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9 February 2019

Online at <https://mpra.ub.uni-muenchen.de/92123/>

MPRA Paper No. 92123, posted 13 Feb 2019 14:49 UTC

# From public information to democratic governance: a theoretical atlas from an axiomatic approach to the evaluation of public management

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*Democracy without effective accountability, it is a farce,  
accountability without permanent access to quality public information is a chimera,  
an act of flagrant corruption...*

The development of globalization, the progression of human rights, the deployment of information and communication technologies, growing social demands, the crisis of public institutions and new forms of socialization shape the circumstances of the contemporary democratic rule of law, The development of globalization, the progression of human rights, the deployment of information and communication technologies, growing social demands, the crisis of public institutions and new forms of socialization shape the circumstances of the contemporary democratic rule of law, in which public information and public management must be evaluated in order to strengthen democratic governance, under penalty of falling into governmental illegitimacy.

The evaluation of public management has public information as its central input, hence the need for a theoretical framework to understand and evaluate this object of study. The critical route is: from the axiomatic to the indicators and from these to the evaluation of democratic governance. Thus, this reflection is the first step for governmental evaluation.

**KEY WORDS:** public information, transparency, corruption, social participation, accountability, citizen oversight and democratic governance.

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## SUMMARY

I. Introduction, II. From the object of study, III. Basic definitions: a) Preliminary elements and b) Seven basic definitions; IV. Seven axioms, V. Thirteen postulates and eight theorems: a) Public information, b) Transparency, c) Corruption, d) Social participation, e) Accountability, f) Citizen oversight, g) Democratic governance, h) Democratic governance and corruption: Degrees of democratic governance, VI. Conclusions and VII. Bibliographic sources.

## I. INTRODUCTION

The general theme is the diagnosis of the quality of public information and the evaluation of democratic governance. The specific thematic axis is the nature and purpose of public information in the context of the democratic rule of law in Mexico, in the federal states and, in particular, in the state of Veracruz<sup>1</sup>. The problem is to answer the question: What is required for an effective evaluation of public management? Based on this approach, it is argued that the way to effectively evaluate public management presupposes a theory and indicators of democratic governance.<sup>2</sup>

In order to understand the elements that constitute democratic governance it is necessary to use the axiomatic method; this requires establishing: 1) Basic, stipular and common definitions; 2) Axioms, as propositions articulated with the basic and consensual definitions; 3) Postulates, which are propositions admitted as true, which are derived from the basic definitions and from the axioms; 4) Theorems, propositions derived from the postulates. From the theorems are derived the indicators of the present theoretical atlas of democratic governance, which will be shown in a later phase of the essay.

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<sup>1</sup> This reflection may be relevant to research in any contemporary democratic state, preferably those of a strong Western tradition emanating from the liberal revolutions of the last two centuries.

<sup>2</sup> Effective evaluation is understood as the objective, true and succinct diagnosis derived from the interdisciplinary analysis of public information, the results of public management and the accountability of the obligated subjects. Basic definitions, axioms, postulates, theorems and indicators are used to derive public policy proposals, legal reforms and denunciations of corruption.

This research recovers philosophical, juridical, political, economic and accounting aspects. Its articulating axis is the concept of public information, which is linked to those of transparency, corruption, social participation, accountability and citizen oversight, being minimum elements necessary for the understanding and evaluation of democratic governance.

## II. OBJECT OF STUDY

The concepts of public information, public management and democratic governance are framed in the context of the democratic rule of law at the federal and local levels in Mexico, particularly in the case of Veracruz; it is a phenomenon that poses several problems and/or problems of different order.<sup>3</sup> However, it is necessary to employ a systematic approach and interdisciplinary perspectives are required in order to establish feasible alternatives.<sup>4</sup>

A problem of the phenomenon in question refers to the evaluation of public management, which in turn requires conceptual analysis on the notions of "public information", "transparency", "corruption", "social participation", "accountability", "citizen oversight" and with it clarify the concept of "democratic governance". Indeed, this is the basis for the development of the respective indicators, which represent a second phase of this research.

<b>Phenomenon</b>	Public information, public management and democratic governance.
<b>Context</b>	Democratic State of Law, in federal and local circumstances in Mexico, particularly in the State of Veracruz.
<b>Problematic</b>	<p><b>General question:</b>  <i>What is required for an effective evaluation of public management?</i></p> <p><b>Derived questions:</b></p> <ol style="list-style-type: none"> <li>1. What is public information?</li> <li>2. What is transparency?</li> <li>3. What is corruption?</li> <li>4. What is social participation?</li> <li>5. What is accountability?</li> <li>6. What is citizen oversight?</li> <li>7. What is democratic governance?</li> </ol>
<b>Perspective of study.</b>	Multi and interdisciplinary: philosophy, axiomatic, law, economics, political science and accounting.
<b>Methodology</b>	Conceptual and empirical analysis of the condition presented by public information and public management at the federal level and

<sup>3</sup> The diagnosis of the general condition of the State of Veracruz, and in particular of its public information, the results of its public management and its democratic governance, will be carried out in a phase subsequent to this theoretical formulation, as well as the development of its indicators.

<sup>4</sup> The underlying problem is the lack of transparency and corruption, which is a global and national issue, as evidenced by the Buenos Aires Summit of G20 Leaders, held from 30 November to 1 December 2018. Cfr. G20 (2018) "Construyendo consenso para un desarrollo justo y sostenible". Retrieved 15 December 2018, from: <http://scd.es.rfi.fr/sites/espanol.filesrfi/declaracion.pdf>

	<p>in the local realities in Mexico and in particular in the State of Veracruz.</p> <p>The conceptual framework is articulated from the concepts of: democratic governance, human rights and rule of law, accountability, public information, as well as failed governance, corruption, impunity and opacity.</p> <p>The empirical way uses instruments such as: observation, contrasting, articulated from communication and information technologies.</p>
<p><b>Strategic Objectives</b></p>	<p><b>General objective:</b></p> <p>To understand the phenomenon of democratic governance through the articulation of concepts of public information, transparency, corruption, social participation, accountability and citizen oversight, using an interdisciplinary and axiomatic approach to generate a theoretical atlas in order to develop objective criteria for evaluation and, where appropriate, for the design of feasible public policy proposals.</p> <p>Specific objectives:</p> <ol style="list-style-type: none"> <li>1. Conceptualize the phenomenon of public information through a matrix of axioms, postulates and theorems, in order to develop the respective indicators in a second phase.</li> <li>2. Conceptualize the phenomenon of corruption through a matrix of axioms, postulates and theorems, to develop the respective indicators in a second phase of the research.</li> <li>3. Conceptualize the phenomenon of social participation through a matrix of axioms, postulates and theorems, to develop the respective indicators in a second phase of the research.</li> <li>4. Conceptualize the phenomenon of accountability through a matrix of axioms, postulates and theorems, to develop in a second phase of research the respective indicators.</li> <li>5. Conceptualize the phenomenon of citizen oversight through a matrix of axioms, postulates and theorems to develop the respective indicators in a second phase of research.</li> </ol>

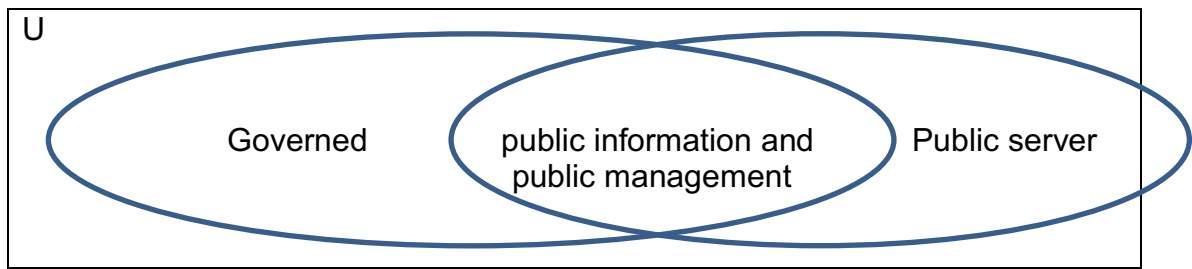
### III. BASIC DEFINITIONS:

#### (a) Preliminary elements

Among the basic notions to understand the phenomenon of public information and democratic governance are the following concepts: "information", "State", "public", "citizen", "public servant", "public management" and "public revenues". In fact, these terms, like any other word, are of a polysemic nature; thus, they will have a stipulative and theoretical meaning, with a lexicographic and explanatory pretension of the phenomenon in question.

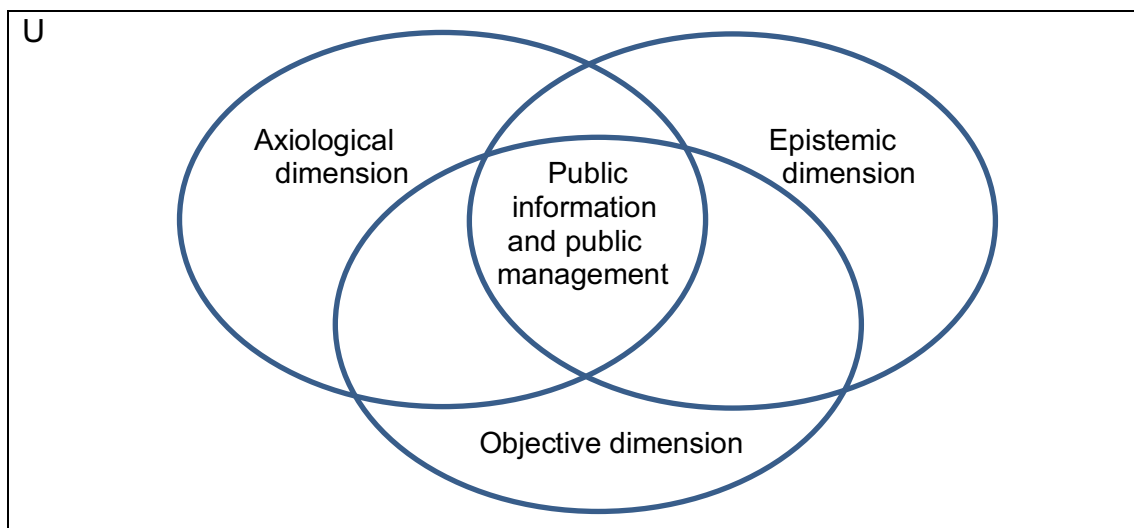
Public information and public management are actions carried out by the government, but their purpose is not the government itself, but rather a social responsibility, which is traditionally assumed as a public or common good. These two concepts relate to the contemporary understanding of governance, which is

public in nature, not private, and corresponds to the state obligation of transparency, accountability, and results-based budgeting.



Veen's diagram shows the intersection of the "class" governed with the "class" of the public servant, the interaction is properly the state life lato sensu, as governmental obligations, the public right of the governed to demand and evaluate information and the results of public management.

The phenomenon as a whole, and therefore also these basic concepts, refer to several dimensions, at least to three: 1) Axiological, as subjective/intersubjective appraisals and valuations, 2) Objective, as qualitatively and quantitatively observable facts and material actions and 3) Epistemic, as theoretical-instrumental knowledge of the phenomenon and its social distribution. The three dimensions constitute the phenomenon of public information and democratic governance and, therefore, of the State itself.<sup>5</sup> In this sense, the governed and the public servant carry out valuations, material and cognitive actions in relation to information and public management.

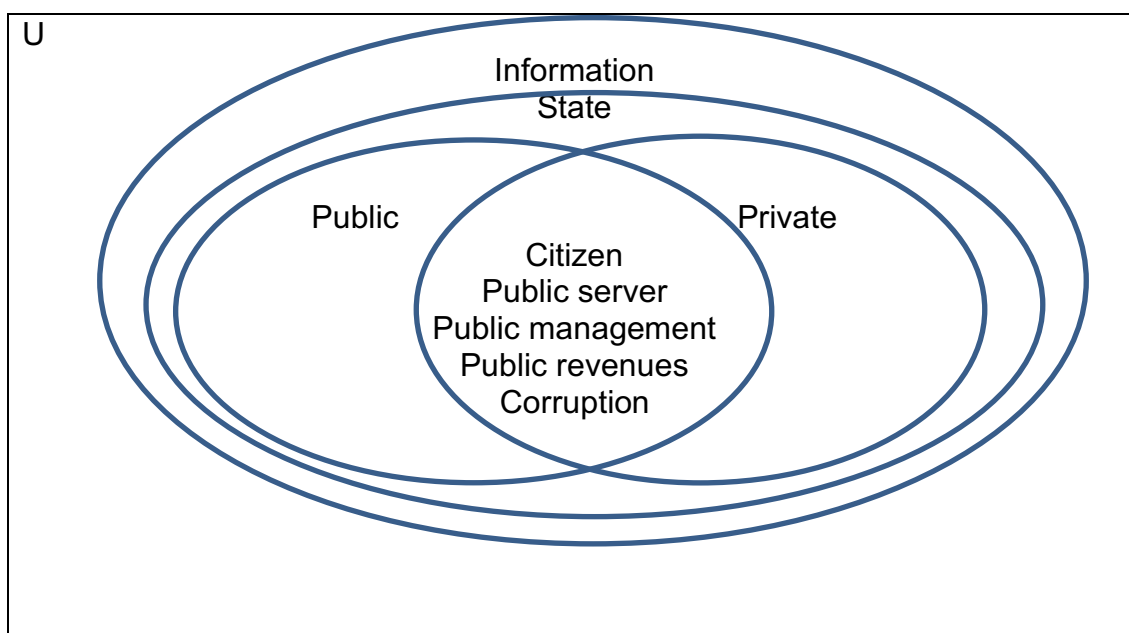


<sup>5</sup> It should be noted that the State has six dimensions: legal, political, economic, social, environmental and technological innovation, which are articulated from the legal dimension. Luis Maury and others (2018), *Estado, pensamiento crítico y políticas públicas*, in "Estado, derechos humanos y política: condiciones para la gobernabilidad democrática", Mexico, Pulso Global, IIESES-UV, Colegio Nacional de Profesores e Investigadores en Filosofía, Humanidades y Economía, A.C, Facultad de Medicina-UAT, Parlamento Ciudadano and Centro de Estudios sobre las Finanzas Públicas y Combate a la Pobreza, 154.

The Veen diagram shows the intersection of the dimensions that constitute public information and public management.

Human life cannot be understood without information. The biological and cultural process is a continuous input-output of determinable physical units. In the cultural realm these physical units become meanings when they are interpreted.<sup>6</sup> In effect, the human being is a social and political animal being, as Aristotle has already pointed out, but contemporary human reality and from its historical genesis is articulated with statehood, which is established from the public. For this reason, the State, its task, public management, necessarily refers to the phenomenon and the concept of information.

The State condenses the private and public dimension of human life<sup>7</sup>, establishing hierarchies in the demographic and governmental terrain, stratifying society into governed or mandators, and governors or public servants, developing the phenomenon of the citizen and citizenship. The State has as inputs for the management of its public finances public revenues, expenditures and public debt; evidently these elements must be circumscribed to the rule of law in force, under penalty of arbitrariness or corruption.<sup>8</sup>



<sup>6</sup> In German *Informationen* and in Spanish *información*, from the Latin *informatio*, refers to find out or give news of something.

<sup>7</sup> In German "privat", in Spanish "privado", which derives from the Latin *privatus* referring to that which is carried out in the sight of a few, in familiar, in the domestic, in a particular and personal way, not being of a public nature.

In Spanish "público" from the Latin *publicus*, referred to as being known by all, carried out in the sight of all, of access or belonging to all or to the State.

<sup>8</sup> The concept of corruption is discussed below.



The Veen diagram shows that the broadest category is information, within which is the State that subsumes the public and the private, as these are dictated by the State itself. At the intersection of the public and the private are the citizen, the public servant, public management and public revenues, as well as corruption.

#### b) Seven basic definitions

<b>1. Information</b>	Data with determinable meaning such as true or false.
<b>2. State</b>	"System of institutions of political power as public and governmental." <sup>9</sup>
<b>3. Public</b>	Concerning all co-nationals and in opposition to the private. <sup>10</sup>
<b>4. Citizen</b>	National (Mexican or Mexican over the age of 18) with an impact on the public. <sup>11</sup>
<b>5. Public Servant</b>	A natural person in charge of exercising the powers and obligations of the institutions of public power and autonomous bodies. <sup>12</sup>
<b>6. Public Management</b>	Acts and actions of the State. <sup>13</sup>

<sup>9</sup> Cfr. Luis Maury, (2016), "Contraloría Social: hacia una articulación, Estado, ciudadanía y derechos humanos", in *Finanzas públicas y la visión del ciudadano*, Mexico, Edumet, 36.

In German "Status" and in Spanish "Estado"; it refers to the Latin *status*, and it was Machiavelli who introduced it as a political category in the 16th century; Plato considered that the philosopher-king is the one who should govern it; for Aristotle the middle class; for Polibius, in *Historias*, the State is cyclical; for Francisco Suárez in *Disputas metafísicas* and in *Tractatus de legibus ac deo legislatore*, the State is united to the concept of what we today call legitimacy; for Hegel, in *The Phenomenology of the spirit*, it is the objective spirit; for Marx, it is an expression of the class struggle; for Kelsen it is constituted by the fundamental law; for Octavio Paz, it is a Philanthropic Ogre; for Octavio Paz, it is a Philanthropic Ogre. Therefore, it is evident that the term has several meanings.

<sup>10</sup> Cfr. Luis Maury, (2016) "*Contraloría Social: hacia una articulación, Estado, ciudadanía y derechos humanos*", in *Finanzas públicas y la visión del ciudadano*, Mexico, Edumet, 36-38.

<sup>11</sup> Citizens have a demographic meaning in the sense that they have the right to nationality and to political rights in the sense of majority. In Mexico, the right to nationality is regulated by articles 30, 31, 32 and 34, and the political right by article 34 of the Political Constitution of the United Mexican States. In the Universal Declaration of Human Rights in Article 15. In Veracruz, the respective part is established in articles 11 to 16 of the Political Constitution of the Free and Sovereign State of Veracruz de Ignacio de la Llave.

<sup>12</sup> Article 108 of the *Constitución Política de los Estados Unidos Mexicanos* states: "... public servants are considered to be representatives of popular election, members of the Judiciary of the Federation, officials and employees and, in general, any person who holds a job, position or commission of any nature in the Congress of the Union or in the Federal Public Administration, as well as public servants of bodies to which this Constitution grants autonomy, who shall be responsible for acts or omissions incurred in the performance of their respective functions. In Veracruz, the provisions of the *Ley de Responsabilidades Administrativas para el Estado de Veracruz de Ignacio de la Llave*, in Article 2, section XXVIII: "Persons who perform an employment, position or commission in public entities... in accordance with the provisions of Article 108 of the *Constitución Política de los Estados Unidos Mexicanos*", are assumed as public servants".

<sup>13</sup> The new public management is a current of thought within the public administration initiated in the late 1970s and early 1980s, which places the citizen at the center of government decisions. Its main exponents, Osborne and Geabler, academics emerged from the business school, recover the proposals of traditional public administration, as well as public management and the school of public choice, to conceptualize the government as an administrative apparatus that does more and costs less. For these authors, there is no sharp separation between private and public initiative, hence they propose the application of private sector techniques to improve government

<b>7. Public revenues</b>	Volume of public money generated by institutions of public power and autonomous bodies. <sup>14</sup>
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The citizen, as an adult, exercises and/or enjoys rights and has both public and private obligations; in fact, the public servant is a citizen; public management has the purpose of satisfying public needs, which ultimately refer to social needs, which are the concurrence of individual rights and needs. These needs can only be covered by public revenues, which originate from the rights that the State exercises over its citizens through acts of authority. It should be noted that:

#### IV. SEVEN AXIOMS

The diagnosis of the quality of public information, the evaluation of public management and democratic governance inexorably refers to the obligated subjects as public institutions and private persons with functions of authority and/or with public resources; to information on public finances; to the obligations legally assumed by State institutions; to public law in administrative and criminal matters, as well as to the public expenditure plan. The relationship between this diagnosis and the referred governance is given by the fact that they are objects of a public nature, which constitute the State, as well as the political phenomenon.

The obligated subjects are physical or moral persons who have the legal responsibility and duty to make their actions or the public information they generate public domain. Evidently they manage public resources, which are subject to an accounting report. It is not uncommon for State bodies to acquire

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performance based on the study of successful cases with the claim that they can be replicated. It is a theoretical proposal based on the idea that accountability should not focus on processes, but on the results of public management. Some of the reform proposals inspired by this current of thought include: the application of e-government; management for results; performance-based budgeting; greater emphasis on the quality of public services; delegation of authority and flexibility; introduction of competition mechanisms; contracting out; customer-oriented public sector, among the most prominent (Cfr. Osborne, D. and Gaebler, T. (1992), *Reinventing government: How the entrepreneurial spirit is transforming the public sector*, New York, NY: Penguin Group).

<sup>14</sup> They constitute the source of financing for the expenditure made by the State in the execution of its plans and programs. They include, in Mexico, the federal, state and municipal governments that have the power to collect, in addition to issuing specific taxes in their area of competence. In tax matters, the normative scope is based on the Political Constitution of the United Mexican States and on the Federal Revenue Law. This Law must conform to the criteria and objectives of the annual income budget. Federal public revenues are made up of central government revenues and resources from the parastatal sector, as well as public indebtedness. Public revenues are classified into two types: tax and non-tax. The first refers to the entire range of federal taxes levied on the various revenue-generating sources, the main characteristic of which is that they are imposed unilaterally and compulsorily on natural and legal persons who are in the legal or factual situation provided for by law. This, in turn, is divided into direct and indirect, the former being the one that directly taxes wealth or symbols of wealth, while the latter is the one that the producer transfers to the consumer in order to collect it and deliver it to the treasury. On the other hand, non-tax revenues include rights, products and uses.

debt, which must be presented in the public account, and to make a budget of expenditures that considers these operations in accordance with the corresponding accounting regulations; in this way, governance supposes the government that administers the State and a governed class that, in a democratic regime, sends the government.

<b>AXIOMS:</b>
1. The obligated subject is any authority, entity, organ or organ of the public powers, autonomous organs, political parties, trusts, public funds, and natural or legal persons who receive and exercise public resources, or who perform acts of authority. <sup>15</sup>
2. The public account is the accounting, budgetary and programmatic report of the application of the public monies of the public institutions and autonomous bodies. <sup>16</sup>
3. Public debt is an obligation contracted by the institutions of public power and by autonomous bodies. <sup>17</sup>
4. The norm or normativity is the positive and current legal system in administrative and criminal matters. <sup>18</sup>
5. The budget is the legal expenditure plan of public institutions and autonomous bodies. <sup>19</sup>
6. Governance is "the relationship between the rulers and the governed whose purpose is to generate state stability." <sup>20</sup>

<sup>15</sup> Cfr. *Ley Federal de Transparencia y Acceso a la Información Pública*, Article 1, and *Ley de Transparencia y Acceso a la Información Pública para el Estado de Veracruz de Ignacio de la Llave*, Article 9.

<sup>16</sup> In Mexico, the public account is integrated by the Ministry of Finance and Public Credit and presented to the Chamber of Deputies for review and oversight. This document contains the accounting, budgetary, programmatic and complementary information of the Executive, Legislative and Judicial Branches, of the Autonomous Bodies and of each public entity of the Parastatal Sector, in compliance with the provisions of Article 74, section VI of the *Constitución Política de los Estados Unidos Mexicanos* and articles 46 and 53 of the *Ley General de Contabilidad Gubernamental*.

<sup>17</sup> Public debt is all the insoluble obligations of the public sector, contracted directly and legally through its financial agents. A distinction is made between net and gross debt, the former being equal to gross debt minus the State's financial assets.

<sup>18</sup> The rule of law is made up of legal principles, legal norms and political guidelines (Cfr. Ronald Dworkin, (1993), *Los derechos en serio*, Barcelona, Planeta Agostini, 72-83). However, for the issue of public information and public management, the fight against corruption and democratic governance, the matters invoked are administrative and criminal, both of a public nature and are constituted by substantive and procedural aspects. Administrative law is the branch of public law that regulates public administration, the administrative function and the relationship between the governed. Criminal law criminalizes conducts establishing crimes, stipulating how to regulate them and imposing punitive measures. El The crime is the action or omission punished by criminal law; Mexico has a National Code of Criminal Procedure, a Federal Criminal Code and each of the 32 entities that make up the Federation has its own criminal code.

<sup>19</sup> Analyzed more extensively, it is the spending action plan, expressed in monetary terms, for a future period (usually one year), designed from the income available for the promotion of the country's development through the application of public resources. It is the most important economic policy tool for influencing the allocation and distribution of income, the stabilization or destabilization of the economy. Its importance lies in the fact that it is a fundamental input for the functioning of the government, as well as its plans and programmes. By monitoring the budget process, an objective evaluation of the government's performance is possible.

<sup>20</sup> Luis Maury y otros, (2018), *Estado, pensamiento crítico y políticas públicas*, en "Estado, derechos humanos y política": condiciones para la gobernabilidad democrática, México, Pulso

## V. THIRTEEN POSTULATES AND EIGHT THEOREMS

From the postulates, proposition admitted as true, are derived the theorems to address the concepts of public information, transparency, corruption, social participation, accountability, citizen oversight and democratic governance; An inherent element in these concepts, postulates and theorems is the category of rule of law, which for the purposes of this axiomatic atlas is assumed to be a normative system in force of legal principles, legal norms and political guidelines, with emphasis on human rights and the fight against corruption as a formal and operative system of law for the progression of the dignity of persons and, in general, of citizens.

### (a) Public information

Public information in the possession of obligated subjects "...may only be reserved temporarily for reasons of public interest and national security, under the terms established by law. In the interpretation of this right, the principle of maximum publicity shall prevail."<sup>22</sup> Ésta tiene su razón en la naturaleza pública del sujeto obligado y de ésta información.<sup>23</sup> There is classified public information based on State security issues and the protection of human rights, such as information determined to be strategic for military order and public security, as well as for reasons of judicial investigation. In the same way, the organs of the State also have information related to the private life of the person, which for obvious reason is not of public order, and therefore cannot be publicized.<sup>24</sup>

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Global, IIESES-UV, Colegio Nacional de Profesores e Investigadores en Filosofía, Humanidades y Economía, AC, Facultad de Medicina-UAT, Parlamento Ciudadano y Center of Studies on Public Finances and Combat Poverty, 162.

<sup>21</sup> The word government derives from the Latin *gubernare* and this one from the Greek *kybernéin* which means "to pilot a ship" also "to direct, to govern", is the authority that directs, controls and administers its institutions. In Mexico, the organic part of the *Constitución Política de los Estados Unidos Mexicanos*, establishes the form of government, also creates the organs through which it exercises its powers and the procedures to appoint or elect the holders of those.

<sup>22</sup> *Constitución Política de los Estados Unidos Mexicanos*, Article 6, Section A, Section I.

<sup>23</sup> The legal framework for public information in Mexico is provided by articles 1, 6 and 133 of the *Constitución Política de los Estados Unidos Mexicanos* by the *Ley General de Transparencia y Acceso a la Información Pública*, and by the *Ley General de Protección de Datos Personales en Posesión de Sujetos Obligados*, as well as their counterparts in each of the Federal Entities.

<sup>24</sup> "The public information useful to know the performance of the government, its internal organization and the management of public resources. You can request and know, for example, the documentation related to:

Public works programs / Tenders and awards / Budget and financial statements / Programmatic advances / Directories and Curriculum vitae of public servants / Remunerations and per diems / Results of studies and audits / Statistical data / Laws and regulations / Rules of operation and beneficiary lists of social programs / Atlas of risk of your Delegation / Documents and requirements to carry out a procedure or

The Inter-American Court of Human Rights points out that:

... the concept of public order requires that within a democratic society, the widest possible circulation of news, ideals and opinions is guaranteed, as well as the widest access to information by society as a whole.<sup>25</sup>

Public information refers to financial categories, human resources and material resources (movable and immovable property). Public information *lato sensu* is data with determinable meaning as true or false concerning all nationals and in opposition to the private. In this sense, there is false public information that conceals acts of corruption or is confusing. In strict sensu the public information is such if it is in accordance with the factual and legal reality, if it is not false, if it is not vague, obscure and imprecise. In this way the information in question is such if and only if it is objective, true and succinct.<sup>26</sup> However, this is linked to the participatory budget and to the opinions of the auditing bodies of the public account and accountability, since all this is public information, which must be evaluated in terms of objectivity, truth and succinctness.

#### **Postulates:**

1. Objectivity is the public exercise according to budgeting and normativity. Assumption: compliance with the rule of law and, in particular, with the Revenue Act and the Expenditure Budget, or their equivalent.
2. Truth is the conformity of information with objectivity. Assumption: compliance with the rule of law and, in particular, with the Revenue Act and the Expenditure Budget, or their equivalent.

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request a service / Information of the political parties of the Federal District / Mechanisms of citizen participation provided by the government.

Knowing public information allows you to discuss, criticize, evaluate and have the arguments to be able to demand that the government be accountable for its actions and management, and to be able to denounce any arbitrariness in this regard, as well as being able to recognize what is being done well.

Remember that openness of public information is not enough to achieve transparent government. Your participation in the discussion of their actions and decisions is necessary to legitimize and control the exercise of public power. Instituto de Transparencia, Acceso a la Información Pública, Protección de Datos Personales y Rendición de Cuentas de la Ciudad de México ¿Para qué Sirve? Retrieved December 14, 2018 from: <http://www.infodf.org.mx/index.php/solicita-informacion-publica/%C2%BFpara-qu%C3%A9-me-sirve.html>

<sup>25</sup> Opinión Constitutiva OC-5/85 in (2017) Derecho humano de acceso a la información, México, CNDH, SEP Y INEHRM, 9.

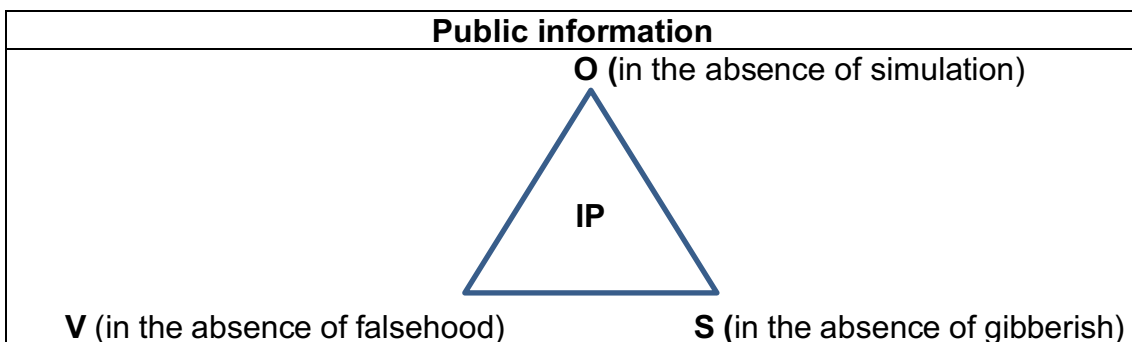
<sup>26</sup> Public information as a human right refers to its accessibility, to the plural and opportune information on the part of those who request it, research it, analyze it and disseminate it. This right is, with respect to the government, an unavoidable obligation, established under the categories of respect and guarantee of human rights and endorsed with the reform of 2011 in the matter of the aforementioned rights.

3. The succinct is the articulation of clarity, precision and brevity.  
 Assumption: compliance with the rule of law and, in particular, with the law on access to information and transparency.

**Theorem of the first order:**

Public information is objective, true and succinct information of obligated subjects.

Assumption: Citizen with the ability to decode.



Symbolisation	Values of the constants	Quality of public information
Public information: IP	<b>O</b>	$\{O=1+(V=1+S=1)\}= IP$
Objectivity: O	0= absence.	$\{O=0+ (V=1+S=1)\}= Simulation.$
Truth: V	1=presence.	
Succinct: S	<b>V</b>	$\{O=1+ (V=0+S=1)\}= Falsehood.$
	0= absence.	$\{O=1+ (V=1+S=0)\}= Gibberish.$
1= presence.		
	<b>S</b>	
	0= absence.	
	1= presence.	

**Note:**  
**Simulation:** credible alteration of public information.  
**Falsehood:** contrary to truth.  
**Gobbledygook:** public information that is fragmentary, obscure, vague or ambiguous due to imprecision in the use of language.

## **(b) Transparency**

Government transparency laws are necessary to reduce levels of corruption, but they are insufficient to guarantee institutional strength. Through these laws the government can be placed in a “glass box” so that any citizen can observe how public resources are managed and spent, as well as evaluate the results of public management.

Transparency is a responsibility of the obligated subjects and the public information they generate must be made freely available, with the exception of the reservations established by law.<sup>27</sup> It is a state obligation insofar as access to public information is a human right.<sup>28</sup> This is a right of the governed and a governmental obligation that is governed under the principle of maximum publicity. Transparency refers to the specialized and systematized archive of public affairs, as well as to devices that allow access to the public information corresponding to each obligated subject.

It is nonsense to speak of transparency when there is false information, opacity practices and concealment. There is transparency if and only if there is public information in stricto sensu, access and permanence of the same.

### **Postulates and theorem of first order:**

1. Accessibility is the socialization of public media to make public information by the citizen.

Assumption: development of open public information strategy, (open data).

2. Permanence refers to the information being present in the transparency portals.

Assumption: permanent and updated transparency portals.

3. Public information is objective, true and succinct information from obligated subjects.

Assumption: A citizen with the ability to decode.

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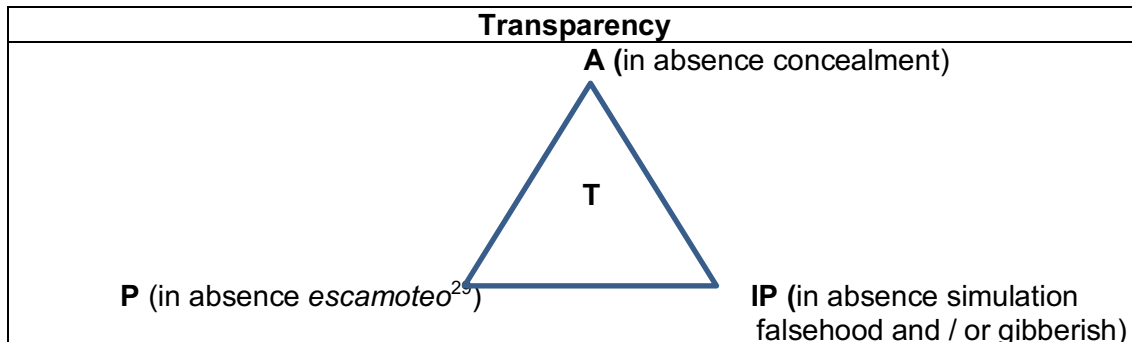
<sup>27</sup> In German *transparenz* and in Spanish *trasparencia*, which derives from the Latin *transparentia*, which refers to the quality of an object to be seen.

<sup>28</sup> In Mexico, this right is articulated with human rights and is enshrined in articles 1 on human rights, 6 on the right of access to information, 8 on the right of petition, and 133 on international human rights treaties of the *Constitución Política de los Estados Unidos Mexicanos*.

### Second order theorem:

Transparency is permanent access to public information.

Assumption: public information as a governmental obligation, which must be updated periodically.



**Note:**

**Concealment:** the intentional act of hiding, not providing, concealing public information.

**Escamoteo:** fraudulent act of disappearing or removing public information from the means of access.

**Falsehood:** contrary to the truth.

### (c) Corruption

It is not uncommon for the fight against corruption to be associated with attacks on non-governmental organizations and the media. In this sense, legal certainty and guarantee are necessary in order to fight this scourge. This should be assumed as a state obligation in terms of human rights, as the integrity of the complaint is often endangered.<sup>30</sup>

States have high or very low levels of corruption. The rule of law evidences the historical and factual need to regulate, control and sanction conduct.<sup>31</sup> A state

<sup>29</sup> It's a word taken from Spanish.

<sup>30</sup> Transparency international, (2018) "The corruption perception index 2017 shows a strong presence of this phenomenon in more than two thirds of the countries". Retrieved December 16 from [https://www.transparency.org/news/pressrelease/el\\_indice\\_de\\_percepcion\\_de\\_la\\_corrupcion\\_2017\\_muestra\\_una\\_fuerte\\_presencia](https://www.transparency.org/news/pressrelease/el_indice_de_percepcion_de_la_corrupcion_2017_muestra_una_fuerte_presencia)

**31**

Disagreement with the Secretary of Public Service corruption consists: "... in the abuse of power for one's own benefit. It can be classified into large-scale, petty and political corruption, depending on the amount of funds lost and the sector in which it occurs.

*Large-scale corruption:* Large-scale corruption consists of acts committed at the highest levels of government that involve the distortion of policies or central functions of the state, and that allow leaders to benefit at the expense of the common good.



without crime and without crime is a chimera. There may be people who are not corrupt in the eyes of their community, but it is enough to look at one's own family, homeland or universal history to see the history of corruption. There is no empire or society that does not corrupt or that is not present in its entrails. Thus, corruption is connatural to statehood, just as disease is to the individual. From this it is not inferred that there is no fight against corruption; today state stability is evidently associated with the fight against corruption.<sup>32</sup>

From the theoretical approach of the New Economic Institutionalism, corruption is a problem of institutional design, that is to say, institutions must succeed in reducing the selfish and opportunistic behavior of individuals through the application of sanctions and punishments to inhibit such behaviors.<sup>33</sup>

Corruption is not cultural, that is, it is not that a Norwegian or a German is less corrupt than a Mexican, the difference lies in the quality of the institutions in those countries. A subject that many economists have left aside in their technical analyses. Corruption is compounded by institutional weaknesses in law enforcement.<sup>34</sup> Following Smith: trade and manufacturing cannot thrive in a state where there is no confidence in government justice.<sup>35</sup> Thus, the ability to enforce a law or *enforcement* is required.

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*Minor acts of corruption:* Minor acts of corruption consist of the daily abuse of power by low- and mid-level public officials when interacting with ordinary citizens, who often attempt to access basic goods and services in areas such as hospitals, schools, police departments and other agencies. *Political Corruption:* Manipulation of policies, institutions and procedural rules in the allocation of resources and funding by political decision-makers, who abuse their position to preserve their power, status and wealth." (2013) Definition of corruption. Retrieved December 14, 2018 from <https://www.gob.mx/sfp/documentos/definicion-de-corrupcion>

<sup>32</sup> In English *corruption*, in German *Korruption* in Spanish corruption derives from the Latin *corruptio* and refers to the action and effect of corrupting, altering or vitiating; in political matters consisting of the use of public functions and means for illegal gain.

<sup>33</sup> Its main exponent Oliver Williamson argues that institutions matter for the economic system, because they reduce transaction costs, define authority regimes, establish property rights, coordinate economic life. Institutions are established in society to reduce uncertainty, as well as to reduce antisocial behaviors. Their quality is measured precisely in their ability to inhibit such behaviours. Oliver Williamson, (1985), *The Economic Institutions of Capitalism*, Chicago, The Free Press.

<sup>34</sup> Alberto Cruz, (2016), "Análisis del esfuerzo fiscal de las entidades federativas de México, 1989-2011. In *Public Finance and the Citizen's Vision*, Xalapa, Editorial Eumed.net

<sup>35</sup> Trade and manufacturing can hardly flourish in a State that does not enjoy a regular administration of justice, in which people do not feel secure in the possession of their goods, in which faith in contracts is not supported by law, and in which the authority of the State is not supposed to be employed in the implementation and enforcement of debt payments by all those who are able to do so. Adam Smith, (1958). *Investigación de la Naturaleza y Causa de la Riqueza de las Naciones*, Mexico, FCE.

Corruption is not a criminal type, such as robbery, assault, homicide, or extortion, on the contrary it is a complex reality that involves the voluntary relationship between the public servant and a governed to generate a reciprocal benefit, which occurs in the dark and violent rule of law. Another aspect of corruption occurs when the public servant performs fraudulent actions and omissions within the scope of his competence, generating an illegal benefit. In this sense corruption, from the legal point of view, is framed in a crime of the public servant. For this reason, corruption, which although it has a social/moral connotation, is objective in legal matters as a fraudulent, reproachable and punishable action or omission of a public servant with or without the participation of a governed; as occurs with the traffic of influences, bribery and crimes of public servants, which is articulated with the violation of human rights.<sup>36</sup> In this way, corruption is a social/moral/legal category, if and only if it is in a block in an administrative offence and/or in a specific criminal type, which is contemplated in the corresponding laws.

It may be pertinent to analyze how corruption is articulated with the violation of human rights either directly or indirectly in the conduct of the public servant. An act of corruption may end or constitute an act against humanity, such as acts of extortion, kidnapping and/or extralegal executions carried out between police authorities in collusion with organized crime, carried out against a private individual, as has occurred on some occasions in Mexico and in particular in Veracruz.

Impunity in itself is not corruption, for a crime can go unpunished when there is an escape of the involved.<sup>37</sup> Neither is opacity in itself corruption, since sometimes this is due to technical, budgetary or error problems.<sup>38</sup> The

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<sup>36</sup> In federal, state, municipal and autonomous public agencies in Mexico it presents codes of ethics, which the respective public servants are obliged to respect, however, some precepts do not have an effective punishment, in fact there is no need for them if the corresponding administrative and criminal regulations are applied.

It should be clarified that the 2011 constitutional reform on human rights makes it explicit that human rights must be sought and respected in all public servants at all levels of government and in autonomous bodies. (*Cfr.* Articles 1 and 133 of the Political Constitution of the United Mexican States). Therefore, the public servant in his task of acting in accordance with human rights, thus not infrequently an act of corruption also a crime and a violation of human rights.

<sup>37</sup> In English *impunity* and in Spanish *impunidad* deriva del latín *impunis* is the act or omission to fraudulently escape punishment or punishment knowing that an illegal act was committed.

<sup>38</sup> In English *opacity* and in Spanish *opacidad* derives from the Latin *opacitas* with the meaning of opaque, which prevents the passage of light, so in politics is what is done in the dark, in the shade, outside the law.

conjunction of both gives the guideline to understand the phenomenon in question.

**Postulates:**

**1. Impunity is the failure to apply criminal and administrative law.**

**Assumption:** antisocial, legal and/or punishable act or omission.

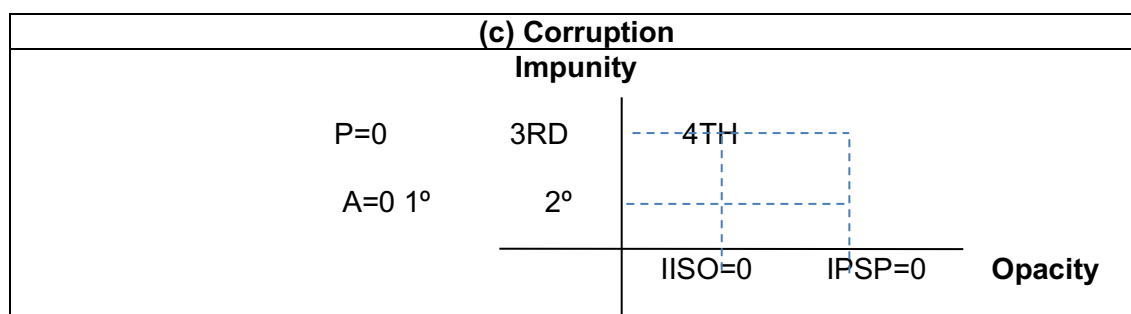
**2. Opacity is the actions or omissions that inhibit, make impossible or distort the transparency of public information.**

**Assumption:** Concealment, simulation, falsehood and/or gibberish in public information.

**Theorem of the first order:**

**Corruption is impunity and opacity.**

**Alleged:** violation of the rule of law in force.



The Cartesian plane shows the relationship between impunity (in administrative and criminal matters) and opacity (of the public information of the institution or of the public servant as obligated subjects), generating four degrees of corruption.

<b>Symbolization</b>	<b>Constant values</b>	<b>Degree of corruption</b>
Penalty Kick: P	<b>P</b> 0= normativity is not applied. 1=regulation is applied.	$(A=0+IISO=0)= C$ 1°
Administrative: A	<b>A</b> 0= normativity is not applied. 1=regulation is applied.	$(A=0+IPSP=0)= C$ 2ND
Institutional information on the reporting party: IISO.	<b>IISO</b> 0=False simulation information or gibberish. 1=objective, true and arousing information.	$(P=0+IISO=0)= C$ 3RD
Public server information: IPSP	<b>IPS</b> 0=False simulation information or gibberish. 1=objective, true and arousing information.	$(P=0+IPSP=0)= C$ 4TH
Corruption: C		

**Note**

Corruption occurs when one of the constates values is 0 (zero). Impunity equals 0 (zero).

Opacity: is equal to 0 (zero).

**d) Social participation**

According to the National Council for the Evaluation of Social Development Policy (CONEVAL), social participation "...is associated with the intervention of individuals, families, groups, social and community organizations, public, private or solidarity institutions and other sectors in economic, social, cultural or political processes that affect their lives".<sup>39</sup> In this sense, it is solidarity, your laudable. Social participation is relevant in relation to public information, public management and democratic governance, as it refers from the state level to the social mandate for the design, implementation and evaluation of public policies.

Therefore, it is necessary to move to the scheme of citizenized public power. However, even in authoritarian or dictatorial autocratic regimes there is social participation, as people gather to perform, for example, religious festivals or tasks with the aim of having a better service, as happened in the medieval kingdoms, in New Spain or in dictatorial regimes in Latin America in the nineteenth and twentieth centuries.

In a democratic rule of law, sovereignty is of the popular order and the contribution to *res publica* is through a system of tax law, in which the citizen is not exempt from the right to exercise control over public resources. This popular sovereignty is the product of an expansion of civil, economic and political rights, in which the category of citizen is gradually expanded in the political sense, overcoming racial, gender, religious, cultural and economic discrimination, resulting in a universal electoral right and under restrictions that must not violate human rights.

Tax law generates the counterpart of obligation and prerogatives, it is the obligation of the citizen to contribute and it is the right of the governed to evaluate and sanction public management; however, if the governed only has electoral

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<sup>39</sup> CONEVAL (n.d.) Estudio de la participación social y comunitaria en el marco de la cruzada nacional contra el hambre, Recuperado el 14 de diciembre de 2018, de: [https://www.coneval.org.mx/Evaluacion/ECNCH/Documents/Integral\\_Participacion\\_Social\\_y\\_comunitaria\\_290715.pdf](https://www.coneval.org.mx/Evaluacion/ECNCH/Documents/Integral_Participacion_Social_y_comunitaria_290715.pdf)

power, then the political regime considers the governed as a minor or incapable. Social participation necessarily refers to the co-design of public policies and the legal spending plan of public institutions and autonomous bodies, with the cost of assuming its consequences from the mandate that the public servant is obliged to respect and abide by.

Social participation, according to Luis Villoro, is a manifestation of a radical democracy, which

...restores to the people the ability to participate actively in the decisions of all the collective aspects that affect their lives, which would finally make it possible for the people not to obey another master but themselves. But the real people are not the sum of indistinct individuals who are supposed to constitute the homogeneous nation-state. The real people are heterogeneous, formed by a multiplicity of communities, towns, social organizations, groups, ethnic groups and nationalities, regions, estates, unions, confessions, sects, federations, different, sometimes opposed, sometimes intermingled.<sup>40</sup>

In this sense, democracy and social participation are not ends, they are means of cooperation based on plurality and diversity, they are not synonyms of success or failure, but of shared responsibility and the need for consensus. Social participation progresses to the extent that citizens' ability to evaluate public information and the public account is more effective. In other words, citizen oversight is required with legal and ethical mechanisms of coercion in the face of acts of corruption. Thus, today, participation is essential for organized societies. The greater the social organization, the greater the participation. There is social participation if and only if there is a real electoral exercise, a citizenized budget and an oversight by the governed.

#### **Postulates:**

- 1. The electoral right is the exercise of voting and/or being voted for the leadership of political posts.**

**Assumption:** regular election day and processes.

- 2. Participatory budgeting is the direct society-government co-design of the public budget.**

**Assumption:** society-government coordination.

- 3. Citizen oversight is the citizen audit, citizen sanction and public sanction.**

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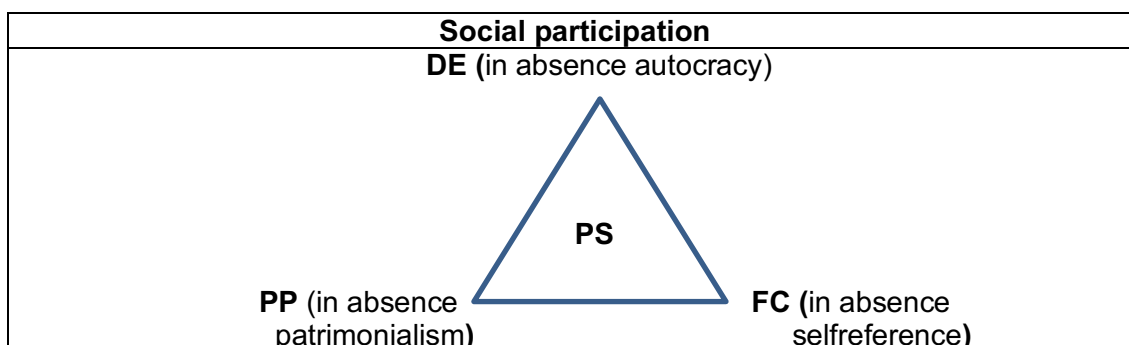
<sup>40</sup> Luis Villoro, (1998), *El poder y el valor: fundamentos para una ética política*, Mexico, Colegio de México and FCE, 345.

**Assumption:** government compliance with the citizen mandate.

**Theorem of the first order:**

**Social participation is the exercise of electoral rights, participatory budgeting and citizen oversight.**

**Assumption:** access to public information.



Symbolization	Constant values	Quality of social participation
Social participation: PS	<b>DE</b>	$\{DE=1+ (PP=1+FC=1)\}=$ I PS
Electoral law: DE	0= not available.	
Participatory budgeting: PP	<b>PP</b>	$\{DE=0+ (PP=1+FC=1)\}=$ Autocracy
Citizen oversight: FC	0= not available.	
	1= you have.	$\{DE=1+ (PP=0+FC=1)\}=$ Patrimonialism
	<b>FC</b>	
	0= not available.	$\{DE=1+ (PP=1+FC=0)\}=.$ Self-reference.
	1= you have.	

**Note**  
**Autocracy:** unipersonal and illegal exercise in the public.  
**Patrimonialism:** illegal alienation and/or use of public goods by the public servant.  
**Self-reference:** absence of public and citizen sanction.

**(e) Accountability**

Transparency is not enough to reduce corruption if it is not accompanied by an adequate system of accountability, this is not only the obligation to inform, explain and justify public decisions, but above all the punitive capacity for acts of

corruption. It is of no use to know of an act of corruption if it goes unpunished, in this way accountability would be a mere act of publicity.<sup>41</sup>

Accountability in the practice of public administration and political exercise has been understood as the action and mechanism of informing about public management and the very condition of the State<sup>42</sup>. *Lato sensu* the accountability refers to the report of the obligated subject in relation to the task that it carries out. The Supreme Court of Justice of the Nation in common matter establishes that:

Such an obligation results from a principle of natural reason, since only he who has an exclusive right to an asset can use it without being accountable to anyone for his conduct. However, anyone who is not in such a situation and administers property wholly or partially owned by others must be held accountable.<sup>43</sup>

The obligated subject when exercising a public resource or power is obliged to account for it, because he administers something that is not his property, which in this case is of a public nature.<sup>44</sup>

Accountability implies frameworks of verification delimited by a legal framework, which the ruler is obliged to abide by and which implies the execution of a public audit. This lies in corroborating that public management was carried out in accordance with the law. For the governed to monitor and evaluate are a right, public servants are held accountable. It is a governmental obligation to proceed under the criterion of maximum publicity, being a transverse element to all public management and democratic governance<sup>45</sup>. Therefore to transparency.

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<sup>41</sup> Andreas Schedler, (2004), "What is accountability?" Instituto Federal de Acceso a la Información, Mexico.

<sup>42</sup> In English (*public*) *accountability*, in Spanish *rendición de cuentas (públicas)* refers to the act of obligated subjects to submit to public evaluation, and to the right of the governed to monitor the procedure and evaluate the result of the obligated subjects.

<sup>43</sup> Fourth Collegiate Court in Civil Matters of the First Circuit. "Accountability. Su Naturaleza, Amparo en revisión 3044/2003. Bancomer, S.A., today BBVA, Bancomer, S.A. August 26, 2003. Unanimity of votes. Speaker: Marco Antonio Rodríguez Barajas. Secretary: Leticia Araceli López Espíndola. Retrieved December 15, 2018 from: <http://sjf.scjn.gob.mx/SJFSist/Documentos/Thesis/182/182108.pdf>

<sup>44</sup> The minimum taxonomy contemplates accountability in relation to human, financial and/or material resources (real estate, real estate and furniture) and everything that can be appreciated in money.

<sup>45</sup> Public information, transparency and accountability are subject to the right of access and use of information and communication technologies, in such a way that the obligated subjects must publicize the public information leading to the media that allow the greatest number of recipients in the shortest possible time, being an obligation for the ruler and a right of the citizen. While no one is obligated to the impossible, the obligated subject must publicize and generate material conditions for access to public information under the principles of progression of human rights and maximum publicity.

The Supreme Court of Justice of the Nation points out that:

...the Public Account as the report that the Powers of the Union and the federal public entities render in a consolidated manner through the Federal Executive to the Chamber of Deputies, on their financial management, and that is constituted by the accounting, financial, budgetary, economic and programmatic statements, as well as the information that shows the record of the operations derived from the application of the Income Law and the exercise of the Federal Expenditure Budget, the incidence of the same operations and other accounts on the total assets and liabilities of the Federal Treasury and net worth, including the origin and application of resources, the result of the operations of the Powers of the Union and federal public entities, as well as the detailed statements of the federal public debt. Under such conditions, the object of the review and superior audit of the public account is the evaluation of the performance, efficiency, effectiveness and economy in the fulfillment of the programs based on the indicators approved in the budget, as well as the audit of the result of the financial management subsequent to the conclusion of the corresponding processes of the Powers of the Union and the federal public entities, whose irregularity may give rise to the termination of responsibilities and the imposition of compensatory sanctions.<sup>46</sup>

Therefore, there is accountability in *stricto sensu* if and only if there is no simulation, falsehood and/or gibberish; it does not omit an evaluation in accordance with administrative and criminal regulations, as a minimum. Clearly, in a democratic state governed by the rule of law, accountability cannot be exempt from the social mandate.

#### **Postulates and theorem of first order:**

- 1. The public sanction is the governmental act of approval or penalty for the exercise of the public account.**

**Assumption:** application of the rule of law.

- 2. The mandate is to abide by the normative provision, in particular the Revenue Act and the Expenditure Budget.**

**Assumption:** application of the rule of law.

- 3. Transparency is permanent access to public information.**

**Assumption:** public information as a government obligation, which must be updated periodically.

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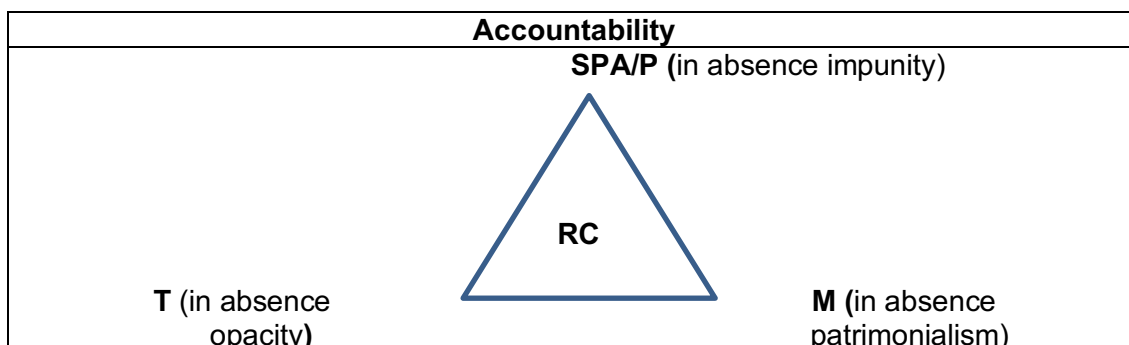
<sup>46</sup> SCJN, "Cuenta pública. objeto de su revisión y fiscalización superior conforme al régimen constitucional vigente a partir de 1999". Retrieved December 15, 2018 from: <http://sjf.scjn.gob.mx/sjfsist/Documentos/Tesis/178/178001.pdf>



## Theorem of second order :

**Accountability is the public sanction of the mandate.**

**Assumption:** division of powers.



Symbolization	Constant values	Quality of accountability
Accountability: CR	<b>SPA</b> 0= not available. 1=you have it.	$\{(SPA=1 \text{ or } SPP=1) + (T=1+M=1)\} = RC$
Public sanction approved: SPA.	<b>SPA/P</b> 0= not available. 1=you have it.	$\{(SPA=0 \text{ or } SPP=0) + (T=1+M=1)\} = \text{Impunity}$
Public administrative/criminal sanction: SPA/P.	<b>T</b> 0= not available. 1= you have.	$\{(SPA=1 \text{ or } SPP=1) + (T=0+M=1)\} = \text{Opacity}$
Transparency: T	<b>M</b> 0= not available. 1= you have.	$\{(SPA=1 \text{ or } SPP=1) + (T=1+M=0)\} = \text{Patrimonialism}$
Mandate: M		

**Note**

**Impunity:** non-compliance with criminal and administrative law.

**Opacity:** actions or omissions that inhibit, make impossible or distort the transparency of public information.

**Patrimonialism:** illegal alienation and/or use of public goods by the public servant.

### (f) Citizen oversight

Contemporary governance cannot be explained in the absence of social participation and this in the most current sense demands a real power of the governed over the ruler, which requires citizen oversight over the public account and public management.

Citizen oversight requires a citizen audit, performed on the accounting, financial, budgetary, economic and programmatic condition, as well as the public information shown in the record of operations derived from the application of income laws and the exercise of the budget of expenditures or its equivalent of the obligated subjects.

An audit without sanctioning power is a chimera. The sanction is based on the acceptance or rejection of public management, public information, and accountability. If there is acceptance, there is social consensus and it is in conformity with the norm; therefore there is political legitimacy. If there is rejection, there is no social consensus and there is a violation of the mandate; then there is illegitimacy and illegality.

The citizen sanction presents three aspects: 1) Acceptance which is in accordance with the mandate. 2) Social signaling, in cases of corruption, through social pressure such as background journalism and civil disobedience. 3) Quasi-binding actions in cases of corruption, by administrative and/or criminal means, through corresponding legal mechanisms, such as citizen denunciation.

If citizen oversight is not articulated with the governmental sphere, then it is in the academic and theoretical spheres. Therefore, at the operational level, it is articulated with the public sanction in its administrative and criminal matters in cases of irregularities of the obligated subjects. However, in cases where public information, public management and accountability must be in accordance with the mandate, then the public sanction is a recognition of the legitimacy and legality of the actions of the government or of the public servant in particular.<sup>47</sup>

The object of this inspection is the review, evaluation and sanction of public information, public management and accountability according to the mandate; evidently in cases of corruption the sanction is not enough, it is necessary to compensate the damage, generate measures of respect and non-repetition of the illegal act, crime, carrying out the conduct, being simultaneously a dissuasive measure of future antisocial conduct, rejectable and punishable. In this way, citizen sanction is quasi-binding and entails the social signalling of the corrupt.

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<sup>47</sup> The mandate is understood to be compliance with the rule of law in accordance with social demands, recognized through mechanisms of consultation and social participation, making political choices based on the will of the majorities and inclusion of minorities, on the progression of human dignity. For this reason, the mandate is the legal/political guideline that emanates from the democratic rule of law in constant progression and validity.

The link between citizen oversight and the ruling class is that knowledge of public finances and human rights are specialized issues that intersect in governance. Not infrequently, many of the members of the political classes do not understand or handle the issues, much less the majority of the members of the governed classes.

Citizens (governed and governors) are subject to taxation. The governed is tributary and the ruler is the one who exercises the budget emanating from the fiscal right. Society is the recipient of public resources. This gives the citizen the right to scrutinize the public, but requires technical legal and financial knowledge. For this reason, the legitimacy of the ruling classes goes beyond the organs of internal control and public oversight.

Citizen oversight is carried out by a sub-class of social classes, the organized society, which are citizen bodies with technical knowledge of the *res publica*, which emerges from a development, socialization and application of the culture of legality and public finance.<sup>48</sup>

If the culture of legality and honesty progresses, then the State strengthens the fight against corruption and citizenship progresses, forcing the governed to comply with the mandate, under penalty of redress, imprisonment and social derision.

The culture of citizen oversight progresses only if the number of subjects who exercise it and the quality of their analyses and proposals are constantly and permanently increased. The greater the culture of citizen oversight, the greater the oversight, therefore, the greater the development of democratic governance. The lesser the culture of citizen oversight, the less accountability and more corruption, the less democratic governance. In cultures with greater development of citizenship the sanction of citizenship can be so great that it can lead to citizen rejection of the corrupt as in certain cases in Japan or Norway.<sup>49</sup>

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<sup>48</sup> Although citizen oversight requires specialized knowledge in law, politics and public economy, it is not a monopoly of the intellectual or pseudo-intellectual elites. If it were, it would be an act of discrimination promoted by the State itself, which often conceals acts of corruption or political revenge, being a violation of human rights. The State must respect and guarantee the control in question.

<sup>49</sup> Evidently, in certain societies, the criminal, the white-collar corrupt, becomes a model to follow, in such a way that a pedagogy of antisocial and criminal ways of life is developed, as happens with families or communities dedicated to crimes such as human trafficking, fuel theft and illicit drugs in Latin America.

**Postulates:**

1. **The citizen audit is the citizen and systematic review of public activity evaluating the fulfillment of the mandate according to truth and objectivity.**

**Assumption:** exercise of civil and political rights through organized society.

2. **The citizen sanction is approval of the public exercise, through the citizen audit when there are no acts of corruption and rejection when there is detention of the same, having for it the character of quasi-binding and social signaling.**

**Assumption:** legal devices of civil and political rights of the governed with measures of constraint.

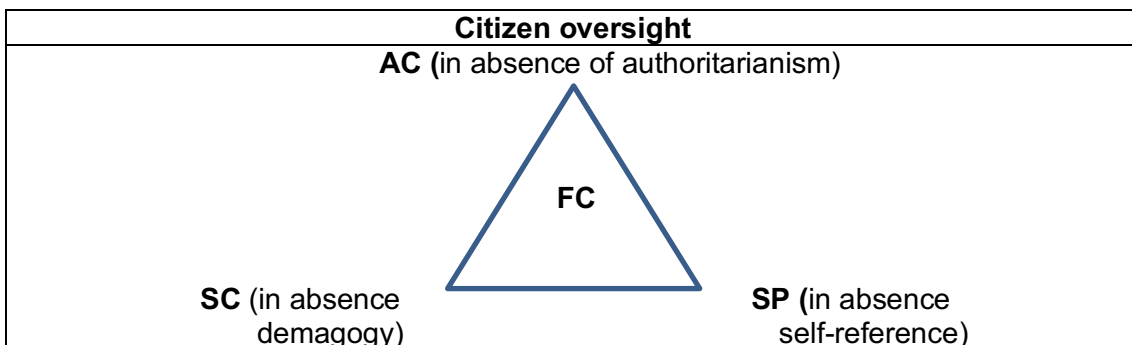
3. **The public sanction: governmental act of approval or penalty before the public exercise according to the regulations (administrative and criminal) in force.**

**Assumption:** impartiality and objectivity in the public bodies for the sanction.

**Theorem of the first order:**

**Citizen oversight is the exercise of citizen auditing, the application of citizen sanction and public sanction.**

**Assumption:** division of public powers, transparency and social participation



Symbolization	Constant values	Quality of citizen oversight
Citizen oversight: FC	<b>AC</b> 0= not available. 1=you have it.	$\{(AC=1+SC=1) +SP=1\}=FC$
Citizen Audit: AC		
Citizen sanction: SC	<b>SC</b> 0= not available. 1=you have it.	$\{(AC=0+SC=1) +SP=1\}=$ Authoritarianism.
Public sanction: SP.		
	<b>SC</b> 0= not available. 1=you have it.	$\{(AC=1+SC) +SP\}=$ Demagogy.
	<b>SP</b> 0= not available. 1=you have it.	$\{(AC=1+SC) +SP=0\}=$ Self-reference.

<p><b>Note</b>  <b>Authoritarianism:</b> co-optation of the public servant of the rights of the governed.  <b>Demagogy:</b> false political consensus established from the public servant.  <b>Self-reference:</b> absence of public and citizen sanction.</p>
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### (g) Democratic governance

Governance is the State's means of generating social and economic development.<sup>50</sup> In a *lato sensu* there is failed and effective governance. The failed one is the deficient relationship between the governed and the governors, generating animosity and loss of the state monopoly of legitimate violence in the normative, administrative and punitive spheres of the three public powers and their autonomous organs that often translate into worsening economic crises. *Stricto sensu* is only governability if it is effective. It generates state stability, administers and resolves conflicts through institutional channels.

However, in the old regime and even in the new regime, until the 80s and 90s of the 20th century, in several countries of Latin America and the Globe, there were forms of effective governance based on the rule of law and with strong restrictions for the deployment of social organizations. In other words, less

<sup>50</sup> In English *governance*, in German *governance* and in Spanish *governabilidad* derives from the Latin *gubernare*, which can be translated as "to pilot a ship", having the sense of leading to the State.

democratic states in the light of current events<sup>51</sup>. In these states, governing was assumed to be an adult and the governed was not recognized as coming of age in political practice. An example of this were the movements of the late 1960s and early 1970s and in particular the year 1968 with the repression of social movements in Mexico, Canada, the United States, France... as well as the subsequent guerrilla movements in Latin America.

Democratic governance is articulated with the progression of human rights, in terms of access to public information, participation in the political life of the country and of the community itself in more substantial ways<sup>52</sup>. Democratic governance requires consensus, resulting in political legitimacy.<sup>53</sup>

Evidently it is implicit the deployment of a citizen mandate, the public and citizen sanction of public management. Thus, democratic governance is such if

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<sup>51</sup> In English *democracy*, in German *demokratie* and in Spanish derives from the Latin *democratia* and the latter from the Greek *demokraia* (*demos pueblo kratos poder*) in the sense that government and political power is exercised by citizens. There are various meanings of democracy and ways of classifying it, for example: 1) Directly in it citizens are involved without intermediaries in public affairs, for the betterment of society. This refers to the classical Greek *polis* and in a modern sense to Rousseau. 2) Liberal, is founded on liberalism having as its axis individual freedom, participation through voting and periodic election of representatives. 3) Social, gives greater weight to social equality, the members of society are assumed as equals, emphasizing social rights and non-discrimination, one of his theorists is Giovanni Sartori. 4) Electoral, which refers to Schumpeter, being a method for electing governors, through competition by popular vote. 5) Participatory, requires active, informed and rational citizens to elect representatives and make public decisions. 6) Deliberative, founded on principles of freedom, justice, cultural diversity and political discourse for public policies accepted by the majority. 7) Consensual, in it the citizenship is in disagreement and has different preferences to the governmental ones, looking for to cover needs of a majority employing to the inclusion and to the social commitment, 8) Legal, the one established by definition in the positive and effective legal systems. 9) Poliarchic, which refers to Robert Dahl, who recognizes a plurality of groups competing with each other, limiting some and cooperating with others, evidencing a plurality of centers of power. 10) The people, which is the people organized by central sectors or organizations, as Plutarco Elias Calles referred to in post-revolutionary Mexico.

Thus, democracy presupposes a legal system, a political system, a party system, periodic elections, a democratic culture, informed and participatory citizens, political/electoral competition and representative rulers.

For the purposes of this research, social participation in public and state life is assumed to be democracy, for the constant economic, social and cultural improvement of people. And not a legal structure and a political regime. (Cfr. , Article 1 and 3 fraction II, a) of the *Political Constitution of the United Mexican States*)

<sup>52</sup> Cf. *Political Constitution of the United Mexican States*, articles 1, 3rd section II, paragraph, a), 4th, 6th, 9th, 26, 31, 34, 35, 36, 39, 40, 41 and 133; *Universal Declaration of Human Rights*, in its preamble and articles 1, 2, 3, 4, 6, 7, 8, 15, 19, 20 and 21; *Political Constitution of the Free and Sovereign State of Veracruz of Ignacio de la Llave* in articles 1, 4, 6, 15, 16, 17, and the *Law of Referendum, Plebiscite and Popular Initiative* of Veracruz.

<sup>53</sup> Governance is coined in the late 70's of the twentieth century designating the effectiveness, quality and good orientation of state intervention identified with legitimacy. It is also called new way of governing, relational government or governance. In this way, it requires interactions and agreements between governors and governed, to generate opportunities and solve public problems, in such a way that the axis of public activity is not the State but society, which is oriented to govern the government.

and only if there is public information, there is compliance with the mandate on the part of the public servant and real citizen pressure in the face of acts of corruption.<sup>54</sup>

**First and second order theorems:**

- 1. Public information is the objective, true and succinct information of reporting parties.**

**Assumption:** citizen with decoding competence.

- 2. Citizen oversight is the exercise of citizen auditing, the application of citizen sanction and public sanction.**

**Assumption:** division of public powers, transparency and social participation.

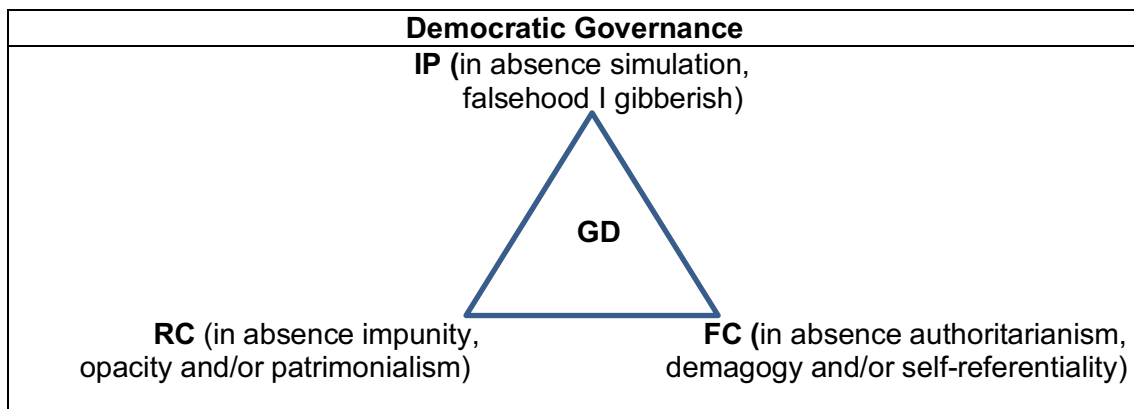
- 3. Accountability is the public sanction of the mandate.**

**Assumption:** division of powers.

**Second order theorem:**

**Democratic governance is the founded society-government relationship that brings together public information, accountability and citizen oversight.**

**Assumption:** the application of a democratic rule of law.



<sup>54</sup> Democratic governability is not a political regime, since Norberto Bobbio in *Right and Left*, understanding by left forms of political exercise based on freedom and equality and by right those based on inequality and authority, in both there can be democratic governability or not; and the same concurs with the center that is based on the mixture of the two poles of political exercise.

Symbolization	Constant values	Quality of democratic governance
Democratic Governance: DG	<b>IP</b> 0= not available. 1=you have it.	{IP=1+(RC=1+FC=1)}= GD.
Public information: IP	<b>RC</b> 0= not available. 1= you have.	{IP=0+(RC=1+FC=1)}= Concealment, concealment and/or falsehood.
Accountability: CR	<b>FC</b> 0= not available. 1= you have.	{IP=1+(RC=0+FC=1)}= Impunity, opacity and/or patrimonialism.
Citizen oversight: FC		{IP=1+(RC=1+FC=0)}= Authoritarianism, demagogy and/or self-referentiality.

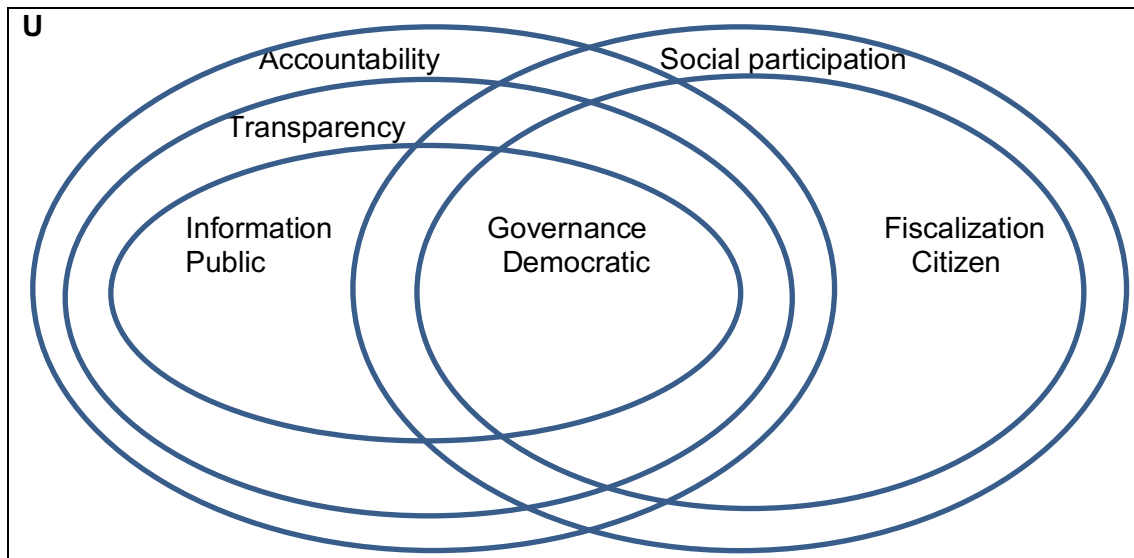
<p><b>Note</b></p> <p><b>Simulation:</b> credible alteration of public information.</p> <p><b>Falsehood:</b> contrary to the truth.</p> <p><b>Gobbledygook:</b> public information that is fragmentary, obscure, vague or ambiguous due to imprecision in the use of language.</p> <p><b>Impunity:</b> non-compliance with criminal and administrative law.</p> <p><b>Opacity:</b> actions or omissions that inhibit, make impossible or distort the transparency of public information.</p> <p><b>Patrimonialism:</b> illegal alienation and/or use of public goods by the public servant.</p> <p><b>Authoritarianism:</b> co-optation of the public servant of the rights of the governed.</p> <p><b>Demagogy:</b> false political consensus established from the public servant.</p> <p><b>Self-referentiality:</b> absence of public and citizen sanction.</p> <p><b>Theorem:</b> (Concealment, concealment and/or falsehood) + (impunity, opacity and/or patrimonialism) + authoritarianism, demagogy and/or self-referentiality} = failed governance.</p>
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**(h) Democratic governance and corruption: degrees of democratic governance**

Democratic governance as a theorem explains the phenomenon in question as the articulation of class accountability with that of social participation. It is also a state phenomenon of a historical reality developed in the West that refers back to the 16th century with the birth of the modern State, is potentialized with the liberal revolutions and with the fall of the old regime, with the industrial revolutions, with the disasters of the two world wars, with the development of

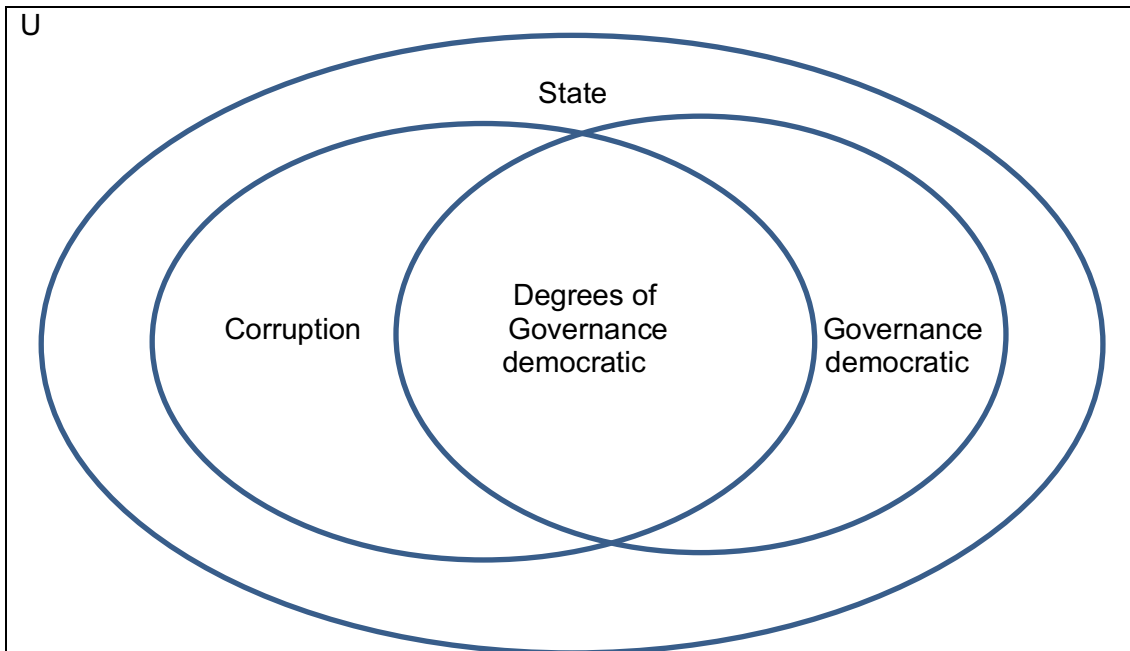


information and communication technologies, with environmental disasters, the deployment of human rights and globalization.



The Venn diagram shows the intersection of five classes, the common one being public information. Accountability implies transparency and transparency in public information. There is no citizen oversight without social participation. Citizen oversight is exercised over public information, transparency, and accountability; when this occurs, it is democratic governance.

The State as a historical and factual reality presents problems of corruption and thus faces conditions of governmental illegitimacy, which can lead to failed governance. There are no states free of corruption. Every State has some anomaly in its management and norms; there is also impunity and opacity, given that there are unresolved errors and crimes in all the countries of the Globe. In this way democratic governance presents degrees.



**Second and first order theorem:**

1. **Democratic governance is the conjunction of public information, accountability, and citizen oversight.**

**Assumption:** application of a democratic rule of law.

2. **Corruption is impunity and opacity.**

**Alleged:** violation of the rule of law in force.

**Third order theorem:**

**Democratic governance has degrees**

The degrees of democratic governance are given by the existence and degree of maturity and the development of the rule of law and in particular the legal system of anti-corruption and human rights, which in itself presupposes a technical, legal, operational and socialized scaffolding for the governed to carry out citizen oversight and for public servants to comply with accountability.<sup>55</sup>

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<sup>55</sup> The formal and operational institutional framework for combating corruption is assumed to be the anti-corruption system in terms of this essay.

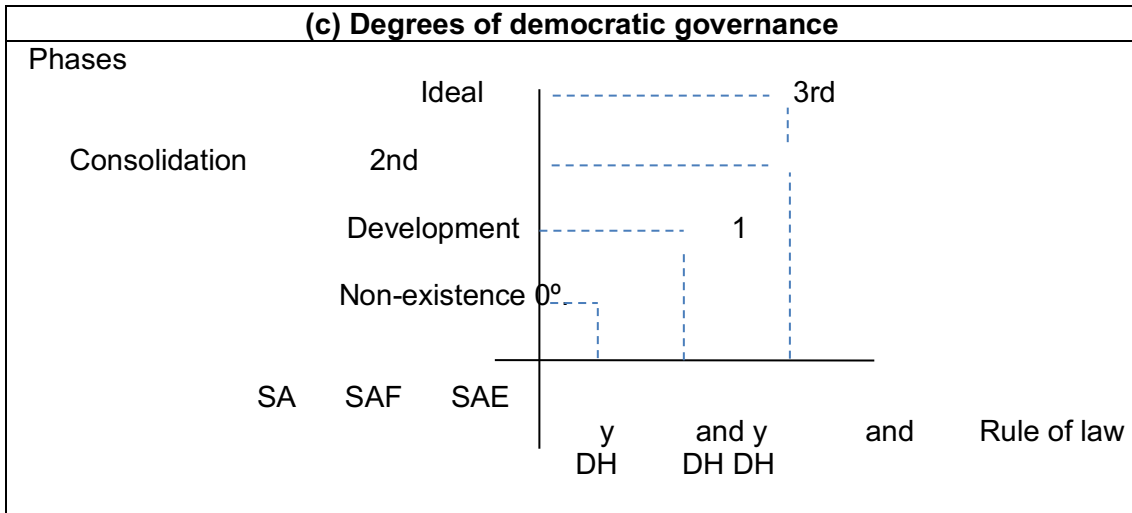
The system of inherent, non-transferable, inalienable and progressive prerogatives of the physical person, contained in the block of constitutionality in Mexico (human rights contained in the constitutional text and in international treaties in this area), is assumed to be human rights.

Full democratic governance is non-existent; it is an ideal that guides the practices and relations between governors and governed within the State. However, this governance in a historical and factual sense is based on a rule of law, whose origin and end of state activities is the progression of the dignity of the population in a factual sense, and not only formal. This progression requires human rights and the fight against corruption as formal and operative institutions for the respect, procurement and material progression of the dignity of all citizens through public services and goods in sufficient quality and quantity that the State, through public servants, is obliged to satisfy within the framework of the development of public wealth and real budget, to fulfill the responsibilities of the State. If this rule of law is only of a formal nature, only positive law, written, with little concreteness or effectiveness, it is a developing democratic governance; if the concreteness is expanding, it is a consolidating democratic governance.

The previous phase is of embryonic order, it is written law in force. The second phase is the application of existing law, translated into the latest generation of social justice mechanisms. If the state omits human rights and the fight against corruption, then there is no democratic governance, although there can be functional governance as both state control and peace, an example of this was the Roman *pax* of Emperor Augustus in ancient Rome, or the Porfirian peace in Mexico at the end of the 19th century.

To the extent that States come closer to this ideal, the factual condition of citizens progresses; for public management seeks materially and objectively social welfare through the provision of goods and services, dignifying the life of the population. Citizens have the right to evaluate the actions of obligated subjects and co-design public policies. It should be noted that there will always be or will be legitimate social demands that the State will have to face in order to generate a continuous progression of the human rights of its inhabitants.

The second phase of democratic governance is in constant progression in terms of respect and expansion of human rights by the State and a continuous dynamic of social organization and empowerment of the governed, which increasingly citizenizes the State itself, making the public servant see as a social servant of generational transcendence.



The Cartesian plane shows the four degrees of democratic governance: non-existence 0°, development 1° and consolidation 2°. Evidently the ideal is a 3rd that corresponds to the theoretical model that is postulated as a guide of public policies and public management.

Symbolization	Constant values	Degree of democratic governance
<b>Phases:</b>	<b>Phases:</b>	$(SAyDH+I=0)=0^\circ.$
Consolidation: C	C= 2	$(SAFyDH+D=1)=1^\circ.$
Development: D	D= 1	$(SAEyDH+C=2)=2^\circ.$
Non-existence: I	I= 0	
<b>Rule of law</b>		
Anti-corruption and human rights protection systems: SAyDH		
Formal anti-corruption and human rights systems: SAFyDH		
Effective anti-corruption and human rights systems: SAEyDH		

## VI CONCLUSIONS

1. Public information and public management are actions carried out by the government that interacts with the governed.
2. The concepts that allow us to understand the phenomenon are polysemic and the phenomenon and the concepts that allow us to understand it refer to several dimensions, at least three: 1) Axiological, 2) Objective and 3) Epistemic that constitute the same State.

3. The basic notions to understand the phenomenon of public information, public management and democratic governance are: "information", "State", "public", "citizen", "public servant", "public management" and "public revenues".

4. The axioms to understand the phenomenon refer to: 1) Regulated entities, 2) Public account, 3) Public debt, 4) Regulations, 5) Budget, 6) Governance and 7) Government.

5. The theorems for understanding the phenomenon of study are: 1) Public information is objective, true and succinct information of obligated subjects; 2) Transparency is permanent access to public information; 3) Corruption is impunity and opacity (in administrative and criminal matters, in relation to obligated subjects) generating four degrees of corruption; 4) Accountability is a public sanction of the mandate; 5) Social participation is the exercise of electoral rights, participatory budgeting and citizen oversight; 6) Citizen oversight is the exercise of citizen audit, the application of citizen sanction and public sanction; 7) Democratic governance is the founded society-government relationship that combines public information, accountability and citizen oversight; and 8) Democratic governance has four degrees: nonexistence 0°, development 1°, consolidation 2° and ideal 3°.

6. To the extent that citizens become empowered and recognize themselves as the principal over the rulers, a progression of citizen oversight is generated, which evidently implies social organization and a continuous expansion of the development of effective citizenship, based on human rights and dignity. Citizen oversight is the battering ram of human rights in statehood and a *sine qua non* element of democratic governance, which cannot be explained without public information.

7. The following phases remain: 1) The second stage of research, the development of indicators for each theorem; 2) The third phase, which is the development of computer software to mediate the obligated subjects; 3) Piloting the project with one of the subjects of the three orders of government and the three public powers, as well as autonomous bodies. 4) Development of public policy proposals and initiatives and/or law reform emanating from the implementation of the four previous phases.

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*Código Penal Federal*

*Ley, General de Protección de Datos Personales en Posesión de Sujetos Obligados.*

*Ley Federal de Transparencia y Acceso a la Información Pública,*

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### **Veracruz Legislation**

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