



## LEGAL ANALYSIS OF CORRUPTION CRIMES AND TYPES OF THESE CRIMES

Otaboev Bobur

Lecturer of the Tashkent State University of  
Law Criminal law, criminology and  
anti-corruption department

E-mail: [otabayevbobur@gmail.com](mailto:otabayevbobur@gmail.com)

<https://doi.org/10.5281/zenodo.12305074>

**Abstract:** This article deals with the legal analysis of corruption crimes and the types of these crimes. A legal analysis of corruption crimes has been made, and their description has been studied. The opinions of experts and scientists were studied, and the types of corruption crimes were theoretically analyzed.

**Key words :** corruption, official, law.

Corruption is the illegal and unethical use of administrative powers and rights by an official for personal gain.

According to the famous economist Berdchen, corruption is the factor that brings the biggest negative wave to the indicator of macroeconomic development. Its appearance can be different.

If we talk about the types and legal analysis of corruption crimes, first of all, it is appropriate to clarify the views of some legal scholars.

Corruption as a socio-legal phenomenon emerged with the emergence of the state and its governing officials.

The Republic of Uzbekistan dated January 3, 2017 "On Combating Corruption"<sup>1</sup> contains several norms aimed at preventing the crime of corruption. It defines the main directions of the state policy in the field of combating corruption, which are as follows: - raising the legal consciousness and legal culture of the population, forming an intolerant attitude towards corruption in the society; - implementation of measures to prevent corruption in all spheres of state and public life; - timely identification of corruption-related offenses, putting an end to them, eliminating their consequences, causes and conditions that enable them, ensuring the principle of inevitability of responsibility for committing corruption-related offenses. Increasing legal awareness and legal culture in society includes improving the system of legal education and legal education, which are the main measures to fight against corruption, achieving a positive attitude to law and law by all state bodies, officials and citizens, increasing legal literacy of the population, ensuring social and legal activity of citizens. .

Today, prevention and fight against corruption remains one of the pressing issues in the whole world. After all, as the President of the Republic of Uzbekistan Sh. Mirziyoyev noted, "if we do not prevent corruption, it is impossible to create a real business and investment environment, in general, not a single branch of society will develop"<sup>2</sup>

<sup>1</sup> Uzbekistan " On Corruption " of January 3 , 2017 against to fight "about". law // URL: <http://www.lex.uz>

<sup>2</sup> Uzbekistan Republic President Shaukat Mirziyoyev dated 25.01.2020 High To the meeting Application . // [Electronic resource ]. <https://uza.uz/oz/politics/zbekiston-respublikasi-prezidenti-shavkatmirziyeevning-oliy-25-01-2020>.

Among the corruption crimes, as we mentioned above, most of the corruption crimes are in Chapter 15 ("Crimes against administrative order") of the Criminal Code, and some in Chapter 10 ("Theft of other people's property"), Chapter 17 ("Crimes against public safety") and Chapter 24 ("Crimes of military service").

In particular, among the crimes against the administrative order, first of all, we are talking about the abuse of power or official authority given in Article 205 of the Criminal Code.

The main direct object of this crime is social relations that ensure the normal functioning of state power, administration and local self-government bodies. As an additional direct object, social relations aimed at ensuring the legal rights and interests of citizens are considered. From an objective point of view, the crime is abuse of power or official authority, that is, as a result of an official's use of his official authority for various purposes, a large amount of damage or serious damage is caused to the rights of citizens or interests protected by law, or to the interests of the state or public <sup>3</sup>.

The abuse of authority should be understood as the intentional use of an official's position against the interests of citizens, society, and the state. The term "abuse of official authority" refers to the actions of an official that arise from his official position and are related to the implementation of the rights and obligations assigned to the authority of the position held by this person, but which contradict the goals and tasks of the relevant body. Abuse of power or authority, undermining the position of state power and administration, local self-government bodies; concealing the looting of another's property; carrying out various financial robberies; taking malicious benefit at the expense of the state, public or other property, without seizing it; consists of illegal enrichment at the expense of property belonging to individual citizens and others. Power means the ability and opportunity to influence people's activities and behavior through <sup>4</sup>certain means - will, authority, rights, coercion, political dominance, and the system of state bodies. Abuse of authority by an official includes abuse of authority during the period of holding office. If an official uses not his official powers, but his service or personal connections, the reputation of the position he holds, in order to reach the decision he needs, there will be no crime. The issue of serious damage to the rights of citizens or interests protected by law or to the interests of the state or public will be resolved by investigative bodies and the court, taking into account all the circumstances of a specific case.

In general, the authority of an official is determined by his competence defined in the relevant laws, regulations and other regulatory documents that regulate the rights and obligations of a person who holds a certain position or a temporary or special authority.

Forms of abuse of official authority (field of activity of officials) may be different. Illegal use of the labor of subordinates for personal gain (for example, in the construction of private yards of workers, repair of houses); mastering the work of subordinates; abuse in accommodation allocation; in the process of privatization of enterprises, using the official position for the purpose of buying it as private property, or when the official takes over a large part of the shares, the official uses the official authority to protect the interests of himself, a person close to him, or other private individuals; illegal transfer of finance and credit intended for public needs to commercial organizations with malicious or other bad

<sup>3</sup> Rustambayev M.Kh. Uzbekistan Republic crime the right course . Volume 4. Textbook . 2nd edition, completed and again produced - T.: Uzbekistan Republic National guard Military -technical institute , 2018. - 330 pages

<sup>4</sup>Bolshoi Entsiklopedicheskiy slovar / Gl. ed. A.M. Prokhorov. 2-oe izd., pererab . i dop. — M.: 1998. — p. 212.

intentions; Waste of budget funds, including conversion of these funds in commercial banks; use of benefits not provided for in legal documents when obtaining credit, securities, real estate and other property; the use of rooms, transport and communication, electronic computing equipment, money and other property for personal or group purposes, etc.

The crime of abuse of authority or official authority is objectively defined as the deliberate use of official authority by an official of a state body, an organization with state participation, or a citizen's self-government body causing a large amount of damage or serious damage to the rights or interests of citizens protected by law, or to the state or public interests.

In order to clarify the content of this article, it is necessary to review a number of its elements, including the content of concepts such as "organization with state participation", "official", "a large amount of damage", "serious damage". First of all, according to the Criminal Code, an organization with state participation means a commercial organization with a state share in the charter fund and a non-profit organization established or founded by a state body or a state organization in whole or in part. It is worth noting that the current legislation considers a commercial organization with any amount of the state's share in the charter fund as an organization with state participation, and when a crime is committed by an employee of such an organization, it is qualified as an official crime. In our opinion, it is necessary to amend the current legislation, which stipulates that only a commercial organization with a state share of more than fifty percent in the charter fund is considered as an organization with state participation.

Also, in accordance with the Criminal Code, an official is a person who is appointed or elected on a permanent, temporary or special authority, who performs the duties of a representative of the authorities, or who is an organizational-management, administrative person in state bodies, self-government bodies of citizens, regardless of the form of ownership, in enterprises, institutions, organizations. - means a person who performs economic tasks and is authorized to perform legally significant actions, as well as a person who performs these tasks in an international organization or in a legislative, executive, administrative or judicial body of a foreign country. A loss in the amount of three hundred to five hundred times the base calculation amount is considered a substantial loss. Although the occurrence of serious damage is indicated as a necessary element of a number of crimes, the current legislation does not clarify the issue of what consequences are meant by serious damage.

Abuse of power or official authority, according to its characteristics, is manifested in an action aimed at the implementation of rights and obligations established by law through active behavior. Abuse of power or authority through inaction constitutes a crime under Article 208 of the Criminal Code (Omission of Authority).

Abuse of authority by an official includes abuse of authority during the period of holding office. If an official uses not his official powers, but his service or personal connections, the reputation of the position he holds, in order to reach the decision he needs, there will be no crime <sup>5</sup>.

<sup>5</sup> Rustambayev M.Kh. Uzbekistan Republic crime the right course . Volume 4. Textbook . 2nd edition, completed and again produced - T.: Uzbekistan Republic National guard Military -technical institute , 2018. - 339 pages

If we think about the crimes that belong to the category of corruption crimes, i.e. bribery and mediation provided for in articles 210-212 of the Criminal Code, it is in accordance with smaksad.

According to M. Kh. Rustambaev, bribery is a concept that includes three independent official crimes directed against the order of activity of administrative bodies - taking bribes, giving bribes, and mediation in receiving and giving bribes.

Each of the listed offenses cannot be committed without connection with the crimes provided for in Articles 210-212 of the Criminal Code. They are related to each other to such an extent that the absence of the fact of receiving a bribe excludes the fact of giving a bribe <sup>6</sup>.

The social danger of the above crime is explained by the fact that taking bribes drastically changes the established procedure for the execution of their official powers by officials and thereby grossly violates the interests of the public service.

Bribery is a relatively widespread and unique phenomenon of a dangerous criminal phenomenon that undermines the foundations of power and administration, undermines its reputation in front of the population, and affects the legal rights and interests of citizens. The direct object of the crime of bribery is the reputation of authorities or management bodies, social relations that ensure normal functioning, rights or legal interests of citizens. Money, foreign currency, valuables, cars and any other property, food products, alcohol, antiques, etc., i.e. any things of material value or property benefits (a referral to a sanatorium, (such as a tourist pass, provision of any paid service) may be the subject of a bribe.

In the legal analysis of corruption crimes, it is appropriate that we first focus on the objective and subjective characteristics of crimes related to this category of crimes.

I.I. Karpets stated that "in any of the laws of the world, the concept of "corruption" is not mentioned as a crime, because it does not constitute a crime, but is a social phenomenon, like crime, like many other social phenomena."<sup>7</sup>

Another group of scientists point to "social relations that ensure the reputation of the public service, the people's trust and respect for it, and the legal integrity of the state apparatus" as the object of corruption crimes.<sup>8</sup>

Legal scholar A.Kh. Sattarov said that the object of this type of crime is "a group of social relations of the same category that organizes the activities of the state or public apparatus and meets the requirements of society."<sup>9</sup>

In our opinion, when determining the object of corruption crimes, it is necessary to consider the general and direct objects separately. The common object of corruption crimes is social relations aimed at ensuring the normal functioning of state authorities and administrative bodies, the legal rights and interests of citizens. In turn, this social relationship serves as a direct object for articles 205-206, 209-214 of the Criminal Code. The direct object of the crimes specified in Articles 192 <sup>9</sup> - 192 <sup>11</sup> of the Criminal Code consists of social relations aimed at ensuring the rights and legal interests of economic entities. The direct object of the crime of

<sup>6</sup> Rustambaev M.Kh. Uzbekistan Republic crime the right course . Volume 4. Textbook . 2nd edition, completed and again produced - T.: Uzbekistan Republic National guard Military -technical institute , 2018. - 3 59 pages

<sup>7</sup> Carpets I.I. Organized crime is a social and legal problem, its trends and reasons. Organized crime-2. / Pod ed. A.IDolgovoy , S.V.Dyakiva . - M., 1993. - P.13-15.

<sup>8</sup> Problemy borby s korruptsionnymi prestupleniyami: Uchebnoe posobie // S. B. Kovalenko, M.T. Kojamkulov , J.V. Ongarbekova , A.S. Rakhmetova. - Almaty: OONI and RIR Akademii MVD RK, 2004. S. 89.

<sup>9</sup> Sattarov A.Kh. Borba s dolzhnostnymi osluipeniyami v podsobnyx selskikh hozyaystvax predpriyatij i organizatsii. Autoref . ... candy. walk science - T., 1990. - S.10.

misappropriation of property by abuse of official position or robbery by rastrata is social relations aimed at protecting the property of another entrusted to the offender or at his disposal. The direct object of the crime of fraud committed using the service position is social relations aimed at protecting the property or property rights of others. It can be seen that the common feature of the object of corruption crimes is that corruption crimes encroach on the social relations that ensure the normal functioning of the state apparatus related to the state power and management, the activities of public associations, and the rights and interests of some citizens protected by law in these relations.

In almost all international conventions on corruption crimes, including the UN Convention against Corruption, tangible and intangible values and property and non-property benefits are provided as the subject of corruption crimes. However, the criminal law considers only material values and property interest as the subject of corruption crimes, including bribery. We can see similar norms in the provisions of Articles 1929-19210, 211, 213-214 of the Criminal Code.

In addition, according to paragraph 2 of the decision of the Plenum of the Supreme Court of the Republic of Uzbekistan "On judicial practice in bribery cases", "money, valuable securities, material assets, as well as non-return to the bribe taker, but having a property nature (for example, repair, construction, restoration work, etc.) services may be the subject of a bribe"<sup>2</sup>. As it can be seen, the norms regarding the subject of corruption crimes in the current criminal legislation do not meet the requirements of the relevant Law and international standards.

For this reason, it will be necessary to make amendments to the disposition of the above-mentioned articles and the relevant plenum decision to recognize intangible assets and non-property interests as the subject of a crime<sup>10</sup>.

At the same time, non-property benefits cannot be the subject of bribery. For example, receiving services of an intangible nature by an official for his actions aimed at the interests of another person: a positive description, a recommendation, a review of an article, etc. Under certain conditions, these actions should be qualified as abuse of official authority or deviation from official authority. Having sex with an official because of an act committed by him is not considered a bribe, and in certain conditions, this act can be qualified under Article 121 of the Criminal Code.

---

<sup>10</sup> Liability for corruption crimes. Monograph // Responsible editor: D.B. Bazarova, Ph.D., professor v.b. - T.: Tashkent State Law University, 2020. - 120 pages.



**References:**

- 1.Uzbekistan " On Corruption " of January 3 , 2017 against to fight "about". law // URL: <http://www.lex.uz>
- 2.Uzbekistan Republic President Shaukat Mirziyoev dated 25.01.2020 High To the meeting Application . // [Electronic resource ]. <https://uza.uz/oz/politics/zbekiston-respublikasi-prezidenti-shavkatmirziyeevning-oliy-25-01-2020>.
- 3.Rustambaev M.Kh. Uzbekistan Republic crime the right course . Volume 4. Textbook . 2nd edition, completed and again produced - T.: Uzbekistan Republic National guard Military - technical institute , 2018. - 330 pages
- 4.Bolshoi Entsiklopedicheskiy slovar / Gl. ed. A.M. Prokhorov. 2-oe izd., pererab . i dop. — M.: 1998. — p. 212.
- 5.Carpets I.I. Organized crime is a social and legal problem, its trends and reasons. Organized crime-2. / Pod ed. A.IDolgovoy , S.V.Dyakiva . - M., 1993. - P.13-15.
- 6.Problemy borby s korrupsionnymi prestupleniyami: Uchebnoe posobie // S. B. Kovalenko, M.T. Kojamkulov , J.V. Ongarbekova , A.S. Rakhmetova. - Almaty: OONI and RIR Akademii MVD RK, 2004. S. 89.
7. Problemy borby s korrupsionnymi prestupleniyami: Uchebnoe posobie // S. B. Kovalenko, M.T. Kojamkulov , J.V. Ongarbekova , A.S. Rakhmetova. - Almaty: OONI and RIR Akademii MVD RK, 2004. S. 89.
- 8.Sattarov A.Kh. Borba s dolzhnostnymi osluipleniyami v podsobnyx selskikh hozyaystvax predpriyatiy i organizatsii. Autoref . ... candy. walk science - T., 1990. - S.10.

