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# PUBLIC INTEGRITY AS A FOUNDATION OF DEMOCRACY AND A PARAMETER FOR CONVENTIONALITY CONTROL

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**ABSTRACT:** Within the context of the consolidation of the rule of law, this article investigates public integrity as an instrument of democratic evolution, distinguishing it from the notion of combating corruption. Three objectives are adopted: (i) to construct and differentiate the concepts of public integrity and of combating corruption, demonstrating between them a relationship of inclusion rather than opposition; (ii) to analyze the conventionality block that governs the matter, composed of the Inter-American (OAS), OECD and Mérida (UN) Conventions, articulated with Sustainable Development Goal 16 and with the understanding of corruption as a violation of human rights; and (iii) to demonstrate the essentiality of conventionality control as a means of enforcing these duties, notably in light of CNJ Recommendation No. 168/2026, which establishes the Statute of the Brazilian Inter-American Magistracy. The methodology is bibliographical and documentary, supported by reference doctrine, by the conventional block and by related normative acts. It is concluded that public integrity constitutes an essential vector of democratic consolidation, and should be incorporated not only as a parameter of constitutionality control, but also of conventionality control.

**KEYWORDS:** PUBLIC INTEGRITY; COMBATING CORRUPTION; CONVENTIONALITY BLOCK; CONVENTIONALITY CONTROL; HUMAN RIGHTS.

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## INTRODUCTION

For a long time, corruption was treated, in diplomatic and intergovernmental circles, as a "small local difficulty," an inconvenience to be minimized and kept on the margins of development agendas. This hesitation collapsed when it became undeniable how much corruption erodes state capacities, since it distorts spending priorities, deepens inequalities, weakens rights and cumulatively undermines social trust and democratic legitimacy (Pope, 2000). It was from the recognition that the problem was structural, and not anecdotal, that the language of public integrity emerged with its own density.

This article investigates the construction of the concept of public integrity as an instrument of democratic evolution, sustaining the thesis that it must be safeguarded through a dual pathway: not only through the classic constitutionality control, but also through conventionality control. To this end, three objectives are established. First, to construct and differentiate the concepts of public integrity and of combating corruption, demonstrating between them a relationship of inclusion rather than opposition; second, to analyze the conventionality block that governs the matter, composed of the international anti-corruption conventions, articulated with Sustainable Development Goal 16 and with the understanding of corruption as a violation of human rights; third, to demonstrate the essentiality of conventionality control as a means of enforcing these duties, notably in light of CNJ Recommendation No. 168/2026, which established the Statute of the Brazilian Inter-American Magistracy.

The methodology adopted is bibliographical and documentary, drawing on reference doctrine, on the conventional block and on related normative acts.

## 1 PUBLIC INTEGRITY AND COMBATING CORRUPTION

In contemporary social dynamics, there is growing concern about the manipulation of discourse and the spread of false information. In this regard, Bernard Charlot and Veleida Charlot (2025, p. 157; 2021, p. 14) argue that, in a context of denialism and of crisis in the relationship with truth, it is not only science and its teaching that suffer, but "also the critical spirit, freedom of thought, democratic coexistence, the possibility of a common world, shared by different people."

Approaching the social conflicts connected to the legal phenomenon, the misappropriation of public funds, the inefficient and corrupt management of public affairs, and the withholding of information and data constitute situations of notorious gravity that impact the democratic evolution of society. As a possible response to these problems, the language of public integrity arises, presented as a proposal for a shift in focus.

Instead of asking how to punish deviation after it occurs, public integrity asks how to build institutional contexts in which deviation is, from the outset, a high-risk and low-return activity (Pope, 2000). It is, therefore, a preventive and systemic framework (Pope, 2000; Graycar; Prenzler, 2013). Preventive because it acts on incentives and opportunities before the wrongdoing; systemic because it understands that governmental honesty is not sustained by isolated individual virtues, but by mutually reinforcing arrangements. Its foundation is not merely ethical, although it dialogues with diverse cultural and religious traditions, but above all pragmatic, for what is at stake are the distributive effects of corruption, which biases decisions, captures regulation and denies mobility to entire segments of the population (Pope, 2000).

This preventive ambition gained a reference architecture in the "TI Source Book," by Transparency International, which shifts the anti-corruption response from isolated initiatives to an organic and coherent design (Pope, 2000). Its best-known image is that of the Greek temple, in which integrity, figured in the roof, is only sustained when the institutional pillars and the pillars of rules and practices – such as free elections, conflict-of-interest management, public ethics, the right to information and freedom of expression – operate in a coordinated manner. It suffices for one pillar to weaken to overload the others and threaten the whole (Pope, 2000).

It is this logic that the National Integrity System operationalizes. Beyond a mere moral condemnation, the system sets out a design of checks and balances that disperses power and subjects it to reciprocal oversight, articulating state bodies (Legislature, Executive, Judiciary, auditing, ombudsman) and social actors (the press, civil society and the private sector) into interdependent pillars (Pope, 2000; Graycar; Prenzler, 2013). Its effectiveness, however, does not derive from the sum of isolated parts. Comparative experience shows that piecemeal reforms tend to fail, and that redesigned processes only prosper when accompanied by credible legal constraints, an independent justice system and political will sustained by real reputational costs for corruption (Pope, 2000). Hence the preference for incremental advances, the so-called "islands of integrity," localized changes that accumulate learning and radiate to the rest of the administration.

Why bet on prevention, and not only on punishment? The economic analysis of corruption offers the answer. It tends to proliferate where monopoly, broad discretion and low accountability combine – Klitgaard's (1988) formula "M + D – A." From this follows a clear program of action, which consists of reducing discretion, limiting monopoly power and raising the expected consequences of deviation.

Rose-Ackerman (1999) reinforces that effective reforms depend on changing the institutional design, and not on merely repressive measures – for example, simplifying laws and procedures, dividing complex decisions into reviewable tasks, and instituting teamwork and the rotation of agents, concrete ways of making "power check power" (Montesquieu, 2000). To the reduction of opportunities is added the correction of incentives, such as rewarding good performance and making deviation costly, including through publicity, which functions as a reputational penalty (Klitgaard, 1988).

In this arrangement, active transparency and access to information are not accessories, but conditions of possibility for civic scrutiny and course correction (Eigen, 2003; Pope, 2000). Without an informational flow, civil society does not monitor, and opacity turns into a vulnerability of the system (Klitgaard, 1988). Not by chance, instruments such as the Integrity Pact, in public procurement, require the authority to make public all technical, legal and administrative information of the contract (Eigen, 2003), a requirement that projects directly onto target 16.6 of SDG 16, aimed at transparent and accountable institutions (UN, 2015). The practical usefulness of this approach appears at the points of greatest vulnerability, such as in public procurement, in open-competition rules and in the digitalization of tenders, which reduces the opportunities for collusion and fraud (Graycar; Prenzler, 2013); in the delivery of basic services such as health, "petty corruption" causes severe social harm to the poorest, requiring routines such as the rotation of agents and decision-making shared by more than one official (Klitgaard, 1988; Graycar; Prenzler, 2013).

Having defined integrity as a paradigm, it is necessary to stabilize the vocabulary of the corruption it seeks to prevent. The legal-analytical definition of corruption remains controversial and multiform, varying according to the theoretical prism and the institutional context. The literature systematizes at least three useful lines. The political-institutional line, which describes corruption as a degenerative process on a macro scale, capable of perverting constitutive features of a system and of affecting the distribution of power and public trust (Amoros et al., 2021; Vannucci, 2017). The sociological line, which emphasizes the situated practice, emerging from specific relations and from asymmetries of information (Amoros et al., 2021; Garcia, 2013). And finally, the economic line, which models the phenomenon as rational choice in the face of structures of incentives and expected costs, in the tradition of Beccaria and Bentham and with development in Becker (1968) (Alencar; Gico Júnior, 2011; Adriano, 2019).

Beyond the schools and currents of thought, the core of the concept converges on the misuse of entrusted power for private benefit (Nye, 1967), which manifests at distinct scales: petty corruption, of everyday transactions with low-ranking agents, and grand corruption, which reaches the higher echelons and distorts the very design of public policies (Graycar; Prenzler, 2013). Confronting integrity as a duty-right requires responding to both, for while the former erodes everyday trust in institutions, the latter compromises the State's capacity to promote development (Pope, 2000; Rose-Ackerman, 1999) and to meet the targets of SDG 16, as Sachs (2017) points out.

From a typological standpoint, it is worth stabilizing distinctions that will have an impact on the normative analysis ahead. The separation between active and passive corruption – the undue offer or grant directed at the agent, on the one hand, and the solicitation or acceptance by the agent themselves, on the other – clarifies roles, consequences and the evidence required, and became central starting with the Inter-American

Convention (Ramina, 2003, 2009). To it is added the organizational cleavage between external corruption, in isolated episodes at the "front line" of public service, and internal corruption, in structured and commodified collusions within the organization itself, which guide differentiated strategies of monitoring and control (Bac, 1998; Klitgaard, 1988). Added to this is the classification among systemic, sporadic and institutional corruption: the first, marked by recurrence, stable networks and the naturalization of illicit exchange; the second, episodic and diffuse; the third, more subtle, when practices that betray the legitimate purposes of the institution become consolidated even under apparent legality, requiring a multidimensional legal-ethical response (Sousa, 2011; Mazon; Labruna; Issa, 2023; Miller, 2017).

Among these forms, the most subtle and worrying is institutional corruption, or state capture: a deviation that operates under the cloak of formal legality, when private interests influence the very drafting of the rules so that they are written to their benefit (Graycar, 2015; Salter, 2010). It is the degeneration that Montesquieu (2000) already identified as the corruption of principles that precedes the ineffectiveness of laws. Here, strict legal compliance does not guarantee integrity, because the rule was born co-opted; therefore, the focus shifts from the punishment of isolated acts to the structural redesign of the rules and the protection of the checks and balances among the Branches of power (Anechiarico; Jacobs, 1996; Garcia, 2019).

To operationalize the identification and mitigation of these multifaceted risks, the doctrine proposes the TASP matrix (Types, Activities, Sectors, Places) as a reading tool (Graycar; Prenzler, 2013). It transforms the term "corruption" from a general label into a replicable analytical map, segmenting the phenomenon into manageable components: types of conduct (bribery, fraud, nepotism), specific administrative activities, affected sectors (justice, health, procurement) and places or scales of occurrence, which allows the design of preventive measures to be situated and targeted, rather than generic (Graycar, 2015; Graycar; Prenzler, 2013).

Having explained the concept, the central distinction of this axis is imperative: combating corruption and public integrity are not synonyms. Combating, when reduced to criminal or disciplinary repression and to the logic of "bad apples," delivers episodic gains and frustrates promises of transformation, because it does not touch the root causes (Pope, 2000). Integrity, on the contrary, is structured prevention, which acts on organizational culture, procedures, institutional design and information governance (Pope, 2000). The relationship between the two is one of inclusion, not opposition: repression is a necessary but insufficient subset of the integrity agenda. Isolated repressive measures merely displace the illicit practice to less-monitored zones; it is in the coupling between repression and reform that impacts are enhanced, avoiding both sterile punitivism and empty rhetoric (Pope, 2000).

Two caveats prevent this agenda from sliding into voluntarism. The first is that the pursuit of integrity does not authorize the chase after an absolute rectitude: hypertrophied control architectures can render government ineffective and counterproductive (Anechiarico; Jacobs, 1996; Pope, 2000). Hence the preference for bright-line rules, structural and objective rules that discourage temptation without stifling the administration, and for designs that align private interest with the public one, rather than seeking to moralize conduct (Teachout, 2014). The second is that integrity reforms are long-cycle processes, for innovations generate strategic countermeasures, political will is scarce and unstable, and initiatives imposed from outside tend to fail for lack of "local ownership" (Pope, 2000).

In sum, public integrity, as understood and defended here, is a preventive and systemic paradigm that transcends the reaction to wrongdoing and is anchored in mutually reinforcing institutions, rules and practices, with transparency, freedom of expression, judicial independence and civic participation as conditions of an effective accountability (Pope, 2000). This conceptual basis provides the frame of reference for the next step: to demonstrate that integrity is not only a requirement of good administration, but the object of a conventional block that binds it to human rights and sustainable development.

## 2 THE CONVENTIONALITY BLOCK ON INTEGRITY AND COMBATING CORRUPTION

At the level of international obligations, three conventions compose the normative core that underpins the integrity agenda. Before analyzing the contribution of each, it is worth highlighting the importance of International Law as an element of social cohesion, considering that it manifests itself not only through conventions and formal instruments, but also “through human relationships with a social, and at times legal, contour” (Perazzo, 2023).

The Inter-American Convention against Corruption (1996) was pioneering in recognizing the international transcendence of the phenomenon and in establishing cooperation among States, having been approved in Brazil by Legislative Decree No. 152/2002 and promulgated by Decree No. 4,410/2002. The text departs from the impact of corruption on representative democracy, justice and human development, and calls upon the public sector, businesses and civil society to prevent and combat it, including in the face of links with organized crime and revenues from drug trafficking (Ramina, 2009; OAS, 2011). In operative terms, it combines preventive measures – codes of conduct, conflict-of-interest management, oversight bodies, reporting channels, accounting governance in companies – with mandates for criminalization and cooperation.

Noteworthy are the dual face of bribery (active and passive), transnational bribery in a dedicated article, and illicit enrichment, in addition to clauses that prohibit defensive qualifications such as “political offense” and dispense with proof of patrimonial damage to the State for the characterization of the acts (OAS, 2011; Ramina, 2009). The scope of the Convention is comprehensive, encompassing everything from prevention to the pursuit, punishment and eradication of corruption; ratified by many developing and transition countries, it requires the criminalization of a broad list of acts and contains provisions on mutual assistance and cooperation, providing that bank secrecy cannot be used as grounds for refusing assistance (Ramina, 2003).

The OECD Convention on Combating Bribery of Foreign Public Officials (1997), internalized by Decree No. 3,678/2000, has a more circumscribed scope but decisive influence. Its axis is the criminalization of active bribery in international transactions, with a broad definition of undue advantage and of “foreign public official,” including in state-owned enterprises and international organizations, and with effective, proportionate and dissuasive sanctions, comparable to those applied to domestic bribery (Ramina, 2003; Godinho, 2011). Two elements deserve emphasis: the principle of functional equivalence, which seeks to harmonize, without uniformizing, internal responses, enabling cooperation, legal assistance and extradition (Godinho, 2011); and robust peer monitoring, through the Working Group on Bribery, with questionnaires, on-site visits and public evaluations, coordinated, in Brazil, by the CGU. The Convention requires that reports be seriously investigated, without considerations of a political nature, imposes measures on files, records and accounting, prohibits parallel accounting (“slush funds”) and mandates the criminalization of co-authors, instigators, accomplices and concealers (Ramina, 2003).

This external scrutiny has even noted risks of institutional backsliding, as was recorded in 2019 with respect to initiatives that would weaken the independence of prosecutors and judges and the use of financial intelligence reports in investigations in Brazil (UOL, 2019). On the other hand, the OECD’s action influenced relevant legislative reforms at the national level, such as the introduction, in the Penal Code, of Chapter II-A on crimes against foreign public administration (Articles 337-B to 337-D), and Law No. 12,846/2013, which established the administrative and civil liability of legal entities for acts against public administration, whether national or foreign (Pagliarini; Martins, 2020).

The United Nations Convention against Corruption, also known as the Mérida Convention (2003), approved in Brazil by Legislative Decree No. 348/2005 and promulgated by Decree No. 5,687/2006, provides the most comprehensive framework. Structured in eight chapters, it ranges from preventive measures and public policies to the criminalization of bribery, embezzlement, money laundering and obstruction of justice; from international cooperation to asset recovery; from technical assistance to the enforcement mechanism through a conference of the States Parties (Godinho, 2011). Its universal ambition is at once virtue and limit: it articulates prevention and repression, the public and private sectors, national, foreign and international agents, but it faces challenges of effective monitoring, sovereignty cautions and a diversity of commitments, which may reduce its practical binding force and shift the Convention onto the terrain of guidelines (Godinho, 2011). Even so, Mérida enshrines the triad of structured prevention, repression with guarantees, and cooperation to trace, confiscate and repatriate diverted assets, in order to mitigate the harm of grand corruption (Graycar; Prenzler, 2013).

This conventional block dialogues directly with Sustainable Development Goal 16, of the 2030 Agenda, which proposes peaceful and inclusive societies, effective institutions and access to justice. Targets such as 16.5 (substantial reduction of corruption and bribery), 16.6 (effective, accountable and transparent institutions), 16.10 (access to information and fundamental freedoms), 16.3 (rule of law and justice) and 16.4 (illicit flows and asset recovery) compose the normative-programmatic bundle that binds public integrity, fundamental rights and sustainable development (UN, 2015). The development literature reinforces this link, for effective governance, integrity and accountability condition the efficiency of social spending, the reduction of inequalities and the sustainability of long-term public policies (Sachs, 2017).

The linkage between this conventional bundle and human rights is not merely programmatic. As Valerio de Oliveira Mazzuoli and Landolfo Andrade (2024, p. 193) explain, at the regional level, the Inter-American Commission on Human Rights (IACHR) “has already been recognizing corruption as a phenomenon that affects human rights in their entirety, with negative consequences for the rule of law and democratic institutions.” Cited as other initiatives that bring the notion of combating corruption closer to the protection of human rights are the publication of Resolution No. 01/17 by the Inter-American Commission (Human Rights and the Fight against Impunity and Corruption), of September 12, 2017, and the recognition by the Inter-American Court of a direct violation of human rights arising from acts of corruption in the case of Ramírez Escobar et al. v. Guatemala (2018), in which the lack of effective control and supervision favored a scheme of irregular adoptions (Andrade; Mazzuoli, 2023).

On the doctrinal plane, part of the literature sustains freedom from corruption as a human right under construction (Murray; Spalding, 2015), in recognizing that the act of corruption inevitably entails the violation of a set of other essential human rights, such as the right to health, to education, among others (Peters, 2018; Monteiro Filho; Piovesan, 2021). In this conception of freedom from corruption, the idea is to “be free” from corruption, as an element that taints democratic life in the contemporary era, thereby constituting a true human right.

Once this connection is recognized, the anti-corruption conventions cease to be read as ordinary treaties and come to integrate, alongside constitutional and infra-constitutional norms, the microsystem for the defense of public patrimony (Andrade; Mazzuoli, 2023). As they were not approved by the qualified quorum of Article 5, § 3, of the Constitution, but deal with matters connected to human rights, they hold supra-legal status, situated below the Constitution and above ordinary legislation, in line with the position established by the Federal Supreme Court regarding human rights treaties (Andrade; Mazzuoli, 2023). It is precisely this hierarchical position that authorizes speaking, in the proper sense, of a conventionality block on integrity and combating corruption: a set of supra-legal normative parameters capable of conditioning the validity of internal normative production, and not a mere repository of cooperation guidelines.

The set of these instruments (OAS, OECD, UN) thus converges toward SDG 16 and imposes on the State a regime of dual conformity, internal and international, ascertainable even by the Inter-American Court when it requires reinforced diligence and structural remedies of transparency and accountability, converting programmatic commitments into enforceable positive duties (Pope, 2000; UN, 2015). With the vocabulary of corruption stabilized and the conventional status of integrity demonstrated, the decisive question remains: by which pathway do these duties become effectively enforceable in the domestic legal order. This is what is examined next.

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## 3 THE ESSENTIALITY OF CONVENTIONALITY CONTROL AND THE STATUTE OF THE BRAZILIAN INTER-AMERICAN MAGISTRACY

The conventional block examined only converts into effective protection if accompanied by an enforceability mechanism: conventionality control. Introduced into the Brazilian debate by Mazzuoli following Constitutional Amendment No. 45/2004, it consists of the vertical compatibilization of domestic normative production not only with the Constitution, but also with the international treaties ratified by the country – the so-called double material vertical compatibility (Mazzuoli, 2009). The consequence is rigorous: the compatibility of a law with the constitutional text no longer guarantees its validity; a norm that conforms to the Constitution but is incompatible with a treaty in force does not pass the second compatibility examination and must be rejected by the judge in the concrete case (Mazzuoli, 2009).

Since the anti-corruption conventions ratified by Brazil hold supra-legal status, they function as standards for the diffuse conventionality control of infra-constitutional anti-corruption norms, such as the Administrative Misconduct Law. From this it follows that every internal anti-corruption norm, in order to be valid, must maintain double material vertical compatibility, with the Constitution and with the conventional block, under penalty of being in force yet invalid. It is, moreover, a control that is not reserved to the superior courts: it may be invoked before any court and must be exercised by any judge, as a preliminary matter, before the examination of the merits (Andrade; Mazzuoli, 2023; Mazzuoli, 2009).

Herein lies the essentiality of conventionality control for the integrity agenda. The positive duties of prevention, transparency and accountability extracted from the conventional block and from SDG 16 would remain programmatic if they depended only on legislative self-restraint; it is their judicial mobilization, as a parameter of validity of internal norms and acts, that supplies the insufficient protection and realizes integrity as an enforceable right-duty (Rose-Ackerman, 1999; Mazzuoli, 2009). Corruption, by affecting freedoms and capacities, ceases to be a mere management problem and becomes an obstacle to the realization of rights, which justifies this reinforcement of enforceability.

It is in this context that CNJ Recommendation No. 168/2026 is inscribed, which established the Statute of the Brazilian Inter-American Magistracy and amended CNJ Recommendation No. 123/2022. Departing from the premise that every national judge is also an Inter-American judge, the Statute guides the observance of the international human rights treaties in force in the country and encourages the exercise of conventionality control in light of the case law of the Inter-American Court, whenever relevant to the concrete case, further stimulating continuing education and the dissemination of that case law (Brazil, 2026). At this point, the "importance of legal education incorporating, in a substantial and in-depth manner, approaches related to the theme of Human Rights" (Charlot; Machado, 2022) stands out, and one must also take into account the contemporary phase of constitutionalism, which reaches a fraternal perspective, for "fraternity is a legal category and is supported by the constitutional text in force" (Machado, 2025, p. 221).

Although of a guiding nature, not bindingly altering the legal regime of the magistracy, the Statute recognizes that the centrality of International Human Rights Law is not merely a normative question, but also a structural one, depending on institutional conditions for its effective mobilization (Brazil, 2026). Applied to public integrity, it offers the instrument that converts the anti-corruption conventionality block into an everyday parameter of validity, closing the path that goes from the definition of the concept to its jurisdictional protection.

## CONCLUSION

The path developed made it possible to sustain public integrity as a foundation of democratic evolution, articulating the three proposed axes. In the first, it was demonstrated that integrity and combating corruption are not to be conflated: integrity is a preventive and systemic paradigm, which acts on incentives, institutional design and information governance, whereas repression, although necessary, is an insufficient subset of it – a relationship, therefore, of inclusion, and not of opposition.

In the second axis, it was shown that integrity is not only a requirement of good administration, but the object of a conventionality block: the Inter-American, OECD and Mérida Conventions, articulated with SDG 16 and with the understanding of corruption as a violation of human rights, hold supra-legal status and come to condition the validity of internal normative production, rather than operating as simple cooperation guidelines.

In the third, it was made evident that this block only becomes effective through conventionality control, the duty of every national judge, now reinforced by the Statute of the Brazilian Inter-American Magistracy (CNJ Recommendation No. 168/2026), which enshrines the premise of the national judge as an Inter-American judge and encourages the collation of the internal norm with the case law of the Inter-American Court. In relation to this new attribution, magistrates find themselves confronted with new challenges, of a dimension not only operational or argumentative, but epistemological, having the opportunity, through continuing education and their personal relationship with knowledge, to "continue the surprising human adventure and to leave their intelligent mark upon it," for, after all, "what do we want to do with this adventure and this human world that have made us, little sapiens, into human beings?" (Charlot, 2024).

It is thus concluded that public integrity constitutes an essential vector of democratic consolidation, and must be safeguarded through a dual pathway: constitutionality control and conventionality control.

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