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MUNDARIJA

12.00.09 – JINOYAT PROTSESSI. KRIMINALISTIKA, TEZKOR-QIDIRUV HUQUQ VA SUD EKSPERTIZASI

Ataniyazov Jasurbek Kurbanbayevich

XUSUSIY-OMMAVIY AYBLOV INSTITUTI DOIRASIDA JINOIY JAVOBGARLIKDAN
OZOD ETISH: PROTSESSUAL MUAMMOLAR 8

Mamadaliyev O'tkir Abdug'affarovich

PROTSESSUAL XATOLARNI SUD MUHOKAMASIDA BARTARAF ETISHNING
AMALDAGI MEXANIZMLARI: MUAMMO VA YECHIMLAR20

12.00.12 – KORRUPSIYA MUAMMOLARI

Ahmadjonov Murodullo Nurali o'g'li

KORRUPSIYAGA QARSHI KURASHISH: DEMOKRATIYA, BURCHLILIK VA TIZIMLI
O'ZGARISHLAR36

12.00.14 – HUQUQBUZARLIKLAR PROFILAKTIKASI. JAMOAT XAVFSIZLIGINI TA'MINLASH. PROBATSIYA FAOLİYATI

Xo'jamberdiyev Farrux Komilovich

HUQUQIY DAVLATDA JAMOAT XAVFSIZLIGINI TA'MINLASHNING
HUQUQIY VA INSTITUTSIONAL MEXANIZMLARI: MUVOZANAT VA ZAMONAVIY
YONDASHUVLAR48

СОДЕРЖАНИЕ

12.00.09 – УГОЛОВНЫЙ ПРОЦЕСС. КРИМИНАЛИСТИКА, ОПЕРАТИВНО-РОЗЫСКНОЕ ПРАВО И СУДЕБНАЯ ЭКСПЕРТИЗА

Атаниёзов Жасурбек Курбанбаевич

ОСВОБОЖДЕНИЕ ОТ УГОЛОВНОЙ ОТВЕТСТВЕННОСТИ В КОНТЕКСТЕ
ИНСТИТУТА ЧАСТНО-ОБЩЕСТВЕННОГО ОБВИНЕНИЯ:

ПРОЦЕССУАЛЬНЫЕ ПРОБЛЕМЫ 8

Мамадалиев Уткир Абдугаффарович

ДЕЙСТВУЮЩИЕ МЕХАНИЗМЫ УСТРАНЕНИЯ ПРОЦЕССУАЛЬНЫХ ОШИБОК
В СУДЕБНОМ РАЗБИРАТЕЛЬСТВЕ: ПРОБЛЕМЫ И РЕШЕНИЯ20

12.00.12 – ПРОБЛЕМЫ КОРРУПЦИИ

Ахмаджонов Муродулло Нурали угли

БОРЬБА С КОРРУПЦИЕЙ: ДЕМОКРАТИЯ, ПОДОТЧЁТНОСТЬ И СИСТЕМНЫЕ
ИЗМЕНЕНИЯ36

12.00.14 – ПРЕДУПРЕЖДЕНИЕ ПРЕСТУПНОСТИ. ОБЕСПЕЧЕНИЕ ОБЩЕСТВЕННОЙ БЕЗОПАСНОСТИ. ПРОБАЦИОННАЯ ДЕЯТЕЛЬНОСТЬ

Хужамбердиев Фаррух Комилович

ПРАВОВЫЕ И ИНСТИТУЦИОНАЛЬНЫЕ МЕХАНИЗМЫ ОБЕСПЕЧЕНИЯ
ОБЩЕСТВЕННОЙ БЕЗОПАСНОСТИ В ПРАВОВОМ ГОСУДАРСТВЕ:

БАЛАНС И СОВРЕМЕННЫЕ ПОДХОДЫ48



CONTENTS

12.00.09 – CRIMINAL PROCEEDINGS. FORENSICS, INVESTIGATIVE LAW AND FORENSIC EXPERTISE

Ataniyazov Jasurbek Kurbanbaevich

EXEMPTION FROM CRIMINAL LIABILITY WITHIN THE FRAMEWORK
OF THE PRIVATE-PUBLIC PROSECUTION INSTITUTE: PROCEDURAL PROBLEMS 8

Mamadaliev Utkir Abdugaffarovich

CURRENT MECHANISMS FOR ELIMINATING PROCEDURAL ERRORS IN COURT
PROCEEDINGS: PROBLEMS AND SOLUTIONS20

12.00.12 – CORRUPTION PROBLEMS

Ahmadjonov Murodullo Nurali ugli

ANTI-CORRUPTION: DEMOCRACY, ACCOUNTABILITY AND SYSTEMIC CHANGE36

12.00.14 – CRIME PREVENTION. ENSURING PUBLIC SAFETY. PROBATION ACTIVITY

Khujamberdiev Farrukh Komilovich

LEGAL AND INSTITUTIONAL MECHANISMS FOR ENSURING PUBLIC SECURITY
IN A LEGAL STATE: BALANCE AND MODERN APPROACHES48

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XUSUSIY-OMMAVIY AYBLOV INSTITUTI DOIRASIDA JINOIY JAVOBGARLIKDAN OZOD ETISH: PROTSESSUAL MUAMMOLAR

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Annotatsiya. Ushbu maqolada mamlakatimiz jinoyat-protsessual qonunchiligida shaxslarning dispozitiv huquqlari aks etishi, xususiy ayblov instituti doirasida ularning huquqlarini ro'yobga chiqarishda vujudga kelayotgan huquqiy muammolarga to'xtalib o'tilgan. Shuningdek, javobgarlikdan ozod etishning mazkur turining o'ziga xosligi hamda uning protsessual tartibi bo'lgan ish yuritishni rad etish yoki tugatish bilan bog'liq protsessual muammolari va mazkur masalalarning huquqiy tartibga solish jihatlari tadqiq etilgan. Maqolada jinoyat va jinoyat-protsessual huquqlarida nazarda tutilgan javobgarlikdan ozod qilishning moddiy va protsessual asoslari qonunchilik va amaliyot nuqtayi nazaridan tahlil etilgan bo'lib, mavjud muammoli hamda kollizion holatlarni bartaraf etish bo'yicha ilmiy mulohazalar, tavsiyalar ishlab chiqilgan. Shu bilan birga, qonunchiligimizda uchrayotgan shaxslarning da'vosi yo'qligi asosida ishni rad etish yoki tugatishda ishning keyingi protsessual mexanizmi mavjud emasligi, xususiy ayblov institutining rivojlangan davlatlarda qo'llanishi, ushbu institutning taraqqiy topish shartlari, ommaviy ayblovdan farqli jihatlari, ommaviy ayblov asosida jinoyatlarni tasniflash zarurati huquqiy tadqiq etilgan. Tadqiqot ishida ilg'or xorijiy tajriba, ilmiy-nazariy qarashlar va tergov hamda sud amaliyoti o'rganilgan, buning natijasi o'laroq, O'zbekiston Respublikasi Jinoyat-protsessual kodeksiga, boshqa qonun hamda qonunosti hujjatlariga tegishli o'zgartirish va qo'shimchalar kiritish bo'yicha taklif, tavsiyalar ishlab chiqilgan.

Kalit so'zlar: shaxslarning dispozitiv huquqlari, xususiy ayblov, ommaviy ayblov, ish yuritishni rad etish, jinoyat ishi, jinoyat ishini tugatish, javobgarlikdan ozod etish, da'vo

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ANTI-CORRUPTION: DEMOCRACY, ACCOUNTABILITY AND SYSTEMIC CHANGE

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Abstract. *In this article, we will review foreign research conducted in the field of corruption and focus on the negative aspects of corruption and corruption risks affecting the democracy and socio-economic development of developing countries. Also, this research work widely covers parochial, market, and systemic types of corruption and their differences from each other, condemning such vices in society as weak political systems and mechanisms, excessive bureaucracy, and economic inequality. In addition, this article focuses on the complex and integral connection between corruption and development, as well as on the fact that corruption is an obstacle to progress, destroying a democratic society. The article notes that public participation, transparency, and the integrity of civil servants are key factors in combating corruption. At the same time, the study criticizes only punitive approaches (measures), emphasizing the need to find solutions to the main problems and support reforms aimed at strengthening corruption-free public administration. In this regard, attention is drawn to the measures taken and achievements made by the state body ICAC of the state of Hong Kong. In turn, this article focuses on changing the systemic mechanisms in the government rather than the state's function of prosecution and punishment in eliminating corruption and corruption risks. This article also highlights the complex and problematic relationship between democracy and corruption. Indeed, when democratic systems weaken, corruption intensifies, because the failure of control mechanisms restricts civil and political freedoms. To address the aforementioned problems, several systematic proposals are also presented in this article.*

Keywords: *social corruption, corruption analysis, cultural values, preventive strategies, empirical measures, personal responsibility, systemic reforms, social norms*

KORRUPSIYAGA QARSHI KURASHISH: DEMOKRATIYA, BURCHLILIK VA TIZIMLI O'ZGARISHLAR

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Namangan viloyati, Kosonsoy tuman
prokurorining yordamchisi

Annotatsiya. Mazkur maqolada korrupsiya sohasida amalga oshirilgan xorij tadqiqotlari ko'rib chiqilgan bo'lib, unda korrupsiya va korrupsiyaviy xavf-xatarlarning rivojlanayotgan davlatlar demokratiyasi hamda ijtimoiy-iqtisodiy taraqqiyotiga ko'rsatayotgan salbiy jihatlari e'tibor qaratilgan. Shuningdek, mazkur tadqiqot ishi korrupsiyaning paroxial, bozor va tizimli turlari hamda ularning bir-biridan farqlarini keng yoritib, zaif siyosiy tizimlar va mexanizimlar, haddan ortiq byurokratiya, iqtisodiy tengsizlik kabi jamiyatdagi illatlarni qoralaydi. Bundan tashqari, ushbu maqolada korrupsiya va rivojlanish o'rtasidagi murakkab va uzviy bog'lanishga hamda korrupsiya – demokratik jamiyatni yemirib borayotgan taraqqiyot kushandasi ekanligiga ahamiyat berilgan. Maqolada jamoatchilik ishtiroki, shaffoflik va davlat xizmatchilarining halolligi korrupsiyaga qarshi kurashish borasida asosiy omil ekanligi qayd etilgan. Shu bilan birga, tadqiqot ishida faqat jazoga asoslangan yondashuvlar (chora-tadbirlar) tanqid qilinib, asosiy muammolarning yechimini topish va korrupsiyadan xoli bo'lgan davlat boshqaruvini mustahkamlashga qaratilgan islohotlarni qo'llab-quvvatlashga urg'u berilgan. Bu borada Gonkong davlatining ICAC davlat organi tomonidan amalga oshirilayotgan chora-tadbirlar va erishilayotgan yutuqlarga ahamiyat berilgan. O'z navbatida, maqolada asosiy e'tibor korrupsiya va korrupsiya xavfini bartaraf etish masalalarida davlatning jinoiy javobgarlikka tortish va jazolash funksiyasiga emas, balki boshqaruvdagi tizimli mexanizimlarni o'zgartirishga qaratilgan. Shuningdek, maqolada demokratiya va korrupsiya o'rtasidagi murakkab va muammoli bog'liqlik yoritilgan. Darhaqiqat, demokratik institutlar zaiflashganda korrupsiya avj oladi, chunki ishonchli bo'lmagan nazorat mexanizmlari fuqarolik hamda siyosiy erkinliklarni cheklaydi. Yuqorida qayd etilgan muammolarni hal qilish uchun mazkur maqolada bir nechta tizimli takliflar ham berilgan.

Kalit so'zlar: ijtimoiy korrupsiya, korrupsiyaviy tahlil, madaniy qadriyatlar, oldini olish strategiyalari, empirik chora-tadbirlar, shaxsiy javobgarlik, tizimli islohotlar, ijtimoiy normalar

БОРЬБА С КОРРУПЦИЕЙ: ДЕМОКРАТИЯ, ПОДОТЧЁТНОСТЬ И СИСТЕМНЫЕ ИЗМЕНЕНИЯ

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Аннотация. В данной статье рассматриваются зарубежные исследования, проведённые в области борьбы с коррупцией, с акцентом на негативные последствия коррупции и коррупционные риски, оказывающие влияние на демократию и социально-экономическое развитие развивающихся стран. Также в исследовании подробно анализируются парохильная, рыночная и системная формы коррупции, а также различия между ними, при этом осуждаются такие пороки общества, как слабость политических систем и механизмов, чрезмерная бюрократия и экономическое неравенство. В статье подчёркивается сложная и неразрывная связь между коррупцией и развитием, а также утверждается, что коррупция является препятствием на пути прогресса и разрушает демократическое общество. Отмечается, что участие граждан, прозрачность и честность государственных служащих являются ключевыми факторами в борьбе с коррупцией. В то же время в исследовании подвергается критике исключительно наказывающий подход, подчёркивается необходимость решения коренных проблем и поддержки реформ, направленных на укрепление системы государственного управления, свободной от коррупции. В этой связи уделяется внимание мерам и достижениям, реализованным государственным органом ICAC Специального административного района Гонконг. В свою очередь, основное внимание в статье сосредоточено на изменении системных механизмов в управлении, а не на функции государства по преследованию и наказанию в вопросах устранения коррупции и коррупционных рисков. Также в статье акцентируется внимание на сложной и проблемной взаимосвязи между демократией и коррупцией. Действительно, когда демократические институты слабеют, коррупция усиливается, поскольку несостоятельность контрольных механизмов ограничивает гражданские и политические свободы. В заключение в статье представлены несколько системных предложений по решению вышеуказанных проблем.

Ключевые слова: социальная коррупция, анализ коррупции, культурные ценности, превентивные стратегии, эмпирические меры, личная ответственность, системные реформы, социальные нормы

Introduction

Corruption remains a pervasive and multifaceted challenge, undermining democratic institutions, hampering sustainable economic development, and eroding social trust as a whole. While existing scholarship has documented these broad effects, significant gaps persist in our understanding of the specific mechanisms by which corruption operates in different contexts, as well as the most effective strategies for combating it. This article seeks to address these gaps by moving beyond general analyses to explore the nuances of the impact of corruption on specific sectors, the role of cultural values in shaping attitudes compiled with behaviors along with development of context-specific anti-corruption strategies. A common limitation in corruption studies is the use of simplistic typologies and analyses, which often fail

to capture how these forms interact within social networks and how corruption, as a political system, distorts political leadership.

Furthermore, this research builds on established theories of corruption by introducing a new conceptual framework for analyzing the interplay between different forms of corruption and while incorporating contextualized insights from cultural and social studies as a whole. In particular, this provides a detailed assessment of the Hong Kong ICAC's anti-corruption model (approaches and hands-on strategies), identifying the key elements that contributed to its success and addressing the feasibility of implementing those pragmatic strategies in diverse cultural and political environments. Ultimately, the study aims to provide actionable recommendations for policymakers and practitioners seeking to consolidate democracy and combat corruption effectively in both developing and developed countries.

Materials and methods

This study employs a mixed-methods approach to provide a comprehensive and nuanced understanding of corruption. Specifically, it begins with a qualitative, synthetic literature review, drawing on a wide range of academic articles, reports from leading anti-corruption experts, and commentaries on corruption. The collected data was analyzed thematically to identify critical arguments, patterns, and theoretical frameworks based on the causes, ramifications, and potential solutions to corruption. Building on this analysis, the study develops a novel “networked corruption” framework and constructs sector-specific impact models in areas such as education, healthcare, infrastructure, and environment. These models, in turn, were tested against case studies from three developing countries (India, Ghana, and Indonesia) to evaluate their relevance and applicability. Furthermore, this paper employs a meta-analysis methodology and a comparative case study approach, drawing valuable insights from Hong Kong's Independent Commission Against Corruption (ICAC). It also incorporates qualitative semi-structured interviews to further enrich the findings.

Research results

This article explores the complex nature of corruption, especially in developing countries where political and social structures may be unclear or weakly enforced. It examines how corruption interacts with political structures, economies, and societies, focusing on the influence of political party strength, democracy, and factors such as electoral competition, civil rights and social capital in reducing corruption. To be obvious, this paper asserts that while corruption is a global issue, democratic systems are more effectively at controlling it due to mechanisms such as the rule of law and free press.

Furthermore, the research emphasizes the link between corruption and weak government legitimacy, widespread inequality, and the misuse of power for personal gain as it warns us that corruption not only destabilizes politics but also hampers transformation by channeling resources into inappropriate fields from public needs. This article suggests that combating corruption entails more than just punitive measures as it necessitates a cultural change and systemic reforms that focus on integrity, accountability, and the protection of civil rights that are a backbone of democratic and corruption-free society.

To effectively combat corruption, particularly in newly established or developing nations, this article urges governments to prioritize strengthening democratic institutions, safeguarding free press and electoral competition, along with protecting civil liberties. Public awareness campaigns should work to shift societal attitudes, reducing tolerance for corruption. Additionally, improving law enforcement, implementing preventive empirical approaches, and enhancing government transparency will help minimize opportunities for corrupt practices.

Analysis of research results

Corruption is prevalent in developing countries that lack strong political parties. It thrives when governments heavily run the economy or have too much bureaucracy in public administration. According to the research conducted by Transparency International, corruption can weaken itself over the course of time by fostering institutions that prioritize the common good, while it also acts as a means of distributing resources in political life. Corruption has been a concern since the beginning of organized societies, but its nature has changed over time. In the past, corruption did not use to be a major issue because rulers' actions were seen as legitimate. However, in democracies, where power comes from the people, corruption becomes one of the most pressing problems. While a corruption-free government is generally desired, corruption exists in all societies, regardless of their political or economic systems on the whole [1].

Based on the CPI (Corruption Perception Index) scores and existing research, democracy appears to be the least corrupt form of government. Many scholars believe that democratic nations are more effective at combating corruption (defined by Transparency International as the abuse of entrusted power for private gains) due to a combination of factors such as the rule of law, checks and balances, societal and electoral accountability, civil rights, and the effective ability to govern the government properly. These elements work together to limit the discretionary power of political leaders and increase their accountability toward their duties.

One of the key democratic mechanisms that help reduce corruption is the electoral process. Electoral competition and the desire for re-election theoretically limit politicians' greed, as frequent and competitive elections encourage the selection of better candidates. New political parties, in particular, must build a positive reputation, making them generally less corrupt. Consequently, electoral competition serves as a form of punishment, allowing voters to remove corrupt politicians and parties from office. However, in my mind, it is important to recognize that the positive effect of competitive elections can rely on factors such as the type of corruption, availability of alternative candidates, district size, or electoral system.

Furthermore, political rights, including freedom of speech, the right to protest, and the right to associate, are also critical in ensuring societal accountability, integrity, transparency, and collective action [2]. Research conducted by L. Jenei demonstrates that a free press significantly enhances accountability and reduces corruption. Democracies, by supporting the expression of diverse opinions through a free press and permitting organized dissent, create conditions that limit political corruption.

Civil rights, including protecting citizens' liberty and property, play a crucial role in preventing the government from unjustly interfering with individuals' lives. According to Rose Ackerman, the protection of civil liberties and free speech in democratic systems makes transparent, non-corrupt government possible. An active and independent civil society also serves as a check on government power, as social capital theories argue that societies with more engaged, civic-minded citizens are better at detecting and combating corruption on a large scale. A plethora of empirical studies support this, showing that countries with abundant social networks and high social trust tend to have lower levels of corruption like in Singapore and Nordic countries. Furthermore, the protection of minorities and the empowerment of women are crucial in curbing corruption. Research by Stensöta and Wängnerud shows that democracies with higher gender equality in politics tend to have lower levels of corruption as a whole [3].

It is worth noting that the Gambia has recently made notably progress in controlling corruption, particularly in areas of electoral rights and competition. This radical improvement was largely due to a change in government, which led to renewed anti-corruption commitments and stronger political rights and freedoms. The new government, in turn, introduced press freedom and established a commission to investigate crimes, including corruption, committed by the previous regime. As a result, The Gambia's CPI (Corruption Perception Index) score rose by 7 points from the previous year. Additionally, the country experienced one of the most substantial improvements in the Freedom in the World indicators, moving from "not free" to "partly free" with a sudden 21-point increase [4].

Furthermore, and perhaps even more importantly, in developing countries, corruption breed political instability and undermines the legitimacy of leaders as modernization can be linked to corruption, particularly when political organizations are weak and there's too much government involvement in the economy. A glaring example of this is that, since the 1960s, Western social renowned scientists have studied corruption in their own homelands, but a complete theory of corruption is lacking meaning there has been limited research on corruption in developing countries.

In this regard, Wraith and Simpkins—prominent scholars in the field of anti-corruption—compare corruption to a jungle of temptation, where nepotism and bribery stifle progress, much like weeds choking carefully cultivated plants [5]. Defining corruption, especially political corruption, is difficult and opinions vary widely. Nye, for instance, defines corruption as public officials deviating from their duties for personal gains (money, status, or favoring family or friends), violating rules against using private influence. Meanwhile, the Santhanam Committee defines corruption as the improper or selfish use of entrusted power linked to a public office. Klittgard, on the other hand, suggests corruption increases with monopoly power and discretionary power, but decreases with accountability. Both two accomplished scholars have a point here and I take their point without no doubt [6].

Legal and social views on corruption can align or clash. The perceived significance of a corrupt act also varies across societies all over the world. Michael Johnston notes

that defining corruption is a persistent dilemma, central to both academic discussions and political disputes. A universally accepted definition is challenging to achieve. Scandals involving corruption are frequent and highlight the contested nature of its meaning as discussions on corruption often occur within a moralistic framework, which can hinder objective analysis while public accusations of corruption are often driven by political motives. If political leaders are insincere about reform, anti-corruption agencies lack resources and public support, which is because identifying and eliminating corruption can be challenging [7].

However, Johnston argues that corruption is intertwined with a society's overall developmental issues, not just an isolated problem. That is true that, in newly formed countries, corruption is easily hidden because official rules are vague, or people don't mind if rules are flouted since national identity is weak, which is why corruption thrives when there's no agreement on what corruption is and how devastating its ramifications are and adapting to changing socio-economic conditions.

Corruption puts unprecedented strain on development in complicated ways, affecting political legitimacy, integration of newly established political groups, and economic growth. Scandals can sometimes bolster social values. If leaders pay undivided attention to getting rich through corruption, it leaves development plans doomed to failure [8]. Even modest quantity of stolen wealth can dramatically impact a country's economy, especially when leaders hide their wealth abroad. This is why, in developing countries, coup leaders (like the USA, where there used to be high corruption rate among the police nationwide) often accuse previous regimes of corruption.

Literature clarifies three main types of corruption:

- Parochial (favoring relatives/friends);
- Market (awarding influence to the highest bidder);
- Systematic (using government to transfer illicit benefits to themselves or clients).

It is worthwhile to delve into the pointed out three major types of corruption. "Parochial" corruption defines a system or behavior that benefits a small, specific group, such as close family, friends, or a particular community. It suggests that those in power use their influence to favor individuals they have personal ties with, rather than considering the larger or public interest [9]. Parochial behavior makes up nepotism and cronyism that bear striking resemblance to each other and erode social values and the trust of the public as a whole.

As for corruption in the market, a "market" approach allocates power, resources, or influence based on the ability of individuals or groups to pay for it. The idea is that wealth or financial power buys influence, commonly in business or government settings on the whole [10]. Market corruption, in turn, accounts for Lobbying and Campaign Donations, which can lead to "money politics," where those with financial resources hold disproportionate power, undermining justice and democratic processes. In addition, it may result in policies that favor the wealthy, ignoring the needs of the broader public [11].

Systematic corruption describes a systematic approach that makes use of government structures to establish systems that enable individuals or groups to illegally transfer resources (such as money, power, or goods) to themselves or their associates. These practices often involve corruption, fraud, or the misuse of public resources which at least formulates black economy in a society. Systematic corruption consists of political corruption and clientelism, which, are often deeply embedded in the system, eroding public trust and misdirecting resources or services [12]. Each of these systems can undermine fairness and equality, concentrating power and resources in the hands of a few at the expense of society on the whole.

Moreover, levels of corruption vary widely depending on how aligned government and society are. While corruption hinders national unity, decreases respect for government, and threatens political stability, causing inefficiency and irrationality in decision-making and loopholes in legislation, corrupt leaders worsen poverty by prioritizing private gains in public spending, neglecting the country and its people [13].

To understand corruption and its ramification comprehensively, we need to analyze the social and political factors that give its meaning. Colin Lyes, one of the most accomplished scholars in the domain of anticorruption, argues that corruption is defined by the values that influence social behavior, political parties need money for organization, so politics can become a source of income, corruption creates a partnership between the giver and receiver and can be used instead of force, especially when both parties are powerful. In our opinion, all insights mentioned by Colin Lyes are fruitful to grasp the importance of taking draconian measures to curb and root out corruption on a large scale [14].

To effectively combat corruption, leaders must target its structural organization, much like Hong Kong's ICAC did by using legal powers and social strategies to lessen corruption and change public attitudes. The Independent Commission Against Corruption (ICAC) in Hong Kong is a well-known and highly respected body that plays a vital role in rooting out corruption within both the public sectors and private ones [15]. It was established in 1974 in response to rampant corruption within the police and other government agencies, since then, ICAC has developed a range of effective strategies focused on prevention, education, investigation, and enforcement to combat corruption furiously. Let's clarify the methods used by Hon Kong that is ranked 17th least corrupt place.

Prevention:

- ICAC works proactively to stop corruption before it starts through various preventive measures;
- ICAC collaborates with both sectors to create frameworks aimed at preventing corruption, which constitutes advising on structuring departments and businesses to avoid conflicts of interest, bribery (kickbacks), and other corrupt activities [16].

Education:

- The commission invariably conducts media campaigns to raise public awareness about the negative impacts of corruption, fostering a culture of integrity and encouraging people to report corrupt activities;

- ICAC provides training to public and private sector employees to ensure they grasp their legal responsibilities and the importance of ethical conduct, enabling to reduce unethical behavior from the scratch [17].

Investigation:

- ICAC operates specialized departments, such as the Operations and Legal Departments, which work together to investigate suspected corruption;

- The commission makes sure that whistleblowers are protected from retaliation, encouraging individuals to come forward to report corruption by safeguarding their identities;

- ICAC also collaborates with international law enforcement bodies to deal with cross-border corruption issues.

Enforcement:

- If corruption is found, ICAC arrests individuals and proceeds legal proceedings, working with the Hong Kong Department of Justice to pursue cases;

- ICAC often highlights high-profile corruption cases to serve as a deterrent and show that corrupt practices will lead to serious ramifications [18].

From the pragmatic practice used by Hong Kong, the best approach is to take step-by-step approach to eliminate corruption from the ground up.

The contextual factors of corruption include rulers' morals, leadership quality, and socio-political values. In this regard, Machiavelli believed that ambition and greed could corrupt anyone, seeing corruption as a failure to prioritize the common good [19]. In our view, Machiavelli has the point there, as people always want more out of their temptation and weakness.

Wealthy entities can influence laws through bribes or campaign donations. As V.O. Key notes, corruption is often used for political control on the whole. Moreover, corruption lowers respect for authority and faith in fair government, forcing people to engage in corrupt practices to get what they deserve. As Burke thought, corruption fuels disorder, debt, weakens governance, and harms the constitution as a whole.

Strong political parties can intensify corruption and increase the amount of money involved. In addition, dominant parties have strong bargaining power and can demand high payoffs. For instance, in developing countries, influencing laws before they are passed (pressure group politics) receives more attention rather than corruption at the enforcement stage, which is also a means of influencing decisions [20].

The aforementioned theorists explain corruption as stemming from a divide between "leading" and "lagging" groups in societies experiencing rapid change. A person who benefits from corruption depends on the political system and elite [21]. In this regard, Van Klavaren argues that corruption in underdeveloped countries is not random but a steered political system, as it requires both opportunity and willingness. Public acceptance of corruption and the belief that corrupt politicians go unpunished, gaining power and wealth, undermines anti-corruption efforts. However, systematic reforms can reduce opportunities, while enforcement and deterrence can decrease willingness [22].

Therefore, a key solution is to change the perception of corruption from low-risk, high-profit to high-risk, low-profit, not just through enforcement but by protecting the integrity of the system itself as a whole. The focus should be on systemic change rather than blaming individuals. It is time to heed Hong Kong's ICAC's and prioritize preventive measures that ensure corrupt individuals are kept out of positions of power in the first place.

Conclusion

To conclude, combating corruption requires a multi-faceted approach that integrates contextualized understanding of its systemic nature, sector-specific impacts, and cultural underpinnings. Corruption remains a persistent challenge, particularly in developing countries (newly established countries), where weak political systems and excessive government control over the economy create fertile ground for corrupt practices and corruption risks. While corruption has been a historical concern, its impact becomes more pronounced in democratic societies where public trust and accountability are central. Democracies, with their emphasis on the rule of law, civil rights, electoral competition, and transparency, have proven more effective in combating corruption as we pointed out above.

The aforementioned experience of countries like Hong Kong, through its ICAC (Independent Commission Against Corruption), offers invaluable insights and lessons on handling corruption and corruption risks through a sweeping approach that accounts for prevention, education, rigorous investigation, and rigid enforcement, all of which play a pivotal role in eliminating corruption beforehand.

Ultimately, addressing corruption requires a shift in societal attitudes and the establishment of robust institutions that protect the integrity of the political system. As demonstrated by successful models like ICAC, systemic reforms and a commitment to safeguarding transparency can reduce corruption and its detrimental effects on governance. Corruption must not only be recognized as a high-risk, low-profit activity but also as a threat to the social fabric and a barrier to equitable and inclusive development in public governance as a whole.

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