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GENERAL CHARACTERISTICS AND DEFINITION OF CORRUPTION AS A GLOBAL PROBLEM OF OUR TIME

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Maksud Makhmudovich Kalandarov

Doctor of Law, Associate Professor, Head of the Department of Criminal Law of the Academy of the Ministry of Internal Affairs of the Republic of Uzbekistan

ABSTRACT

The article examines the scientific and theoretical aspects of the definition of corruption. The author examines various documents and opinions of experts on the definition of corruption.

KEYWORDS

United Nations Organization, UN International Law Commission, corruption, international justice, international crime, responsibility.

INTRODUCTION

At the present stage of development of society, one of the problems facing the countries is the fight against corruption. Corruption is typical for all states, some more, some less. There are countries where, expressing political will for the sake of successful and safe development of society, they are very actively fighting corruption, but at the same time there are countries where this process is weak. It seems that an individual approach is needed to analyze the situation in a particular country, where during the period of

political changes, until new codes and systems of lawful behavior are established, the widespread spread of this kind of activity seems most likely. Due to such activities, it is quite possible to curb economic growth[1].

It should be said that initially the problems of fighting corruption were reflected in the legal acts of states with market economies, mainly Western countries. Subsequently, the problems of corruption began to be

discussed, and found their legal consolidation within the framework of specialized international organizations (OECD), as well as the UN, OSCE, regional organizations, at the interstate, national and non-governmental levels.

According to Peter Igen, Chairman of Transparency International, corruption and bribery are "an element of life" in international practice. However, this phenomenon must be combated. And at the same time, he calls for the creation of a coalition[2].

Nevertheless, it should be noted that to date there is no generally accepted clear definition of the concept of corruption, both among specialists and scientists, and in documents of international conventions and a number of national legislations. In this regard, the definition of corruption is quite controversial. It can be said that there is minimal international consensus on the number of key forms of corruption.

However, in some definitions, many other types of behavior are considered corrupt, which cannot be said about others. Interpretations are even more diverse if we consider popular concepts that exist in different countries[3]. So what does the word "corruption" mean, and what are its main characteristics? We will try to give our own answer to these and other questions.

The word "corruption" comes from the Latin phrase in its first part "soggei", according to Roman law, which meant several participants in one of the parties to a binding relationship regarding a single object, the second part "rumpere" translates as to break, damage, violate, cancel.

Subsequently, the evolution of the word "corruption" underwent a number of changes, so, for example, in legal science it began to be defined as the venality of official actions (bribery).

In corrupt relations, I.V. Godunov notes, there are always at least three parties: a civil servant who, for various reasons and for illegal remuneration, performs actions in favor of an interested party; an interested party who wants to receive benefits not provided for by law; and the injured party – the state, a representative of society[4].

U. Mamadaliyev believes that corruption is a bilateral transaction in which a person in government or other service "illegally" sells his official powers or services based on the authority of the position and related opportunities to individuals and legal entities, groups (including organized criminal formations), and a "buyer", gets the opportunity to use a state or other structure for their own purposes[5].

In an expanded format, the above-mentioned parties could include an intermediary, an international official and a foreign official.

A. Gurov, exploring the problems of combating corruption, identifies three main forms of it:

The first is political, when an official comes into conflict with the law due to established clans, kinship relations;

The second is criminal, which is based on the bribery of officials who provide illegal services for remuneration;

The third is the purposeful involvement of relevant categories of officials in criminal activities in order to create a particularly favorable regime for one of the parties. This form of corruption is most closely linked to organized crime, and besides bribery, provocations and threats against officials are not uncommon.

A corrupt official does not receive one-time handouts, but is in the service of a criminal structure, where he receives his share of the profit, which simply would not have been without his patronage[6].

According to the international non-governmental non-profit organization Transparency International, the prevention of corruption requires the introduction of national ethics, the criteria for the effectiveness of which will be:

transparency and accountability in decision-making, in particular in the allocation of public funds;

effective work of the Chief Auditor;

independent media and access to official information;

a trustworthy private sector;

independent judges, investigators and prosecutors;

an elected parliament with the right to demand accountability from government officials.

The UN Background Document on the International Fight against Corruption states that: "Corruption is the abuse of state power for personal gain"[7].

In the Manual prepared by the UN Secretariat based on the experience of different countries, corruption includes:

- 1) theft, embezzlement and appropriation of state property by officials,
- 2) abuse of official position in order to obtain unjustified personal benefits (benefits, advantages) as a result of the unofficial use of official status,
- 3) conflict of interests between public duty and personal self-interest[8].

In the UNDP regional report, corruption refers to the abuse of one's powers and official position for the purpose of material enrichment[9].

The 1996 Council of Europe Convention provides for 14 offences, including bribery, money laundering, and accounting offences, but at the same time does not provide a specific definition of corruption. The 1996 Council of Europe Convention Article 2 considers corruption as the demand, offer, provision or acceptance, directly or indirectly, of a bribe or any other undue advantage or the possibility of it, which leads to a violation of the proper performance of duties or conduct required of the person who received the bribe, an undue advantage or the possibility of it.

The Interdisciplinary Group of the Council of Europe defines corruption as bribery and any other behavior of persons entrusted with certain duties in the public or private sector and which leads to a violation of the duties assigned to them by the status of a public official, private employee, independent agent or other kind of relationship and aims to obtain any illegal benefits for themselves and others.

The 2003 UN Convention against Transnational Organized Crime does not provide a special definition of corruption, but at the same time, article 8 recognizes acts committed intentionally as criminal offenses, namely:

- a) promising, offering or providing a public official, personally or through intermediaries, any undue advantage for the official himself a person or a natural or legal person, so that this official commits any act or omission in the performance of his official duties;
- b) extortion or acceptance by a public official, personally or through intermediaries, of any undue advantage for the official himself or another natural or legal person, so that this official commits any act or omission in the performance of his official duties.

The Convention of the Organization for Economic Cooperation and Development does not provide for a



special article defining corruption, this prerogative is given to the member States themselves, but at the same time defines that in order to establish a criminal offense, it is necessary to have a clear description of the criminal act.

The common feature of multilateral international instruments is some difference in approaches to corruption issues and the fact that no definition is given, while corruption is established in accordance with national legislation.

Transparency International, an international non-governmental non-profit organization, defines corruption as abuse of official position for the purpose of personal enrichment. This means that decisions are not made for the benefit of society, but only based on personal interests.

The legislation of individual countries establishes different definitions of corruption, so, according to the Law of the Republic of Kazakhstan dated 07/02/1998 "On combating Corruption", corruption is, as follows: "... the adoption, not provided for by law, personally or through intermediaries, of material benefits and advantages by persons performing public functions, as well as persons equated to them, using their official powers and related opportunities, as well as the bribery of these persons, through the illegal provision of specified benefits and advantages by individuals or legal entities."

The Law of the Republic of Kyrgyzstan "On Combating Corruption" dated 03/06/2003 in article 1 defines corruption as: "... a mercenary act of officials performing certain functional duties in the public sector, which leads to a violation of the functional duties assigned to them by the status of a civil servant, and other kind of attitude, with the aim of obtaining

illegal benefits for himself and others, and poses a threat to the interests of society and the state.

Corruption includes:

bribery, theft, embezzlement, negligence and embezzlement of public and private property by officials;

abuse of official position in order to obtain any illegal benefits (benefits, advantages) for oneself and others as a result of the unofficial use of official status."

At the same time, article 303 of the Criminal Code of the Kyrgyz Republic defines corruption as: "... an intentional act consisting in creating an illegal stable connection of one or more officials with authority with individuals or groups in order to illegally obtain material, any other benefits and advantages, as well as the provision of these benefits and benefits to individuals and legal entities that pose a threat to the interests of society or the state." In total, the Criminal Code of the Kyrgyz Republic deals with issues related to corruption and bribery in more than 35 articles.

The Law of the Republic of Tajikistan "On Combating Corruption" dated 11.12.1999, corruption means: "... the action (inaction) of persons authorized to perform public functions, or persons equated to them, aimed at using their position and related opportunities to obtain material and other benefits and advantages not provided for by laws, and also illegal use of these benefits and advantages by individuals and legal entities."

In the legal encyclopedia, corruption is defined as a socially dangerous phenomenon in the field of politics or public administration, expressed in the deliberate use by persons exercising the functions of government representatives, as well as those in public service, of their official position for the illegal receipt of property

and non-property benefits and advantages in any form, as well as expressed in the bribery of these persons[10].

G. Tlencieva, understands corruption as "...the systematic receipt by an official personally or through an intermediary of material assets or the acquisition of property benefits provided to him solely in connection with his official position for patronage or provision of services in the future"[11].

The author uses the term "systematic", if we follow her logic, then not systematic does not mean corruption, therefore, in our opinion, we cannot fully agree with this approach.

Corruption is not limited to primitive bribery, V.V. Luneev notes, especially in a market economy, free trade and democracy. Lobbying, favoritism, protectionism, contributions for political purposes, traditions of transition of political leaders and government officials to the positions of honorary presidents of corporations and private firms, investment of commercial structures at the expense of the state budget, transfer of state property to joint-stock companies, use of connections of criminal communities, etc., are veiled forms of corruption[12].

D. Muzafarov, in his research, writes that corruption is a malicious violation of role functions in the public administration system. This is a specific type of social behavior caused by the desire of individuals to receive rental benefits (not necessarily material) due to shortcomings in the development of public authorities, defects in legislation. When such deviations grow into a coherent system, "corruption" becomes a mechanism for making administrative decisions. It distorts not only the foundations of statehood, but also the psychology of the relations that form between managers and the governed.

Thus, the definition of corruption can be reduced to the formula: corruption = bureaucratic monopoly (the whole set of possibilities of officials) + freedom of action of officials (lack of control, arbitrariness, minimization of their official risks) – anti-corruption counteraction (clarity of relevant laws, transparency of public administration, accountability of government to society).

Indeed, it is difficult to define corruption. But it is obvious that the term is not limited solely to the facts of bribery and bribery. And that the goal of anti-corruption policy should be the implementation of such important elements of social life as "honesty", "transparency", "openness", etc. in all spectra of social and economic development of society[13].

In general, it is noted that corruption is a fairly typical phenomenon for most countries making the transition to market relations. However, of course, it is not just a problem of developing countries or third world countries and international organizations[14].

In transition economies, the move from a command and administrative system to a free market economy created ample opportunities for the appropriation of illegal income (i.e., excessive profits) and was often accompanied by the replacement of a well-organized system of corruption with a more chaotic and more harmful one, according to Gaziz and Meiram Maulenov[14].

S.S. Petrova, defines corruption, as a social phenomenon characterized by bribery of an official and the selfish use of official official powers, as well as associated authority, opportunities, and connections[15].

In general, concluding on the definition of corruption, we can say that international multilateral agreements do not yet provide a generally accepted definition.

National legislations in special laws on corruption give different definitions of the concept of corruption. Although an analysis of the legislation of a number of countries shows that even within the same country there is a place for a different definition of corruption (for example, the Kyrgyz Republic).

The opinions of scientists and practitioners are also presented differentially.

The above documents and opinions allow us to conclude that there is still no generally accepted conclusion on the definition of corruption and work in this direction is actively continuing both at the theoretical and practical levels.

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