

COMMENTS ON PAPERS ABOUT CORRUPTION

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Good afternoon.

I am glad to be able to take part of this panel about Corruption and the Quality of Democracy, and I am very thankful to the Chair, Marianne Kneuer, and the Co-Chair, Hans-Joachim Lauth, for inviting me to act as discussant of this session.

- I have no doubt that **what** we are going to discuss here today is crucially relevant to the quality of democracy. Political corruption is one of the most serious and complex problems faced by both new and old democracies, not to mention the difficulties to measure it. Basically, **corruption involves the abuse of public office for any kind of private benefit**, including advantages given to the governing parties to the detriment of the opposition. It damages, moreover, the principle of political equality which is inherent to democracy, as its beneficiaries may be able to obtain or to keep political advantages out of proportion to those they might have gained by legitimate means. Moreover, it also results in the weakening of both the legitimacy and the quality of democracy by violating the principle that in the democratic political regime no-one is above the law, and for contributing to the **hollowing out** of the very mechanisms whereby governments can be held accountable, vertically, socially and horizontally. In this respect, I want to take this opportunity to honor the Argentinean political scientist Guillermo O'Donnell, who gave us a decisive and revealing contribution for the understanding of the central hole of accountability for the quality of democracy;
- I have to be brief in this comment about the three papers which I was able to read before my journey. I want to refer to three **main** aspects which I think are relevant in the contributions of Carlos Joel Formiga-Xavier, Simone Bohn, Claudio Couto and Natalia dos Santos – all my colleagues and also good friends;
- The first relevant aspect which I think is common to the three papers, although treated in very different manners by each author, refers to the definition of corruption. I assume that we do have a positive contribution here to the clarification of the limits

and scope of the definition of this phenomenon. Corruption was not necessarily viewed, in these papers, as a dependent variable of either the modernization process or a developmental approach, neither of a strict perspective centered in the function of institutional incentives favoring its occurrence; it was also not treated as a moral question, as it is usually seen in more traditional approaches, even when the authors have not lost the ethical dimension of the corrupting practices; nor was it seen as tool to grease rigid bureaucratic structures, as Huntington and Nye characterized it many years ago. For instances, Formiga-Xavier disregarded the corrupting practices in the private sector in order to call attention for the political implications and effects of corruption for vertical accountability in Brazil; Bohn has also disregarded the effects of corruption in the private sector, **but going further** she opposed the maximalist and minimalists definitions of it in order to center the analyses in the **assessment of exposure and perception** of corruption by individual citizens in several Latin American countries; this allowed her to focus primarily on corrupt acts stemming from the interaction between individuals and the State. It is not difficult to see that this discussion is much more than a matter of semantics and has far-reaching consequences to the relationships of citizens and the public sphere. For this reason, Couto and Santos have proposed a particular distinction among three different types of violation of public rules in Brazil, clientelism, physiologism – a neologism explained in their paper – and corruption; while the two former kinds of violations are **particularistic or centered in some kind of party-oriented behavior**, corruption – according to them - refers to the appropriation or manipulation of public goods for private benefit, and as such it is totally unacceptable to the attentive evaluation of citizens who are concerned with the behavior of their political representatives;

- I would summarize their contribution **in this first aspect** by saying that all three papers have opted to work – in one or another way – on the basis of the well known definition of Daniel Treisman, for whom corruption is the abuse of public office for any kind of private benefit, including the benefit for political parties in power;
- **The second** important aspect to which I want to call attention is related to the diversity of empirical cases treated in these papers. All three works refer to very different and distinctive scenery of corrupting practices in Latin America and particularly in Brazil. The first case is the one related to the slush funds in the financing of electoral campaigns in Brazil. Although using a non-orthodox methodology, based

on reports and press declarations - which could easily be object of criticism -, Formiga-Xavier describes a general situation where almost all Brazilian political parties and main politicians are involved in the illegal use of slush funds to finance their electoral campaigns. Illegal slush funds are defined as private donations intended to finance electoral campaigns when true sources are hidden or cannot be properly declared to electoral justice as required by law. It is not only the case that the electoral legislation is rather losing - full of blank areas - but also that the judiciary body in charge of the electoral laws declares its own inability to deal with the issue; but slush funds are powerful enough to allow candidates to win elections, they are stronger than the official sources used in campaigns, and quite clearly they produce an unbalanced result in the electoral competition, not to mention the distortions implied by its effects on accountability and the public perception of the fairness of democratic elections;

- The second case refers to the **exposure and perceptions** of common people to political corruption. Bohn deals with the existing empirical evidence that not necessarily people who are exposed to corruption perceive it as a problem or as a distortion of the democratic procedures. She departs from the idea that people who gets involved with corruption either actively search for it, for a variety of reasons, or are forced to deal with it, while the perception of the phenomenon is related to great individual variation about what a corrupt act is; and from a societal perspective to the influence of political factors such as trust in democratic institutions and even partisanship, not to mention the role of the media. Using data from the Americas Barometer for 24 Latin American countries, she found an interestingly productive empirical distinction among “rational choice corrupters” and “anti-corruption crusaders”, and this allowed her to find that exposure to corruption is associated to the acceptance of corrupting acts. In terms of **the connection among experiential and perceptual corruption** there is a variation among different Latin American countries, showing that for quite a few of them there is a clear gap among the two different aspects, while to others the gap does not exist. Interestingly enough are the cases of Brazil and Chile where exposure and perception have an almost inverted effect on each other. It is worth mentioning some of the results achieved by Bohn when she goes from descriptive statistics to models of regression: first, the two most important determinants of experiential corruption is to be **a rational choice corrupter and a male**, and not a victim of corrupting acts, something that corroborates other works done in the region and in the United States; but also people who do not trust democratic institutions, as the Judiciary, are prone to

experiment corruption, as are wealthier persons, but not the more educated segments of the public, the youngest or the elder. As to the perception of corruption, the main determinants are the view that the government is not doing enough to combat corruption, the dissatisfaction with the government of the day, as well as the lack of trust in the Judiciary. Bohn has also tested the effects of corruption on the satisfaction with democracy and her findings corroborates conclusions of Mitchell Seligson and my own studies on the matter, according to which corruption has a negative effect on the legitimacy of the democratic regime;

- The third case is about how the Board of Ethics and Parliamentary Decorum of the Brazilian Senate reacts to repeated violation of legal or ethical rules by individual parliamentarians. Couto and Santos assume that this institutional organ operates based on mechanisms of “fire alarm” in order to preserve the dignity of the parliamentary institution when a Senator violates the rules of procedure of the Brazilian Senate and its code of ethics. They take as an example the process that has investigated in 2009 the so-called “**secret acts**” taken by the Directive Board of the Senate whose main responsible was the former Brazilian President José Sarney, who was acting as President of the Brazilian Congress when the secret acts were decided. The authors’ description of the behavior of individual parliamentarians and political parties is quite detailed and it is not the case of going back to it here, but Couto and Santos show clearly that the majority of parliamentarians orient their decisions on the matter according to a modus operandi or an ethos **basically devoted to their self defense**. At the end, the very Code of Ethics and Parliamentary Decorum of the Senate becomes a dead letter because nobody wants to incriminate their peers because of the fear of being object of the same charge in other occasion and circumstances. Such modus operandi causes discomfort among individual parliamentarians who tend to adopt a more strict ethical foundation for their political behavior, but it does not prevent the classic tension between representation and governability to come about. This is so because the defense of oligarchic practices associated to transgressions of the public ethics and the violation of the law are connected to a specific **mode of government majority formation in Brazil**. In order to be able to obtain and maintain the support of their allies, Brazilian Presidents almost always tend to subordinate their political choices to the need of preserving the loyalty of members of their political coalition. As Couto and Santos say, one of the factors which explain the entrenchment of members of the Brazilian Congress, despite their transgressions, is the ability of the

Executive to mobilize their Legislative supporters to act together in stifling any complaints. The strategy of entrenchment of political actors, in spite of their illegal acting, are a function of some very specific conditions: one, the body responsible for the internal control of this kind of transgression in the parliament is composed of pairs of either individual parliamentarians or party accused; two, members of the control body are vulnerable themselves to the regulatory scrutiny involved in the situation; third, the whole issue is subordinated to the dynamics of the competition between the government and the opposition; and finally, actors under scrutiny are able to mobilize their defense precisely by those who should accuse them;

- Let me go now to some more specific comments about the cases reported in these papers and also about the proposals of political reform implied by them. First, I agree with Formiga-Xavier that the use of slush funds in the electoral campaigns have a strong impact for horizontal and vertical accountability and that this should be considered when the quality of electoral competition is evaluated. I also agree with his proposal for a political reform which should allow the Brazilian political system to reduce the use of corrupted money in elections in order to reestablish the political equality and mainly to create the adequate conditions for vertical accountability. This is crucial for the quality of democracy, but I think that there is a missing point in Formiga-Xavier's paper: the connection among the use of slush funds in elections and the failure, so to say, of vertical accountability is a good hypothesis, but it has not been empirically proved, it still has to be worked out. One way to do it would be to check specifically how electors perceive the illegal financing of electoral campaigns and how this relates to their electoral choices; Bohn's paper is a good example of this, but I am sure that also Formiga-Xavier is skilled to do it;
- As to the paper on parliamentary oligarchization in Brazil by Couto and Santos, I also agree when they say that electoral democratic devices are weak to avoid the oligarchic mutual protection among politicians that violate the law in the Brazilian Congress; and that the capacity of citizens to punish non republican practices is low because competitors – which should translate into electoral alternatives - are not so different one from each other in respect to this matter. This is a fact, also related to the suggestion I made to Formiga-Xavier, and I think that we need more research here in two complimentary directions: first, it is necessary to go much further in the analysis of the so-called Brazilian coalitional presidentialism in order to understand the

institutional reasons **which** influence or force political leaders and political parties, be them government or opposition, to adopt a similar pattern of political behavior, and not to distinguish themselves one from each other, therefore not offering the electors a clear choice in respect to punishing or accepting political transgression. What is it about that at the end makes the formation of political majorities in the Brazilian coalitional presidentialism causes the continuity or the deepening of violation of the republican dimension of democracy? Second, in the paper of Couto and Santos there are several mentions to the fact that transgressions of democratic rules causes discontent and political distrust among the citizens – something that I also found in my studies of the matter -, but this aspect is not entirely incorporated in the analysis. I am convinced that we need more research designed to propose the integration among the institutional approach and the one that exams the reactions of the public to the functioning of institutions in old and new democracies, or in other words, we need to make the institutionalist approach to dialogue with the co-called culturalist one;

- Finally, a very brief comment about Bohn's paper. This is precisely the kind of research that I think can help us to understand more how political corruption is associated with or is determined by values, attitudes and behavior not only of politicians, but also of their electors. Bohn has showed quite clearly that experiential and perceived corruption are distinct phenomena, but she has also demonstrated that corruption is associated with or is determined by the malfunctioning of democratic institutions, particularly the judiciary, and the poor performance of governments. This is quite a result, to my account, but in order to go further I would suggest that we need more research capable of going deep into the links among specific perceptions of institutional distortions and how this is translated into acceptance or rejection of corrupt practices. One way to do it may be to include more institutional and behavioral variables related to corruption in the questionnaires of surveys. Last by not least I want to express my agreement also with the specific suggestion of policies and political reform made by Bohn: yes, we definitely need to pay better policemen if we want to enhance public probity in this and other areas of public policy, but at the same, time we do need to advance in the direction of a more efficient judicial system. The first point depends of the pressure of electors over governments and political parties; the second depends of the performance of parliamentarians and political parties. However, in face of the difficulties reported here today by the three papers, I think we should have a final word of caution.

- Thank you, JAM.