Victims of Corruption
Integral Reparation and Institutional Trust as Cores of Anticorruption Strategies

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Abstract

In the context of the current anticorruption discourse it is critical to consider the systemic and structural manipulation of institutions, which potentially increases social/interpersonal and institutional distrust and lack of confidence, and creates the perception of "institutional vacuums" and institutional illegitimacy.

In the long-run, this dynamic creates a vicious circle between lower social/interpersonal and institutional trust and higher corruption. Bearing this in mind, in this paper it is argued that integral reparation of individual, collective, and social victims of corruption should be a core principle of any anticorruption discourse and practice that seeks to restore social/interpersonal and institutional trust and legitimacy.

This paper consists of four sections. After the introduction, in the second section it is analyzed how institutional distrust is an unexpected consequence of exposing Macro-corruption and institutional cooptation. In the third section the main strategies for restoring social/interpersonal and institutional trust are discussed. In the final section it is considered the role of integral reparation actions to restore trust and confidence among individual, collective, and social agents.

Introduction

Empirical analysis has recently revealed the increasing complexity of transnational networks that sustain domestic and transnational corruption. In Latin America, for instance, recent models of the "Lava Jato" network originated in Brazil, reported at least 906 nodes/agents including individuals and companies, such as officials in key positions at public and private institutions and high level private representatives, that established around 2,700 interactions (Garay Salamanca, Salcedo-Albarán, & Macías, 2018d). The same network model analyzed for Brazil and Peru included 1,399 nodes/agents who established 3,798 interactions (Salcedo-Albarán & Garay-Salamanca, 2019g).

Grand corruption is defined as a situation in which "a public official or other person deprives a particular social group or substantial part of the population of a State of a fundamental right; or causes the State or any of its people a loos greater 100 times the annual minimum subsistence income of its people as a result of bribery, embezzlement or other corruption offence" (Transparency International, 2016). In this sense, grand corruption usually refers cases that involve large corporations and affect large amounts of public resources (Rose-Ackerman, 2002), as opposed to "petty corruption" related to low-scale bribes (Kenny & Søreide, 2008). Additionally, "Macro-corruption and institutional cooptation is a concept proposed to explain the

complexity of illicit networks engaged in transnational corruption (Garay Salamanca, Salcedo-Albarán, & Macías, 2018d), in which "Macro" defines networks composed by more than 2-folds the "Dunbar's number" (Salcedo-Albarán & Garay-Salamanca, 2016).

The concept Macro-corruption also describes illicit networks that systematically affect key public institutions in the political, economic, and social spheres. Since these illicit networks manipulate and reconfigure key State and even private institutions (Garay-Salamanca & Salcedo-Albaran, 2015), institutional cooptation is a main characteristic of Macro-corruption (Garay Salamanca, Salcedo-Albarán, & Macías, 2018d).

Bearing this in mind, a relevant element of the current anticorruption discourse –that includes scientific research, prosecution, and advocacy– consists of analyzing, exposing, and identifying systemic and structural corruption practices that affect public and private institutions. In this sense, the current anticorruption discourse rightly calls the attention on how Macro-corruption is not the result of sporadic actions of isolated agents, but of a set of a well planned and orchestrated interactions between several –public and private, lawful and unlawful– individuals and companies that conform systems (Chayes, 2017) and macro-networks (Salcedo-Albarán & Garay-Salamanca, 2016).

An Unexpected Consequence

As powerful computational technologies and more comprehensive juridical frameworks are being developed for understanding and prosecuting networks of macro-corruption and institutional cooptation, it is unavoidable to rigorously understand the structural nature of the phenomena. Meanwhile, as civil society groups and authorities pursue this objective, a progressive erosion of institutional trust and legitimacy probably happens, considering that there is evidence of correlation (Sööt & Rootalu, 2012) and reciprocal causality (Uslaner, 2013) between low institutional trust and a lack of corruption awareness. In fact, the Inter-American Commission of Human Rights currently acknowledges that "corruption has a direct impact in the citizens trust in the democratic institutions" (Comisión Interamericana de Derechos Humanos, 2019, pág. 56), and that negative effects deepen when affecting public authorities: "if authorities in a State are dominated by corruption, the citizens' trust in the government erode, and with time, in the democratic order and the Rule of Law" (Comisión Interamericana de Derechos Humanos, 2019, pág. 64). Furthermore, corruption in the electoral system also affects institutional trust (Comisión Interamericana de Derechos Humanos, 2019, pág. 147), as the Human Rights Council of the United Nations has also acknowledged (Consejo de Derechos Humanos, 2015).

In fact, in the case of Italy, since the 90s it has been analyzed how lower levels of

social trust relate to higher levels of corruption (Putnam, 1993); a phenomenon later confirmed by further research across countries, specially when considering government's poor performance (La Porta, Lopez-de-Silanes, Shleifer, & Vishny, 1997). Furthermore, it has been also acknowledged that higher inequality is frequently related to lower institutional trust and deeper corruption (Uslaner, 2008), recognizing that corruption and its related institutional distrust even affects individual's life satisfaction (Ciziceno & Travaglino, 2019). In general, "there is considerable evidence supporting the causal effect running from social trust to corruption" (You, 2018, p. 466). The reverse causality has been also confirmed –that is, how corruption relates to lower institutional trust– for the national (Delhey & Newton, 2005) and subnational levels of European countries (Charron & Rothstein, 2014). In this sense, denouncing and publicizing cases of structural and systemic corruption could sometimes produce a higher perception of corruption, perversely affecting institutional trust.

Potential negative effects on the institutional trust resulting from the anticorruption discourse and actions are not negligible. On one side, a lower institutional trust perversely affects the compliance of formal social game rules; on the other, perceptions of "institutional vacuums" and institutional illegitimacy affect the democratic system, as those vacuums are usually capitalized by demagogue discourses. The latter phenomena has been analyzed in post-socialist countries (Veselin & Mimo, 2012) and, recently, it has

also been observed in the recent resurgence of authoritarian regimes that seek to consolidate anti-liberal or i-liberal instead of liberal democratic principles across western countries (Garay-Salamanca L. J., 2018). Both effects, exacerbated by current massive campaigns of misinformation, potentially lead to adopt or impose extremist political agendas against untrusted and illegitimated institutions (Bonikowski, 2017).

Restoring Institutional Trust And Legitimacy

Is it possible to restore institutional trust and legitimacy after being exposed to structural and systemic corruption? To answer this question it shall be considered the strategies that corporations and public entities often adopt in similar situations:

(i)   The "sense-making" strategy, which consists on understanding the circumstances of the situation of corruption, and turning those circumstances into a comprehensive and concise explanation of how to reverse and prevent its proliferation. This strategy includes, for instance, publicly acknowledging the problem, launching independent audits and investigations, and implementing institutional reforms. However, it is recognized that this strategy could "undermine trust (...) at a scale worse than originally anticipated" (Bachmann, Gillespie, & Priem, 2015, p. 1128), which is the issue analyzed herein. In a deeper sense, this strategy also implies conducting detailed research for understanding and explaining the rationale of illegality.

(ii)   The "relational approach", which consists on adopting social and symbolic commitments and actions to resolve the negative emotions and reactions arising from a problematic situation of corruption (Ohbuchi, Kameda, & Agarie, 1989) and even to "reestablish" the affected social order. This strategy also includes public explanations and apologies, combined with due punishment to the victimizers/ corrupters to fully repair and compensate his/her victims (Dirks,

"Is it possible to restore institutional trust and legitimacy after being exposed to structural and systemic corruption?"

Lewicki, & Zaheer, 2009). If the victimizer/corrupter is not subject of punishment –for instance compensating the victims–, the perception that the victimizer/corrupter benefited of his/her illicit action remains and the social equilibrium is affected: "paying compensations to the victim or engaging in actions that reduce the harm caused by the violation also helps to restore a sense of equity and justice" (Bachmann, Gillespie, & Priem, 2015, p. 1129). In fact, compensation is also critical for repairing trust related to violations committed by corporations, especially when those compensations are not symbolic but tangible, in pecuniary terms (Bachmann, Gillespie, & Priem, 2015). According to this approach, corporations sometimes agree to repair social damages, such as the firm Alcatel paying USD$10 million to Costa Rican State in 2010 (Olaya, Attisso, & Roth, 2010), or the firm Camargo Correa paying USD$217 million to Brazilian State in 2015 (Reuters, 2017).

Other actions to restore institutional trust and legitimacy consists of adopting strongest regulation to prevent recurring violations, promoting strong ethical culture, imposing transparency and social accountability, and transferring trust through endorsement (Bachmann, Gillespie, & Priem, 2015, p. 1128). However, as Bachmann, Gillespie, & Priem (2015) point out, even at the institutional level, trust implies emotional and psychological elements, which means that restoring social/interpersonal trust is a key component for restoring institutional legitimacy and societal trust.

Conclusion: Fighting Corruption And Restoring Institutional Trust

Restoring institutional and social/interpersonal trust implies compensating victims and applying some level of punishment and justice to the victimizer. Compensating an individual who suffered harm that he/she wasn't obliged to suffer is a critical principle of restorative justice, which also applies to communities and societies (Johnstone & W., 2007). In fact, repairing victims "has been a vehicle for justice throughout human history" (Sharp, 2007).

Reparation related to corruption is often considered in relation to the social harm caused when public resources are affected; those are, for instance, the mentioned cases of firms repairing social damages; cases in which individual and collective damages are often omitted due to the assumption that corruption only affected the society at large. However, principles of restorative justice related to repairing individuals and communities affected shall also be considered for corruption.

To restore institutional and social/interpersonal trust damaged by corrupt agents in macro-corruption processes, it is proposed to adopt integral and comprehensive reparation of individual, collective, and social harms inflicted, considering that "in short, corruption victimizes people" (Meng & Friday, 2014). Furthermore, bearing in mind the neuro-emotional substrate underlying social/interpersonal trust (Fehr, Fischbacher, & Kosfeld, 2005; Zak & Kugler, 2011; Riedl & Javor, 2012), repairing only abstract trans-individual

rights such as those protected by anticorruption penal types, which are not related to the individual's emotions but only to social harm, will not necessarily lead to restoring social/interpersonal or institutional trust.

Once a macro-corruption and institutional cooptation process has occurred, it is required an integral reparation scheme in order to restore social/interpersonal and institutional trust. First, emotional and psychological processes at individual and collective levels must be stimulated until achieving social/interpersonal trust. Second, abstract affected agents such as "the State" "the society at large" and formal and informal rules at the social level must be repaired to restore legitimacy and trust in public and formal institutions.

Integral reparation has been mostly considered in contexts of violence exerted under dictatorial regimes or wars that resulted in massive human victimization and crimes against humanity (Gamboa, 2007; Diaz, 2018). It has also been a critical component of transitional justice jurisdictions (Uprimny, 2017). In fact, it has been stressed that "reparations should be understood always in an integral perspective, in order to grasp the full complexity of the individual and collective damages produced by violence" (Donoso, 2009, p. 29).

On the other hand, corruption has often been defined as causally unrelated to human victimization in criminal codes; therefore, integral reparation has not been traditionally considered as a source for restoring

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social/interpersonal and institutional trust once macro-corruption and institutional cooptation processes have caused individual, collective and social harms. In this sense, the dominant approach of causal disassociation between corruption and individual and collective damages —sometimes even at the scale of massive human victimization–, shall be revisited for two basic reasons.

First, because recent scientific and judicial analysis allow understanding the effects of macro-corruption networks on individual, collective and social victims; therefore, based on prolific new empirical evidence, updated juridical frameworks will have to recognize and address this causality. Second, and most important, because considering the individual, collective, and social harms resulting of Macro-corruption and

institutional cooptation, it is possible to adopt integral reparation among individuals, collectives/communities, and the society at large; therefore, the neuro-emotional ties that sustain social/interpersonal trust and confidence could be restored between individuals and communities, and public and formal institutions could regain the social legitimacy required for a democratic governance.

Therefore, integral reparation of individual, collective, and social victims of macro-corruption and institutional cooptation processes should be a _sine qua non_ of any anticorruption discourse or anticorruption strategy that seeks to restore social/interpersonal and institutional trust and legitimacy. As the Inter-American Commission of Human Rights points out: "when State agents commit corruption acts and human

rights are violated, there is the obligation of integrally repairing the victims of such an act (…), States must adopt measures of integral reparation for direct and indirect victims, and for the society at large and, therefore, it is critical to determine the effective harm that can be causally linked to the act or situation of corruption" (Comisión Interamericana de Derechos Humanos, 2019, p. 190). This integral reparation would increase social/interpersonal and institutional legitimacy and trust, which are conditions for lower corruption and, in the long-term, securing the Rule of Law.

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