THE COLOMBIAN CONSTITUTION OF 1991. THE FIGHT AGAINST CORRUPTION AND UNFINISHED HISTORICAL TASK

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SUMMARY: I. *Introduction*. II. *The Political and Regulatory Evolution of the 1991 Political Charter*. III. *The Substantial Contents of the Current Constitution*. IV. *The reality of the fight against corruption*. V. *Constitution and legal reforms*. VI. *A recent perspective of Colombia*. VII. *Conclusions*.

I. INTRODUCTION

1. In this paper we examine some of the most important constitutional issues that have arisen in Colombia in the fight against corruption in politics and administration since the introduction of the new provisions of the 1991 Constitution. In addition, we examine some of the issues politicians who arise with the new institutional forms of institutional fight against corruption at the beginning of the 21st century.

This approach is not reduced to raising some historical reflections on an institutional battle of a national ethical and political nature, nor to understanding the quantitative elements of the scope of a punctual war of all public control agencies and public opinion against that evil.

Indeed, that harmful expression of the life of societies is also an expression of a serious current political and human pathology that appears in all forms of organization of power and government, with various manifesta-

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tions and intensity, and our countries are experiencing a period of aggravation and the generation of new modalities of expression of these crimes.

The dominant idea of Colombian political opinion in the examination of modern cases and of the new forms of corruption that we live in these times, is that it must be combated relentlessly and that the national political leaders must be expelled from the public institutions that they represent. The impression that national voters and academics have is that corruption in the public administration and in Colombian politics has reached unimaginable and unknown levels in our history and that it is the cause of the fall in the legitimacy of political parties and of institutions such as the Congress of the Republic, the armed and police forces, judges, magistrates, and prosecutors.

Indeed, the serious concern about the current expressions of the phenomenon of administrative corruption is of such a nature that several of the representatives of the Colombian control agencies and judicial institutions call on the political leaders of the regime for fear of the collapse of the political system and the rise of another model of State contrary to the Rule of Law and Democracy.

As a matter of principle, the examination of public, political and administrative corruption in the history of humanity encounters serious theoretical and practical difficulties, since it is a social and human phenomenon that appears constantly from the first forms of administrative and political organization of societies, is presented in different ways and achieves different material and subjective expressions.

The truth is that corruption in our countries is also a phenomenon that is difficult to eradicate, since it is configured in an aggravated way by special social, economic, cultural conditions, and unique human situations. The dominant idea in public opinion on this matter is that corruption among us in Colombia must be combated relentlessly and those responsible must be expelled from public institutions, even though their closest relatives and followers are re-elected as a foreign body.

In essence, political and administrative corruption consists of behaviors deviated from the normative prescriptions that are oriented towards the search for the private appropriation of public resources or the public diversion of public resources with various types of ends essentially contrary to the normative correctness and the institutions of political democracy and the right.

The existence of political corruption on public resources and in the state administration feeds on multiple conditions and situations related to human factors, social developments and the political environment and in

general with the system of administration of justice and the fight against crime impunity. As we will see, the history of the fight against corruption in Colombia suffers a kind of watershed after the issuance of the Political Constitution of 1991.

It seems that administrative and political corruption has always existed, it appears and takes multiple forms and, in some cases, it can involve the extraction of public and private resources for illegitimate purposes such as vote buying, payment of electoral costs or support for administrative management without support and lacking bases of governability. It is traditionally supported by patrimonial clientelism of a bureaucratic order, in the media manipulation of paid opinion with contracts and public benefits such as appointments, work orders, advertising guidelines, among other forms. These are just some expressions of corruption in our days.[1]

When it comes to an integral approach to the knowledge of corruption as a pathology of government affairs and public interest, we find that it and the fight against it is not a typically legal matter and involves experiences in legal sociology and political science of multiple forms and measures that leaves much room for the human condition and the cultures and subcultures of power and political, personal, and family ambition.[2]

From what is known, the fight against corruption is a unique and always unfinished task. In any case, it is full of stories of successes and failures that do not end or end in a few results, no matter how important they may be. As in the Colombian case, the fight is increased and exorbitant with the presence of money from drug trafficking in political campaigns and from paramilitarism, also drug traffickers, criminal and horrendous.[3]

Although there are specialized organizations in the international arena that provide scales, ranges and classifications of corruption at this level and even internally, their results cannot be measured only by perception surveys, since, essentially, corruption as a pathological phenomenon of societies, is made up of completed episodes or unfinished and half-told stories and anecdotes of suggestive episodes and reprehensible behavior and are enriched by popular and journalistic creativity and fantasy. There are also the versions of the opposition, adversaries and other subjects that today contribute

[1] Gómez Lee, Iván Darío, "La grave sofisticación de la corrupción", *Revista de la Auditoría General de la República*, Bogotá, 2010; Gómez Lee, Darío, *Control fiscal y seguridad jurídica gubernamental*, Bogotá, Externado University of Colombia, 2006.

[2] Turbay Quintero, Julio C. *et al.*, *Hacia un nuevo control Fiscal en Colombia*, Bogotá, Office of the Comptroller General of the Republic, 2009.

[3] López Hernández, Claudia, *Y refundaron la patria. De cómo mafiosos y políticos reconfiguraron el Estado Colombiano*, Bogotá, Random Hoyse Mondadori-Debate, 2010.

in a good way to its discovery and persecution, such as the citizen oversight offices and the specialized oversight offices with greater capacity to reveal the facts and acts of corruption than those themselves prosecutor investigators and auditors of the Comptroller General of the Republic.[4]

That fight resembles the constant fight for life and for the reinvention of the ethics of public affairs, and it is always challenging and will be new since it must be updated daily with effective and efficient strategies and policies and with the decision to defeat his expressions too and always creative and innovative. The fight against corruption has always demanded sufficient capacities to prevent, investigate, sanction, and prosecute it and the sufficient disposition of elements to combine fiscal, disciplinary, criminal and citizen participation resources in the additional challenges of accepted and repudiated impunity.

It is worth mentioning the long list of presidential candidates assassinated in Colombia in transit to the Presidency of the Republic for nearly a hundred years. This list begins with Rafael Uribe Uribe, continues with Jorge Eliecer Gaitán, Luis Carlos Galán Sarmiento, Jaime Pardo Leal, Bernardo Jaramillo, Carlos Pizarro León Gómez and ends with Álvaro Gómez Hurtado who already warned of the need to replace the regime completely taken over by the corruption and drug trafficking.[5]

The fight against corruption today appears in the scenarios of international cooperation and of the States among themselves, as in the case of Colombia, the US and Brazil for the crimes of corruption of Brazilian construction companies, Colombian congressmen, national public officials, and private individuals who covered up.

It is worth emphasizing the great importance of the international vision of the fight against corruption, that is, the duty to comply with and enforce the international conventions on the fight against corruption in the terms of the law of cooperation treaties between governments.

Fortunately, in recent years, corruption in public affairs and on official resources is seen as a global and globalizing scourge of many other evils that affect business in all spheres. The disturbing effect of public corruption is of such a nature that it deserves the alliance of all state powers and even the international order to stop it. That fight also needs coordination with public agencies with private organizations to learn about it and establish modern

[4] Salazar, Pedro *et al.*, *¿Cómo combatir la corrupción?*, Mexico, UNAM-IIJ, 2017; Turbay Quintero, Julio C. *et al.*, *Excelencia y calidad en el control fiscal*, Bogotá, Comptroller General of the Republic, 2009.

[5] Gómez Hurtado, Enrique, *¿Por qué lo mataron?*, Bogotá, Controversia, 2011.

and dynamic conventions, agreements, and treaties from the evidentiary and judicial component to strengthen it.

In the same way, its projections and the contemporary configurations of globalization, openings and deregulation, make many investors and private actors in the world markets raise their serious concerns about it as a destructive factor of the credibility of the states, of the legal certainty and free competition and free concurrence, and that there are conglomerates for the contracting of public resources that specialize in taking advantage of social, legal, political and economic conditions to corrupt state officials and to be susceptible to corruption on the part of public servants.

II. The Political and Regulatory Evolution of the 1991 Political Charter

1. *The origins of constitutional change*

The Colombian Constitution of 1991, which is still in force among us with some important and abundant reforms especially introduced precisely in development of the Colombian fight against political, electoral and administrative corruption, on the one hand; against the organized crime of drug trafficking, on the other and in the search for peace with the armed insurgent groups as true armies contrary to public order and citizen peace, meant the formulation and execution of a great institutional, normative and organic challenge of a historical, unfinished, certainly unfinished and in many cases, such as drug trafficking and political and administrative corruption, partially frustrated and ineffective.[6]

That constituent meeting was effectively a pluralist and highly deliberative assembly, made up of representatives of almost all the legitimate political sectors active in the Colombian political system, and was inspired by the projects of the national government of César Gaviria, the initial heir to the profoundly liberal and transformation of Luis Carlos Galán, in the nuanced conservative political thought of Álvaro Gómez Hurtado, in the socialist doctrine of Spanish and German origin of the leaders of the essentially social democratic April 19 Movement (M19), and in the ideas of traditional conservative groups, led by Misael Pastrana Borrero and in that of other groups reintegrated into Colombian civil and political life.

[6] Acevedo, Darío *et al.*, *Parapolítica, verdades y mentiras*, Bogotá, Planeta Colombiana, 2008.

In essence, that meeting was a National Constituent Assembly that collected a large part of the multiple ideological aspirations of Colombians, including those of the Catholic Church and the new churches that had already broken into the world of Colombian politics, and dealt with their normative drafting works, including the delicate topic of the family, paternity and the rights and responsibility towards children, among many other matters that are rarely constitutionalized among us, such as those of assisted procreation.

Of course, the so-called FARC[7] and the interested parties from the powerful drug trafficking groups of the two cartels that existed at the time, known as the Medellín Cartel and the Cali Cartel, were left out of that meeting. These last cartels wanted to exert their powerful influence to advance some proposals such as the prohibition of the extradition of Colombians and they achieved it in various ways.[8]

This transforming task of the Constituent Assembly of 1991, had in mind the political doctrine of the liberal leader Luis Carlos Galán who had been assassinated by the Colombian drug trafficking mafias in agreement with dark interests executed with the complicity of some security agents of the State or of the Administrative Department of Security DAS, on the one hand, and the doctrinaire speeches of the conservative candidate Álvaro Gómez Hurtado, also assassinated later, during the government of the then president Ernesto Samper Pizano, apparently also by dark forces of the

[7] Those were a true guerrilla army called the Revolutionary Armed Forces of Colombia, today they appear converted into a political party with the same acronym that has been presented in the 2018 elections with candidates for Congress and the Presidency of the Republic. Today it is questioned whether they keep their assets and their illicit capital and whether these are going to be used and spent in the elections that are taking place.

[8] The fight against those drug cartels made notable progress to the point of applying justice for almost all their leaders and agents who ended up dead, imprisoned and extradited and the occupation of many of their valuable assets. Nevertheless, the so-called drug-trafficking industry in our country is still in force, it has grown remarkably, many of its bosses today are heirs to their old businesses and properties and manage structures of political, financial, economic, real estate corruption and control of rural and urban territories and spaces in the so-called combos, offices, structures, gangs, and cartels. Their alliance with the now demobilized FARC guerrillas and the so-called National Liberation Army (ELN) gave them much fruit and power, and they have found refuge and partners in Venezuelan territory. They exercise control of routes and territories in alliance with Mexican and Guatemalan cartels and pose new challenges to criminal justice and the national army with a view to maintaining the security of the territories and national legal rights. In the last year, the traffic figures have grown exponentially, and it is estimated by the electoral authorities that their profits will be reflected in the increase in the costs and expenses of the electoral campaigns in development.

State, allied with drug traffickers in a case where it has not been possible to advance in criminal convictions and that has just been classified as a crime against humanity to avoid prescription and to reactivate procedural causes.

This unsuspected constitutional task, achieved by the criminal and terrorist presence of the Medellín cartel throughout the national territory and with the substantial capacity for influence of the agents of the Cali Cartel, was later removed from the Constitutional Charter, which gave rise to the re-established institution of the extradition of nationals as a substantial instrument of international collaboration against organized crime.[9]

We cannot ignore the antecedents that explain the call and multiparty meetings of the so-called National Constitutional Assembly, the serious process of deterioration of public order and selective crime, the urban terrorism of drug traffickers that led to the sacrifice of four presidential candidates of the democratic left and liberalism and the sacrifice of hundreds and thousands of innocent civilians, fallen under the bombs or the fire of the assassins of the drug cartels.

2. *Other Causes of the Constitutional Change*

With the unusual and unprecedented convocation of the Constitutional Assembly in 1990 for the so-called Seventh Ballot of the students of Bogotá and with the decisions of the national executive power that invoked powers and conditions of the State of Siege and those of the Supreme Court of Justice that endorse it as a constitutional judge, he tried to provide the

[9] This has been for several decades, and even today it is a powerful instrument in the fight against political corruption generated and agitated by the presence of the money of its cartels and sub-cartels in the financing of costly national and territorial electoral campaigns and in the exercise of the legislative function of several of our congressmen precisely related to their criminal interests, giving rise to a mega criminal process against many of them called "Process 8000".

Even today, with the collaboration of the American judicial and police authorities, the extradition of several national public servants and many Colombian individuals is projected for using the US financial system for money laundering and for carrying out payments and acts of public corruption. Precisely, the extradition of the head of anti-corruption prosecutors has been decreed as head of the so-called "Cartel de la Toga" for the alleged complicity of several former magistrates of the Supreme Court of Justice and the extradition of several lawyers and prosecutors committed to crimes against the administration of justice.

Similarly, there are several hundred Colombian nationals extradited to the United States of America linked to drug trafficking, money laundering, acts of corruption in the armed forces and members of armed paramilitary gangs dedicated to drug trafficking and serious systematic violation of human rights.

Colombian State with adequate and sufficient capacities and instruments to confront organized crime, the gangs and armies dedicated to armed struggle of various etiologies that plagued Colombians so much, and to renew the institutions of participatory and deliberative democracy to allow civil society to participate in complaints and investigations against political and administrative corruption that prevailed in the two pre-existing decades and that now with new and suggestive modalities remain vigorous.

In this sense, in order to understand the so-called popular outcry that called the attention of the judiciary at the time and within the background of the Colombian constitutional transformation, it is hardly worth remembering as background the criminal sacrifice of four presidential candidates, the systematic murder of dozens of policemen and soldiers, judges, magistrates and lawyers, victims of individual and terrorist attacks throughout the entire Colombian territory.

Este reto fue adicionado y agravado con instituciones y disposiciones normativas pensadas para enfrentar las nuevas modalidades de la corrupción política y administrativa postconstitucionales, fundadas en la presencia agresiva de los dineros del narcotráfico en la política y luego con los dineros de la corrupción administrativa sobre los recursos públicos nacionales transferidos a las entidades territoriales (departamentos, distritos y municipios) y los administrados por entidades nacionales.

This challenge was added to and aggravated by institutions and regulatory provisions designed to deal with the new forms of post-constitutional political and administrative corruption, based on the aggressive presence of money from drug trafficking in politics and then with money from administrative corruption over resources. national public entities transferred to territorial entities (departments, districts and municipalities) and those administered by national entities.

The exceptional and extra-constitutional summons of 1990 allowed the Colombian nation to assume the duty of restructuring the State and the constitutional institutions and with that foundation, in a multi-party Assembly with the presence of various groups of former guerrillas such as the M19 and the EPL, assumed in 1991 the great institutional costs that the introduction of a new Constitution meant in our old political system with new institutions and judicial organs and with new vigorous faculties in the hands of the so-called control and vigilance.

As background, it is necessary to point out that in the years 1977 and 1979 two important constitutional reforms had been issued that had been proposed to strengthen the Administration of Justice, the territorial organi-

zation and participatory democracy that were declared unconstitutional by the Supreme Court of Justice as a constitutional judge in a kind of unusual blockade apparently based on stony clauses and fundamental political decisions with the declaration of unconstitutionality but based on procedural vices of regulatory origin.

3. *The harsh vicissitudes of the constitutional change in Colombia*

This challenge, which certainly remains unfinished, with a number of deep frustrations, quite aggravated so far in the 21st century, is also surrounded by accomplishments, achievements and strengths, especially related to the defeat of the armed paramilitary bands and the persecution and conviction of several dozen professional politicians dedicated to the appropriation and diversion of public resources. We can begin by noting that these groups managed to accumulate immense fortunes with global and transnational projection that still survive today and continue to exercise their political and administrative influence.

There is no doubt that the constitutional change of 1991 meant several radical challenges and several painful and bloody wars in a literal sense, such as the fight against the old drug cartels and against the mafias of traffickers of all kinds of goods and values, many of them which have been the object of serious processes of extinction of domain and state occupation.

A large part of the constitutional provisions introduced or modified in the Colombian constitutional law from the Political Charter of 1991, correspond to the constituent design of establishing the best and most efficient instruments of institutional and democratic struggle against the serious scourge of political corruption and organized crime, which plagued society from the great power of drug trafficking and organized crime derived from that illicit business of transnational projection.

In addition, in the constitutional process of 1991, an attempt was made to overcome the strong doses of regional political corruption that had taken over the public administration of the territorial entities and the organs of political representation at all levels, especially at the territorial level, basically on the local and departmental public resource and on the payroll of employees and workers at the service of public administrations.

Since the 1970s and throughout the 1980s, the local and territorial castes and political classes have been consolidated, largely nourished by the money and power of regional drug trafficking, and have become insurmountable powers, even for the national administration.

The power of paramilitarism and its definition of the destinies of territorial politics led them to say that the self-proclaimed United Self-Defense Forces of Colombia, AUC, had direct influence over a third of the Congress of the Republic and over hundreds of municipalities and departments from which they belonged. They appropriated by exercising armed violence and the constriction of voters to elect mayors and governors, demanding the surrender of public entities and the appointment of their agents to appropriate the budget and public goods.

Of course, in this criminal practice they dedicated themselves to expelling peasants from their lands, to massacring and disappearing those who were reluctant, to destroying all the values of the nationality. The disastrous night of Colombian paramilitarism involved the commission of the most horrendous crimes against humanity and the appropriation of hundreds of billions of pesos and the control of the territory and of the territorial administrations to settle their operations of displacement and appropriation of property and lives, and to engage in drug trafficking and money laundering from drug trafficking itself.

On the other hand, these constitutional provisions incorporated in the new constitutional text of 1991, also responded to the need to introduce institutions and judicial bodies for the investigation and trial of common criminals and agents of regional politics, against whom there was nothing more. That traditional judicial and police agencies are weak, supremely fragile and anchored in the doctrine and structures of the old constitutional model of the administration of justice typical of the 19th century.

The great power of Colombian drug trafficking in the 1980s had already transcended borders and it was essential to transform the police, judicial, and scientific instruments, and agencies in the fight against this scourge, also to attend to international claims about the responsibility of the Colombian State in those matters. This left a trail contrary to public ethics and permeated the consciousness of new generations in the ideas of easy enrichment and ignorance of the ethical limits of public resources.

On the other hand, the generalized situation of breakdown of public order, aggravated thanks to the increase in military and territorial power of the various guerrillas that maintained armed control in vast remote regions far from the center of political power, made it impossible to protect the businessmen of the countryside and the intermediate towns and cities of the country, placing the sensation of a failed State and the gradual consolidation of a kind of narco-State, with narco-politicians and narco-businessmen, on the day-to-day of politics.

These, despite the various peace processes celebrated with them, such as the peace agreed with the M19 movement, and others frustrated with the FARC, the ELN, the EPL, among other groups of armed insurgents, had rearmed, strengthened and some of them had consolidated spatial, territorial, and human domain in several of the vast jungle regions and remote from the national territory.

It should be remembered that in the years prior to the meeting of the National Constitutional Assembly, later self-proclaimed Constituent Assembly, the guerrilla takeover of the Palace of Justice with more than a hundred Ministers of the Court and their collaborators and as many guerrillas had died or been disappeared and heavy episodes of political violence were relieved that are still being examined.[10]

III. The Substantial Contents of the Current Constitution

1. This "new" Constitution, which has been in force for more than twenty-five years and has been intensely active, with extensive contents that are expressly social-democratic of a contemporary nature and with many tasks contrary to the old traditional Colombian political practice, was apparently inspired by the texts of the constitutions of Spain, Portugal, Brazil and the USA, and to a large extent in the national constitutional tradition under rationalizing and self-limiting formulas such as in the cases of states of exception, in those of extraordinary powers and in the clauses of the economic regime and of public finances in a modality that combines principles and rules of neoliberalism, the Social State of Law and the social market economy.

Within those ideological and doctrinal costs, we can mention, as a preliminary and very thick reflection, the declaration of the Social and Democratic State of Law, the Normative Character of the Constitution,[11] the introduction of the catalogs of the new constitutional, fundamental rights,

[10] Patino, Otty, *Historia privada de la violencia*, Bogotá, Random House Mondadori-Debate, 2017.

[11] Article 1. Colombia is a Social State of law organized in the form of a unitary Republic, decentralized, with autonomy of its territorial entities, democratic, participatory and pluralistic, founded on respect for human dignity, work and the solidarity of the people who comprise it and in the prevalence of the general interest.

Article 4. The Constitution is a rule of rules. In any case of incompatibility between the Constitution and the law or other legal norm, the constitutional provisions shall apply.

It is the duty of nationals and foreigners in Colombia to abide by the Constitution and the laws, and to respect and obey the authorities.

collective rights and the environment, the constitutional rights of social content and those of economic content, as well as the already mentioned popular actions, of compliance, for diffuse interests and rights and the incorporation of the Constitutionality Block as an essential and substantial component of the new constitutional text as legal norm of full judicial value.

In addition, in the same sense, it is worth mentioning the creation of the Constitutional Court and the overcoming of the old model of control of constitutionality and constitutional justice, the introduction of the very vigorous and dynamic Action of Guardianship or protection among other constitutional actions to protect the integrity of the Political Charter and the defense of constitutional rights.[12]

In addition, the criminal justice regime and the administration and government of the judicial branch were modified with the introduction of a very poorly treated Superior Council of the Judiciary and an initially incipient Attorney General's Office, today vigorous and well-endowed legally and materially. The misfortune of the entire Superior Council of the Judiciary, especially its Disciplinary Jurisdictional Chamber, is due to structural problems of the political composition of the judiciary, which has always resisted all kinds of government, even some forms of self-government such as the one established in Colombia in 1991.

2. It is worth reiterating that in the new Political Constitution of Colombians of 1991, iron institutions were introduced, such as the Loss of Investiture of Congressmen in a disciplinary process, at any time, correctional, concentrated and of a single instance in the judicial headquarters of the Council of State. under the terms of articles 183 and 184,[13] the Criminal,

[12] Article 86. Every person will have a guardianship action to claim before the judges, at any time and place, by means of a preferential and summary procedure, by himself or by someone acting on his behalf, the immediate protection of his fundamental constitutional rights, whenever he wishes. that these are violated or threatened by the action or omission of any public authority. The protection will consist of an order so that the one with respect to whom the guardianship is requested, acts, or refrains from doing so. The ruling, which will be immediately enforced, may be challenged before the competent judge and, in any case, the judge will refer it to the Constitutional Court for eventual review. This action will only proceed when the affected party does not have another means of legal defense unless it is used as a transitory mechanism to avoid irreparable damage. In no case may more than ten days elapse between the request for guardianship and its resolution. The law will establish the cases in which the tutela action proceeds against individuals in charge of providing a public service or whose conduct seriously and directly affects the collective interest, or with respect to whom the applicant is in a state of subordination or defenselessness.

[13] Article 183. Members of Congress will lose their investiture: 1. Due to violation of the disqualifications and incompatibilities regime, or the conflict of interest regime. 2. Due to non-attendance, in the same period of sessions, at six plenary meetings in which legislative

Direct and Concentrated Jurisdiction in a single instance in the Criminal Chamber of the Supreme Court of Justice.[14]

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bills, laws or motions of censure are voted on. 3. For not taking office within the eight days following the date of installation of the Chambers, or the date on which they were called to take office. 4. Due to improper allocation of public money. 5. Due to duly proven influence peddling. Paragraph. Causes 2 and 3 will not apply when there is force majeure.

Article 184. The loss of the investiture will be decreed by the Council of State in accordance with the law and in a term not exceeding twenty business days, counted from the date of the request made by the board of directors of the corresponding chamber or by any citizen.

[14] Article 186. The Supreme Court of Justice, the only authority that can order their arrest, will hear exclusively the crimes committed by Congressmen. In case of flagrante delicto, they must be apprehended and immediately placed at the disposal of the same corporation. It will correspond to the Special Investigation Chamber of the Criminal Chamber of the Supreme Court of Justice to investigate and charge before the Special Chamber of First Instance of the same Criminal Chamber the sailors of the Congress for the crimes committed. The appeal will proceed against the sentences pronounced by the Special Chamber of First Instance of the Criminal Chamber of the Supreme Court of Justice. Its knowledge will correspond to the Criminal Cassation Chamber of the Supreme Court of Justice. The first conviction may be challenged.

Article 234. The Supreme Court of Justice is the highest Court of Ordinary Jurisdiction and will be composed of the odd number of Magistrates determined by law. This will divide the Court into Chambers and Special Chambers, will indicate to each of them the matters that must be heard separately and will determine those in which the Court must intervene in plenary session. In the case of constitutional judges, the Criminal Cassation Chamber and the Special Chambers will guarantee the separation of the investigation and the trial, the double instance of the sentence and the right to challenge the first sentence. The Special Investigation Chamber will be made up of six (6) Magistrates and the Special First Instance Chamber by three (3) Magistrates. The members of these Special Chambers must meet the requirements to be Magistrates of the Supreme Court of Justice. The same regime will be applied to them for their election and period. The Magistrates of the Special Chambers will only be competent to hear exclusively the matters of investigation and trial in the first instance under the conditions established by law. The regulations of the Supreme Court of Justice may not assign to the Special Chambers the knowledge and decision of the matters that correspond to the Criminal Cassation Chamber. The Magistrates of the Special Chambers may not hear administrative or electoral matters of the Supreme Court of Justice, nor will they be part of the Plenary Chamber. Paragraph. The constitutional appraisers of article 174 of the Political Constitution have the right to challenge and double instance as indicated by law.

Article 235. The powers of the Supreme Court of Justice are: 1. To act as a court of appeal. 2. Know the right to challenge and appeal in criminal matters, as determined by law. 3. Judge the President of the Republic, or whoever acts on his behalf, and the senior officials referred to in article 174, prior to the procedure established [in numerals 2 and 3 of] article 175 of the Political Constitution, for any punishable conduct that they are imputed. For these trials, the Criminal Chamber of the Supreme Court of Justice will also be made up of Special Chambers that guarantee the right of challenge and double instance. 4.Investigate and try members of Congress. 5. Judge, through the Special Chamber of First Instance, of the

It should be noted that in the month of January 2018, less than two months before the general elections to the Congress of the Republic and at the beginning of the last year of the government of President Juan Manuel Santos, Law 1881 has just been issued, by which modifies the procedure for the loss of investiture of the congressmen, the double instance is consecrated, term of expiration of the Action of Loss of Investiture of the congressmen of a part. On the other hand, the Legislative Act or constitutional reform 01 of 2018 was issued by which articles 186, 234, and 235 of the Political Constitution are modified and the right to double instance and to challenge in cases of trials is implemented. Criminal cases of congressmen and other high-ranking officials subject to constitutional jurisdiction before the Supreme Court of Justice.

The preferential disciplinary powers of the Attorney General of the Nation over all kinds of public servants, including those of popular election and even private individuals, the incipient creation of the Attorney General's Office, Citizen Participation in matters of fiscal control in the terms of article 270 of the 1991[15] Constitution, the Internal Control system in all public entities according to article 269 of the higher codification in ac-

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Criminal Chamber of the Supreme Court of Justice, prior accusation by the Attorney General of the Nation, the Deputy Attorney General of the Nation, or their delegates from the unit of prosecutors before the Supreme Court of Justice, the Vice President of the Republic, the Ministers of the Office, the Attorney General, the Ombudsman, the Agents of the Public Ministry before the Court, before the Council of State and before the Courts, Directors of the Administrative Departments, to the Comptroller General of the Republic, to the Ambassadors and head of diplomatic or consular mission, to the Governors, to the Magistrates of Courts and to the Generals and Admirals of the Public Force, for the punishable acts that are imputed to them . 6. Resolve, through the Criminal Cassation Chamber of the Supreme Court of Justice, the appeals filed against decisions issued by the Special First Instance Chamber of the Criminal Chamber of the Supreme Court of Justice.7. Resolve, through a Chamber made up of three Magistrates of the Criminal Cassation Chamber of the Supreme Court of Justice and who have not participated in the decision, as determined by law, the request for double judicial conformity of the first conviction of the judgment handed down by the remaining Magistrates of said Chamber in the matters referred to in numerals 1, 3, 4, 5 and 6 of this article, or of the rulings handed down in those conditions by the Superior or Military Courts. 8. Hear all contentious business of diplomatic agents accredited before the Government of the Nation, in the cases provided for by international law. 9. Give yourself your own rules. 10. Other powers indicated by law. Paragraph. When the afore mentioned officials have ceased to hold office, the jurisdiction will only be maintained for punishable conduct that is related to the functions performed.

[15] Article 270. The law will organize the forms and systems of citizen participation that allow monitoring the public management that is carried out at the various administrative levels and its results.

cordance with article 209, 267,[16] constitutional actions of a judicial nature such as the Guardianship, the Popular Actions,[17] the Compliance Actions and the actions for diffuse interests and the Group Actions in articles 89 and 92 of the Constitution.[18]

3. Indeed, directly we find provisions such as the one established in the constitutional right to petition article, which states that everyone has the right to submit respectful petitions to public authorities for reasons of general or particular interest and to obtain a prompt resolution that appears regulated in the well-known constitutional article 23, which can also be exercised before private organizations to guarantee fundamental rights.

On the other hand, in article 90 of the Colombian Political Charter, it is established that in the event that the State is sentenced to patrimonial reparation for the unlawful damages caused by the willful or seriously negligent conduct of an agent of its own or by public authorities for his action or his omission that he must repeat against these.

Also, in article 92 of the Constitution, public and popular action is established to request the application of criminal or disciplinary sanctions derived from the conduct of public authorities. It should also be noted that article 93 ordered the incorporation of the Colombian State into the Rome Statute and recognized the validity and operation of the jurisdiction of the International Criminal Court of utmost importance among us in attention to the very serious situations of violation of constitutional rights, life, and physical integrity of many Colombians by paramilitary groups, guerrilla groups and State agents such as military and police involved in crimes against humanity.

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[16] Article 269. In public entities, the corresponding authorities are obliged to design and apply, depending on the nature of their functions, internal control methods and procedures, in accordance with the provisions of the law, which may establish exceptions and authorize contracting of said services with private Colombian companies.

[17] Article 88. The law will regulate popular actions for the protection of collective rights and interests, related to heritage, space, public safety and health, administrative morality, the environment, free economic competition, and others of a similar nature. that are defined in it. It will also regulate the actions originated in the damages caused to a plural number of people, without prejudice to the corresponding private actions. Likewise, it will define the cases of objective civil liability for the damage inflicted on collective rights and interests.

[18] Article 87. Any person may go before the judicial authority to enforce compliance with a law or an administrative act. If the action succeeds, the sentence will order the reluctant authority to comply with the omitted duty.

Article 89. In addition to those enshrined in the previous articles, the law will establish the other resources, actions, and procedures necessary for them to advocate for the integrity of the legal order, and for the protection of their individual, group, or collective rights. against the action or omission of public authorities.

In addition, we find that article 122 of the Political Charter establishes the duty of all public servants to swear defense, respect, and compliance with the legal system and to attend to the fulfillment of the duties that correspond to them. There is the duty to declare the amount of assets and income of public servants before taking office, upon leaving the same or when the competent authority requests it.

Similarly, we find in constitutional article 123 that public servants are at the service of the State and the Community and that they will exercise their functions in accordance with the principle of legality in the manner provided for in the Constitution, the law and the regulations, as you wish, In addition, the law can establish the responsibility of public servants and the way to make it effective in the terms of article 124.

Of singular legal importance we find in article 126 of the same superior codification that established a kind of disability regime for cases of nepotism and patronage, now modified by Legislative Act 02 of 2015 in which, among other elements, a kind of political reform to seek an incipient balance of powers aimed at the powers of the high dignitaries of justice.[19]

In the same way, we find the provisions of article 127 of the Political Charter, which establishes the incompatibilities for public servants who cannot enter into any contract with public entities or with private persons by

[19] Article 126. Public servants may not, in the exercise of their functions, appoint, apply for, or contract with persons with whom they are related up to the fourth degree of consanguinity, second degree of affinity, first civil, or with whom they are linked by marriage or permanent union.

Nor may they appoint or apply as public servants, or enter into state contracts, with those who have intervened in their application or appointment, or with people who have the same links with them indicated in the previous paragraph.

Appointments made in application of current regulations on entry or promotion based on merit in career positions are excepted from the provisions of this article.

Except for competitions regulated by law, the election of public servants attributed to public corporations must be preceded by a public call regulated by law, in which requirements and procedures are established that guarantee the principles of publicity, transparency, citizen participation, equity gender and merit criteria for their selection.

Whoever has exercised in property any of the positions in the following list, may not be re-elected for the same. He may not be nominated for another of these positions, nor be elected to a popularly elected position, but one year after having ceased to exercise his functions:

Magistrate of the Constitutional Court, of the Supreme Court of Justice, of the Council of State, of the National Commission of Judicial Discipline, Member of the Commission of Aforados, Member of the National Electoral Council, Attorney General of the Nation, Attorney General of the Nation, Defender of the People, Comptroller General of the Republic and National Registrar of Civil Status.

themselves or through an intermediary or on behalf of another. that manage or administer public resources, except for legal exceptions.[20]

Article 128 of the Political Charter also establishes a mode of incompatibility for the simultaneous performance of more than one public job and to receive more than one allocation of public resources.[21] In addition, article 129 of the same constitutional code establishes that public servants may not receive positions, honors and rewards from foreign governments or international organizations, nor enter contracts with them, without prior authorization from the Government.

One of the most far-reaching provisions in the regulation of possible hypotheses of corruption of congressmen in Colombia is article 180 in which the regime of incompatibilities related to their possible influence on the public administration and its resources was established. Likewise, constitutional article 181 states that the incompatibilities of the congressmen will be valid during the respective constitutional period and that in case of resignation they will be maintained during the year following their acceptance, if the period remaining for the expiration of the period is greater. In the same way, said inabilities and incompatibilities extend to those who are called to occupy the positions.[22]

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[20] Article 127. Public servants may not celebrate, by themselves or through an intermediary, or on behalf of another, any contract with public entities or with private persons that manage or administer public resources, except for legal exceptions.

State employees who work in the judicial branch, in electoral, control and security bodies are prohibited from taking part in the activities of parties and movements and in political controversies, without prejudice to freely exercising the right to suffrage. The limitations contemplated in article 219 of the Constitution apply to members of the Public Force in active service.

Employees not contemplated in this prohibition may only participate in said activities and controversies under the conditions indicated by the Statutory Law.

Using employment to pressure citizens to support a political cause or campaign constitutes grounds for misconduct.

[21] Article 128. No one may simultaneously hold more than one public job or receive more than one assignment from the public treasury, or from companies or institutions in which the State has a majority share, except in cases expressly determined by law. Public treasury is understood as that of the Nation, that of the territorial entities and that of the decentralized ones.

[22] Article 180. Congressmen may not:

1. Hold public or private office or employment.

2. Manage, on their own behalf or on behalf of others, matters before public entities or before people who administer taxes, be proxies before them, enter any contract with them, by themselves or through an intermediary. The law establishes exceptions to this provision.

3. Be a member of boards or boards of directors of decentralized official entities of any level or of institutions that administer taxes.

Article 182 established the duty of congressmen to inform the respective Chamber of moral or economic situations that inhibit them from participating in the processing of matters submitted for their consideration and matters related to conflicts of interest and challenges.

Also, as we have seen, article 183 of the Constitution establishes the already announced grounds for Loss of Investiture of congressmen for violation of the disqualifications and incompatibilities regime, or the conflict-of-interest regime or for non-attendance at plenary meetings, due to improper assignment. of public money, for influence peddling or for not taking office within the constitutional terms, which will be decreed by the Council of State in accordance with the law and within a term not exceeding twenty business days, counted from the date of formulation by request of any citizen or the board of directors of the respective chamber. The regime of Direct Criminal Jurisdiction for congressmen is provided for in article 186 of the same Political Charter in which it is said that the crimes committed by congressmen, will be exclusively heard by the Supreme Court of Justice, the only authority that can order their arrest and that in case of flagrante delicto they must be apprehended and placed immediately at the disposal of the same corporation.

In the international arena, cooperation, and commitments in the fight against corruption are the Inter-American Convention Against Corruption adopted and approved by Law 412 of 1997 and the United Nations Convention Against Corruption under the terms of Law 970 of 2005.

On the other hand, we find the provisions of Law 80 of 1993 on public procurement, including measures of transparency and science, Law 190 of 1995 aimed at preserving morality in the Public Administration and eradicating administrative corruption, the aforementioned Anti-Corruption Statute that other provisions are the rules on the duty to inform about the existence of disabilities and contrary to some statements that, from the lack of academic rigor, say that the Statute has not been very useful, the truth is that since its issuance, said standard has been consolidated as a powerful tool that materializes concrete advances in the different fields that it regu-

4. Enter contracts or take steps with natural or legal persons of private law that administer, manage or invest public funds or are contractors of the State or receive donations from it. The acquisition of goods or services that are offered to citizens under equal conditions is excepted.

1st Paragraph The exercise of the university chair is excepted from the regime of incompatibilities.

2nd Paragraph. The official who, in contravention of this article, appoints a congressman for a job or position or enters into a contract with him or accepts that he acts as a manager on his own behalf or on behalf of third parties, will incur a cause of misconduct.

lates. Indeed, the combination of administrative, criminal, disciplinary, fiscal and educational measures and the work of special anti-corruption agencies aimed at better interstate coordination at the national and local levels, as well as greater dialogue between the State and society civil society, have been essential in combating corruption.

Throughout this document, the main advances in the implementation of Law 1474 of 2011 will be presented, seeking to offer state entities and citizens in general a report on the advances, achievements, and challenges of the Statute, from the date of its issuance to the 2016, so that its most relevant aspects are public knowledge. Corruption is a difficult phenomenon to combat, but even so, the Santos Government, during its two terms, has concentrated on expelling this phenomenon from our public and private institutions.

The figure of specialized disciplinary control over magistrates, judges and prosecutors was also introduced in the misnamed Disciplinary Jurisdictional Chamber of the Superior Council of the Judiciary, but the bad treatment given by the jurisprudence of the Constitutional Court to that in three sentences of constitutionality completely dismantled it by reducing it to a corporation with two completely separate chambers and without disciplinary functions over the magistrates of the high courts.

In these matters, I must reiterate my regret and concern because in these weeks of February 2018, two major reforms were introduced into the constitutional text that weaken the so-called Loss of Investiture of Congressmen and the Full, Direct and Complete Criminal Jurisdiction. before the Criminal Chamber of the Supreme Court of Justice, which will make the process more complex.

This challenge formulated against political corruption and against drug trafficking, meant a strong human challenge against the traditional political powers that has not concluded, and that shows balances of different color, mainly negative in terms of political corruption and organized drug trafficking, which have demanded a great effort from the legislative power to incorporate a Single Disciplinary Code in Law 743 of 2002, an anti-corruption statute in Law 1474 of 2011 and other legal reforms to fiscal control procedures.[23]

[23] Many of the regulatory reforms introduced in the Colombian legal system in the development of the fight against corruption have been incorporated and developed in the legal order, as occurs precisely with the so-called Anti-Corruption Statute found in Law 1474 of 2011. At the end of this work, we will make a presentation and summary of the very important contents of it.

4. Certainly in the general balance of the state of affairs of corruption in Colombia and after 26 years of implementation and operation, the profound constitutional transformation of the instruments for the prosecution of crimes and the fight against corruption in its different modalities and scenarios introduced by the National Constituent Assembly, it is found that this is not a resounding and absolute failure as many actors responsible for the institutional fight against corruption in Colombia think. In this balance we find lights and deep shadows, scenarios of achievements, results and positives, and very harsh and astonishing accounts of the new manifestations of the incorrectness of the public servants representing the new parties that have occupied the Presidency of the Republic.

In this sense, this balance coincides with the main spokesmen of the political parties in the electoral contest that is being processed this year, including the last institutional spokesmen of that fight, such as the Comptroller General of the Republic,[24] the General Attorney [25] and the Attorney General of the Nation.[26]

[24] It should be noted that the Office of the Comptroller General of the Republic (CGR) oversees monitoring the fiscal and official management of public resources and the management of the funds and assets of the Nation and of establishing the responsibility that derives from it. In addition, it is their duty to promote before the competent authorities, providing the respective evidence, criminal, or disciplinary investigations against those who have caused damage to the patrimonial interests of the State. In an extraordinary way, the CGR may demand known truth and good faith kept, the immediate suspension of officials while the investigations or the respective criminal or disciplinary processes are completed. It also has normative functions of a regulatory nature since it can dictate general rules to harmonize the fiscal control systems of all public entities of the national and territorial order.

[25] The Office of the General Attorney of the Nation (PGN) is the head of the so-called Public Ministry in Colombia since in this matter it monitors compliance with the Constitution, laws, judicial decisions, and administrative acts, defends the interests of society and mainly exercise superior oversight of pubic officials.

[26] Article 250. The Office of the General Attorney of the Nation is obliged to advance the exercise of criminal action and carry out the investigation of the facts that have the characteristics of a crime that come to its knowledge through a complaint, special request, complaint or ex officio, if there are sufficient reasons and factual circumstances that indicate the possible existence of the same. Consequently, it may not suspend, interrupt, or waive criminal prosecution, except in cases established by law for the application of the principle of opportunity regulated within the framework of the criminal policy of the State, which will be subject to the control of legality by the judge who exercises the functions of control of guarantees. Crimes committed by Members of the Public Force in active service and in relation to the same service are excepted. In the exercise of its functions, the Office of the General Attorney of the Nation must:

1. Request the judge to exercise the functions of control of guarantees, the necessary measures that ensure the appearance of those accused in criminal proceedings, the conservation of evidence and the protection of the community, especially of the victims.

The current reality of such a task must face increasingly dark and harmful realities such as those that occur in territorial administrations, in large administrative, planning, regulation and provision of resources and public services agencies.

The judge who exercises the functions of control of guarantees, may not be, in any case, the judge of knowledge, in those matters in which he has exercised this function. The law may empower the Office of the General Attorney of the Nation to make exceptional arrests; Likewise, the law will set the limits and events in which the capture proceeds. In these cases, the judge who fulfills the guaranteed control function will do so within the following thirty-six (36) hours at the latest.

2. Advance records, raids, seizures, and interceptions of communications. In these events, the judge who exercises the functions of control of guarantees will carry out the respective subsequent control, at the latest within the following thirty-six (36) hours.

3. Ensure the material evidence, guaranteeing the chain of custody while its contradiction is exercised. If additional measures are required that imply an infringement of fundamental rights, the respective authorization must be obtained from the judge who exercises the functions of control of guarantees to proceed.

4. Present an accusation brief before the hearing judge, to start a public, oral trial, with immediacy of the evidence, contradictory, concentrated and with all the guarantees.

5. To request before the judge of knowledge the preclusion of the investigations when according to the provisions of the law there is no merit to accuse.

6. Request before the hearing judge the necessary judicial measures to assist the victims, as well as order the reestablishment of the right and full reparation for those affected by the crime.

7. Ensure the protection of victims, jurors, witnesses and other participants in the criminal process, the law will establish the terms in which the victims may intervene in the criminal process and the restorative justice mechanisms.

8. Direct and coordinate the functions of the judicial police that the National Police and the other organisms indicated by law carry out on a permanent basis.

9. Fulfill the other functions established by law.

The Attorney General and his delegates have jurisdiction throughout the national territory. In the event of presenting a writ of accusation, the Attorney General or his delegates must provide, through the hearing judge, all the evidentiary elements and information of which he is aware, including those that are favorable to the accused.

1. The Office of the General Attorney of the Nation will continue to fulfill the functions contemplated in article 277 of the National Constitution in the new system of inquiry, investigation and criminal trial.

2. To combat terrorism and crimes against public security, and in those places in the national territory where there is no judicial authority that can be resorted to immediately or where access by ordinary judicial police officers is not possible. possible due to exceptional circumstances of public order, the Office of the General Attorney of the Nation will form special Judicial Police units with members of the Armed Forces, which will be under its direction and coordination. For the development of the tasks of this function, the members of the Unit belonging to the military forces will be governed, without exception, by the same principles of responsibility as the other members of the special unit.

In addition, the current reality in the fight against corruption in Colombia has spread to judicial servants in several of whose services and agencies unsuspected corrupt practices have appeared throughout the course of our republican life. Today, for example, outrageous names have been coined about these forms of public corruption, such as the so-called "Cartel de la Toga", public health cartels such as orphan or catastrophic disease cartels.[27]

This commitment led to transformations such as the overcoming of traditional bipartisanship and the rationalization of authoritarian presidentialism founded from its origins in the State of Siege and the Presidential Extraordinary Powers without material or temporal limit.

For this reason, new constituencies or electoral districts were established that were detached from the so-called rotten departmental fiefdoms, such as the Senate with a single national election, the constituencies for ethnic minorities and others such as that of Colombians residing abroad, the popular election of mayors and governors. The figure of the vice president or the so-called presidential formula was also established, elected together with the vice presidency in an absolute majority and in the double round with the absolute prohibition of re-election. Subsequently, serious modifications related to the statute of the parties, their discipline, disabilities, incompatibilities, and ineligibility and causes for loss of investiture have been introduced to the constitutional text of 1991, which now extends to deputies and councilors of the administrative territorial bodies.

IV. The reality of the fight against corruption

1. Administrative corruption today is a constant that varies in intensity and extension from time to time, remains hidden during periods and events and is used for many and varied purposes; in these decades it is one of the issues that occupies a lot of space on the public agendas of the judicial bodies of each State and of the international community, even involving international police agencies. In our continent it has been possible to combat it at levels

[27] In this order of ideas, criminal organizations dedicated to fraud have been discovered public resources destined for social programs of health, education, and agricultural development such as the so-called cartels of Hemophilia, AIDS, recovery treatments for mentally ill, among many others. in which certificates, alleged patients, treatments not applied, among many other corrupt practices, are falsified and adulterated to authorize the payment of billions of pesos to fraudsters, among whom are governors, owners, and administrators of health entities.

of the highest hierarchy of the public, and others that have not been able to overcome the barriers established by state impunity.

However, in many cases it does not necessarily imply the claim of personal enrichment of public servants or their relatives, since it may well imply their modalities aimed at satisfying political needs for governance and institutional stability other than personal or family enrichment and contributing to public peace. or to a balance of forces of various kinds.

There are situations of possible institutional chaos and perverse conditions of political settlement in which the payment of public money flows corresponds to the habitual exercise of perverse modalities of commitments and inter-institutional crossing of them and cases in which political corruption assumes unsuspected modalities in a way that preliminary in which it also serves to buy governability or for illicit purposes related to the maintenance of causes and causes that ensure stability, continuity and non-democratic compensation of a regime.[28]

2. Corruption in Latin America has acquired new and unusual dimensions, and, now in the years that have gone by in the 21st century, it assumes deeply unfortunate modalities as it has also extended to the bleeding of public resources legally appropriated to meet the needs minimum and essential in health, food and basic sanitation of the poorest and most neglected populations.

In the Colombian case, it has been judicially proven that in the 2014 presidential elections many resources were distributed by foreign companies and Colombian businessmen to regional political bosses to illegally finance the expenses of their campaigns and this has not produced criminal or legal consequences. Political and less electoral, despite the fact that it is about delivering economic benefits aimed at obtaining road concessions or higher income from contracts in development or to benefit from future contracts in the event that one of the financed candidates is elected.[29]

3. Electoral campaigns have also been illegally financed with the idea that the elected and financed party grants the financiers new contracts not only at the national level but also at the territorial level. In many cases, kickbacks and bribes have been known to be paid in cash and used to pay for political campaign expenses in situations of urgent need. Their payment is sometimes made in large sums of cash or transfer deposits in the opaque financial regimes in many regions of the planet.

[28] Hernández Gamarra, Antonio, *Control fiscal, funciones de advertencia y lucha contra la corrupción*, Bogotá, Office of the Comptroller General of the Republic, 2006, vol. II.

[29] Coronell, Daniel, *Más allá de cualquier duda*, *Revista Semana*, Bogotá, núm. 1870, March 3, 2018.

4. In Colombia, the old corrupt practices of bureaucratic patrimonial clientelism, contractual bribery, so-called bribes or tangents have increased notably and now include almost all construction contracts, supplies, concessions, adaptations, among many others with figures and unsuspected and unimaginable amounts.

All this made it essential to modify from the Political Constitution the regime of discipline and behavior of the congressmen and establish the regime of benches to put discipline in the line of the candidates for the Barril de los Puercos of the Department of National Planning, of the OCAD, of FONADE and of the hundreds of presidential funds for the administration of the resources of the general systems of royalties and of territorial participations such as the Fund for Adaptation to Climate Change.[30]

5. Corrupt practices have been denounced in the military forces with multiple expressions, such as the sale of healthy blood from soldiers to medical marketers instead of keeping it available in military hospitals. Corrupt practices have also been reported in the purchase of uniforms, boots, vehicles, weapons, submarines, planes and explosives. There have also been convictions against public servants for illegal actions against the magistrates of the Supreme Court of Justice and several journalists known as the wiretaps and surveillance in an extremely perverse form of crime and corruption.[31]

Corruption today is essentially transnational, international and uses all the forms and facilities created by the financial regimes of the countries to hide, launder, clean and throw back into the world of the legality of law, items and sums of money product of the bribery, bribery, extortion, embezzlement, theft and their payments.

6. The new modalities with which public corruption appears among Colombians are now similar to those that appear in the international political concert and in response very serious voices are heard that want to set off the alarms such as the so-called institutional leaders against corruption such as Mr. so-called Comptroller General of the Republic and the so-called Attorney General of the Nation who warn that "...corruption is destroying the State..." and that "...we are already on the brink of the abyss..." well, if a great national agreement to combat it, "...the State as such would be in danger...".

In this sense, it should be noted that despite the immense achievements in these matters, the continuous action of the corrupt apparently and in

[30] Padrón Pardo, Floralba, *El concepto y función de las bancadas: Las transformaciones de la representación política*, Bogotá, Externado University of Colombia, 2015.

[31] Martínez, Julián F., *Chuzada. Ochos años de espionaje y barbarie,* Bogotá, Ediciones B Colombia, 2016.

perception studies and specialized surveys, generates fraud of approximately 40 billion Colombian pesos per year. In this sense, the institutional perception of the Colombian control agencies regarding the possible loss of about 20 percent of the annual national budget, which today amounts to almost 250 billion Colombian pesos, has been recognized and disseminated.

Of course, the struggle of our countries has not been in vain and thousands of cases have been discovered, investigated and sanctioned by our administrative and judicial authorities, as in the cases of Brazil. In this matter, Colombia is very similar to Brazil, Peru and Mexico and the bribes for the award of concessions and construction contracts, among others, are very similar in modalities and amounts. In these countries, the etiology of crime against public resources is similar and its causes are not different.

Now, that is a living, vigorous phenomenon, it reproduces like the snakes and scales of the Gorgon Medusa condemned by the enraged goddess Athena and there does not seem to be a Perseus to decapitate her, but in the institutional war against her she has been able to sever dozens of harmful extensions.

7. By way of initial reflections related to the current situation of the institutional fight against corruption in Colombia, we find that corruption as a social phenomenon of economic and political importance has been radically transformed and has achieved and allowed the incorporation of sophisticated tools and resources from the point of view of from a technical and political point of view, as well as from the point of view of regulations and the doctrine of criminal law, which make it more efficient, effective and in some cases more forceful but in any case insufficient to defeat in an important way. In summary, of the known regulatory developments, it is worth highlighting the issuance of the aforementioned Anti-Corruption Statute in Law 1474 of 2011, whose main regulations contain, in summary, several extremely important devices that we will see later.

8. As we have seen, the so-called Single Disciplinary Code was also issued through Law 734 of 2002, which serves to investigate and sanction public servants from the disciplinary and correctional point of view with functions contrary to the Inter-American Convention on Human Rights and which has been applied for political and ideological purposes as in the case of the Mayor of Bogotá Gustavo Petro Urrego among many others.

Thus, Colombian institutions have now been endowed with very important rules, procedures and vigorous, innovative and powerful organisms in the fight against political, administrative, financial and private corruption like never before in national life, and its constitutional and Laws are examined with great interest by the democratic regimes of Latin America

as an example of the commitment of the legal regime and the main political actors and the current constitutional system to overcome the serious defects created by corruption and the mafias and cartels of politicians and criminals. to appropriate public resources and political institutions that they bleed and squeeze in favor of their private coffers.

9. Given the permanent challenges of the different actors of corruption and the relative successes of the methodologies used in the Colombian State against their criminal actions, it has been necessary to constantly innovate with efficient institutions and go beyond certain traditional procedural guarantees that have produced good results but that were insufficient and that have failed in some cases for several years, since the practices of corruption, as we said, have permeated the political regime from the highest structures of power, beginning with the office of the Presidency of the Republic and the main departments of the national administration, which has been intensely replicated at the territorial level.

Edgardo Maya Villazón responsible for overseeing the fiscal management of public resources, even after four years of important service as Comptroller General of the Republic, eight years as head of the Attorney General's Office, and eight years as magistrate responsible for monitoring and sanctioning the disciplinary conduct of prosecutors, judges, and magistrates of the judiciary, warns that the evil of corruption has spread so much that:

> Corruption in Colombia can no longer be seen from the point of view that it is a conjunctural fact, but that it is a phenomenon that is in the structure not only of the State but of society in all its immensity and is causing great damage to the opinion. I, as comptroller and with my experience as attorney general for eight years and as a magistrate for another eight, have seen that the film repeats itself, but every day the dimension is greater and that "...the strongest party in Colombia is the hiring party…".

For the Comptroller General of the Republic that the costs of political campaigns have led the country to finance them with public resources of corrupt origin and from there arises the strongest party that exists in Colombia today, which is the party of the contractors, since they are the ones who end up financing these campaigns, since the money invested is later "recovered".

10. In our country there are specific cases of mega corruption such as the higher costs of the Cartagena Reficar Refinery, which was contracted for 3,960 million pesos and cost 8,000 million, and the La Línea tunnel,

which is contracted for 600,000 million pesos, and until today it has an investment of 2 billion pesos, and it is estimated that another billion is missing to finish it. Other acts of corruption of great dimensions are also denounced in the so-called Ruta del Sol in several of its sections. In the same way, other processes of notable corruption are denounced in Colombia in different lines of spending and distribution of public resources, especially in health, in school meals, in education, in general infrastructure, also at the departmental and municipal level.

Many of the opinion makers in our country maintain that in Colombia there are high levels of hopelessness during the electoral political process, which can lead to a massive reaction from society and that some illegitimate actors can capitalize on it. However, corruption is not attributable solely to the public sector and only its agents; they do not act alone and need the assistance of private sector agents in various expressions of co-authorship, complicity or cover-up.

11. In addition to the important institutions that were incorporated into the Constitution in 1991 and that we have just mentioned, very effective citizen oversight bodies have been developed and have proven that control bodies by themselves do not put an end to corruption. These began as a legal development from the Comptroller General of the Republic during the administration of Carlos Ossa Escobar and has been one of the great national political transformations based on participatory fiscal control and citizen participation.

In addition, only with the construction of public policies based on citizen control, with specialized citizen oversight and with the promotion of public complaints supporting the comptrollers, the Prosecutor's Office and the Attorney General's Office have achieved very important actions of persecution and punishment of the corrupt.

In summary, it is possible that a great national agreement against corruption is needed as a result of a State policy as the greatest political bet in combating it in all legal ways, since corruption has dimensions unimaginable in 1991, but said agreement must be celebrated outside of the circle of power and its hegemonic bloc that today carries the greatest discredit in national history.

In my opinion, I do not believe that the State is in danger due to the modifications and new forms of corruption, and I do not believe that we are on the verge of the abyss if corruption is not eliminated, least of all when we have carried out such a task of institutional adjustment and have managed to discover a good part of newly minted corrupt practices.

12. Corruption does not destroy the State but rather allows other corrupt actors to displace the actors of the regime and so on, as has been the history of humanity since the State existed. Neither is Colombian society destroyed by the cases of hemophilia, health, infrastructure, the environment, or education, since what scandals generate due to the acts of corruption discovered is the discredit of society and its leaders and can provoke substitutions of elites and of the blocs in power and the social backwardness that causes so much pain.

On the other hand, the accusatory criminal system and oral and public trials that were set up, and especially the issue of criminal justice for the purpose of effectiveness and efficiency in the prosecution of crime, sponsors denunciation, collaboration, submission, acceptance advance charges and serves to dismantle criminal gangs.

In Colombia, new tremendously unfortunate corrupt practices are now being prosecuted against public resources, such as that of the so-called hemophilia, AIDS, rehabilitation and therapy cartels for people with disabilities, the elderly and abandoned people, school feeding among many others, which supposes a long chain of private actors involved that include the health sector attended by private companies that certify non-existent procedures, supplies not made and exaggerated and unheard of costs of medicines, incapacities, very high exams unrealized cost.[32]

Corruption of a new kind also has expressions such as the recognition of non-existent students, of deceased members of health systems who receive high-cost treatments and procedures paid for by the public administration. Cases of labor rights and pensions to teachers without requirements, even forced by judicial means of amparo to include clans and groups of judges and judicial officials immersed in these corrupt practices to bleed public resources in the long term.

13. The new modalities of corruption of public resources are growing beyond the minimum traditional limits of human correction and in a certain way, in some countries like Colombia, they threaten to defeat the minimum rules of legitimacy that are expected of democratic and republican governments.

In a large part of the acts of corruption, it has been found that they serve to remunerate the barons and the electoral captains and to cover the immense costs of the electoral campaigns in our country. These costs are

[32] In the fiscal audits carried out on the so-called health cartels and only with the issue of hemophilia, it is stated that corruption cost the State 54,000 million pesos when none of the alleged patients was sick and even though they appeared with certificates that they were false.

unpayable with legitimate resources given that, in addition, the presidency and vice-presidency are elected by the double-round method, the Senate is elected in national constituencies and the campaigns of thousands of local mayors, municipal councilors, deputies must be financed. departmental, more than one thousand two hundred mayors, 37 governors, 102 senators, 165 representatives to the chamber, president, and vice president of the republic in two rounds. In most of the elections, immemorial acts of vote-buying and irredentist clienteles have been detected that persist in a virulent and irrepressible way in conditions of poverty and human and social inequality.

Today it is argued that in the 2018 general elections in Colombia there will be an electoral collapse of the political regime that would seriously overturn the historic fight against impunity in political and administrative corruption and that would lead new actors to their public destinies in the next general election.

14. On the other hand, the increase in the availability of fiscal resources and public spending in our States has occurred in the last three decades thanks to the relative economic growth of almost all our countries and the application of provisions and measures of neoliberal origin. and openness, creators of immense private wealth and the public capitalization of state resources, which allows the public treasury to assume very large commitments in terms of infrastructure and in social matters typical of the social state and the social market economy.

In addition, this increase in the availability of fiscal resources is potentialized in terms of favoring the establishment of acts of public corruption due to the consequent capacity to arbitrate resources, not only monetary but also legal, such as permits and concessions for roads, ports, airports, tolls, dredging, with the creation of free zones, with the establishment of tax exemptions, with the granting of permits, licenses, authorizations, economic incentives, subsidies, fees and other benefits of state origin.

All of this is also a product of the globalization of the markets with free trade agreements, with economic tightening and from the relaxation of almost all commercial borders in our states.

This availability of resources is also due to the growing globalization of capital and the credit capacities of the Latin American States, as well as the mining and extractive wealth of almost all of them, mainly Brazil, Venezuela, Chile and Mexico. For example, in recent years in Colombia, public spending represents close to 28 percent of the Gross Domestic Product (GDP) and a good part of it ends up in the hands of the corrupt and

private individuals who benefit from the alteration or disregard of criminal and contractual applicable rules to state businesses.

All this has transferred the rules of the old democratic governance to the new scenarios of corrupt and patrimonial governance that generate flows of resources to sustain electoral campaigns and to enrich the popular representatives who have been assigned the direction of the public entity.

In Colombia, the constitution was modified to create governance bodies known as OCAD, and dozens of presidential and governmental funds were created in charge of receiving and managing with the Governors, Mayors, senators, representatives and ministers the destination of public funds in public works. and in contracts oriented and defined largely through bribes paid by the contractors appointed from those constitutional scenarios of Governance.[33]

De otra parte, en las instancias del Congreso de la República, las comisiones encargadas de hacer control político a los jefes superiores de la administración logran grandes beneficios de las empresas contratistas si promueven sus necesidades contractuales y orientan la gestión gubernamental a favor de las empresas de quienes reciben sumas millonarias en dólares como sobornos.

This can be seen in several countries, such as in the cases of Brazil, Colombia, Argentina, and Peru, where in order to ensure the stability of governments, public administrations at all levels are patrimonialized and actors are assured monthly or weekly flows of resources from the administrative entities distributed among the politicians who support a management or sit at the famous tables of national unity or local government. In Colombia, as we will see, these figures are called the indicative quotas, the jam and the flow.

The increase in indebtedness of all our states supposes large amounts of resources for investment in infrastructure works and for the operation of public entities, it has generated an immense number of opportunities to manage and administer public spending at almost all levels of state administrations.

We no longer find among us demagogic or military governments like those that ruled the region for two thirds of the 20th century, but the new progressive, anti-progressive or authoritarian populism of pseudo-lefts like the self-styled socialist revolutions of the 21st century, which have enthroned

[33] Ortiz, Julio César, *La importancia de la Constitución económica y la destrucción paulatina de la Constitución Política*, *Memory of the XII Ibero-American Congress of Constitutional Law*, Bogotá, Ibero-American Institute of Constitutional Law-Externado University of Colombia, 2016.

themselves among us, despite the fact that they are scarce and isolated, especially in the painful Venezuelan affair that does not yield to the validity of the law and reproduces and strengthens a constitutional, demagogic and mafia authoritarianism, they do a lot of damage to the legitimacy of the democratic and republican institutions and sustainable human and social development.

In this order of things, the collapse of the credibility of our political regimes in the region, allows us to find that in the case of Colombia, half of the nationals do not believe in the institutions, that only one in five people identifies with a party or political movement and that one in three people believes that voting is useless.[34]

V. Constitution and legal reforms

1. As we saw earlier, in the original version of the 1991 Constitution, the old Colombian institutions of the so-called fiscal control headed by the Comptroller General of the Republic (CGR) and the so-called Public Ministry, which is a kind of of non-criminal administrative and disciplinary authority, entrusting it to the Attorney General's Office (PGR), endowing them with unusual and strong powers of investigation and sanction, including over elected officials, that is, mayors, governors, senators, representatives to the Chamber, deputies, councilors and against individuals responsible for managing public resources such as directors and administrators of companies that promote and provide health services, as in the well-known case of the cooperative EPS SALUDCOOP.

In recent years we have found serious objections from the perspective of constitutional doctrine and Administrative Law to the functions of the two control entities, since they have been dedicated to examining the conduct of public servants and individuals who manage public resources. based on punitive readings of the principles of the public function and the so-called Single Disciplinary Code without substantiating them in the existence of devices typifying behaviors, which constitutes a path of authoritarianism and administrative persecution of political opponents as occurred in the case of Gustavo Petro Urrego in the Office of the Attorney General of the Nation, or in the case of the directors of SALUDCOOP in the Office of the Comptroller General of the Republic. In the same way, in Colombia, the exorbitant powers of the presidential superintendencies of Industry and

[34] "Los Peligros de la Indignación", *Revista Semana*, núm. 1870, March 3, 2018.

Commerce, Finance, Health, Public Services are questioned, which have generated true economic, financial, human capital disasters and a possible political and property persecution of the adversaries or dissidents of the regime.

Indeed, a good part of the sanctions imposed on public officials for disciplinary reasons are made by framing them in abstract principles with constructions lacking typification and precision in a kind of co-government by different concepts and opinions on public policies, in clear deterioration of their scientific legitimacy. and closer to the personal politics of the Attorney General and the Comptroller General. And a good part of the sanctions of fiscal control are based on accounting speculations and unfounded projections on the management of public resources or on the consequences of the management of private resources on the rights of the public or of consumers under the figures of the power of inspection, control, surveillance, intervention, and liquidation sheltered under the judicial powers that may exceptionally be exercised by the entities called superintendencies.

New organs and judicial bodies were also created, especially endowed with resources, and specialized functions in the prosecution of crimes related to the corruption of public servants and state agents, including judges, prosecutors, and lawyers, such as the now defunct Disciplinary Jurisdictional Chamber of the Council. Superior of the Judiciary and the Attorney General of the Nation (FGN).

In 1991 it was also established, as we have stated above, the creation of vigorous and very effective procedures such as the citizen action for loss of investiture and the indirect criminal jurisdiction of the same high judicial corporation on the highest national public servants.

There are other innovative institutions among us that have not been properly put into operation, such as summonses and hearings before the investigation and instruction commissions of the chambers of the Congress of the Republic introduced in article 137 of the Constitution, which can ask questions of any natural person. Or legal on matters of interest to those committees.[35]

[35] Article 137. Any permanent commission may summon any natural or legal person so that in a special session they render oral or written statements, which may be required under oath, on the facts directly related to the investigations carried out by the commission.

If those who have been summoned excuse themselves from attending and the commission insists on calling them, the Constitutional Court, after hearing them, will decide on the matter within a period of ten days, under strict confidentiality. The reluctance of those cited to appear or to render the required statements will be sanctioned by the commission with the penalty indicated by the regulations in force for cases of contempt of the authorities.

Likewise, the functions of inspection, surveillance and control of the presidential superintendencies were strengthened, and they were endowed with administrative and exceptionally jurisdictional sanctioning powers developed especially in cases of free economic competition, and ethical behavior in the financial and public services sectors. There are several doctrinal and dogmatic objections to these functions, since delicate interferences from the executive power are filtered into them and because the judicial function exceptionally granted to those servants of the executive power is distorted.

The main institutions introduced to the Colombian constitutional order in this fight against corruption were put into full operation and gave very important fruits and significant results, highly profitable with data such as that of more than one thousand five hundred sanctioned mayors, hundreds of convicted congressmen, thousands of councilors and prosecuted and convicted deputies. The seriousness of this situation is that a large part of it was imposed based on the doctrine of open and incomplete disciplinary types and is reduced to the discretionary expansion of the substantial assumptions of the sanctioning devices to sanction political opponents as I have just summarized above.

Similarly, in the development of its powers, several thousand individuals and hundreds of legal entities dedicated to the illicit appropriation of public resources have also been affected, and in a certain way with its results, Colombia ceased to be at the gates of the abyss, because it came to be considered as a failed state in which all forms of criminal corruption were combined, beginning with that generated by groups of powerful drug traffickers infiltrated in society in general and in politics in particular.[36]

The quantitative balances in this first quarter of centuries of constitutional life in this fight arranged by the designs of the National Constituent Assembly, are very favorable to the public entities created and reformed by the Political Charter, but also in these years the citizen perception and the figures of possible damage to public property are once again cata-

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If, in the development of the investigation, the intervention of other authorities is required, for its improvement, or for the prosecution of possible criminal offenders, they will be exhorted for what is pertinent".

[36] In a kind of balance on this matter, it is possible to point out in this sense that thanks to the constitutional institutions and its legal developments, Colombia is the country that can show the most positive results in the fight against corruption of its public servants and their class. politics and against drug trafficking and its effects on political activity and public and private finances. In any case, impunity covers some sensitive segments of the economy and of national and local politics.

strophic and pessimistic as expressed by the General Comptroller of the Republic.[37]

It is also true that there is a perception of the existence of clienteles and clientelist commitments with senators and with representatives to the chamber in the two control bodies and of the magistrates of the courts in the Attorney General's Office, however public agents they are. who participate in the election of the three main actors in the drama of the fight against corruption and crime in Colombia.

2. During the twenty-seven years of life of the 1991 Constitution, the so-called control bodies such as the Office of the Comptroller General of the Republic (CGR) and the Office of the Attorney General of the Nation (PGN) as well as the judicial bodies such as the Office of the Attorney General of the Nation (FGN) have produced major results in the fight against corruption in hundreds of cases decided against public servants and individuals who administer official resources or those affected by public service, such as mayors, governors, councilors and deputies, and managers or presidents of public entities on the one hand and senators and representatives on the other. To a large extent, these successful actions in cases of fighting corruption have been the product of the actions of the authorities in charge of the direction of the Office of the Comptroller General of the Republic and the Office of the Attorney General of the Nation with the collaboration of the citizen oversight office In a kind of balance on this matter, it is possible to point out in this sense that thanks to the constitutional institutions and its legal developments, Colombia is the country that can show the most positive results in the fight against corruption of its public servants and their class. Politics and against drug trafficking and its effects on political activity and public and private finances. In any case, impunity covers some sensitive segments of the economy and of national and local politics and the their participation in specialized complaints.

In the same way we find in recent years new forms of administrative and political corruption with the configuration of cartels and practices of looting public resources disguised as attention to social rights to health such as the payment of expensive treatments for AIDS patients. or hemophilia and rehabilitation of people with disability problems, among others, and in the subsidy and attention programs for children's food. There are notable

[37] We deal with several of those reforms throughout this paper, especially those related to political corruption, paramilitarism and crimes against humanity in the life of our society and party discipline, especially those related to the effects of criminal proceedings in the so-called Empty Chair.

cases of corruption with the payment of commissions for the award of public works and the creation of dirty flows of resources to benefit political representatives who are nourished by resources from public or official companies and to ensure governability in the different sectors of governments and state administrations.

VI. A recent perspective of Colombia

1. As noted in the study published by the group of lawyers of the political campaign of the so-called Colombia Humana, in the year 2000, several of the senators of the left-wing caucus in the Congress of the Republic, headed by the current candidate President of that group, Gustavo Petro Urrego, held a debate on the parliamentary assistance allegedly prohibited by article 136, number 4. of the Political Constitution of 1991 and found that they had allegedly been revived "clandestinely" by the government of conservative President Andrés Pastrana Arango amid the ideas of seeking peace with the FARC from 1998 to 2004 and the creation of the demilitarized zone, being its finance minister the current President of the Republic Juan Manuel Santos.

2. In the investigation, they found from the list of beneficiary congressmen, dozens of them who distinguished themselves with secret codes to ensure the delivery of hundreds of billions of pesos from the public treasury through quotas that were established in exchange for their favorable vote. to government policies, which in their opinion would configure what they have understood as one of the greatest acts of corruption in Colombia and they identified the names of the main beneficiaries of said practice and denounced that the public entity that distributed the aid was the then Minister of tax authorities. Many of them ended up linked to a new party that would serve as the structure for the election and re-election of Álvaro Uribe Vélez and the election and re-election of Juan Manuel Santos called the National Unity Party. Most of them joined the so-called tables of national unity or were part of another new party linked to the two governments of President Santos called Cambio Radical.

The Colombian press echoed these complaints and the debates but apparently did not delve into it since the investigation was archived by the Attorney General of the Nation on one side, while the investigation by the Comptroller General of the Republic was extinguished. and the press did not mention them again.

3. At the end of the debate in the Congress of the Republic, the geographical locations of the hundreds of projects indicated by the congress-

men were shown, and they were called "indicative quotas" that were financed with public resources and that were mostly the construction of small sanitary works, which were never actually built and were in areas under paramilitary control.

From there came another investigation on the articulation between the Colombian political class and the paramilitary drug trafficker who intended to win local and departmental elections and take over public administrations to control all appointments and appropriate official resources to finance their national and personal enrichment project.

This investigation showed that the financing mechanism of paramilitarism with public resources was based on a strong alliance between local political mafias and the most important national political actors in the heart of the Colombian political establishment.

In said study, it is argued that many of those congressmen had become rich with cheap land that the peasants sold after each paramilitary massacre and that they later bought to deliver to their bosses and to sell so that part of the profits would go to other paramilitary bosses and part to the pockets of the politicians of their regions.

Thus, the business of cheap land resold at high prices was established thanks to the paramilitary terror of many local politicians, powerful businessmen and some high-ranking public dignitaries. According to the aforementioned study, the mechanism of rent capture thanks to terror explains why the largest displacement in the world of millions of people evicted from their lands and towns and led to poverty and misery as victims of violence in the cities of the country.[38]

In addition, during the first decade of the 21st century, several debates were held to demonstrate the links of the local political class with drug-trafficking paramilitaries, without major consequences in the face of the massacres and their perpetrators.[39] The Supreme Court of Justice at the time recognized them as successful judicial processes and expanded the investigation to the entire country and dozens of senators and local politicians went to jail, but not their bosses. Those were no longer Pastranistas, they had become Uribistas like most of the national and local political class.

The castes began to fall into prison and continued their partners in the development of politics to the point that many of them had to put their trusted men and women in their place in what was called politics in a

[38] López Hernández, Claudia, *op. cit.*

[39] Serrano, Alfredo, *La multinacional del crimen*, vol. II, *La tenebrosa oficina de Envigado*, Bogotá, Random House Mondadori-Debate, 2010.

foreign body, that is to say, the relatives of the person sentenced by the Supreme Court of Colombian Justice.

The debates and judicial processes of the Supreme Court of Justice effectively demonstrated that local power in Colombia, where the majority of the electorate is located, was built on the basis of a strong alliance between the local political class and paramilitary drug traffickers and that this was linked to Colombian central power.

On the other hand, in 2010, the same senators and representatives carried out the report on the contracting of public resources in Bogotá, revealing the so-called Cartel or "Recruitment Carousel" and with their own names they showed how a series of construction conglomerates operated. converted into large contractors of the State and other large foreign companies today committed to the crime of corruption. From these investigations, the mayor of the city of Bogotá, his brother and several dozen councilors and contractors were sentenced to several dozen years in prison.

It was concluded that the large contractors were pyramids financed with the treasury and that they could only grow and sustain themselves with the payment of large bribes that left financial gaps in the projects they built and that could only be filled with new larger contracts that in turn they were only obtained with larger payments of bribes and so on. Several conglomerates fell into the hands of justice like a house of cards and as they were not beneficiaries of the most important public works, the others also fell for the same reason.

In the aforementioned study, it is claimed that what was discovered in Bogotá served to persecute only one of the groups of contractors and not to investigate and punish the other large criminal consortiums also denounced and despite showing that they operated as companies with bribes. Today they warn that the Attorney General's Office not only negotiated the indictment versions but also the silence of other public actors of corruption.

The aforementioned former senators who have changed parties according to the changes of presidents, have been the intermediaries and figureheads of the bribes paid by other groups of contractors and their recipients have also been congressmen and officials from the government environment to achieve the extension of contracts. delivered under corrupt formulas by finger with the richest groups in Colombia, which in his opinion shows that the coalition between local political mafias and the establishment is present unceremoniously.

In the aforementioned study it is affirmed that the political power of Colombia functions as an alliance between the establishment, a closed and hereditary circle of owners of the economy, the media and the central State,

with the local political mafias linked to drug trafficking and paramilitarism and that that alliance allows its governability.

In his opinion, without it they could not win elections, since the establishment does not exercise any leadership over the citizenry, it is not legitimate, and since the local political class is an expert in obtaining votes by buying them since one and the other configure political power. of the country, and its cost is that the alliance is only maintained if the theft of the public treasury is allowed, since corruption is its cement.

The contractors became owners of politics and the press and the agents of traditional politics will be sacrificed one by one in their political aspirations in a kind of relentless demolition of the new barons of national politics, reaching the point of infiltrating servers of the National General Attorney's Office and the General Attorney's Office.

VII. Conclusions

The Political Constitution of 1991 introduced a very important series of normative dispositions that deal with the discipline of the official conduct of public servants and the fiscal control of the management and disposition of public resources, in any case directly related to the struggle against administrative and political corruption.

In the Colombian State, many other tools have been adopted in accordance with the Anti-Corruption Statute to advance in the prevention and fight against corruption, such as the Anti-Procedures Decree Law of 2011, the Law of Transparency and Access to National Public Information issued in 2014, the Anti-Smuggling Law of 2015, the Statutory Law of Citizen Participation of 2015, the Regulatory Decree of the General Law of Archives also of 2015, the so-called Anti-Bribery Law of 2016, the decree that regulates the category of people exposed politically 2016 of , the decree that regulates the appointment process by meritocracy of the members of the National Citizen Commission to Fight Corruption 2016, and the decree that reforms the appointment for fixed periods of four years of some superintendents of 2016.

By way of conclusions related to the current situation of the institutional fight against corruption in Colombia, we find that corruption as a social phenomenon of economic and political importance has been radically transformed and has achieved and allowed the incorporation of sophisticated tools and resources from the point of view of technical point of view, as well as from the point of view of the regulations and the doctrine of

criminal law, which make it more efficient, effective and in some cases more forceful but in any case insufficient to defeat it in a significant way.

As we have seen, the so-called Single Disciplinary Code was also issued through Law 734 of 2002, which serves to investigate and punish public servants from a disciplinary and correctional point of view with functions contrary to the Inter-American Convention on Human Rights and which has been applied for political and ideological purposes as in the case of the Mayor of Bogotá Gustavo Petro Urrego among many others.

As we have seen throughout this work, Colombian institutions have now been endowed with very important rules, procedures, and vigorous, innovative and powerful organisms in the fight against political, administrative, financial and private corruption like never before in life. and its constitutional and legal institutions are examined with great interest by the democratic regimes of Latin America as an example of the commitment of the legal regime and of the main political actors and the current constitutional system to overcome the serious defects created by corruption and mafias and cartels of politicians and common criminals to appropriate public resources and political institutions that they bleed and squeeze in favor of their private coffers.

Given the permanent challenges of the different actors of corruption and the relative successes of the methodologies used in the Colombian State against their criminal actions, it has been necessary to constantly innovate with efficient institutions and go beyond certain traditional procedural guarantees that have produced good results but that were insufficient and that have failed in some cases for several years, since the practices of corruption, as we said, have permeated the political regime from the highest structures of power, beginning with the office of the Presidency of the Republic and the main departments of the national administration, which has been intensely replicated at the territorial level.

Edgardo Maya Villazón responsible for overseeing the fiscal management of public resources, even after four years of important service as Comptroller General of the Republic, eight years as head of the Attorney General's Office, and eight years as magistrate responsible for monitoring and sanctioning the disciplinary conduct of prosecutors, judges and magistrates of the judiciary, warns that the evil of corruption has spread so much that:

> Corruption in Colombia can no longer be seen from the point of view that it is a conjunctural fact, but that it is a phenomenon that is in the structure not only of the State but of society in all its immensity and is causing great

> damage to the opinion. I, as comptroller and with my experience as attorney general for eight years and as a magistrate for another eight, have seen that the film repeats itself, but every day the dimension is greater" and that "...the strongest party in Colombia is the hiring party…

We agree with the current Comptroller General of the Republic that the costs of political campaigns have led the country to finance them with public resources of corrupt origin and from there arises the strongest party that exists in Colombia today, which is the party of the contractors, since they are the ones who end up financing these campaigns, since the money invested is "recovered" later.

In our country there are specific cases of mega corruption such as the higher costs of the Cartagena Reficar Refinery, which was contracted for 3,960 million pesos and cost 8,000 million, and the La Línea tunnel, which is contracted for 600,000 million pesos, and until today it has an investment of 2 billion pesos, and it is estimated that one billion more is missing to finish it.

Other acts of corruption of great dimensions are also denounced in the so-called Ruta del Sol in several of its sections. In the same way, other processes of notable corruption are denounced in Colombia in different lines of spending and distribution of public resources, especially in health, in school meals, in education, in general infrastructure, also at the departmental and municipal level.

Many of the opinion makers in our country maintain that in Colombia there are high levels of hopelessness during the electoral political process, which can lead to a massive reaction from society and that some illegitimate actors can capitalize on it. However, corruption is not attributable solely to the public sector and only its agents; they do not act alone and need the assistance of private sector agents in various expressions of co-authorship, complicity or cover-up. In any case, it is possible that it becomes entrenched in social groups as a serious addictive pathology that seems insurmountable.

In Colombia, in addition to the important institutions that were incorporated into the Constitution in 1991 and that we have just mentioned, very effective citizen oversight bodies have been developed and have proven that the control bodies by themselves do not put an end to corruption. These began as a legal development from the Comptroller General of the Republic during the administration of Carlos Ossa Escobar and has been one of the great national political transformations based on participatory fiscal control and citizen participation.

In addition, only with the construction of public policies based on citizen control, with specialized citizen oversight and with the promotion of public complaints supporting the comptrollers, the Prosecutor's Office and the Attorney General's Office have achieved very important actions of persecution and punishment of the corrupt.

In summary, it is possible that a great national agreement against corruption is needed as a result of a State policy as the greatest political commitment to combat it in all the indispensable legal forms within the framework of the rule of law and republican democracy, since corruption Today it has dimensions unimaginable in 1991, but said agreement must be celebrated outside the circle of power and its hegemonic bloc, which today carries the greatest discredit in national history.

In my opinion, I do not believe that the State is in danger due to the modifications and new forms of corruption, and I do not believe that we are on the verge of the abyss if corruption is not eliminated, least of all when we have carried out such a task of institutional adjustment and have managed to discover a good part of newly minted corrupt practices.

Corruption does not destroy the State but rather allows other corrupt actors to displace the actors of the regime and so on, as has been the history of humanity since the State existed. Nor is Colombian society destroyed by the cases of hemophilia, health, infrastructure, school feeding, Land and Land Management Plans, construction licenses, the environment, education, since What the scandals generate due to the acts of corruption discovered is the discredit of society and its leaders and can cause the substitution of elites and the blocs in power and the social backwardness that causes so much pain.

At certain moments in the history of the corruption of peoples, such as the one we are experiencing in Latin America today, we can say that corruption operates as a pathological addiction without control and produces subjects dependent on the risks it entails and the perverse benefits it satisfies.