and administrative career positions through appointment and possession as a result of a merit-based competition, all, absolutely all, are at the service of the community.

The highest body of the administrative litigation jurisdiction in Colombia also made a statement in this regard, and the Council of State (2014) states that

The primary constituent used the general concept of public servant to include all natural persons who have an employment relationship with the State and work in its service to ensure the fulfillment of its constitutional purposes.

In view of the above, this relationship with the state requires the public servant to behave properly while he is in charge of public affairs, since he is clearly carrying out activities that, depending on how he carries them out, will have a positive or negative impact on the welfare of Colombians.

Thus, once we have approached the concept of public servant, we will address in the following section the concepts of ethics and corruption, two aspects that are important to bear in mind since the practice of one excludes the other.

Ethics and corruption in the public sector

According to the Spanish Royal Academy of Sciences (RAE) (n.d.) ethics is the "set of moral norms that govern the conduct of the person in any sphere of life". Thus, ethics in the public sphere implies to have an honest behavior, that is to say, without blemish, when exercising functions in the public sphere, but this impeccable behavior that every public servant should have, has been tarnished by various situations that have been occurring repeatedly, and that make it look like something normal, yes, corruption, or better, the pandemic of corruption, has been tarnished by various situations that have been occurring repeatedly, and that make it look like something normal, yes, corruption or rather the pandemic of corruption, as it has spread throughout the country and has covered all sectoral fields of the same, "no sector is spared; businessmen, politicians, government, judges, magistrates, teachers, media, fiscal and administrative control entities, in short, the whole sector and society." (Universidad Cooperativa de Colombia, 2017).

Mena (2022) explains the report published annually by Transparency International on the indexes that measure the levels of perception regarding corruption in the public sphere in 180 countries, in this case, it is analyzed for the year 2020, a report in which the conclusion is reached that to a large extent the countries evaluated did not register progress in terms of the fight that should be developed against the scourge of corruption, but the increase in reporting cases of corruption in the time of the pandemic caused by the Covid-19 is of greater concern. This being a transcendental period where there must be greater transparency and honesty in the execution of public resources, since the health of citizens is at stake.

From the foregoing it can be inferred that the issue of corruption is a global issue, there are many countries that pre-sent cases of corruption, some to a lesser or greater extent than others, but this scourge is carried out, therefore, Colombia is not exempt from presenting cases of this nature, although efforts have been made to put a dam to contain it, This has been growing to the point that this virus has been spreading throughout all sectors of the country, which has become an unavoidable pandemic that has the public administration in intensive care and directly affects the vital organs of the ethics of those who perform public functions and carry out these dishonest practices.

Regardless of whether corruption is "sporadic, systemic, and institutionalized" as expressed by (Ethan Nadelmann (1999) as cited in Newman and Angel, 2017, p. 39) it generates an affectation to what



The author states that this could be due to two causes: first, it would distort the state's capacity to meet social demands, (...) and second, it would deteriorate the image of organizations and political actors, undermining citizen credibility towards the institutionality (Palacios, 2016).

For the Attorney General's Office as cited in Cuencas (2020) "Corruption is a critical phenomenon that deteriorates the trust of citizens in public institutions, diverts public resources that should be destined to the satisfaction of collective interests and affects the objectivity of public actions" (p. 33). Citizens' lost trust in institutions translates into indicators, since according to Transparency for Colombia (2021):

Transparency International releases the results of the Corruption Perceptions Index (CPI) 2020. In this edition, Colombia obtains a score of 39 points out of 100, where 0 means very high corruption and 100 means no corruption. The country ranks 92nd out of 180 countries. This rating is based on the analysis of eight sources that measure the perception of analysts, academics and foreign investors regarding the extent to which corruption affects the country's public sector.

But, as if that were not enough, Colombia in 2020 was perceived as the most corrupt country in the world, as recorded by the newspaper El Tiempo (Politico, 2020) "Colombia dawned this Friday with a shameful title: it is the country in the world that is most perceived with corruption." Argues the newspaper that "The index, disclosed by the website U.S. News, compiled corruption information with experts and businessmen, leaving the country in first place."

But, it is not a single factor that has triggered this scourge, as already explained, this pandemic of corruption has expanded to all sectors of the country, according to Mercado (2020) that many:

(...) factors have caused ethics in Colombia to decline: paramilitarism, violence, insensitivity and social inequality, manipulation of power, assassinations, stigmatization, persecutions and the most dangerous of all, corruption. Greed and ambition, the pursuit of personal satisfaction and self-remuneration through illicit means drive unethical people to behaviors that backfire on those around them. Society is a pyramid of sensitive echelons, and these people shake the community, putting ethics at risk, almost on the brink of a crisis.

In this sense, just as there are multiple causes that give rise to corruption, there are also a large number of public servants involved in these acts, according to Ávila (2020):

The list of officials accused, suspended or investigated for the misuse of public resources is growing (...) Why does the scourge persist? The answer is related to the electoral system, the weakness of the parties, and the abominable collusion between private contractors who finance campaigns, with the express commitment to be rewarded if the people they support come to power.

But beyond that, the public that belongs to all is sacred and cannot be the object of corruption by the public servant, to be clearer, the public servant is an errand boy of the citizens, that mandate to do things well and manage well what belongs to all, is given when it is elected through popular election, of

Hence the importance of making a good choice of aspirants when they stand for election to the different corporations and territorial entities, since those elected will appoint a cabinet of servants who will accompany them throughout their term of office. In addition to this:

The fight against corruption (LCC) in the Colombian scenario is a political tool that increases the levels of social control over the public function, over the people who perform public functions and over any relationship between individuals and the State (Aguirre, 2007, p. 3).

For this reason, the creation of citizen oversight bodies to carry out social control over the management of public affairs is welcomed.

Having outlined this section, it is imperative to bring up some cases of corrupt practices that have had a greater impact in Colombia, which will be analyzed below.

Some cases of corruption in Colombia

There have been many cases that have been positioning Colombia, to the point of being considered the country with the most corruption in the world, in this section, only some of those that have generated greater echo are mentioned, in this way, according to Cuencas (2020) there are three important cases of corruption that have been in the social rattle, The first is the case of the former Anticorruption Prosecutor who goes by the name of Luis Gustavo Moreno Rivera, the second is the so-called Cartel de la Toga and the third is the Odebrecht case, in the first one, the former Prosecutor used information that was reserved to favor some politicians who were being prosecuted for corruption:

Through an anticipated sentence for the acceptance of responsibility in the crimes of extortion and improper use of privileged official information, the Supreme Court of Justice sentenced the former director of the National Specialized Prosecutor's Office against Corruption, Luis Gustavo Moreno Rivera, to 58 months and 15 days in prison, fines of 143.74 legal monthly minimum wages, loss of public office and disqualification from the exercise of public rights and functions (Fonseca, 2018).

The second of the cases analyzed is the much talked about Cartel de la Toga, in this case processes were manipulated by some magistrates to favor politicians, this cartel "shows how judges and magistrates charged large sums of money in exchange for influencing judicial decisions in the Supreme Court of Justice and the Attorney General's Office" (Fedesarrollo, 2018, p.3) according to Semana as cited in Cuesta (2020) this materialized "(...) through the results of the sentences that they themselves issued, using strategies such as changing evidence, delaying the proceedings, among others, resulting in favorable decisions in the processes that these people who negotiated with the cartel had" (p.28).

As for the third very notorious case of Odebrecht, who bribed officials who were in charge of verifying the suitability of the participants in tenders, in order to win the tender and keep the contracts, according to Fedesarrollo (2018)

The payments identified total USD\$ 31.19 million of which USD\$ 6.5 million were used



to obtain the awarding of the concession of the second section of the Ruta del Sol highway by the National Institute of Concessions directed by the then vice-minister of Transportation, Gabriel García Morales. On the other hand, USD\$ 4.6 million were used to bribe Senator Otto Nicolás Bula in order to obtain the concessions of other public works in charge of the National Infrastructure Agency (ANI). Likewise, USD\$ 20 million have been identified as bribes for six contracts (p.9).

Although there are many cases that occur daily in Colombia, these three were chosen, given the high impact caused on citizens, the relevance of the cases of the former anti-corruption prosecutor and the cartel of the toga, lie in the active subjects, As for Odebrecht, its preponderance lies in the fact that Colombia was not the only scenario where this multinational company carried out this corrupt practice, but also in countries such as Mexico and Ecuador.

In this sense, as has been outlined, these acts of corruption tarnish the ethics of the public servants who carry out these dishonest actions, but also seriously undermine the rights of the country's least favored people, as will be seen in the following section.

Consequences of corrupt practices

It is important to point out in this section that since corruption is a phenomenon that has different origins and therefore the intervention of different actors also generates a plurality of consequences, in the cases analyzed above, the following consequences can be pointed out:

In the case of the former anti-corruption prosecutor, the loss of the former prosecutor's office, the sentence imposed in Colombia and the extradition to the United States.

In the Cartel de la Toga we can observe the destruction of the Ethics of the magistrates and the questioning of their honorability and reputation.

Regarding the Odebrecht case, a significant consequence has to do with the pecuniary sanctions, which according to the newspaper El Tiempo (Redacción Economía y Negocio, 2021) "the Superintendence of Companies announced that it imposed a new sanction of 3,909 million pesos on the former administrators of the branch of the foreign company Constructora Norberto Odebrecht S.A. and Odebrecht Latinvest Colombia.

S.A.S. due to the non-compliance of the legal duties in its charge" as it has been observed, without a doubt, these consequences do not generate a distinction of ages or social classes.

According to all that has been discussed so far, we can also establish as consequences in general, the direct destruction of the ethics of public servants by the virus of corruption, the undoubted loss of confidence of the population in public institutions, but beyond all this, there is a deep impact on citizens who are directly affected by the actions of public servants, consequently generating inequality and undermining the rights and welfare of the population, and the loss of public confidence in public institutions.

The result has been a loss of confidence in the different public bodies on the part of the citizens, as well as the abstention of foreign investors in Colombia.

Conclusions

The dishonest activities carried out by public servants are clearly far from the ethical foundations on which they should be based, every time a public servant adulterates a document or receives a bribe among other similar actions, he destroys his ethics as a fundamental pillar of his conduct, for Zuleta as cited in Cuesta (2020) "corruption practices have negative effects on the nation as they contribute to social inequality and poverty, besides damaging the image in the inter-national environment" (p.12). (p.12) and no wonder, this scourge has been expanding to all sectors so fast that talking about corruption seems to be a normal topic.

Although there are rules such as the anti-corruption statute, citizen oversight bodies have been created among other aspects, it seems that the solution to the problem is far away since many cases remain in impunity, and as already expressed, it is not conceivable that the anti-corruption prosecutor, who is the official in charge of investigating and judging public servants who are involved in acts of corruption, ends up immersed in these shameful acts, It is also unacceptable that the magistrates of the highest judicial body receive money to favor politicians with their decisions, not to mention in matters of contracting, in a social state of law where transparency should prevail, we find that with Odebrecht the opposite happened, all these situations generate a great distrust of citizens in public institutions, which leads to a delegitimization of the same.

In addition, those norms that govern the conduct of human beings in any area of life must be strengthened from the home in order to form citizens capable of resisting the temptations offered by corruption in such a way as to maintain an unblemished ethic.

Finally, as recommendations, the Colombian State is urged to punish with more drastic sanctions those who massacre the public treasury with acts of corruption, to provide better tools to citizen oversight bodies, as well as to implement open government in all its actions, so that any citizen may exercise control over public servants and their actions.



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