

THE CONCEPT OF CORRUPTION, THE FACTORS THAT CAUSE IT

Nargizakhon Rakhimjonova¹,

Faculty of Criminal Justice Senior Lecturer at the Department of
Criminal Law, Criminology and Anti-Corruption of TSUL

ABSTRACT

Emergence of the "compliance control" system and its first stages in the fight against corruption. The phenomenon of corruption in the era of globalization is recognized worldwide as a transnational phenomenon. To combat it, today's world is testing various models. "Compliance-control" system penetrates many directions and stages of today's politics. We can see that this system is widely used in the social and economic spheres and in the fight against corruption in order to increase the effectiveness of the activities of state bodies and create fair competition.

Today, the concept and mechanisms of "compliance-control" are new for the legal system of Uzbekistan, and before understanding its essence and analyzing the working mechanisms, we would like to dwell on certain concepts and some aspects of corruption.

There are different opinions about the etymological aspect of the term "corruption". According to the supporters of the first widely popular opinion, etymologically, the term "corruption" comes from the Latin word "corruptio" which means "to divert with a bribe"¹.

According to the next view, the term "corruption" comes from the Latin word "corrumpere" which means "corruption, nausea, decay"². According to the third opinion, "corruption" comes from the Latin word "corruptum" which means "broken, damaged" and means harming public interests for private life and corporate profit.

In some Slavic languages, "corruption" is understood in the sense of bribery: for example, the participle "korrumpirati" in the Serbo-Croatian language is translated as "to bribe one's side, to give a bribe", and the adjective "korrupenescu" in the Czech language means "seller, traitor"¹. Corruption in Russian is bribery, betrayal of officials, political figures.

Key words: corruption, crime, judicial system, economy, compliance-control.

INTRODUCTION

Transparency International, the World Bank and other organizations understand corruption as the abuse of entrusted power for personal gain. ³ Also clarifying (including the resources entrusted to the government, whether it involves the public and private sectors, etc.) ⁴ or there are other definitions that use stricter legal expressions. According to the Russian legislation⁵, corruption is abuse of official position, bribery, bribery, abuse of authority, commercial bribery or acquisition of money, valuables, other property or rights of a proprietary nature for an individual or third parties. illegal use of one's official position contrary to the legal interests of the state and society for the purpose of obtaining property rights or illegally providing such benefits to a person nominated by other individuals; as well as performing the specified actions on behalf of a legal entity or in its interests. The concept of "corruption crime" in the legislation

¹ Lecturer of the Department of Criminal Law, Criminology and Anti-Corruption, Tashkent State University of Law

does not have a specific definition. European Criminal Law Convention on Corruption ratified by the Russian Federation (Criminal Law Convention on Corruption)

includes corruption among the severe crimes of legal entities and individuals. As of 2010, one corruption offense in Russia was punishable both under the Code of Administrative Offenses and under the Criminal Code¹.

For the first time in international documents, the concept of corruption was mentioned in the "Code of Conduct for Law Enforcement Officials" adopted by the Resolution of the UN General Assembly on December 17, 1979, in which corruption is defined as ". an official's official powers in exchange for any form of reward within the scope of this award, it is understood that the person giving the award performs certain actions or does not act in violation of the rules of the job instruction².

In the "International Code of Conduct for Public Servants" adopted by the UN General Assembly in Havana in 1990 at the interregional seminar dedicated to the problems of corruption, "corruption is the abuse of office by officials for personal or group benefit, as well as the illegal use by public officials of their official duties." are appearances", it is said. In the first session of the Council of Europe group on corruption problems, held in Strasbourg on February 22-24, 1995, it was defined that "corruption is the bribery of public or private officials in order to fulfill their duties within the framework of their official authority", while the UN Convention against Corruption on corruption : "Corruption is the abuse of state power for personal gain"³. According to experts, corruption includes not only taking or giving bribes, but also extortion, fraud, misappropriation of property, conspiracy, flattery, receiving and giving gifts, nepotism, and lobbying activities. Many scientists put forward the opinion that the system of public services should be digitized in order to partially limit corruption, not completely. For example, in Singapore, the public face-to-face with a government worker is criticized. Different solutions to overcome corruption are proposed. Some say that the system needs to be digitized first, while others argue that there is a need to raise workers' wages, strengthen legal penalties, and conduct separate investigations to identify cases of corruption. But it is difficult to achieve anything without changing people's worldview and establishing public control over public service. In the second half of the 20th century, it was widely believed that corruption is good for the development of society in less developed countries (Leff, 1964; Huntington, 1968; Louis, 1985). By the 21st century, most scholars have recognized that corruption does more harm than good. On top of that, saying that the state of corruption is good actually led to the postponement of the task of improving and developing the public sector. 1

From the above, it is clear that the issue is very serious, so serious that today no country on the planet Earth can function without this problem, and it always calls them to be aware. In the following chapters, we will try to analyze the true nature of corruption and its factors in depth, while we intend to discuss what the compliance system in the fight against corruption includes, what are its working mechanisms, and how its initial roots were manifested.

Article 3 of the Law of the Republic of Uzbekistan dated January 3, 2017 "On Combating Corruption" contains the definition of corruption. According to him, "corruption is illegal use of a person's position or official position for personal interests or the interests of other persons for material or immaterial benefits, as well as illegal presentation of such benefits"¹.

In our opinion, corruption is not the narrow scope of receiving and giving bribes, in which some aspects are understood today, in addition to these, the conflict of interests, "nepotism", "regionalism" and other similar concepts, which are considered to be related to corrupt actions, are understood along with their quantities and limits, and in the current legislation they must be clearly defined. One thing is clear: if there is a social attitude in society, it means that there is a need for norms regulating it. As corruption activities take root in a wide scope under the influence of the above factors, covering and regulating all its aspects creates a great responsibility for the state and law makers.

The 21st century is considered the age of information technologies. As a general rule, new social relations appear in society, which, as they become an integral part of citizens' lifestyles, increase the factors that cause corrupt actions. It is considered that as the trends in state policy, fields and relations (for example, start-up relations), and aspects that are increasingly needed in relations between citizens (for example, blogging) become deeper, their uniform norms should be determined.

As long as regulatory and encouraging aspects are not determined, the industry will "branch out" and, as a result,

Newly formed relationships are also vulnerable to corruption.

The results of the research carried out in recent years show that the causes of corruption occur under the influence of interrelated social relations. According to social relations, among such factors, we can list the situations that arise in legal, management-ideological, socio-economic relations. A number of scientists have substantiated these reasons in their studies, including Russian researcher S.S. Sulashkin, in the opinion of 1 the factors that cause corruption-related crimes occur more often in the transition period of states and the fact that the incomes of state bodies and officials are not declared; lack of public control over the process of replenishment of the state budget and allocation of budget funds; lack of full state control of export-import operations; interaction of officials of commercial banks with persons who commit corruption; including lack of full control of the process of privatization of state property. Also, another researcher, E. Kats, expresses his views in this regard. According to him, the more subordinates a high-ranking official has under his control, the more his illegal income will be, and this will lead to the strengthening of the hierarchy of officials.²

That is, it is understood that the more a group of persons operates in the order of subordination, the more the occurrence of corrupt situations increases and becomes stronger. Our Uzbek scientists are also in this regard have conducted researches, including M. Sobirov's opinion,¹ corruption will continue as long as the intervention of state management bodies in the social and economic relations of the private sector continues. Of course, it is appropriate for state bodies to give independence to private sectors in economic and social relations.

At the same time, Doctor of Legal Sciences G.R. Malikova also expressed her views on this, according to her, the presence of a psychological environment favorable to corruption creates an opportunity for the spread of this phenomenon and its level.²

Based on the above international norms and the opinions of foreign scientists, in our opinion, corruption is acting contrary to the interests of others, the state and society, receiving and giving material values, participating in an intermediary relationship, in the course of the implementation, conduct and fulfillment of the task assigned to oneself. to create conditions, as

well as to give special treatment to the persons who are interested for him under the influence of factors such as familiarity, kinship, regionalism, creating special conditions and giving them opportunities.

Statistics:

UN Secretary General A. Gutterish: "Every year in the world community crimes of giving and receiving bribes in the amount of 1 trillion US dollars are committed." Every year, corruption costs the world economy more than 2.6 trillion US dollars, which is 5% of the world's gross domestic product. According to Transparency International, a 2017 study found that 1 in 4 of the world's population experienced corruption when dealing with public services in a 12-month period.

There is another side of the issue, these statistical data were formed by the UN Secretary General based on the analysis of the available evidence in the countries, and who can guarantee that there are no cases outside the scope of this information, which have not been revealed or identified? From this point of view, one of the characteristics of corrupt actions in criminal law supports our opinion - its latent character. In our opinion, as experience has shown, existing regulatory legal documents become "weak" in the framework of regulating attitudes due to the large number of violations of the law in societies with developed corruption. This, naturally, reduces the situation to such forms as the stereotyped, public actions divided among a narrow circle of individuals, carried out in secret².

There are many examples of fighting against corruption in history. For example, if we look at it from the Muslim world, they noticed that Abu Bakr's wealth increased after he became the caliph, not because of work, but because of his position, and they found that it should be added to Baytulmol (after his death, the Nubian slave who carried his children and watered his garden camel used).

This work became obligatory for the leaders of the Islamic State who will come after him. In order not to be suspected of acquiring wealth using the position, it was not allowed to increase the wealth at all. Narrations have come down to us that Umar ibn Abdulaziz used the state's lamp when he did the work of the state during the caliphate, and his own lamp when he did his work. Abu Huraira may God bless him and grant him peace, says: "The Messenger of God, may God bless him and grant him peace, cursed both the bribe giver and the bribe taker" (Tirmizi, Ibn Hibban, Hakim). In another narration of this hadith, it is said: "He also cursed the mediator - the broker".³ If we pay attention, historical realities have proven the importance of Islam and its influence on the lives of people and members of society. Just one example, in December 2020, according to the chairman of the Anti-Corruption and Judiciary Committee of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan (J.Shirinov) at the event dedicated to the topic, it was emphasized the need to include religious factors among the factors fighting corruption today.

² Gulchekhra Tulaganova, Nargizakhon Rakhimjonova, & Saidmurod Nasrullaev. (2021). LIABILITY FOR MONEY LAUNDERING AND CLASSIFYING THESE TYPE OF CRIMES. *Galaxy International Interdisciplinary Research Journal*, 9(10), 676–684. Retrieved from <https://giirj.com/index.php/giirj/article/view/420>

³ Gulchekhra Tulaganova, Nargizakhon Rakhimjonova, & Saidmurod Nasrullaev. (2021). LIABILITY FOR MONEY LAUNDERING AND CLASSIFYING THESE TYPE OF CRIMES. *Galaxy International Interdisciplinary Research Journal*, 9(10), 676–684. Retrieved from <https://giirj.com/index.php/giirj/article/view/420>

Ubaydullah ibn Ziyad, may Allah be pleased with him, went to see Maqal ibn Yasar (in his illness). Then he said: I will tell you a hadith that I heard from the Messenger of Allah, may God bless him and grant him peace, who said: "If a person becomes the governor of a community of Muslims and dies betraying their rights, God will surely forbid him Paradise" (Bukhari, Muslim).)2. Such examples are many in our holy religion of Islam and it is necessary to use its importance in solving the problem. Especially in our lands, the religion of Islam has developed and flourished since ancient times. It would not be wrong to say that while the state ensures the freedom of religion and belief of citizens on the basis of the existing legal documents, it is not wrong to say that the promotion of the existing and powerful doctrines of the creeds close to the minds of the citizens will prevent the problem from deepening.

We know that in order to understand the essence of the problem, it is important to analyze and understand the surrounding factors. For this reason in order to better understand the essence of the "compliance control" system in the fight against corruption, first of all, we will dwell on the factors that cause corruption and its causes. It is known from the theory of the state and law that the existence of social relations creates the need for the foundations necessary for its regulation.

How do scientists look at corruption cases today? We will dwell on these. For example, according to the monograph of the Russian scientist E.A. Ivanov, corruption factors mainly occur through:

- historical and cultural characteristics of decision-making mechanisms in countries, in particular, the special role of cases related to clans in the cross-section of regions and their occupation of a certain position in the structure of society;
- salary period of state and city employees, additional sources of income to find them;
- the absence or lack of management control over the implementation of state functions and factors in spending budget funds;
- lack of or weak special anti-corruption legislation, including strong control over the ratio of income and expenses of civil servants;
- the effectiveness of law enforcement agencies in fighting corruption is low;
- lack of development of cooperation with foreign organizations in the field of law enforcement and lack of an international legal framework;
- weakness of the fight against corruption-related crimes;
- lack of development of civil society institutions and mechanisms of public control;

Reasons such as lack of freedom of the press are important in the origin of corrupt actions.¹ We witnessed that specific reasons are given in this monograph of a Russian scientist.⁴ We will consider the following factors as to how valid and important they are.

According to another source, other assumptions (hypotheses) are also considered regarding the possible reasons for the high level of corruption:

- low level of wages in the public sector compared to the private sector;
- state regulation of the economy;
- dependence of citizens on officials, state monopoly on certain services;
- the separation of the bureaucratic elite from the people;
- economic instability, inflation;

⁴."Anti-corruption complaence-control in BRICS: Monograph" (Ivanov E.A.) ("Jurisprudence", 2015)

- ethnic diversity of the population; 2
- low level of economic development (GDP per capita);
- religious traditions;
- the culture of the country. 3 Today there is no unanimous opinion on the confirmation of these hypotheses. 4

Based on the fact that the above opinions are the opinions of one scientist, it is appropriate to mention another aspect: corrupt actions are not always caused by only one factor. Preventing it and fighting its causes required a lot of work over the centuries. In addition to the above aspects, demographic, national, moral, religious aspects can also play a role in the emergence of factors. We cannot deny that gaps and conflicts in the existing legislation may also be the reason for the emergence and development of factors. Especially today, as social relations develop, vices such as corruption continue to form their manifestations on the basis of new patterns. In such conditions, new approaches and views are required from the state and society. Among them, the expanding system called "compliance control" is of great importance in the fight against corruption⁵.

As an equal subject of international law, Uzbekistan determines its own path independently. In the field of fight against corruption, our republic is drawing its own path based on international experience. Today, a separate state policy is implemented in the fight against corruption. According to the results of the analysis, the following can be indicated as strategic directions of fighting corruption in Uzbekistan:

fundamental improvement of the civil service system, its goals and tasks;

improvement of the legal and institutional basis of provision of public services and regulation of administrative procedures;

removal of legal restrictions and organizational barriers for the development of entrepreneurship;

faster transition to the digital economy in economic sectors, wide introduction of intelligent management system;

implementation of administrative reforms, optimization of tasks of state bodies, transfer of non-state functions to the private sector;

improvement of the labor legislation, establishment of beneficial relations between the employer and the employee, introduction of the system of stimulating the employee's ability to work;

optimization of goals, tasks and functions of judicial and law enforcement bodies in the field of fight against corruption;

establishment of communication channels between state bodies, non-governmental non-commercial organizations and other institutions of civil society institutions;

improvement of personnel training, retraining and qualification improvement system, formation of high moral standards in personnel;

⁵ Abu Muslim. Scientific and educational manual "Corruption". <http://islamiy.info/korrupsiya>

it is necessary to expand the opportunity for individuals and legal entities to apply to competent state bodies about corruption cases without any obstacles, to communicate the results of studies to the general public¹.

Most of the above factors have proven their positive aspects as a result of the long-term experience of developed countries. Today, Uzbekistan, realizing how urgent the issue is, is starting to implement these tasks. Today, when the state power is marking its direction in the country's internal policy, it has become clear that it cannot be done without the participation of citizens and mass media in this process.

The importance of those who come to the field as subjects of public control (given in the Law on "Public Control") is necessary for the proper understanding and effective implementation of the problems and tasks of the state power. Also, the introduction of a modern system, in particular, information technology, in providing services to citizens, working with their petitions and solving their problems, can effectively solve corrupt situations and prevent the spread of corruption.

After looking at the correct perception and understanding of corruption cases and the situation related to it in the territory of our country through some statistical data, we will dwell on the compliance system used to fight against it. Today, if we look at the corruption activities in the territory of our Republic, especially by regions, in 2020, the most crimes related to corruption were committed in Tashkent, Samarkand, Fergana and Kashkadarya regions compared to other regions. In these areas, the most damage was reported and more crimes were committed. Due to the above factors, new mechanisms are widely used in the fight against corruption in the world today. One of them is the "compliance control" system.

It can be said that the compliance was introduced by the US FDA - Food and Drug Administration in 1906. At that time, this organization became the regulator in the field of pharmaceutical and food industry and created the necessary rules for market participants⁶.

However, public policy scandals in the 1960s and 1970s affected the compliance dynamics of the compliance system in the United States. In the 20th century, in particular, as a result of the Watergate case and other illegal cases, many cases of corruption were also found in private companies. As a result of these scandals, the Foreign Corrupt Practices Act (FCPA) was adopted in 1977.³ This act (FCPA) established strict control rules. It established requirements for accounting and financial documents and rules for dealing with government officials.

As a result of the adoption of the act, a number of regulatory bodies were established in other areas in the USA from the end of the 70s of the 20th century.

In the 1980s and 1990s, scandalous cases of corruption in the internal activities of several large US companies (for example, the ENRON energy company) caused several innovations to be introduced into the country's legislation.

2006 The problems of Siemens company with state enterprises and organizations were revealed. It is because of these events that the mandatory "compliance control" system was established by law. In addition, in 2010, after many years of discussion in Great Britain, it was decided to

⁶ Рахимжонова Наргиза СИСТЕМА УГОЛОВНОГО НАКАЗАНИЯ КАК КРИТЕРИЙ ДЛЯ КЛАССИФИКАЦИИ ПРЕСТУПЛЕНИЙ // Review of law sciences. 2020. № Спецвыпуск.

introduce a system of "compliance control" in companies and organizations on the territory of the state (UK Bribery Act).²

We can also find additional information about the formation of the "compliance control" system in another source. When establishing a compliance policy in organizations, the recommendations and instructions provided by international compliance organizations and international regulators, that is, regulatory legal documents, are followed. In 2001, the International Compliance Agency, an organization that unites compliance specialists from around the world, was established in Great Britain, and the development of anti-corruption control in international practice was primarily due to the United Nations Anti-Corruption Convention of 2003, the Organization for Economic Cooperation and Development. (IHTT) Convention on Combating Bribery of Foreign Officials in International Cooperation Agreements of 1997 and FATF (Financial Action Task Force: Special Group on Financial Actions) held in February 2012

The international standards "On combating the legalization of proceeds from criminal activities and the financing of terrorism" adopted at the meeting are of great importance. In addition, evaluation criteria of international ratings, studies and recommendations of business organizations serve as a model for the implementation of the anti-corruption compliance system.