

REVIEW ARTICLE

Transparency in public administration in Peru: Developments as of 2021

ABSTRACT

Corruption has been a persistent problem in Peru, and in order to fight it from the public sector, several transparency mechanisms have been implemented with results that are far from what was expected. The objective of this paper is to carry out a theoretical analysis of the most relevant characteristics of transparency in public administration in Peru, for which the main actions developed by the Peruvian State to implement transparency in public administration were reviewed, analyzing their possible influence on the levels of corruption in Peru in the period from 1990 to 2021. As a working method, it was considered appropriate to examine the regulations issued by the Peruvian State, verifying the results obtained in the indicated period. The results show that the measures adopted since the 1990s to institutionalize transparency in the country do not seem to have influenced the level of corruption, thus failing to achieve the goal set in the Plan Bicentenario: Peru al 2021, to position our country as the one with the lowest perception of corruption in all of Latin America. Based on this observation, we conclude that the relationship between transparency and corruption is more complex than commonly believed and requires further research.

Keywords: Corruption; Public administration; Transparency; Citizens.

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INTRODUCTION

According to the National Policy for the Modernization of Public Management until 2030 (Secretariat of Public Management – Presidencia del Consejo de Ministros, 2022), the new public governance paradigm focuses on improving the capacities of states and modernizing administrations to strengthen democratic systems and is “parte de la premisa que las personas deben adquirir un rol central en la coproducción de políticas y provisión de bienes, servicios y regulaciones” [based on the premise that people must acquire a central role in the co-production of policies and the provision of goods, services and regulations] (p. 17). Policy emphasizes the creation of public value through interventions that effectively and usefully address public problems.

When referring to the problems of our society, it is imperative to recognize that for more than a decade, corruption has been one of the main public problems perceived by Peruvians (Proética, 2022, p. 12), a perception supported by various studies that reveal its pernicious effects in different areas. In response to this serious situation, various mechanisms of transparency and control in public administration have been implemented since the 1990s, which, although they have made it possible to identify and sanction cases of corruption in different sectors of the State, have proven to be insufficient to combat it effectively.

In order to contribute to a better understanding of the way in which transparency influences the phenomenon of corruption, the following lines will review the way in which transparency mechanisms have evolved in our country from the 1990s to the year 2021, the year for which one of the most important national planning instruments, the Plan Bicentenario, has set the goal of positioning Peru as the country with the lowest perception of corruption in all of Latin America. The results will show that although efforts have been made by different governments to institutionalize transparency mechanisms in public administration, many of these initiatives have not been part of an adequately structured comprehensive policy, but rather a response to the political situation, without much impact on the objective of eradicating this evil.

The work was developed under a qualitative approach with a descriptive scope. To this end, a systematic review was made of the regulations issued by the Peruvian State (laws and supreme decrees) on transparency and access to information from 1993 to 2021, as well as the main regulations and instruments of policy and planning in the fight against corruption with elements of transparency. The information was extracted from the transparency portals and institutional websites of different Peruvian public entities, such as the Ministerio de Justicia y Derechos Humanos, the Presidencia del Consejo de Ministros, the Defensoría del Pueblo, among others. The information on the Corruption Perceptions Index was taken from the publications of the organization Transparency International through the website.

PURPOSE OF THIS PAPER

The purpose of this paper is to present a theoretical analysis of the main characteristics of transparency in public administration in Peru. To this end, it will identify the actions developed in Peru, since the 1990s, to implement and strengthen transparency mechanisms as a means to fight the phenomenon of corruption. We will also analyze whether the efforts to implement transparency mechanisms in our country have had the expected impact in the fight against this endemic evil.

ARGUMENTATIVE REVIEW

Since the 1990s, several reforms, policies and actions have been implemented in our country to improve transparency in public management and accountability, and although some argue that these measures have contributed to reducing corruption in some sectors of the State, the levels that are still registered are still significant.

To illustrate the above, the Contraloría General de la República (Shack *et al.*, 2022) estimates that in 2021 the total economic damage due to acts of corruption and functional misconduct in Peru will exceed S/. 24,000 million (p. 68), which necessarily leads us to ask ourselves how effective the transparency mechanisms implemented are and whether we are on the right track.

In the following lines, we will present the main measures taken by the Peruvian government since the 1990s to institutionalize transparency mechanisms as part of the fight against corruption. It will also provide a rough assessment of the impact of these mechanisms in the fight against this scourge.

The concept of transparency

Based on the definition of Transparency International (2009), it can be stated that it is “la cualidad que tiene un gobierno, empresa, organización o persona para la divulgación de información, normas, planes, procesos y acciones” [the quality that a government, company, organization or person has for the disclosure of information, rules, plans, processes and actions] (p. 44). According to this non-governmental organization dedicated to the fight against corruption in the world, the public function entails intrinsic responsibilities of unquestionable relevance, such as the publicity of acts, the support of decisions related to the management of resources, as well as accountability with useful and understandable information for adequate citizen participation in the solution of public problems.

In Peru, the National Policy on Integrity and the Fight against Corruption highlights the right to access to public information as a fundamental part of transparency in public administration and, by considering as one of its objectives the imperative of guaranteeing transparency and access to public information in all state entities, emphasizes that this should be a guiding principle in public administration and that all public institutions should work to ensure that public information is accessible and understandable to all citizens (High Level Anti-Corruption Commission [CAN], 2017, p. 57).

Complementarily, the National Integrity and Anti-Corruption Plan 2018-2021 develops the concepts of active and passive transparency, referring to the former as “toda aquella información que la entidad pública y difunde a través del internet (página web), de medios escritos, radiales o televisivos” (CAN, 2017, p. 82); while passive is “la información que posee la entidad y que, no siendo reservada, ni secreta ni confidencial, debe ser entregada por la entidad al público que la solicita” [all information that

the entity publishes and disseminates through the Internet (website), written, radio or television media”, “the information that the entity possesses and that, being not reserved, secret or confidential, must be provided by the entity to the public that requests it] (CAN, 2017, p. 82). Although the Law on Transparency and Access to Public Information does not make a distinction in its typology, it develops aspects related to the transparency portal, requests for access to public information of the State and transparency in the management of public finances, which could well be called transparency mechanisms. In the Directorial Resolution No. 11-2021-JUS/DGTAIPD, which approves the Guidelines for the Implementation and Updating of the Standard Transparency Portal in the Entities of the Public Administration (2021), the concept of proactive transparency is incorporated “para denotar las buenas prácticas de las entidades públicas en favor de la publicidad de determinados contenidos informativos, sin que medie una obligación normativa” [to denote the good practices of public entities in favor of the publication of certain informative contents, without any regulatory obligation] (p. 4).

From the above, quoting Villoria (2021), it can be said that “la transparencia es un concepto que significa diferentes cosas para diferentes grupos y cuya importancia depende de diferentes fines” [transparency is a concept that means different things to different groups and whose meaning depends on different purposes] (p. 5). In general terms, it can be understood as the obligation of those at the head of public authorities to account for their actions and to submit to the judgment and evaluation of citizens the information relating to their management, the basis of their decisions and the destination of the resources entrusted to them.

Transparency in Peruvian Public Administration since the 1990s

Prior to the 1990s, our country already had some rules that regulated, at a very incipient level, the access to public information; however, it was not until 1993 that this civil right materialized as a fundamental right, recognized in the Political Constitution of Peru (1993), stating that it is the right of every person “a solicitar sin expresión de causa información que requiera

y a recibirla de cualquier entidad pública, en el plazo legal, con el costo que suponga el pedido” [to request, without giving reasons, the information that he/she needs and to receive it from any public entity, within the legal term, with the cost of the request] (art. 2).

It is in the same decade of the nineties that measures began to be taken to improve transparency in public administration, being the Law of Transparency and Access to Public Information, of 2002, the consequence of an extensive process of national demand initiated around 1997, when the Congress of the Republic had the first project on the subject (Perla, 2010, p. 4).

In addition to the Transparency and Access to Public Information Act, other complementary regulations were enacted until 2007, including Supreme Decree No. 018-2001-PCM (2001), which establishes the procedure for facilitating citizens’ access to public information; Act No. 27482 (2002), which seeks to make visible information on the income, assets and earnings of public officials, in order to detect and prevent conflicts of interest, as a condition for the exercise of public office or function; in the same year, Act No. 27815, Code of Ethics of the Public Function, which regulates the obligation of public officials and servants of the State to carry out their actions in a transparent and accessible manner. Finally, Act No. 28237 (2004), which approves the Constitutional Procedural Code, recognizes the fundamental right of access to public information, establishing its protection mechanism, and regulates the habeas data process, a constitutional guarantee that can be used by citizens in the event of violation or infringement of this right of access to public information, which regulates the obligation of public officials and servants of the State to conduct their actions in a transparent and accessible manner to the knowledge of the people.

In addition to the body of laws and regulations described above, at the behest of the Executive Branch, a series of administrative mechanisms and instruments have been adopted to institutionalize transparency in the public apparatus, the most important of which, in our opinion, is the creation of the Autoridad Nacional de Transparencia y Acceso a la Información

Pública (Legislative Decree No. 1353, 2017). Also, at the initiative of the Executive Branch, important plans have come to light that address the problem of corruption with concrete actions on transparency and access to public information, among which we can mention:

- **Strategic Plan for National Development called the Plan Bicentenario, Peru al 2021.** The Strategic Plan was approved in 2011 and includes the national policies that Peru should follow to achieve its development in the ten years following its approval. The first specific objective of the plan is to achieve agility, transparency, and efficiency at all levels of public administration. Within this framework, Peru’s goal for 2021 is to be ranked first among the least corrupt countries in Latin America (Centro Nacional de Planeamiento Estratégico [CEPLAN], 2011).
- **National Policy for the Modernization of Public Administration until 2021, approved in 2013.** It establishes the principles and guidelines for the modernization of public management, considering transparency, public ethics, and accountability as the fourth principle, components closely related to the National Policy for Integrity and the Fight against Corruption (Secretaría de Gestión Pública - Presidencia del Consejo de Ministros, 2013).
- **Organization for Economic Cooperation and Development (OECD) Country Program.** Created in 2014 to improve public policies and contribute to the reforms needed in the country in five priority areas, one of which is the fight against corruption and integrity in the public sector (OECD, n.d.).

As can be seen, in the first decades of the new millennium, interesting advances were made in the implementation of transparency mechanisms in public administration; however, it should also be noted that many of these initiatives lacked the institutional support that would give them legitimacy, requiring administrative support, material conditions and resources to ensure the expected compliance.

Under these conditions, as recognized by analysts, public policies, plans and other anti-corruption measures - including transparency measures - proved to be dysfunctional, as they responded to disjointed impulses from political actors and social groups seeking to satisfy specific demands (Chevarría, 2013, p. B11).

Results in fighting corruption

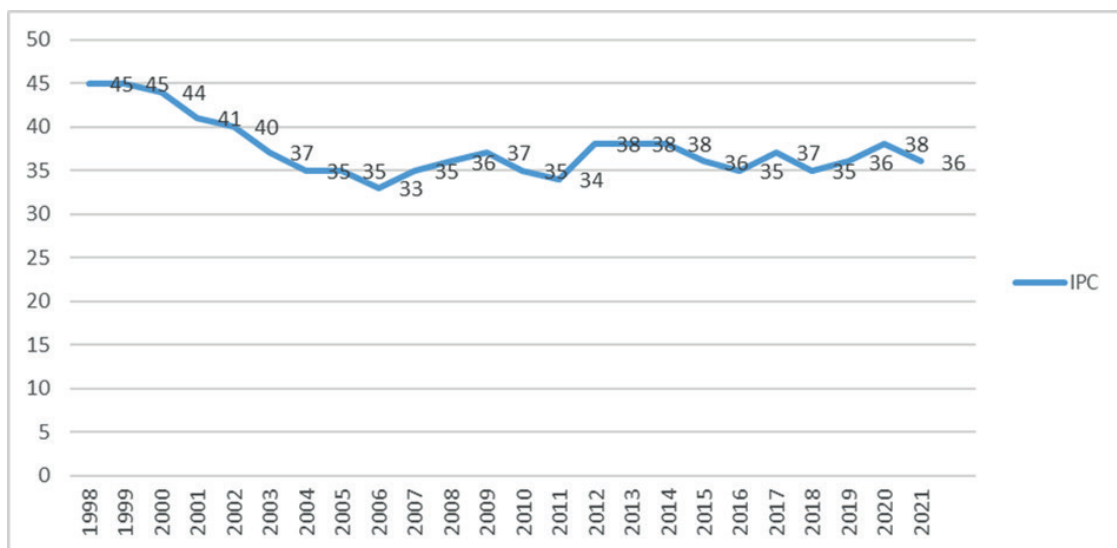
En In Latin American countries, transparency mechanisms have been a response to the high levels of corruption and, as stated by Peñailillo (2012), they are recognized as “una herramienta altamente eficaz y eficiente para el escrutinio de los actos públicos, a la vez que una manera de relación entre Estado y ciudadanos que fortalece la gobernabilidad democrática” [a highly effective and efficient tool for scrutinizing public acts, as well as a way of relating between the state and citizens that strengthens democratic governance] (p. 48). In this line of thought, experts in the field argue that transparency improves decision-making in public management and forces public officials to behave in accordance with the rules, since it is difficult to make agreements and illegal acts invisible, thus generating controls on corruption (Ackerman and Sandoval, 2008, p. 18).

In the context described, there would be enough reasons to expect that the increasing efforts developed by the Peruvian State to strengthen transparency mechanisms, as explained above, would translate into lower levels of corruption; however, the evidence based on the measurement of this phenomenon does not support this thesis.

Based on the Corruption Perception Index (CPI), published annually by the organization Transparency International, it is verified that in the period from 1998 to 2021 our country has never exceeded the threshold of 50 on the scale from 0 to 100 (where 100 reflects a lower perception of corruption), so it is forced to conclude that Peru has always been among the group of countries with a high perception of corruption, a situation that has been more noticeable since 2002, when this indicator fell to levels below 40. Figure 1 below illustrates the above:

Regarding the relative position of our country in the CPI World Ranking, two situations can be observed: Between 1998 and 2014, Peru was positioned between the first and second quartile of the group of countries and territories included in the study and could be considered a country with a medium perception of corruption. As can be seen in Figure 2, from 2015 onwards, a deterioration is registered,

Figure 1
CPI - Peru. 1998-2021



Note. Own preparation, 2023.

as it is positioned between the second and third quartile of the scale, with a clear tendency towards high levels of corruption. It can therefore be concluded that in the CPI World Ranking, Peru has always been far from the first place (lower perception of corruption), and in 2021 will be ranked 105th out of a total of 180 countries.

It is necessary to point out that the CPI developed by Transparency International is not the only way to measure the phenomenon of corruption and that, although its use is almost universal, it has some limitations, mainly due to the subjective nature of the information it collects. However, given the objectives of this paper, its use is valid, especially considering that our country, in the Plan Bicentenario, set itself the goal of occupying the first place in this index among the least corrupt countries in Latin America, as part of the specific objective related to “la participación de los ciudadanos en los procesos de democratización política, toma de decisiones públicas y descentralización institucional para el desarrollo del país” [citizen participation in the processes of political democratization, public decision-making and institutional decentralization for the development of the country] (Centro Nacional de Planeamiento Estratégico [CEPLAN], 2011, p. 126).

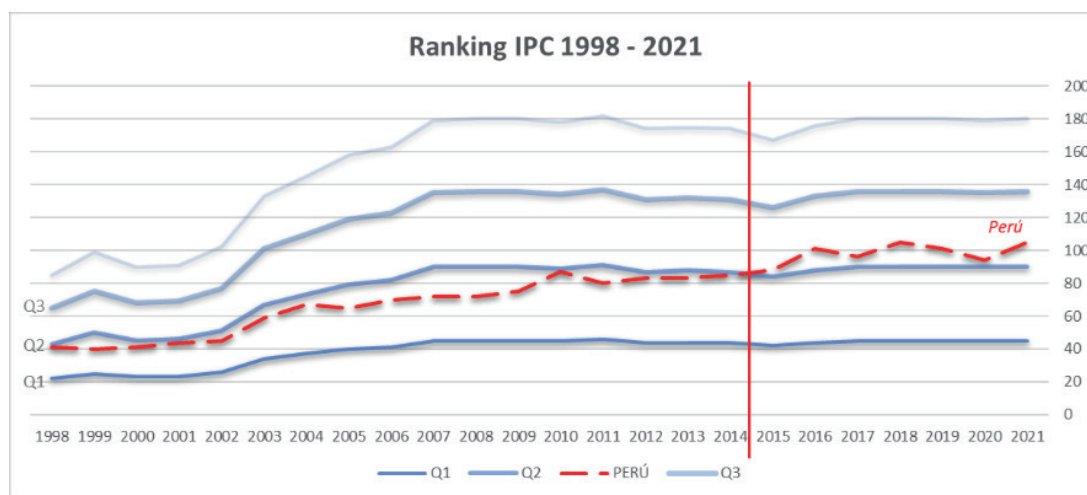
Thus, with regard to initiatives to develop mechanisms for transparency and access to public information, this confirms the discouraging diagnosis of the Defensoría del Pueblo (2017) in the Report on Corruption in Peru, which states that “no hay disponibilidad de información ni datos confiables que muestren algún impacto de las acciones realizadas en la reducción del riesgo de corrupción” [there is no information or reliable data to show the impact of the actions carried out in reducing the risk of corruption] (p. 14).

On the basis of these observations, we argue that the relationship between such an important value as transparency in public administration and the phenomenon of corruption is more complex than commonly believed and requires further research. Likewise, it can be inferred that actions aimed at solving the public problem of corruption through the use of transparency mechanisms cannot be effective without a genuine political commitment that ensures the participation of all stakeholders and guarantees the resources for their implementation.

CONCLUSIONS

In general terms, transparency can be defined as the obligation of the leaders of public powers and entities to account for their actions and to submit to the judgment of citizens

Figure 2
CPI World Ranking - Peru. 1998-2021



Note. Own preparation, 2023.

the information related to their management, the basis for their decisions and the destination of the resources entrusted to meet the needs of the nation. In Peru, the various instruments approved for the fight against corruption and the regulations issued by the Autoridad Nacional de Transparencia y Acceso a la Información Pública recognize three types of transparency: Active, Passive and Proactive, each with different mechanisms to ensure its operation.

Transparency and its mechanisms have made progress since the nineties, when this institution materialized as a fundamental right reflected in the Constitution. Since then, laws have been enacted, regulations have been issued and institutions have been created to promote transparency and access to public information, the most important of which are the Law on Transparency and Access to Public Information and the creation of the National Authority in charge of verifying compliance. However, these measures have not been fully effective in the fight against corruption.

Based on the CPI published by Transparency International between 1998 and 2021, it is possible to affirm that during this period our country has always been in the group of countries with a high perception of corruption, without being able to achieve the goal established in the PB to occupy the first place among the countries of the region with the lowest level of perception of corruption.

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Conflicts of interest

The author has no conflicts of interest to declare.

Author contributions

Apolinar Junior Madrid Escobar (lead author): Conceptualization, data curation, formal analysis, funding acquisition, research, methodology, validation, data visualization, writing (original draft, proofreading and editing).