

Culture of systemic corruption

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Summary: 1. Introduction. 2. Corruption, a global phenomenon. 3. The systemic character of corruption. 4. The individual component in the phenomenon of corruption. 5. Final considerations: culture of corruption, the "brazilian way" of understanding the proba. 6. Bibliographic references.

Abstract: This article analyzes corruption as a systemic and cultural phenomenon in the Brazilian public scenario. It addresses the difficulty of establishing the conceptual limits of corruption as a result of cultural perceptions linked to its meaning. It assesses the effects of multi-criminality involving groups and public and private institutions, in which the figure of the corrupt individual is not as relevant as the corrupt system itself. It highlights the difficulty of separating the public and the private, in the Brazilian reality, and the cognitive dichotomy that distinguishes individual corruption from the systemic one. It concludes, demonstrating that individual and systemic corruption need to be fought with the same emphasis on the purpose of advancing social achievements and citizenship. The method used was the hypothetical-deductive one, and the research was based on books, scientific articles and legislation.

Keywords: Corruption, FCPA, Brazilian way, Bribery.

Resumo: Este artigo analisa a corrupção como fenômeno sistêmico e cultural no cenário público brasileiro. Aborda a dificuldade de estabelecer os limites conceituais da corrupção como resultado de percepções culturais ligadas ao seu significado. Avalia os efeitos da multirriminalidade envolvendo grupos e instituições públicas e privadas, em que a figura do corrupto não é tão relevante quanto o próprio sistema corrupto. Destaca a dificuldade de separar o público do privado, na realidade brasileira, e a dicotomia cognitiva que distingue a corrupção individual da sistêmica. Conclui demonstrando que a corrupção individual e sistêmica precisa ser combatida com a mesma ênfase no propósito de promover conquistas sociais e cidadania. O método utilizado foi o hipotético-dedutivo, e a pesquisa foi baseada em livros, artigos científicos e legislação.

Palavras-chave: Corrupção, FCPA, Jeitinho brasileiro, Propina.

1. Introduction

Social rights and democratic freedoms under threat, political and economic instability, unemployment, criminality and impunity are some of the consequences that systemic and generalized corruption can bring to any nation.

Unlike other criminal behaviors and state mismanagement, which are also harmful to the common good and civil society, corruption is directly linked to the boundaries between public and private interests. It is capable of jeopardizing public policies and the very foundations of democracy, by distorting and perverting the expected balance between the different social and political forces in the country and preventing those most in need of protection from being the effective target of state

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actions and spending.

Elections sponsored by money arising from corruption schemes, for example, deprive most of society's representative groups of the possibility of disputing on an equal term the public spaces of the political game in any of the spheres of electoral dispute, whatever the sphere of Public Power.

Such political and economic imbalance resulting from corruption undermines the values most dear to the Democratic State of Law, which are the guarantees of fundamental rights necessary for the consolidation of a State that is truly democratic, egalitarian, participative and citizen.

The present work aims to analyze corruption as a systemic and cultural phenomenon in the Brazilian public scenario. It deals with the difficulty in establishing the conceptual limits of corruption, resulting from different cultural perceptions regarding its meaning.

It evaluates the effects of multicriminality involving public and private groups and institutions, in which the figure of the corrupt is not as relevant as the corrupt system itself. It highlights the difficulty of separating the public from the private, in the Brazilian reality, and the cognitive dichotomy that distinguishes individual from systemic corruption.

It concludes by demonstrating that individual and systemic corruption needs to be fought with the same emphasis on promoting social achievements and citizenship. The method used was hypothetical-deductive, and the research was based on books, scientific articles and legislation. Quotes from works in other languages have been freely translated by the author.

2. Corruption, a global phenomenon

It's not an easy task to define or conceptualize corruption, especially because practices that in certain contexts would be considered corrupt, in some cultures or environments are socially approved. Its scope and significance vary according to the country, its culture and the political regime adopted, expanding or restricting what could be called a corrupt practice.

In the understanding of Avritzer and Filgueiras,

The concept of corruption expresses a polysemy of meanings and types of political action, whose criterion for defining whether this action is corrupt or not is that of its illegitimacy in relation to the values and norms expressed in a conception of public interest. In this way, practices such as clientelism, patronage, nepotism, misuse of public resources, extortion, concussion, bribery, malfeasance and other practices may have a sense of corruption as it is considered an illegitimate action in opposition to the public interest².

The OECD - Organization for Economic Co-operation and Development thus defines the meaning of corruption:

Corruption is the abuse of public or private office for personal gain.

It includes acts of bribery, embezzlement, nepotism or state capture. It is often associated with and reinforced by other illegal practices, such as bid rigging, fraud or money laundering³.

Fortini and Motta explain:

Practices considered corrupt in one country may be accepted in

² AVRITZER, L; FILGUEIRAS, F. "Corrupção e controles democráticos no Brasil". *CEPAL-IPEA*, n. 32, 2011, p. 13. Available at: repositorio.cepal.org/handle/11362/28145. Access in: Dec 5, 2022.

³ OECD – Organization for Economic Co-operation and Development. *CleanGovBiz: Integrity in Practice*. OECD, 2014, p. 1. Available at: oecd.org/cleangovbiz/49693613.pdf. Access in: Dec 5, 2022.

other places. The FCPA - Foreign Corrupt Practices Act, a law enacted in the United States in the late 1970s, although prohibiting the offer and the effective performance of improper payments to the foreign official, does not condemn the payment of money or equivalent when expressly adjusted to the legislation of the foreign country. The rule seems to ignore that, even if external legislation authorizes the payment, the global concern must be to avoid any kind of offense to the competitive environment, so that all efforts must be brought together with a view to jointly discourage incorrect practices, especially because corruption more severely damages the poorest countries, hindering social welfare and sometimes affecting democracy⁴.

Alatas has carefully defined corruption, which in his view includes three types of phenomena: bribery, extortion and nepotism. Unlike other criminal behaviors or mismanagement, whose effects are also harmful to the public interest, corruption refers to "the subordination of public interests to private aims involving a violation of the norms of duty and welfare, accompanied by secrecy, betrayal, deception and a callous disregard for any consequence suffered by the public"⁵.

Common sense is enough to realize how harmful corruption is in the various spheres of social life. However, not everyone is aware of what these harms are and in what respect they interfere, directly or indirectly, in their lives and how they are affected by their consequences.

However, even if it is difficult to define, the consequences of corruption are easily detected and expose the level of socioeconomic development of a country. Whereas corruption distorts market mechanisms such as fair competition, it discourages local or foreign investment. It makes negotiations difficult and can lead to lawsuits, penalties, damage to the investing company's reputation, which increases the cost or scares away potential investors.

According to World Bank data⁶, more than a trillion dollars in bribes are paid each year. There is no doubt that corruption is a global phenomenon, and as such it must be faced and fought.

IMF surveys reveal that investment in corrupt countries is almost 5% less than in countries that are relatively free of corruption. The World Economic Forum estimates that corruption increases the cost of doing business by up to 10% on average⁷.

The increase in cost due to corruption and the lack of national or foreign investments, decreases the allocation of resources in sectors and programs that promote better social results or greater economic development in a country or region, and increases investment in those that offer a greater financial return, even if arising from corrupt negotiations. Its consequences are state inefficiency and the consequent waste of public and private resources.

Coelho and Heringer⁸ point out that the direct and most harmful consequence

⁴ FORTINI, C; MOTTA, F. "Corrupção nas licitações e contratações públicas: sinais de alerta segundo a Transparência Internacional". *A&C – Revista de Direito Administrativo & Constitucional*, Belo Horizonte/MG, y. 16, n. 64, Apr/June 2016, p. 94. Available at: dx.doi.org/10.21056/aec.v16i64.240. Access in: Dec 5, 2022.

⁵ ALATAS, S. H. *The sociology of corruption; the nature, function, causes, and prevention of corruption*. Singapura, Donald Moore Press, 1968, p. 12. Available at: doi.org/10.1017/S0022463400020397. Access in: Dec 5, 2022.

⁶ Available at: blogs.worldbank.org/governance/what-are-costs-corruption#:~:text=A%20popular%20estimate%20is%20that,corruption%20annually%20around%20the%20world. Access in: Dec 5, 2022.

⁷ OECD, 2014, p. 2.

⁸ COELHO, NMMS; HERINGER, HML. "Foreign Corrupt Practices Act: uma breve análise da lei que deu origem ao combate internacional da corrupção". *Revista Jurídica Unicuritiba*. Curitiba: v. 1, n. 46, 2017, p. 168. Available at: revista.unicuritiba.edu.br/index.php/RevJur/article/view/2004. Access in: Dec 5, 2022.

of corruption is that the resources that would be destined to reduce poverty - at least this is the pretext used for its collection - are diverted, making the lives of the less favored even worse and reducing significantly what would be invested in areas such as education, safety, health and sanitation. As a result, the underprivileged are the most affected by corruption.

Corruption may distort the composition of government expenditure. Corruption may tempt government officials to choose government expenditures less on the basis of public welfare than on the opportunity they provide for extorting bribes. Large projects whose exact value is difficult to monitor may present lucrative opportunities for corruption. A priori, one might expect that it is easier to collect substantial bribes on large infrastructure projects or high-technology defense systems than on textbooks or teachers' salaries⁹.

OECD¹⁰ data demonstrate that there is a significant impact of corruption on income inequality and a negative effect of corruption on income growth for the poorest 20% of a country. The World Bank¹¹ estimates that 20% to 40% of Official Development Assistance – ODA – is embezzled by high-level corruption of public budgets in developing countries.

Regulatory barriers are bypassed by bribes. The budgetary control of public entities is undermined by illicit money flows; Political critics and the media are silenced through bribes, undermining democratic systems of controls. Corruption in political processes, such as elections or party financing, undermines the "government of the people" and therefore the very foundation of democracy. If basic public services are not delivered to citizens due to corruption, the State eventually loses its credibility and legitimacy¹².

The OECD¹³ points to at least four of these harms that stand out: a) Corruption increases the cost of doing business – the work of an overpriced road, e.g., raises not only the price for its construction, but all the products and services provided through it; b) Corruption leads to waste or inefficient use of public resources – diverted resources are resources not allocated to meet real and legitimate needs; c) Corruption excludes the poor from public resources and perpetuates poverty - in the absence of services provided by the State or in the elevation of values of services and products offered by the private sector, in which corruption is part of the negotiations, the first to suffer from the difficulty of access is the poor; and d) Corruption erodes public trust, undermines the rule of law and, ultimately, delegitimizes the state – in a state where corruption prevails, everyone can judge themselves in the right to "take advantage" of public initiatives, which it's destructive and frustrating.

Corruption disables governments from managing the real demands of citizens or robs them of their willingness to achieve public well-being as a result of their actions, whether due to inefficiency, waste or to meet the desires of individuals and specific groups who have no other interest but self-benefit and the accumulation of wealth and power.

Spahn points out that corruption undermines efforts to promote environmentally friendly practices; facilitates the violation of human rights through child sex trafficking; it distorts investment capacity and, as a result, reaches the poorest and widens the gap between rich and poor: "From any perspective,

⁹ MAURO, P. "Why Worry About Corruption?", *Economic Issue*, Washington, International Monetary Fund, n. 6. 1997, p. 7. Available at: imf.org/external/pubs/ft/issues6/issue6.pdf. Access in: Dec 5, 2022.

¹⁰ OECD, 2014, p.3.

¹¹ WORLD BANK. *Stolen Asset Recovery (StAR) Initiative: Challenges, Opportunities, and Action Plan*. June 2007, p.1. Available at: unodc.org/pdf/Star_Report.pdf. Access in: Dec 5, 2022.

¹² OECD, 2014, p. 2-4.

¹³ OECD, 2014, p. 2.

international bribery presents significant problems”¹⁴.

Lambsdorff proves that corruption has a significant negative effect on the capital productivity of a country. For him, “corruption is likely to lower the productivity of capital due to a variety of channels. Corruption renders governments incapable or unwilling to achieve public welfare as a result of x-inefficiency, wasteful rent-seeking or distorted public decisions”¹⁵.

Johnston¹⁶ approaches corruption under three aspects: the personal or individual aspect, in which issues of character of personality or human nature are highlighted, focusing on greed and the individual's ethical and moral limits; the institutional aspect in which institutions become primarily victims of individual corruption; and, later, the systemic, in which both the individual and the group or institution, which they represent, within an intricate system of gears, become just one more piece that facilitates the maintenance of a solid system of corruption.

To meet the purposes of this work, the systemic and individual character of corruption will be analyzed, in addition to the Brazilian cultural component.

3. The systemic character of corruption

The OECD defines corruption as any form of misuse of institutional relations with public agencies or private companies, in order to gain personal advantage.

It could be the multinational company that pays a bribe to win the public contract to build the local highway, despite proposing a sub-standard offer. It could be the politician redirecting public investments to his hometown rather than to the region most in need. It could be the public official embezzling funds for school renovations to build his private villa. It could be the manager recruiting an ill-suited friend for a high-level position. Or, it could be the local official demanding bribes from ordinary citizens to get access to a new water pipe. At the end of the day, those most hurt by corruption are the world's weakest and most vulnerable¹⁷.

With the beginning of Lava-Jato Operation¹⁸ by the Brazilian Federal Police, Falcão¹⁹ highlights that there was a lot of noise on the part of criminal lawyers in defense of their clients accused of corruption at various levels. The lawyers affirmed

¹⁴ SPAHN, E. “International Bribery: The Moral Imperialism Critiques”. *Minn. J. Int’l L.* New York, v.18, 2009, p. 156. Available at: core.ac.uk/reader/217210830. Access in: Dec 5, 2022.

¹⁵ LAMBSDORFF, JG. “How Corruption Affects Productivity”. *Kyklos*, Passau, v. 56, n. 4, 2003, p. 457-474. Available at: doi.org/10.1046/j.0023-5962.2003.00233.x. Access in: Dec 5, 2022.

¹⁶ JOHNSTON, M. *Syndromes of Corruption: wealth, power, and democracy*. Cambridge, Cambridge University Press, 2005. Available at: Cambridge.org/9780521853347. Access in: Dec 5, 2022.

¹⁷ OECD, 2014, p. 1.

¹⁸ Operation Lava-Jato was the largest series of investigations conducted by the Federal Police in Brazil, in the fight against corruption. Between 2014 and 2019, he served more than a thousand search and seizure warrants, temporary arrest, preventive detention and coercive conduct, with the aim of investigating a money laundering scheme that generated billions of reais in bribes. It comprised more than 79 operational phases, authorized by the Federal Court, based in Curitiba/PR, with more than one hundred people arrested and convicted. The operation investigated crimes of active and passive corruption, fraudulent management, money laundering, criminal organization, obstruction of justice, fraudulent exchange operation and receipt of undue advantage. Through award-winning denunciations and complaints received by the Operation task force, leaders of the state-owned Petrobras, politicians from the largest parties in Brazil, including former presidents of the Republic, presidents of the Chamber of Deputies and the Federal Senate and governors were involved. Due to technical issues involving territorial jurisdiction, most convictions in 1st and 2nd instances were annulled by the Supreme Court and the defendants were released.

¹⁹ FALCÃO, J. “A sobrevivência da corrupção sistêmica”. *Folha de S. Paulo*, São Paulo, Nov 10, 2017. Available at: folha.uol.com.br/opiniao/2017/11/1934259-a-sobrevivencia-da-corruptao-sistemica.shtml?loggedpaywall. Access in: Dec 5, 2022.

that, if necessary, they would even appeal to the Inter-American Court of Human Rights in Costa Rica. Over the course of it, after more than three years, this noise decreased, because they realized that

It was not individual due to the process that was threatened by the Lava Jato. Though sometimes it might have been. At stake was the public evidence that corruption was not an individual act, but from one or many politicians, officials or businessmen. It wasn't a quantitative problem, but qualitative, about the structuring of Brazil itself.

For the Democratic Rule of Law, the defense of individual rights in the administration of Justice has been quite assured. The fight against systemic corruption, however, is not. The national defendant, today, is not A or B. He is not a client of criminalists. It's systemic corruption. Lava Jato and more than 40 lawsuits filed throughout Brazil will be evaluated in history not by the number of convicts, but whether or not they were able to mobilize the country to end systemic corruption²⁰.

Systemic corruption is a complex tangle of crimes, involving groups and public and private institutions, in which the figure of the corrupt or corrupt itself is not as relevant as the multi-criminal network that is structured to perpetuate the corrupt system.

It is a complex web of concomitant multi-criminalities, which makes the individual defense of the accused almost always impossible. In front of her, criminalists are left without the necessary instruments. They are hired not for their competence in getting absolution, but for their ability to defer future conviction. To postpone is to win²¹.

Johnston²² analyzed the roots and effects of systemic corruption in different world scenarios, systematizing different types of corruption in relation to the degree of social and institutional development of each country. He emphasizes that such systematization is far from exhaustive and that for each general rule developed by him there are exceptions.

His theory, called Corruption Syndromes, basically demonstrates that for the different levels of social, economic and institutional development of a nation, there are different ways of perceiving, facing and fighting corruption. Johnston classified the different types of corruption syndromes relating the political and economic context of nations affected by corruption to the agents that predominantly corrupt that country. It focuses on the ways in which wealth and power are sought, used and negotiated on a national scale, in the state, political and social structures that delimit these activities.

My main focus is on the ways wealth and power are sought, used, and exchanged on a national scale, and on the state, political, and social structures that both sustain and restrain those activities. With respect to open, competitive, and orderly participation, then, we want to differentiate among societies in terms of range and openness of political and economic opportunities they offer. Strong institutions, in the sense I will discuss them here, are able to protect economic, political, and property rights, guarantee fair play, justice, and honest procedures, and protect society from abuses by the powerful. It is entirely possible for weak institutions of those sorts to coexist with a coercive state and/or durable individual interactions and community organizations (many African societies, for example, have ineffective states and a vibrant social and communal life)²³.

Based on his studies in different countries, he came to the observation of four

²⁰ FALCÃO, cit. 2017.

²¹ FALCÃO, cit. 2017.

²² JOHNSTON, cit. 2015, p. 36-59.

²³ JOHNSTON, cit. 2015, p. 39.

distinct syndromes. The first, "market or influence peddling"²⁴, consists of a form of corruption more present in liberal democracies, in which the economy and institutions are solid, and where private agents try to negotiate some kind of influence in public institutions and with political agents. Developed countries are more vulnerable to the action of lobbyists who cross the boundary between legality and influence peddling.

The second syndrome is called "elite cartels". These are the former economic and political elites of countries that have undergone recent democratization processes. Such elites, with the purpose of maintaining power, in the face of new political and economic challenges, create perpetuation mechanisms through acts of corruption. In countries where democracy is in the process of consolidation, as a rule, the ruling elite unites to remain in power.

The third syndrome is that of "oligarchies and clans", in which ancient family clans perpetuate themselves through oligarchic domination, keeping institutions, political agents and the economy under control. It happens in countries with fragile institutions, which experienced an abrupt economic and political liberation, such as the case of Eastern European countries in the 1990s.

In newly constituted democracies, with institutions that are still fragile, the most aggressive oligarchies tend to hold onto power at any cost. A small number of families or groups of oligarchs and their followers, due to their proximity to the power they held prior to political and economic opening, attract to themselves all the power and influence they can embrace, often resorting to violence in this process.

Finally, one last and, for Brazilians, known corruption syndrome is that of the "maharajas" servants. In a scenario in which institutions are mere instruments of interest to the powerful and the political and economic system is not open to democratic opportunities - public agents, civil servants and politicians - abuse their position to enrich themselves. It is a typical picture of autocracies, the existence of a caste of civil servants and political agents who stand out economically in relation to the rest of the population through the use of power to perpetuate and enrich themselves. Countries with a very low level of democracy reinforce the figure of the bureaucrat, who collects bribes from those who need the government. It is the well-known situation in which it is difficult to sell facilities.

As for the "market of influence" syndrome, it is observed that in established democracies there is a tendency for the market economy and individual freedoms to be consolidated, due to long processes of market opening and competition policies. Political and economic institutions tend to be strong. Also, control and protection instruments become more effective in fighting corruption. Countries like Canada, Japan and the United States are examples of this condition.

In the group of "elite cartels", there are societies that are reforming or are in the process of institutional, political and economic consolidation. The process of political and market opening to the global market has not yet been fully consolidated. The institutional frameworks in these societies are relatively strong, but not at the same level as the first group. Among the countries representing this group are the most consolidated post-communist democracies in Europe, Chile, South Korea, among others.

The third syndrome, "oligarchies and clans", refers to societies that are undergoing major changes in the political and economic scenario. There is a rapid expansion of opportunities and the breadth of possibilities makes it difficult to predict the results of such changes. Institutions are weak, which only accelerates the process of change and makes them need more time to legitimize and establish themselves, even in the case of those that were well conceived. India, Russia, Thailand are

²⁴ Lobbying is a recognized practice in several countries, including regulated laws and professional practices. The lobbyist is treated as a professional, not an opportunist or corrupter outside the law. In Brazil, there is the bill of Law No. 1.202/2007, which provides for the regulation of lobbying activity and the performance of pressure or interest groups and the like in the scope of Federal Public Administration bodies and entities, and other measures.

examples of countries that fit in this condition.

Finally, the syndrome of the "maharajas", in anti-democratic regimes, in which there is practically no political opening and opportunities, as a result of the strong state control over social institutions and the market. In many cases, corruption becomes the only password capable of giving access to the political and economic environment in these societies²⁵.

Even in countries where international market pressures promote some economic opening, such growing opportunities for participation tend to be exploited by the powerful few. Political institutions in autocratic regimes will invariably be weak, controlled by the dominant party or group, and incapable of reversing the established condition without structural disruption. Rare are strong markets in this context, due to the despotic nature of political power. This last group includes countries such as China (one of the rare examples of a strong economy in this group), Indonesia and a good part of sub-Saharan African countries and the Middle East, such as Jordan and the Emirates.

There is a close relationship between the size of the State, the degree of consolidation of political and economic institutions and the level of corruption in each society. The larger the State, the greater the possibility and even the need to use the bribery device to achieve objectives. It is not that in societies with more consolidated democracy there is less corruption. But bureaucratic barriers and institutional weaknesses that commonly exist in other contexts have been eliminated, which, consequently, eliminates the need for corrupt actions to achieve certain purposes.

Worryingly, in Brazil, traces of these four syndromes are found in political-institutional relations. From the "maharajas" servers, to the "influence market" fed by lobbyists, through the "elite cartels" or "oligarchic clans", which transmit the political legacy for generations, the country suffers from the most distinct configurations of search and maintenance of political and financial power.

4. The individual component in the phenomenon of corruption

Although obvious, the understanding that the existence of a corrupt government is closely linked to the perception that such a society is corrupt - since politicians and businessmen arise from within the population itself. The observation of corruption as something widespread and as a component of the very idea of humanity still seems far from the field of debate and analysis.

In general, the debate about corruption does not descend to the individual's field, being treated in an institutional, partisan, state or business way. An abstract and distant being from the individual. However, it is necessary, in order to understand the universal roots of corruption, an analysis of the personal origin of corruption.

Góes and Biasetto²⁶ point out that it is not uncommon for Brazilians to offer bribes to inspectors and police officers to avoid fines, not to offer invoices, skip lines, buy counterfeit products, check time for a colleague, cheat on the school test, make a "cat", adulterate the weight and measurement of products, using public goods for private purposes or for the benefit of third parties, among others. They present a survey by Data Popular, on the perception of corruption, in which 70% of those interviewed admitted to having committed some act of corruption. And it is evident, e.g., that 67% of respondents admitted to buying some pirated product; 7% have paid a bribe to an authority; and 21% have received extra change and haven't returned the difference.

This result leads to the reflection that corruption may not be just a social evil, but a personal one.

²⁵ JOHNSTON, cit. 2015, p. 40-59.

²⁶ GÓES, B; BIASETTO, D. "Corrupto é o outro". *Jornal O Globo*. Rio de Janeiro/RJ, 27 mar. 2016.

Brei²⁷ distinguishes three academic approaches on the subject of the origin of corruption. The first, called the functionalist view, links corruption to the characteristics of the social system, which is more concerned with the effects and role of corruption in political and social development than with its consequences and solutions. The second view highlights both positive and negative aspects of the corruption phenomenon. And the third approach, more focused on the causes and solutions of the problem, particularly criticizes the functionalist view, highlighting the negative aspects of corruption for society and for the individual. Says

The functional analysis reveals the role of the social structure as a producer of new motivations and a structural source of divergent behavior. The functional point of view is opposed to the individualist one, stating that divergent behaviors are not due to different proportions of pathological personalities in the groups, but rather the result of pressures from the social and cultural structure itself. These pressures are an intrinsic part of social dynamics and change. For example, the functional deficiencies of the official structure generate another (unofficial) structure to effectively satisfy existing needs. The functionalist view states that the results of corruption are not always bad and important. They are often positive, as the public interest itself may require some of these practices. Corruption is seen as a by-product of modernization and even as a stimulus to the development process²⁸.

Abueva asserts that in the early stages of political-administrative development, corruption is seen as a way to overcome barriers that would otherwise be insurmountable for marginalized individuals or groups to interact and become part of the dominant group. In these places, certain practices, such as nepotism, extortion and bribery, can even contribute to certain aspects of political development, in terms of unification and stability.

In the early stages of politico-administrative development, particularly where a democratic political system is consciously desired, nepotism, spoils, and graft may actually promote national unification and stability, nation-wide participation in public affairs, the formation of a viable party system, and bureaucratic accountability to political institutions²⁹.

The second approach to the origin of corruption seeks to reconcile the idea of corruption as something morally unacceptable, with the supposed benefits it brings. From this perspective, the government centralizes actions and controls services, resources, decisions and authority. Bureaucracy creates obstacles and imposes barriers on those demanding services and rewards. This leads many individuals and groups to dispute its benefits, which encourages corrupt actions, such as making more agile or favorable decisions. Therefore, in some cases, corrupt behavior is not treated as a problem or even considered beneficial.

According to Nye³⁰, corruption is behavior that overlays private interests over public duties, which includes behaviors such as bribery (reward for perverting a person's judgment in a position of trust); nepotism (granting of benefits due to kinship and not merit); and misappropriation (illegal appropriation of public resources for private use).

Corruption is behavior which deviates from the formal duties of a public role because of private-regarding (personal, close family, private

²⁷ BREI, ZA. "A corrupção: causas, consequências e soluções para o problema". *RAP*, Rio de Janeiro, v. 30, n. 3, 1996, p. 103-115.

²⁸ BREI, 1996, p. 105.

²⁹ ABUEVA, JV. "What are we in power for? The sociology of graft and corruption". *Philippine Sociological Review*, v. 18, n. 3-4, 1970, p. 207. Available at: [jstor.org/stable/23892023?seq=6#page_scan_tab_contents](https://www.jstor.org/stable/23892023?seq=6#page_scan_tab_contents). Access in: Dec 5, 2022.

³⁰ NYE, JS. "Corruption and Political Development: A Cost-Benefit Analysis". *American Political Science Review*, Cambridge, v. 61, n. 2, 1967, p. 417-427.

clique) pecuniary or status gains; or violates rules against the exercise of certain types of private-regarding influence. This includes such behavior as bribery (use of a reward to pervert the judgment of a person in a position of trust); nepotism (bestowal of patronage by reason of ascriptive relationship rather than merit); and misappropriation (illegal appropriation of public resources for private-regarding uses)³¹.

In this view, corruption is seen as something that can even improve the quality of public service, through salary supplementation. On the one hand, corruption can solve problems and overcome obstacles to development. On the other hand, it discourages the search for solutions and alternatives to corrupt behavior, transforming itself into a regressive form of influence and serving those who have, to the detriment of those who do not, expanding and strengthening injustices and social inequalities³².

In short, while this definition of corruption is not entirely satisfactory in terms of inclusiveness of behavior and the handling of relativity of standards, it has the merit of denoting specific behavior generally called corrupt by Western standards (which are at least partly relevant in most developing countries) and thus allowing us to ask what effects this specific behavior has under differing conditions³³.

Focused on the causes and possible solutions for reducing corruption, the third academic approach shows a strong reaction to the "opportunism" and rationalizations of the functionalist approach. Those who advocate this approach fall into two groups: those who locate the causes of corruption at both the individual level and those who locate more at the institutional level.

Administrative corruption is endemic in developing countries and comprehensive reform measures must be implemented, not only to increase state performance and the efficiency of public servants and institutions, but also to foster ethical behavior. Emphasis should be on ethical behavior as a beneficial mode of behavior for the individual and society as a whole.

Ethical behavior is a beneficial mode of behavior for both the individual and society in general; the general population as well as public servants must be concerned with the welfare of others rather than trying to maximize their personal gain. However, given what is known about the nature and causes of corruption in developing states, it may be wishful thinking to advocate that corruption can ever be totally eradicated in those nations. Indeed, in the West where there is a strong emphasis on ethical behavior in both the public and private sectors, corrupt activity is exposed from time to time. It may be possible, however, to reduce the extent of corruption in developing states, as advocated in this paper, and thereby diminish its dysfunctional effects³⁴.

Almost invariably, popularly, education is presented as the instant solution to the problem of corruption. However, Paolo Mauro³⁵ points out that where "rent-seeking"³⁶ is more profitable than productive work, talent will be poorly allocated. The financial attractions of corruption can seduce the most talented, with higher academic training to engage in the search for income and not in productive work, which proves to be destructive for the country. In this sense, he points out that, contrary to what is commonly proclaimed, investment, pure and simple, in education,

³¹ NYE, cit. 1967, p. 419.

³² BREI, cit. 1996, p. 105.

³³ NYE, cit. 1967, p. 419.

³⁴ HOPE. KR. "Administrative corruption and administrative reform in developing State". *Corruption and Reform*, v. 2, n. 2, jun. 1987, p. 143.

³⁵ MAURO, cit. 1997, p. 4-7.

³⁶ Term used in economics to describe those who seek to obtain economic income by manipulating, as a rule, corruption, the social or political environment in which economic activities take place, instead of adding value to products.

does not guarantee the reduction of corruption.

Price controls, whose purpose is to lower the price of some goods below its market value (usually for social or political reasons), are also a source of rents and of ensuing rent-seeking behavior. Price controls create incentives for individuals or groups to bribe officials to maintain the flow of such goods or to acquire an unfair share at the below-market price. [...] Where rent seeking proves more lucrative than productive work, talent will be misallocated. Financial incentives may lure the more talented and better educated to engage in rent seeking rather than in productive work, with adverse consequences for the country's growth rate³⁷.

The level of complexity in combating corruption can be seen in the issue of investment in education, which in the personal sphere is considered the main tool for socio-political transformation. On the one hand, education combats corruption, as instruction tends to increase the perception of notions of individual ethics. On the other hand, more educated individuals tend to adapt better to the system, and paradoxically, it may even contribute to the increase in corruption, as it becomes more elaborate and, technically, more qualified.

For Dobel³⁸, there is a temptation to dismiss corruption as a phenomenon of life, rooted in human failures, tendency to avarice and wrong moral choices. According to him, most theorists tend to classify the source of corruption in certain patterns of social inequality. In practice, this understanding does not prove to be true, since reducing inequality does not necessarily eliminate corruption.

It is often a temptation to dismiss corruption as a fact of life rooted in flaws of human nature and to analyze most acts of corruption as isolated individual acts. However, there is unanimous agreement among the theorists that the source of systematic corruption lies in certain patterns of inequality. In a limited sense most corruption requires individual moral choices and depends upon the human capacity for avarice and evil; nevertheless, the corruption of a state results from the consequences of individual human nature interacting with systematic and enduring inequality in wealth, power and status. Under such inequality certain groups of individuals have de facto or legally sanctioned priority of access to wealth, power and status³⁹.

As such, institutional corruption goes hand in hand with human corruption. The individual cannot be exempted from this process of evaluating the origin and the consequent fight against corruption, as if he were not the agent and responsible for it. Any attempt to outsource individual responsibility for institutional corruption will weaken the perception of the real motivations and source of corruption.

5. Final considerations: culture of corruption, the "brazilian way" of understanding the proba

In Brazil, there is a prevalence of form over content. This is largely motivated by the aforementioned precedence of political institutions and the State to social formation, by the way in which the colonization process took place. This is what makes the construction of a new democratic citizenship a great challenge, which involves facing issues that are historical and cultural.

The Brazilian bureaucracy as part of the patrimonialist structure inherited from Portugal, manifests itself in an expressive way, creating difficulties to sell solutions. This inability to separate the public from the private, an essential condition for the

³⁷ MAURO, cit. 1997, p. 5-6.

³⁸ DOBEL, JP. "The Corruption of a State". *The American Political Science Review*, Cambridge, v. 72, n. 3, 1978, p. 958-73. Available at: papers.ssrn.com/sol3/papers.cfm?abstract_id=2769065. Access in: Dec 5, 2022.

³⁹ DOBEL, cit. 1978, p. 961.

constitution of the bureaucratic-administrative organization, which promoted clientelism and colonelism, in which oligarchic groups are consolidated through family, crony and partisan ties, left the ruling elites unprepared and unable to meet the demands of structuring and modernization of the country, being equipped only to maintain the old agrarian and patrimonial order⁴⁰.

According to Fred W. Riggs, "formalism corresponds to the degree of discrepancy between the prescriptive and the descriptive, between formal power and effective power, between the impression given to us by the Constitution, laws and regulations, organizational charts and statistics, and the real facts and practices of government and society"⁴¹.

There is a close relationship between formalism and the culture of "Brazilian way". For Abreu Vieira, Lustosa da Costa and Oliveira Barbosa, "The accentuated formalism that is present in the Brazilian reality provides the practice of 'the way', that is, the way in which difficulties can be resolved, without contravening the rules and laws"⁴².

The so-called "Brazilian way" is therefore manifested as a confrontation with formalism and bureaucracy.

The Brazilian way is the genuine Brazilian process for a person to achieve goals in spite of contrary determinations (laws, norms, rules, orders, etc.). It is used to "skip" determinations that, if taken into account, would make the action intended by the person asking for the way to be difficult or impossible. Thus, it works as an individual escape valve in the face of impositions and determinations⁴³.

DaMatta analyzes the "Brazilian way" based on a distinction that, in his view, exists in Brazilian society: the distinction between individual and person. Thus, the individual is the subject of universal laws and the person is the subject of social relations. Between these two poles are found the "way", the trickery and the famous "carteirada"⁴⁴. For him, all these behaviors are

also a personal mediation between the law, the situation where it should apply and the people involved in it, in such a way that nothing changes, the law only being a little demoralized - but, as she is insensitive and not people like us, everyone is, as they say, cool, and life returns to its normal⁴⁵.

The analysis of the "Brazilian way" requires the establishment of theoretical bases on bureaucracy⁴⁶, considering that it represents a form of power - structure of domination - which crystallizes in two fundamental ways: a) as a type of social system - bureaucratic organization; b) and as a social group that today increasingly

⁴⁰ OLIVEIRA, GA. "A burocracia weberiana e a administração federal brasileira". *Revista da Administração Pública*. Rio de Janeiro, v. 4, n.2, jul./dez. 1970, p. 62.

⁴¹ RIGGS, FW. *A Ecologia da Administração Pública*. Rio de Janeiro/RJ: Editora FGV, 1964, p. 123.

⁴² VIEIRA, CA; COSTA, FL; BARBOSA, LO. "O 'jeitinho' brasileiro como um recurso de poder". Caderno EBAP - FGV, Rio de Janeiro/RJ, n. 17, 1981, p. 12. Available at: bibliotecadigital.fgv.br/ojs/index.php/rap/article/view/11440. Access in: Dec 5, 2022.

⁴³ MOTTA, FCP; ALCADIPANI, R. "Jeitinho brasileiro, controle social e competição". *Revista de Administração de Empresas*. São Paulo/SP, v. 39, n. 1, jan./mar. 1999, p. 9.

⁴⁴ Means "pulls rank".

⁴⁵ DAMATTA, R. *O que faz o Brasil, Brasil?* Rio de Janeiro/RJ: Rocco, 1986, p. 64.

⁴⁶ Cf. OLIVEIRA, 1970, p. 50, bureaucracy, in Max Weber's concept, is "considered as an administrative cadre made up of appointed officials, who are subordinate to a supreme head invested with legal authority, "by virtue of appropriation, election or designation for the succession", but that he himself exercises this authority within a legally established area of competence". A bureaucratic organization is essentially authoritarian and hierarchical. There is a systemic division of work so that each one has specific positions and functions, with different skills and responsibilities, and its main characteristics are authority, hierarchy and division of work, formality in acts and communications, specialization of employees and impersonality in relationships.

assumes the character of a social class, as modern bureaucratic organizations – the large monopoly companies and the State itself – increasingly assume control of production⁴⁷.

Vieira *et al.* highlights the outburst of one of his interviewees regarding his understanding of what the “Brazilian way” is: “Talking and criticizing the ‘way’ is very good... but when we are looking for a document and we are faced with a queue, at DETRAN⁴⁸, at 4:00 pm on Friday, there is no one who doesn't use the ‘little way’: either drop some money for the dispatcher or nothing is done”⁴⁹.

Whoever gives the right way reevaluates the justice of laws and regulations, which are often seen as inadequate and extremely imposing. In addition, the one who grants it has its power discreetly strengthened, as it passes from a simple law-abiding person to an evaluator of its pertinence and application. [...] The “way” is a particular (personal) way for people to solve their problems within Brazilian society without changing the status quo, because, as each one solves their problem individually through it, they do not question themselves and, therefore, the established order does not change⁵⁰.

The intellectual dissociation of Brazilians in relation to corrupt practices occurs when their personal needs stand out from the collective interest. The same individual who is capable of resenting institutionalized robbery, especially symbolized by bribery, has no problem offering bribes to the guard to get rid of a traffic ticket.

In light of the above, we can admit that the relationships between the user and the bureaucracy presuppose and are based on the use of instruments of the most varied types (personal, social, third-party, financial influence, etc.) to make it possible that the established rules are not strictly enforced, or rather, that they do not recognize social equality and impersonality in the treatment, as they only exist in the law. So the rite of “Do you know who you're talking to?” and its variation - the “Brazilian way” - are social practices that aim to decrystallize the formal discourse of bureaucracy as an organization or social group⁵¹.

As it turns out, the challenge is enormous, for it is from this cultural context – which sometimes dissociates public and private, personal and collective interest – that one must seek the guarantee of citizenship and the values of the Social and Democratic State of Law in all its achievements and foundations. Systemic corruption and personal corruption need to be tackled in order to achieve and maintain what is one of the foundations of the Welfare State, equality among citizens.

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⁴⁷ VIEIRA; COSTA; BARBOSA, cit. 1981, p. 13.

⁴⁸ Traffic Department in Brazil.

⁴⁹ VIEIRA; COSTA; BARBOSA, cit. 1981, p. 16.

⁵⁰ MOTTA; ALCADIPANI, cit. 1999, p. 10.

⁵¹ VIEIRA; COSTA; BARBOSA, cit. 1981, p. 17.

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