Administrative corruption in Mexico: Study approach
José Juan Sánchez González

Introduction

Corruption is a big problem, not only for countries that have been gravely affected by it, but also for market economy; thus, it is a topic that becomes relevant in the academic arena. These thoughts which are based on empirical investigations of great rigor and reliability have spurred multiple initiatives to try and stop its global expansion and fight its different forms and fronts. It must not be forgotten that if corruption is not fought, it can expand limitlessly, become systematic and collapse the affected countries’ institutions and by extension, harms national and international economic performance (Villoria, 2006: 136). If corruption is not controlled, it spreads (Caiden, 1997: 17). If corruption is set free, it will extend, multiply, intensify, systematize and eventually it will be institutionalized, becoming the rule not the exception (Malen, 2002: 4).

Corruption has always walked hand in hand with politics, government acts and social life. It is not strange that corruption is one of the most ancient activities in the world. However, in this increasingly globalized world people, companies, national and international institutions or States interact regularly, rapidly through increasingly asymmetrical relationships; ergo, like never before, extraordinary situations to exhibit parasitic or opportunistic behaviors happen (Malen, 2002: 12).

Currently, corruption is a common topic in international circles. It is not a new situation, far from it; corruption has been around for as long as governments have existed. Nonetheless, the world has decided the problem has become dysfunctional for global development, it is necessary to face it. Without a doubt it has become so threatening, that taking care of it is urgent (Caiden, 2004: 1). It is obvious that corruption is a potential problem. Clearly, not all political systems care about it in the same way. There are places where, on principle, society has drawn a line between market and politics; public and private interests; and where society pushed
the limits of patrimonialism, patronage and nepotism, corruption is seen as pathological. Corruption “oils the wheels” of a jammed system. Corruption brings destruction to any society, whether dictatorial or authoritarian; however, it is especially damaging to democratic governments (Mény, 2003: 123-124).

Corruption is transformed into a global phenomenon with standardized environments that cross every border, typical of the contemporary world (Pozas, 2009: 7). Corruption has become, in the last decades of the 20th century, widespread in government arenas. It affects institutional efficiency, creates non-fulfillment of goals and objectives in government programs, prevents the solution of citizen’s demands which makes citizens distrust the government and creates discomfort in the population (Diego, 2006: 141).

Corruption is a research topic that has been very popular in the past and is currently popular again. For the longest time, the topic of corruption was considered taboo (Villoria and López, 2009: 3). Supposedly, extensive economic liberalization and privatization programs which were promoted in the eighties in developing countries and the post-communist world would focus on dismantling rents derived from import substitution and statism system. However, this did not happen. Economies were privatized massively, market mechanisms were widely accepted, commercial and financial regimes were deregulated; nonetheless, all of these changes in economic policies did not dissolve distributive coalitions (Schamis, 2009: 44). In fact, it appears it only restructured them. From Russia to Argentina and Mexico to the Middle East, economic reforms took place behind closed doors through opaque mechanisms. In Mexico, two conspicuously opaque episodes were bank privatization (Sandoval, 2009: 122) and the banking sector rescue of the Banking Fund for the Protection of Savings (Fobaproa) that later became the Institute for the Protection of Banking Savings (IPAB) (Gónzalez-Aréchiga, 2009: 136). The study of corruption, which was popular under the modernization paradigm in the seventies, has come back big time.

The phenomenon of corruption has a multidimensional nature. It involves moral dilemmas, economic incentives, personal benefits, degree of professionalism in State management, size and effectiveness of the public sector, legislative and legal institution functioning, degree of press freedom, citizen access to public employees and other factors that influence this phenomenon (Solimano, 2008a: 17). In fact, a systematization effort can be made to find all kinds of factors, variables and operations regarding corruption that show the complexity of its study (Méndez, 2004: 2).

When speaking of Mexican public management, administrative corruption has only been mentioned peripherally, at best, as one more variable within
the action of public management. Currently, there exists a variety of study sources regarding the State’s organized activity, some scholars considered it as an internal variable of the Mexican political system or as a dependent variable of other prevailing political factors in the one party or hegemonic regime.

The proposal presented here intends to show administrative corruption as a historic phenomenon, inherent to the government system, which has not been controlled effectively—despite internal and external control—and even in the political alternation regime, has not decreased but increased. This paper tries to answer these questions and others derived from it through a study approach that allows us to confirm the effectiveness or the ineffectiveness of these control mechanisms—internal and external—, as well as other instruments to fight administrative corruption.

This paper is divided into three sections. The first one defines corruption etymologically and also includes wide and complex definitions. The second part describes the typology of public corruption—political corruption, administrative corruption and judicial corruption—so as to tell the difference between them and emphasize the scope of administrative corruption which we intend to study further. The third part presents a proposal to study Mexican administrative corruption; some preliminary inferences to begin to understand the nature of administrative corruption are made. Lastly, some ideas that can be considered as conclusions are stated.

I Corruption: Definition

The study of corruption starts with knowing the origin of this word. Its etymological root comes from the Latin words *Corruptio, corruptiones*. The words *corruption* in English, *corruzione* in Italian, *korruption* in German are derived from them, as well as *corrupción and corromper* in Spanish (González, 2005: 48). The word corruption comes from the Latin *rumpere* and it refers to breaking good citizenship codes, laws and regulations. The term also refers to the deterioration of the forms of government of a country, city or territorial unit (Solimano, 2008a: 59). Corruption is a moral category, its meaning is similar to the concept of putrefaction (Rose-Ackerman, 2009: 23).

Corruption is a complicated phenomenon with multiple causes and diverse effects. Corruption includes a simple illicit payment as well as the endemic functioning of the economic and political system (del Castillo, 2001a: 375). The problem of corruption has been considered not only as a structural problem, but also as a moral, cultural and individual one. Thus, definitions can include strict legal terms—that describe this phenomenon as a mere act of bribery that involves at least one public employee and a transfer of funds—as well as economic explanations—which perceive it as regressive tax and a form of extra income—.
Corruption is “breaking unwritten legal rules or ethical ones which socially dictate how the public service must be exercised, to provide services or benefits to certain groups or citizens in a hidden way to willingly earn a direct or indirect profit” (Villoria, 2002: 3). Corruption is a felony or an infraction, a violation of an obligation, an act of disloyalty or even treason to the relevant normative system (Garzón, 2003: 23-24). Corruption can be seen as using power of public office to obtain private profits (del Castillo, 2001b: 275). The World Bank defines it as: “The abuse of public power to obtain private profit” (ONU, 2003). Although this definition is highly quoted, there are various reasons to consider it limited (Hodgson and Jiang, 2008: 60-61).

The word corruption means things are not how they should be. They have been perverted, twisted, manipulated, distorted, deviated or taken out of their predicted path. Due to this process, corrupt people have obtained unfair profits or have improperly benefited at the expense of everyone else, who may or may not know they have lost (Caiden, 2004: 3).

Each one of these definitions is valid because they recognize the same essence of this phenomenon. An agent of authority reaps a benefit for himself or a group of people when taking a decision regarding a citizen. Corruption entails an indirect use of public power to obtain private benefits. Thus, public function is illicitly turned into a source of private enrichment (Diego, 2005: 51). Essentially, the corrupt one takes control of something that is public and privately and personally benefits from it, breaking the established rules.

To study this phenomenon in depth, definitions can be classified into four groups according to Villoria (2000). The first group has definitions linked to abuse of public office or failure to comply with legal regulations by public officials. Corruption is the abuse of authority for private benefit which is not necessarily monetary. In comparative legal terms, bribery is usually linked to the presence of a public employee with corrupt intentions, reaping benefits of corrupt actions, whose official acts are directly related to the achieved value and when there is an intention of influencing or being influenced in the exercise of public office (Villoria, 2000: 3). Acts of corruption can be defined as those which actively or passively violate positional duty or fail to carry out a specific function within a discretional framework to obtain an additional benefit, of any nature (Malen, 2002: 35). In this sense, corruption also involves legal matters when public employees abuse their office (Rose-Ackerman, 2009: 24). Every State has laws against bribery and fraud in the public sector; most of them want to regulate contributions made to electoral campaigns, expenses in these processes and also inhibit the development of conflicts of interest. Other States penalize commercial bribery and other kinds of frauds sponsored by big companies. There are also international and regional treaties that try to control bribery across borders and facilitate law enforcement.
The second group has definitions focused on the market. These definitions are used in contexts that lack appropriate legal development to classify every corrupt conduct correctly. They are also appropriate to make an economic analysis of corruption. A corrupt public employee would be the one who uses his job as private business and seeks to maximize its results. The volume of his income depends on the market’s situation and of his talent to find the point of maximum gain in the curve of public demand. Corruption is an economic phenomenon; to fight it we must think about its costs and also the costs to fight it. The fight against corruption must continue until the costs to fight it equal its costs (Klitgaard, 1984: 15-16).

In the third group we can find definitions focused on public interest. Corruption exists when a person in public office, with defined functions and attributions is convinced —by monetary or other illegal means— to favor the provider of the benefit, harming the public and its interest (Villoria, 2006: 14). Every action that places private interest over public interest is considered as corrupt. The idea that public employees serve public interest includes a specific conception of politics and government action; however, this is not far from the citizenry’s idea of politics (Jacobs y Anechiarico, 2001: 321). This definition could refer to every public policy or program adopted or implemented taking into account only the interests of the affected part, due to the benefits this part can provide public employees. In fact, any action taken to privately influence public policies, without prejudice to the substantial effects caused by such action.

Corruption is taking partial decisions because of direct monetary benefits, like bribery. Corruption is also the elaboration of rules that benefit a specific social sector over the community in exchange for direct or indirect private benefits (…). Corruption would also mean passing on privileged information to an individual or collective actor in exchange for some kind of reward. Without overanalyzing, corruption could be any act that benefits a part of society in exchange for votes, when the general interest is harmed (Villoria, 2006: 10).

Lastly, in the fourth group, some authors criticize the moralist approaches and introduce a sociological and historical concept linked to the phenomenon’s social perception. In reality, the political, economic and social environment of certain African countries is very different to that of the US or the United Kingdom; the implementation of certain Anglo-Saxon criteria to analyze corruption in said countries is totally inadequate (Villoria, 2006: 26). For example, empirical works show that overall, presidential systems are more corrupt than parliamentary democracies and proportional representation systems are more corrupt that those of relative majority. The worst systems combine strong presidencies with proportional representation systems; the powerful executive negotiates with some equally powerful party leaders to share power privileges in a corrupt way (Rose-Ackerman, 2009: 33).
Finally, there is another way of understanding corruption. It goes beyond defining it, it can be seen a set of inappropriate conducts such as: monetary payments (extralegal) to public officials in exchange for service provision; permit approval; authorizations to establish companies; granting of exclusive operation licenses that allow the beneficiary to restrict competition; and obtain monopoly rents for the sale or operation of goods and services (Solimano, 2008b: 14). In some cases, the transfer or use of State’s assets does not involve direct monetary payment, but an exchange of favors and influences.

II Corruption: Typology

Corruption can be found in four different levels: political regime, politics, public management and judicial power (Villoria, 2002: 1). In political regimes, experience shows that if these are corrupt, public employees may tend to show fidelity to this regime. This can be due to the fact they obtain favorable benefits or certain privileges they could not otherwise have. A corrupt political regime has few corrupts, but very powerful ones. In political corruption we are facing a lot of corrupt people with little political power. Some think the first case is less harmful for the economy of a country than the second one, which can cause a spiral of corruption which cannot be easily stopped; however, this is not true (Rose-Ackerman, 2001: 53).

Administrative corruption cannot be separated from political corruption because one hand washes the other (Caiden, 2004: 3). However, the ruling corruption is the administrative one: if politicians are corrupt it is easier for administrative corruption to rise, even when public service’s professionalism can slow the expansion of said phenomenon. On the contrary, if there is no political corruption, administrative corruption will be marginal; politically, there are appropriate mechanisms to implement reforms and controls to limit administrative corruption. “Consequently, if politicians want eradicate or seriously reduce administrative corruption they have the appropriate mechanisms to do so; however, bureaucrats immerse in political corruption do not have this” (Villoria, 2002: 2). In any case, corruption is a danger to democracy.

Another way to differentiate political corruption and administrative corruption is proposed by del Castillo (2001). Public service is exercised by political institutions (the ones that make the rules) and structures (the ones that implement the rules). In other words, public authority is exercised by elected (politicians) and designated public officials (bureaucrats) that carry out their public policy creation and execution functions. The improper use of a public service or authority in the formulation of policies, i.e. laws, could be seen as political corruption and administrative corruption when executing them. Although it is not always easy to differentiate political corruption from administrative corruption; it can be said its main actors are, firstly, politicians and secondly, bureaucrats (del Castillo, 2001b: 277).
Judicial corruption –purchase and sale of justice– is extremely toxic for democracy, it harms the Rule of Law. Although it has not been studied thoroughly, its analysis adequately explains political corruption and administrative corruption. Judicial corruption can protect the latter or not exercise any action against them (Jacobs and Anechiarico, 2001: 323). In this sense, another way to classify corruption is offered by Solimano (2008).

Table 1
Types of corruption

<table>
<thead>
<tr>
<th>Types of corruption</th>
<th>Description</th>
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<tbody>
<tr>
<td>State corruption</td>
<td>Most common conception of corruption, identified as the one that involves public employees, agencies and State bodies –centralized (ministries) or decentralized level (public companies)–. Occasionally, the phenomena of corruption can also affect other State powers, not only the Executive branch.</td>
</tr>
<tr>
<td>Political corruption</td>
<td>This kind of corruption affects certain members of political parties that want to extract State resources and exploit influential positions to finance political parties. Corruption pathologies that involve rulers or autocrats are of political character.</td>
</tr>
<tr>
<td>Corruption in the private sector</td>
<td>Corruption is not exclusive of the public sector. It can also be observed in the private sector: corporations and other private entities.</td>
</tr>
<tr>
<td>Corruption in the nongovernmental sector</td>
<td>Corruption situations can also be observed in nongovernmental organizations subject to tax breaks and donations.</td>
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The types of corruption that have been studied thoroughly are political, administrative and judicial. Although our object of study is administrative corruption, it is also important to describe political corruption, which can be found very close to administrative corruption, even though it is very different to judicial corruption. There are ties between these types of corruption; this is why it is necessary to analyze them.

**Political corruption**

Political corruption is one of the first forms of corruption (Diego, 2005: 55). This one appears when politicians, moved by greed, privately divert funds from public coffers, extort individuals and companies to obtain resources,
take bribes to carry out illicit operations and buy votes for the elections. They also receive legal and illegal contributions for their party or political campaign that get labeled as “anonymous” to hide their origin; this is reprehensible because they know they come from wealthy groups with special interests that trade them for favors.

It is important to have a clear initial concept of political corruption: abuse of office for private gain. This concept was developed by the State-nation consolidation and public administration professionalization. However, this concept forgets: a) political dimensions of corruption; especially, corruption in debate processes used to create rules and standards; b) institutional patterns that support and justify corruption, and c) political cultures that classify as corrupt certain actions, institutions and discourses (Warren, 2005: 113).

The history of political corruption is vast and uninterrupted. There is testimony to their existence in different times and cultures, in every region and in every known political system. The phenomenon’s permanence suggests corruption is inherent to human beings, it has always existed, whatever the political system or the historic time. No actor, researcher, historian or analyst has questioned this evident truth. Corruption has even been classified as endemic to all government forms (Diego, 2005: 47).

As a politically deviated behavior, corruption is a political conduct that goes against political regulations. This definition highlights its normative and behavioral components. The normative aspect has to do with evaluative criteria or regulations that determine political correction: criteria used to judge the legitimacy or illegitimacy—corruption—of a political act. The behavioral aspect refers to observable actions (Morris, 1991: 18).

Political corruption is a threat to the core of democracy because it is “the purchase of public decisions”, this does not mean all power is juryfied, there are power channels that influence decisions made by procedures that are different to those established by the rules of the game (Calsamiglia, 2000: 20).

Political corruption can also be called “government criminality”, although this expression is merely conventional which defines criminal acts done by rulers. Under this view, the conclusion is obvious: government criminality blurs the equation between State and legality; thus, the States become delegitimized before the eyes of the citizens (Díez-Picazo, 2000: 11-13). Political corruption is the corruption of politics, its logic, its boundaries regarding the private spheres and its own values (Rabotnikof, 2003: 46). Political corruption substitutes public interest for private interests; it erodes the roots of a democratic society and denies the principle of equality and transparency to give certain actors privileged access that is hidden from public resources (Mény, 2003: 126).
Political corruption—of politicians or those exercising public office—can be individual, a single politician or by a group of politicians that obtain canonries and privileges of all kinds. Although it also refers to what happens with political parties and their representatives. Certain authors and institutions think political corruption is part of corruption in general; it is different because of the nature of its actors. Political corruption is carried out by politicians; administrative corruption corresponds to public employees.

Citizens consider political corruption thrives in political parties and elected representatives. However, political parties are institutions which have thousands of members; society’s idea that every member of said political parties is corrupt does not seem true. Political parties are instruments to select political leaders and the main actors in democratic politics; citizens think that political parties, as organizations, are currently not fulfilling their social labor. This failure is a result of their incentive system, which can often be perverse; they are not consistent with democratic policy duties. As collective actors they are not fulfilling the obligations derived from political action in democracies. “Corruption in political parties is political corruption; corruption of politics” (Villoria, 2006: 11).

Thus, political corruption can be analyzed as a hidden transaction in which a public agent violates pre-established rules, exchanges discretional power (information or classified resources derived from its position) in exchange for private resources (Vanucci, 2003: 84-85). In this sense, the political system has legal regulations which limit internal power of the public organization and the power outside it. Corruption can be seen as an activity capable of blurring this line. Thus, political corruption is a governance problem and not necessarily a culture product. Corruption can be understood as “the misuse of bestowed authority for personal benefits” (Berthin, 2008: 6-7).

**Administrative Corruption**

The second form of administrative corruption is different to political corruption and has a nature of its own. Administrative corruption is limited to public employees. Administrative corruption cannot be separated from political corruption; one hand washes the other. Administrative corruption rises where politicians are corrupt, professionalization of the public service can weaken the phenomenon’s expansion. It is likely that administrative corruption of high level public employees, directly related to functioning and State legitimacy, is more toxic than that of low level employees (Jacobs and Anechiarico, 2001: 324).

Administrative corruption is mainly found in the public scope of public management, particularly public employees. It is characterized by public
employees’ abuse of public office to obtain benefits. Some common places to find corruption are: purchase areas, acquisition, customs, licenses and permits, etc (Diego, 2005: 57). Public administrative corruption is a serious problem, it distorts public policies’ goals, wastes and redistributes resources towards socially unproductive activities, creates instability and government distrust. Administrative corruption is not just an offense or crime that transfers resources from one group to another within society; overall, it is a social problem that damages institutions and diminishes the Rule of Law by disobeying the law and being detrimental to the political, economic and social environment of the country (Roemer, 2003: 246).

Administrative—or bureaucratic—corruption gets the attention of the public and of those who write about the subject. It is a “detail” or “small change” that prevails in many countries. The use of permits and authorizations is more and more common, so is this type of corruption. Public employees that get involved in these kinds of acts violate the relationship between them and the authorities (government) that should exist. These public employees use the discretionality they have over specific decisions (including the time to respond to a petition and if it is approved or not) to obtain bribes and on occasion gifts, favors or gratifications (Tanzi, 2008: 30-31).

Corruption incentives, like in any illegal activity, increase if there is the slightest chance of getting caught or punished. The risk of being penalized is linked to the internal dynamic of the corrupt exchange and the efficiency of external controls over respect for regulations and norms of legal and administrative nature. An uncorrupted bureaucracy is an essential monitoring and balancing element in politicians’ activities. Frequently, public employees which are in a position of denouncing politicians’ acts of corruption do not follow necessary executive procedures. Politicians define the essential lines of activity in public administrations, conditioning opportunities and risks of bureaucratic corruption (Vanucci, 2003: 107).

Punishable behaviors committed by public employees that are considered as administrative corruption are: embezzlement of funds—the employee’s misappropriation of goods under their care or provide consent for a third party to have them—; fraud—a public employee agrees with a third party to defraud any public body or entity—; illegal exactions—a public employee demands unjust rights, tariffs or bills or demands an amount greater than what is legally established—; disclosure of secrets and information—to obtain economic or other benefits for himself or a third party; if there is no benefit, there will be a felony but not an act of corruption— (Malen, 2002: 51).

Corruption as a phenomenon is not only a criminal problem; it is also a political problem that needs to be taken care of by public management
A corruption scandal can trigger a political and government crisis. It can take down governments even in countries with stable democracies. Groups in favor of good government, the media and political opposition demand government units to do everything possible to avoid corruption and hold responsible high government officials of any act of corruption that happens under their watch.

Some people see political life and public office as a business opportunity to enrich themselves and reward their friends and family members by taking advantage of the trust democracies have in their public institutions and their leaders; they fool the public and exploit their opportunities (Caiden, 1997: 2). Patrimonialism is a form of administrative corruption that tends to increase and harm adequate public management.

Summarizing, one of the ways to fight administrative corruption is creating coalitions between civil society and State. The opening of channels, for both civil society and groups of interest can demand greater responsibility on both sides; this will generate and sustain a citizen-government dynamic that will substantially help reforms (González, 2001: 309). The understanding of this has made many country’s civil societies pressure their governments for a change; thus, many governments have undertook major reforms in public sector institutions to promote honest and professional public employees with an enduring administrative career.

**Judicial corruption**

A third form of corruption takes place in the judicial area. To understand judicial corruption we must understand it presents itself in two very different realities: one of them is to fight judicial corruption within the judicial system; the other one is the use of the judicial system as an instrument to fight corruption outside its functional areas. In any case, both realities are intimately related: if the judicial system is to be used to fight corruption it has to necessarily be an example of cleanliness and honesty; having expelled the virus of corruption from its judicial body (Villoria, 2002: 5).

Corrupt judges are not new or alien to the judicial culture. Historically, there was a strong theoretical resistance to limit the use of the term “bribe” to judges only (Malen, 2003: 167-168). Acts of judicial corruption have the following characteristics: 1) an act of corruption violates a positional duty; the corrupted person clearly expresses disloyalty towards the broken rule; 2) an act of corruption has a normative system that serves as a reference; 3) an act of corruption is not necessarily an illegal action from a legal point of view; 4) corrupt acts tend to be secret or are carried out discretely, and also involve a disloyal attitude and 5) corrupt acts are always related to the expectation of an extrapositional benefit. Ergo, legal corruption can be defined as “the violation of a positional duty, carried out discretely to
obtain an extrapositional benefit” (Malen, 2003: 168). The Law considers corrupt any action done by a public or private individual which violates their duties to obtain benefits that can be private, personal or for a group. This corruption can be public or private. The key to differentiate them lies in the individual carrying out the action and why he is doing it. Political corruption is actions or omissions related to abuse of public office and violation of legal regulations by people with public responsibilities; private corruption has to do with actions or omissions related to abuse of position in private organization’s environment and the violation of legal regulations that dictate the agent’s duties (Villoria, 2006: 9). Nonetheless, corruption is not limited to criminally punishable acts. There are various actions that institutions do not consider as corrupt, however, citizens consider them immoral and delegitimatory of daily political action.

Diverse studies –according to Villoria (2002)– have shown that judges in specific dictatorships have independency to judge civil, administrative and legal cases not related to political problems. However, important political causes are reserved for special courts which report directly to the Executive power. Thus, the violation of basic human rights is accompanied by judicial silence; which becomes inhibited in human rights’ causes with impeccable legal arguments, but ethically unacceptable (Villoria, 2002: 2). This situation is obvious when there is a difficulty to differentiate specific activities related to judicial corruption; in situations of moral deterioration, judicial actions are immerse in complex networks which make it impossible to know the degree of willingness of the judges or the real possibility of facing the phenomenon.

Judges and magistrates not only hold almost all legal authority, but also enjoy a wide discretion in exercising their functions. This discretion is seen not only in final decisions, but also in each procedural step. It is expressed in their actions as well as in their omissions. Judicial discretion is not limited to elections regarding substantial matters; it also entails followed methods, formal and procedural aspects and other subsidiary factors (Malen, 2003: 174-175).

In the judicial arena, corruption is administrative, but it can be influenced by the political one because normally judicial government bodies have influence or political composition and are pressured by those who appointed them. This is why political corruption that includes a part of the Magistracy is going to be involved in illegal activities or in the support of corrupt politicians. When there is widespread political corruption, networks of corrupt politicians try to ensure impunity; this is why they place corrupt or easily influenced magistrates in positions of responsibility in government structures which can pressure judges to make their political patterns be immune in investigations (Villoria, 2002: 2).
A way to limit the judges’ functions is responsibility. In terms of legal responsibility, the judge has to be accountable for the commission of a series of crimes, ranging from jurisdictional benefits to coercion, embezzlement and corruption. All of the aforementioned figures are carried out in a context of corrupt activity and the use of office to obtain benefits by exercising willful misconduct. These cases do not only intend to protect judges and magistrates’ duty of probity, but also the correct functioning of the administration, justice and respect for the principle of impartiality or objectivity (Malen, 2003: 178).

III An approach to study administrative corruption in Mexico

The phenomenon of administrative corruption in Mexico is complex, has been superficially and not studied in depth or in a systematic way. The most representative approaches to study corruption are legalist, historical and political. To understand corruption and its consequences, and also design policies to combat and prevent it; investigating individual cases is not enough, further investigation from society’s point of view is needed to identify elements that influence its appearance and development and also try to determine its effects, whom it benefits and whom it hurts. The study of administrative corruption needs to be disseminated to know its forms and eliminate them. (López, 1998: 15-16).

Nonetheless, corruption in Mexico is not alien. Alejandro Nieto said that corruption in Spain was similar to the shadow of a body; Mexico’s situation is very similar: corruption has shaped the ruling political regime, its essence, its strength, its longevity and the reason for its collapse (Carbonell and Vázquez, 2003: 7). The people of Mexico reject corruption, they are sick of dealing with it and want their rulers to act in a firm and decisive way to stop this political and social burden. The phenomenon of corruption has to be fought through specific policies to generate market or corrective mechanisms to create a virtuous circle to respect the law, make government actions transparent and generate propitious conditions that will provide certainty to economic agents, encourage investment and economic growth (Roemer, 2003: 250).

In this sense, there are few contributions to the study of corruption in Mexico, much less in the case of administrative corruption. Some authors such as Octavio Paz (1990) and Daniel Cosío Villegas (1947), among others, have thought for the longest time about the pernicious effects of corruption and the urgent need to fight it. In fact, most times the study of corruption has been part of investigations aimed at other targets; the phenomenon was only addressed to be rigorous and comprehensive. For example, the role of illegal or immoral practices in the study of the Mexican political system has been discussed by historians (Cosío, 1978; Krause, 1997; Aguilar y Meyer, 1990), political scientists (Escalante, 1989; Aguilar, 1982; González
Casanova, 1965), economists (Zaid in the Magazine Vuelta) and writers (Octavio Paz; Poniatowska, 1973; Taibo II), not by public administrators.

An exception would be the compilation of texts regarding corruption from different points of views (Montaño, 1969). Rosario Castellanos talks about “intellectual corruption”; David Alfaro Siqueiros about “art corruption”; Renato Leduc about “media corruption”; on the other hand, Enrique Ortega Arenas analyzes “judicial corruption”; Arturo Warman does the same with “corruption in the country” as means of social control; Jorge Carrión “political corruption” and lastly, Guillermo Montaño Islas analyzes the relationship between “capitalism and corruption”. It also includes a text by journalist Roberto Blanco Moheno who historically explores corruption in our country (Blanco, 1979).

Except for these references, the phenomenon of corruption has been forgotten; particularly administrative corruption in Mexican public administration. References to this topic have been succinct and secondary, almost marginal. Administrative Law has been in charge of establishing public employees’ rights and obligations, regulatory framework and responsibilities and penalties; however, our field of study has contributed very little to understand and fight corruption in all of its forms.

For years corruption has been a merely practical matter: it took place but it did not appear in any public agenda. This topic was ignored by the media and was only privately criticized by people who had not received a cut of the money. Kickbacks were a form of social coexistence, a civility pact between authorities and individuals. Just as natural as the shadow of a body. According to Zaid (1995):

In México, authorities can be muggers, and with greater impunity because they are the authorities. They can steal, humiliate, subdue and still hold their office. This does not happen always and not everyone does it, this makes the abuse efficient: it is selective and left to the authorities’ discretion (...). We do not live in a state of emergency or in a Rule of Law without exception. This but not those; here but not there; with this but not with that; this time but not all times; ruled by arbitrary rules, disguised as law enforcement (Zaid, 1995: 50).

These initial considerations related to the study of Mexican administrative corruption without an adequate framework of the object of study yield two main variables to prevent and combat corruption: internal control (within the Executive power); and external control (within the Legislative power). This paper is a succinct outline of a wider investigation that will be published (Sánchez, 2012). The analysis proposal can be found in the following table (Table 2):
### Table 2
Proposal to study Mexican administrative corruption

<table>
<thead>
<tr>
<th>Historical period</th>
<th>Thesis</th>
<th>Instruments of control</th>
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<tbody>
<tr>
<td>Viceroyalty (16(^{th}), 17(^{th}) and 18(^{th}) centuries)</td>
<td>Viceroyalty in the 16(^{th}), 17(^{th}) and 18(^{th}) centuries created a kleptocracy in charge of sending riches from New Spain to the Spanish Empire; allowing the peninsular elite daily and open corruption, which had weak control instruments.</td>
<td><strong>Internal Control</strong>&lt;br&gt;- Trials of Residence.&lt;br&gt;- Visitations (General and Particular).&lt;br&gt;- Bails. <strong>External Control</strong>&lt;br&gt;- Creation of the Court of Accounts.</td>
</tr>
<tr>
<td>Independent Mexico (19(^{th}) century)</td>
<td>Independent Mexico peninsulars left their forms of administrative corruption to creoles; insufficient generic controls without a specific authority to enforce them.</td>
<td><strong>Internal Control</strong>&lt;br&gt;- Constitution of 1824.&lt;br&gt;- Constitution of 1857.&lt;br&gt;- Several founding documents (generic).&lt;br&gt;- Criminal Law for Treasury Employees (1853). <strong>External Control</strong>&lt;br&gt;- Creation of the Treasury’s Accounts Department.&lt;br&gt;- Transformation of the Court of Accounts (1838).</td>
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### Mexico 20th century

**Mexican Revolution**

After the Revolution the one-party ruling model (PNR-PRM-PRI) uses corruption as a stability mechanism of the political regime, favoring allied political elites by delegitimizing the system. On the other hand, development of political corruption creates administrative corruption as an inherent element to the political regime. The topic is not included as an important part of the public agenda.

- Constitution (1917).
- Creation of the Finance Office (1917-1932).
- Penal Code (1931).
- Cardenas Law (1940).
- Treasury Accounting Office (1917).

### Corruption crisis 1980’s

The corruption crisis of the 1980’s yielded structural changes to fight administrative corruption. For the first time, corruption is seen as a public problem that has to be eradicated. However, administrative corruption does not decrease as expected.

- Creation of SECOGEF (1982).
- Creation of Bodies of Internal Control.
- Creation of SECODAM (1994).
- Internal Regulations of the Treasury Accounting Office (1980).

### Mexico 21st century

Governments of democratic transition that ended the one-party hegemony system, despite having planning and control instruments did not decrease administrative corruption. Corruption does not answer to only one party; it is still an important topic in contemporary Mexico.

- Professional Career Service.
- Accountability Program (2006-2012).
- Control and Accountability Law (2009).

### Source:

developed by the author.

This study outline infers some general assumptions that contrasted with historical reality; explain the origin, evolution and development of Mexican administrative corruption.
Corruption in the Viceroyalty during the 16th, 17th and 18th centuries has not been studied in depth, despite the existence of control instruments –trials of residence and visitations– in New Spain a kleptocracy was created; the Spanish crown received all of the riches of the colonies and the peninsular elite was directly benefited by said corruption. In New Spain, the first form of administrative corruption was done by peninsulars, who had all kinds of advantages, benefits, privileges and favors because of their political position in office.

Corruption has been present for more than three centuries, since the Viceroyalty, Independence, Reform, Revolution periods and the State-nation conformation in Mexico; it is very clear that weakness and inefficiency in –external and internal– controls, non-existent responsibility acts for public employees, historical, political and social circumstances help public employees carry out corrupt practices to benefit from them and break existent rules.

By analyzing five centuries of internal and external control, firstly in New Spain and secondly in Mexico as an independent nation, we can assert that it is a historical, political, technical and legal process that was consolidated over the centuries. We can assert that current regimes –conservative, liberal, hegemonic parties or political alternation– have not stopped or controlled corruption. Individual administrative corruption became systematic administrative corruption, hyper corruption and in some other cases kleptocracy.

In the Viceroyalty, only three instruments of internal control existed –Trials of Residence, Visitations (General and Particular) and Bail– which were used by the Spanish Crown to force peninsulars to carry out their responsibilities and tasks in the government of the New Spain.

Taxing and responsibilities systems of viceregal employees were practically inexistent. Such mechanisms were insufficient, carried out in a discretionary way and rarely effective. Nonetheless, viceregal management was created as part of the external control of the Court of Accounts; which had various difficulties to carry out its taxing and control tasks; it also could not stop or contain administrative corruption in New Spain.

Independent Mexico, during the 19th century, transformed its administrative corruption, peninsular corruption became creole corruption with generic control mechanisms stated in the Republic’s founding documents; this was insufficient and a specific body to apply them did not exist. Prevailing regulation in this period of time was only declarative, only a few institutions could carry out said tasks to prevent and fight corruption; however, this were in the process of formation and institutional consolidation. Creole corruption as second form of administrative corruption was a byproduct of the insurgent movement and of the new positions achieved by creoles in
the government, public administration and society. In public administration, corrupt practices become more common in high level offices.

The process of change from peninsular administrative corruption to creole—new nation’s natives—corruption has specific characteristics. Spanish born in New Spain exercised control of the government, and also practiced ways to corrupt and illicitly embezzle resources. To build a New Mexican State a variety of founding documents of internal control—Constitution of 1824, Criminal Law for Treasury Employees (1853), Constitution of 1857, among others—established a system of responsibility for public employees. These documents are generic, they do not limit competences and most of them make the same mistakes as the ones of the Colonial era. External control went through the same situation, the creation of the Treasury’s Accounts Department and its transformation into the Court of Accounts (1838) does not fight administrative corruption in unstable and politically uncertain period of time.

In the Reform—Juarez’s government—the first attempt to control administrative corruption was made, two legal mechanisms were issued for the first time: a responsibility act for public employees (Official Offenses of Senior Officials Law, 1870); and a Penal Code (1872). These turned out to be insufficient because of the political and social context, although legal mechanisms were established, administrative bodies and public employees in charge of fighting corruption did not exist; this is the first systematic attempt to moralize public management. The external or parliamentary control did not change significantly. A political and economic stability would have increased the effectiveness of the results of the fight against administrative corruption.

In the Porfiriato period a greater development of internal and internal control is achieved in the 19th and beginning of the 20th century. Internal control measures include the Regulatory Law of Articles 104 and 105 of the Constitution (1857), the second one of its kind. Despite this new responsibility act law for public employees, corruption did not stop and it became elitist administrative corruption of the high political class across the country. The Porfrián “elites” and those who had privileged positions made the State’s income their own in this era. And even though an instrument of control for administrative corruption existed, it becomes systematic and much more evident. This corruption was driven by greed and benefited the privileged class and brought on the armed revolutionary movement in the 20th century.

External control made significant advances, the Organic Law of the Treasury Accounting Office (1896 and 1904) was published twice, as well as the Regulations on the Organization of the Treasury Accounting Office (1904). The establishment of institutions to control administrative
corruption through responsibility and sanction systems was great progress; nonetheless, government elites received benefits and privileges that helped their wealth increase disproportionately.

Post-revolutionary Mexico of the 20th century had a one-party system that ruled the country—PNR-PRM-PRI—and used corruption as a stability mechanism for the political regime, as an incentive to participate in politics and to purchase and pay political favors; it favors political elites loyal to the regime and at the same time creates a gradual process that delegitimizes the system. Administrative corruption is an inherent element to the political regime that allows its reproduction and permanence. It is no surprise that during the seventy year old rule of this political regime fighting corruption was not a priority in the government agenda. Corruption is one of the biggest incentives politicians have to hold government office and rapidly make a fortune within a flexible, discretion and non-punitive system of responsibilities.

A single or hegemonic party regime has two kinds of administrative corruption: military corruption in caudillismo and civil corruption in presidentialism. Both forms of administrative corruption were harmful to the country. The rise of caudillismo established military administrative corruption. Military corruption was scandalous and unstoppable because they exercised government and led the army and the armed forces. Militaries considered themselves legitimate heirs of the Revolution and thought they had the right to become rich.

Under presidentialism, administrative corruption was in the hands of civilians; militaries had had their historic opportunity. Civilians began to exercise administrative corruption systematically and scandalously, even more than militaries; thus, mechanisms to control corruption were extemporaneous, generic and not effective. The formation of a hegemonic party regime never faced administrative corruption; on the contrary, it was perceived as part of the “booty system” of the ruler in turn.

Internal control had three important measures: the publishing of the Political Constitution (1917)—which devoted a chapter to the regulation of public employees’ responsibility system—, and the Creation of the Finance Office (1917-1932) which had powers to regulate, control and punish public employees. The controversy with the Ministry of Finance made the Finance Office’s fight against administrative corruption not effective. The third measure was the publishing of the third law of responsibilities of public employees—Cardenas Law (1940)—which established sanction procedures of public employees, but did not have a body to enforce said normative framework. Forty years had to go by to bring these regulations up to date, the fourth law was issued—López Portillo Law (1980)—of public employees’ responsibility; which did not curb the excesses of the populist period.
The advances in exterior or parliamentary control are significant because they showed the need to strengthen their role as control instruments of the Executive power. The creation of the Treasury Accounting Office (1917); the issuance of the Organic Law of the Treasury Accounting Office (1936); Amendments to the Treasury Accounting Office (1963); Amendments to the Organic Law of the Treasury Accounting Office (1977) and the publishing of the Organic Law of the Treasury Accounting Office (1978) stand out. External control was not clearly consolidated during the 20th century because in the hegemonic party regime –caudillism, but especially presidentialism– the Executive Power subjugated the Legislative and Judicial Powers. The external control was exercised by the legislative power; it did not have the power or the instruments to systematically audit public resources.

During the strong authoritarian era, corruption was incredibly higher than in the last couple of years. The reason for this is very simple: government power had no counterweight, no one could hold public employees accountable, and there was not an independent Judicial Power and the legal system did not even contemplate the necessary mechanisms and institutions to enforce public employees' responsibilities. Corruption was the regime; however, it was not public: never reported, there were no trials against corrupt employees, the media gave it no coverage and ordinary people did not see it as an illegal and toxic process (Carbonell y Vázquez, 2003: 9).

In the 1980’s, according to Morris (1991) there was a “corruption crisis” that forced a change in the way to fight administrative corruption (Morris, 1991: 113). Under the motto “social moral renovation”, the government of Miguel de la Madrid made an effort to moralize federal public administration in the 20th century. The first step was the creation of the Finance Office of the Federation (1982) –preceded by the Finance Department– as a central control and monitoring body in federal public administration. The second step was the issuance of the Responsibility Act of public employees (1982), which had greater powers to sanction illicit conducts. The third step included the creation of federal bodies and entities, the Internal Bodies of Control, to monitor and control the public employees' responsibilities; verification and control authorities of the administrative function. Lastly, amendments were made to the Penal Code (1983) to establish sanctions for dishonest and corrupt public employees. This government began a moralization modernization stage in federal public administration.

The governments of Carlos Salinas de Gortari and Ernesto Zedillo Ponce de León did not give priority to fighting administrative corruption in the government agenda. These administrations modified the Responsibility Act (1991), the Finance Office of the Federation is transformed and the Modernization Program of the Public Administration (1994-2000) is
published, it included several actions to fight administrative corruption. External control includes two publications of the Internal Regulations of the Treasury Accounting Office (1980 and 1988)

The one party regime which ruled for over seventy years did not combat political or administrative corruption. On the contrary, they were part of the cohesion and stability elements of the regime. Anti-corruption campaigns at the beginning of each government, according to Morris (1991) contrast with the cycle of corruption at the end of every six year presidency, a widespread practice called “the year of Hidalgo”. Political corruption is only possible thanks to the collaboration of public employees within public administration. Ergo, administrative corruption has to be fought to decrease or avoid political corruption.

By the beginning of the 21st century, democratic transition governments that ended the hegemony of the one party system; however, despite having planning and control instruments such as the new Administrative Responsibility Act of Public Employees and the National Program to Fight Corruption and Encourage Transparency, among others in Vicente Fox’s government, did not eradicate administrative corruption. In this presidency, anti-corruption campaigns were promoted in our country, which had encouraging results, though insufficient for citizens.

The political alternation regime which began with the arrival of Vicente Fox Quezada from the PAN party (Partido Acción Nacional) opened up a new stage to moralize federal public administration. In the internal control arena, the following actions stand out: Responsibility Act for Public Employees (2002); the first Anti-Corruption Program (2000-2006) in the country’s history was put into action; the Transparency and Access to Information Government Law (2002) was established and the Professional Career Service Law was established. These instruments promoted new control mechanisms that laid the foundations for a new institutional arrangement. External control made advances by issuing the Supreme Audit Law of the Federation (2000); the Internal Regulations of the Treasury Accounting for Federal Superior Audit (2000) and especially because of the creation of the Federal Superior Audit (2001) as a body of the Legislative Power which has greater powers to monitor federal public spending.

Unlike the previous government, Felipe Calderón Hinojosa’s government paid little attention the fighting of administrative corruption. His government published the National Accountability and Anti-Corruption Program, which was not widespread and almost inexistent in federal public administration. Instead of making advances or encouraging continuity in the fight against administrative corruption, several steps back were taken. This government does not consider corruption as a priority and it combines itself with other public policies such as the war against organized crime. External control
had the publishing of the Control and Accountability Law (2009). Current empirical evidences show results to be modest.

National Surveys regarding Corruption and Good Governance carried out by Mexican Transparency in Vicente Fox and Felipe Calderón’s governments –2001, 2003, 2005, 2007 y 2010– still show citizens perceive administrative corruption has not decreased, if anything it has increased. According to the National Indexes of Corruption and Good Governance in 2001 it had a 10.6%, in 2003 it went down to 8.5% and in 2005 it went up to 10.1% again in Vicente Fox’s government. In 2007 the measurement in Felipe Calderón’s government showed 10.0% and 10.3% in 2011 (Mexican Transparency, 2001, 2003, 2005, 2007, 2011). Summarizing, quantitative data show the most corrupt procedures and that internal and external control measures within the republic have not yielded the expected results. Strong evidence that administrative corruption has not decreased, it tends to increase.

Currently, there are five kinds of corruption; four of them exist in Mexico. Traditional, modern, private corruption, the one derived from organized crime and the one present in armed conflicts (Castresana, 2008: 40-42). Traditional corruption is known by Mexican citizens; a traffic officer asks for a bribe in exchange for not issuing a fine. Typical crime methods of traditional corruption are coercion, bribery and embezzlement of public funds. The second corruption, modern one, is the daughter of globalization which is a structural and systematic corruption that springs up and thrives where the private and public sector converge. This corruption is the abuse of privileged information, influence peddling and political party financing.

Next comes private corruption, modern States have reduced the role of institutions and have let the private sector thrive; currently, the most important corruption takes place in companies and not in institutions.

Big companies do not have a known owner, but dozens and dozens of shareholders; these companies are left in the hands of executives that begin to deceive the company itself to personally enrich themselves through disloyal procedures. The forth level of corruption derives from organized crime, drug and human trafficking, contraband, prostitution, among others. Lastly, we had armed conflicts corruption, multinational companies finance armed conflicts to illegally exploit limited natural resources; this does not exist in our country.

Summarizing, the proposed framework aims to confirm or reject the thesis stated in this investigation that will be published, to analyze the phenomenon of administrative corruption in our country, know the establishment of internal control and to a lesser extent know the importance of external control to fight administrative corruption.
Conclusions

For the longest time, corruption has been a sensitive topic in the eyes of Mexican citizens. Most of it is attributed to the State, government and public management’s wrongdoings. It is also one of the most popular reasons to justify the country’s low level of development. Some consider it bureaucracy’s endemic problem. Corruption is seen as responsible for the problems of the public sector, even if it is not true; it is one of the most negative problems perceived by society although it has not been studied in depth.

The study of corruption is complex for various reasons. Firstly, its definition and diagnosis are riddled with ambiguities and complexities; making its identification and penalization very difficult. Secondly, the topic is very sensitive to address as it affects peoples and institutions’ credibility and honor, intangible assets of great value. Thirdly, many corrupt situations are hidden and protected by people or institutions that wield economic or political power. Fourthly, there is no agreement regarding solutions to face and put a halt to this toxic practice (Solimano, 2008b: 12).

Mexico’s case confirms the thesis that if nothing is done against corruption, it expands ruthlessly, becomes systematic and ends up bringing down the country’s institutions and it also harms national and international economic functioning.

The Mexican experience confirms the thesis that political and administrative corruption go hand in hand. Corrupt politicians require public employees’ abilities and knowledge to accumulate illicit wealth. Political corruption can be stopped; however, administrative corruption has to be fought permanently and without hesitation.

The phenomenon of administrative corruption in Mexico is complex, has been superficially and not studied in depth or in a systematic way. The most representative approaches to study corruption are legalist, historical and political. To understand corruption and its consequences, and also design policies to combat and prevent it; investigating individual cases is not enough, further investigation from society’s point of view is needed to identify elements that influence its appearance and development and also try to determine its effects, whom it benefits and whom it hurts. The study of administrative corruption needs to be disseminated to know its forms and eliminate them.

The empirical analysis confirms Morris’ (1991) theory that corruption creates booty for the elite and only answers particular demands. On the other hand, we find bureaucratic inefficiency, squandering and undermining of legitimate social programs. Social programs’ funds are already in big
problems, reduced by corruption –undermining their effectiveness– and squandered thanks to complex plans and corrupt procedures.

It can be said that administrative corruption, throughout time, has identified, controlled and penalized some corrupt practices within federal public administration. However, it is a fact that political regimes –hegemonic political party and political alternation– have seen corruption as a reason to achieve power. Political regime, political parties and politicians have a double standard: they attack corruption repeatedly in their speeches and when they become high level government officials they exercise privileges of the public office they hold.

Mexican administrative corruption can be fought with the help of a strong professional service career, greater effective transparency in every level of government, greater accountability in every government body and actor without exception, make every political party, politician and union transparent, unrestricted application of public employees’ responsibility laws, eradicate impunity and expanding citizen participation with better government programs.

Bibliography

34. Organización de las Naciones Unidas (2003). *Convención de las Naciones Unidas contra la Corrupción* celebrada en Mérida, Yucatán.


