

Factors and legal measures of official's corruption in the Public Management of the Educational System at the Province of Huaura

[Factores y medidas legales de Corrupción de funcionarios en la Gestión Pública del Sistema Educativo de la Provincia de Huaura]

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Resumen

El objetivo principal de la investigación fue determinar qué factor contribuye a disminuir los niveles de corrupción de funcionarios relacionados con la actividad educativa. Para este propósito se han realizado diversas entrevistas a los servidores y funcionarios públicos. Como resultado del análisis dogmático y la aplicación de una encuesta se comprueba que los valores y el desconocimiento de las normas, tienen una influencia muy determinante para la corrupción de funcionarios y servidores públicos, siendo el primer factor la conducta dolosa de los funcionarios, así mismo, el segundo factor que interviene es el desconocimiento de normas reglamentarias tanto administrativas como penales, y un factor menos significativo es la voluntad de servicio. Advirtiéndose en esta variable correlacional que los indicadores más preponderantes para no lograr la disminución de este flagelo, está expresado principalmente en la política educativa y la justicia penal retributiva, y como indicadores complementarios el deficiente proceso de gestión pública en el sistema educativo de la Provincia de Huaura y la ausencia de rendición de cuentas la transparencia e información. Por otro lado, los resultados de este trabajo han permitido señalar que es necesaria una recuperación de los valores éticos, ya que es uno de los elementos que facilita mucho a que se cometan los delitos de corrupción de funcionarios. Finalmente concluimos que tanto la sensibilidad social, los valores inculcados desde la familia y el sistema de justicia penal, son importantes para la lucha contra la corrupción, por lo que es imprescindible la participación de la sociedad civil y la intervención del Estado con una política consciente en prevención del delito, educación y cultura.

Palabras clave: Funcionarios Públicos, corrupción, justicia penal retributiva, gestión pública, política educativa, anticorrupción.

Abstract

The main objective of the investigation was to determine what factor contributes to reducing the levels of corruption of officials related to educational activity. For this purpose, various interviews have been conducted with public servants and officials. As a result of the dogmatic analysis and the application of a survey, it is verified that the values and the ignorance of the norms, have a very determining influence for the corruption of officials and public servants, being the first factor the willful conduct of the officials, as well as, the second factor that intervenes is the lack of knowledge of both administrative and criminal regulations, and a less significant factor is the willingness to serve. Noting in this correlational variable that the most preponderant indicators for not achieving the reduction of this scourge, is expressed mainly in educational policy and retributive criminal justice, and as complementary indicators the poor process of public management of educational system at the Province of Huaura and the absence of accountability, transparency and information. On the other hand, the results of this work have made it possible to point out that a recovery of ethical values is necessary, since it is one of the elements that greatly facilitates the commission of crimes of corruption of officials. Finally, we conclude that both social sensitivity, values instilled from the family and the criminal justice system, are important for the fight against corruption, so the participation of civil society and the intervention of the State with a conscious policy is essential. in crime prevention, education and culture.

Keywords: Public officials, corruption, retributive criminal justice, public management, educational policy, anti-corruption.

I. Introduction

The present investigation is oriented to establish the relation of the Commission of the crimes of corruption of civil servants and their influence of educational system, to know if the norms and the fundamental rights are respected, what are the factors that influence in the commission of these, In our country, regulations are issued or modified that try to solve socio-legal problems and as a consequence of it, since it influences public management, alternative solutions will be sought so that the public official has an effective and efficient work in the management development.

Casanova (2009), in his Thesis "Political corruption in democracy and trust", mentions that there is a certain tendency to associate corruption with power, and more specifically with Political Power. Although, power must be understood as the ability to make decisions in the exercise of an obligation, it being necessary that said capacity be institutionalized in the laws and norms of the social group in which it acts. In this sense, there are as many positions vested with power as legally established, so that Political Power only represents one of the areas in which corruption can originate. By way of example and to reinforce this argument, in this work mention has been made of the different probabilities that venal behaviors appear in the commercial field, in the Administration of Justice and in the Public Administration in general.

Vigil Carrera (2012), points out that "any regulation that intends to become a tool in the fight against corruption must have two nuances, the preeminence of ethics and transparency in public management and, on the other hand, a disincentive effect with respect to the materialization of corrupt acts.

González (2020), in his thesis *Why is corruption tolerated? A study with data from Latin America* points out: The findings are clear, since all the hypotheses point towards a specific path; What people perceive and know about their government will clearly determine their level of tolerance for corruption. Strengthening the rule of law and spreading political civic education, so that in turn anti-corruption mechanisms are more efficient, and function with greater autonomy and freedom,

together with the help and vigilance of citizens, is the best bet so that tolerance petty corruption decreases. Through the relationship between petty and grand corruption, one cannot deny the possibility that, by lowering the levels of petty corruption, the inertia of a more critical citizenry aware of its power of action, and a more vigilant government. They could also reduce the levels of grand corruption, which is the one that most directly affects people's quality of life (page 122).

Moscoso (2021), in his article: Peru: Pandemic and Corruption, points out in his summary "The fight against corruption implies comprehensive work, controlling the execution of S/.22,864,873,138.00, is a titanic task, which cannot be it must entrust to a single governing entity, the principle of transparency and good faith prevails; improve and streamline the legal framework in the administrative, civil and criminal aspects; developing strategies such as the SDGs are important, but without a premise of eliminating corruption that is applied to the 17 objectives, we will see expectations dashed; this weak evil brings with it poverty, hunger, lack of education and health, lack of clean water and sanitation, pollution and endless threats to the achievement of a sustainable nation, which maintains a balance between the economic, social and environmental" and in its conclusions mention that "Corruption is the abuse of public power to obtain a particular benefit, a social phenomenon that does not allow the sustainable development of our country; that it invades the juridical good of the public administration; Its sanction is prescribed in our legal system and has an administrative, civil and criminal nature.

The fight against corruption implies a comprehensive approach, with the collective participation of authorities, officials and citizens; Transparency of information is vital and accountability specifies this principle, adopting legal measures and strategic policies for control, are relevant in these times of pandemic, since budget execution has been overwhelming. The budget allocation at the National, Regional and Local Government level amounted to S/.22,864,873,138.00, as of the date of the study, December 06, 2020, its execution was close to 80%; almost 90% of the budget was administered by the National Government. The distribution by region favored Lima with a total of 53%, followed by Cajamarca and Piura with 4%. The money distributed in the National Government went mostly to the Ministry of Development and Social Inclusion with 35.2%, followed by the Ministry of Labor and Employment Promotion with 34.62%, both institutions administered the economic subsidies (bonuses) to natural people. The Ministries of Health and Education also received a significant contribution with 16.68% and 4.13% respectively. The economic damage from 2017 to 2019, according to the Comptroller General of the Republic amounted to S /. 32,757,496,705.00; being the greatest amount of loss for Lima and Callao, followed by Arequipa and Piura, in the transport and communications, health and education sectors. Various complaints arose in times of pandemic, subsequent control is pending by the cut-off entities; acting in good faith and with transparency is a premise, which is associated with morality; education is a solid strategy to defeat corruption. More is needed than a management tool such as the Sustainable Development Goals of the 2030 Agenda, which does not generate an impact regarding this problem, due to the subtle form of its strategy to eliminate it. A transversal treatment is required since its presence disturbs most, if not all, of the SDGs, without that premise, the long-awaited sustainability of nations will not be achieved" (pp. 67 and 85).

Cifuentes Garzón and Linares Garzón (2020), in their work: Conceptions of corruption in children and young people from a Rural Educational Institution in Villagómez, Cundinamarca (Colombia). He points out in his conclusions "with the investigative process it was possible to recognize the meanings assigned to the concept of corruption by students at the level of basic primary and secondary education in the rural sector in the municipality of Villagómez, Cundinamarca, which were related to negative aspects. of people as a result of ambition and associated actions mainly with politics. In relation to the ways of proceeding with respect to corruption in the daily actions of the students, it was found that they refer important scenarios to the school and the family. The adults who are part of them are models that influence the learning and application of ethical and civic values. Regarding the desire for change on corruption, the students propose important tasks

to the family and the school, in the sense of teaching honesty and rectitude behaviors. According to the results of the present investigation, it can be deduced that the conceptions about corruption are mediated from an ethics and moral approach. In this perspective, it is important to strengthen cognitive, emotional and communicative citizen skills in the different areas of social interaction, in order to educate citizens who are respectful of institutions, fulfill their duties and who exercise human rights rigorously and transparently. different social, economic and political scenarios.

Faced with the social phenomenon of corruption, it is up to the school to envision alternatives that lead to permanent reflection on the individual and collective actions of children and young people, in the sense of rescuing the practice of values such as transparency in all actions. Always tell the truth, comply with the agreement, reject any type of bribery and other actions contrary to ethical principles. Even at the university level, following Sañudo and Palifka (2018), young people should continue to be guided so that they "learn to distinguish how corruption is installed in their daily practice, combat it and commit to being attentive to the honesty of their actions." actions and the veracity of his speech" (p. 21). In these times in which traditions tend to disappear, the school must safeguard the mission of educating, which by nature belongs to it in alliance with the family. If in the family and the school all practices conducive to the maintenance of corruption are removed, this scourge that affects the very progress of humanity will begin to be definitively eradicated" (p. 111-112).

Cárdenas (2012), points out that "Reducing the frequency with which acts of corruption are observed in educational systems should be considered a necessary step to achieve better conditions of equity and quality, given that the practices of corruption observed can have different impacts with different population groups".

II. Materials and Methods

Sample

100 people per month were taken as a sample, to carry out the respective evaluations.

Population

It is made up of the inhabitants of the district of Barranca with 69,421 inhabitants according to the National Institute of Statistics and Informatics, INEI, (2017), being the district with the highest number of population with respect to the other districts of the province.

Statistical analysis

The development of the research was carried out through descriptive statistics with a hypothesis test, which led us to make inferences from the results.

The analysis of the database, recoding of variables and the determination of descriptive statistics, for which the SPSS software, version 21 for Windows, was used.

Procedure

a) Techniques

The data collection technique used is the Survey, which according to Tamayo and Tamayo (2003), the survey is one that allows to give answers to problems in descriptive terms such as relationship of variables, after the systematic collection of information according to a design previously established to ensure the rigor of the information obtained. The sample is the one that can determine the problem since it is capable of generating the data with which the faults within the process are identified.

b) Instruments

For data collection, a questionnaire consisting of 6 questions was used as an instrument.

c) Sources

The primary sources are constituted by the survey questionnaire, as well as the observation guides made to the public servants of the Ugel 09 at the Province of Huaura.

The secondary sources are made up of the theoretical and documentary information for the corruption of officials required for the study, preparation and exposure was collected from various sources, as well as from various institutions, both public and private. The main sources of information are the following:

- Library of the José Faustino Sánchez Carrión National University.
- Library of the Federico Villarreal National University.
- Library of the Cesar Vallejo University, Lima.
- Internet (websites and virtual libraries).

d) Information processing techniques

After applying the data collection instruments to the students, to determine the relationship that exists between the corruption of officials and the public management of educational system, Huacho, the results were tabulated with the Microsoft Excel software, proceeding to the classification of the items and the tabulation of the results using bar graphs. All this allowed expressing the results in percentages for the description and interpretation of the data obtained.

III. Results

The results are shown below.

I. Main crimes committed by public officials and servants in Public Management Processes.

Faced with the question: What do you think are the main crimes committed by officials and public servants in Public Management Processes? Where they were asked to choose 6 alternatives.

According to the perception of the respondents, they consider that the most frequent crimes committed are the crimes of abuse of authority (art. 397°) in 84%; improper charges (art.383°) in 81%; embezzlement (389°), by 75%; influence peddling (400°), 50%; bribery (art.397°), 44%; and on a smaller scale the crimes of embezzlement (art. 387°) and concussion (art. 382°) with 32% and 30% respectively (See Table 1).

Table 1. Main crimes committed by public officials

	Percentages %
Authority abuse.	84
Improper charges	81
Embezzlement	75
Influence peddling	50
Bribery	44
Peculation	32
Concussion	30

Source: Survey conducted in the Province of Huaura, 2015

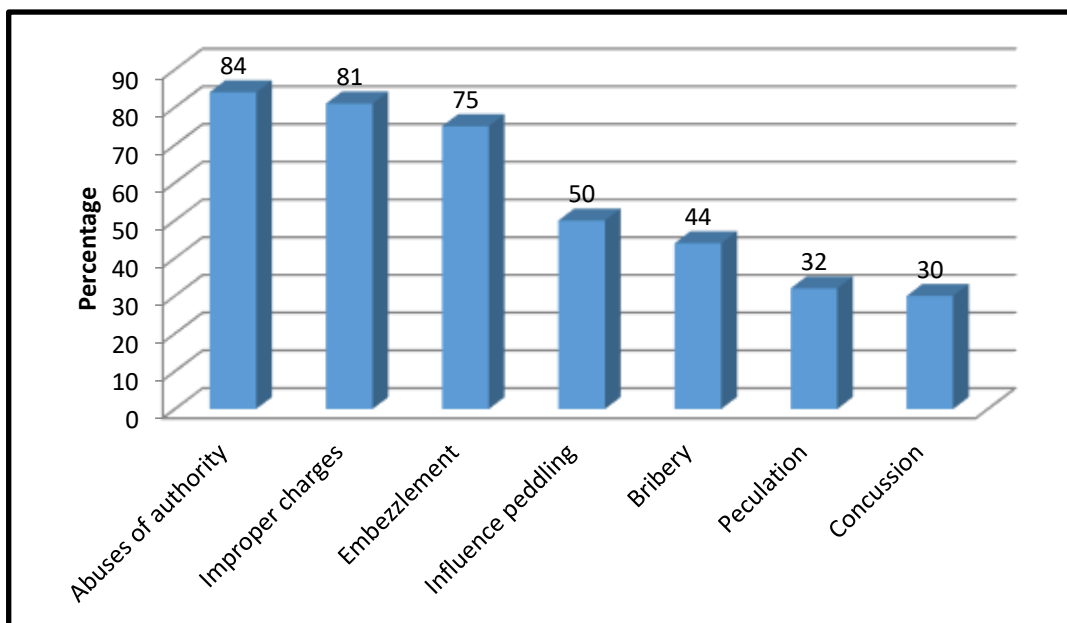


Figure 1. Main crimes committed by public officials and servants

II. Frequency in the commission of crimes by officials and public servants in the processes of Educational Public Management.

Faced with the question: How often do you think that the crimes committed by officials and public servants typified in the aforementioned articles occur in the processes of educational public management?

According to those surveyed, the majority believe that this type of crime always or almost always occurs with a cumulative perception of 93.6% (See Table 2).

Table 2. Frequency with which crimes are committed

		Percentage	Accumulated percentage
Valid	Forever	38.5	38.5
	Usually	55.1	93.6
	Rarely	6.4	100.0
	Total	100.0	

Source: Survey conducted in the Province of Huaura, 2015

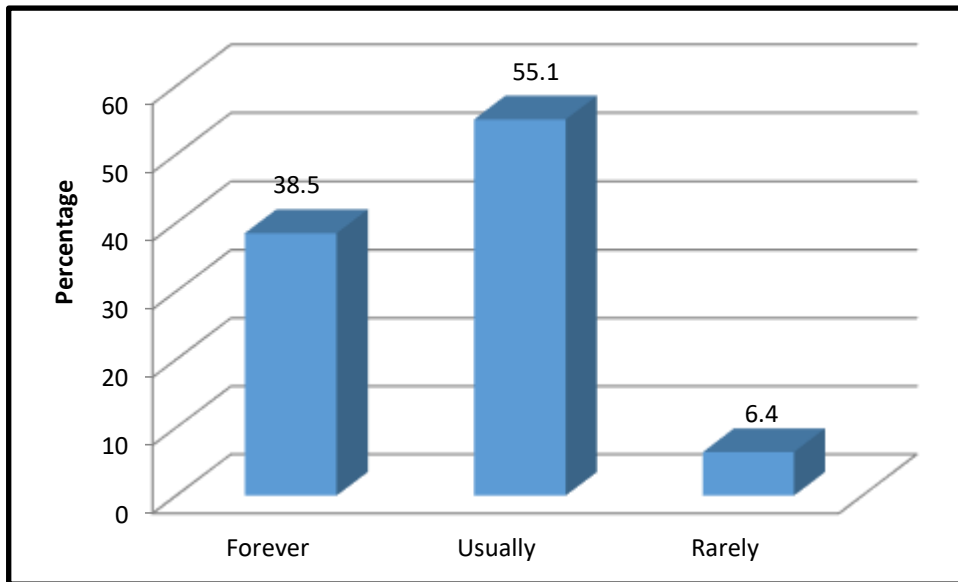


Figure 2. Frequency with which crimes are committed.

III. The excessive and inefficient bureaucracy makes it easier for an official or public servant to propose, accept or carry out criminal offenses in the processes of educational public management.

Faced with the question: How much does excessive and inefficient bureaucracy facilitate for an official and server to propose, accept or carry out criminal offenses to obtain benefits that favor them in public management processes? As we observed, the respondents stated that excessive and inefficient bureaucracy as one of the elements that make it easier for an official and public servant to propose, accept or carry out an act of corruption, we have that: it facilitates a lot 71.9%, it facilitates little 25% and it does not facilitate nothing 4.1% (Table 3).

Table 3. Excessive and inefficient bureaucracy makes it easier for a public official to propose, accept or carry out criminal offenses

		Percentage	Accumulated percentage
Valid	Much	71,9	71,9
	Little bit	25,0	96,0
	Any	4,1	100,0
	Total	100,0	

Source: Survey conducted in the Province of Huaura, 2015

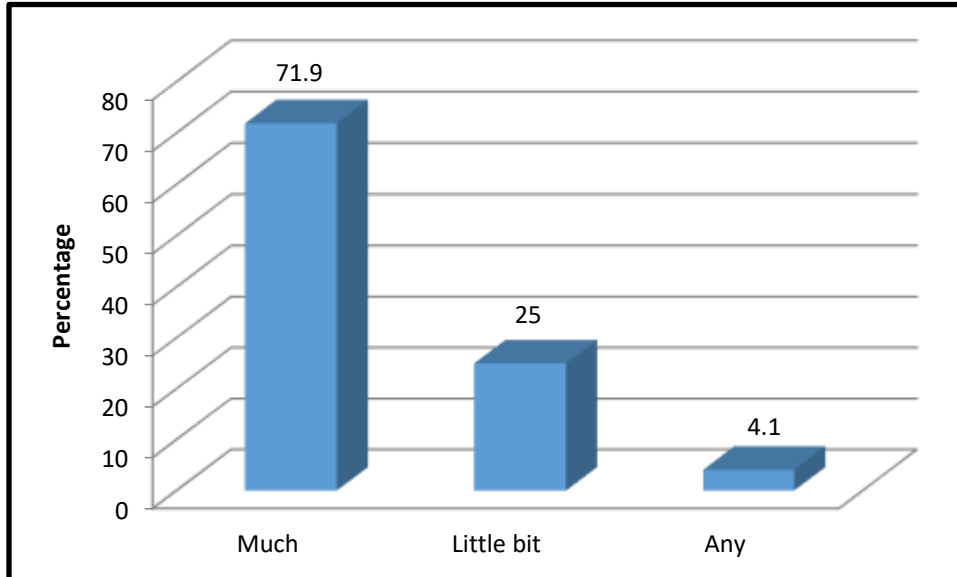


Figure 3. Excessive and inefficient bureaucracy makes it easier for an official and public servant to propose, accept or carry out criminal offenses.

IV.- The lack of ethical values makes it easier for an official and public servant to propose, accept or carry out criminal offenses in Public Management processes with the State.

Faced with the question: How much does the lack of ethical values facilitate for an official and public servant to propose, accept or carry out criminal offenses to obtain benefits that favor them in public management processes?

As we observed, the respondents stated that the lack of ethical values as one of the elements that make it easier for an official and public servant to accept or carry out an act of corruption, we have to: facilitate a lot 75.3%, facilitate a little 20.2% and not provides nothing 4.5% (See Table 4).

Table 4. The lack of ethical values makes it easier for an official or public servant to accept or commit crimes of corruption

		Percentage	Accumulated percentage
Válidos	Much	75,3	75,3
	Little bit	20,2	95,5
	Any	4,5	100,0
	Total	100,0	

Source: Survey conducted in the Province of Huaura, 2015

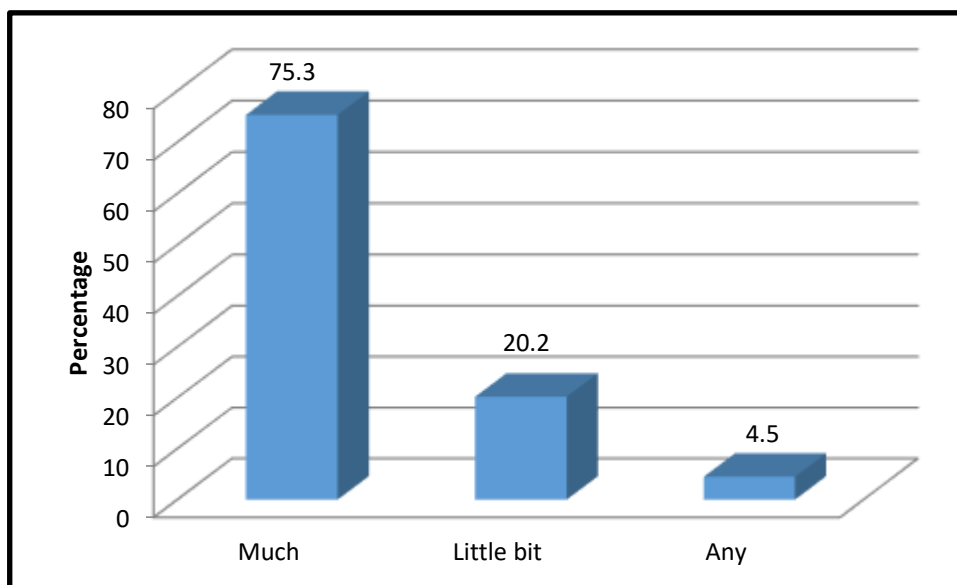


Figure 4. The lack of ethical values makes it easier for an official or public servant to accept or commit crimes of corruption.

V.- The deficient mechanisms of investigation, control and sanction make it easier for a official or public servant proposes, accepts or performs criminal offenses in the processes of public management.

In response to the question: How much do the poor investigation, control and sanction mechanisms facilitate for an official or public servant to propose, accept or carry out criminal offenses to obtain benefits in public management processes?

As it is observed, the respondents stated that the deficient mechanisms of investigation, control and sanction as one of the elements that make it easier for an official or public servant to propose, accept or carry out an act of corruption, we have: it greatly facilitates 89.7% and it facilitates little 10, 3% (See Table 5).

Table 5

The deficient mechanisms of investigation, control and sanction make it easier for a public official to propose, accept or carry out criminal offenses

		Percentage	Accumulated percentage
valid	Much	89,7	89,7
	Little bit	10,3	100,0
	Total	100,0	

Source: Survey conducted in the Province of Huaura, 2015

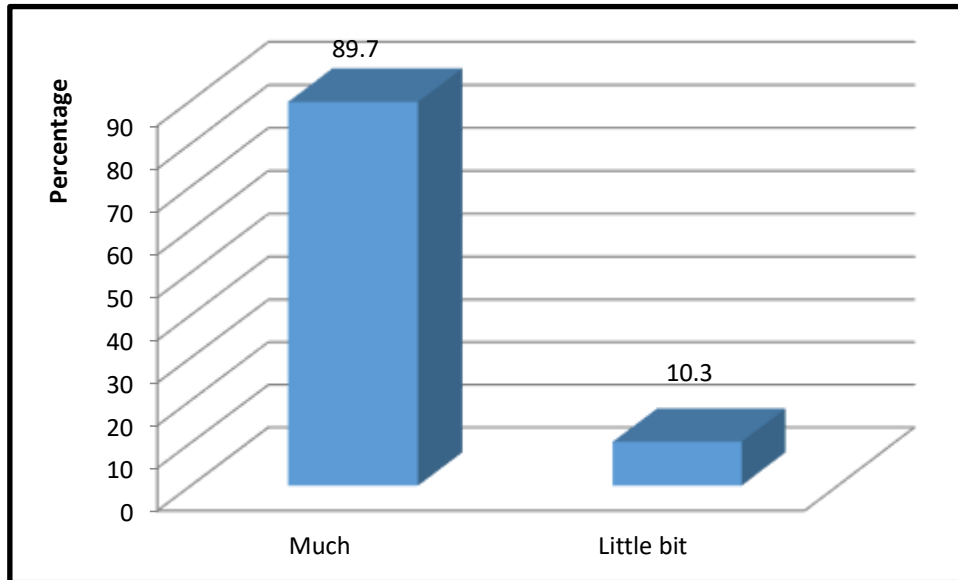


Figure 5. Poor investigation, control and sanction mechanisms make it easier for an official or public servant to propose, accept or carry out criminal offenses.

VI.- Solution alternatives that must be applied to mitigate corruption crimes committed by public officials in public management processes.

Faced with the question: What solution alternatives should be applied to mitigate corruption crimes committed by public officials in public management processes? Where they were asked to choose 6 alternatives.

As we observed, the respondents answered that prison (imprisonment) of the main officials, civil death, criminal justice (change of system), imprescriptibility (of all corruption crimes), administrative and criminal sanction (unified) and the fine, would be the most effective solution measures to mitigate the crimes committed by officials, the first solution alternatives give us 67%, 65%, 62% and 46% respectively (See Table 6).

Table 6. Solution alternatives that must be applied to mitigate the crimes committed by public officials

	Percentages %
Prison (imprisonment).	67
Civil death	65
Criminal justice	62
Imprescriptibility	46
Administrative and criminal sanction	45
Penalty fee	44

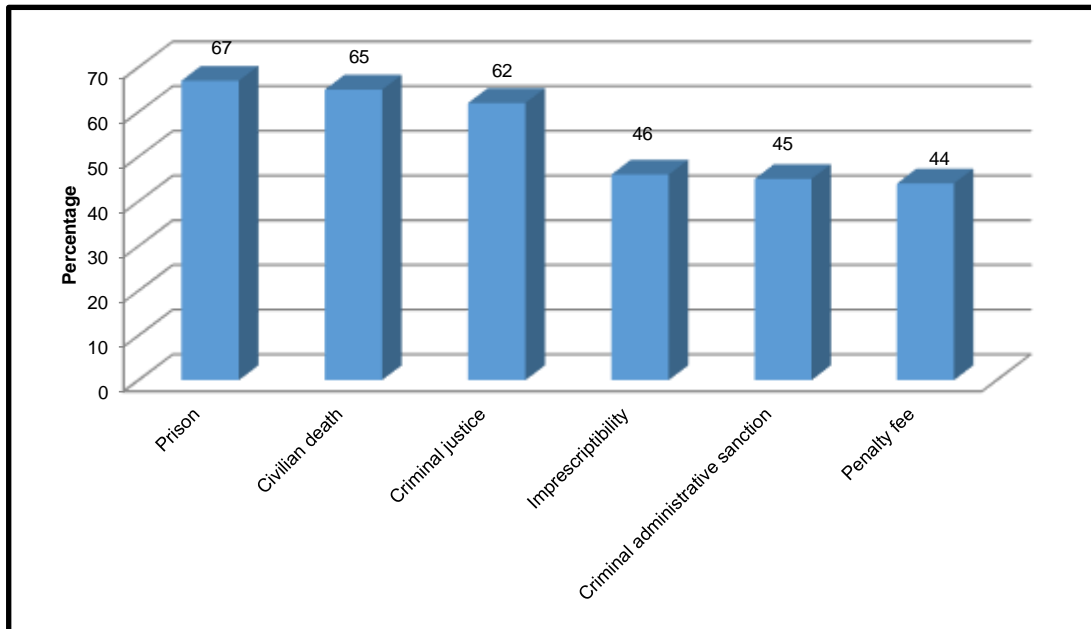


Figure 6. Solution alternatives that must be applied to mitigate the crimes committed by public officials.

IV. Conclusions

- About the main Hypothesis, The relationship that exists between the corruption of officials and the Public management of the Educational system is highly significant, the inverse correlational investigation has been carried out by relating the specific hypotheses of criminal law, impunity, criminal justice remuneration and the social context, with the processes of public management, likewise, officials have not been duly instructed in the social ethical legal consequences of the corruption of officials, which would allow the increase of the index of this scourge, aggravated with a retributive justice that does not look for another alternative that only the increase of sentences.
- Regarding the first specific hypothesis, it has been shown that public officials in their various areas, regardless of their nature (Professors, Lawyers, Administrators, Engineers, Doctors, Technicians who are part of Management), indicate that the types of predominant criminal offenses committed by public officials, are the crimes of abuse of authority (art. 397 °) in 84%; improper charges (art.383°) in 81%; embezzlement (389°), by 75%; influence peddling (400°), 50%; bribery (art.397°), 44%; and on a smaller scale the crimes of embezzlement (art. 387°) and concussion (art. 382°) with 32% and 30% respectively, which shows that the criminal law of chapter IV of the criminal code on corruption of officials are inefficient for a retributive justice inoperative and generates that it hinders the viability of the fight against corruption.
- Regarding the second specific hypothesis, it has been shown that the predominant elements that facilitate impunity for public officials in public management processes are excessive and inefficient bureaucracy as one of the elements that facilitate an official and public servant to propose, accept or carry out an act of corruption, we have to: facilitate a lot 71.9%, facilitate a little 25% and do not facilitate anything 4.1% (Table 3). Likewise, of ethical values as one

of the elements that make it easier for an official and public servant to accept or carry out an act of corruption, we have that: it facilitates a lot 75.3%, it facilitates a little 20.2% and it does not facilitate anything 4.5% (See Table 4). corroborated by an education without quality in values, in addition to the lack of culture of prevention at all levels.

- Regarding the third and fourth specific hypotheses, it has been shown that acts of corruption in education do not generally occur by virtue of individual parties, but rather by virtue of "organizational parties" (companies and public bodies), where the "active" and "passive" of the typical realization of bribery respond to group interests, the link between corruption and organized crime is also evident to face the fight against corruption, since retributive criminal justice only proposes and it applies palliatives that are not effective and civil society is an indifferent but inquisitive observer in the social context.
- In our legal system, there is abundant normative production, with the only retributive tendency, proven against the question: What solution alternatives should be applied to mitigate corruption crimes committed by public officials in public management processes? As we observed, the respondents answered that prison (imprisonment) of the main officials, civil death, criminal justice (change of system), and it is evidence of reality, because the three are fundamental characteristics of a retributive justice, and its evidence is evident. failure, resulting ineffective for the objectives pursued. The fight against corruption, as well as the promotion of ethics and transparency in educational public management, are central aspects for a State to be efficient and in which state agents are identified with the honesty and efficiency that guide their functions. and the exercise of their duties.
- The public official is responsible for the economic resources or funds available to the State or to the organizations determined by it. Due to the role it performs in any sector of the Public Administration, it has domain within public management, which enables it to make decisions, to fulfill its functions, which obviously must be within its competence and jurisdiction, as in the case, of public educational institutions, which among others we have: In the Regional Government such as the DREEL, the UGEL, the National Colleges and Universities. The presence of corruption means that there is a problem not only in regulations, but in its execution because it does not fulfill its function, because it is ambiguous, and there is also social permissiveness. Corruption sadly affects the most vulnerable populations, making the poor poorer.

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