

Corruption as a Criminal Occurrence and Its Discovery

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Abstract:

Corruption, such as bribery, is present throughout the history of the state and society. It has always been considered an inappropriate and harmful social occurrence. Corruption, according to the rule, is especially expressed in periods of crisis in certain societies, but also alongside the strengthening of the state, the development of business activities, the meddling of the state in the economy, and the bureaucratization of society. Corruption has become one of the most serious problems of organized states because, despite important legal efforts and regular or temporary anti-corruption actions, it has become more widespread and reinforced. This means that corruption is impossible to eradicate. For this, in recent times, criminality has been characterized as one of the biggest social evils (Vuković, 2003). The purpose of this research is to enrich the literature on corruption, the forms of its manifestation, and how it can be detected, prevented, and fought. This research is helpful for competent institutions in the war against corruption. Corruption as a dangerous form of criminality poses a big threat to countries, especially those that are in transition, because it disturbs their economic, political, and social lives. Therefore, it is mandatory to know how corruption is manifested and detected in order to prevent and fight this form of criminality.

Keywords: corruption, prevention, combat, criminality.

腐败作为一种犯罪行为及其发现

摘要:

贿赂等腐败现象贯穿国家和历史。它一直被认为是一种不适当和有害的社会现象。根据规则，腐败在某些社会的危机时期尤其表现出来，但也伴随着国家的加强、商业活动的发展、国家对经济的干预以及社会的官僚化。腐败已成为有组织国家最严重的问题之一，因为尽管采取了重要的法律努力和定期或临时的反腐败行动，但腐败已变得更加普遍和加剧。这意味着腐败是不可能根除的。为此，近年来，犯罪行为

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被定性为最大的社会罪恶之一 (Vuković, 2003)。这项研究的目的是丰富有关腐败、其表现形式以及如何发现、预防和打击腐败的文献。这项研究对主管机构反腐败斗争有帮助。腐败作为一种危险的犯罪形式，对国家，特别是转型期国家构成巨大威胁，因为它扰乱了这些国家的经济、政治和社会生活。因此，必须了解腐败是如何表现和发现的，以预防和打击这种形式的犯罪行为。

关键词：腐败、预防、打击、犯罪。

1. Introduction

Corruption is a criminal activity and a serious threat to all states, especially those with fragile legal, political, and economic systems. Corruption poses a serious threat to democratic systems. This crime seriously violates the basic values of society and democracy.

We encounter the criminal structures of corruption in various forms in the public administration, state bodies, and various public institutions. Unfortunately, many facts impose the opinion that state policy, by tolerating and not combating corruption, becomes a corrupt system, and this type of crime is not only "legalized" but also protected by the power mechanisms created and planned for the prevention and combat against corruption. The treatment of corruption in international conferences and symposiums, its regulation in national criminal legislation, the programming of the anti-corruption war, and the formation of special services and bodies to combat this organized crime seem to "blur" or make it difficult to detect and successfully combat it. The problems of combating corruption can be addressed by the state, its bodies, and institutions that cannot, do not dare, do not know, or do not want to root out the factors and causes of corruption and punish and prevent the perpetrators of these crimes. The consequences are very harmful, whether economic, political, or social. Among the factors that influence the emergence of corruption are the desire to get rich overnight, the position in the important bodies of political power, monopolies and favoritism in the economic system, influences on public administration institutions, low salaries of officials of public administration, the fragile prosecutorial and judicial system, etc. All these factors affect the achievement of dishonest and illegal profits.

2. Definition of Corruption

The term "corruption" is directly related to that of "integrity". The concept of "integrity" of the public agent is included and protected by the UN Convention against Corruption of 2003 (General Assembly of the United Nations, 2003). The word "corruption" comes from the Latin word "corrumpere", which means "break" or "destroy". The act of corruption destroys or violates the law, duties, and moral norms. In general, no definition insists on the legal aspect of corruption. The most well-known definition of corruption is that given by the World Bank: corruption is the illegal use of public resources for personal gain. A similar definition

of corruption comes from Transparency International, according to which, corruption is the abuse of entrusted power for personal gain (Garner, 1999). The INTERPOL Group of Experts on Corruption defines corruption as "any act or omission by individuals or organizations, public or private, violating the law or trust for gain or gain". The 20th century has often treated corruption as a "white crime" difficult to detect and punish. Corruption has become a general means of action encountered in public or private institutions and in their interactions.

3. Structure of Criminal Offenses of Corruption

In the various criminal laws about crimes in office or against the authority of the state, there are many criminal offenses that, in one way or another, are related to the exercise of duty not by the law, in its distortion done as for to create favors or benefits from the most diverse, even without waiting for such income to come. Such crimes are:

- Theft by dereliction of duty;
- Smuggling by customs officers;
- Non-performance of duties by tax authorities;
- Proposals for rewards given to the employee who performs a state duty;
- Giving rewards;
- Requesting and receiving bribes;
- Receiving a reward from the judge or prosecutor;
- Giving rewards and premises (Rakipi, 2003, pp. 37-38).

In some European countries, the main target of criminal despotism remains the traditional form of abuse of official public office (e.g., bribery or attempted bribery of persons holding public or official positions at local, regional, or national levels, including lately foreign officials).

By criminalization of corruption, we understand the totality of the criminal offenses provided for in criminal legislation in the composition of corruption. Even the consequences of corruption depend on the type of corruption that dominates in the respective country. Corruption produces poverty and general economic decline accompanied by social dissatisfaction with reforms for democratic developments, reduces the effectiveness of the functioning of state power, and minimizes the trust of citizens in state public service bodies. The basic causes of corruption in the countries of the region, among others, are lack of rule of law,

state control of economic progress, disruption of social values, anomie, and poverty.

The purpose of adopting special anti-corruption laws is to increase political and public awareness about the combat against corruption. These special laws define behaviors that are subject to the prohibition of corruption and social areas that are particularly susceptible to corruption. One of the most common features of this type of legislation is that it mainly provides for the responsibility and obligations of official persons to declare their income and assets, prohibits conflicts of interests, and prevents any possibility of corruption in the procurement process in the government; special administrative sanctions and investigative methods are generally recognized through these laws. In some cases, special police and other anti-corruption bodies or parliamentary commissions are created to monitor the activity of law enforcement bodies and judicial activity and propose new prevention strategies.

Contemporary forms of corruption are most often hidden in:

- Fictitious work contracts;
- Falsifying travel accounts;
- Fictitious connection between labor relations;
- Allowing unrealistic provisions;
- Issuance of guarantee letters;
- The engagement of certain persons in the capacity of external collaborators, professional consultants, or advisors;
 - Payment of royalties for "works" that are not written;
 - Fictitious entertainment and advertising expenses to cover the giving of expensive gifts;
 - The engagement of certain persons in various commissions and other bodies formed only for this purpose;
 - Performing various services without payment or with symbolic compensation;
 - Fictitious processing of goods by a foreign firm;
 - "Selling" goods at a significantly lower price than the real one.

4. Detection of Corruption Offenses

The commission of corruption crimes has specific features because they are kept away from the public eye and involve a small number of people; therefore, it is quite natural to use the specific detection methods of the investigation. In this direction, internal anti-corruption units are necessary, created to have powers related to the collection and primary investigation of data and information on the commission of information crimes. Institutions and bodies that perform the function of detecting, preventing, and combating corruption must have a supervisory "council" during the entire work process in this direction. Given the characteristics of the perpetrators of the criminal offenses of receiving and giving bribes, the complexity of legal-criminal

situations, and the various forms of committing and concealing these crimes, there are many obstacles and difficulties in their detection. General information about this type of criminal activity is very important for detecting these criminal acts.

Information and knowledge about these criminal offenses can be obtained in different ways. Sometimes these can be provided based on external manifestations and the way of life of certain persons (enormous spending in cafes, buying cars, building houses and villas, etc.). Public rumors and reports from citizens about the commission of these criminal offenses can also be useful in the process of their discovery. Even by collecting data on other criminal offenses such as misuse of official authorizations and falsification of official documents, data on receiving or giving bribes can be obtained. However, the use of operational methods and tools depends on the concrete situation.

The Convention of the United Nations Organization against corruption (Manevski, 2005, p. 21) exclusively foresees that all states are obliged to prevent corruption and the necessity of cooperation. In one of the provisions of this convention, the meanings of several terms are defined as "state employee" (any person who has a legislative, executive, administrative, or judicial mandate in any state, who has been appointed or elected for a fixed or indefinite time, paid or unpaid, regardless of hierarchical level; any other person performing a public function, including a state body or public organization, or providing public services, as these terms are defined in national law; and any other person defined as "state workers" in the national law of any state.), "foreign state employee" (any person who has the legal, executive, administrative or judicial mandate of any foreign state, which has appointed or elected him; and any person who performs a public function for any foreign country, including state body or public organization) "official of public international organization" (international official or any person authorized by such organization to act on its behalf), "proceeds of crime" (any property that is directly derived or indirectly from any crime or was acquired by directly or indirectly committing this crime), "confiscation" (permanent receipt of profit based on the decision of the court or other competent body, etc.), "controlled deliveries" (method that enables the exit from the territory, passage through the territory or entry into the territory of one or more states, in an unauthorized or suspected manner, under the control of the competent bodies of these states, in order to carry out investigations for any offense and identify the person involved in their performance, etc.

The specialized units are part of the legislative and institutional reform that aims to implement such task-measures according to the anti-corruption initiatives that have been taken by every government authority. The formation of specialized units has been implemented in various institutions, but first of all, in

law enforcement bodies, criminal prosecution bodies, public procurement, the Ministry of Finance, etc. Their main task is to undertake special procedures, using special tools in the combat and prevention of corruption as an occurrence within the field of their activity.

In the Republic of Kosovo, in addition to the Anti-Corruption Law, the Anti-Corruption Agency, the strategy for combating this n, in February 2010, the Anti-Corruption Department was established at the Special Prosecutor's Office.

5. Conclusion

This research draws attention to the fact that inefficient detection and the impossibility of proving this occurrence affect the escalation of corruption and its growth in particular. Therefore, it is recommended that the occurrence and phenomenon of corruption be fought in time; if not, it can defeat the state by turning its system into a "corrupt system".

Therefore, the recommended actions and measures that countries should take to prevent and combat corruption are as follows:

- Determination and permanent establishment of the country's political leadership and all its anti-corruption bodies;
- Institutional organization and cooperation at local, regional, and international levels against corruption;
- Ensuring the accountability of all those in the state administration, government, and party, implicated in corruption;
- Reforming the police and judiciary in terms of the organization of specialized bodies for combating organized crime and corruption in particular.

The empowerment of the role of the media and non-governmental organizations in the combat against corruption should be emphasized.

Two institutional mechanisms are essential to combat corruption in new democracies: a strong, aggressive, and independent media and a vibrant and developed civil society with non-governmental organizations and public interest groups. Governments rarely follow up on themselves, and the highest levels of government have been weak in that they have been unable to ensure a check on local corruption. Newspapers have long publicized corrupt practices, but in many smaller cities, the media are so tied to political institutions that it is impossible to trumpet information unfavorable to that political institution (Glaeser & Goldin, 2004).

References

- [1] GARNER, B.A. (ed.) (1999). *Black's Law Dictionary*. St. Paul: West Group.
- [2] GENERAL ASSEMBLY OF THE UNITED NATIONS. (2003). *United Nations Convention against Corruption*. Retrieved from

<https://www.unodc.org/unodc/en/corruption/uncac.html>

- [3] GLAESER, E.L., & GOLDIN, C. (2004). *Corruption and reform: an introduction*. National Bureau of Economic Research. <https://doi.org/10.3386/w10775>
- [4] MANEVSKI, M. (2005). *Corruption in the Republic of Macedonia: Preventive measures*. Skopje.
- [5] RAKIPI, A. (2003). *Corruption and fiscal evasion*. Tirana.
- [6] VUKOVIĆ, S. (2003). *Corruption and the rule of law*. Belgrade.

参考文献:

- [1] 加纳, 学士 (编辑) (1999)。布莱克定律词典。圣保罗: 西部集团。
- [2] 联合国大会。(2003)。联合国反腐败公约。检索自<https://www.unodc.org/unodc/en/corruption/uncac.html>
- [3] GLAESER, E.L. 和 GOLDIN, C. (2004)。腐败与改革: 简介。国家经济研究局。 <https://doi.org/10.3386/w10775>
- [4] 马涅夫斯基, M. (2005)。马其顿共和国的腐败: 预防措施。斯科普里。
- [5] 拉基皮, A. (2003)。腐败和逃税。地拉那。
- [6] VUKOVIĆ, S. (2003)。腐败与法治。贝尔格莱德。