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The corrupt catch of the state as multidimensional damage to human rights

La captura corrupta del estado como daño multidimensional a los derechos humanos

ALEJANDRO SANABRIA RODELO ^{1*}

¹ Universidad Externado de Colombia (Bogotá D.C, Colombia)

sanabria.rodello@gmail.com

<https://orcid.org/0000-0001-7716-0940>

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RESUMEN:

Este artículo se refiere a los tres problemas principales del estudio de la corrupción desde un enfoque de derechos humanos. Así, en primer lugar, se pretende comprender la magnitud de los efectos nocivos de la corrupción en la administración pública y la captura corrupta del Estado, clasificándola en sus diferentes dimensiones a lo largo del tiempo y su impacto en la Sociedad; en segundo lugar, se tiene por pretensión, construir la relación de estos daños con la violación contra los derechos humanos, y en tercer lugar, se busca fundamentar la responsabilidad del estado que trae dentro del espectro de la responsabilidad subjetiva y específicamente, la falla del servicio.

Palabras clave: corrupción; responsabilidad del estado; captura corrupta; derechos humanos; daños; víctimas.

ABSTRACT:

This article emphasizes the three main problems of the corruption study from a human rights approach. Therefore, in the first place, it wants to understand the magnitude of the corruption harmful effects in the public administration and the corrupt capture of the State, classifying its different dimensions over the time and its coverage in the society, secondly, it wants to build the relationship of these damages with violation against human rights, and thirdly, it wants to support the State Liability that it brings within the spectrum of subjective liability and specifically, the failure of the service.

Keywords: corruption; state liability; corrupt catch; human rights; damage; victims.

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* Graduate of the Law School of the Universidad Externado de Colombia (Bogotá D.C, Colombia), participant in the research group of the UNESCO Chair at the same university. E-mail: sanabria.rodello@gmail.com.



CONTENTS:

1. Introduction; **2.** The corrupt capture of the State as a failure of public administration; **2.1.** Corruption of the public administration; **2.2.** Corrupt capture of the State and co-opted reconfiguration; **3.** Corruption in violation of human rights; **3.1.** The classical damages of corruption in public administration: the relative and occasional dimension; **3.2.** Damages resulting from the capture of the State: the generalized and systematic dimension; **3.3.** State capture as a systematic violation of human rights; **4.** Foundations of the liability of the State for corruption in violation of human rights; **4.1.** The causal relationship between corruption and State responsibility; **4.2.** State liability for the acts of its agents or institutions; **5.** Conclusions; References.

1. INTRODUCTION

The public administration is endowed with a great number of powers and duties to comply with the guidelines and principles of the State. In the exercise of these powers, undoubtedly the greed to acquire personal benefits has been interposed, which breaks with the fundamental values of the human being since he lives in society, leaving aside the general interest and the spirit of joint creation of community to acquire inequitable forms of wealth and power.

Thus, corruption is perhaps one of the most abstract and real concepts with which we try to explain the deficiency of governments in the fulfillment of the purposes of Public Administration. However, in several cases, corruption has transcended to a capture of the structure of states in which its effects permeate the entire society. This capture is particularly harmful since, as the rules are permanent in nature, their consequences will be long term and their coverage is incalculable.¹

This phenomenon has had a major impact on trust in public institutions, which is almost non-existent in Latin American countries. This has been identified by the Latino-barometro demonstrating the great distrust in the different institutions of Latin American States, in this way, in the judiciary distrust in judicial bodies was found at around 33%, for its part distrust in the congress was found at 28%, and in political parties at 19%. Similarly, the survey found that 13% of the subjects surveyed expressed: "distrust in all persons and institutions, a pattern that is accentuated among people of indigeneous origin -even more so among women than men and the poorest."²

¹ GARAY, Luis Jorge. et al (Ed.). **La Captura y Reconfiguración Cooptada del Estado en Colombia**. Bogotá D.C: Grupo Método, 2008. 118 p.

² LATINOBARÓMETRO. **LA CONFIANZA EN AMÉRICA LATINA 1995 – 2015: 20 años de opinión pública latinoamericana**. Santiago de Chile: Corporación Latinbarómetro, 2015. Available in: <<http://www.latinobarometro.org/lat.jsp>>. Access in: 23 May 2018.



In this way, three different aspects stand out that in my opinion have greater magnitude for the study of this problematic phenomenon. The first is the possible magnitude of the harmful effects of corruption in public administration and corrupt capture of the State; the second refers to the relationship of these damages with real violations of human rights; and the last has to do with the possible responsibility of the State for these damages resulting from its corrupt actions or corrupt capture. Therefore, in the following dissertation I will demonstrate how corrupt capture of the State is a multidimensional harm to human rights and what grounds exist within the philosophy of responsibility to hold the State accountable for them.

Accordingly, the objectives of this article are, first, to identify the complexity and scope of corruption in public administration and corrupt capture of the State, second, to recognize the multidimensionality of the harm to human rights that comprises corrupt capture of the State, and finally, to establish the grounds for the duty to make reparations. For this dissertation, I will address the doctrine and jurisprudence concerning the analysis of the categories of public administration, corruption, human rights and philosophy of responsibility.

2. THE CORRUPT CAPTURE OF THE STATE AS A FAILURE OF PUBLIC ADMINISTRATION

Corruption in governmental actions has been the chain that binds the citizens of different countries and societies. They suffer the difficulty of overcoming the conditions of vulnerability of their people and prevent them from moving towards the progressiveness of their rights. This scourge has been seen to a greater extent in “developing” countries or countries with social and economic problems that require greater attention.³ The phenomenon of corruption creates widespread distrust and this, in turn, creates different levels of indifference that allow the chain to be maintained. In other words, corruption in public administration creates a cycle that circumnavigates between administrative immorality, which takes the form of corrupt acts, and distrust in institutions on the part of the population, which takes the form of social and political indifference, creating an autopoietic system that maintains itself.

A little explored consequence of this vicious cycle is the invisibility that gathers in its veil the factors and subjects responsible, accepting corrupt practices as an inevitable pathology in our society, and remaining unscathed by institutional attempts to purge or prevent them.

Thus, in this chapter, I will explore the primary facet of corruption in public administration and its scope, and then relate it to the implications of the category of capture

³ HUNTINGTON, Samuel. **Political order in changing society**. New Heaven: Yale University Press, 1968.



or co-optation of the State and likewise identify the multidimensionality of the damage resulting from them.

2.1. CORRUPTION OF THE PUBLIC ADMINISTRATION

The concept of corruption is so complex that different authors have created notions that help us to circumscribe it. Thus, "Latimbarómetro" understands corruption as any act or omission that a public servant performs in exchange for a benefit, and that is not permitted by law.⁴ With this, it is understood that not only the action is proscribed, but also the omission in the application of norms within the framework of legal and previous duties.

Although traditional notions highlight public servants as the central axis of administrative corruption, reality surpasses this notion, thus, we observe that corruption is also found in the private sector, where we find that in most situations in which public servants have the opportunity to go against the law with transactional conducts, there is a direct relationship with private parties, widening the spectrum of harmful repercussions that already existed.⁵ The linking of private subjects, in this broader notion, is manifested in the creation of corrupt pacts of all kinds. For example: pacts in electoral campaigns, pacts in contractual concessions, or even pacts in macro fiscal and monetary policies.

In addition, the exercise of public office for transactional purposes does not only seek pecuniary gain, but may also have benefits in terms of personal or institutional loyalty, electoral support, family, caste or friendship, social or political position, etc.⁶ Thus, as stated by Nye, administrative corruption can be defined as: "any violation of the public interest to obtain special advantages" or "any illicit conduct used by individuals or groups to obtain influence over the actions of the bureaucracy".⁷

With the above, it is possible to recognize not only the complexity that protects the plurality of actors in the acts of corruption, but also the variety of motives⁸ they have to execute their illegal acts. Similarly, the doctrine manages to identify some factors that present themselves as opportunities for corrupt behavior; these are, among others: excessive discretionary power, deficiencies of information and controls over the

⁴ LAPALOMBARA, Joseph. **Structural and institutional aspects of corruption**. 2. ed. Maryland: structural and institutional aspects of corruption, 1994. 350 p.

⁵ KLIAGART, Robert. **Controlling corruption**. California: University Of California Press, 1988.

⁶ PÉREZ, Rogelio. **Corrupción y ambiente de los negocios de Venezuela**. Caracas: Ediciones IESA, 1991.

⁷ NYE, Joseph. **Corruption and political development: a cost-benefit-analysis**. Washington DC: American Review N51, 1967.

⁸ Los motivos que se destacan entre muchos otros son los bajos salarios y la falta de incentivos de los empleados públicos, estos en las etapas primigenias del actuar corrupto pueden desenlazar en otros motivos como el cumplimiento de pactos criminales y la captura de posiciones políticas.



administrative acts of public servants. For the same reason, this poses a propitious scenario for public servants to divert their probity towards corrupt behavior.⁹

Public servants have an evident discretionary power to accumulate private capital, the accumulation usually occurs by taking advantage of their position and profession, which is almost always poorly and irregularly paid. As a consequence of this, corruption takes place mainly in societies where public servants are sporadically and less accountable, where there is little transparency in administrative and government transactions, and where there are officials who are dissatisfied with their working position.¹⁰

It is important to note that it is the personal sphere of corrupt subjects the most basic cause of corruption, since in addition to the factors of “motives and opportunities”, an essential factor is that the corrupt subject does not have or ignores a strong and cohesive organizational culture configured on public values as maxims to follow in his office, namely the general interest.¹¹¹² This situation of cultural weakness about the public makes the official chooses to entrench in their motives for personal benefits and take advantage of the opportunities granted by his investiture¹³.

In this sense, Laporta & Alvarez point out that:

“la causa inevitable y, en último término irreductible de la corrupción es la conducta deshonesta del actor público. En último término la corrupción se da única y exclusivamente porque un individuo, sea cual sea su entorno, toma la decisión de realizar una acción determinada, la acción corrupta (...)”¹⁴

This diversity of subjects and motives are configured through different strategies with which the corrupt scheme is used. In this sense, the strategies identified by Bautista¹⁵ provide the analysis of the category with useful elements to identify the depth

⁹ RICO, José María et al. **La corrupción pública en américa latina: Manifestaciones y mecanismos de control**. Miami: Centro Para La Administración de Justicia, 1996.

¹⁰ LAPORTA, Francisco et al. **La corrupción política**. Madrid: Alianza, 1997. p. 20.

¹¹ La motivación principal de los funcionarios debe ser el cumplimiento del deber como manifestación de su compromiso con lo público en palabras de Max Weber, “para el funcionario es un honor su capacidad para ejecutar a conciencia y con precisión una orden, poniendo toda la responsabilidad en quien se la manda, y para ejecutarla como si respondiera a sus propias convicciones si esa autoridad jerárquicamente –a pesar de las ideas del funcionario- le insistiera en esa orden que a éste le parece equivocada. Sin esa negación de sí mismo y sin esta disciplina moral en su más alto sentido se desmoronaría todo el aparato. En: WEBER, Max. **La ciencia como profesión. La política como profesión**. Madrid: Alianza, 1994. 118 p.

¹² CHAMPS, Victoria. La ética en una cultura posfilosófica. **Leviatán: Revista de hechos e ideas**, Madrid, n. 20, p.79-83, jun. 1985. Trimestral. Available in: <<https://dialnet.unirioja.es/ejemplar/74246>>. Access in: 20 May 2018.

¹³ MATAS, Carles. Los problemas de la implantación de la nueva gestión pública en las administraciones públicas latinas: modelo de Estado y cultura institucional. **Revista del CLAD Reforma y Democracia**, Caracas, n. 021, p.1-28, out. 2001. Available in: <[http://www.top.org.ar/ecgp/FullText/000000/RAMIO MATAS, Carles - Los problemas de la implantacion de la nueva gestion.pdf](http://www.top.org.ar/ecgp/FullText/000000/RAMIO%20MATAS,%20Carles%20-%20Los%20problemas%20de%20la%20implantacion%20de%20la%20nueva%20gestion.pdf)>. Access in: 22 jun. 2018.

¹⁴ LAPORTA, Francisco et al. **La corrupción política**. Madrid: Alianza, 1997. p. 20.

¹⁵ DIEGO, Oscar. **La ética y la corrupción en la política y la administración pública**. 2005. 163 f. Dissertação



and multidimensionality of the harmful repercussions it causes. In order to have a more concentrated analysis of these strategies, they will be divided into three categories:

- a) *Intellectual or cultural corruption*: It is when either people with academic prestige are induced to be the guarantee of the ideology behind the corrupt plan, or to influence through economic incentives the research with the useful approaches to produce the plan.
- b) *Economic cohesion as a method of persuasion*: This is when the different subjects receive the support of different financial agencies and international resonance, with this pressure is put on governments to assume different policies aimed at facilitating the incursion of the private sector in public administration. The tactics used for this strategy range from threats of denial of credit, to economic blockades and the discrediting of countries in the international community.
- c) *Political corruption*: This is the transaction to obtain control over the actions of public servants such as presidents, senior officials, parliamentarians, social or union leaders, through bribery, swindling, extortion, favoritism, electoral financing, fraud, embezzlement of public funds, nepotism, etc.

For some authors there is a substantial difference between political corruption and administrative corruption, however, for Manuel Villoría:

“La corrupción administrativa o de los empleados públicos no puede separarse de la corrupción política, ya que se alimentan una a otra. De tal manera, de los políticos corruptos surge la corrupción administrativa, aun cuando la profesionalidad del servicio público pueda atenuar la expansión del fenómeno.”¹⁶

Political corruption is therefore a macro category that groups together the other types of corruption. Therefore, these behaviors manage to permeate the decision-making spheres of public power, making all rules and administrative acts arising from illegal transactions, born corrupt. Likewise, corruption is not limited to a transactional exercise of alienation of benefits, but in some scenarios, it becomes a contamination of the entire system and its products, this contamination has been called by a sector of the doctrine as capture or co-opted reconfiguration.

(Mestrado) - Curso de Derecho, Derecho, Universidad Internacional de Andalucía, Huelva, 2005. Available in: <<http://eprints.ucm.es/7816/>>. Access in: 23 jun. 2018.

¹⁶ VILLORIA, Manuel. Combate a la corrupción y fomento de la ética en la gestión pública. In: VII Congreso Internacional del CLAD sobre la reforma del estado y de la administración pública, 2002, Lisboa. **La corrupción judicial: razones de su estudio, variables explicativas e instrumentos de combate en España**. Lisboa: Upan, 2002. p. 1 - 24. Available in: <http://novo.more.ufsc.br/trabalho/inserir_trabalho>. Access in: 23 jun. 2018.



2.2. CORRUPT CAPTURE OF THE STATE AND CO-OPTED RE-CONFIGURATION

State capture has been understood as the illicit participation of private sector actors in the creation and consolidation of all types of norms (laws, decrees, administrative acts, execution of public contracts, etc.), with the aim of obtaining benefits of all kinds. This means that there are invasive levels of corruption that can permeate state institutions consolidated in legality in order to instrumentalize them and then co-opt decision-making spheres at the local and central levels.¹⁷

Likewise, in order to advance illegitimate purposes, illegal groups can permeate and even create legitimate institutions to capture them in instrumental terms and then take advantage of them to co-opt state decision-making bodies at the local or even central level. In view of this situation and its magnitude, it should be noted that it is not simply a matter of the influence of subjects outside the public administration who have a monetary interest, but of a systematic plan that seeks to permeate decision-making spheres so high that they generate consequences that affect the entire social order. Likewise, the subjects and structures that participate in this strategy no longer permeate only the individual ethical sphere, but alter the very duties of the public function, collective interests, and social morality, which is why this co-optation ceases to be a problem that occupies only the sphere of public administration and becomes a case of “normative illegality”.¹⁸

In this context, it is possible to affirm, as Suárez, Jabbaz and Isuani¹⁹ have pointed out, that there may exist a system of institutionalized corruption in which there are structures and processes that have been installed in society as ways of continuously achieving some particular benefits, establishing a “social permissiveness” with the typical and generalized idea of “everybody does it”.²⁰

This permissive and somehow complicit attitude has allowed macro criminal structures that were previously counterparts of the State’s coercive apparatus, to create alliances giving the message that public service is a kind of market where you can enter for the right price. This is how the capture of the State diversifies the subjects that are immersed in the corrupt relationship, since mafias, illegal cartels, organized criminal

¹⁷ GARAY, Luis Jorge. et al (Ed.). **La Captura y Reconfiguración Cooptada del Estado en Colombia**. Bogotá D.C: Grupo Método, 2008. 118 p.

¹⁸ OLIVERA, Mario. Hacia una sociología de la corrupción. **Alma Mater**, Lima, v. 17, p.1-15, out. 1999. Available in: <http://sisbib.unmsm.edu.pe/bibvirtual/publicaciones/Alma_Mater/1999_n17/sumario.htm>. Access in: 23 jun. 2018.

¹⁹ SUAREZ, F, et al. La corrupción organizacional: aportes para el desarrollo teórico-conceptual. **Revista Probidad**, Lima, v. 14, mayo 2001.

²⁰ GROPPA, O; BESADA, M. **Cultura y Corrupción política (orden institucional): Corrupción en el campo político y el económico**. 2001. Available in: <http://www.uca.edu.ar/esp/secinvestigacion/esp/docs-publicaciones/docs/CYCP_04.pdf>. Access in: 23 junio 2018.



organizations, paramilitary and subversive groups and legal groups such as political parties, traders, politicians, businessmen and transnational corporations can be part of it.²¹ These criminal subjects have been denominated by the doctrine as “interest groups”.²²

It is because of this complex macro structure that the effects of the co-optation of the public function have a plurality of damages of different natures, which makes it imperative to identify their depth, not only to prevent them, but also to make visible their multidimensional effects and recognize the relevant responsibilities, including that of the State.

3. CORRUPTION IN VIOLATION OF HUMAN RIGHTS

Traditionally, the legal assets violated by corrupt practices are related to the deterioration of the public treasury or the appropriation of public assets of the State. However, with the evolution of these practices, there is a change that creates situations of structural violations, this is possible when there is an unequal and precarious system in the culture of the public.²³

The Inter-American Court of Human Rights affirms that these violations are generated:

de cierta indiferencia o incluso justificación por parte de la opinión pública. Tampoco se trata de violaciones aisladas. Por el contrario, se trata de violaciones generalizadas de derechos, enfocadas en personas que pertenecen a grupos determinados, y cuyos derechos se violan precisamente en función de dicha pertenencia.”²⁴

Thus, it is imperative to analyze the different levels of harm that corrupt capture of the state generates within complex macro-criminal networks. Therefore, in this chapter, I will identify the harms that come from the traditional conception of corruption, and the harms that come from the corrupt capture of the State, in order to analyze whether these harms represent effective violations of human rights.

²¹ GARAY, Luis Jorge et al. **La reconfiguración cooptada del Estado: más allá de la concepción tradicional de captura económica del Estado**. Bogotá: Fundación AVINA, 2008.

²² Definición introducida en los informes de consulta al Banco Mundial preparado como parte del análisis sobre el Estado del arte de la corrupción en Colombia. La captura del Estado: corrupción o ardid político.

²³ GONZÁLEZ, Marianne et al (Ed.). **Transparencia, lucha contra la corrupción y el Sistema Interamericano de Derechos Humanos**. Santiago de Chile: Centro de Derechos Humanos, 2011. 188 p. Available in: <<http://repositorio.uchile.cl/bitstream/handle/2250/122732/Transparencia-lucha-contra-la-corrupcion.pdf?sequence=2>>. Access in: 27 jun. 2018.

²⁴ CIDH. Corte Interamericana de Derechos Humanos. Excepción Preliminar, Fondo, Reparaciones y Costas nº 220. San José de Costa Rica, 26 de noviembre de 2010. **Caso Cabrera García y Montiel Flores vs. México**. San José de Costa Rica, . Available in: <http://www.corteidh.or.cr/docs/casos/articulos/resumen_220_esp.pdf>. Access in: 25 jun. 2018.



3.1. THE CLASSICAL DAMAGES OF CORRUPTION IN PUBLIC ADMINISTRATION: THE RELATIVE AND OCCASIONAL DIMENSION

As mentioned above, corruption creates highly complex harmful repercussions. First, because of its invisibility or difficult perception, which is also related to the high permissiveness of society in the face of corrupt acts, and second, because being immersed in the regulation of norms, it involves the entire system, creating a vicious cycle.

Corruption has generally been understood as a phenomenon that affects only the economic dimensions of a society's values,²⁵ however, as Bautista (2005) states, corruption has costs that impact the political, economic, social and cultural dimensions of a community.²⁶

This is important to point out, because traditionally it has been seen how the detriment of the public coffers is used as an excuse to justify the regressiveness of the economic and social development of a country. In this sense, Shang-Jin Wei states:

"la corrupción hace disminuir el crecimiento económico, sesga el sistema fiscal para favorecer a los ricos y bien relacionados, reduce la eficacia del establecimiento de objetivos en los programas sociales, sesga las políticas del gobierno favoreciendo la inequidad en la propiedad de los bienes disponibles, hace disminuir el gasto social, reduce el acceso a la educación de los pobres e incrementa el riesgo en las inversiones de los pobres".²⁷

These damages, in particular, are the result of alterations at high levels of the State's decision-making powers, since corruption has an impact on the country's economy, directly altering the budgets of territorial and administrative entities, unbalancing trade, driving changes in monetary policy and creating a fiscal deficit that is difficult to overcome.

On the other hand, corruption in public administration has significant social impacts. These effects are manifested in the increase of inequality in the indexes (GINI), diverting the effective destination of public funds, and increasing bureaucracy and commercializing public service.

²⁵ HELLMAN, Joel; KAUFMANN, Daniel. La captura del Estado en las economías en transición. **Finanzas & Desarrollo**. Washington D. C., p. 31-35. set. 2001. Available in: <<https://www.imf.org/external/pubs/ft/fandd/spa/2001/09/pdf/hellman.pdf>>. Access in: 23 jun. 2018.

²⁶ DIEGO, Oscar. **La ética y la corrupción en la política y la administración pública**. 2005. 163 f. Dissertação (Mestrado) - Curso de Derecho, Derecho, Universidad Internacional de Andalucía, Huelva, 2005. *Op. cit.* p. 86.

²⁷ WEI, Shang-jin. La corrupción en el desarrollo económico: ¿lubricante beneficioso, molestia menor u obstáculo importante?. **Gestión y Análisis de Políticas Públicas**, [s.l.], n. 21, p.83-94, 20 mayo 2011. Instituto Nacional de Administración Pública. <http://dx.doi.org/10.24965/gapp.vi21.265>.



In this sense, Ackerman highlights among many effects, some specific social damages, such as the structural impossibility for the poor to receive essential public services (social security, health, education), increase in taxes and fees to acquire these services, violent imbalances in the market for small producers, among others.²⁸ This ultimately manifests itself in the practical impossibility of overcoming poverty and high inequality in a country.

On the cultural side, the “everybody does it” attitude and the permissiveness mentioned in the previous chapter generate perverse attitudes of indifference. These attitudes alter the ethical values of the community, creating a generalized distrust, and the belief that corruption is a permanent problem that is impossible to combat.²⁹

Perhaps the most invisible and serious damage caused by corruption is the political damage. This damage causes the social pact to lose strength and the entire state establishment to lose all legitimacy. Similarly, they cause negative effects of violence, creating a Hobbesian state of nature³⁰.

In the same aspect, there are the damages to the fundamental principles of the rule of law, in the first place, the democratic principle loses all validity, a clear example of this is a buying and selling of votes. Secondly, we can observe the frustration of any expectation of governability, and any impulse to act under legality. Bautista concludes that:

*(...) en lo político los gobiernos pierden autoridad, incluso la soberanía, al llegar a convertirse en simples administradores de sucursales, agencias u oficinas de comercio de las grandes empresas transnacionales. Al ser incapaces de gobernar brotan los síntomas de ingobernabilidad. Gobiernos con estas características son usados desde el exterior mientras que en el interior los hombres que ocupan estos cargos han dejado de ser los grandes estadistas de antaño para convertirse en gerentes o encargados quienes solo administran pero no deciden aunque lo hagan con eficacia.*³¹

Thus, it can be said that there is a set of common damages in the traditional levels of corruption in public administration, these damages have a great complexity and

²⁸ ROSE-ACKERMAN, Susan. **La corrupción y los gobiernos: causas, consecuencias y reforma**. Madrid: Siglo XXI de España, 2001. 366 p.

²⁹ GROPPA, O; BESADA, M. **Cultura y Corrupción política (orden institucional): Corrupción en el campo político y el económico**. 2001. Available in: <http://www.uca.edu.ar/esp/secinvestigacion/esp/docs-publicaciones/docs/CYCP_04.pdf>. Access in: 23 junio 2018.

³⁰ OLIVERA, Mario. Hacia una sociología de la corrupción. **Alma Mater**, Lima, v. 17, p.1-15, out. 1999. Available in: <http://sisbib.unmsm.edu.pe/bibvirtual/publicaciones/Alma_Mater/1999_n17/sumario.htm>. Access in: 23 jun. 2018.

³¹ DIEGO, Oscar. **La ética y la corrupción en la política y la administración pública**. 2005. 163 f. Dissertação (Mestrado) - Curso de Derecho, Derecho, Universidad Internacional de Andalucía, Huelva, 2005. *Op. cit.* p. 93.



the way to repair them will vary with their nature. This set of damages is found at the primary levels of the corrupt act and its repercussions are observed in the close circles of political, social and cultural relations of the administration. An example of this may be corruption arising from local public administration contracting, or the illegal failure of administrative authorities to comply with a rule, say, bribery to avoid a traffic ticket.

Therefore, we can highlight a first dimension of the damages resulting from corruption that I will call relative and occasional level, alluding to the damages generated in the short term and that generate their main effects in the close circles of the corrupt relationship. In this type of damage, liability is more evident in public officials as individuals, than in the state as a legal person under public law, subject of rights and obligations.

Damages occurring in the relative and occasional dimension, can be of all kinds (cultural, economic, social and political) but have a smaller coverage due to the number of people potentially violated. In this relative and occasional dimension we can find, for example, the conducts of undue celebration of contracts, speculation of a certain amount, bribery at low levels of the administration and prevarication in minor judicial conflicts.

However, when the levels of corruption are higher, the damages are more complex and affect more people over a prolonged period of time. This is why I will now investigate the damages that occur from the corrupt capture of the State, as a macro representation of corruption in public administration.

3.2. DAMAGES RESULTING FROM THE CAPTURE OF THE STATE: THE GENERALIZED AND SYSTEMATIC DIMENSION

Corrupt acts, regardless of their type or dimension, have highly damaging consequences for a society founded on the rule of law. Thus, what could distinguish one corrupt act from another is the consequence of its commission, since in those that are recognized by anti-corruption measures as corrupt acts, they could be prosecuted, but in those that are not, there would be no such possibility, generating an inevitable feeling of impunity.

This symptom of impunity is what generates the corrupt capture of the State, since in these dimensions of corruption, the methods employed are so innovative and invisible that their existence seems impossible.



Corruption impacts on such high levels of administration that, as Alan Doig and Stephen Riley put it, it contributes to political instability, arbitrary intervention of government economic and fiscal institutions and the provision of public services.³²

The damages resulting from these levels of corruption, in turn, will be called the generalized and systematic dimension. The damages of this dimension are a consequence of the co-opted reconfiguration of the State,³³ and include damages that impact society in general, causing permanent detrimental effects. This co-optation represents a level of corruption that produces the chain of indifference-corruption mentioned at the beginning of this dissertation, making it autopoietic and resistant to the different state measures to prevent and counteract it. As stated by Cartier:

“con el auge de la corrupción social y su institucionalización no sólo se agravan las implicaciones y efectos negativos sobre el sistema social sino que se amplían las instancias de afectación (i) morales (el malestar producto de la apatía), (ii) políticos (el cuestionamiento de la democracia parlamentaria y la avanzada del populismo o de la extrema derecha), (iii) económicos (el despilfarro de los fondos públicos y el desarrollo de rentas parasitarias, costosas para las empresas excluidas de las redes y para los contribuyentes) y (iv) sociales (desigualdad en el tratamiento de los actores).”³⁴

The impact of the generalized and systematic dimension of corruption differs from the relative and occasional one, in that it is exploited by different subjects to reestablish the institutional framework for the illegal appropriation of resources, incursion into democratic scenarios, and redirection of the public budget. These are essential values for the normal development of the administrative activity.³⁵ That is to say, the generalized and systematic dimension, co-opts such basic principles of our society, that it spreads to all the others, allowing precisely the poisoning of all the products that are derived from its co-opted action (norms, public policies, administrative acts, etc.): (norms, public policies, administrative acts).³⁶

³² DOIG, Alan et al. La corrupción y estrategias anticorrupción: algunas cuestiones y estudio de casos de países en vías de desarrollo. **Gestión y Análisis de Políticas Públicas**, Madrid, v. 21, p.117-130, nov. 2001. Available in: <[https://revistasonline.inap.es/index.php?journal=GAPP&page=article&op=view&path\[\]=267&path\[\]=267](https://revistasonline.inap.es/index.php?journal=GAPP&page=article&op=view&path[]=267&path[]=267)>. Access in: 23 jun. 2018.

³³ GARAY, Luis Jorge. Crimen, captura y reconfiguración cooptada del Estado: cuando la descentralización no contribuye a profundizar la democracia. In: FUNDACIÓN KONRAD ADENAUER STIFTUNG (Bogotá). **25 años de la descentralización en Colombia**. Bogotá D.C: Fundación Konrad Adenauer Stiftung, 2010. p. 48.

³⁴ CARTIER-BRESSON, Jean. Corrupción institucionalizada y neocorporativismo, con ejemplos del caso francés. **Nueva Sociedad**, Buenos Aires, v. 145, p.110-125, out. 1996. Available in: <http://nuso.org/media/articles/downloads/2536_1.pdf>. Access in: 23 jun. 2018.

³⁵ GARAY, Luis Jorge. Crimen, captura y reconfiguración cooptada del Estado: cuando la descentralización no contribuye a profundizar la democracia. In: FUNDACIÓN KONRAD ADENAUER STIFTUNG (Bogotá). **25 años de la descentralización en Colombia**. Bogotá D.C: Fundación Konrad Adenauer Stiftung, 2010. p. 48.

³⁶ ARIAS, Julio et al. **Identidades culturales y formación del Estado en Colombia: Colonización, Naturaleza**



In the face of this Garay³⁷ has highlighted what he calls: the instrumental capture of political parties: from the complexification of State Capture to the Coopted Reconfiguration of the State. In this category he outlines what would be the systematic dimension of corruption, identifying that the capture of political parties as instruments to reach power is a programmatic plan in which interest groups manage to permeate the State at the moment of its consolidation. This complexization of state capture can have different effects over time and its criminal exposure can change depending on its level.

Thus, bribery and violent coercion of political candidates and voters has effects in the “short term and has a high criminal exposure”, campaign financing and crimes against suffrage is of “medium term and medium criminal exposure” and the creation of political parties has “long term effects and has a low criminal exposure”³⁸

Based on the above, we can directly relate the effects of the corrupt capture of the State and its subsequent co-opted reconfiguration, in the generalized and systematic dimension of corruption in public administration. This dimension presents us with a panorama in which acts of corruption are not simply isolated acts that have poly-lesive effects but are limited to a specific space or sphere. Rather, they are a series of generalized effects that compromise different types of rights. An example of the damage caused by this capture can be found in the Colombian armed conflict, in which paramilitary groups permeated different spheres of power with the aim of re-founding the State,³⁹ reconfiguring it and taking control of a large part of its activity.⁴⁰ In this particular case, armed groups achieved economic and military advantages and political⁴¹ co-optation that violated the rights of thousands of victims of the armed conflict.

So far, we have been able to recognize two dimensions of harm that affect thousands of people in different countries and affect their institutions, compromising the effectiveness of the law and its application.⁴² Although these damages are typified in the framework of domestic legal systems, we can also identify a perspective that

y cultura. Bogotá: Universidad de Los Andes, 2006. 281 p.

³⁷ GARAY, Luis Jorge et al. **La reconfiguración cooptada del Estado: más allá de la concepción tradicional de captura económica del Estado.** Bogotá: Fundación AVINA, 2008.

³⁸ Idem

³⁹ COLOMBIA. Tribunal Superior Sala de Justicia y Paz. Apelación nº 2007-82701. Relator: Uldi Teresa Jiménez López. **Condena Contra Freddy Rendón Herrera:** Reclutamiento Ilícito de menores. Bogotá, 30 abr. 2015.

⁴⁰ GARAY, Luis. **Construcción de una nueva sociedad.** Bogotá: Tercer Mundo Editores, 1999.

⁴¹ CENTRO NACIONAL DE MEMORIA HISTÓRICA (Bogotá D.C). **Justicia y paz, tierras y territorios en las versiones de los paramilitares.** Bogotá D.C: CNMH, 2012. 234 p. Available in: <<http://www.centrodehistoria.gov.co/justicia-y-paz/tierras-y-territorios-en-las-versiones-de-los-paramilitares>>. Access in: 24 jun. 2018.

⁴² CIDH. Corte Interamericana de Derechos Humanos. Excepción Preliminar, Fondo, Reparaciones y Costas nº 220. San José de Costa Rica, 1 de julio de 2006. **Caso de las masacres de Ituango vs. Colombia.** San José de Costa Rica, . Available in: <http://www.corteidh.or.cr/docs/casos/articulos/seriec_148_esp.pdf>. Access in: 25 jun. 2018.



includes the generalized and systematic dimension of international law; rights that are violated by acts of corruption, generating responsibility.

3.3. STATE CAPTURE AS A SYSTEMATIC VIOLATION OF HUMAN RIGHTS

Having already analyzed the dimensions of the damage caused by corrupt acts, it is undeniable that they are related to serious human rights violations. Thus, the question arises: Is the corrupt capture of the State a harm to human rights?

To analyze this, we must look at the unlawfulness of the harm. In other words, we must determine the general obligations to respect and guarantee human rights that a State has ratified. Then, it will be possible to analyze if the State effectively violates the IHRL through the acts of its captured administration.

To be more precise and find an accurate conclusion about the violation of a certain human right, a case study would have to be made; however, this dissertation does not seek to examine the scope of a specific right, but rather a general analysis of how large-scale corruption (corrupt capture of the State) can violate human rights.

Within the present analysis we will take the distinction of Bascañám, Bascur e Rojas (2014) that separates: "corrupt practices that directly violate a human right, and corrupt practices that lead to human rights violations, but which, considered in themselves, do not violate a right".⁴³

In this way we will focus on the first distinction concerning practices that directly violate a human right. Therefore, it should be noted that the State's obligations under international law are threefold: the obligation to respect, the obligation to protect and the obligation to guarantee human rights. These obligations can be breached at any time during the occurrence of a corrupt act, for example: the capture of the State by an armed group would undoubtedly violate these three obligations.⁴⁴

C. Maldonado⁴⁵ cited by Castañeda proposes three ways in which the administration, by action or omission, violates human rights through corruption:

"La primera forma es la exclusión en la que, especialmente en gobiernos republicanos, se elige a unos cuantos para que actúen en representación de la mayoría generando

⁴³ NASH, Claudio et al. **Corrupción y derechos humanos: Una mirada desde la jurisprudencia de la corte interamericana de derechos humanos**. Santiago de Chile: Centro de Derechos Humanos, 2014. 28 p. Available in: <<http://repositorio.uchile.cl/bitstream/handle/2250/142495/Corrupcion-y-derechos-humanos.pdf?sequence=1&isAllowed=y>>. Access in: 24 jun. 2018.

⁴⁴ CONSEJO INTERNACIONAL PARA EL ESTUDIO DE LOS DERECHOS HUMANOS et al. **La Corrupción y los Derechos Humanos: Estableciendo el Vínculo**. Monterrey: Instituto Tecnológico de Monterrey, 2009. 136 p. Available in: <<http://workspace.unpan.org/sites/Internet/Documents/UNPAN041206.pdf>>. Access in: 23 jun. 2018.

⁴⁵ MALDONADO, Carlos. **Corrupción y Derechos Humanos: El malestar general del Estado**. Bogotá: Universidad Libre de Colombia- Facultad de Filosofía, 2001. 112 p.



supresión de mecanismos de control ciudadano y ocultamiento en la toma y justificación de decisiones. La segunda es la ausencia de oposición política la cual permite la adquisición ilegal de contratos, venta ficticia de bienes, concesión de puestos públicos y maniobras secretas para perpetuarse en el poder, entre otros. Finalmente, la impunidad, ya que el crimen organizado, narcotráfico, corrupción y violaciones a derechos humanos son posibles debido a la inoperancia de la justicia, que a través de coacción o incentivos manipula la actuación de la justicia a favor de determinados intereses.”⁴⁶

These are examples of how structured and programmatic corruption schemes can be considered direct violations of human rights, in the same sense we can identify in general terms how State capture violates specific rights enshrined in international human rights instruments, for this dissertation we will take two rights, one recognized in the American Convention on Human Rights, and another enshrined in the Protocol of San Salvador as an example to illustrate the relationship.

The right to political participation enshrined in Article 23 of the American Convention on Human Rights. In the event of co-optation of institutional bodies, it could bring harm in two ways: first, the abuse of power through arbitrarily imposed positions, and second, the right of access to public positions that all citizens have based on the universal principle of equality.⁴⁷

Also, the right to education referred to in article 26 of the American Convention on Human Rights as a promotional right and in article 13 of the “Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights” (Protocol of San Salvador). In this sense, corruption affects education to the extent that the embezzlement of funds allocated for this purpose could deny effective access to education, thus directly violating the right. At the same time, it also indirectly affects the right when the conditions in which people study are hindered. In other words, corruption in all its magnitude can violate the principles of accessibility, adaptability and acceptability that govern it.⁴⁸

Based on the above analysis, the clear relationship between the corrupt capture of the State and the violation of human rights is shown, these evident violations are the representation of one of the damages of the generalized and systematic dimension of the capture of the State. In this way, we can observe the poly-offensive character of

⁴⁶ CASTAÑEDA, Angélica Sofía Clavijo. Actos de corrupción como violación a los derechos humanos. **Saber, Ciencia y Libertad**, Bogotá, v. 12, n. 7, p.35-45, 2012.

⁴⁷ CIDH. Corte Interamericana de Derechos Humanos. Excepción Preliminar, Fondo, Reparaciones y Costas nº 112. San José de Costa Rica, 23 de junio de 2005. **Caso Yatama vs. Nicaragua**. San José de Costa Rica, . Available in: < http://www.corteidh.or.cr/docs/casos/articulos/seriec_127_esp.pdf>. Access in: 25 jun. 2018.

⁴⁸ CIDH. Corte Interamericana de Derechos Humanos. Excepción Preliminar, Fondo, Reparaciones y Costas nº 220. San José de Costa Rica, 2 de septiembre de 2004. **Caso “Instituto de Reeducación del Menor” vs. Paraguay**. San José de Costa Rica, . Available in: < http://www.corteidh.or.cr/docs/casos/articulos/seriec_112_esp.pdf>. Access in: 25 jun. 2018.



large-scale corruption, highlighting the importance of recognizing not only the plurality of actors involved in these damages, but also the plurality of perpetrators to be held accountable.⁴⁹

Within the corrupt capture of the State, as mentioned above, there is a plurality of subjects belonging to the public and private sector. For this dissertation, the performance of the State will be highlighted, establishing the grounds from the philosophy of responsibility for which it must be declared responsible for the widespread and systematic dimension of the damages resulting from the corrupt capture of the state, including serious violations of human rights.

4. FOUNDATIONS OF THE LIABILITY OF THE STATE FOR CORRUPTION IN VIOLATION OF HUMAN RIGHTS

In an a priori analysis, it can be affirmed that the corrupt capture of the State violates the three obligations that each State has under international law: the obligation to respect, the obligation to protect and the obligation to guarantee human rights. This would be sufficient to hold a State responsible under international human rights law.

However, two obstacles can be distinguished in order to correctly establish this imputation. The first obstacle has to do with the causal relationship between the corrupt act that violates a human right and the responsibility of the State for this violation, and the second refers to the legal imputation that could fall on the State as a result of the acts of its agents or its institutions. Resolving these two obstacles will contribute to the hypothesis that the State must respond for the multidimensional damages resulting from acts of corruption and corrupt capture in which it is involved.

4.1. THE CAUSAL RELATIONSHIP BETWEEN CORRUPTION AND STATE RESPONSIBILITY

The connection between human rights and acts of corruption lies in their cause-effect dependence, which is why the State could be included in the nexus by action and omission, since in any case it is the State that must prevent the occurrence of the damage.⁵⁰⁻⁵¹

⁴⁹ GARAY, Luis Jorge. et al (Ed.). **La Captura y Reconfiguración Cooptada del Estado en Colombia**. Bogotá D.C: Grupo Método, 2008. *Op cit.* p. 40.

⁵⁰ UNITED NATIONS. Comisión de Reclamaciones Eecc Eritrea-etioipía. Guidance Regarding Jus Ad Bellum Liability n° 7 párrafo 8. 27 de julio de 2007.

⁵¹ CASTAÑEDA, Angélica Sofía Clavijo. Actos de corrupción como violación a los derechos humanos. **Saber, Ciencia y Libertad**, Bogotá, v. 12, n. 7, p.35-45, 2012.



In the face of this causal nexus, the doctrine has identified at least three relationships in which the corrupt actions of the State violate or help to violate human rights. Thus, the International Council on Human Rights Policy establishes three types of violations:

- d) *Direct violations*: corruption can be linked to the corrupt actions of the State, when the captured State is used to obtain a benefit,⁵² regardless of the violation of rights it represents. For example, in the case of political co-optation of a public office, not only political rights are directly violated, but also labor rights, equality and even human dignity.
- e) *Indirect violations*: this type of violation is posed as a *sine qua non condition*,⁵³ that is, as a necessary condition to perpetuate the right. Thus, corruption can be an essential factor within a set of factors “contributing to a chain of events that eventually leads to the violation of a right”.⁵⁴ This is the case, for example. Violations to the effective provision of health and education services, given the lack of resources, the accessibility of these services would drop significantly, violating the right of many people.
- f) *Remote violations*: Faced with this type of violations, says the author, is when the corrupt action of the state is one factor among a set of factors.⁵⁵ In turn, another sector of the doctrine explains this same type of violations under the title of “cumulative causation”.⁵⁶

In the same way, Peters establishes certain conditions that must exist to recognize this causality.⁵⁷ In this way he establishes that there must be necessity between the corrupt act and the violation of the right, secondly there must be immediacy,⁵⁸ between the antijudicial normative breach and the damage.⁵⁹

⁵² PÉREZ, Rogelio. **Corrupción y ambiente de los negocios de Venezuela**. Caracas: Ediciones IESA, 1991. p. 28.

⁵³ PETERS, Anne. **Corrupción y Derechos Humanos**. Basilea: Basel Institute Of Governance, 2015. p. 42. Available in: <https://www.baselgovernance.org/sites/collective.localhost/files/publications/corruption_and_human_rights_spanish.pdf>. Access in: 24 abr. 2018.

⁵⁴ CONSEJO INTERNACIONAL PARA EL ESTUDIO DE LOS DERECHOS HUMANOS et al. **La Corrupción y los Derechos Humanos: Estableciendo el Vínculo**. Monterrey: Instituto Tecnológico de Monterrey, 2009. 136 p. Available in: <<http://workspace.unpan.org/sites/Internet/Documents/UNPAN041206.pdf>>. Access in: 23 jun. 2018.

⁵⁵ *Idem*

⁵⁶ PETERS, Anne. **Corrupción y Derechos Humanos**. Basilea: Basel Institute Of Governance, 2015. p.20 Available in: <https://www.baselgovernance.org/sites/collective.localhost/files/publications/corruption_and_human_rights_spanish.pdf>. Access in: 24 abr. 2018.

⁵⁷ PETERS, Anne. **Corrupción y Derechos Humanos**. Basilea: Basel Institute Of Governance, 2015. p.20 Available in: <https://www.baselgovernance.org/sites/collective.localhost/files/publications/corruption_and_human_rights_spanish.pdf>. Access in: 24 abr. 2018.

⁵⁸ Corresponde a un Comentario de la Comisión de Derecho Internacional (CDI) relacionado con el artículo 31, párr. 10 (ILC YB 2001/II vol. 2, Doc. A/56/10, Informe de la Comisión de Derecho Internacional sobre el trabajo de su quincuagésima tercera sesión [23 de abril–1 de junio y 2 de julio–10 de agosto, todos de 2001], Parte E: Proyecto de Artículos sobre Responsabilidad del Estado por Hechos Internacionalmente Ilícitos, 93).

⁵⁹ PETERS, Anne. **Corrupción y Derechos Humanos**. Basilea: Basel Institute Of Governance, 2015. p. 24 Available in: <https://www.baselgovernance.org/sites/collective.localhost/files/publications/corruption_and_human_rights_spanish.pdf>. Access in: 24 abr. 2018.



In this way different paths of factual imputation are traced by which the state would have to respond for corrupt acts in their actions are generated. Having made this clear, I will proceed to discuss the elements within the philosophy of liability that are related to the basis of the duty to repair damages.⁶⁰

4.2. STATE LIABILITY FOR THE ACTS OF ITS AGENTS OR INSTITUTIONS

After elucidating certain elements on causality, the following question arises Should the state be liable for the acts of the agents or institutions that compose it? Faced with this, Peters states that normally the corrupt conduct of agents could be attributed to the State by applying the principles of liability since:

“El funcionario utiliza su posición para llevar a cabo u omitir una medida que el funcionario no podría realizar como una persona privada, como otorgar una autorización o licencia, evitar procesos judiciales o imponer una multa.”⁶¹

Thus, the violation of the duties of prevention and protection of the institutions of the legislative, executive and judicial branches of the State that fail to comply with the obligations,⁶² since the officials are endowed with an institutional veil that would not allow them to carry out their corrupt acts if they did not have it.

Therefore, it will be the failure with the service the legal title by which the State would respond for the damages resulting from its corrupt capture, since in the cases of Corrupt Capture there are usually fraudulent programmatic agreements, as stated by Libardo Rodriguez:

“debe tenerse en cuenta que en la responsabilidad por culpa, falta o falla del servicio, la culpa exigida se diferencia sustancialmente de la culpa del derecho común. En efecto, mientras esta es eminentemente subjetiva, es decir, imputable a un individuo, aquella puede ser una culpa o falla funcional, organiza o anónima, es decir atribuible a la administración y no necesariamente a un funcionario en particular”⁶³

The second reason arises from the fact that in the modern State the administration is seen as a subject in which the State distributes competences and duties. In global

⁶⁰ HENAO, Juan Carlos. Las formas de reparación en la responsabilidad del Estado: hacia su unificación sustancial en todas las acciones contra el Estado. **Revista de Derecho Privado**, [s.l.], n. 28, p.277-366, 18 jun. 2015. Universidad Externado de Colombia. <http://dx.doi.org/10.18601/01234366.n28.10>.

⁶¹ PETERS, Anne. **Corrupción y Derechos Humanos**. Basilea: Basel Institute Of Governance, 2015. p. 24 Available in: <https://www.baselgovernance.org/sites/collective.localhost/files/publications/corruption_and_human_rights_spanish.pdf>. Access in: 24 abr. 2018.

⁶² *Idem*.

⁶³ RODRÍGUEZ, Libardo. **Derecho Administrativo general y colombiano**. 8. ed. Bogotá D.C: Temis, 2002. 228 p.



administrative law there is a tendency that when there is a breach of legal norms with a damaging effect, the State must be held liable.⁶⁴

Based on the above elements it can be said that there is imputation of the State for the acts that its agents have maliciously performed, covered by the veil of its institutionality. We can highlight the theory of the nexus with the service that arises from the theory of the failure of service to explain this phenomenon. Regarding this theory Botero states that:

*(...) para imputar responsabilidad por acción del agente es necesario, tener en cuenta los nexos con el servicio, es decir, la relación agente-servicio a través de sus variantes temporales, instrumentales o especiales; o además el grado de influencia que en la producción del daño tuvo el servicio (...)*⁶⁵

In this way it is possible to demonstrate through the position of subjective liability for failure and the theory of the nexus with the service, the foundations in the field of legal imputation with which the State would respond for the corrupt actions of its institutions and officials, and also for the damages resulting from its corrupt capture.

We can conclude from the above dissertation that there are legal and factual grounds for the State to respond for the damages caused by its corrupt actions. This analysis contributes to make the State's responsibility for acts of corruption that produce multidimensional damages and damages to human rights viable, reducing the feeling of impunity and elucidating the complexity of the problem, for its prevention and remedy.

5. CONCLUSIONS

In the previous dissertation it was possible to recognize the plurality of subjects of different natures that participate in corrupt acts, demonstrating how the analysis of the harmful effects of corruption and the corrupt capture of the state have high levels of complexity.

Similarly, based on the analysis of the multidimensionality of the damages resulting from large-scale corruption, the categories of relative and occasional dimension and generalized and systematic dimension of the damages were constructed as concepts that encompass the complexity of the damages, taking into account their passive subjects and their duration over time. And based on this, we find that human rights violations are a manifestation of damages of the systematic and generalized dimension.

⁶⁴ OSPINA, Andrés (Ed.). Responsabilidad frente a la solidaridad: El fundamento abstracto del deber de responder. In: HENAO, Juan Carlos et al. **La responsabilidad Extracontractual del Estado**. Bogotá: Universidad Externado de Colombia, 2015. p. 121.

⁶⁵ GIL, Enrique. **Tesaurus de la Responsabilidad Extracontractual del Estado**. Bogotá: Temis, 2013. p. 37.



In this way, and based on the study of the damage, the way it is generated and the impact it has on society, it was possible to identify the foundations in the philosophy of liability, to impute liability to the State for the corrupt actions of its agents and for the harmful products of its corrupt capture. Finding that in any case the State would respond for failure, as a legal and social reproach in the framework of subjective responsibility, for the fraudulent actions of its agents and institutions to reach macro-criminal agreements.

This analysis contributes to provide an answer to the problem of invisibility and impunity inherent to acts of corruption on a large scale. To the extent that effective mechanisms are created to recognize responsibilities and identify the obstacles to prevent the failures of the administration that allow its corrupt capture, we will be able to advance towards the effective use of public goods and the guarantee and respect for human rights.

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CIDH. Corte Interamericana de Derechos Humanos. Excepción Preliminar, Fondo, Reparaciones y Costas nº 220. San José de Costa Rica, 2 de septiembre de 2004. **Caso “Instituto de Reeducación del Menor” vs. Paraguay**. San José de Costa Rica, . Available in: <http://www.corteidh.or.cr/docs/casos/articulos/seriec_112_esp.pdf>. Access in: 25 jun. 2018.

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