
HISTORY OF CORRUPTION – DANGERS AND ANTI-CORRUPTION BATTLE

Mira Jovanovska

UNIBIT, Sofia, Bulgaria, mirajovanovska@yahoo.com

Abstract: The phenomenon of corruption is as old as the human race. Corruption has been a part of human life since its birth. The mother "corrupts" the baby with her embrace and breast milk. Parents corrupt their children when they condition that they will reward them with chocolates, toys, gifts, entertainment, "if they are good students". People educate domestic animals with "rewards" because they have learned to be obedient and listen to their master. Men reward their loved ones with expensive gifts for their love and loyalty. Such principles of "courting", "winning sympathy", "softening the referee", "friendly persuasion" of business people, politicians, judges, sports arbitrators, juries, etc. fall into the category of corruption. In intellectual and managerial circles, opinions are divided about the nature of corruption. For example, there is "white corruption" when business people reward external managers if they have concluded a successful contract for the sale or purchase of products and services. There is also "black corruption" which is the antithesis of "white corruption" and which is condemned by everyone. And finally there is "gray corruption" which no one knows about but causes enormous damage and is invisible. For a long time, society and philosophers have debated the usefulness and harmfulness of corruption. Today it is considered the "soft underbelly" of any society, state, or regional integration such as the EU. In 1993, the non-governmental organization Transparency International was formed, which is the creator of the Corruption Perceptions Index in various countries. The World Bank, together with the UN, EU, and USA, joined the fight against corruption. In 1997, thirty-four countries signed the OECD Convention. Anti-corruption legislation has been accepted and developed by both the EU and its member states as well as aspirants.

Keywords: Corruption, international legal mechanisms, fight against corruption; European criminal law, Bribery Anticorruption package

1. INTRODUCTION

The phenomenon of corruption "awakens numerous fascinations, and many contradictions. It seems that the dimensions of corruption elevate it to the height of a true paradox. On the one hand, corruption is unanimously rejected by all political and governmental sects, but on the other hand, it is universally spread as if it does not respect any political, religious, ethnic boundaries. If it can immediately impose itself as a universal dimension as an axiom, it also imposes itself in synergy with the internationalization of trade. In fact, the systematic condemnation of corruption today seems to be one-sided, especially when observed from the aspect of income and earnings. Corruption has been qualified with numerous negative epithets as the personification of "immoral", "bad", "object of condemnation", and has always been defined implicitly, against an already existing standard ». Certain behaviors of political elites can be transsocial, their representation in corruption being conditioned by the political system or varying depending on the culture and time under consideration. This allows us to question certain dimensions regarding the absolute or relative disapproval of corruption. In this sense, the concept of morality and amorality of corruption is interesting. Among Greek philosophers, "corruption" (phtora) corruption was treated as an immoral but also a moral act. On the one hand, it was equated with the idea of "degradation of the human race" or of an entire generation (genesis). But on the other hand, the Ancient Greeks considered corruption to be immanent to people, just as a mother corrupts a baby with her milk to stop crying. Koenig,G.(2016, 56,p.) Accordingly, corruption was conceived as a natural cycle without moral connotation. However, with the development of democracy and the economy followed by Globalization in the 20th century, Corruption becomes a dangerous phenomenon for political systems, the rule of law and the rights of citizens. Thus, little by little, the first initiatives to establish institutions, laws and instruments to combat corruption at the national and transnational levels begin to be built. The first attempt by the European Community to impose the criminalisation of active and passive corruption dates back to the draft treaty, presented in 1976 by the Commission and "amending the Treaties establishing the European Communities with a view to adopting common rules on the criminal protection of the financial interests of the Communities and on the prosecution of infringements of the provisions of the said Treaties". Articles 3 and 5 of the protocol annexed to the abovementioned draft treaty provide for the obligation for each Member State to penalise equally the active and passive corruption of a national civil servant and of an official of the European Communities. The mechanism then makes it possible to compensate for the lack of Community competence in criminal matters and is based on the principle of assimilation: "the principle of assimilation therefore consists in requiring Member States to grant the interests of the Communities a degree of protection equivalent to that granted by the States to their own interests". If the draft treaty does not succeed, the principle of assimilation will remain, first under the influence of the Court of

Justice of the European Communities before being enshrined in the Treaty of Maastricht, then being explicitly inserted into the conventions of the European Union relating to the repression of corruption. 47. Structure in "pillars". The period of interest to this thesis therefore begins with the beginnings of a European penal area. From the Treaty of Maastricht, Community action is split into three pillars. The first pillar, or "Community pillar" groups together all integrated policies (such as the common agricultural policy, the customs union, the internal market, but also the protection of the financial interests of EU Member States. How has been the historical evolution of corruption? What is the danger for society, citizens? What are the other areas that are in danger because of corruption?

2. HISTORICAL EVOLUTION OF CONCEPT

As mentioned in the introductory part, the ancient peoples observed corruption from two aspects, one positive and one negative. However, historical facts show that corrupt judges were severely punished by the authorities. In the Middle Ages, corruption was observed as an act of sin before the exalted Saint Paul identified corruption through the physical incorruption of the eternal body with the exalted good - as a saved soul. Then the game was decided. The idea of incorruption acquired moral value. It is enough for the corrupt to be led to incorruption and overcome evil. Man is corrupt because he succumbs to passions, therefore such a man is a sinner. Outside Europe, Islamic law also participated in the elaboration of the moral aspects of corruption, introducing certain nuances between the religious conception of "chaos on earth". In some Islamic states that strictly adhere to Sharia, corruption can even lead to death sentences (Türkmen, H. 2023) and the secular conception of the term. Contrary to such interpretations, under the influence of the humanism of the Middle Ages, humanist thinkers made an attempt to connect the concept of corruption not only exclusively with moral values but above all with politics. Thus, Machiavelli distinguished three types of states (principality, optimates, which can be understood as "the best government and popular government). To this triple corpus Machiavelli added three more types of governments that arose from the corruption of these three models. These were the tyranny of the principality, the oppression of the majority by the few (the optimates) and the "model of popular government in decay" (Berges 2000, 97-98,pp.). Following Machiavelli's idea of the political dimensions of corruption, Montesquieu in his treatise "De l'Esprit des lois" argued that the phenomenon primarily reached the principles, that is, the passions that affected the souls, in every government. Corruption is both a virtue for democracy, moderation for the aristocracy, honor for the monarchy, but also a huge fear of despotism. Corruption also manifested itself as the inevitable degradation of every government: "It leads to dissolution, to decay and destruction, but not all corruption is deadly. Only corruption that leads to despotism, to a regime that is corrupt in itself, represents real danger and risks a major "fall" of the state. Unlike the Greek philosophers, Montesquieu did not think of corruption as an eternal cycle, but as a constant risk, which can definitely happen to the worst regimes, which if they are fundamentally corrupt end in despotism. At the beginning of the 18th century, Bernard Mandeville published a fable originally titled "The Rumbling Hive or Knaves Turn'd Honestly", in which he discovered the maxim about "private vices as public virtues". The fable describes a beehive, an allegory for London, whose prosperity developed in parallel with widespread corruption. The bees complained and Jupiter, exasperated by their vanity, decided to instill honesty in their hearts. Soon, trade weakened and the effect of the hive declined, and unemployment and poverty of the bees increased.(Spector,C. 2014)

3. PARADIGMS OF CORRUPTION

Since the second half of the 20th century, other disciplines such as Economics and Sociology have become interested in the phenomenon of corruption in order to better understand its mechanisms and consequences in modern society. Such an approach allows, in addition to the elaboration of the harmful nature of corruption, to think about its perception, temporary usefulness but also the main, response to criminalization as a product of corruption and vice versa. At the same time, in a certain context such as the election period, the process of analyzing the incrimination that corruption creates at the national and European level. Thus, economists have analyzed the illegal social behavior created by corruption while inspired by Gary Becker's conception of the "Theory of Crimes" or the theory of rational choices, several researches have been developed. (Lafay,J.D 2016,91,p.), « Also the works on corruption by Ackerman, R.S.(1978) have focused on the influences of market structures, the private sector and the ambiguity of government preferences in relation to corruption. The risks of certain markets seem to have evolved to the point that sometimes in addition to its understanding as a place of public goods and services, it is also a place of corruption. (Kaleski,N.2019) « Les entreprises face au défi de l'anticorruption », Compliances, juin-août 2019 Some economists have tried to demonstrate the usefulness of corruption for the functioning of the economy, since it contributed to a better integration of social structures in a dysfunctional economy. Corruption would have three virtues: redistribution of wealth to the poorest, a means of participation in social life for those who were marginalized, and the possibility of rehabilitating the bureaucracy that hinders the efficiency of certain mechanisms.

These theses, sometimes described as "revisionist", quickly found their limits in the American scandals of the 1970s, and now seem abandoned. (Blavatsky, P. 2021, 343-356) Thus, the benefits of circumventing rules that are too restrictive must be weighed against the "negative consequences" that often result in higher costs in the long run. Current research seems to focus more on studying the perception of corruption or, better said, on corruption that is not treated on an equal footing. The American political scientist Arnold Heidenheimer (Heidenheimer, A. 1970) distinguishes between three types of corruption: a) White corruption, which is tolerated and considered benign, such as the use of special privileges to expedite the processing of a file, and b) Overt corruption, which corresponds to the most serious practices and is a potential subject of criminal law. Between the two, practices tolerated by the ruling circles but also experienced and influential influencers of public opinion impose c) gray corruption. It also distinguishes "market corruption" where the terms of exchange are perfectly defined, and social exchange, then "parochial corruption" in which the terms of trade are imprecise" as well as corruption of negotiation "where the gray areas with corruption extend". (Steinbock, D. 2018) « What Transparency International's corruption index doesn't see », sur scmp.com, 16 mars 2018 White corruption would thus be socially accepted to the point of generating legal debates for the repression of facilitation payments and, more anecdotally, continuing to be recommended by tourist guides. Second, sociologists Pierre Lascoumes and Carla Nagels continue and confirm the relevance of previous work, for example by highlighting the gap between the perceptions of the political elite and the lay public or the paradoxical reactions of voters who continue to vote for a candidate, even accused of "corruption", if he embodies their fundamental values. (Lascoumes, P. / Nagels, C. (2014). These few examples provoke philosophical debates on questions surrounding the uncertainty of the gravity of moral and social corruption. However, the reflection leads to highlighting the issues that cause the need to fight corruption in a democratic society, namely the increased demand of the people for the accountability of those who govern. (Bonte, Ph. 2019) Corruption seems to be compatible with democratic society as well as with totalitarian regimes. The function of the fight against corruption as a moral dimension of anti-corruption measures is necessarily limited. The goal cannot be the complete eradication of corruption, because that would mean establishing a perfect society at the expense of human rights. Also, the researcher must not become an anti-corruptionist, but keep a distance enough to seek a balance between efficiency and respect for the rule of law. Therefore, the fight against corruption can also be presented as a shield of state law and a threat against the rule of law.

4. THE DANGERS OF CORRUPTION

Corruption is primarily a negative phenomenon that threatens democracy in society. It is at the same time an attack on human rights (1) and the rule of law and the separation of powers (2). When it comes to the attack on human rights, corruption is content that is "contrary to human rights" (Davies, Joanne E 2018). Corruption harms both civil and political rights (first-generation rights) as well as economic and social rights (second-generation rights) or even environmental rights, i.e. third-generation rights. (Nikolovska-Tsaca, M. (2021, 47-61, pp) The multiplication of studies related to the research of a phenomenon that has grown into a "reference crime" of our time allows us to conclude that today an exhaustive portrait of corruption has been prepared. How and in what way is the change from the liberal and functionalist interpretation manifested? What positive effect on the market, especially through the redistribution of wealth, towards the universalist approach that places human rights at the center". When it comes to civil and political rights, it is known that corruption directly undermines civil rights and policies. (Lažetić, G. 2021, 17-31pp.) This finding is particularly relevant for the right to property through the possibility of abusive appropriations through manipulation, for example with the land registry. This also erodes citizens' trust in democratic institutions. For example, the distortion of election results can lead, on the one hand, to lower participation in political life and, on the other hand, make the implementation of public policies more difficult, especially if there is doubt about legitimacy. Furthermore, the phenomenon contributes to the maintenance of inequalities and discrimination, especially before the courts, but also through the absence of guarantees of equal access to public functions. (Arifi, B. (2021, 32-46, pp)

5. ECONOMIC AND SOCIAL CONSEQUENCES

The destabilization of democratic institutions through corruption implies an economic cost that affects both public resources and public spending. Under the influence of corruption, the damage that affects the economy of countries is manifested, which is difficult to calculate. For example, the EU anti-corruption report puts the figure of 120 billion euros per year, a recent study commissioned by the European Parliament puts forward a very imprecise hypothesis for the total cost estimated at between 179 and 990 billion euros per year. Also, the mismanagement of public affairs due to corruption is one of the main harmful consequences highlighted in the context of the debates on the right. First of all, it leads the public decision-maker to not motivate efficient companies (quality/price ratio). This practice risks, first of all, encouraging companies to invest less in research, which reduces their competitiveness in

the long term, since innovation is not rewarded. Secondly, it promotes the creation of monopolies, thus undermining the freedom of enterprise. Secondly, public decision-makers may be inclined to place orders that are unnecessary or go beyond the need for excessive equipment. Such moves are the result of commissions that are often indexed to the amount of funds needed for the implementation of the contract: “We can even go so far as to say that the duplication [...] between the apparent rule and the invisible rule, which characterizes corruption, in short distorts every exchange of relations, prevents any reciprocity and ultimately destroys what constitutes the interpersonal relationship. Therefore, what establishes the rights of the citizen are completely devalued. In this sense, it can be stated that corruption affects civil rights. Thirdly, corruption encourages spending in favor of certain sectors where the amount of bribes is particularly high, such as armaments, to the detriment of other financially less profitable sectors, such as education. Markets related to sports competitions are, for example, suitable for these practices. In terms of revenue, corruption encourages tax evasion and tax evasion, reducing public revenue and distorting the redistributive nature of tax. (Mouzaoui, A, Baar, A. Boras, B.(2022), Corruption also creates certain social consequences. In addition, corruption stimulates a social cost that perpetuates inequalities: it hinders the redistribution of wealth in countries with weak governance affected by the “resource curse” and affects the poorest by making it more difficult to access basic goods and services such as food, water or medical care, as well as research and education. (Nikolovski, M.(2021, 113-130,pp.) Corruption and public decision-makers. Corruption undermines trust in public decision-makers and democratic institutions and calls into question the effectiveness of both democracy and the legal and political system. The most worrying thing about corruption is not so much the confusion between the private and public sectors as the fact that the rule is violated by an elected or appointed person who must deal with corruption but also by his voters or appointed officials. It is therefore less a target of collusion between private and public interests than of confusion between the violator and the guardian of the rule, since the public third party that is understood as the central element of any institutional system is erased. Corruption is a crime of the second degree. In this case, it is not a crime against persons or property, but a crime against the law. When corruption causes victims, they are indirect victims, much more numerous than any other crime, since the entire political community is at stake. Corruption feeds on its own invisibility; it achieves this by giving the false spectacle of respect for the rule” Corruption and Justice. Ultimately, the independence and impartiality of justice are no longer guarantees, in the case of corruption of police officers or judges, which neutralizes any effective legal remedy. Judicial corruption is also often considered the most serious attack: “The crime of judicial corruption is, without a doubt, the most heinous dimension of corruption and at the same time one of the most dangerous that society must suppress. Gaber-Damjanovska, N. (2021, 88-98,pp.) “We can, up to a certain point, defend ourselves from the attacks of the murderer and the thief, but we will be powerless when a judge strikes you with the sword of the laws and thus kills the law in his office, Robert Badinter stated. The judge is responsible for the distribution of justice, a representative of the heavenly law that is above kings. He must act selflessly and without external or internal influence. He is a kind of priest who fulfills the noblest functions that society can entrust to him, emphasizes Robert Badinter Corruption and Security. With corrupt behavior in the domain of ministries responsible for security and defense and the diversion of sums allocated from the defense or interior budget, corruption weakens the security of the state and citizens, otherwise a condition for the realization of individual and collective freedoms. In this way, it promotes the activities of organized crime, such as drug trafficking but also terrorism. Corruption also threatens the separation of powers. Corruption affects the rule of law by weakening, more or less directly, the separation of powers: “the antinomy between corruption and democracy extends to the legal level, since the law presupposes an order that is based on distinctions, such as the public/private distinction, and the separation of executive, legislative and judicial powers. However, corruption weakens the distinction and allows for the interference of powers.” The executive or the power of the prince according to Machiavelli if he is biased in the appointment of judges, will in return expect the judge to be made a notorious accomplice to injustice. If he accepts this, the corruption and the hands of both remain dirty. The corruption of a judge in favor or to the detriment of a person who is the subject of criminal prosecution is not only a criminal offense of corruption (passive corruption of a judge, obstruction of justice) considered not as a misdemeanor, but as a criminal offense. The attack on the rule of law in all its components, paradoxically, measures the risk of diversion and arbitrariness of the fight against corruption that follows.

6. CONCLUSION

The phenomenon of corruption has been present since the first human civilizations. Sometimes it was treated as a kind of skill and insight into the wisdom of governance, sometimes it was treated as a poison to society. Herodotus described the crucifixion of a corrupt judge by King Darius, while in the Middle Ages the Criminal Code provided for severe punishments for corrupt judges. In the 18th century, the first serious analyses of corruption from an economic and social perspective began. Today, corruption is a criticized category that causes great damage, and

modern legal and political systems strive to reduce it, aware that this is a difficult task. The damage caused by corruption is such that it sometimes leads to excessive repression, which in itself is hardly compatible with civil rights. In modern society, corruption causes at least three dangers in society. First, the need to rid society of endemic corruption perpetuated by moderate elites or the bourgeois class is one of the main political arguments taken up by extremists, both on the right and the left. By extension, the fight against corruption enables despotic regimes to perpetuate themselves. For example, after coming to power, Chinese President Xi Jinping promised that “neither corrupt tigers nor corrupt flies” would be spared. The EU is waging a relentless battle against corruption both at EU level and at the level of its member states.

REFERENCES

- Ackerman, R.S. (1978). *Corruption – A Study in Political Economy*, éd. Academic Press, Londres, 1978]
- Arifi, B. (2021). CRIMINAL LIABILITY FOR HIGH (POLITICAL) CORRUPTION IN THE REPUBLIC OF NORTH MACEDONIA. FRIEDRICH EBERT FOUNDATION – SKOPJE FIGHT AGAINST CRIME AND CORRUPTION <https://library.fes.de/pdf-files/bueros/skopje/15369/09-2021-03.pdf>
- Berges, M. (2000). Machiavelli, un penseur masqué ?, coll. Théorie politique, éd. Éditions Complexe, 2000, pp.97-98
- Blavatsky, P. (2021). « Obesity of politicians and corruption in post-Soviet countries », *Economics of Transition and Institutional Change*, vol. 29, no 2, 2021, p. 343–356
- Bonte, Ph. (2019). GOUVERNANCE ET INSTITUTIONS DE LUTTE CONTRE LA CORRUPTION EN CÔTE D'IVOIRE, <https://archipel.uqam.ca/14231/1/T1031.pdf>
- Dan Steinbock, D. (2018). [What Transparency International's corruption index doesn't see](#) », sur scmp.com, 16 mars 2018
- Davies, Joanne, E. (2018). Does the Millennium Challenge Corporation reinforce capitalist power structures or empower citizens. *Third World Quarterly*, 39(4) 609-625. Retrieved from <https://www.tandfonline.com/doi/abs/10.1080/01436597.2017.1401463>
- Gaber-Damjanovska, N. (2021). COMPREHENSIVE TRAINING OF FUTURE JUDGES AND PROSECUTORS IN THE FIGHT AGAINST CORRUPTION, FRIEDRICH EBERT FOUNDATION – SKOPJE FIGHT AGAINST CRIME AND CORRUPTION <https://library.fes.de/pdf-files/bueros/skopje/15369/09-2021-03.pdf>
- Heidenheimer, A. (1970). *Political Corruption - Readings in Comparative Analysis on political corruption*, ed. Holt, New York, 1970)
- Koenig, G. (2016). « Quelle morale pour la corruption ? », *Revue internationale et stratégique*, n o 101, 2016, pp. 55-63,
- Lafay, J.D. (2016). « L'économie politique de la corruption – Aperçu analytique », *Revue internationale et stratégique*, n o 101, 2016, pp. 91-99, spéc. p. 91)
- Lascoumes, P., & Nagels, C. (2014). *Sociologie des élites délinquantes – De la criminalité en col blanc à la corruption politique*, coll. U, éd. Armand Colin, 2014, pp. 245-271, spéc. pp. 247-249
- Lažetić, G. (2021). CORRUPTION BETWEEN THE RULE OF LAW AND POLITICAL BUSINESS ELITES, FRIEDRICH EBERT FOUNDATION – SKOPJE FIGHT AGAINST CRIME AND CORRUPTION <https://library.fes.de/pdf-files/bueros/skopje/15369/09-2021-03.pdf>
- Mouzaoui, A., Baar, A., & Boras, B. (2022). Financial corruption between theory and the international legal mechanisms of its struggle, *Journal of Contemporary Business and Economic Studies* Vol.(05) No.(2) (2022, <file:///C:/Users/Lenovo/Downloads/la-corruption-financi%C3%A8re-entre-la-th%C3%A9orie-et-les-m%C3%A9canismes-juridiques-internationaux-de-sa-lutte.pdf>)
- Nikolovska-Tsaca, M. (2021). PREVENTION, DETECTION AND CONTRADICTION OF CORRUPTION (INTERNATIONAL AND NATIONAL INSTRUMENTS) FRIEDRICH EBERT FOUNDATION – SKOPJE-FIGHT AGAINST CRIME AND CORRUPTION <https://library.fes.de/pdf-files/bueros/skopje/15369/09-2021-03.pdf>
- Nikolovski, M. (2021). The situation with corruption in higher education, FRIEDRICH EBERT FOUNDATION – SKOPJE FIGHT AGAINST CRIME AND CORRUPTION <https://library.fes.de/pdf-files/bueros/skopje/15369/09-2021-03.pdf>
- Spector, C. (2014). « Montesquieu ou les infortunes de la vertu », *Esprit*, n o 402, févr. 2014, pp. 31-44, spéc. p. 40.
- Türkmen, H. (2023). L'Iran enquête un individu implique dans la création d'un réseau de traite d'êtres humains, <https://www.aa.com.tr/fr/monde/liran-excute-un-individu-implique-dans-la-creation-dun-reseau-de-traite-d-êtres-humains/2902123>)