

Corruption from a gender perspective: three case studies that address this connection

August 2021

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Case studies





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Acronyms and Abbreviations

ALAC	Centro Asesoría Legal Anticorrupción
AMIR	Asociación de Mujeres Integradas de Santander
CEDAW	Committee on the Elimination of Discrimination against Women
ECLAC	Economic Commission for Latin America and the Caribbean
IACHR	Inter-American Commission on Human Rights
CIM	Inter-American Commission of Women
CNE	Consejo Nacional Electoral
CONPES	Consejo Nacional de Política Económica y Social
CPEM	Consejería Presidencial para la Equidad de la Mujer
CTI	Cuerpo Técnico de Investigación
DANE	Departamento Administrativo Nacional de Estadística



Acronyms and Abbreviations

EPS	Entidad Promotora de Salud
NPO	Non-profit organizations
LGBTIQ+	Lesbian, Gay, Bisexual and Transgender, Intersex, Queer, other gender identities and orientations
MAIS	Movimiento Alternativo Indígena y Social
MOE	Misión de Observación Electoral
NDI	Instituto Nacional Demócrata para los Asuntos Internacionales
NIMD	Netherlands Institute for Multiparty Democracy
OAS	Organisation of American States
UN	United Nations
UNPD	United Nations Development Programme
UNODC	United Nations Office on Drugs and Crime
GBV	Gender-based violence

Presentation:



As part of the “Fighting Corruption from a Gender Perspective” project, financed by the UK Prosperity Fund, Transparencia por Colombia has been analysing the challenges and intersecting issues concerning anti-corruption actions and the promotion of gender equality. The purpose of this is to identify, recognise, and render visible the way in which corruption affects women and the LGBTIQ+ community, from a gender and human rights violations perspective.

The existing literature analyses these intersecting issues on two levels: 1.) it examines the existence of a correlation between gender and the tendency to engage in acts of corruption (are women more corrupt than men?); and 2.) it explores the ways in which acts of corruption have a differentiated impact on men, women, and LGBTIQ+ people¹ (how does corruption in the provision of public services affect men, women, and LGBTIQ+ persons?). In this regard, Transparencia por Colombia has conducted a first study entitled “Analysis and recommendations. An articulation of corruption and human rights from a gender perspective (2021). This report presents an approach to recognising the impact of corruption on women and the LGBTIQ+ community, how to recognise it and how to report it.

¹ *Citizens denounce corruption. Balance of the Anti-Corruption Legal Advice Centre ALAC, and special report in times of pandemic.*

This document is based on the results of this report and goes a step further by seeking to characterise the impact on the guarantee of the political, economic, social, and cultural rights of women and LGBTIQ+ people, based on three case studies. The main objective of these cases is to recognise and raise the visibility of women and the LGBTIQ+ community as victims of corruption, analysing the acts of corruption that differentially affect these two populations in Colombia and the main characteristics of the scenarios in which these acts take place.

Justification


Using case studies to analyse corruption from a gender perspective is justified by the following:

- Various studies on gender and corruption have highlighted the importance of producing inputs and knowledge on how each country's democratic arrangements and rule of law affect the relationship between gender and corruption (UNDP, 2014). These have identified the importance of knowing about, highlighting, and learning from the experiences of women's organisations around the world in the fight against corruption (UNDP, 2012).
- The in-depth case study "highlights specific acts of corruption in light of a legal analysis that establishes the rights violated, the characteristics of the victims,

and the typologies of the acts of corruption" (Rojas and Fuchs, 2019, p. 6). This methodology also identifies the actors involved, both public and private, and whether the corrupt act derives from active or omissive conduct.

- The case studies in the framework of a gender and corruption analysis shed light on country-specific anti-corruption efforts, as well as the gender narratives provided for each case (UNODC, 2020).

Accordingly, this paper analyses three different case studies that address the relationship between corruption and gender from different perspectives, and the contexts in which this nexus may arise. It also includes recommendations and conclusions. It is worth noting that we identified limitations in the approach to understanding how corruption affects the LGTBIQ+ community. On the one hand, because the academic and theoretical production has not specifically explored this relationship in depth, and, on the other, because no concrete cases were found that would allow us to characterise the problem.



The first case study is called “Marginal or symbolic candidacies as a barrier to women’s effective participation”, and it analyses political violence against women, the violation of their right to participate in politics and how acts of corruption can end up influencing the occurrence of such violations. It exposes specific situations in which women were instrumentalised by political parties and movements to make up lists in local elections, without them having received electoral or political training.

The title of the second case is “Irregularities in the contracting of a programme to assist women victims of violence in Santander: An obstacle to the guarantee and protection of rights and a possible scenario of re-victimisation”. This case is intended to shed light on the way in which corruption affects the comprehensive assistance that should be provided to women victims of violence. It addresses the irregular contracting of an operator who is not suitable for the provision of the service, and how this hinders the women’s protection and the guarantee and restitution of their rights.

Next, we discuss a case called “Sexual extortion as a manifestation of corruption”, which addresses one of the differentiated impacts of gender-based corruption,

known as sexual extortion or sextortion. Sextortion is the manifestation of power abuse in order to obtain a sexual favour or advantage in exchange for providing access to rights and services, such as education, health, water, licenses and permits for economic projects, visas, etc. For this case, we draft a theoretical framework, a normative framework for Colombia that would allow for the investigation and sanctioning of sexual extortion; and we analyse 3 situations of sextortion in light of this normative framework.

Finally, we present a number of findings and recommendations based on the three case studies that are intended, first, to explain how corruption as a structural practice affects the guarantee of women’s rights; second, to demonstrate how the regulatory frameworks are affected in corruption scenarios with respect to the case studies; third, to highlight the existing limitations with respect to the characterisation of the impact of corruption on the LGBTIQ+ community; and finally, to discuss the relevance of the fight against corruption through the public sector and civil society in this type of corruption cases.




Introduction



Corruption and gender has been studied through different approaches that provide an understanding of the possible relationship between these two issues. Some of the approaches that have been used to study corruption from a gender perspective are highlighted below, before finally highlighting the differential impact approach, as this will be the approach adopted for the case studies used in this document.

The essentialist approach hypothesised that women's political participation helped to decrease corruption. Dollar, Fisman and Gatti (2009) began to study the relationship between corruption and gender, claiming that as the number of women in parliament increased, corruption levels would tend to fall. This was on the assumption that there were psychological and ethical motivations specific to women that would explain the thesis, since women held values such as honesty that would repel corrupt behaviour (Sundström and Wängnerud 2016).

The exclusion or opportunity approach states that women are less likely to be corrupt because they tend not to be in corruption networks. In other words, women are less corrupt, not because of their ethics, but because they tend to be excluded from corrupt activities as they have less opportunity to participate in politics (Alhassan-Alolo 2007). This approach also establishes that when women participate in leadership and have more inclusive and feminised political support networks, levels of female corruption are likely to increase (Goetz 2007). Therefore, promoting women's participation in the public sector as an anti-corruption strategy alone will not work; on the contrary, efforts must be made to eliminate opportunities and links to corruption, such as nepotism and clientelism.



The reverse causality approach establishes that women's political participation is hindered by corruption, as, according to Stensöta and Wängnerud (2018), corruption favours gender inequalities, especially where clientelism plays an important role in the way in which women enter politics. According to the study, only those who have access to clientelism networks, connections to national and local elites, and access to resources to finance campaigns, will participate in politics.

The fair system approach arises in contrast to the essentialist approach. The former argues that the relationship between gender and corruption is not entirely clear-cut, but rather that the levels of corruption depend on the functioning of liberal democracy as a political system. For Sung (2003), the democratic system has characteristics that benefit women who participate in the public sphere, as free and fair elections, separation of power, rule of law, protection of free speech and press rights prevail, making it a system that seeks to control corrupt practices. Therefore, the proper functioning of democracy reduces levels of corruption.

Another approach is the institutional context and risk approach, studied by authors such as Esarey and Chirillo (2013), who start from the premise that women will resist participating in corrupt acts in places where they are already culturally and institutionally stigmatised, while there will be no difference compared to the behaviour of men in places where corrupt practices are normalised and where they are expected to participate in them. This is because discrimination against women means that they are more likely to be forced to follow the rules as it is riskier for them to break them and receive reprisals than it is for men.

Another perspective from which the relationship between corruption and gender has been studied is the differential impact approach, which recognises that the effects of corruption have consequences for society in general, which are especially negative for women. Women are more susceptible to paying bribes to access health services, education, justice and government social benefits, and more likely to fall victim to sexual extortion and human trafficking (Ramos Ruiz 2016).

Likewise, in contexts where gender gaps are evident, women find it more difficult to participate in political, social, and economic decision-making arenas, as they are exposed to the effects of corruption (Ramos Ruiz 2016). It is therefore essential to analyse the relationship between corruption and gender through case studies from a perspective that addresses the differentiated damage that this phenomenon causes, to address public policy and citizen empowerment actions that make victims more visible, and to approach measures that allow for the comprehensive reparation of the damage caused by corruption and its impact on the perpetuation of gender inequalities.

Considering that the case studies taken for this analysis are framed within the approach that focuses on the differentiated effect of the impact of corruption on the human rights of women and the LGBTIQ+ population, we need to establish how corruption impedes these populations' full enjoyment of their rights and aggravates situations where gender-based violence (GBV) occurs.

Gender-based violence(GBV)

A brief conceptual approach will be outlined to understand the dynamics of GBV in order to highlight how these practices are developed in different areas. Several authors agree with the definition of violence as the exercise of power through the use of force — whether physical, sexual, verbal, emotional, economic or political— that negatively affects the physical or psychological integrity of the other person, in the case of interpersonal relationships, or that annuls the potential for collective realisation, in the case of social or political violence.

One of the social inequalities that humanity still encounters is that which is based on a biological difference in terms of sexual characteristics. When we speak of gender, we are not only referring to belonging to a certain sex, but also to the social and cultural valuation given to each human being according to his or her sexual characteristics and how social inequality is constructed through this valuation. In this respect, women, owing to their biological characteristics, have been socially converted into bodies specialised in maternity and reproduction. Men, meanwhile, appear detached from this reproductive activity and their socially assigned role is to be the provider of the reproductive sphere, through activities proper to the public sphere. Their mastery

of the public sphere gives them power over women, who are “specialised” in reproduction, an aspect that is not highly valued in the social and economic world.

This social construct, that places greater power in the hands of men and subordinates women, is the basis of gender-based violence. In other words, it is this system of gender-based domination —known as the patriarchal system insofar as it manifests the power socially conferred to men over women— that is the basis of the problem of violence against women (Ramos, 2016).

According to the United Nations, gender-based violence refers to harmful acts directed against a person or group of people because of their gender, which, again, is rooted in gender inequality, abuse of power, and the existence of harmful norms. The term is primarily used to highlight the fact that structural gender-based power differentials place women and girls at risk for multiple forms of violence, but it also refers to violence directed against LGBTQI+ populations as the concept includes violence related to norms associated with masculinity/femininity or gender norms (UN, 2021).

This violence constitutes a serious violation of human rights and is reproduced by machismo, understood as a set of beliefs, attitudes and behaviours based on the supposed superiority of the masculine over the feminine, and on the authoritative role of men over women. It constitutes a whole constellation of values and behavioural patterns that affect all interpersonal relationships, friendships, work, leisure time, and politics (Castañeda, 2002).

Against this backdrop, feminist movements have made great efforts since the 20th century to shed light on the various forms of oppression to which women have historically been subjected. As such, there has been a demand for a real transformation that censures discrimination and the different forms of violence against women. This has led to significant progress being made in the international normative framework that condemns gender-based inequalities and urges the international community to design and implement policies to overcome the problem.

Obligations and duties regarding the eradication of GBV

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is the international tool for the defence of women's rights and the transformation towards substantive and comprehensive equality that is reflected in both public policies and concrete actions. The Convention obliges ratifying Member States to comply with it (UN Women, 2018).

Colombia ratified the CEDAW on January 19, 1982 and, since then, has committed itself to implement measures to ensure equality between men and women. The Presidential Council for Women's Equity (CPEM) has been the main mechanism for guaranteeing women's rights nationally.

Indeed, according to the reports provided by CPEM to CEDAW, the country has made significant progress in this area by consolidating its regulatory framework intended to strengthen access to justice and care for women victims of violence. The country also has Conpes 161 of 2013, which presents the National Public Policy on Gender Equity and, with it, the Comprehensive Plan to guarantee women a life free from violence as one of the fundamental axes to ensuring gender equality.

With the foregoing, the Colombian State reaffirms that overcoming all forms of discrimination contributes decisively to the country's development. As stated in the 1995 Human Development Report, "it is only possible to speak of true development when all human beings, women and men, can enjoy the same rights and options". This requires not only affirmative action in favour of women that allows for differential treatment, but mainly a transformation of the social structures, practices, and hierarchies as a whole, enabling Colombian women and men to exercise their rights to the fullest, with the same opportunities. At the same time, it will contribute to building democracy and social peace by promoting greater social inclusion. Thus, the Comprehensive Plan to guarantee women a life free of violence requires the commitment of all the institutions involved in the prevention and attention to gender-based violence (Conpes 161, 2013).

Meanwhile, the Constitutional Court has ruled on the mandatory nature of the recommendations issued by the committees of the international treaties signed by Colombia. This policy particularly takes into account

those that refer to issues related to women's rights and, above all, those issued by the CEDAW Committee.

Colombian legislation has identified the types of violence in order to address the problem and improve access to justice for women. According to Law 1257 of 2008, these are:

- **Physical violence:** can be expressed through all kinds of blows, shoves, slaps, kicks, burns or attacks with weapons, objects, acids or other liquids.
- **Psychological violence:** all kinds of insults, humiliation, blackmail, disqualifications, extreme jealousy or attempts at control are a manifestation of this type of violence.
- **Sexual violence:** includes groping, harassment, sexual intercourse or any other act of a sexual nature against the victim's will.
- **Economic violence:** refers to limitations and controls on the use of money, failure to fulfil financial obligations to children, abusive control of finances, etc.
- **Asset-related violence:** the destruction of work tools, restrictions on the use of belongings and the withholding of personal documents are manifestations of this type of violence.

Thanks to regulatory advances and the formulation and implementation of public policies, it has been understood that GBV needs to be understood from different perspectives if it is to be eradicated, as events that impede the exercise of the human rights of women and the LGBTIQ+ population continue to occur. This being so, the case studies discussed below reveal occurrences of GBV and the way in which corruption is associated to aggravate the existing conditions.

1. Marginal and/or symbolic candidacies as a barrier

effective participation to women's



Introduction

This study shows how violence against women in politics violates their right to take part in it, and how acts of corruption can end up influencing the occurrence of such violations. We present situations in which women have been instrumentalised by political parties and movements to make up lists in local elections, without being trained in electoral or political terms. This phenomenon will be understood as marginal or symbolic candidacies, which are characterised as candidacies that remain in the last positions of the lists or that have no real possibilities of election, leading to low levels of political representation among women (Hennl & Kaiser, 2008). Finally, we provide a set of recommendations for the actors involved in the context where the problem of marginal and/or symbolic candidacies arises, to prevent, sanction, and eradicate it, as well as implement possible measures to repair the damage caused.

The effective participation of women in politics in Colombia has hindered the consolidation of democracy, as it has been affected by different cultural, social, economic and political barriers. Since women began to be recognised as citizens with political rights in 1957, their presence and inclusion in the political arena has grown and become more relevant. However, it is clear that there are a series of obstacles that have made it impossible for women to participate effectively on equal terms with men. Hence, institutional and legal efforts have been made to promote women's participation in decision-making and political activism.

Among the obstacles identified is violence against women in politics, which is based on the idea that women should remain in the private sphere and is intended to prevent or weaken women's participation in the public arena. Political violence is understood as all those aggressions directed against women for being women, regardless of their political or ideological affinity, to prevent, discourage, and/or hinder the participation and/or representation of women political, social and community leaders. This violence can be perpetrated by both legal and illegal actors and is manifested through physical, psychological, symbolic and economic actions stemming from a chauvinist culture that has established public space as the domain of male expression and has limited women to the private sphere (NIMD-MOE, 2019).

Significant progress has been made internationally to understand and implement legislation against the phenomenon of violence against women in politics. One such effort is the 1979 Convention on the Elimination of All Forms of Discrimination against Women, which states, in Article 7, that women's effective participation in politics implies "States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

(a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies; b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government (CEDAW, 1979).

Meanwhile, in 2019, in its Corruption and Human Rights Report, the Inter-American Commission on Human Rights IACHR warned that acts of corruption can be considered human rights violations, since the different manifestations of the phenomenon of corruption affect the enjoyment and exercise of human rights. The report emphasizes the effects of corruption on the full development of political rights and points out the need to eradicate it from political life with the support and inclusion of all actors involved in political-electoral processes. It also recognizes that the rights to political participation and representation are compromised by acts of corruption that end up affecting the legitimacy of the democratic system.

In the same report, the IACHR recognizes the different forms of corruption found in the political-electoral sphere, such as fraudulent financing, vote buying and political patronage. However, political corruption is not limited only to these acts and is not easy to identify, as it can occur covertly or be framed in acts that facilitate abuses of power and the manipulation of policies or regulations to the detriment of public interest.

Given the differentiated impacts of corruption on already-vulnerable populations —ethnic minorities, women and children— the IACHR stresses that corruption affects the enjoyment of human rights by aggravating situations of discrimination and inequality.

In this regard, the Global Corruption Barometer for Latin America and the Caribbean (2019) highlights that women are more vulnerable and more likely to pay bribes to access state services such as health or education, and points out that the phenomenon of sexual extortion as a form of gender-based corruption.

Reiterating the above, the study on Gender and Anti-Corruption in Latin America and the Caribbean by Transparency International (2021) emphasizes that the region's anticorruption agenda should consider women's political participation, as problems persist in guaranteeing women's rights, making it essential to identify opportunities for advocacy to effectively satisfy these rights. The report identified that more than half of the region's countries have included gender quotas by law. However, in 9 countries, there are no legal measures for parties to promote women's political participation. In this context, Transparencia por Colombia has begun to further its understanding of corruption and human rights from a gender perspective so as to identify barriers to women's political participation associated with corruption, to make victims visible, and even to recommend routes of redress for victims of damages caused by corruption.

It is worth noting that understanding how corruption interferes with women's political participation is a challenge, as the acts of corruption that aggravate or influence the occurrence of acts of violence against women in politics are not documented owing to insufficient knowledge of the relationship between the two phenomena. It is also difficult to document acts of corruption, especially in situations where the lack of legislation or regulations allows such acts to occur.

Further on, we will explore how political parties and movements engage in acts driven by manipulation in the selection of candidates to comply with the gender quota, how they fail to allocate resources for the inclusion and training of women, and evade their role as essential actors in promoting women's political participation and representation.

In spite of the progress made in Latin America in conceptualising, problematizing, and legislating on violence against women in politics in recent history, in Colombia this problem has been invisible and normalised in political-electoral processes, despite regulations regarding the adoption of differential measures and gender quotas. For example, Law 1475 of 2011 regulates for plurinominal elections that lists must be made up of at least 30% of one of the genders when 5 or more seats will be assigned. The Electoral Code reform of 2020 increases this percentage by going back to the formation of parity lists, and addressing measures in the electoral process for the prevention, protection, and specific sanction of violence against women in politics. Likewise, Bill 050 of 2020, intended to prevent and eradicate violence against women in political life, is being processed in the legislature.

Although gender quota measures have been implemented in various countries to guarantee a minimum level of women's participation in elections, these are clearly not sufficient to increase the number of women in elected office. This is reflected in the fact that problems associated with the electoral system and the party system persist, where there are legal loopholes and a lack of political will that end up affecting women's candidacies (Nélida & Tula, 2017).

The following are cases that demonstrate how political parties and movements manipulate the current regulations on the selection of candidates and political financing to the detriment of the inclusion and effective participation of women in politics. It is important to bear in mind that women are particularly affected by this phenomenon, without ignoring the fact that

men can also be subject to marginal and/or symbolic candidacies when they are utilised to comply with the quotas established in the lists. However, there is a patriarchal culture that prevents women from being on equal footing with men in the political exercise, making them more susceptible to face the phenomenon of political violence against women, barriers in political financing, or to face greater judgment in terms of electoral viability.

The cases described were identified thanks to the information obtained by the National Electoral Council and consultation of open sources. It is worth noting that it was difficult to find the cases and obtain the information that would allow us to analyse them. This is due to the fact that the use of marginal and/or symbolic candidacies is normalised, so that there is not enough documentation to account for the different problem, such as violence against women in politics and corruption, that surround them.

On Women's Political Participation

The analysis of women's political participation has become increasingly relevant because we now know that for society cannot be democratised without guaranteeing the inclusion of women at the different levels of political representation. This has led to the identification of limitations in the effectiveness of the measures taken to increase women's access to power. Thus, affirmative actions such as gender quotas or measures such as parity have not been implemented in a way that responds to improving the conditions for

women to participate (Rodríguez Calva & Frías, 2020). For Cerva Cerna (2014) the analysis of women's political participation should go beyond mere quantitative participation, i.e. the increase in women's representation in legislative bodies, to include the environment and culture that women experience in politics, especially within political parties in terms of access to candidacies and compliance with laws.

The most recent studies on women's political participation have identified that the public sphere has traditionally been understood as masculine, meaning that the entry of women has implied transgressions and transformations to existing power structures. As a result, different obstacles have been found in the exercise of women's political rights, making parity and inclusive democracy impossible (Freidenberg, 2017).

Despite the fact that in Latin America it is the most frequently adopted means for increasing women's political participation, the implementation of gender quotas is not the only means of doing so. For example, in India and African countries, the allocation of fixed numbers of parliamentary seats has been implemented regardless of the electoral outcome. This method produces the so-called "glass ceiling", as it limits women's access to the legislative branch and does not contribute to gradual change (Archenti & Tula, 2017).

While gender quota laws are intended to promote the presence of both men and women in candidacies, they are not enough to guarantee women's participation; other requirements must be met, such as changes within political parties, the electoral system, and the political culture that retains patriarchal traits (Archenti

& Tula, 2017). On the one hand, political parties, as it is they that select the candidates, have a restricted interpretation in the acceptance of quotas, since they allow the minimum percentage required to become the limit when it comes to forming the lists.

As explained above, marginal and symbolic candidacies have an impact on women's political participation, since they prevent conditions of parity and effective representation in elected office. For Krook and Restrepo Sanín (2016), affirmative actions such as gender quotas clearly do not level the playing field in the political game, since in masculinised political environments, even if laws are adopted, there are still many challenges when it comes to women being candidates or achieving power when they are elected.

However, the instrumentalisation of women raises the question of why do political parties and movements resort to this practice? Well, as previously stated, there are barriers —such as the traditionally patriarchal political culture—intended to impede women's effective participation in politics (Yanasupo and Zevallos 2018). This means that parties and movements are obliged to comply with the law, or else be sanctioned², however,

they do not mean to increase women's participation and representation, as they interpret the quota law in a minimalistically, acting under the stereotypes and prejudices of the largely male chauvinist system (Archenti and Tula 2007).

On the other hand, political parties and movements are encouraged to have marginal and/or symbolic candidacies thanks to the electoral rules in force in Colombia, in which lists may be open or preferential. These types of lists allow candidates to be elected regardless of the position in which the party or movement has nominated them. However, this results in endorsing candidacies that will not actually enter the competition, either because they are fillers or because they do not have the electoral and economic capacity to do so. It would be different if the parties had to form closed lists in which the order of the candidates is organised internally and the competition is mainly between parties. Also, the principle of alternation or “zipper” lists, would have to be adopted to guarantee that women occupy relevant places on the lists and thus increase their representation (IDEA-UN Women 2019).

2 *The CNE is responsible for verifying compliance with the gender quota in the formation of the lists, however, since the adoption of Law 1475 of 2011, the CNE has changed concepts about the gender quota. Sometimes it has been lax with the parties, political movements, and important citizen collectives allowing to make modifications before revoking the registration of the list, this is the case of the elections in 2011. Meanwhile, in the 2019 elections, the CNE presented the case of lists formed only by women and endorsed their registration stating that the gender quota was understood as an affirmative action especially for women, who have been historically excluded and discriminated against. On the other hand, the CNE, according to Resolution 0751 of 2015, stated that it is impossible to sanction political groupings for non-compliance with the gender quota requirement because it does not imply a lack of the duty to verify the candidates' subjective attributes (MOE 2019).*

Barriers to women's effective participation in politics

Women may face a number of obstacles to political work that are manifested through a predominantly patriarchal political culture where stereotypes and traditional gender roles prevail (Yanasupo and Zevallos 2018). This causes participation and representation exercises to be limited by a lack of women's inclusion, impacting their access on equal terms with men.

On the other hand, there are legal and institutional barriers that are demonstrated by the lack of implementation of the principles of parity, alternation, and universality, through legislation, which would bring about a balance of power between men and women (NIMD-MOE 2019). Despite the reform of the Electoral Code of 2020, which regulated parity in the composition of lists for multi-member positions with a quota of 50% of each gender or parity list, the closed lists that would allow alternation with zipper lists were not implemented, nor were all the elections of multi-member corporations covered, as in the House of Representatives, where there are less than 5 seats to be filled, preventing universality.

Along the same lines, there are problems within political parties and movements in candidate selection. Beyond the fact that the 50% quota has been obtained, it is

important to highlight the need to work on the internal democracy of political organisations, where the political participation of women should be conceived as essential to strengthening democracy and not as just another requirement to be fulfilled. As stated by UNDP and NDI, "If the internal organisation of a party is weak and the selection rules are not clear, decisions tend to be made by a limited number of elite people, usually men" (Ballington 2011).

This is also manifested by the women's lack of political education and training, taking into account that political parties and movements must allocate part of their resources to these activities³.

However, according to a study by Transparencia por Colombia (2019), the distribution of resources of the 15% that they dedicate to political training activities, inclusion of youth, women and ethnic minorities, and their think tanks is not clear, and there are parties and movements that do not reach the minimum percentage required. It is also evident that the resources specifically earmarked for the inclusion of women are not a priority for political organisations. Resources should be allocated for political and electoral training, publications focusing on the effective inclusion of women, communication strategies to promote the inclusion of women, and other expenses related to this purpose. The study also found that there are administrative and logistical expenses that are not

³ Law 1475 of 2011 stipulated, in Article 18, that parties and movements must allocate 15% of state funding resources to the activities of their think tanks, political and electoral education and training courses, and for the effective inclusion of young people, women and ethnic minorities in the political process. Article 17, paragraph 6, also states that political parties and movements shall receive equal shares of 5% of state funding for the number of women elected to public corporations.

related to women's inclusion, and that supporting political organisations to train women does not seem to be represented in the expenses that they effectively register.

Another problem related to the above is the barrier of access to political financing because, although political parties and movements, and citizen groups receive economic incentives to favour women's inclusion, there are still difficulties in accessing financing for their political campaigns. According to Law 1475 of 2011, political campaigns may be financed by public and private resources, with the understanding that state financing from advances and vote replacement must prevail (Casas-Zamora and Falguera 2017).

However, according to the study by Transparencia por Colombia in the framework of the agreement with UN Women in 2019, there is no regulation on the distribution of advance resources received by political parties and movements, even though they may improve the electoral balance. For example, in the 2018 congressional elections, of the total state advances received by political parties and movements, only 2.7% corresponded to female candidates. Meanwhile, with regard to private financing, in the 2018 congressional elections, it became evident that women candidates received proportionally and in number fewer resources from donations and loans provided by legal entities (Transparencia por Colombia 2019).

To finance political campaigns, the private sector and political parties and movements take into account women leaders' "electoral viability", taking into account their real capacity to win elections and thus deciding whether to support them politically and economically. According to the Netherlands

Institute for Multiparty Democracy-NIMD, political party support and access to campaign resources is conditioned by electoral background and electability, which makes it difficult for female leadership to emerge (Casas-Zamora and Falguera 2017).

Finally, among the obstacles is violence against women in politics, which in principle prevents women from accessing, influencing, or exercising power in their communities.

This type of violence is inflicted on women public officials, candidates, councilwomen, among others, because they are women, through acts such as verbal and physical aggression, threats, denial of economic resources or contempt. As a result, women end up resigning their positions or electoral aspirations against their will and sometimes even losing their lives (Freidenberg 2017).

This phenomenon has been studied in Latin America based on the conceptualisation of violence against women in politics in order to contribute to the legislation necessary to eradicate it from the political arena. For the NIMD and the MOE, violence against women in politics is intended to hinder or prevent their effective participation in politics, affecting women candidates, elected public officials, party and movement militants, and political, social, and community leaders. In Colombia in particular, violence in the political sphere is exercised both within political organisations and public corporations by public officials. This violence is legitimised thanks to the same patriarchal culture that insists on keeping women in the private sphere, making use of physical, psychological, economic and symbolic violence to do so (NIMD-MOE 2019).

It is important to highlight economic and symbolic violence, manifestations that are demonstrated especially in the case study on marginal and/or symbolic candidacies. Flavia Freidenberg affirms that “parties are organisations internally crossed by stereotypes and gender roles (“gendered institutions”); where women have not received the same amount of funds when campaigning as men and have had to face very severe obstacles when they have wanted to be leaders, particularly because of the sexist vision of the exercise of power” (Freidenberg 2019).

Economic violence is defined as a set of actions that include coercion through the control of economic resources, by conditioning a woman’s access to or behaviour in public offices with the systematic restriction of economic resources that are available to men. The goal is to make women’s political work more difficult. This type of violence also includes actions such as denying or restricting women resources for political work and during their campaigns in their role as militants and candidates of a political party (Krook 2018). This type of violence is associated with the political financing barrier that women are subject to, since the ineffectiveness of political parties and movements in allocating resources to strengthen women’s political participation ends up influencing the occurrence of acts of economic violence.

Meanwhile, symbolic violence against women in politics is intended to delegitimise their participation through gender stereotypes that deny their competence and visibility in public life. These behaviours violate human dignity, examples of which are the production and

distribution of sexualised images, the use of social networks to incite violence, and the non-recognition or denial of a woman’s possibility to even be able to participate in politics, the silencing of women, and chauvinistic comments or jokes (Krook 2018). Therefore, the instrumentalisation of women in the selection of candidates constitutes a symbolic aggression, since it is assumed that women’s capabilities in politics are less than those of men, and that political organisations resort to this type of act in order to comply with a legal requirement.

The Latin American experience of violence against women in politics

In Latin America, efforts are being made via legislation and public policies, to eradicate violence against women in politics, in order to eliminate all forms of discrimination, harassment, and violence that impede the advancement of parity democracies (Albaine 2020). In Latin America, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, also known as the Belém do Pará Convention, was signed in 1994, establishing that women have the right to live a life free of violence in both the public and private spheres, and urging the States Parties to formulate national policies and laws to eradicate and punish gender-based violence. Similarly, the Quito Consensus⁴, was adopted in 2007, urging the 33 States that approved the document to adopt legislative measures to prevent, punish, and eradicate

4 The Tenth Regional Conference on Women in Latin America and the Caribbean was held in 2007 as part of the Economic Commission for Latin America and the Caribbean (ECLAC). The Regional Conference is held to identify the needs of women in the region, make recommendations, and evaluate compliance with agreements on the subject. (ECLAC 2007)

political harassment of women who hold elected political office and in political parties and movements at the national and local levels.

In this same vein, the OAS/CIM Model Inter-American Law on Political Violence against Women was promoted in 2017 to encourage States to use this law to create domestic legislation and make the problem more visible. The law defines violence against women in political life as follows:

Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. Violence against women in political life may include, among others, physical, sexual, psychological, moral, economic, or symbolic violence (Art. 3, CIM/OAS, 2017)

Bolivia was the first State in Latin America to adopt Law No. 243 of 2012 against gender harassment and/or political violence, paving the way for other Latin American countries to adopt legislation to prevent, punish, and eradicate violence against women in politics. However, it should be noted that in the Bolivian case it took a long time, beginning in 1999, for the law to be adopted. Concurrently, political harassment began to be recognised in Article 238 of Law No. 026 of the Electoral Regime in 2010. However, it was with the assassination of councilwoman Juana Quispe Apaza

that the bill was expedited in 2012 and ended up being regulated four years after its approval (Albaine 2020).

Other countries have recognised the phenomenon of violence against women in politics, but have not yet adopted laws exclusively to prevent, punish, and eradicate this phenomenon. This is the case of Argentina (2009) and El Salvador (2011), which recognize the gender-based violence suffered by women who participate in politics. In the case of Argentina, the legislation recognizes the violence suffered by women in political parties, trade unions, business, sports, and civil society organisations as institutional violence, and seeks to shed light on, prevent, and punish gender-based political violence, which it acknowledges is based on gender, and which ends up preventing or limiting the development of political life. Meanwhile, in the case of El Salvador, the 2011 Special Comprehensive Law for a Life Free of Violence for Women recognizes and proposes sanctions against gender violence suffered by women in the exercise of their political rights, identifying actions such as mockery, discredit, degradation and the exclusion of women from political or citizen participation as manifestations of such violence (Albaine 2020).

Ecuador (2018), Panama (2013), Paraguay (2016), Uruguay (2018), and Mexico (2020), have incorporated specific conceptualisations of violence against women in politics in legislation on gender-based violence. Besides, in the case of Ecuador in 2020, violence against women in politics was recognised as an electoral infraction through the Electoral Code.

Meanwhile, in Mexico, the Protocol for the Attention of Political Violence against Women for Gender Reasons was formulated in 2017 as a way to respond to the legal and political gaps.

In the case of Mexico, there is no law aimed at the prevention, punishment and eradication of violence against women in politics, however, the Protocol was adopted to guide government institutions when cases of gender-based political violence arise, as well as to implement the international commitments signed in Mexico. Although this Protocol is not binding, it has allowed the phenomenon to be identified, defining gender-based political violence as those actions and omissions that occur within the framework of political exercise that have the objective of undermining or annulling the enjoyment of women's political rights on the basis of their gender. This type of violence is exercised in both the public and private spheres, by political parties, electoral bodies, authorities or civil servants, the media or any person or group of persons.

The Colombian experience of violence against women in politics

In Colombia, civil society has been the driving force behind the acknowledgement of the problem, since there is still no law that seeks to prevent, punish, and eradicate violence against women in politics. However, there have been several attempts through bills that have not prospered in the Congress of the

Republic. On July 24, 2018, Senator Juan Luis Castro Córdoba of the Green Alliance Party presented an initiative on the control, monitoring, and sanctioning of political violence against women, which was filed without debate.

This bill defined acts of harassment and violence aimed at preventing, undermining, suspending or restricting their candidacies or election, operating as civil servants, or inducing or forcing them to perform actions or omissions contrary to the exercise of their rights to political participation. It also determines the actors in charge of preventing and sanctioning acts of harassment and violence against women in politics, the CNE being in charge of sanctioning members of political parties and movements. The Attorney General's Office will investigate and sanction public officials who incur in these acts and political parties and movements must adopt the prevention and control of harassment and political violence in their statutes (Bill no. 26 of 2018 Senate).

A year later, the same senator presented a new bill that added the creation of the National Strategy against Political Violence against Women, which established the Interinstitutional Committee for the Fight against Political Violence against Women attached to the Ministry of the Interior and in coordination with other State entities such as the Prosecutor's Office, the Attorney General's Office, the Ombudsman's Office, the Registrar's Office, the CNE, the National Police, among others. This project too was shelved without debate (Bill no. 004 of 2019 Senate).

As a result, in August 2020, several congressmen of the Green Alliance Party introduced Bill 234 in the House of Representatives, which proposed the creation of legislation that would cover violence against women in general and contained a specific title to prevent, punish and eradicate violence against women in politics.

This proposal designated the National Government to create norms, strategies and mechanisms to address political violence against women and obliged political parties and movements to include guarantees for the enjoyment of women's political rights in their statutes. This bill was withdrawn by the authors and was not debated.

Meanwhile, members of Congress of the Conservative Party presented Bill 050 in the second legislature of 2020. This is currently being processed in the First Committee of the House of Representatives, having passed a second debate in March 2021. This bill establishes measures to prevent and eradicate violence against women in political life, that is, in the roles of women pre-candidates, candidates in popular elections and community action boards, militants of political parties and movements, citizen groups, social movements, women elected in popularly elected positions, in public decision-making positions and electoral staff, social leaders and human rights defenders, women who work or support political campaigns as activists, and citizens who exercise the right to vote.

For their part, members of Congress of the Conservative Party presented the bill, introducing a new approach to political participation not only from the electoral sphere but also from the perspective of citizen participation and of social organisations.

In Article 2 it states "This Law protects all women in the exercise or enjoyment of their political rights in the framework of electoral processes, democratic participation and the exercise of public functions" (Bill no. 050 of 2020 House of Representatives). The bill requires these organisations and social movements to include provisions to prevent and punish violence against women in politics in their regulations. Further, according to the bill, the Ministry of the Interior, in coordination with the Presidential Council for Women's Equity and the departmental, municipal and district secretariats of Government and Women's Affairs, would be responsible for designing and implementing policies, plans, programmes and projects to promote respect for women's political rights in public and political life.

The bill also proposes protection and reparation measures, such as being linked to the National Protection Unit's Prevention and Life Protection Programme and the immediate restitution of limited or impaired rights, i.e., restitution of the position or function in case of having been forced to resign due to political violence, retracting and publicly apologising for the violent acts, revoking candidacy for those who incur in acts of violence against women in politics.

In turn, the amendment to the Electoral Code in 2020 introduces the issue of violence against women specifically in the political-electoral sphere, assigning the CNE the task of promoting a culture of non-violence in the exercise of women's political and electoral rights, as well as the ability to punish conduct that constitutes violence against women in politics. Article 255 of this Code defines violence against women in political life as any action, conduct

or omission that, based on their sex, causes harm or suffering to one or more women regardless of their ideology, with the aim of undermining, discouraging or nullifying the exercise of their political rights in the framework of the electoral process and in the exercise of office. It also recognizes that this violence has physical, psychological, economic, and symbolic manifestations. It provides that the CNE in coordination with the National Registry of Civil Status and other instances related to the defence of political-electoral rights must create and disseminate the attention, protection, and reparation protocol for cases of political violence against women.

Both the legislative initiatives and the amendments to the Electoral Code constitute advances in the recognition of the phenomenon and the attention of the institutions in the face of these facts. It is noteworthy that the recommendations brought by the Inter-American Model Law on Political Violence against Women (OAS/CIM, 2017) have been welcomed, in conceptual issues and ways to address the problem.

Political Corruption and its Impact on Women's Participation

Political corruption has traditionally been understood as the abuse of power by decision-makers against the collective interest. This phenomenon manifests itself in different ways in the public sphere (Transparency International 2009). However, understanding how this phenomenon affects society has been a concern for several authors, leading them to focus on analysing

how corruption has destroyed trust in political institutions (Ares and Hernandez 2017), and its negative impact on the economic development of states and market performance (Blackburn, Bose and Haque 2010).

Several studies have investigated the relationship between corruption and the electoral system, considering factors such as systems operation, the rules or norms that govern elections, and the party system that can increase or reduce corruption indexes (Chang and Golden 2007). Studies have also been developed on the effect of corruption on political participation, with the understanding that this phenomenon weakens citizens' capacity to make decisions, causing a loss of credibility in democracy and, as a result, excluding citizens by making them abstain from participating in elections (Warren 2004).

Other conceptual approaches expand the understanding of the phenomenon beyond legislation and regulations by approaching the problem from a social ethical perspective, considering that corruption is based on behaviours and practices that are contrary to what is conceived as correct (Jiménez de Parga 1997). In the same vein, corruption can be omnipresent and persistent in society and within the political system, and depends on legal and institutional controls be addressed. However, it is society itself that must be sensitive to acts of corruption in order to make it less admissible and therefore naturalised (Soriano 2011). Thus, one of the causes of political corruption is the lack of legal norms and control institutions that enforce compliance with responsibilities, as it is the regulatory vacuum that ends up allowing acts of corruption to continue to occur.

Another group of conceptual analyses have focused on the relationship between corruption and gender, in an effort to understand how political corruption can aggravate situations where women's political rights are violated, specifically violence against women in politics.

Case description: The instrumentalization of women in the composition of electoral lists for popular election corporations.

In local elections, political parties and movements must select candidates following the parameters of Law 1475 of 2011, article 28. The article defines that the lists where 5 or more seats are elected for popular election corporations or those that are submitted to consultation must be made up of at least 30% of one of the genders. However, in order to comply with this requirement, on many occasions political organisations have opted to fill the spaces with women who are merely instrumentalised or used to comply with the gender quota. This may result in not receiving support, training and/or funding from political parties and movements, which implies a detriment to the effective enjoyment of women's political rights.

This phenomenon is colloquially known as “list stuffing”, in which some women claim to feel used to complete a requirement without this implying that they

are actually going to run a political campaign, nor are they aware that they have to undergo accountability procedures at the end of the electoral process. However, as mentioned above, this study will use the concept of marginal or symbolic candidacies, since they reflect political organisations' lack of interest in promoting real possibilities for women to reach elected office. This is related to the electoral viability barrier that women face when seeking the endorsement of a political organisation, as there tend to be no faith in women's ability to win elections and occupy a popularly elected position, which is of course sustained by a predominantly patriarchal political culture. These barriers to women's political participation are discussed in more detail below.

On the one hand, political parties and movements resort to these practices not only because they have the legal obligation to comply with the gender quota or risk having their lists annulled by the CNE, but also because they have to remain active and relevant in electoral processes, considering also that they risk losing their legal status if they do not participate in congressional elections or do not obtain enough votes. Under these conditions it is clear that candidate selection may not follow the principles of internal democracy or equality.

The CNE has revealed such situations when investigating different political organisations and candidates for not opening a single bank account, not having a campaign manager, or for irregular filing of income and expenditure reports. An example of the instrumentalisation to which some women who were

candidates have been subjected was highlighted in the CNE's Resolution 2296 of 2018⁵, in which former candidates, their former campaign managers, and the Indigenous and Social Alternative Movement, MAIS, were acquitted for previous irregularities in the 2015 Barranquilla District Council elections.

The campaign income and expenditure reporting requirements as an accountability mechanism are set forth in Law 1475 in articles 8, 10 and 25⁶, which ensure that both political organisations and candidates prove transparency in the financing of political campaigns. However, at the time of investigating and sanctioning political parties and movements for such irregularities, the CNE found a fact that directly affected female candidates. Several of the candidates investigated for non-compliance with the legal requirements of transparency and accountability stated in their declarations that they incurred in the offenses because they were not aware of the requirements, as the political organisations did not provide them with the necessary information or because they did not feel they were candidates but mere "stuffing" for the lists.

Among the cases identified in the CNE investigation is that of three women candidates who describe how they became part of the list of the Movimiento Alternativo Indígena y Social, MAIS, in the elections for the Barranquilla District Council. The first candidate states that a person close to her contacted her to be part of the list because there were not enough women to complete the 30% they needed. After being registered on the list, she wanted to resign, but she was told that she couldn't. She also stated that she did not campaign because she was holding a position that someone else would fill and she was used to "stuff" the list. Hence, she did not campaign using posters or banners, nor did she make her number visible, and therefore she did not see the need to account for her campaign income and expenditure report. It is worth noting that this candidate received 73 votes and ranked 6th out of 21 candidates on the preferential list.

The second candidate from the same list stated that she did not open the account because she did not consider herself as a candidate, since she was contacted by a

⁵ *Transparencia por Colombia* was provided with Resolution 2296 of 2018 as it is an investigation that has already concluded. In its investigation, the CNE found the phenomenon of the instrumentalisation of women in the composition of the lists, which is why it was taken into account for this case study. This resolution is not available for consultation on the CNE website. *Transparencia por Colombia* refrains from listing the names of the candidates in the cases identified in the CNE investigation.

⁶ "Article 8. Political parties and movements shall be liable for any violation or contravention of the rules governing their organisation, functioning or financing, as well as for the conduct of their executives considered as misdemeanours in article 10 of the present law. "Article 10 o. The following actions or omissions attributable to the directors of political parties and movements constitute punishable offences: 1. Failure to comply with the duties of diligence in the application of the constitutional or legal provisions that regulate the organisation, functioning and/or financing of political parties and movements. Article 25 o. The resources of electoral campaigns whose maximum amount of expenditure exceeds two hundred (200) legal minimum monthly salaries originating from private financing sources shall be administered by the campaign managers appointed by the candidates for single-member offices and for public corporations in the case of lists with preferential voting. In the case of closed lists, the manager shall be appointed by mutual agreement of the candidates or, failing that, by the party, movement or committee promoting the significant group of citizens. (Law 1475 of 2011, by which rules are adopted for the organisation and functioning of political parties and movements, electoral processes, and the issuance of other provisions, Congress of the Republic, Colombia).

person she worked with to be part of the list for the Council as a favour. Like the previous candidate, she tried to resign, but was unable to because doing so would result in the annulment of the list. She too alleged that she was not aware of the need to open a bank account because she did not have any campaign income or expenses, as she did not run a political campaign. This candidate received 84 votes and was ranked 13th out of 21 candidates on the preferential list.

Finally, the third candidate affirmed that she intended to take the place of another person who would be the “official” candidate on the list, however, her candidacy was formalised and then she could not resign even though she did not want to be part of the list. She subsequently stated that she received no support in political and electoral training, nor any economic support from the movement. Nevertheless, the candidate acknowledged that the campaign she ran served to obtain votes to help the movement reach the sufficient threshold to win seats in the Council. This candidate was the fourth candidate with the most votes (305) on the list and occupied the last place on the preferential list.

On the other hand, the CNE is currently investigating certain candidates and the Cambio Radical Party for not opening a single bank account and not submitting reports of campaign income and expenses in the 2019 Cesar Assembly elections⁷. In this case, a candidate stated that she was not assisted by the Party and

therefore was not aware of the obligation to open a bank account or to submit reports to the electoral authority. She also received no financial support from the party to run her campaign.

In this case, although she campaigned austerely and with close associates, unlike the other three, the candidate did want to participate actively in politics. This candidate obtained 346 votes, making her the candidate with the fewest votes on the list, and she was ranked 9th out of 11 candidates in the formation of the preferred list.

Likewise, Ana Milena Vergara de la Espriella⁸, who was a candidate for the Sucre Assembly in 2019 for the Liberal Party stated that she did not receive any training or economic support from the party for her campaign. Unlike the other cases, this candidate was interested in holding elected office, she campaigned despite acknowledging that she had no experience in politics. She also claims that she felt used by the campaign of the now Governor of Sucre, as despite contributing to obtaining votes for the campaign, she received no recognition for it (Vergara de la Espriella 2020). Finally, the candidate received 993 votes, being the least voted candidate on the list, and ranked 8th out of 11 candidates on the preferred list.

As such, the Netherlands Institute for Multiparty Democracy-NIMD has identified that the phenomenon is not an isolated occurrence as several women

⁷ *Transparencia por Colombia obtuvo la información por medio del acceso un fragmento de la declaración de la candidata, de quien nos reservamos el nombre, la cual se encuentra en proceso de investigación por la no apertura de cuenta única bancaria y la no rendición de informe de ingresos y gastos a la autoridad electoral.*

⁸ *In this case, unlike the other cases, the name of the candidate is given because it is already public knowledge given that she described the events in the media.*

candidates and elected officials have testified about list stuffing. Some of the testimonies they have collected state the following:

“When I was participating in the elections, four years ago, women barely got a chance to participate in elections. We were being included but only as fillers on the lists, not so that we could do the exercise and maybe be chosen” (NIMD 2019, 47).

“I felt like they just needed me to fill a gap” - “I didn’t feel listened to” - Former Council Candidate (MOE-NIMD 2020, 7).

“Many women refuse to be on lists where they are going to be belittled and used as fillers” - Former Council Candidate (MOE-NIMD 2020, 7).

The above does not describe isolated events; on the contrary, it is a generalised phenomenon in electoral processes, since women are used as a strategy to comply with the gender quota requirement and win votes for political organisations, and not as a means to ensure their effective participation.

Addressing the Problem

The cases identified as marginal candidacies and/or symbolic cases of women candidates in the local elections of 2015 and 2019 were described above. These serve to highlight how political parties and movements instrumentalise women to make up the lists, taking advantage of their lack of political knowledge and inexperience. Here, we highlight the fact that accessing information and identifying such cases was a complex exercise because the practice has become standardised and there is little documentation on

victims, perpetrators, and possible forms of reparation. In the following section, we will discuss how these cases highlight violence against women in politics and how the manipulation of the quota law, non-compliance, and evasion of responsibilities by political parties and movements impact women’s effective participation in politics.

A literature review yielded theoretical proposals and approaches from different authors on political participation, women’s effective participation in politics, violence against women in politics, and the relationship between corruption and gender. The review also demonstrated how the cases studied explain the causes and consequences of violence against women in politics on women’s political rights, and how corruption aggravates situations of political inequality between men and women.

Effective participation of women and gender quotas

In the cases taken as examples, the lists for Barranquilla Council and the Cesar and Sucre Assemblies were preferential lists, meaning that the female candidates had the option of being elected regardless of their position on the list. However, having a list with a preferential vote creates competition not only among political parties or movements but also among the candidates on the list (IDEA-UN Women 2019). In these cases, the candidates mentioned that they did not receive support from the political parties and movements to run their Campaigns. The political organisations appeared to have no interest in them obtaining votes to be elected, all they were interested in was to comply with the gender quota.

However, in the case of the testimony of the MAIS candidate for Barranquilla Council, she recognizes that she wanted to obtain votes so that the list would pass the threshold to obtain seats in the Council. In other words, having marginal and/or symbolic candidacies may not only be useful to comply with the law, but may also contribute votes to the list.

Besides the above, access to resources to finance political campaigns is an additional barrier, because in order to be competitive they must allocate sufficient resources to finance their campaigns, as demonstrated in the Campaign Finance and Accountability in Congressional Elections 2014 (Transparencia por Colombia 2014) report by Transparencia por Colombia. The report identified that Senate candidates who were elected needed on average \$313 million more income for their campaigns than candidates who lost, as well as House of Representatives candidates who needed on average \$187 million more income to get elected.

Likewise, the Analysis on Access to Resources for the Effective Inclusion of Women in Politics report (2019) identified that women candidates for Congress in 2018 had, in general, fewer resources available, however, those who were elected had to invest almost the same amount of resources as the men. Bearing in mind that political campaigns are largely financed by private funds, the candidates must look for the resources necessary to participate. For example, according to the same report, in the case of the 2018 congressional campaigns, financing in political campaigns came mostly from private resources, with contributions from individuals and legal entities being the source of financing that contributed the most resources.

In second place were their own resources and those of their families. In total, these two sources concentrated 82.7% of the income obtained.

Marginal and/or symbolic candidacies as violence against women in politics

There were indirect affectations to women's political participation in that, political parties and movements have not demonstrated that the resources they receive from the State for women's inclusion and training are being properly allocated. Indeed, the Analysis on Access to Resources for the Effective Inclusion of Women in Politics report by Transparencia por Colombia (2019), which examined the political funding of political parties in 2016, 2017, 2018, states that, although political parties and movements receive funding to include women in politics, there is no clarity on the allocation of these resources.

Bearing in mind that they must invest 15% of public resources for think tanks; political and electoral training; and the inclusion of young people, women, and ethnic minorities, an average 3% is destined to women. In addition, they receive public resources distributed equally (5%) on account of the number of women elected to public corporations. However, when comparing the total resources received with the expenses for the effective inclusion of women in politics, it is evident that on average, political organisations do not even invest 50%.

Thus, not using resources for the inclusion of women in politics can be understood as a form of economic violence, as defined by Krook (2018), who understands it as the restriction or denial of the use of resources that should be destined to women in political parties and movements. In other words, political organisations' women militants were affected, as their resources were not adequately allocated, and the candidates were affected, as they did not receive economic support for their campaigns.

The cases of marginal and/or symbolic candidacies can be considered as acts involving symbolic violence against women, as they were instrumentalised by political parties and movements, and not provided with comprehensive information from the moment they offered the candidacies. According to House of Representatives Bill 050 of 2020, the following are some of the manifestations of violence committed against women in public life:

Providing false, erroneous, incomplete or inaccurate information to women who aspire to or occupy a position of popular election or in the exercise of their political rights, or omitting information to women that impedes or induces the incorrect exercise of their powers or their political or electoral rights under conditions of equality (Article 5, paragraph J, Bill no. 050 of 2020 House of Representatives).

Specifically, in the case of the candidates to the Barranquilla District Council and the candidate to the Cesar Assembly, it is clear that the candidates were misled as they received no training on politics or on the electoral and post-electoral process, causing them not to open a bank account and not to submit accountability reports. Although ignorance does not exempt from responsibility⁹, the omission of information on the part of the political parties and movements ended up affecting the political rights of the candidates.

Political parties' and movements' actions would also constitute a form of violence against women in public life according to House of Representatives Bill 050 of 2020, which states the following:

Failure to comply with national and international legal provisions that recognize the full exercise of women's political or electoral rights, affirmative actions of quotas or parity, those related to financing or political training (Article 5, paragraph Y, Bill no. 050 of 2020 House of Representatives).

These cases, although formally complying with the quota of women on the lists, reflect how the parties and movements manoeuvre in order to comply with the legal requirements, without this meaning that they are really committed to the effective inclusion of women in politics. Indeed, there is no evidence to show that they are allocating sufficient resources for this purpose or promoting inclusion through political and electoral training.

⁹ *The Colombian Civil Code in article 9 states: "Ignorance of the law: Ignorance of the laws does not serve as an excuse".*

Marginal and/or symbolic candidacies and political corruption

Thus, political parties and movements manipulate the gender quota, fail to fulfil their responsibilities in the inclusion of women in politics, and evade their role by not recognising themselves as essential actors in guaranteeing women's political participation. These practices lead to the materialisation of acts of political corruption, since by acting against the law they violate or undermine women's political rights.

Firstly, the manipulation of the gender quota happens by interpreting the law in a way that imposes what has been called a glass ceiling, i.e., stagnation in women's political participation and subsequent representation (Archenti and Tula 2007). Affirmative action is meant to redress the damage and prevent it from happening again. However, political organisations have complied with the minimum requirements without further reflection. This is evident in the 2014 and 2018 congressional elections, where since the implementation of the gender quota in 2011, the number of women candidates and elected women has not increased significantly. Thus, in the 2014 congressional elections, 33% were female candidates for the Senate and 32% for the House of Representatives, while in 2018, 33% were female candidates for the Senate and 36% were female candidates for the House of Representatives.

In 2014, 23% of those elected were women and 19% were women in the House of Representatives; in 2018, 21% of the Senate and 19% in the House of Representatives were women (Peña Peña 2020).

Secondly, political parties and movements exacerbate women's under-inclusion by failing to allocate sufficient resources for political and electoral inclusion and training. As previously highlighted, political organisations are obliged, in accordance with the regulations, to implement processes that lead to the inclusion of women in politics, and to this end they must promote training to strengthen women's political and electoral knowledge. These practices are intended as a form of mitigation against the historical exclusion of women in the public sphere (Archenti and Tula 2017). However, there is no evidence that political parties and movements have been able to increase women's leadership so that when selecting candidates, they have sufficient representation of women to avoid resorting to "list stuffing".

Finally, political organisations have ended up evading their responsibilities by not recognising themselves as essential actors in guaranteeing women's political participation; on the one hand, they are the ones who select the candidates and make up the lists for public corporations, while, on the other, it is they who have the capacity to support leadership so that they can come to power. Political parties and movements have yet to promote transformations in the organisational, electoral, and programmatic spheres that will lead to

gender equality in politics (UN Women 2016). Another issue that needs to be addressed is the dynamics of discrimination and violence within political organisations. This is because, affirmative actions have been implemented without affecting the patriarchal political culture, and as a consequence, some members of political parties and movements discriminate or act violently towards women (Cerva Cerna 2014).

Conclusions

Marginal and/or symbolic candidacies are not isolated practices, nor are they particular to one region of the country. Rather, they are a commonly adopted practice adopted as a means of maintaining exclusionary and patriarchal democratic processes. Furthermore, they allow political organisations to participate in elections even without having made real efforts to promote women's participation and to participate in congressional elections without losing their legal status. The use of marginal and/or symbolic candidacies leads to the perpetration of violence against women in politics, which is aggravated by acts of corruption within political parties and movements, as the political exercise of women is clouded by the patriarchal culture that normalises political violence.

Legislative initiatives, such as Bill 050 of 2020 on violence against women in politics, have recently been promoted to guarantee women's political participation

from a gender perspective. However, harmful practices do not always correspond to traditional forms of politics nor to punishable acts defined by law.

Political parties engage in acts of corruption by manipulating the quota law, failing to allocate resources for the inclusion and training of women within political organisations, and evading their responsibilities as essential actors for the effective inclusion of women in politics.

Bolivia and Mexico are examples of countries that have adopted regulatory frameworks within the political system and within political parties with a gender perspective that include sanctions based on this perspective in cases of political violence against women. These could serve as a reference point for countries such as Colombia, where the discussion on regulations and legislation for the effective inclusion of women in politics is beginning to take on greater importance. In the Colombian case, including this type of regulatory framework adopted in the region would allow for a deeper analysis of the responsibility of political parties and movements in promoting women's effective participation.

2. Irregularities in the contracting of a programme to assist women victims of violence in Santander:

Barriers to the guarantee and protection of rights and a possible scenario of re-victimisation



Introduction

The purpose of this case study is to shed light on the negative impact of corruption on comprehensive care for women victims of gender-based violence (GBV). It investigates a possible irregular contracting in the department of Santander, where the service provider does not appear to possess the characteristics of suitability to guarantee quality in the provision of the service and how this becomes not only a barrier to guaranteeing protection for women victims of violence, but also to guaranteeing and restoring their rights.

This particular case was identified through a report received by Transparencia por Colombia's Anti-Corruption Legal Advice Centre¹⁰, in which a women's organisation¹¹ from the department of Santander indicated that, in May 2020, the Government of Santander had irregularly signed an Association Agreement with the Association of Integrated Women of Santander¹² (AMIR) whose purpose was to provide "support for care measures in a shelter, refuge or temporary shelter for women victims of violence in Santander".

¹⁰ To find out more, see: www.transparenciacolombia.org.co/ALAC

¹¹ The ALAC mandate stipulates the confidentiality of the personal data of reporters, so for this case study a generic name will be used.

¹² The personal names in this document are public knowledge and have been widely published in press releases.

According to the complainants, there were several irregularities surrounding this tender, as the contractor allegedly certified false experience on a similar agreement in La Guajira, as well as apparent self-certifications or fraudulent experience certifications. Furthermore, there was only one day to submit bids, so there would have been an apparent preference. On the other hand, a formal complaint was filed with the Ombudsman's Office by this women's organisation, in which they informed the entity of a situation in which a woman victim of GBV went to the shelter administered by AMIR, within the framework of the agreement in question, and stated that the care provided by this entity was not humane, suitable, or empathetic.

Three interviews were conducted with women leaders involved in the care and protection of women victims of GBV, and secondary information was analysed to show that corruption does indeed affect women negatively, given that there is a historical situation of discrimination and a state of greater vulnerability due to social, economic, and cultural factors that affect women's living conditions. In this respect, it was exemplified that corruption, expressed in irregular contracting in this specific situation, affects women's lives as a whole.

To this end, this study presents a conceptual approach to the problem of GBV and its situation in Colombia, followed by the context of the department of Santander with regard to the problem of GBV and the way in which the Casa Refugio was designed as a measure of care for women victims of violence. Thirdly, this study analyses the role of the Colombian state in guaranteeing the rights of women victims of GBV.

Next, it mentions the dynamics of corruption in the department of Santander and shows how this is not the only case of alleged corruption that directly affects women. Section Five presents the irregularities surrounding the implementation of measures for the care of women victims of GBV and the controls and monitoring of the care and operation of the shelter in question. The sixth section elucidates the effects of this alleged act of corruption on the lives of women victims of GBV in the department, and finally provides the conclusions of the analysis.

Gender-based violence in Colombia (GBV)

There is a gap between the official prohibition of violence against women and everyday practices, which has led to the existence of a double discourse. On the one hand, that of public condemnation and on the other, that of hidden permissiveness in everyday private spheres. Thus, despite regulatory efforts in Colombia, such as Law 1257 of 2008, which establishes rules for awareness, prevention and punishment of forms of violence and discrimination against women, or Conpes 161, which proposes specific intersectorial actions to combat GBV, alarming figures of GBV are being observed all over the country.

Proof of this is that femicides in the country have been on the rise since 2015. According to statistics from the Attorney General's Office, responsible for combating, directing, coordinating and controlling the development of the function that investigates and

accuses the alleged offenders of criminal law, there were 107 cases reported in 2015, 277 in 2016, 422 in 2017, 586 in 2018, while at the close of 2019 the figure stood at 578 (DANE, CPEM, UN Women, 2020). According to Colombia's Femicide Observatory, since 2020 this figure has been exacerbated due to the pandemic, reaching 630 cases in that year, while up to May 2021, 228 cases have been reported.

GBV in Santander and Casa Refugio as a protection measure

The serious national problem related to GBV is reflected at territorial level, as seen in the department of Santander, the setting for this case study. In 2019, around 41 women were murdered, 24 of these deaths were violent and 15 were femicides perpetrated in 16 municipalities in Santander, as reported by the Santander Citizen Observatory (Ariza 2020). Meanwhile, to date in 2021, the Department's Women's Secretariat has received reports on 325 cases of assault and 128 cases of sexual abuse. According to this entity, an average of 12 women per day are victims of these situations in the department (Sánchez, 2021).

In view of the country's complex GBV situation and in order to fulfil commitments assumed by the Colombian State after adopting the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women or the Belém do Pará Convention and the CEDAW, it created Law 1257 of 2008, which establishes norms for awareness, prevention, and punishment of forms of violence and discrimination against women. Article 19 sets out the

measures aimed at protecting and guaranteeing the rights of women victims of violence, which must be implemented by both the National Government and the territorial entities, and which are extended to the children of the victims.

The measures include the provision of temporary housing, food and transport services, as well as psychological, psycho-pedagogical and occupational support, and legal advice from an interdisciplinary team. The purpose of all these measures is to break the cycle of violence to which the victims are subjected. These measures can be granted for up to six months, and can be extended for a further six months if the situation warrants it.

For their part, the Empresas Promotoras de Salud (EPS) health entities and the Administradoras de Régimen Subsidiado or subsidy regime administrators are in charge of providing these medical, psychological and psychiatric assistance services to women victims of violence and their children, and their application is financed by the General System of Social Security in Health.

In compliance with the above, paragraph 6.6.3.4 of Santander's Development Plan (2020 - 2023), contemplated the development of a "Public health and service provision programme for the brave women of Santander" in order to promote, strengthen, and guarantee the rights of women in this department to a life free of violence, to the enjoyment of sexual and reproductive rights and to the improvement of mental health through the implementation of strategies and measures aimed at the comprehensive care and protection of women victims, through a differential, gender and ethno-cultural approach.

Among the measures established to meet this goal, a proposal was made, in the department of Santander, for the annual enhancement of a shelter, refuge or temporary shelter, as a measure of care and protection for women victims of gender-based violence and their family group; as well as the development and implementation of a departmental plan for the prevention and elimination of all types of violence against women in the department of Santander, among other measures. By virtue of the above and through a partnership agreement concluded in 2020, the Government of Santander's Secretariat for Women and Gender Equality set up the Casa Refugio de Santander.

According to the Departmental Development Plan "Santander always with you and for the world" management and execution report, submitted by the Santander Governor's Office in September 2020, the Secretariat for Women and Gender Equality, in the framework of the programme "Public Health and Service Provision for Brave Santander Women" reported that for the year 2020, through the investment project "Support for care measures in shelters, refuges or temporary shelters for women victims of violence in the Department of Santander", with SSEPI number 20200680000037, an agreement was signed on May 18, 2020 for a value of \$ 1. 290'466.760, to support the consolidate a shelter, refuge or temporary shelter in the Department of Santander.

This agreement was negotiated by the Secretariat for Women and Gender Equality with AMIR, which at the time contributed thirty percent (30%) of the total value of the agreement. As part of this partnership, the Department ensured the commitment of resources

to provide accommodation, support and food to women, girls, boys and/or accompanying persons who are victims of gender-based violence. Specifically, the agreement stipulated daily accommodation and food services, psychological support services, legal accompaniment, recreational activities, market assistance, and hygiene kits, among others.

Among the activities reported in this report, there was accommodation and food for 3,360 nights for women and 6,720 nights for sons, daughters and/or companions. The partner company's activities included the provision of professional psychological support services, comprehensive professional legal accompaniment, transport assistance and full accompaniment, recreational activities, baby, oral hygiene and personal hygiene kits, education expenses for women and children in shelters, market and financial assistance. As of August 26, 2020, the resources allocated by the partner amounted to \$20,835,075 for recreational activities, \$19,797,494 for economic assistance and 25,502,000 for educational activities for women, children and accompanying programme beneficiaries.

The role of the Colombian state in guaranteeing women's rights

At this point, it is pertinent to analyse the Colombian State's obligation to guarantee the rights of women victims of GBV and how its actions and omissions exacerbate the lack of guarantees of these rights as a result of possible acts of corruption.

As already mentioned, part of the Colombian state's efforts to eradicate violence against women is embodied in Law 1257 of 2008. It indicates the adoption of norms that guarantee all women a life free of violence, in both the public and private spheres, the exercise of the rights recognised in the domestic and international legal system, access to administrative and judicial procedures for their protection and care, and the adoption of the necessary public policies for their realisation. In this sense, it states that "it is up to the State to design, implement and evaluate public policies to achieve women's access to services and the real fulfilment of their rights" and that "the State is responsible for preventing, investigating and punishing all forms of violence against women" (Law 1257, 2008. Art.6).

In this respect and concerning prevention and awareness-raising measures to be developed by municipalities and departments: "Municipal and departmental development plans shall include a chapter on prevention and care for women victims of violence" (Ley 1257, 2008. Art.9). This law incorporated provisions designed to improve attention to violence against women and for the first time, defined gender violence as a violation of human rights. Among the contributions of the law are the expansion of the rights of women victims of violence, the incorporation of awareness-raising, prevention, and protection measures within the obligations of the State; family and social duties to prevent violence; the inclusion of instruments to implement the law in public policies; greater penalties; the expansion of the catalogue of protection measures; and new mechanisms for monitoring compliance with the law.

These regulations contain broad responsibilities for the Labour, Health, Justice and Education sectors, regulated in 2011 by four decrees intended to develop the provisions in these areas.

Concerning the obligation to follow up on the provisions of the law, article 35 establishes that: The Council for Women's Equity, in coordination with the Attorney General's Office and the Ombudsman's Office, will create a committee to monitor the implementation and compliance with this law, which must include the participation of women's organisations. The Council will present an annual report to the Congress of the Republic on the situation of violence against women, its manifestations, magnitude, progress and setbacks, consequences, and impact.

Obligations and duties in recruitment

Law 80 of 1993, Decree 029 of 2017 and Law 1150 of 2007 concern contracting requirements and selection modality. In this regard, article 5 of Decree 029 of 2017 authorises direct contracting if the partner (contractor) provides 30% of the resources of the agreement.

Article 355 of the Political Constitution, Decree 029 of 2017 and the principle of objective selection of Law 80 of 1993 and Article 32 of Law 1150 of 2007 concern the obligation to verify the suitability of the contractor.

This can also be seen in terms of the obligations of the control bodies regarding possible acts of corruption. In this respect, the Prosecutor's Office has a two-year

term for the preliminary investigation, which can be extended depending on whether or not the offences concur with other offences.

According to the administration, in particular the Santander Government's Secretariat for Women and Gender Equality, it could be affirmed that, with what is known so far, the participation was passive or omissive in validating fraudulent or unsubstantiated certifications. This is because, according to Article 355 of the Political Constitution, all levels of government may enter into contracts with non-profit organisations (NPO) deemed suitable.

This concept is defined in article 3 of Decree 092 of 2017 and therein stipulates that the entity shall corroborate suitability, referring as guidance to the State Procurement Agency Colombia Compra Eficiente, which has said that: "State Entities enjoy full autonomy to determine the suitability of private non-profit entities when entering into partnership agreements, and, should they so wish, they could apply the criteria for verifying suitability contained in article 3 of Decree 092 of 2017 and the "Guide issued by Colombia Compra Eficiente for contracting with non-profit entities deemed to be suitable". This establishes criteria that serve as guidance for State Entities to determine the suitability of the NPO in collaboration contracts, regulated by the same decree"

Corruption dynamics in Santander

Administrative corruption is understood as the reproduction of distortions in the implementation and execution of laws, rules and regulations that have been formulated and instituted. It involves authorities, civil servants, state suppliers, contractors, trade unions, and ordinary citizens interested in altering administrative processes in order to appropriate public resources, seek private favours through public decisions, and get family members and friends who do not meet the requirements to join the State bureaucracy (Restrepo; Rodríguez; Muñoz. 2019).

According to the "Así se mueve la corrupción"¹³ reports by Monitor Ciudadano (2016-2018), Santander was the department with the highest number of press reports on corruption with 14% of all reports, followed by Atlántico with 10%, Valle del Cauca with 8%, etc. Meanwhile, according to the report "La ciudadanía denuncia la corrupción"¹⁴ by Centro ALAC, Santander was the fifth department with the highest number of citizen reports of alleged corruption (2017-2019). Finally, according to the "Alertas de corrupción en tiempos de pandemia"¹⁵ report, the department with the highest number of citizen reports of alleged

¹³ Available at: http://www.monitorciudadano.co/docs/asi_se_mueve_la_corrupcion.pdf

¹⁴ Transparencia por Colombia internal document.

corruption with respect to health emergency resources was Santander with 12.5% of the total number of citizen reports of alleged corruption.

Finally, according to Citizen Corruption Monitor data consulted for the project¹⁶, 64% of the corruption reports in the press about Santander concern administrative corruption. Of the reports advised by ALAC regarding cases of alleged corruption in Santander, 96% involve administrative corruption and 67% relate to irregularities in the pre-contractual, contractual or post-contractual stage of state contracts and/or agreements. Irregularidades en la contratación y controles A report from members of a women's organisation in the department of Santander informed of alleged irregularities in the execution of the partnership contract signed between the Secretariat for Women and Gender Equality and AMIR.

In view of the above, in September 2019, the women's organisation issued a call to action to various local entities to bring to their attention a complaint filed by a woman victim of domestic violence, about situations of negligence, poor treatment in care, and lack of suitability of the operator of Casa Refugio, which at the time was AMIR, contracted by the Santander Governor's Office. On the other hand, Luis Ferley Sierra, Deputy of the Department of Santander, filed a criminal complaint

against the current governor of Santander, Mauricio Aguilar, and the Department's secretary for Women and Gender Equality, Andrea Blanco Pimiento, for allegedly entering into contracts without complying with legal requirements. According to the political representative, inconsistencies were found in the assets reported by AMIR, which he called a "paper organisation", since its creation in 2014.¹⁸

According to investigations conducted by the Deputy, from 2014 to 2018 the organisation's assets amounted to five hundred thousand pesos (\$500,000) with zero movements, which indicates that up to that time, the organisation had not entered into any contract related to its corporate purpose. However, in 2019, AMIR reported assets of (\$85'400.000) despite the fact that the income reported did not exceed eighteen (\$18'000.000) million pesos. This financial movement is striking and would allow us to affirm that in order to obtain the partnership agreement, the AMIR organisation had presumably adjusted its assets and liabilities.¹⁹

The current government's Secretariat for Women and Gender Equality stated that a suitability study of each of the bidding entities had showed that the only one that met all the requirements was the AMIR organisation²⁰. However, according to other investigations carried out, in 2019 the AMIR organisation certified that it had

15 Available at: <https://transparenciacolombia.org.co/wp-content/uploads/informe-alertas-de-corrupcion-en-tiempos-de-pandemia.pdf> As the official Monitor Ciudadano reports do not disaggregate the type of corruption in Santander, an internal consultation and statistical exercise was conducted based on 75 preliminary press reports. As these figures are preliminary in nature, they may vary in future Monitor Ciudadano reports.

16 Information obtained from the ALAC database as of 02/07/2021

17 See: <https://www.bluradio.com/politica/denuncian-contrato-con-empresa-de-papel-para-atender-mujeres-maltratadas-en-santander>

18 See: <https://www.vanguardia.com/politica/piden-renuncia-de-secretaria-de-la-mujer-departamental-por-mentirle-a-la-asamblea-NA3103953>

19 See: <https://www.vanguardia.com/politica/denuncian-a-tavera-y-a-aguilar-por-convenio-con-fundacion-amir-AA2626839>

signed two contracts with Fundación Renace Esperanza Colombia, each worth two hundred million pesos (\$200'000,000), the first executed between January and December 2014 and the second between January and October 2015. However, according to Fundación Renace Esperanza Colombia's certificate of experience and legal representation (RUES), issued by the Bucaramanga Chamber of Commerce, the Foundation was created in 2016. (Personal communication with Sierra, June 24, 2021).

The investigation also analysed the veracity of other certifications provided by AMIR to claim its suitability. It found that the certification provided by Hotel BGA (\$210.000.000) was false and that AMIR representative, Jhon Larry Ovalle, had created a false e-mail pretending to be from Hotel BGA. It was also found that the three certifications provided by OPERCOL S.A.S. were self-certifications, as Mr. Ovalle himself was the representative of this company.²¹

These and other irregularities related to certifications to demonstrate AMIR's suitability are part of the alleged administrative corruption in public procurement that occurred in the case under study, which mainly affecting the health and social protection sector of the women and children housed in Casa Refugio. As indicated by Colombia Compra Eficiente, although the entities enjoy a kind of autonomy or flexibility to corroborate suitability, they must verify compliance

with the requirements they stipulate. In this case it was stated that suitability for the object of the contract would be met through certifications of work experience. However, the entity was not diligent and did not corroborate the authenticity of the certificates, nor did it follow Colombia Compra's guidelines. The MP's investigation showed that it was not necessary to go very far to find irregularities and to determine that the certifications were possibly intended to fraudulently obtain the contract.

The State has also taken an active or direct action, such as the stipulation of one day for the submission of bids and certification of experience. As stated in articles 7 and 8 of Decree 029, the principles of state contracting and the general rules apply to Association Agreements, as far as they are not specifically regulated by the same Decree. To this extent, the principles of free competition, planning, economy, and efficiency are still in force, and these would be violated with the establishment of such a short period of time for the bidders considered suitable to satisfy the need to participate.

There are four possible scenarios through which controls and monitoring have been carried out with respect to the care and functioning of Casa Refugio in Pie de Cuesta - Santander: judicial control, administrative control, political control, and citizen control.

20 Available at: <https://www.wradio.com.co/noticias/regionales/diputado-denuncio-irregularidades-en-contratacion-en-la-gobernacion-de-santander/20200715/nota/4055124.aspx>

21 *Sextortion: Corruption and Gender-Based Violence (2020)*. Expert Group for Aid Studies-EBA, *Gender and Anti-Corruption in Latin America and the Caribbean, Good Practices and Opportunities (2021)*. Transparency International, *Breaking the silence around sextortion: The links between power, sex and corruption (2020)*. Transparency International, and *Women and corruption: strategies to address the differentiated impacts of corruption in Latin America Gender and corruption issues in Latin America (2019) Working paper by Ana Linda Solano López, an expert at the EUROsociAL+ Democratic Governance Policy Area.*

Within the framework of the judicial control it was found that the Deputy Luis Sierra denounced the representative of AMIR, Jhon Larry Ovalle; the Governor Mauricio Aguilar; the former Governor Didier Tavera; and other office secretaries before the Attorney General's Office on July 14, 2020. On January 15, 2021, the Prosecutor's Office informed through a petition response that the case was under preliminary investigation, that it had been assigned to the Anti-Corruption Group of the CTI and, in turn, commented on the Judicial Police actions that had been deployed to carry out the relevant investigations. In response to the MP's insistence that the case be expedited, the Prosecutor's Office announced that it had issued an instruction to expedite the investigation. On the other hand, another complaint was filed with the Santander Departmental Comptroller's Office by the Hypatia Foundation, which was shelved on the grounds that the facts did not constitute fiscal misconduct.

Concerning administrative control, the Partnership Agreement establishes that this will be supervised by the Secretariat for Women and Gender Equality, as stipulated in paragraph 1, article of Law 80 of 1993, for this type of state contracting and in accordance with its amount. In addition, within the framework of the agreement, AMIR has presented management reports, that include statistics on the service, the women who attend the house and the violence they experience, as well as quantitative data and evidence of activities carried out, but no breakdown of expenditure or budget execution. These periodic reports, of which we have a copy of the May-June 2021 Report, have no support other than themselves and have been accepted by the Secretariat for Women and Gender Equality as part of its monitoring function with respect to the implementation of the agreement.

Regarding the political control scenario, the deputy Luis Ferley Sierra has called for two debates regarding the case study. The first was held in July 2020, where he exposed the irregularities and the contractor's lack of suitability, to which the Secretariat for Women responded that the suitability and experience requirements for the project had been verified. Meanwhile, in a debate held on June 11, 2021 on the guarantee of women's rights in the department of Santander, he explained the reasons why the Secretariat for Women and Gender Equality was not doing a good job, exposing each of the alleged irregularities that have been occurring during Andrea Blanco Pimiento's performance of her duties as the entity's representative.

With regard to the attention given to women victims of gender-based violence in the department's Casa Refugio, some leaders of the Santander women's organisation reported that the Women's Secretariat has ignored the complaints that have been made about the alleged corruption, given that this year the AMIR association had been hired again to provide services in Casa Refugio, despite the irregularities reported. This situation was expressed by the deputy Sierra through a proposition in which he requested the resignation of the current secretary:

It was denounced that the Secretariat for Women, despite knowing about the alleged serious irregularities committed by the AMIR Association to obtain the agreements for Casa Refugio for women victims, did not take any administrative action in this regard; on the contrary, the Secretariat for Women decided to re-award the Casa Refugio agreement to the AMIR Association in 2021. This is very serious because it could constitute an alleged act of corruption that should be investigated

by the Attorney General's Office and the Procurator General's Office (Departmental Assembly of Santander, June 11, 2021)

Within the framework of citizen control, the women's organisation has conducted a monitoring and oversight exercise of the Secretariat for Women's management in the current context of women victims of violence in the department, which has been evidenced through the a number of statements issued by the organisation since last year. In this process it has received advice and support from ALAC since June 2020.

In 2020, the women's organisation submitted a right of petition to the Ombudsman's Office to express the worrying increase in the number of registered cases of women victims of gender-based violence and highlighted the importance of Resolution No. 9000595 issued by the Ministry of Health and Social Protection, which states the urgency of prioritising resources to set up "shelters, hostels or refuges, and that these must meet the corresponding requirements" (Valencia, April 22, 2020).

In accordance with the above, they made two requests associated with the establishment of shelters in the department, demanding the application of measures for the provision of care and the creation of shelters provided for in Decree 1630 of 2019 and Resolution No. 9000595 of 2020, as well as the implementation of an oversight body to monitor the process of contracting service providers in the shelters (Valencia, April 22, 2020).

Besides the MP who has denounced this case, the women's organisation's reporters have also monitored AMIR's service provision at Casa Refugio, mainly through

the legal and psychological counselling services for women victims of violence and the Violence Free Life (VLV) strategic line. These follow-ups are reflected in actions such as the call to action in which a complaint was made about the care provided at Casa Refugio by the AMIR operator; its monitoring of the political control debates of the Department's Women's Secretariat; and its participation in the Women and Gender Equality Advisory Council.

Affectations to the guarantee of the rights of women victims of GBV resulting from acts of corruption

Based on the above analysis, we can see how the alleged acts of corruption directly and indirectly affect the guarantee of women's rights in the department. In principle, it was possible to show that AMIR is not qualified to fulfil the purpose of the contract, as it has no experience in the care and assistance to women victims of GBV, as demonstrated by the fact that, according to the investigations, the certificates provided contained misleading information. Overall, this can be seen as a problem related to the suitability of inter-administrative agreements or similar ones such as the Association Agreements with NPOs, which have been the subject of warnings as scenarios conducive to corruption or the hiring of unsuitable candidates.

In this sense, the institutional architecture for gender equality has not been sufficient to enable significant progress in the implementation of transformative

policies. This is because greater effort is required to translate these bodies and mechanisms into public policies that guarantee the materialisation of what has been agreed internationally and what has been established in national regulations, which contemplate specific measures, actions, and strategies to turn women's lives into a horizon of substantive equality.

In line with the above, the irregularities surrounding the contracting of the Association imply a service provision that does not respond to a scenario of guarantee and restoration of rights for women victims of violence, and does not comply with the gender approach in the care and accompaniment of this population to the extent that they do not have the sensitivity, capacity, or training to care for women victims of GBV. On the contrary, according to the investigation, the care provided in Casa Refugio constitutes a scenario of re-victimisation for women.

The absence of a gender perspective in the operation of Casa Refugio means that the staff who provide care to women victims of GBV who come to this place in search of protection, interpret the provision of this service as a matter of will and solidarity, that is, as a "favour" to these women and not, as it should be, as a set of rights that are legally and constitutionally stipulated, and therefore must be guaranteed and protected.

According to one of the leaders of the women's organisation, in the contracting process, AMIR did not provide proof of experience in projects similar to Casa Refugio. Despite this, it was contracted anyway, over

other organisations that did have a track record of such experience and met the requirements:

(...) the provider that was contracted was not assessed for its expertise on gender issues, and the way in which it was accredited was very... it just wasn't. There were other competitors, for example the Hipatya Corporation, which has been working on the issue for more than five years, running Casa Refugio very successfully, and it is a grassroots organisation (...). On the other hand, the provider (...) it is evident that the requirements are adequate for an operator who does not have the experience (personal communication, June 18, 2021).

Also, the leaders of this women's organisation frame the provision of these services in a scenario of political proselytising that responds to electoral dynamics intended to generate a favourable image among citizens regarding the Governor's Office and the Departmental Secretariat for Women's Affairs' management.

That said, the women members of the organisation state that corruption does affect women differently, due to the socio-economic inequalities that this population suffers structurally. Thus, one of the women leaders indicated that corruption has a negative impact on women, as there is a historical situation of discrimination and a state of vulnerability given the conditions in which many women live or find themselves (personal communication, June 18, 2021). They also highlighted that women are the direct victims

of this act of corruption, and that their children and people under their care are also being affected, so they can be considered indirect victims in this scenario: “It also affects the family, because in most cases women are heads of household, so it ends up affecting the whole nucleus and society in general” (personal communication, June 18, 2021).

The effects and damages to the direct and indirect victims as a result of this irregular contracting are reflected in the care provided by the operator AMIR to the women beneficiaries at Casa Refugio. As mentioned above, the services provided at Casa Refugio lack a rights-based and gender-based approach that would allow for comprehensive care to be provided to these women. According to the women leaders interviewed, the service provided at Casa Refugio revictimises the women who make use of this service, as they are denied their rights set out in Law 1257 of 2008:

They deny women the guarantee of their rights. They were told that they had to be grateful and they were not given enough food to be there. This is a very serious issue, because it does not only affect the women in Casa Refugio, but all the women in Santander (personal communication, June 18, 2021).

This testimony corresponds to a call to action that was made in 2019 by the women’s organisation to the Santander Regional Ombudsman’s Office. The organisation presents the testimony of a GBV victim staying at Casa Refugio. In it, the woman indicates that the attention is neither comprehensive nor adequate,

as there is no legal, psychological or psychosocial counselling. She also stipulated that there was no stipulated schedule for training and activities to provide “economic empowerment tools (...) to help rebuild life projects and restore the violated rights of women and their children” (Duran & Valencia, s.f.).

The women leaders interviewed also indicate that they are aware of other cases in which there is an evident absence of legal accompaniment by the Casa Refugio or the competent entities of the Governor’s Office. One of these women stated the following:

We had a new case of a Mexican woman who left Casa Refugio, because she said she had no way of communicating with her family in Mexico. (...) in the process I had to intervene a lot (...) I had to work with the Ombudsman’s Office and the Prosecutor’s Office to reiterate her rights. So, if she had been properly accompanied as in the previous shelter, with an expert, then that person would have been doing it and not us. Not because we are not doing it, but because we have the resources, so what is happening with these women, and how well are these processes being carried out? (personal communication, June 18, 2021).

Given the above, there is a clear violation of economic and social rights such as the right to physical and mental health, to social protection and to an adequate standard of living. In addition, these women affirm that the service provided by the operator at the Casa Refugio “ends up affecting the right to a life free of violence, and the institution ends up causing institutional violence.

Promulgating this violence, and not guaranteeing what is established by law (...)" (personal communication, May 31, 2021).

As mentioned in the introduction to this paper, Law 1257 refers to the concept of "harm" under four headings:

- 1. Psychological harm:** the consequence of an action or omission intended to demean or control the actions, behaviour, beliefs and decisions of others, through intimidation, manipulation, direct or indirect threat, humiliation, isolation or any other conduct that results in harm to an individual's psychological health, self-determination, or personal development.
- 2. Physical harm or distress:** risk or diminution of a person's bodily integrity.
- 3. Sexual harm or distress:** the consequences arising from the action of forcing a person to engage in sexualised physical or verbal contact or other sexual interactions through the use of force, intimidation, coercion, blackmail, bribery, manipulation, threat or any other mechanism that overrides or limits personal will. Sexual harm or distress also includes the perpetrator forcing the victim to engage in any of these acts with a third party.

4. Material harm: Loss, transformation, subtraction, destruction, retention or diversion of objects, work tools, personal documents, goods, values, rights or economic resources intended to meet women's needs.

Based on the above, at least four areas can be identified in which the alleged case of corruption affects women. In the first instance, their bodies are affected, insofar as the objective of gender-based victim care measures is, first and foremost, to safeguard the life and physical and psychosocial integrity of the victim and, with this, to cover her basic needs such as food, lodging and protection. as long as these minimum standards are not met, women's bodies and lives will continue to be at risk.

On the other hand, their homes are affected, mainly in terms of care work, which has historically been assigned to women, so that they are the main parties responsible for caring for their children, the elderly and, in general, highly vulnerable populations. In this sense, it is not only the woman victim who is at risk, but also her immediate family environment and, by not guaranteeing care measures, society too is indirectly affected.

The third area that is affected is the environment, that is, the system of economic, political, and social relations (Harcourt and Escobar, 2002), which are directly related

to livelihoods, the rupture of social relations and the impact on their life projects, which is why attention to victims of GBV must guarantee measures around economic empowerment, psychosocial attention, and specific actions geared towards the protection, guarantee, and restitution of violated rights.

Finally, the fourth area, corresponding to the public social space, reveals that the conditions of inequality in access to economic resources -especially for women victims of GBV- combined with ethnic, socio-economic and cultural factors, has deepened their marginalisation in decision-making in a context dominated by men and particular interests that do not benefit the population, let alone women and girls. This happens as a result of historical institutional arrangements built in spaces such as the home and the environment that provide men with better conditions for the defence of their interests in political spaces, for example, resulting in greater enjoyment of access to land, food, and health services, among other things.

Conclusions

Resources earmarked for measures and actions geared towards the promotion of gender equality and to care for women victims of GBV are susceptible to irregular management, generating multiple impacts, not only on

women and their immediate environment, but also on society in general, which, in the absence of effective and adequate programmes, perpetuate inequalities and, specifically in this situation, legitimise, by action and omission, violence against women. Corruption therefore has a direct impact on women's life projects, exacerbating the systematic and structural effects of gender-based inequalities and preventing the fulfilment of the state's constitutional mandate to guarantee women's rights.

The Colombian State has the obligation to implement specific measures to protect women victims of GBV, within the framework of international conventions and national laws that promote a life free of violence for women. Although there have been normative advances in this regard, there are still shortcomings in the institutional gender architecture, in terms of a weak interpretation and appropriation of the gender approach by its entities and officials, as well as in terms of training and capacity building to implement gender-sensitive actions.

3. Sexual extortion as a manifestation of corruption:

An initial approach to the Colombian context



Introduction

A differentiated impact of corruption by gender is found in the phenomenon of sexual extortion or sextortion, which consists of the manifestation of the abuse of power in order to obtain a sexual favour or advantage in exchange for access to rights and services, such as education, health, water, licenses and permits for economic projects, visas and others (Transparency International 2021). However, the study of these manifestations of sexual violence from the perspective of corruption is as yet incipient, and the issue is practically non-existent in anti-corruption legal frameworks.

This case study proposes a first approach to the phenomenon of sexual extortion, as well as to the challenges, gaps, and opportunities that the issue implies in the fight against corruption, the visibility of victims, and the guarantee of rights.

In the first place, the analysis includes definitions based on a documentary review of recent studies on the subject²² and an interview²³. Secondly, it examines the study of the Colombian regulatory framework on the subject. Thirdly, we propose the preliminary identification of some acts of corruption related to sexual extortion through the Monitor Ciudadano. Finally, some recommendations are presented to advance in the recognition and sanctioning of sexual extortion, based on actions to fight corruption from a gender perspective.

²² Interviews with Ana Linda Solano López, expert on gender and corruption.

²³ Case 01 of the JEP, “Taking of hostages and other serious deprivations of liberty committed by the FARC-EP”, contemplates or determines the facts “attributable to the former members of the Secretariat of the FARC-EP for taking hostages and other serious deprivations of liberty, and placing them at their disposal” (2021). Sexual violence is one of the crimes that are contemplated in this case, as particularly serious abuses committed against the hostages in captivity. Sexual violence, reproductive violence and gender-based violence are crimes that are dealt with in the victimising act of kidnapping, but there has been no opening of a macro-case that concentrates on these crimes (Auto N° 19, 2021).

Sexual extortion as a manifestation of corruption

Before defining the concept of sexual extortion or sextortion, one must first define corruption. In general terms, Transparency International has defined corruption as the abuse of power for private gain, a phenomenon that can occur on a large scale when acts are committed at the highest levels of government to distort policies or central functions of the state, and on a smaller scale, when it consists of an offer or demand for bribes that involves a breach of trust. Political corruption, in turn, is the manipulation of policies, institutions and rules in the allocation of resources and funding by political decision-makers in order to preserve their power and wealth (Transparency International 2009)

Combining sexual extortion and corruption

The sexual component arises from a request to engage in sexual activity and the corruption component addresses, on the one hand, the abuse of authority by a public official or decision-maker in order to obtain a benefit for himself or others, and on the other hand, implies that the perpetrator of the act is requesting a bribe in exchange for a benefit for the intended victim, such as obtaining a job, access to a state service, or complying with a legal process (Ramírez Sirgo, Moreno Rodríguez and Casas Cárdenas 2021).

Accordingly, sextortion combines both aspects, as the person requesting the sexual favour holds a position of authority, which he or she abuses by demanding, or accepting, a sexual favour in exchange for exercising his or her power (Transparency International, 2021). Sexual extortion is therefore distinct from other types

of sexual abuse and other acts of corruption, as it combines the components of abuse of a position of power for personal gain, and sexual abuse, in which the victim is asked for a non-consensual sexual exchange (Carnegie 2019).

In addition, sexual extortion has been understood as a form of corruption related to gender-based violence, as it affects women and the LGTBIQ+ population in particular, where the abuse of power is aimed at obtaining a sexual benefit (Feigenblatt 2020).

Sextorsion: human rights violations and discrimination

Sextortion, defined as the abuse of power or authority on the part of the perpetrator of the act of corruption, also leads to the violation of human rights because it alters their normal enjoyment. Sextorsion is therefore much more serious if the victim is in a state of obvious vulnerability vis-à-vis the person who commits the corrupt act. Therefore, the responsibility for the act falls on the person with power and not on the violated person, since it is the person in the position of power who has to fulfil his or her functions in a fair and transparent manner (Eldén et al. 2020). In addition, it should be borne in mind that people who are victims of sextortion may be subject to other conditions that aggravate exposure to this act of corruption, such as multidimensional poverty and poor reporting skills (Eldén et al. 2020).

Women and the LGTBIQ+ population are faced with this phenomenon differently as they find themselves in traditionalist and exclusionary societies, which ends up aggravating existing conditions of discrimination

(Inter-American Commission on Human Rights 2019). The Inter-American Commission on Human Rights (IACHR) has identified that, the phenomenon of human trafficking along with other acts of corruption, appear to involve different forms of sexual extortion where bribes are paid through sexual acts, mainly affecting women. With regard to the LGTBQ+ population, it has been suggested that there is an affectation of the right to gender identity of transgender people who engage in prostitution, where the authorities bribe them through sexual acts in order to allow them to exercise this activity (Inter-American Commission on Human Rights 2019).

Some situations in which sextortion occurs

According to a study conducted by the Water Governance Facility in 2017, women in Bogotá and Johannesburg are victims of sextortion in exchange for water services (Water Governance Facility 2017). Therefore, the phenomenon can be found in contexts where access to rights such as justice and security, or to state services such as health, public services, education, visa procedures, among others, are mediated by illegitimate transactions (Solano 2019).

Another example involves women who are pregnant or caregivers for their children and families, but who do not have the resources to access health care or education, and therefore agree to participate in sexual “favours” in exchange for the provision of the service (Solano 2019).

Characterisation of the phenomenon based on surveys In order to raise awareness of the phenomenon, in 2019 Transparency International included a set of questions in the Corruption Barometer survey to ask citizens about their perception of this phenomenon. These included questions such as:

How often do you think sexual extortion occurs? And, thinking about your own experience or the experiences of people you know, how often does it happen that a public official overtly or covertly asks for sexual favours in exchange for state benefits?

In Latin America and the Caribbean, the study found that 1 in 5 people have been exposed to sexual extortion or know someone who has experienced sexual extortion. Also, 71% of people said that sexual extortion occurs at least occasionally. In Colombia, 16% of people stated that they had experienced sextortion or knew someone who had while 82% of respondents believe that sexual extortion occurs occasionally (Transparency International 2019).

It is important to highlight that, in this type of extortion, the “bargaining chip” is a sexual act of any kind. Therefore, as has been explained in previous sections, according to Transparency International, this type of corruption mainly affects women, since most of them are the main economic support for their families, and therefore depend on the provision of public services, mainly those related to health and education (Transparency International 2019).

Standards applicable to sexual extortion cases for Colombia

Among the biggest challenges in addressing the phenomenon of sextortion in anti-corruption efforts is the absence of legal frameworks that explicitly criminalise forced sexual acts as forms of bribery in the context of corruption. Moreover, the International Association of Women Judges (IAWJ) has pointed out that the combination of sexual abuse and corruption

inherent in sextortion paradoxically makes this crime less likely to be prosecuted under laws that govern sexual abuse and corruption in parallel, compared to a crime that pertains to only one of these two types of abuse. Against this background, IAWJ stresses that greater awareness of the seriousness of sextortion is imperative and recognises that despite the existence of laws that are comprehensive enough to prosecute it, the public and prosecutors must first learn about the phenomenon (Transparency International 2021).

In addition to the above, this phenomenon or crime is not always understood comprehensively as a manifestation of corruption that affects women in a differentiated manner, preventing the advancement of processes to publicise and provide reparations to the victims in these cases (Transparency International 2021). Therefore, the efforts made in this area have focused on seeking cooperation scenarios between judicial powers and control and

investigation bodies, positioning the issue on the public agenda, which includes understanding the phenomenon, raising awareness of its seriousness, and systematising and generating data that allow for a two-way analysis of these acts.

Having said this, the Colombian legal framework will be briefly examined through three scenarios: firstly, the regulations governing crimes related to sexual violence with respect to the Penal Code and the General Disciplinary Code; secondly, Law 1257 of 2008, intended to raise awareness, prevent and punish all forms of violence and discrimination against women; and thirdly, an outline of the regulations regarding transitional justice in the framework of the current Peace Agreement between the National Government and the FARC - EP. The purpose of this is to identify possibilities for the investigation and punishment of sexual extortion in Colombia.



Penal Code and General Disciplinary Code

Table 1: Offences related to sexual extortion

CRIME (PENAL CODE)	DESCRIPTION
ARTICLE 205, VIOLENT CARNAL ACCESS	Whoever commits carnal intercourse with another person by means of violence.
ARTICLE 206, SEXUAL VIOLENCE	Whoever performs a sexual act other than carnal intercourse on another person by means of violence.
ARTICLE 212A, VIOLENCE	For the purposes of the conducts described in the previous chapters, violence is understood as the use of force; the threat of the use of force; physical or psychological coercion, such as that caused by fear of violence, intimidation; illegal detention; psychological oppression; abuse of power; the use of coercive environments and similar circumstances that prevent the victim from giving free consent.
ARTICLE 210-A, SEXUAL HARASSMENT	Whoever, harasses, persecutes, stalks, or physically or verbally assaults another person for non-consensual sexual purposes for his or her own benefit or that of a third party, using his or her obvious superiority or relations of authority or power, age, sex, employment, social, family or economic position.
ARTICLE 220, INJURY	Whoever makes dishonourable accusations against another person.
ARTICLE 226, INJURY IN FACT	The same penalty as provided for in article 220 shall be incurred by anyone who effectively offends another person.
ARTICLE 244, EXTORSION	Whoever coerces another person to do, tolerate or omit to do anything, with the purpose of obtaining unlawful advantage or any unlawful benefit for her or himself or for a third party.
ARTICLE 245, AGGRAVATING CIRCUMSTANCES	When the conduct is committed by a person who is a civil servant or who is or has been a member of the State security forces.

Table 1: Offences related to sexual extortion

CRIME (PENAL CODE)	DESCRIPTION
ARTICLE 404, EXTORSION	A civil servant who, by abusing his position or functions, solicits or induces someone to give or promise money or any other undue advantage to the same civil servant or to a third party, or solicits them.
ARTICLE 405, ACTIVE BRIBERY	A civil servant who receives for himself or for another, money or other benefit, or accepts a promise of remuneration, directly or indirectly, to delay or omit an act proper to his office, or to perform an act contrary to her or his official duties.
ARTICLE 406, PASSIVE BRIBERY	A civil servant who accepts for himself or for another, money or any other benefit or promise of remuneration, directly or indirectly, for an act to be performed in the performance of his duties.
ARTICLE 407, BRIBERY BY GIVING OR OFFERING	Anyone who gives or offers money or any other benefit to a civil servant, in the cases provided for in the two previous articles.
ARTICLE 411, INFLUENCE PEDDLING BY A CIVIL SERVANT	Any civil servant who improperly uses, for his own benefit or that of a third party, influence derived from the exercise of his position or function, to obtain any benefit from a civil servant in a matter that she or he is dealing with or has to deal with.
ARTICLE 413, PREVARICATION BY ACTION	A civil servant who issues a resolution, opinion or concept manifestly contrary to the law.
ARTICLE 414, PREVARICATION BY OMISSION	A civil servant who omits, delays, refuses or denies an act proper to his functions.
ARTICLE 416, ABUSE OF AUTHORITY BY ARBITRARY AND UNJUST ACT	A civil servant who, outside the cases specially foreseen as punishable conduct, commits an arbitrary and unjust act on the occasion of his functions or in excess of the exercise thereof, shall be liable to a fine and loss of public employment or office.
ARTICLE 434, ASSOCIATION TO COMMIT A CRIME AGAINST PUBLIC ADMINISTRATION	A civil servant who associates with another civil servant, or with a private individual, to commit a crime against the public administration. If a private individual is involved, the same penalty shall be imposed.

Table 2: Disciplinary offences in connection with cases of sexual extortion

DISCIPLINARY OFFENCES (GENERAL DISCIPLINARY CODE)	DESCRIPTION
<p>ARTICLE 38, DUTIES</p>	<p>Comply and ensure compliance with the duties contained in the Constitution, treaties on human rights and international humanitarian law, other treaties ratified by Congress, laws, decrees, ordinances, district and municipal agreements, the statutes of the entity, regulations and duties handbooks, judicial and disciplinary decisions, collective bargaining agreements, employment contracts and superior orders issued by a competent official.</p>
	<p>Perform the service entrusted to them diligently, efficiently, and impartially and refrain from any act or omission that causes the suspension or unjustified disruption of an essential service, or that implies undue abuse of office or function.</p>
	<p>Treat the persons with whom he/she has relations as part of the service with respect, impartiality, and rectitude.</p>
	<p>To perform the job, position, or function without obtaining or seeking benefits beyond the legal and conventional considerations to which he/she is entitled.</p>
<p>ARTICLE 39, PROHIBITIONS</p>	<p>Failing to comply with duties or abusing rights or exceeding the functions contained in the Constitution, international treaties ratified by Congress, laws, decrees, ordinances, district and municipal agreements, the statutes of the entity, regulations and duties handbooks, judicial and disciplinary decisions, collective bargaining agreements and employment contracts.</p>
	<p>Directly or indirectly requesting gifts, entertainment, presents, favours or any other kind of benefits.</p>
	<p>Omit, deny, delay or hinder the dispatch of matters in their charge or the provision of the service to which they are obliged.</p>
	<p>To utter insulting or slanderous expressions against any civil servant or against persons with whom they have a relationship as part of their service.</p>
	<p>Intimidating or coercing a person for any reason involving discrimination of any kind.</p>



Table 2: Disciplinary offences in connection with cases of sexual extortion

DISCIPLINARY OFFENCES (GENERAL DISCIPLINARY CODE)	DESCRIPTION
ARTICLE 67, MAJOR AND MINOR OFFENCES	Serious or minor disciplinary offence to fail to perform one's duties, abuse one's rights, exceed one's functions, or incur in prohibitions, unless the conduct is foreseen as a very serious misconduct.
EXTREMELY SERIOUS OFFENCES	
ARTICLE 53, OFFENCES RELATING TO FREEDOM AND OTHER FUNDAMENTAL RIGHTS	Carrying out, promoting, or instigating another civil servant to carry out acts of harassment, bullying or persecution against another person on account of their race, ethnicity, nationality, sex, sexual orientation, gender identity, religion, political or philosophical ideology.
ARTICLE 65, MISDEMEANOURS WHICH COINCIDE WITH TYPICAL DESCRIPTIONS OF CRIMINAL LAW	When the conduct does not fall under any of the above offences, by virtue of the principles of speciality and subsidiarity, it shall constitute a very serious offence to Objectively carrying out a typical description enshrined in law as a crime punishable by reason of intent, when committed by reason of, on the occasion, or as a consequence of one's function or position, or in abuse of it.

Law 1257 of 2008

In the framework of gender-based violence, in this case sexual violence, Law 1257 of 2008 establishes rules that seek to raise awareness about, and prevent and punish all forms of violence and discrimination against women.

This law, therefore, contains further possibilities for investigation and sanctioning of sexual extortion or sextortion. The following is a summary of the most relevant articles of the law concerning this offence:

Table 3: Law 1257 of 2008: Articles contributing to the possibilities of investigation and punishment in cases of sexual extortion

ARTICLE	DESCRIPTION
<p>ARTICLE 3. CONCEPT OF HARM TO WOMEN</p>	<p>Four definitions of harm are set out in the interpretation of the law:</p> <ol style="list-style-type: none"> 1) Psychological harm: the consequence of an action or omission intended to demean or control the actions, behaviour, beliefs and decisions of others, through intimidation, manipulation, direct or indirect threat, humiliation, isolation or any other conduct that results in harm to an individual's psychological health, self-determination, or personal development. 2) Physical harm or distress: Risk or diminution of a person's bodily integrity. 3) Sexual harm or distress: the consequences arising from the action of forcing a person to engage in sexualised physical or verbal contact or other sexual interactions through the use of force, intimidation, coercion, blackmail, bribery, manipulation, threat or any other mechanism that overrides or limits personal will. Sexual harm or distress also includes the perpetrator forcing the victim to engage in any of these acts with a third party. 4) Material harm: Loss, transformation, subtraction, destruction, retention or diversion of objects, work tools, personal documents, goods, values, rights or economic resources intended to meet women's needs.

Table 3: Law 1257 of 2008: Articles contributing to the possibilities of investigation and punishment in cases of sexual extortion

ARTICLE	DESCRIPTION
<p>ARTICLE 6. PRINCIPLES.</p>	<p>For the interpretation and application of this law, eight guiding principles are established, namely: Real and effective equality; Human Rights; principles of co-responsibility; integrity; autonomy; coordination; non-discrimination; and differentiated attention. Regarding the possibilities of investigation and sanction, the principle of integrity establishes that care for women victims of violence will include information, prevention, orientation, protection, sanction, reparation, and stabilisation.</p>
<p>ARTICLE 8. THE RIGHTS OF THE VICTIMS OF VIOLENCE</p>	<p>This law establishes a set of rights for anyone who is a victim of any of the forms of violence covered by the law. These victims are entitled to</p> <ol style="list-style-type: none"> 1. Receive comprehensive care. 2. Receive free legal advice and legal assistance, as soon as the incident is brought to the attention of the competent authorities. It is therefore the responsibility of the State to guarantee this service, and to take all appropriate action against the aggressor. 3. Receive appropriate and pertinent information regarding their rights and the mechanisms of care and assistance provided for by law. 4. In the case of sexual violence, to give informed consent for medico-legal examinations. 5. Receive comprehensive and timely information about their health, and sexual and reproductive rights. 6. Have their identity and personal data protected throughout the process of medical, legal, and social assistance. 7. Receive specialised and comprehensive medical, psychological, psychiatric and forensic assistance for themselves and their children. 8. Be provided with protection and care mechanisms for themselves, their children and their daughters and sons; 9. To truth, justice, reparation and guarantees of non-repetition. 10. To decide whether she wishes to be confronted with the aggressor in any of the care, administrative, and judicial spaces.

Table 3: Law 1257 of 2008: Articles contributing to the possibilities of investigation and punishment in cases of sexual extortion

ARTICLE	DESCRIPTION
<p>ARTICLE 19. CARE MEASURES</p>	<p>This law provides for a series of care measures for women victims and their children:</p> <ol style="list-style-type: none"> 1) Guarantee housing, food and transport for the victim and her children through the General Social Security Health System. These services are intended to protect their life, dignity, and integrity. 2) If the victim does not wish to access the hotel or room services available, or if these have not been contracted, a monthly monetary allowance will be provided to cover room and board services. This monetary assistance is also intended to guarantee attendance at medical, psychological, or psychiatric appointments. 3) The Health Promotion Companies and the Administrators of the Subsidised Regime shall be responsible for providing medical, psychological and psychiatric assistance services.
<p>ARTICLE 20. INFORMATION</p>	<p>Municipalities and districts will provide information and support to women victims of violence, as well as information on available services and the entities responsible for their provision, legal procedures, and existing reparation measures. The hotlines will also provide immediate, accurate, and complete information to the community and the victim about the forms of violence and the mechanisms for protection and care. Finally, women with disabilities, those who cannot read or write, or those who speak a language other than Spanish, will be guaranteed access to information on existing rights and remedies.</p>

Transicional Justice

FARC - EP, includes a set of regulations that makes it possible to address the possibility of investigating and punishing crimes related to sexual violence, reproductive violence, and gender-based violence. Thus, although the Special Jurisdiction for Peace (JEP) has not opened a macro-case to investigate and punish this victimising act in the framework of the armed conflict²⁴, there are legal contributions from the Final Agreement document: the Statutory Law on the Administration of Justice in the Special Jurisdiction for Peace, Law 1922 of 2018 and Agreement 001 of 2018, which contain the guiding principles and actions of the JEP.

The System of Truth, Justice, Reparation and Non-Repetition (SVJRNR) contemplated in the Final Agreement establishes that the JEP is the body that will perform an independent judicial function, in order to offer truth and justice to the victims, and legal security to the actors who have participated both directly and indirectly in the armed conflict. These functions will be exercised in the framework of crimes and conducts considered as serious breaches of International Humanitarian Law, or serious violations of Human Rights (Government-FARC, 2016), including sexual violence.

The Statutory Law (2019) also decrees that the JEP will be composed of bodies responsible for guaranteeing the victims of the conflict the right to justice:

1. The Chamber of Truth, Accountability and Responsibility, and Determination of Facts and Conduct.
2. The Peace Tribunal.
3. The Chamber for Amnesty and Pardon.
4. The Chamber for the definition of legal situations, for cases other than those mentioned above or in other cases not foreseen.
5. The Investigation and Indictment Unit (UIA), which provides for the victims' right to justice when there is no collective or individual acknowledgement of responsibility.

According to this law, the UIA is the body in charge of investigating and sanctioning crimes that are not or only partially recognised by those who appear before it, and of performing judicial police functions (Ley 1957,2019). The IAU is made up of various mission groups, including the Gender and Differential Approach group which, together with the JEP's gender commission, seeks to develop actions to implement a differential, territorial,

24 24 See Legislative Act 01 of 2017, transitory article 7: <https://jepvisible.com/observatorio/que-es-observatorio/73-normatividad/127-acto-legislativo-01-del-4-de-abril-de-2017>

and gender approach, as well as to mainstream these approaches in all the functions carried out by the IAU and in the attention provided to victims who wish to participate in the judicial processes of the body. The UIA is also responsible for investigating cases related to crimes of sexual violence as a matter of priority through the special investigation team for such cases²⁵, and for making decisions related to the special protection of victims (Unidad de Investigación y Acusación, 2018).

Considering the above, the peace agreement between the National Government and the FARC - EP establishes regulations through the JEP that would allow for the investigation and punishment of specific cases of sexual violence in the context of the conflict once a macro-case is opened that concentrates on this crime, as well as the identification of specific cases in which a link is established between corruption as an abuse of power and sexual violence, making it possible to determine how sextortion has occurred in the context of the armed conflict and its characteristics in this type of scenario.

The manifestations of sextortion in Colombia

Data from the Citizens' Corruption Monitor²⁶

In the work carried out by the Citizens' Corruption Monitor, sextortion has not to date been considered a category for the collection and analysis of information; however, a review has been made of cases in which the acts of corruption analysed have sexual violence as a common element as a bargaining chip for private gain to the detriment of the collective interest. With this particular approach, this review yielded thirteen acts of sextortion reported in the written press between 2016 and 2020²⁷. Annex 0 details the cases analysed according to the classification categories of each case, including a description of the event, the identification of the actors involved and the sector in which it occurs (See annex 0).

²⁵ *Monitor Ciudadano de la Corrupción* is an observatory belonging to *Transparencia por Colombia* that functions as a civil society centre for the collection and analysis of information on corruption risks and incidents, as well as on anti-corruption public policy in Colombia. Among its tools is the *Radiografía de hechos de corrupción*, *Transparencia por Colombia's* effort to gather data on acts of corruption reported in the national press from 2010 to date. To do so, it uses the written press releases stored in the Digital Press Archive of the *Centro de Investigación y Educación Popular-CINEP* (Centre for Research and Popular Education-CINEP) as its main source. This information is supplemented with press releases from control and investigative bodies. Subsequently, the acts of corruption are classified and analysed on the basis

²⁶ For a list of corruption incidents systematised by *Monitor Ciudadano*, see: <https://www.monitorciudadano.co/hechos-corrupcion/visor>

²⁷ See: *Un texto para comprender que es la 'Comunidad del Anillo'* (2016) <https://www.elespectador.com/judicial/un-texto-para-comprender-que-es-la-comunidad-del-anillo-article-617228/>. See also: *El Tiempo*, *Acusan a coronel de prostituir cadetes* (2016, November 4)

Generally speaking, most of the facts recorded in the press present cases involving the defence and security sector for acts of corruption committed by the security forces. These facts involve members of the army and the police, such as the case known as La Comunidad del Anillo, based on the creation of a network for the prostitution of cadets through extortion practices and promises of beneficial deals²⁸.

The press analysis by Monitor Ciudadano also identified three cases in the education sector involving teachers, principals, and students. These cases occurred on the premises of educational institutions²⁹, and they presented evidence of the involvement of illegal actors who allegedly abused minors in complicity with the educational institutions³⁰.

There are also three cases related to the judicial branch, two of which involve the use of “sexual favours” in exchange for employment benefits³¹. Another case involves a prison director who allegedly forced a prisoner to have sex with him in order not to incriminate him for having drugs in his cell³².

Analysis of the cases from the Colombian normative framework: Possibilities for investigation and punishment

It is important to mention that most of the cases identified through Monitor Ciudadano show that the victims are children and teenagers, including minors belonging to ethnic communities. There are also women, including students. Three of the events referenced in Annex 0 have been selected for further analysis from the perspective of criminal and disciplinary investigations and sanctions contemplated in the Colombian normative framework.

Case 1: La Unión prison director arrested for alleged “sextortion” (La Unión-Nariño, 2015)³³.

In 2016, Jesús Henry Solarte, director of the medium security prison La Unión in Nariño, was arrested for allegedly sexually abusing an inmate. The victim was allegedly abused between May and December 2015 under the threat of having illicit substances implanted in his cell if he did not have relations with the warden.

- **Possibilities for criminal investigation and sanction (Prosecutor):** In the first place, the offence involves violent carnal access, as the victim would have been subjected to carnal access by means of violence, violence being understood as psychological coercion caused by intimidation, psychological oppression, abuse of power or the use

28 See: *Denuncian a docentes por presunto acoso sexual en la Normal de Bucaramanga* (2020) <https://www.vanguardia.com/area-metropolitana/bucaramanga/denuncian-a-docentes-por-presunto-acoso-sexual-en-la-normal-de-bucaramanga-EB2074556>

29 See: <https://www.wradio.com.co/noticias/regionales/diputado-denuncio-irregularidades-en-contratacion-en-la-gobernacion-de-santander/20200715/nota/4055124.aspx>

30 See: *Casos de acoso sexual en el Poder Judicial* (2020) <https://www.elespectador.com/opinion/columnistas/catalina-ruiz-navarro/casos-de-acoso-sexual-en-el-poder-judicial-column/>.

31 See: *CTI capturó a director de la cárcel de La Unión, Nariño* (2016) <https://www.eltiempo.com/archivo/documento/CMS-16596358>

32 See: *CTI capturó a director de la cárcel de La Unión, Nariño* (2016) <https://www.eltiempo.com/archivo/documento/CMS-16596358>

33 See: *Cargos a exrector de la Uniatlántico por caso de favores sexuales* (2020) <https://www.elheraldo.co/atlantico/cargos-exrector-de-la-uniatlantico-por-caso-de-favores-sexuales-779725>.

of coercive environments and similar circumstances that prevent the victim from giving free consent.

The crime of **extortion** would also have been committed, as the perpetrator forced the victim to tolerate the sexual act, with the purpose of obtaining an illicit benefit, which would be precisely that sexual act. This conduct would be **aggravated** since the perpetrator is a civil servant.

The conduct described would constitute the crime of extortion, given that the civil servant used his position and powers to coerce the victim into providing him with undue advantage, such as a sexual act.

- **Possibilities for investigation and disciplinary action (Internal Control Offices, Ombudsman's Offices, Attorney General's Office):** In such a case, the civil servant would have breached the following duties:
- To comply with and ensure compliance with the duties contained in the Constitution and the law.
- To diligently, efficiently and impartially carry out the service entrusted to him/her and to refrain from any act or omission that implies improper abuse of his/her position or function.
- Treat those with whom he/she has dealings in the course of his/her duties with respect, impartiality, and fairness.

The perpetrator's actions in this case would also involve a violation of the following prohibitions:

- Breaching duties or abusing rights or exceeding functions contained in the Constitution and laws.
- Directly or indirectly soliciting, gifts, presents, favours, or any other kind of benefits.
- Intimidating or coercing a person for any reason involving any form of discrimination.

The infringements of the duties and prohibitions described above imply that the offender incurred in serious disciplinary **offences**, according to article 67 of the general disciplinary code.

The offender in the present case is also alleged to have committed the following **extremely serious offences**:

- Engaging in acts of harassment, intimidation, or persecution against another person on the basis of race, ethnicity, nationality, sex, sexual orientation, gender identity, religion, political or philosophical ideology.
- Objectively carrying out a typical description enshrined in law as a crime punishable by reason of intent, when committed by reason of, on the occasion, or as a consequence of one's function or position, or in abuse of it.

Case 2: Chancellor of Universidad del Atlántico investigated for sexting students at the institution (Barranquilla-Atlántico, 2017-2019)³⁴

³⁴ See: *Casos de sexual harassment en el poder judicial (2020)* <https://www.elespectador.com/opinion/columnistas/catalina-ruiz-navarro/casos-de-acoso-sexual-en-el-poder-judicial-column/>

In 2019, audios and images that allegedly compromised the then chancellor at Universidad del Atlántico with cases of sexual harassment of students were divulged through social networks. These showed a series of chats, photographs and audios of conversations in which he allegedly encouraged sexual encounters with students. Apparently, the University's premises were used for this purpose.

In this respect, the former chancellor denounced that he and his family have been victims of blackmail against their privacy for several months and defended himself by saying that the images were staged. A student, however, indicated that these were not isolated cases within the university and that the cases of harassment had been occurring repeatedly for years.

As a result, in 2020 the Office of the Attorney General of the Nation issued an indictment against former chancellor Prasca Muñoz for allegedly using his position to obtain sexual favours from students. According to the disciplinary body, the principles of equality and morality that govern the administrative function were allegedly violated, classifying the misconduct as serious misconduct by reason of intent.

- **Possibilities for criminal investigation and sanction (Prosecutor):** Firstly, the offence of sexual harassment was committed, as the perpetrators, using their authority or power, harassed, pursued or verbally and physically hounded the victims for non-consensual sexual purposes.

In turn, the perpetrator in this case would have committed the crime of injury in fact, since, by means

of the chats, photographs and audios through which the perpetrator sought to encourage sexual encounters with his victims, he offended them by making improper insinuations.

The crime of **extortion** would also have been committed, as the perpetrator forced the victim to tolerate the sexual act, with the purpose of obtaining an illicit benefit, which would be precisely that sexual act. This conduct would be **aggravated** since the perpetrator is a civil servant.

The conduct described would constitute the crime of extortion, given that the civil servant used his position and powers to coerce the victim into providing him with undue advantage, such as a sexual act.

- Possibilities for investigation and disciplinary action (Internal Control Offices, Ombudsman's Offices, Attorney General's Office): In the present case, the public servant allegedly failed to fulfil the following duties:
- To comply with and ensure compliance with the duties contained in the Constitution and the law.
- To diligently, efficiently and impartially carry out the service entrusted to him/her and to refrain from any act or omission that implies improper abuse of his/her position or function.
- Treat those with whom he/she has dealings in the course of his/her duties with respect, impartiality, and fairness.

The perpetrator's actions in this case would also involve a violation of the following prohibitions:

- Breaching duties or abusing rights or exceeding functions contained in the Constitution and laws.
- Directly or indirectly soliciting, gifts, presents, favours, or any other kind of benefits.
- Intimidating or coercing a person for any reason involving any form of discrimination.

The infringements of the duties and prohibitions described above imply that the offender incurred in serious disciplinary offences, according to article 67 of the general disciplinary code.

The offender in the present case is also alleged to have committed the following extremely serious offences:

- Engaging in acts of harassment, intimidation, or persecution against another person on the basis of race, ethnicity, nationality, sex, sexual orientation, gender identity, religion, political or philosophical ideology.
- Objectively carrying out a typical description enshrined in law as a crime punishable by reason of intent, when committed by reason of, on the occasion, or as a consequence of one's function or position, or in abuse of it.

Case 3: Allegations of extortion at the High Council of the Judiciary (Nivel Nacional, 2020)³⁵

In 2020, three women working at the Superior Council of the Judiciary reported sexual and labour harassment by magistrates of that institution. According to the allegations, the magistrates made inappropriate comments about how they dressed, forced them to kiss them, and asked them to have sex in exchange for work benefits. They also said that they denigrated their work to later ask them for sexual favours. This led to a change in their dress and work habits. Additionally, one of the victims who refused to have sexual relations with magistrate Pedro Alonso Sanabria was dismissed, believed to be in retaliation. Another victim said that Magistrate Fidalgo Estupiñán Carvajal took her on a business trip, demanded that she arrange his clothes in the hotel room and tried to kiss her without her consent. A complaint was also lodged against magistrate Camilo Montoya Reyes who allegedly demanded that one of his subordinates travel with him to court proceedings to have dinner and wine.

- **Possibilities for criminal investigation and sanction (Prosecutor):** Firstly, the offence of sexual harassment was committed, as the perpetrators, using their authority or power, harassed, pursued or verbally and physically hounded the victims for non-consensual sexual purposes.

In turn, the perpetrators in this case would have committed the crime of injury in fact, since, through inappropriate comments to the victims about how they dressed, the fact that they forced them to kiss them and requested sexual relations in exchange for work benefits, they caused an injury to their honour and dignity.

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The offenders also allegedly committed the crime of extortion, as they forced the victims to tolerate the kisses and sexual advances in exchange for keeping their jobs. This conduct would be aggravated since the perpetrators are civil servants.

In turn, the conduct described would constitute the crime of extortion, since the civil servants misused their positions and functions to coerce the victims to give or promise them an undue advantage, such as kissing and sexual acts.

- **Possibilities for investigation and disciplinary action (Internal Control Offices, Ombudsman's Offices, Attorney General's Office):** In the present case, the civil servants allegedly failed to comply with the following **duties:**
- To comply with and ensure compliance with the duties contained in the Constitution and the law.
- To diligently, efficiently and impartially carry out the service entrusted to him/her and to refrain from any act or omission that implies improper abuse of his/her position or function.
- Treat those with whom he/she has dealings in the course of his/her duties with respect, impartiality, and fairness.

The actions of the perpetrators in this case would also involve the violation of the following **prohibitions:**

- Breaching duties or abusing rights or exceeding functions contained in the Constitution and laws.

- Directly or indirectly soliciting, gifts, presents, favours, or any other kind of benefits.
- Intimidating or coercing a person for any reason involving any form of discrimination.

The infringements of the duties and prohibitions described above imply that the perpetrators committed serious disciplinary offences, according to article 67 of the General disciplinary code.



The perpetrators in the present case also allegedly committed the following **extremely serious offences:**

- Engaging in acts of harassment, intimidation, or persecution against another person on the basis of race, ethnicity, nationality, sex, sexual orientation, gender identity, religion, political or philosophical ideology.
- Objectively carrying out a typical description enshrined in law as a crime punishable by reason of intent, when committed by reason of, on the occasion, or as a consequence of one's function or position, or in abuse of it.

Conclusions

The analysis of corruption from this perspective of sexual extortion or sextortion shows the following:

- Addressing the crime of sextortion makes it possible to establish the link between the phenomenon of corruption and sexual violence more clearly,



understanding that sextortion is generated within the framework of a power relationship. That is to say, the person takes advantage of his or her position of hierarchy in an economic, social or political sphere to request a sexual “favour” from another person who is subordinate in this relationship. This means that the personal benefit or bargaining chip in an act of corruption may not only be of a monetary nature, but can also be of a sexual or other nature.

- Progress still needs to be made in understanding and making visible cases of sexual violence where corruption plays a predominant role. Although in the Colombian case there are certain possibilities that provide for the prosecution of conduct that is close to sextortion, the phenomenon has not yet been classified as a crime within the framework of

the phenomenon of corruption. This has certain consequences: on the one hand, it can lead to a certain degree of impunity in the judicial process, and on the other, the reparation measures do not take into account either the person affected or the damage caused by the sexual violence against them.

- Patterns or common aspects in cases of sextortion need to be identified in order to develop a coherent normative framework. This process must be accompanied by the entities that have information on this type of crime, and in the Colombian case, it is especially important to involve the control and investigation bodies in this purpose.
- Finally, it is important to consider sextortion from a human rights and gender perspective, in order to build strategies aimed at citizens and governmental institutions, and in this way question and break cultural and social patterns that normalise sexual violence.




4. Findings and recommendations



Addressing the relationship between corruption and gender allows for a more concrete analysis of the differentiated effects caused by corruption and helps to identify alternative paths to advance the visibility of the victims and the implementation of actions to redress these harms. Each of the three cases offers a particular approach to this problem, yet at the same time they show some common elements that are highlighted below:

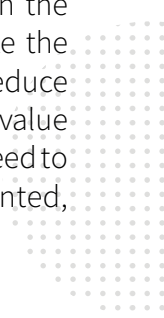
- These cases demonstrate the same phenomenon through different manifestations. Firstly, the violation of women's right to political participation in conditions of equality and transparency through the instrumentalisation and manipulation of their participation, particularly in the composition of popular election corporations. By the same token, the limitations on access to resources to support their political-electoral activity constitute a form of exclusion which in turn translates into marginal and/or symbolic candidacies for women. Secondly, the improper use of resources earmarked for the care of women victims of violence infringes the guarantee and effective enjoyment of fundamental rights that the State has committed to guarantee. Finally, sextortion, understood as a crime of corruption in which the body becomes a currency to be used as payment for access to goods and services that should be guaranteed by the State, is a concrete but little studied manifestation of how corruption perpetuates gender-based violence, particularly affecting women and the LGTBQ+ population, aggravating situations of inequality and exclusion.
- In all three case studies, we were able to identify the existence of regulatory and legal frameworks that enable the control and sanctioning of corrupt practices of which LGTBQ+ women are victims; however, no progress seems to have been made in the effective implementation of these norms, and the LGTBQ+ population has not yet been able to access them. The

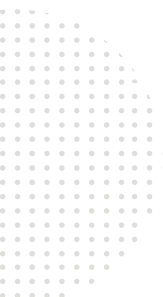


case study “Marginal and/or symbolic candidacies as a barrier to women’s effective participation” recognises that, although there are normative advances for the prevention and protection of women’s political rights, the lack of monitoring and recognition of the phenomenon of violence against women in politics and its relation to acts of corruption makes it difficult to sanction such practices. Progress must therefore be made in the recognition of the problem in order to promote the sanctioning of such practices, and thus influence the structural transformation of the traditionally patriarchal culture in politics.

- Regarding the case study “Irregularities in the contracting of a programme to assist women victims of violence in Santander: An obstacle to the guarantee and protection of rights and a possible scenario of re-victimisation”, it is stated that, although regulations exist to sanction acts of corruption, their application appears to be affected by the structural practices of corruption that affect the exercise of oversight and control of this type of acts that violate women’s rights. In addition, the lack of appropriation and mainstreaming of the gender perspective in the work carried out by civil servants in the public sector has an impact on the way in which women are affected by these acts of corruption.
- Similarly, despite the existence of a legal framework to punish conduct that is similar to sextortion, the legislative and institutional framework for the fight against corruption requires strengthening from a gender and human rights perspective. This is due to the fact that the phenomenon of sextortion is not classified as a crime in Colombian legislation and

this allows for impunity. Furthermore, in terms of reparation, the damages caused to the victim are not understood and therefore the ways in which the victim is affected are ignored.

- Although several corrupt practices that affect women and the LGBTIQ+ community are recognised as systematic and recurrent, there are insufficient theoretical approaches to more clearly identify the specific practices that affect the LGBTIQ+ community. In this sense, it is important to continue conducting research that sheds light on the effects of corruption from an intersectional perspective, focusing on the LGBTIQ+ community through specific case studies that allow us to characterise how corruption affects each group in this population.
 - To this end, a gender group needs to be set up in the control entities. This would be a technical area of the institution responsible for identifying problems related to gender gaps; defining strategic actions to address them; and, of course, monitoring and evaluating the actions implemented in this area. This gender group would also be responsible for mainstreaming the approach in the entity, leading and convening through institutional coordination work and providing technical support to the mission areas to ensure effective and timely formulation of actions.
 - Along with the above, the entities involved in the fight against corruption must also incorporate the evaluation and monitoring of policies to reduce gender gaps in their actions. In the process and value chain of public policies, there is an imminent need to monitor and evaluate the actions implemented,
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in order to correct any shortcomings in the design or execution of the policy, and to determine its impact on reducing gender gaps in the fight against corruption.

- The fight against corruption requires coordinated efforts among different actors and at different levels. As such, in addition to strengthening public institutions, citizens are increasingly interested in taking an active part in the fight against this phenomenon. However, despite the efforts of citizens and civil society organisations, the implementation of the measures adopted by the Colombian state for gender equality are still far from the ideal scenario, and corruption is one of the barriers to meeting this goal.

This is due, among many factors, to the lack of political will to implement the measures, to patriarchal patterns that prevent a critical analysis of the relevance of implementing actions with a gender perspective, and to the weak citizen participation culture that demands

the application of these processes. All of this directly affects women and LGBTIQ+ persons who hope for a transformative democracy within a framework of substantive equality.

- Given this backdrop, civil society needs to advocate for the design of mechanisms to strengthen the citizen participation of women and LGBTIQ+ persons. This would allow for citizen oversight of the way in which gender initiatives are being implemented, or not, as well as the broader mobilisation of citizens and organisations to achieve a critical reading of gender mainstreaming as set out in national and international regulations. It would also help to ensure the effective design of public policy actions that fully guarantee the rights of women and LGBTIQ+ persons.



Annexes



**See annex
attached** 

Bibliography



Albaine, Laura. Violencia contra las mujeres en política en América Latina: mapeo legislativo y proyectos parlamentarios. UN Women and OAS/CIM, 2020. Alhassan-Alolo, Namawu. «Gender and corruption: testing a new consensus». *Public Administration and Development*, 2007: 227–237.

Almagro Castro, David. «La participación política en la teoría democrática: de la modernidad al siglo XXI». *Revista de Estudios Políticos*, 2016: 173-193. Archenti, Nélica, and María Inés Tula. «Cuotas de género y tipo de lista en América Latina». *OPINIÃO PÚBLICA*, 2007: 185-218.

Archenti, Nélica, and María Inés Tula. «Critical Challenges of Quotas and Parity in Latin America». *Women, Politics, and Democracy in Latin America*, 2017: 29-44.

Ares, Macarena, and Enrique Hernández. «The corrosive effect of corruption on trust in politicians: Evidence from a natural experiment». *Research and Politics*, 2017: 1-8.

Ballington, Julie. n, *Empoderando a las mujeres para el fortalecimiento de los partidos políticos: Una guía de buenas prácticas*. Washington: UNPD and NDI, 2011.

Banco Internacional de Reconstrucción y Fomento/Banco Mundial. *Las múltiples caras de la corrupción Aspectos vulnerables por sectores*. Washington D.C.: World Bank in co-publication with Mayol Ediciones S.A, 2009.

Blackburn, Keith, Niloy Bose, and M. Emranul Haque. «Endogenous corruption in economic development». *Journal of Economic Studies*, 2010: 4-25.



Carnegie, Sara. Sextortion, a crime of corruption and sexual exploitation. London: International Bar Association, 2019.

Casas-Zamora, Kevin, and Elin Falguera. Financiación política y participación equitativa de las mujeres en Colombia: análisis de la situación. Bogotá: International Institute for Democracy and Electoral Assistance & Netherlands Institute for Multiparty Democracy, 2017.

CEDAW. «Committee on the Elimination of Discrimination against Women». 1979. <https://www.ohchr.org/sp/professionalinterest/pages/cedaw.aspx#:~:text=Los%20Estados%20Partes%20tomar%C3%A1n%20en,de%20los%20derechos%20humanos%20y.>

ECLAC. Décima Conferencia Regional sobre la Mujer de América Latina y el Caribe. August 8, 2007. [https://www.cepal.org/es/eventos/decima-conferencia-regional-la-mujer-america-latina-caribe.](https://www.cepal.org/es/eventos/decima-conferencia-regional-la-mujer-america-latina-caribe)

Cerva Cerna, Daniela. «Participación política y violencia de género en México». Revista Mexicana de Ciencias Políticas y Sociales, 2014: 117-140.

Chang, Eric C. C., and Miriam A. Golden. «Electoral Systems, District Magnitude and Corruption». British Journal of Political Science, 2007: 115-137.

Colino, César, and Eloísa del Pino. «Democracia participativa en el nivel local: Debates y experiencias en Europa». Revista catalana de dret públic, 2008: 247-283.

Inter-American Commission on Human Rights. Corrupción y derechos humanos: Estándares interamericanos. Washington D.C: Inter-American Commission on Human Rights, 2019.



Inter-American Commission of Women. Mecanismo de Seguimiento de la Convención de Belém do Pará (MESECVI). Ley Modelo Interamericana para Prevenir, Sancionar y Erradicar la Violencia contra las Mujeres en la Vida Política. Washington, DC: Inter-American Commission of Women. Mecanismo de Seguimiento de la Convención de Belém do Pará (MESECVI), 2017.

Congreso de la República. «Acto Legislativo de 2017». DO:50.196, April 4, 2017.

—«Estatutaria de la Administración de Justicia en la Jurisdicción Especial para la Paz». [Ley 1957 de 2019]. DO: 50.976, June 6, 2019.

Eldén, Åsa, Dolores Calvo, Elin Bjarnegård, Silje Lundgren, and Sofia Jonsson. Sextortion: Corruption and Gender-Based Violence. Sweden: Expert Group for Aid Studies-EBA, 2020.

Feigenblatt, Hazel. Breaking the silence around sextortion: The links between power, sex and corruption. Berlin: Transparency International, 2020.

Freidenberg, Flavia. «La violencia política hacia las mujeres: el problema, los debates y las propuestas en América Latina». En Cuando hacer política te cuesta la vida. Estrategias contra la violencia política hacia las mujeres en América Latina, de Flavia Freidenberg and Gabriela Del Valle Pérez, 3-42. Mexico: Universidad Autónoma de México, 2017.

Freidenberg, Flavia. «Los costos de la violencia política contra las mujeres». Oraculus, 2019.

Gobierno Nacional; FARC-EP. Acuerdo final Gobierno de Colombia FARC-EP para la terminación del conflicto y la construcción de una paz estable y duradera. Bogotá: Desde Abajo, 2016.



Goetz, Anne Marie. «Political Cleaners: Women as the New Anti-Corruption Force?» *Development and Change*, 2007: 87–105.

Granados Arocha, Isabel. ¿Qué pasó con la paridad de género para las elecciones de 2019? September 11, 2019. <https://www.datasketch.news/p/que-paso-con-la-paridad-de-genero-para-las-elecciones-de-2019>.

Hennl, Annika, and André Kaiser. «Ticket-balancing in mixed-member proportional systems. Comparing sub-national elections in Germany». *Electoral Studies*, 2008: 321-336.

IDEA-UN Women. Colombia: la hora de la paridad. Bogotá: UN Women, 2019. Iniciativa Barómetro, Matriz de Acuerdos de Paz, Instituto Kroc de Estudios Internacionales de Paz. Tres años después de la firma del Acuerdo Final de Colombia: hacia la transformación territorial. Informe 4. Bogotá: Universidad de Notre Dame, 2020.

Jiménez de Parga, Manuel. «La corrupción en la democracia». En *La corrupción política*, de F. J., and Álvarez, S. Laporta, 39-71. 1997.

Jurisdicción Especial para la Paz. Sala de Reconocimiento de Verdad, de Responsabilidad y de Determinación de los Hechos y Conductas. «Auto No. 19 de 2021». Recovered from: <https://www.jep.gov.co/Sala-de-Prensa/Documents/CASO%2001%20TOMA%20DE%20REHENES/Auto%20No.%2019%20de%202021.pdf?csf=1&e=16bYs0>, 26 de enero de 2021.

Krook, Mona Lena, and Juliana Restrepo Sanín. «Género y violencia política en América latina: Conceptos, debates y soluciones». *Política y gobierno*, 2016: 127-162.

Krook, Mona Lena. «¿Qué es la violencia política? El concepto desde la perspectiva de la teoría y la práctica». En *Cuando hacer política te cuesta la vida. Estrategias contra la violencia política hacia las mujeres en América Latina*, de Flavia Freindenberg and Gabriela del Valle Pérez, 45-74. Mexico: Universidad Nacional Autónoma de México, 2018.



Lazarsfeld, P F, B Berelson, and H Gaudet. The People's choice: how the voter makes up his mind in a presidential campaign. Ney York: Columbia University Press, 1948.

MOE. Cuotas de Género y Justicia Electoral en Colombia. Bogotá: MOE, 2019.
MOE-NIMD. Informe sobre la violencia contra las mujeres que ejercen liderazgos políticos, sociales y comunales. Bogotá: MOE, 2020.

Nélida Archenti, and María Inés Tula. «Critical Challenges of Quotas and Parity in Latin America». In Women, Politics, and Democracy in Latin America, de T. Došek et al. (eds.), 29-44. 2017.

Nélida Archenti, and María Inés Tula. «Cuotas de género y tipo de lista en América Latina». OPINIÃO PÚBLICA, 2007: 185-218.

NIMD. No es normal La violencia contra las mujeres en política ¿Cómo estamos en Colombia? Bogotá: NIMD, 2019.

NIMD-MOE. Guía, atención y seguimiento para la prevención de la violencia contra la mujer en política. Bogotá: MOE, 2019.
OAS/Inter-American Commission of Women (CIM). Protocolo modelo para partidos políticos: Prevenir, atender, sancionar y erradicar la violencia contra las mujeres en la vida política. Washington: CIMOAS, 2019.

UN Women. Tercera Medición Nacional- Ranking de igualdad de mujeres y hombres en los partidos y movimientos políticos en Colombia 2014-2015. Bogotá: UN Women, 2016.

Partido MIRA. Partido Mira impulsa mujeres emprendedoras. June 11, 2021. <https://partidomira.com/historico/partido-mira-impulsa-mujeres-emprendedoras/>.

Pearce, Jenny. «¿Hacia una política post-representativa? La participación en el siglo XXI». Cuadernos de Trabajo de Hegoa, 2006: 1-20.



Peña Peña, Luz Adriana. La participación y representación política de las mujeres Elecciones Consejos de Juventud 2021. Bogotá: Ministerio de Justicia, 2020.

Porras, Joaquín Antonio. El debate sobre la crisis de la representación política. Madrid: Tecnos, 1996.

Ramírez Sirgo, Luis Eduardo, Verónica Mireya Moreno Rodríguez, and Ernesto Casas Cárdenas. «La sextorsion como nueva modalidad de corrupción en el servicio público». Sapienza: International Journal of Interdisciplinary Studies, 2021: 208-226.

Ramos Ruiz, Yolanda. «La corrupción y sus vínculos con el género, una aproximación al caso mexicano». Revista Mexicana de Análisis Político y Administración Pública, 2016: 79-106.

Rodríguez Calva, María Fernanda, and Sonia M. Frías. «Violencia contra las mujeres en política. El caso de la Asamblea Constituyente de la Ciudad de México». Revista mexicana de ciencias políticas y sociales, 2020: 359-395.

Rosanvallon, Pierre. La contrademocracia. La política en la era de la desconfianza. Buenos Aires: Manantial, 2006.

Sabucedo, José Manuel. Psicología política. Madrid: Síntesis, 1996.

Sánchez González, José Juan. «La corrupción administrativa en México: La corrupción administrativa en México». Revista de Administración Pública, 2012: 13-44.

Solano López, Ana Linda. Mujer y corrupción: estrategias para abordar los impactos diferenciados de la corrupción en América Latina. Spain: Área de Políticas de Gobernanza Democrática de EUROsociAL+ in FIIAPP, 2019.



Solano López, Ana Linda. *Mujer y corrupción: estrategias para abordar los impactos diferenciados de la corrupción en América Latina Problemática de género y corrupción en América Latina*. EUROsociAL+, 2019.

Soriano, Ramón. «La corrupción política: tipos, causas y remedios». *Anales de la Cátedra Francisco Suárez*, 2011: 382-402.

Subirats, Joan. «¿Qué democracia tenemos? ¿Qué democracia queremos?». *Anales de la Cátedra Francisco Suárez*, 2012: 155-180.

Sundström, Aksel, and Lena Wängnerud. «Corruption as an obstacle to women's political representation: Evidence from local councils in 18 European countries». *Party Politics*, 2016: 354–369.

Transparency International. *Barómetro Global de la Corrupción en América Latina y Caribe*. Transparency International, 2019.

Transparency International. *Género y anticorrupción en América Latina y el Caribe Buenas prácticas y oportunidades*. Transparency International, 2021.

Transparencia por Colombia. *Análisis sobre el acceso a recursos para la inclusión efectiva de las mujeres en la política*. Bogotá: UN Women & Transparencia por Colombia, 2019.

Transparencia por Colombia. *Financiación de Campañas y Rendición de Cuentas en Elecciones al Congreso 2014*. Bogotá: Transparencia por Colombia, 2014.



Transparency Internacional. Género y anticorrupción en América Latina y el Caribe Buenas prácticas y oportunidades. Transparency Internacional, 2021.

Transparency Internacional. Guía de lenguaje claro sobre lucha contra la corrupción. Berlín: Transparency International, 2009.

Unidad de Investigación y Acusación, JEP. Protocolo de comunicación de la Unidad de Investigación y Acusación con las Víctimas de Violencia Sexual. Bogotá: JEP, 2018.

Vergara de la Espriella, Ana Milena, entrevista de Caracol Televisión. La Red: Mile Vergara habla de su mala experiencia en el mundo de la política - Caracol TV (June 20, 2020).

Warren, Mark E. «What Does Corruption Mean in a Democracy?» American Journal of Political Science, 2004: 328–343.

Water Governance Facility. Women and corruption in the water sector Theories and experiences from Johannesburg and Bogotá. Stockholm: Water Governance Facility, 2017.

Wathne, Cecilie. Understanding corruption and how to curb it A synthesis of latest thinking. Norway: U4 Research Centre, 2021.

Yanasupo, Ku, and Tassara Zevallos. «Género y democracia: reflexiones sobre la propuesta feminista y la participación de la mujer en lo público. ». Pensamiento Constitucional, 2018: 91–107.



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