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## Research Article

# INTERRELATED ASPECTS OF THE CONCEPTS OF BRIBERY AND CORRUPTION

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## ABSTRACT

In a historically short period, the country has formed the institutional and legal framework for ensuring law and order, and an effective national anti-corruption system has been created. During the implementation of reforms in this direction, special attention was paid to the issue of incorporation of internationally recognized norms into national legislation. In the current legislation, there are problems such as the lack of regulatory definitions of a number of concepts related to corruption crimes, as well as the fact that corruption acts are not sufficiently covered by criminal law, which is an obstacle to achieving the intended result. Combating corruption and further improving Uzbekistan's position in international rankings in this regard. This article analyzes the interpretation of the concept of bribery as a form of corruption in our national legislation and the attitude of scientists to this concept.

## KEYWORDS

Corruption, fight against corruption, international rating, bribery, judicial system.

## INTRODUCTION

Bribery at the present stage of transition to market relations threatens the economic, social and spiritual life of society, and also slows down the development of the country. Since the early days of independence, as part of the overall strategy of building a democratic state and a strong civil society, several practical measures have been taken to ensure the rule of law,

protect the rights and freedoms of citizens, reform the judicial system and combat bribery.

It is also important to note that the state, structure and dynamics of bribery are not directly dependent on the efforts of law enforcement agencies aimed at combating it. In this regard, along with the criminal

legal aspect, it is necessary to study the criminological aspect of bribery. Within the framework of this aspect, it is very significant to study changes in the methods and circumstances of bribery, the characteristics of the persons committing it, in order to develop fundamentally new approaches to combating bribery, including its prevention and making appropriate changes to legal policy and law enforcement practice.

However, the point of view presented and considered a priority in the legal literature does not completely exclude the legitimacy of another point of view, even based on a broader approach within the framework of traditional criminal law analysis. This approach more fully and accurately takes into account the essence and nature of the phenomenon, the actual manifestations of bribery in practice [1,P.125]. In fact, the concept of “bribery” is considered to cover independent but interrelated crimes. “Bribery,” unlike most other crimes, presupposes the presence of at least two subjects of the crime (either a bribe giver and a bribe taker, or a bribe giver and an intermediary). In other words, in this entire crime, the criminal activities of several subjects are combined with a single criminal goal and complement each other.

In the context of criminal legal analysis, it is legitimate to use the concept of “bribery” as a complex concept. Actually, it is in this sense that this concept becomes more accessible in scientific circles. In general, the collection of terms in criminal law is changing significantly with the emergence of new terms and the enrichment of traditional concepts.

The importance of correctly identifying the object of bribery is as follows:

- to separate this group of attacks from related crimes and to separate into a separate chapter of the Criminal

Code the rules providing for liability for their commission;

- ensure the correct qualification of socially dangerous acts committed by officials;

- ensure compliance with the principle of justice in practice;

- determine the direction of preventive measures in order to eliminate the conditions that contributed to the commission of these crimes.

Bribery spoils the image of the state apparatus and discredits it. However, reputation is an evaluative category. This is not a social relationship in itself, so it cannot be the object of a crime.

The peculiarity of official crimes in the nature of bribery is that when they are committed, the normal functioning of the state apparatus is disrupted. If this or that act does not disrupt his activities, he can never be recognized as a malfeasance. Of course, this can damage other relationships as well. However, the damage caused to other social relations as a result of bribery is a consequence of a violation of the proper functioning of the state apparatus. Therefore, not all social relations that have suffered as a result of the commission of a crime in office can be considered as the object of a crime. Also, essentially any crime can be committed in connection with the official activities of a person, but this does not make it an official crime.

In this regard, it is important to clarify the meaning of the concept of “state apparatus”. This is necessary, first of all, to determine the scope and boundaries of public administration in the field of politics, economics and culture, public education, justice and other areas, to determine the list of bodies that make up the state apparatus, and to determine the scope of practical activities of officials. In the theory of state and law, the

concept of the state apparatus has been sufficiently studied. It covers all the bodies that make up the state mechanism: government bodies, executive bodies, the judiciary and the prosecutor's office. The object of malfeasance can also be social relations that regulate the normal activities of public organizations that play an important role in the life of society.

Some scientists argue that such circumstances do not occur when power is abused by commercial structures having managerial functions and public relations employees, citizens united in public organizations or owners [2,P.373-377].

In criminal law, the subject of a bribe is usually understood as the receipt of a reward for which an official “surrenders” or performs or does not perform in the interests of the bribe giver certain actions that the official should or could have performed using his official position.

When committing bribery, the subject of receiving a bribe and giving a bribe in the broadest sense is any material benefit, including property rights and obligations. For example, releasing a bribe-taker from paying a debt and returning property given for temporary use to the owner. First of all, the illegal acceptance of material assets includes goods and materials of the material world that have exchange and consumer value: money, bonds, savings books in the name of the bribe-taker or bribe-giver, securities (bills, checks, shares, deposits and certificates of deposit), household appliances, cars, furniture, precious stones and metals, rare items, etc [3,P.52].

The benefits of ownership also occur when valuable items are sold at low prices. Even when the bribe-taker partially pays for the work done, he receives illegal payment. For example, unjustified employment, obtaining a fake diploma or work book is considered

bribery. Also, free food in an expensive restaurant, giving gifts to an official is considered a bribe.

In some cases, depending on the nature of the material benefit, the subject of the bribe may be transferred to an official without obtaining the right of temporary use. For example, a car transferred to an official for a certain period under a power of attorney should also be recognized as the subject of a bribe. An apartment or country house provided for temporary residence without rent is also a bribe. In other words, the subject of bribery is varied.

In the scientific literature, various opinions have been expressed regarding the expansion of the list of supposed property benefits that can be the subject of bribery, including the inclusion of both material and intangible benefits in such benefits.

In the criminal law of some foreign countries, when determining the subject of bribery, benefits are not divided into tangible and intangible. For example, in US judicial practice and in the opinion of most criminologists, a bribe is considered to be a service or, in general, “any item of material value” [4,P.39]. A bribe does not necessarily have to have a certain monetary value. It should have sufficient value only in the eyes of the bribe recipient.

“Criminal-legal and criminological characteristics of corruption-related crimes” is due to the fact that they talk a lot about corruption in the modern world, but this cannot really contribute to finding adequate means and methods to counter this social evil. However, corruption is not exclusively a Russian phenomenon, as confirmed by recent revelations in a number of European countries at the highest echelons of power.

For example, in Italy, the country's former Prime Minister Silvio Berlusconi was convicted in April 2014 of corruption in business (even before becoming prime minister), to serve a suspended sentence in the form of community service in a nursing home, and in Romania the court also sentenced the country's former Prime Minister A.Nastase to four years in prison for bribery [5].

Most theorists oppose the recognition of intangible services as the subject of bribery, arguing that the subject of bribery can be money and material goods [6,P.125]. At the same time, in our opinion, if the bribe-giver pays for the sexual services of a prostitute, and the bribe-taker uses these services, they should be recognized as the subject bribes. It is known that this idea does not find full support among scientists and practitioners, but this theory also has its supporters in the legal literature. For example, according to Khomich V.M. there are sufficient grounds to believe that sexual services knowingly provided to an official are economically beneficial.

The relevance of a legal solution to this issue has already become a reality in some countries. For example, in China, almost all recent high-profile corruption cases were held under the motto "hong yan huo shui," which translated from Chinese means "beauty is the source of evil." Among Chinese lawyers, they believe that "bribes with sex" are as widespread and ubiquitous in China as both of its components - bribe and sex. According to a number of experts, in terms of the degree of their corrupting impact on society and the individual, in particular, "sex bribes" are much more dangerous than ordinary gifts in the form of money or expensive items. The opinions of the servants of the Chinese Themis regarding "sex bribes" are divided. Opponents of the legal innovation point out that identifying such a bribe is more difficult than

the fact of love for money, i.e. for prostitution. In addition, in the Criminal Code, the severity of the punishment imposed on the bribe-taker directly depends on the size of the bribe received. How to measure sex? Whether the concept of "bribe with sex" will be legalized in China or not, time will tell. The controversy surrounding this common manifestation, which has spilled out into discussion, in itself speaks volumes [7].

Bribery is the most dangerous form of corruption. Bribery and corruption are interconnected and interdependent phenomena, accompanying, following each other. They are often used by the legislator simultaneously in many normative and other legal documents. These and other reasons have prompted major changes in legislation aimed at combating bribery and corruption. This is due to the fact that bribery is one of the most dangerous corruption crimes, as it creates a powerful financial support for corruption in the echelons of power [8,P.1-6].

Our national scientists also dwelled on this issue, according to Rustambayev M.Kh., a bribe is the most typical and characteristic manifestation of corruption - a most dangerous criminal phenomenon that undermines the foundations of power and management, discredits and undermines their authority in the eyes of the population, acutely affects legitimate rights and interests of citizens [9,P.589].

From the above it is clear that the fight against bribery cannot be considered in the narrow sense as a criminal legal or criminological problem; it is a comprehensive, complex issue with deep political, economic and spiritual content. This indicates the need for a comprehensive analysis of the problem of bribery along with sociology, law, criminology, social psychology and other areas of scientific knowledge. The need for such a comprehensive study reflects the



general situation and trends in the development of science, which is expressed in the integration of social cognition, the growth of interdisciplinary research on border problems and, consequently, the interdependence of sciences.

The problem of such a narrowed understanding of the range of illegal acts that constitute crimes of corruption (the most socially dangerous form of manifestation of corruption) is not so much the legal illiteracy of some officials and public figures, but rather the terminological uncertainty, which entails errors in the measures they develop in the main areas of implementation National Anti-Corruption Plan, as well as a serious underestimation of the public danger of corruption and the difficulty of countering it.

The study of the concept of “bribery” is inextricably linked with the term “corruption” and involves a terminological study of both terms.

Currently, there are many definitions of the term “corruption”; let’s look at some of them:

1. According to the encyclopedic dictionary of A.M. Prokhorov, the term “corruption” is used to characterize the direct use by an official of his official position, which is usually accompanied by a violation of the law [10,P.867].

2. S.I. Ozhegov gives the following definition of this term: “bribery with bribes, corruption of officials and politicians” [11,P.167].

3. P.A. Cheboksarov views corruption as “a set of negative phenomena occurring in society and the state. It is expressed primarily in the disregard of moral norms by individual officials and in their commission of acts out of selfish or personal interest directed against state power, the interests of the civil service and service in local governments” [12,P.220].

4. A.V. Kuzmin in his work examines corruption in a narrow and broad sense:

a) a broad understanding, which includes both bribery in all branches of government and management (state, municipal, private), and official crimes committed for selfish reasons;

b) a narrow understanding of corruption is bribery in all its varieties plus (with a certain degree of convention) provocation of it [13,P.165].

5. N.P. Kupreshchenko notes in his works that in Russia there is no clear understanding of corruption, therefore this term refers exclusively to bribery [14,P.115].

Having analyzed various understandings of the term “corruption”, we came to the conclusion that most authors understand corruption as abuse of official powers, use of official position for selfish or other group or personal purposes.

In addition to bribery, there are other forms of corruption: lobbying; abuse and excess of power; favoritism; nepotism; illegal distribution and redistribution of public resources and funds; illegal support and financing of political structures, parties, movements; as well as blat (providing services to relatives and friends) [15].

The relationship between the terms “corruption” and “bribery” can be traced in historical retrospect. V.V. Astanin, after analyzing the legal literature, notes that the term “corruption” was first used by A.Ya. Esterin in 1913 and meant corruption and bribery [16,P.134].

In the legal literature, the terms “corruption” and “bribery” are also often used as identical. Authors often substitute “bribery” and “corruption.”

“Bribery” as a type of crime initially had many semantic shades that did not reflect the content of the phenomenon. This can be seen in V. Dahl’s dictionary: “a bribe is a disruption, extortion, gifts, gifts, gifts, payment or gift to an official in order to avoid embarrassment or bribing him for an illegal matter” [17,P.197]. A bribe in this case does not mean a promise, but specific actions. If there was only a promise, then such a crime was defined as a promise.

Two more recently appeared terms can be identified: “unfasten” and “protection”. The first term is interpreted as voluntarily giving up part of one’s property in order to avoid any oppression or obstacles on the way to achieving one’s plans. “Protection” is the repeated receipt of bribes for patronage [18,P.184].

In a narrow sense, “bribery” means only receiving a bribe. In this final qualifying work, the broad meaning of this term is taken as a basis, since we believe that bribery is a complex phenomenon.

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