

Sartayev S.A.,  
Kalshabayeva M.Zh.

**Some problems of determination  
of corruption: teoretiko-pravovoy  
analysis**

Сартаев С.А.,  
Қалшабаева М.Ж.

**Сыбайлас жемқорлық ұғымын  
анықтаудың кейбір мәселелері:  
құқықтық-теориялық талдау**

Сартаев С.А.,  
Қалшабаева М.Ж.

**Некоторые проблемы  
определения коррупции:  
теоретико-правовой анализ**

In today's time one of the most actual problems of modern is the fight against corruption. Any State which seeks to deal with such negative phenomena as – corruption. In this context, we have chosen as their research questions the definition of the concept of corruption. The article deals with the concept of corruption in the prisma of legal analysis of the various international conventions and national legislation, statistical data. Are risen causes of corruption. Article, also, is considered the main directions of the Kazakh government in combating and preventing corruption. On the part of the authors are their own recommendations and proposals on this issue.

**Key words:** corruption, fight against corruption, measures for the prevention of corruption, corruption reason.

Қазіргі уақытта сыбайлас жемқорлық және онымен күрес мәселесі күн тәртібінде тұрған өзекті сұрақтардың бірі болып табылады. Қай мемлекет болмасын осы әлеуметтік негативті құбылысқа бей-жай қарай алмайды және онымен күресте түрлі бағыттарды ұстанады. Сондықтан да сыбайлас жемқорлық ұғымын анықтау мәселесі мақаламыздың зерттеу тақырыбы болып отыр. Осы тұрғыда мақалада сыбайлас жемқорлық түсінігіне түрлі халықаралық конвенциялар мен ұлттық заңнамада келтірілген ұғымдарды анықтай келе, құқықтық тұрғыда талдау жасалып, статистикалық мәліметтер келтіріледі. Сыбайлас жемқорлықтың пайда болу себептері ашылып, теориялық талдау жасалынған. Сыбайлас жемқорлықпен күрес бойынша қабылданып жатқан халықаралық құжаттар тізбесі келтіріледі. Қазіргі кезеңдегі Қазақстан Республикасындағы осы негативті құбылыспен күресу бағыттары мен алдын алудағы іс-шаралар анықталады. Қарастырылған мәселе бойынша авторлардың өзіндік тұжырымдары мен ұсыныстары келтіріледі.

**Түйін сөздер:** сыбайлас жемқорлық, сыбайлас жемқорлықпен күрес, сыбайлас жемқорлыққа қарсы шаралар, сыбайлас жемқорлықтың себептері.

В сегодняшнее время одним из актуальных проблем современности является борьба с коррупцией. Любое государство стремится бороться с таким негативным явлением, как коррупция. В этой связи мы выбрали в качестве своего исследования вопросы определение понятий коррупции. В статье раскрывается понятие коррупции через призму правового анализа различных международных конвенций и национального законодательства, приводятся статистические данные. Рассматриваются причины возникновения коррупции. В статье также рассматриваются основные направления казахстанского государства в сфере борьбы и предупреждения коррупции. Со стороны авторов даются собственные рекомендации и предложения по данной проблеме.

**Ключевые слова:** коррупция, борьба с коррупцией, меры по предупреждению коррупции, причины коррупции.

**SOME PROBLEMS OF  
DETERMINATION  
OF CORRUPTION:  
TEORETIKO-PRAVOVOY  
ANALYSIS**

Corruption is one of the very serious negative social phenomena. According to the international organization such as *Transparency International* Corruption Perception Index's ranking, Kazakhstan ranked at 131st place in 2016, 123rd place in 2015, 140th place in 2013, 105th in 2010, 120th in 2009, 145th in 2008, and 122nd place in 2004. And updated in 2014, this figure climbed to 126th place in the ranking 100-26. According to the Global Competitiveness Index for 2014-2015, corruption is a priority of doing business in Kazakhstan (16.7 points), the situation has worsened in terms of informal payments and bribery (ranked 80th place among 144 countries in 2014, 65th in 2013) [1]. According to these data, the level of corruption in our country at the same level with countries such as Guatemala, Laos, Zambia, Nicaragua and Paraguay.

International organization *Transparency International* Corruption Perception Index – an expert from the sources described as an indicator calculated on the basis of the information and statistical data. Data covers many countries and territories and based on data covering the last two years. Index of countries and territories on the basis of the level of corruption in the state sector ranked from 0 (the lowest level) to 100 (the highest level) scale. The final rating consists of the country and the number of ranking points, the number of sources of indicators for each country, the standard deviation of the differences between the values of the confidence interval is given for each country. On the accuracy of the results of the index, it is certain to draw a conclusion.

The scientific community give importance a lot to the notion of «corruption», every scientist analyze it on their own.

Now, the negative impact to the development of the state, to the Republic of Kazakhstan of this social deficiency, officially recognized. «The Law on national security of the Republic of Kazakhstan» approved on January 6, 2012, №527-IV [2] mentions that corruption is a threat to national security and refers to «agencies of the criminal structures that would reduce the level of protection of national interests». The anti-corruption branch Program of the Republic of Kazakhstan for 2011-2015 yy. states that «corruption threatens the stability of the state and society, and the image of the Republic of Kazakhstan in the international arena (the image) with a negative impede on the ongoing

economic and social reforms face systemic threat to the security of Kazakhstan» [3].

«Corruption» do not have any common definition or concept. Even, insofar as there is no clear definition of corruption in many countries, there is no rules and regulations. This problem is discussed differently by domestic and foreign professionals, it is known from their major scientific theories and views. Kazakhstani lawyers states that ‘corruption’ is contrary to the requirements of the law and defines it as the offense in the form of a menace to society. According to the law of the Republic of Kazakhstan «On Combating Corruption» [4], corruption is when people performing the tasks of the state, as well as persons equated to them with the use of official powers and related opportunities or property to benefit from their use of jobs, personally or through intermediaries of extralegal property to the benefits and privileges, as well as individuals and legal entities of the benefits and advantages it illegal to buy them by tampering.

An interdisciplinary group of the Council of Europe on corruption, states that «corruption in the public or private sector, is entrusted with performing certain tasks, state officials and private employees, which leads to the destruction of the tasks assigned to the status of an independent agent, as a goal in itself for any illegal benefits bribery behavior.

The concept of corruption according to the rules of the United Nations Secretariat includes:

- 1) officials of state property theft or acquisition;
- 2) as a result of the unofficial status of the cases, the user of abuse of official position for personal profit;
- 3) covers the concepts such as the differences between public debt and private interests.

On the fight against corruption in the United Nations International Reference document mentioned that «corruption of public power is for personal purposes and for personal gain abuses».

In turn, the political elite of Western lawyers argues that corruption is a deviant behavior, and a violation of moral and ethical standards.

American political scientist Joseph S. Nai states that corruption takes place «under the influence of individual, material or status purposes or effect of deviations from official duties prohibited certain rules of behavior that violates» [5, p.12].

Russian lawyer S.V.Maximov argues that the term used as «state, municipal or other public employees to their illegal status, privileges to any (property, rights, services or discounts, including non-property benefits) or the recent abuse of such privileges to» [6, p.8]

Management of corruption should be considered, first of all, by the history of corruption. This social deficiency or disease can be seen, regardless of the regime of all countries and civilizations.

And now we should consider the causes of these emerging social problems in society. The researchers think that some of the causes of corruption is connected with the psychological behavior of an individual, such as: selfishness, greed, sexual remain without restrain, limiting the terms of the low ethical standards are rolled out. However, in our opinion it is hard to treat the disease because it is more complex and comprehensive, which is reflected in the moral and ethical institutional nature.

The main causes of corruption, political instability in the country, the actions of the authorities, inefficient, imperfect legislation, economic depression, low legal awareness of the population, civil society inaction and lack of long-entrenched democratic traditions in society, not the order of application of the law is the weakness of the judicial system.

Anti-corruption approach to regulatory measures to ensure that illegal is one of the requirements necessary to effectively fight the phenomenon. Currently, there are lots of international anti-corruption acts, rules and regulations. For example: 29.06.1996 yy. the proposal of the Group of 32 senior experts on transnational organized crime in Lyon, it was approved by political groups of 8 countries; Code of conduct of public officials (12.12.1996, the resolution 51/59 of the UN General Assembly); The international operations of the UN Declaration on the fight against corruption and bribery crimes; UN General Assembly «fight against corruption» resolution (28.01.1997); 21.11.1997 Economic Cooperation and Development (OECD) international commercial transactions in foreign Convention on Combating Bribery of public officials; the Convention on the criminal and civil responsibility adopted by the Council of Europe (1999); Anti-corruption measures, resolution 54/128 of The UN General Assembly in 28.01.2000; The United Nations Convention against transnational organized crime; The UN Anti-Corruption Convention (31.10.2003).

Despite the severity of the fight against corruption, this is one of the most important social combat with negative phenomenon. Each country has different level of corruption, so the fight against the direction of control policy will be the right choice. Lately, corruption issues and ways to combat are not only on the focus of theorists, as well as the practitioners have been paying a lot of

attention to these issues. The fight against corruption requires complex efforts, which includes a variety of measures.

There are wide range of anti-corruption measures, regulatory framework in Republic of Kazakhstan. In the process of national reform and improvement of the legal system in this area in 2014, the President's speech to the people of Kazakhstan «Shining Path to the Future» should be noted. During the implementation of the directions of the President's speech on November 11, 2014 in order to prevent corruption, the

«Nur Otan» party at the enlarged meeting of the Political Council adopted «Anti-Corruption Program Action for 2015-2025» [7]. The purpose of the program is to create an atmosphere of intolerance in the name of any manifestation of corruption in the whole society which leads to the anti-corruption movement.

It is appropriate to mention that the anti-corruption fight with this negative phenomenon in the country, taken to improve legal mechanisms for programs, only effective if it is implemented by goals and directions.

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