PUBLIC ADMINISTRATION AGENTS: CRISIS SCENERY, CORRUPTION AND THE CONTROL OF ETHICS AND PUBLIC MORALITY IN BRAZIL

Agents de l'administration publique: scénario de crise, corruption et contrôle de l'éthique et de la morale publique au brésil

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Abstract: This essay intends to work with the phenomenon of corrective practices within the public administration and with the instruments available for the accomplishment of the control of the administration, as well as of the combined options to curb the delirium practice in the context of the Brazilian legal system. The central problem is to check from the point of view of administrative morality and ethics to identify the limitations and insufficiencies of the available control model. The method of research adopted was the deductive one, based on the bibliographic research technique with the text structured in three parts and a conclusive proposition.

Key words: public administration; corruption; administration control; judicial control; ethics; administrative morality.

Résumé: Cet essai vise à travailler avec le phénomène des pratiques correctives au sein de l'administration publique et avec les instruments disponibles pour l'accomplissement du contrôle de l'administration, ainsi que des options combinées pour freiner la pratique du délire dans le contexte du Brésil système juridique. Le problème central est de vérifier, du point de vue de la morale administrative et de l'éthique, les limites et les insuffisances du modèle de contrôle disponible. La méthode de recherche adoptée était la méthode déductive, basée sur la technique de recherche bibliographique avec le texte structuré en trois parties et une proposition concluante.

Mots-clés: administration publique; corruption; contrôle d'administration; contrôle judiciaire; éthique; moralité administrative.

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I - Introductory Notes:

The purpose of this paper is to address the issue of institutional and legal mechanisms to combat corruption that have arisen in the political and governmental experience of Brazil in recent years, which has been overwhelmingly crises in terms of social and institutional credibility, due to its international profile in confronting of this phenomenon so widespread in several countries of the West and East.

To do so, it is necessary to contextualize this debate from the question of public ethics and morality, first in the international arena, and the answers that have emerged from there, to then approach the Brazilian experience in the same point.

In the end, the inadequacies are criticized in these initiatives and measures for the intended purpose, and it is important that incessant measures of action be taken by the State and by the Market and the Society in the face of these problems.

II - The troubled relations between public ethics and corruption:

Professor Jaime Rodríguez-Araña, from the University of Coruña, has repeatedly said that Public Service Ethics is the science of public service in order to achieve the common good, for the good of all doing or facilitating the good of each one of the members of society[3]. This idea of public service is very interesting in that it places the central axis characterizing public management in the figure not of the agent or the public machine, but in the figure of the citizen, highlighting the necessary links between State and Society, the latter being the holder of the fundamental sovereignty of the political and administrative order.

On the other hand, it should not be forgotten that this public ethics is only a reflection of values and principles constituted over time by the politics and philosophy that feed our institutional and social history in the face of the unavailable public interests, which is why Oscar Baudista refers that public ethics points out desirable

[3] RODRÍGUEZ-ARANA, Jaime. The Ethical Dimension. Madrid: Dykinson, 2001, p.30. warns that: unethical conduct in the public service responds ordinarily and generally to the name of corruption. This phenomenon consists in the denaturalization of the public power that is operated, instead of at the service of others, to the benefit of the one who exercises it. (p.33).

principles and values to be applied in the conduct of the man who performs a public function[4].

In Woodrow Wilson's classic work of 1997, it was already discussed the need for the Public Administration to set up its own study and organization methodology for the purpose of fulfilling its purposes with ethics, public morality and the social efficiency of its competences and actions[5].

And here is the neural center of the subject treated, it is necessary to have specific behavioral public directives so that those principles and values are observed and realized, under penalty of emptying them in the pragmatic and daily plan of the public administrations in general.

For these reasons, the Organization for Economic Cooperation and Development (OECD), in 1997, insisted that the possibilities of effectiveness of public ethics require adequate material conditions, among which: (a) political support and commitment of public agents ; (b) appropriate regulatory frameworks; (c) mechanisms for training and socializing public servants; (d) specific codes of conduct for public officials; (e) effective imputation and accountability mechanisms; (f) working conditions for public agents; (g) existence of an active and participatory civil society; and (g) coordinated and efficient internal and external public management control systems[6].

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[4] BAUDISTA, Oscar Diego. Public ethics and good governance. Fundamentals, state of the art and values for the public service. Mexico: Institute of Public Administration of the State of Mexico (IAPEM), 2009, p.32. This debate is not new, and in a sense was already present in ancient civilizations, as FINER says, Simon. The History of Government. Oxford: Oxford University Press, 1999, p.38: The science of administration enjoys an extended history. Perhaps, it can be attributed to the establishment of the first administrative systems in Egypt, Iran, Greece, Rome, and China, or even the invention of writing at Sumerian age.

[5] WOODROW, Wilson. The Study of Administration. In Jay M. Shafritz Albert C. Hyde (Eds.). Classics of Public Administration. New York: Harcourt, 1997, pp.14 / 26.

[6] Organization for Economic Co-operation and Development - OECD. Ethics in public service - current issues and practices. Madrid: Ministry of Public Administration / National Institute of Public Administration - INAP.
http://www.inap.org.mx/portal/images/RAP/la%20etica%20en%20el%20servicio%20publico.pdf, access on 01/16/2013, p.29. He says or informs that: During the 1990s, several International Conferences on Ethics in Government were held every two years. In 1997, the Eighth International Conference on Ethics in Government was held in Lima, Peru; in 1999 the ninth conference was held in Durban, South Africa; in 2001, the tenth was held in Prague (Czech Republic) while in 2003 was Seoul (South Korea) the seat of the eleventh.

The public ethics certainly does not exclude private ethics, but it is inexorable that it is only legitimate to recognize that personal virtues and private life sometimes - and not infrequently-communicate with space and public deliberations between individuals who need to recognize each other as free and equal (citizens / politoi), with capacities to co-determine the destinies of the city (polis), as well as to govern their destinies, hence to a certain extent conditional on each other[7].

In the next pages it is possible to have na idea of how the institutional and normative system of protection of public morality and ethics as well as the fight against corruption in Brazil is set.

III - Normative and institutional instruments to combat corruption in Brazil:

Brazil today has several documents dealing with public ethics and morality and the fight against corruption, especially the Code of Professional Ethics of the Public Civil Servant of the Federal Executive Branch and the Code of Conduct of the Federal High Administration[8] - just to stay with more general parameters on the subject.

It is to be seen that the main points of regulation of these norms are: (a) misuse of public office; (b) illicit enrichment in the exercise of the function; (c) sponsorship of private interest before the public administration (influence peddling); (d) breach of confidentiality; (e) use of inside information; (f) provision of advice to a private entity; g) professional activity parallel to the civil service; (h) hypotheses of conflict of interest; (i) limitations on post-occupational activity (quarantine); (j) receipt of gifts; (l) use of

[7] It is very interesting the approach that makes this subject one of the great theorists of the New Public Administration: FREDRICKSON, H. George. Ethics and the New Managerialism. Publ. Integrity, 1988, 1 (2): 4-22; ----. Ethics and Public Administration. New York: M. E. Sharpe, 1993; ----. Research and Knowledge in Administrative Ethics. In Terry LC (ed.) Handbook of Administrative Ethics, New York: Marcel Dekker, 1993.

[8] Established by Decree No. 1,171, dated of June 22, 1994. Available at: http://www.planalto.gov.br/ccivil_03/decreto/d1171.htm, accessed on 02/13/2017. It is interesting to note that the authorities subject to the Code of Conduct of the Higher Federal Administration (CCAAF) are: ministers and secretaries of State, holders of special positions, executive secretaries, secretaries or equivalent authorities occupying the position of the Senior Management and Advisory Group (DAS) level six – presidents and directors of national agencies, municipalities, including special ones, foundations maintained by the Public Power, public companies and mixed economy companies. All of these public agents, in addition to the declaration of assets and income referred to in Law no. 8,730/93, should forward to the Public Ethics Committee information on their financial situation that may, or may potentially, conflict with the public interest, indicating how they shall avoid it (Article 4 of the CCAAF).

public resources and servers in particular activities; (m) appropriation of public funds or mobile assets, among others.

On the other hand, the basic norms that aim at the protection of the rights of the administered ones and the better fulfillment of the public ends (the principles of legality, purpose, motivation, reasonableness, proportionality, morality, ample defense, contradictory, legal certainty, public interest and efficiency) are provided for in Law 9,784, dated January 29, 1999, which regulates the administrative process of the Federal Public Administration.

It also has the country with another important tool, which is the declaration system for public servants in general, introduced in Brazil by Law No. 3,164, dated July 1, 1957, instituting the so-called mandatory public register of values and assets belonging to the private patrimony of those who hold positions or public functions of the Union and municipal entities, elective or not (article 3), and that the data of this declaration must be updated annually, or on the date on which the public official leaves the mandate , position, job or function, being able to replace it with a copy of the annual declaration of goods and rents presented to the Federal Treasury (art.13, § 4).

Law No. 8.730[9], dated 10/11/93, establishes the obligation of all political agents and members of the judiciary and the Public Prosecutor of the Union, as well as those who hold elective positions, jobs or functions of trust, in the direct administration, indirect, and foundational, present a declaration of assets, with indication of the sources of income, at the moment of possession, at the end of each financial year, at the end of the management or mandate, exoneration, resignation or definitive of these categories of servants and political agents and the compatibility of this increase with declared incomes.

Along with these sets of norms that allow greater control of ethics, morality and corruption in the country, it is necessary to recognize that Brazil does not have exclusive public bodies for this purpose; does not have administrative structures

[9] This law / Act is also applicable to state and municipal governments. Available at: http: // www.planalto.gov.br/ccivil_03/Leis/L8730.htm. Accessed on 9/23/2017.

dedicated exclusively to the prevention or accountability of these violations, but it has several diffusely competent bodies for both, in the sphere of Direct and Indirect Public Administration (through internal controls), and through external controls, especially with the Courts of Accounts, General Controllership and Judicial Branch.

Among these institutional and social instances to make these regulatory frameworks feasible, can be mentioned: (a) the ethics committees of the Executive, Legislative, powers provided for in Decree 1171/94; (b) the Office of the Comptroller General of the Union; (c) Courts of Accounts of the Union, the States and the Municipality of São Paulo; (d) specific corregedorias of certain organs or entities (Executive, Legislative and Judiciary); (e) Secretariats of Management and Human Resources of all Powers; (f) Federal Secretariat of Control of the Federal Government; (g) Federal and State Public Prosecutor; (h) thematic commissions of each of the houses of the National Congress, Legislative Assemblies and Municipal Councils; (i) parliamentary committees of inquiry; (j) Federal Police and State Civil Police; (l) Judicial Branch; (m) citizenship itself with constitutional and infraconstitutional powers of supervision and collection of public managers.

In addition to these institutions, effective control and monitoring mechanisms have been forged, among which are: (a) audits, inspections and inspections, which are carried out by the internal and external control bodies, assisting in the monitoring of the management of public administrators; (c) administrative disciplinary proceeding, conducted by the committees of inquiry and investigation, to determine deviations from personal conduct; (d) public civil inquiry, promoted by the Public Prosecution Service; (e) public civil action for compensation of damages, promoted by the Public Prosecution Service; (f) police investigation, carried out by the Federal and State Police, in order to determine irregularities of the managers and in the Public Administration; (g) public criminal action, promoted by the Public Prosecution Service; (h) action of administrative impropriety, promoted by the Public Prosecutor's Office, the General Attorney's Office of the Union or by the legal bodies linked to it; (i) popular action, by any citizen, to annul an act adversely affecting the public patrimony or administrative morality.

Reinforcing these instruments, Brazil established the Federal Public Ethics Commission[10], an advisory body of the Brazilian Government, established by Presidential Decree of May 26, 1999, formatted by a network of professionals with responsibilities in ethics management in each of the federal entities and bodies. There are 165 sectoral representatives of the Commission, in 220 entities and bodies. Such representatives are technically linked to the Commission, but have no administrative subordination. The basic responsibility of these professionals is to support the Commission in carrying out its functions, as well as to ensure that the basic functions in ethics management are carried out in their respective organizations.

The Brazilian Federal Controller-General's Office (CGU) has developed several studies on the subject of corruption - and therefore, situations that violate public ethics and morality – and even in other countries, showing how says with its control and combat over time, and as its virus incubator is mutant over the period, behold it also transforms in order to escape the tools that try to cope with it.

One of these tools created for such purposes is the so-called Corruption Risk Mapping Methodology[11] - which, in synthesis, operates with the following premises and objectives: (a) Any work process - public or private sector - may have vulnerabilities to corruption, considering that a work process is any set of interrelated activities that receives inputs and transforms them into services or products for citizens / consumers, following pre-established logic and with added value; (b) The results of work processes may also produce inputs or information for other work processes; (c) As a rule, work processes go through chains of decisions with multiple points to reach the objectives, being attentive to each one of them;(d) These decisions have different possibilities for previous assessments, which need to be very clear (it is not in any way that a result is to be achieved, nor is any result useful); (e) In order to make finalistic processes of services or activities (public or private) feasible, management processes based on services and products generated by specific administrative processes are necessary; (f) It is necessary the qualitative and quantitative control of the managerial processes of the organizational units in relation

[10] In http://www.planalto.gov.br/ccivil_03/dnn/Dnnconduta.htm, accessed on 13/02/2017. Have a look still by the link http://etica.planalto.gov.br/.
[11] www.cgu.gov.br/prevencaodacorrupcao/arquivos/metodologia.pdf

to the different constitutive possibilities of previous evaluations of the choices to be made and their executions; (g) The easiest mapping processes are those that contain a decision-making chain in which all steps are under the identified responsibility - preferably the organization itself - as well as those that produce the entire production cycle required to be finalized, presenting a set of activities in different phases: planning, execution, monitoring or control, finalization and evaluation.

In this reference study, the CGU still detected situations that particularly encourage the risk of corruption, among which: those involving direct purchases of products or services, with the use of significant financial resources; those involving the attribution of rights or benefits to the public; those involving resource transfer between public and private organizations; those that involve the fulfillment of obligations and application of penalties.

Likewise, the evaluation identified some variables that are usually present in the processes of work, decision and production of results, namely: that of the beneficiaries and prejudiced by the processes, the legislation on the matter of the processes, the implications in other processes.

The deterioration of ethics, bite and corruption can reach any situation, phase or variable of the work processes, decision makers or executives of the institutions, that is, they can operate from the request to carry out the processes, in the planning and conception of them, in the its preparatory activities, in its executions, and even in the context of the presentation of its results.

In addition to these elements, the CGU study presents a set of questions that must be asked in those processes likely to be contaminated by these problems: (1) What event initiates the work process and who is responsible for it? (2) What information, services and products are needed for each stage of the work process? (3) What are the possible outcomes of decisions to be taken throughout the work process at each of its stages? (4) What information is or should be added to the possible results of each phase to continue the work process? (5) What is the decision, based on the result of the previous decision and the aggregated information, that allows a

significant new change in the progress of the work process or even its objectives? (6) What is the outcome of this decision?

With regard to the information required for the outbreak of cases, it is also important to be aware of the following concerns: if they arise from cogent legislative provisions; if they are constituted from reliable methodologies and criteria; with structured data collection; if they are consistent and verifiable; if the decision maker has the necessary qualifying information when deciding; if there are instances and mechanisms for control and supervision of the decision, as well as the access of the interested parties to the justifications and content of the decision; if there are contact controls between the decision maker and the beneficiaries or stakeholders in the decision.

This universe of elements dialogues among themselves in the methodology constituted by the CGU, and can be applied in any oganizational and administrative unit of any of the State Powers.

Since September 2003, CGU has implemented the Project for the Mobilization and Training of Public Agents, Municipal Councilors and Local Leaders, with the aim of guiding municipal officials on transparency practices in management, accountability and the correct application of public resources. how to contribute to the development and stimulation of social control. This project was institutionalized in 2004 through the, so called, “Olho Vivo Program” in matter of public money. Up to December 2008, 124 events of face-to-face education were held, with the participation of 1,011 municipalities throughout the country. A total of 5,153 municipal councilors were mobilized and trained, 5,300 municipal public agents and 5,857 local leaders[12].

Also in the scope of public services, it shall be noted some Brazilian regulations that go in the direction of transparency associated with the political participation of the community that very much help the fight against corruption, among which: (a) Federal Law nº8787 / 95, even if in a timid manner - the participation of users in the

[12] According to data collected at www.cgu.gov.br/olhovivo, accessed on 02/18/2018.

deliverance of the public services by concessionaires and licensees[13]; (b) Federal Law No. 9427/96, which deals with the electric sector, requiring a public hearing to make decisions affecting consumers and even economic agents involved, to be convened by the National Electric Energy Agency; (c) Federal Law No. 9.472/97, which deals with telecommunications, demanding a public consultation to debate the regulations that shall govern such services; (d) Federal Law No. 9.472/97, which deals with the National Petroleum Agency, determining the holding of a public hearing for any actions or decisions that directly or indirectly affect consumers[14].

At a constitutional level, there is still the Popular Action institute, which was exactly constituted as a tool of citizenship for the exercise of its most effective civil and political participation right (implying the control of corruptive acts, of course), already which it determines, pursuant to art. 5, item LXXIII, that: any citizen is a legitimate party to propose a public action that seeks to annul an act adversely affecting the public patrimony or of an entity of which the State participates, to administrative morality, to the environment and to the historical and cultural patrimony, being the author, unless proven in bad faith, free of legal costs and the burden of failure.

In spite of being this institute regulated by infraconstitutional law prior to the 1988's Constitution (Federal Law No. 4,717, of June 29, 1965), the Constituent Assembly made explicit its reception in face of the historical and republican meaning that it represents, neural tool to the material densification of the Fundamental Right to Political and Social Participation.

[13] What was already foreseen in the diction of art.175, § unique, II, of the Federal 1988' Constitution. In the same sense, see the provisions of Federal Law 9,074/95.

[14] In order to avoid losing the opportunity of reference, within the Federal Government, there are now around 60 (sixty-three) Councils of social participation in the most diverse areas of public interest, and 10 (ten) National Forums with the same opportunity (on differentiated topics), according to information extracted from the site www.brasil.gov.br/participação_people, accessed on 11/25/2017. About this issue, see LEAL, Rogério Gesta. Public sphere and social participation: possible legal-political dimensions of the civil rights of social participation in the scope of the management of public interests in Brazil. In LEAL, Rogério Gesta (organizer). The Shared Public Administration in Brazil and Italy: preliminary reflections. Santa Cruz do Sul: Edunisc, 2008.

In its article 1, Popular's own legislation regulates the range of situations in which the Brazilian citizen-elector can act directly in the scope of the control of the Public Administration[15].

For these reasons, it has been affirmed that, in addition to a procedural instrument, the Popular Action constitutes a true fundamental material right of political participation, founded that is also in the principles informing the democratic regime of the Brazilian Republic, especially as regards the primary source of political power (art. 1, sole paragraph, of the Constitution), from which the idea exists that one lives in a Democratic State of Right, in which the citizen has the controlling power of the management of public and collective affairs[16].

It should be seen that the norm considers as public patrimony the goods and rights of economic, artistic, aesthetic, historical or tourist value, likewise evidencing the range of interests and goods reached by its diction, in addition to the procedural dynamics printed in the institute is very facilitating to the popular initiative, since it determines that, in order to instruct the initial, the citizen can request to the entities mentioned in the device the certificates and information that one deems necessary, suffice it to indicate the purpose of the same. On the other hand, such certificates and information must be provided within 15 (fifteen) days of delivery, upon receipt, of the respective applications[17].

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[15] Any citizen is legitimate as party to seek the annulment or declaration of nullity of acts prejudicial to the assets of the Union, the Federal District, the States, Municipalities, mixed-capital companies, mutual insurance companies in which Union, represents the absent policyholders, public companies, autonomous social services, institutions or foundations for the creation or costing of which the public treasury has competed or competes with more than fifty percent of the equity or of the annual revenue of companies incorporated into the assets of the Union, Federal District, States and Municipalities, and any legal entities or entities subsidized by public coffers.

[16] SILVA, José Afonso da. Popular Constitutional Action. São Paulo: Malheiros, 2007, p.78. See also the texts of: FURTADO, Elisabeth Timbó Corrêa. Popular Action: mechanism of control of acts of public administration by the citizen. São Paulo: LTr, 1997; GOMES JR., Luiz Manoel. Popular Action: controversial aspects. Rio de Janeiro: Forensic, 2004; GRINOVER, Ada Pellegrini; MENDES, Aluisio Gonçalves de Castro; WATANABE, Kazuo. (organizers). Collective Procedural Law and the draft Brazilian Code of Collective Proceedings. São Paulo: Journal of the Courts, 2015; VITTA, Heraldo Garcia. The environment and popular action. São Paulo: Saraiva, 2010.

[17] Art. 1, §§4th and 5th of Federal Law No. 4,717, of June 29, 1965. Shows very clearly that, in cases where duly justified public interests imply secrecy, a certificate or information may be denied. However, in such situations, the action may be proposed unaccompanied by the certificates or information denied, and it is up to the judge, after considering the reasons for the refusal, and except in the case of a national security reason, request one or the other; Once the requisition has been made, the process shall be held in

Article 8, of the same Law, which shall be subject to the penalty of disobedience, except for a reason duly substantiated, the authority, the administrator or the manager, who fails to provide, within the period set forth in article 1, §5, or (art.7, n, letter "b"), information and certificate or photocopy of documents necessary for the investigation of the case, evidencing the levels of responsibility of the public authorities that are the managers of the assets protected by the legal system national.

In view of the scope of Popular Action, it can be maintained that its focus is the interest of the whole community, which demarcates the legitimacy and interest of its proponent, since it is not a defense in its own right, but of all the social fabric, in which the voter who proposes it is inserted[18].

In addition, other federal laws have contributed greatly to the fight against corruption, such as: (1) Law No. 0179/1950, which defined the crimes of responsibility and regulated the respective process of judgment; (2) Decree-Law No. 201/67, which dealt with the criminal responsibility of Mayors and Councilors; (3) Law No. 7,347 / 1985, which dealt with the Public Civil Action; (4) Law No. 7492/1986, which dealt with crimes against the national financial system;

(5) Law No. 8,429 / 1992, which dealt with sanctions applicable to public agents in cases of unlawful enrichment in the exercise of a mandate, position, job or function in public administration, direct, indirect or foundational (Administrative Improbity); 6) Law 8,730 / 1993, which established the obligation to declare property and income for the exercise of positions, jobs and functions in the Executive, Legislative and Judicial Branches; (7) Complementary Law No. 101/2000, which established public finance standards for fiscal responsibility; (8) Law No. 9613/98, which dealt with the crimes of laundering or concealment of assets, rights and values, the prevention of the use of the financial system for illicit activities provided for in this Law and created the Financial Activities Control Council (COAF) , as well as Law no. 12,683, of 09/07/2012,

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secrecy of justice, which shall cease with the final *res judicata*, pursuant to paragraphs 6th and 7th of the same statute.

[18] By this reason, those positions that understand that the author of the Popular Action acts in his own name, in defense of his own right, since this one is the owner of the diffuse interest, not replacing or representing anyone, only defending an his own interest to see sheltered the *res public*, administrative morality, the environment and historical and cultural heritage, as sustained by MANCUSO, Rodolfo de Camargo. Popular Action seem to be not the most acceptable. São Paulo: Revista dos Tribunais, 2013, p. 138.

which amends it to make more efficient the criminal prosecution of crimes of money laundering; (9) Law 10,028/2000, which amended the Brazilian Penal Code to establish crimes against public finances in a more specific way; (10) Law No. 11,115/2005, which extended the subject of access to public information by civil society, as well as its substitute, Law 1227/2011, and its Decree No. 7,724/2012.

The Senate Penal Code Reform Commission, which was formed by a number of important jurists in the area, delivered its Final Report in June 2012, with profound changes, especially with regard to crimes that conform to the fatispécies of corruption, (such as Chapter V, Title X (Crimes against Public Administration), innovating in predicting the crime of illicit enrichment (art. 227), expanding the concept of public servant (arts. 282 and 283), exploitation of prestige (art. 288); dealing with so-called crimes against the public procurement system (art. 315, et seq.), of electoral crimes, with broader scope (arts. 325 / 338); (art. 348 et seq.), involving, among other types, crimes of money laundering (art. 371 et seq.), bankruptcy crimes (art. 375 and following), etc..

IV - Final Considerations

If the fight against corruption as a public policy aims to identify, understand and act preventively on areas of risk and organizational cultures, it is necessary to understand that the law can not and is not a substitute for the behavioral ethics of all social subjects .

Nor are the traditional forms of official horizontal controls of corruption within the state sufficient (self-control and external control), given the exact recognition of the phenomenal nature of corruption, increasingly importing the radicalization of its confrontation, involving for example the mechanisms of vertical controls - media and civil society, in which respect the idea[19] of Enrique Peruzzotti[20] is interesting.

[19] "Faced with all symbolic costs imposed by media pressure, actors and agencies involved in controlling legality are forced to take up the matter: judges or officials of enforcement agencies who would otherwise be reluctant to intervene for fear of political reprisals, are forced to activate procedures in the light of the pressure exerted by the press and public opinion."

Indeed, there have been changes in these social relations scenarios that have squeezed the public space to the point of toning the role of actors other than the official ones in the management of the public interest, whose implications extend to the control of public management, despite the misunderstandings/exaggerations with denunciations and sometimes spectacular news taken at times, which can anesthetize public opinion, so that new revelations about corruption are no longer scandalous, or simply foster attitudes of disbelief towards representative institutions, which can have negative consequences for democracy[21].

It is necessary, therefore, to maintain a balanced relationship between all these variables and factors of imbrications that the theme of corruption evokes, so as not to lose exactly the central object of combat to this true social and institutional pathology. In this sense, news stories such as those published by Simon Romero column in the New York Times, on October 9, 2012, dealing with the trial of mensalão in Brazil, exude distorted perceptions[22] of democratic institutions[23].

Hence the urgent need to pay more attention to the responsibilities of the Market and especially of companies that have increased their protagonism in corruptive practices, serving as a cover for acts and illegal deals, sometimes with appearances of formal legalities. In this direction, Brazil has passed laws such as nº12299 / 2011 (Antitrust Law, which aims to avoid cartels); the creation of the Financial Activities Control Council (COAF), and Federal Law no. 12.846 / 2013, the new Brazilian Anti-Corruption Law, which undoubtedly reinforce the instruments of

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[20] PERUZZOTTI, Enrique. Accountability. *Op. Cit.*, p. 481. The author goes on to argue that the vast majority of media exposures of criminal acts by public officials are not the product of autonomous investigations but are based on information from government sectors to particular newspapers.

[21] Ib Idem, p.482.

[22] "Brazilinan courts are more often the object of ridicule than praise, and some legal scholars warn that this case is only one in a labyrinthine and privileged judicial system. Judges are paid handsomely and have great leeway to exert their influence, like ordering the arrest in September of Google's top executive in Brazil over a politically contentious video, but rooting out corruption and punishing powerful political figures generally have not been among their top priorities."

[23] In http://www.nytimes.com/2012/10/10/world/americas/brazilian-corruption-case-raises-hopes-for-judicial-system.html, accessed 15/01/2016. The article also states that: Brazil's legal code also offers extraordinary protections for the country's elite. College graduates, who make up only about 11 percent of adults between ages 25 and 64, get special cells if they are sentenced to prison. Political authorities, even if they lack a college degree, get the same privilege. Hundreds of top officials can not be tried in lower courts at all, however, this can not authorize the conclusion that the institutions do not work or work poorly, since these are prerogatives guaranteed by law and not the result of authoritarian judicial decisions.

approach to corruption involving the market, however only existences do not guarantee the success of policies for these problems, and it is imperative to establish systems of vertical and horizontal collaboration between the public authorities that deal with this material (federal and state courts, federal and state public ministries, civil and military, federal and state), creating routines of information exchanges, databases of common data (such as the national registry of unidentified and suspended companies for acts of corruption, national registries of companies punished by the same acts, integrated systems of records of actions corruption), articulated repression and prevention actions.

With initiatives such as these, compliance and leniency agreements that are beginning to be established in Brazil gain strength, as they do not appear as isolated alternatives to anticorruption actions.

Finally, the advances of Brazilian Democracy have long been felt, maturing the legal and political system, as well as public opinion on these issues that involve corruption, a path that is endless even in the face of the mutational and adaptive capacity of these pathologies.

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