



THE OBJECTIVE SIDE OF CRIME IN CRIMINAL LAW THEORY

Odilov Muhammadrashodxon Sarvarjon ugli,
PhD researcher of the Law Enforcement Academy
E-mail: rashodxon@mail.ru

Article history:	Abstract:
Received: 8 th April 2025 Accepted: 7 th May 2025	<i>In a historically short period, the country has formed institutional and legal foundations of legality and law and order, and created an effective national system for combating corruption. In implementing reforms in this direction, special attention was paid to the implementation of internationally recognized norms into national legislation. The existence of such problems in the current legislation as the absence of normative-legal definitions for a number of concepts related to corruption crimes, insufficient coverage of corruption acts by criminal legislation, hinders the achievement of expected results from the fight against corruption and further improvement of Uzbekistan's position in international rankings in this sphere. This article analyzes specifically the definition of the object and objective features of bribery crime, the interpretation of these concepts in our national legislation, and scholars' attitudes toward this concept.</i>
Keywords: <i>corruption, corrupt offense, crime, prevention, international standards, illegal enrichment.</i>	

In the theory of criminal law, the objective side of a crime refers to the external manifestation of certain socially dangerous acts that have caused or are capable of causing harm to social relations protected by criminal law, as well as the circumstances, place, time, and environment in which the crime was committed. The objective side of bribery is characterized by a certain complexity, as it consists of several components.

From an objective standpoint, according to Article 210 of the Criminal Code of the Republic of Uzbekistan, the crime of bribery consists of an official person receiving a reward, either personally or through an intermediary, for performing or being able to perform certain actions using their official position in the interests of the bribe giver.

Many years of global experience in combating corruption have made it possible to identify the following forms:

- a) receiving a reward or gift for lawful actions (inaction) committed with or without prior agreement about the reward;
- b) receiving compensation under the same conditions for actions (inaction) related to violations of official duties;
- c) extortion of bribes (extortion);
- d) systematic extortion (tribute) from subordinates and other persons who are in some way dependent on the goodwill of the public servant;
- e) receiving material wealth and services from relevant interested parties by a public servant for patronage,

goodwill, interest, and so forth, without any agreement about a specific official action[1].

Traditionally, they can be divided into open and covert forms. In the open form of bribery, the subject of the bribe is given directly to the official, their family members, or other persons in an obvious manner and with their consent.

Disguised bribery is dressed in seemingly legal forms: part-time jobs, gifts for holidays, bonuses, various one-time payments, and others.

In legal theory, researchers distinguish several types of bribery. For example, American scholar Reisman V. identifies three main types of bribery: transactional, variance, and outright corruption.

Transactional bribes are payments made to a public servant to ensure and expedite the performance of their official duties. Here, the purpose is not to ensure the performance of a specific action, but to "buy" the official so that while working in the organization and outwardly maintaining complete loyalty, they actually pay no attention to the corrupt interests of the bribe giver[2].

The second type includes "variance" bribery. In this case, the bribe giver pays for covert delays. As a result, for example, when a claim deadline is violated or a payment deadline is missed, the bribe giver receives additional income in the form of interest or is not held liable for delivering substandard goods.

The third group includes "outright corruption." In such cases, bribes are given either for performing illegal actions (for example, for providing information constituting trade secrets) or for inaction (such as not



drawing up a commercial act for delivered products) and others[3].

An official may also receive bribes for performing or failing to perform actions that fall within the authority of another official whom the bribe recipient influences using their official position in the interests of the bribe giver. As stated in the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan dated May 24, 1999, "officials who do not have the authority to perform relevant actions in the interests of the bribe giver, but who can ensure other measures in exchange for bribes due to their official position" should also be recognized as subjects of bribery.

A number of criminologists engaged in the theoretical development of issues of liability for bribery adhere to the viewpoint that abuse of official position should be understood in the broad sense of the word, meaning that actions related to bribery may not be connected with official duties. In such cases, their implementation becomes possible only due to the perpetrator's official position or authority. Supporters of this position believe that abuse of official position occurs when an official influences other people through their official powers, uses personal connections, and so forth[4].

To generalize this issue, we consider that an official commits such actions related to the rights and powers of their position while using their official position. In such cases, the indicated influence or use of official authority through official connections with employees of other institutions is considered an element of illegal use of official position.

Cases are known in judicial practice where individuals fraudulently created a false impression among citizens of being authorized officials, and although they supposedly had the authority to resolve certain issues in favor of the bribe giver for compensation, they actually did not have real capabilities to implement this. In such cases, while accepting a reward by an official may result in criminal liability, it is not considered bribery. If an official receives illegal compensation for promising to perform actions that they cannot actually perform using their official position, their actions may be classified as fraud rather than corruption. For example, the head of a court registry receives material wealth for applying conditional punishment to a defendant.

In investigative and judicial practice, cases have been identified where certain officials regularly receive daily, weekly, monthly, and other payments from their subordinate employees or persons under their supervision. It is common for a tax inspector to receive a certain monthly salary from a grocery store director. Moreover, the aforementioned officials receive illegal compensation not for specific official actions, but for goodwill and patronage toward bribe givers.

The social danger of corruption lies in the fact that an official illegally receives compensation for performing or failing to perform actions that they could or should perform using their official position in the interests of the bribe giver. Therefore, when an official satisfies the bribe giver's interests in accordance with the law in exchange for a bribe, the signs of bribery become clearly evident.

When examining the objective side, it is necessary to analyze the feature of "bribe giver's interests." The bribe giver's interests should be understood as situations where actions are taken considering both the personal interests of the bribe giver and the interests of the bribe giver's relatives, close acquaintances, the institution or enterprise where they work, and others [4].

The issue of the time of completion of bribery and the possibility of voluntary renunciation from it arouses theoretical and practical interest and has important practical significance.

During the research, the dissertation author attempted to determine what moment 211 respondents in the survey considered to be the completion of corruption. Among them, 88 people (42%) believed it was when the bribe was partially or fully transferred to the corrupt official, 60 people (28%) considered it to be at the time of bribe giving, 40 people (19%) believed it was at the time of bribe taking and when the corrupt official gained the right to dispose of the bribe, and 21 people (10%) considered the crime to be completed at the moment the bribe was demanded.

The aforementioned Plenum of the Supreme Court of the Republic of Uzbekistan did not provide an explanation regarding considering bribe giving, bribe taking, and mediation in bribery as completed crimes, only stating that in cases of bribery by a group of persons by prior agreement, the crime is considered completed from the moment at least one of the officials receives the bribe.

It follows from this that committing actions (inaction) related to bribe giving is supposedly outside the scope of the composition. Therefore, Article 210 of the Criminal Code of the Republic of Uzbekistan also applies in cases where it is established that an official has taken a bribe and renounced the intention to perform the actions or inaction envisaged in bribe giving. In particular, criminal law clearly links the completion of the crime of bribery with the official's acceptance of at least part of the bribe. In this regard, an official's consent to take a bribe does not go beyond what is called "determination of intent" and therefore is not considered a crime.

In accordance with the generally accepted procedure, the Criminal Procedure Code, the Law "On Operational-Search Activities," and the Joint



Instruction of November 23, 2014, of the Prosecutor General of the Republic of Uzbekistan, the Chairman of the Supreme Court of the Republic of Uzbekistan, the Chairman of the State Security Service of the Republic of Uzbekistan, and the Minister of Internal Affairs of the Republic of Uzbekistan "On ensuring strict compliance with the requirements of legal documents in reviewing applications and reports on corruption, investigating cases of this category, and considering them in court," the necessity of conducting operational measures to apprehend individuals at the scene of the crime was established. This involves using audio recording devices, money, vehicles, and others while involving the applicant for the purpose of exposing corruption and bringing persons to account. However, in practice, experienced corrupt officials sometimes demand that bribes be left in public places, car trunks, garbage bins, bus stops, and so forth. In such cases, conducting operational measures and apprehending criminals at the scene becomes difficult. In this regard, it is proposed to introduce the following addition to the Plenum resolution:

"Bribe taking and giving by an official or a person performing management functions in a commercial or other organization is considered completed from the moment they accept at least part of the wealth given to them (for example, when it is personally handed over to the official or deposited into an account or 'electronic wallet' indicated by the official with their consent). It is not important whether the indicated persons have real opportunity to use or dispose of the wealth given to them at their discretion.

Bribe taking and giving should also be classified as completed crimes in the following cases, specifically when, according to mutual agreement, the bribe giver has the opportunity to retrieve valuable items from the designated location after the bribe taker or another person sent by them has placed them there at the bribe giver's direction."

The majority of 125 respondents (59%) on this issue agreed with the dissertation author's viewpoint.

Bribe giving, bribe taking, and mediation in corruption are interrelated and mutually conditioned, although they are independent crimes[1]. Their composition has a number of specific features that significantly affect the nature and degree of social danger of each of these crimes. The commission of each of them is a necessary condition for the commission of the other[5].

Bribe giving, mediation in bribery, and bribe taking are directed against the same object - the normal functioning of state bodies, management, and public associations. However, in bribe giving and acting as a mediator, the attack is committed from the outside rather than from within as in bribe taking, which is

why the crimes under consideration are relatively more dangerous. These persons undermine the proper functioning of the state and public apparatus, thereby damaging the reputation of the state and public apparatus through the actions of the corrupt official. This occurs in a number of cases on the initiative of the bribe giver[6].

In conclusion, it should be noted that for the purpose of uniform understanding of the above-mentioned rule, it is proposed to supplement the text of part 4 of Articles 211 and 212 of the Criminal Code after the words "... voluntarily declared..." with the phrase: "to the bodies authorized to initiate criminal proceedings." Also, Article 212 of the Criminal Code of the Republic of Uzbekistan establishes criminal liability for mediation in bribery, and it is considered expedient to understand this as activities aimed at reaching agreements on bribery taking or giving, as well as direct transfer of bribes on behalf of interested parties.

REFERENCES

1. Luneev V.V. Crime of the twentieth century. World, regional and Russian trends. M.: NORMA, 1999. P. 337.
2. Reisman V.M. A hidden lie. Bribe takers. Crusades and Reforms. - M., 1998. - B. 124-150.
3. Rustambaev M.Kh. Criminal law course of the Republic of Uzbekistan. Special part. Volume 4: Economic crimes. Crimes in the field of ecology. Crimes against the activities of state bodies, administration and public associations. Textbook for universities. - T.: TSUI, 2009. - P.254.
4. Bride S.G. Legal issues of criminal liability for bribery. // Corruption is a political, economic, organizational and legal problem. — M., lawyer. 2001. – B. 349-355.
5. Feoktistov V.L. Some issues of liability for bribery and commercial bribery. // Corruption - political, economic, organizational and legal problems - M., lawyer. 2001. – B. 373-377.
6. Kudashkin A.V. Anti-corruption expertise: theory and practice: Scientific and practical guide. M.: Norma, Infra-M, 2012 // SPS "ConsultantPlus"