

Analysis of Corruption Facts in Higher Education Institutions and Legal Issues of Combating Them

Gaibullaev Farrukh Yuldashevich

*Head of the Department of Development and Human Resources, Management of the Ministry of Higher Education, Science and Innovation of the Republic of Uzbekistan
suxbat0199@gmail.com*

Annotation: This scientific article provides a detailed scientific analysis of corruption cases occurring in the education system of Uzbekistan and provides scientifically substantiated proposals and conclusions on the prevention of such cases.

Key words: abuse of authority, use of official position, bribery, crime prevention.

It is no secret that corruption is a dangerous phenomenon for society and the state, and it manifests itself not only in the sphere of politics and public administration, but also in the education system. Corruption is the use of official position, bribery, giving a bribe, abuse of power, commercial bribery or other illegal actions of a person who uses his official position contrary to the legitimate interests of society and the state in order to obtain benefits for himself or third parties in the form of money, valuables, property or property services, other property rights or the provision of such benefits by other persons [1]. Our government systematically implements measures aimed at combating corruption and its prevention. Regulatory documents and regulations have been issued, their implementation is monitored, and the National Anti-Corruption Committee has been created. However, unfortunately, many experts emphasize that these measures have not produced the expected results. In our opinion, the reason for this is the imperfection of criminal law - limited opportunities to bring corrupt officials to justice, as well as the legal nihilism of citizens who bribe education officials.

Corruption in education exists at two levels - grassroots and higher. Grassroots corruption manifests itself in the learning process. For example, during admission to educational institutions, entrance exams, midterm and final exams and other processes. The high level of corruption is associated with the accreditation system, licensing of educational institutions, as well as the distribution of state budget funds in the education system.

One of the main reasons for grassroots corruption is the large gap between the level of education of school graduates and the requirements that universities impose on applicants. As a result, it is difficult to enter a university, and applicants and their parents try to solve this problem with bribes. The Ministry of Education should eliminate this inequality. Therefore, it is proposed to introduce another year of study at school, which will be aimed at bringing the school curriculum in line with the requirements of the university.

Young people have little motivation to study, and many students find it easier to pass exams with a bribe than to take them on their own. To increase students' interest in studying, it is necessary to reform final exams and the education system as a whole.

Many analysts believe that within five years the higher education system may collapse, as the connection between universities and the labor market disappears. Some employers refuse to consider graduates of certain universities when hiring.

In our opinion, one of the factors negatively affecting motivation to study is the legally provided possibility of reinstatement of students expelled due to academic failure. This scheme is especially

beneficial to the university in financial terms for students studying on a contract basis, since students have to pay for their education again. In many European countries, a person expelled due to academic failure does not have the right to study again in the same specialty.

To solve this problem, we believe it is necessary to introduce measures that will entail serious economic losses for students. This will make students take their studies more seriously and increase their desire to avoid expulsion.

What is high-level corruption in the higher education system?

This is corruption that occurs in the processes of accreditation and licensing of educational institutions. The system of accreditation and licensing of higher education institutions in Uzbekistan is still underdeveloped and has a number of serious shortcomings.

Licensing is the activity of licensing bodies to issue licenses to educational institutions, extend their validity, reissue, control, temporarily suspend or cancel licenses, maintain a register of licenses, and provide information on licensing issues.

That is, licensing of higher education is an examination-based process for issuing a license to an educational institution in the field of vocational education. It includes the following stages: conducting an examination, making a decision, processing and issuing a license.

State accreditation is accreditation in the national accreditation system, confirming the compliance of a legal entity or individual entrepreneur with the accreditation criteria. This is a document that officially confirms the right of a legal entity or entrepreneur to carry out activities in a certain area of accreditation.

Thus, accreditation of a higher education institution is the process of issuing an accreditation certificate to an educational institution, confirming that the state status, the level of educational programs implemented, the content and quality of training of specialists comply with state requirements. This accreditation gives the university the right to issue state-level diplomas, have access to the state financing system and use a seal with the image of the state emblem.

Such state control is carried out by a special commission - employees of the Ministry of Education, but it would be more logical to carry out this control together with the public and the professional community. Such a community will be able to give a more objective assessment of the compliance of the quality of educational programs with world standards. Also, for an objective and transparent assessment of universities, it would be advisable to evaluate them according to several parameters or according to a rating system, since this system should reflect all the advantages and disadvantages of universities. Such approaches allow attracting more public attention to universities.

However, it is easy to assume that the lack of transparency in the accreditation and licensing system leads to corruption. In which areas of education is corruption most widespread? First of all, in areas where budget funds are allocated for the development of the education system. According to experts, up to 50% of budget funds allocated for programs aimed at developing higher education institutions and forming a society are wasted [2].

The most corrupt area is the process of publishing literature for educational institutions. Budget funds allocated for these purposes are distributed only between publishing houses sponsored by the Ministry of Education. As a result, the number of books published using budget funds will be significantly less than the required volume. To cover this deficit, financial fraud is used, for example, by artificially increasing the cost of production [3].

In fact, any independent examination can clearly prove these imbalances, but corruption is an obstacle here too. How can this problem be solved? Several solutions can be proposed:

Checking the compliance of price and quality of printed educational literature by conducting special examinations.

Improving the procedure for holding competitions for the publication of educational and professional literature. In order to make this process more transparent, it is advisable to ensure open tenders financed from the budget.

What bodies carry out control and audit work in the field of education and science?

In Uzbekistan, the functions of supervision and inspection in the field of education and science are carried out by the Service for Supervision in the Sphere of Education and Science. This body is authorized to conduct inspections of educational institutions on the territory of the Republic of Uzbekistan, regardless of their organizational and legal form, type and kind, as well as education management bodies and territorial executive bodies that exercise control functions in the field of education.

The presence of corruption in the field of education is one of the most important problems that is observed in various spheres of our society. The scientific community studies the features of corruption in the systems of state and local government, law enforcement agencies, healthcare, sports, the private sector, the electoral process and other areas, and also develops measures to prevent it. Corruption in the field of education is no exception.

The danger of corruption in education is that, despite the fact that the process of upbringing and education is an important benefit for society, this process turns into commercial relations carried out solely for the purpose of obtaining material benefits. In such circumstances, education becomes a relationship of purchase and sale, and the knowledge, skills, abilities, values and experience acquired during the educational process remain outside the corrupt transaction.

In fact, a doctor, teacher, engineer, builder, lawyer or other specialist who has obtained a diploma in the field of education through corruption, but does not have an education and qualifications, can harm the lives of several people during their “professional” activities. Undoubtedly, without educated and qualified young specialists, the prospects for the development of society and the state remain uncertain.

Another serious negative consequence of corruption in education is that students acquire skills for participating in corrupt activities. In such conditions, the younger generation, starting from school or university, becomes susceptible to corruption and begins to perceive it as the norm. This sets the stage for their future propensity for corruption throughout their professional careers.

It should be emphasized that the traditions of giving gifts and greetings formed in our society serve to instill corruption skills in students. The desire of citizens to give gifts, to express gratitude to a doctor, teacher or official is not always a voluntary act of human gratitude, but rather acts as a custom, tradition or a specific norm of behavior formed in society. At the same time, under certain conditions, the tradition of giving (receiving) gifts can turn out to be something other than everyday bribery.

Corruption in the field of education is a complex, not yet well-studied socio-legal phenomenon.

However, despite a large number of scientific studies devoted to corruption in the field of education, the question of the concept of corruption in education, its characteristics, forms and types still remains open. Accordingly, the object of preventive activities, its specific features, as well as forms and types have not been identified. The lack of systematic knowledge about corruption in education as an object of preventive activities has a negative impact on the development of a set of effective measures to combat this type of corruption.

It should be recognized that currently, professors, other representatives of the education system, as

well as students and their representatives do not always have the necessary knowledge about corruption in education, anti-corruption standards of behavior, and liability for committing corrupt acts.

It seems appropriate to begin the study of the specific features of corruption in education with a brief description of approaches to understanding corruption in foreign and domestic doctrine and legislation on combating corruption.

There is no generally accepted definition of corruption in foreign scientific literature.

A broad approach to understanding corruption prevails in foreign literature. Thus, S. Rose-Ackerman defines corruption as the illegal use of power and opportunities granted by law for personal gain[4]. J. Allak and M. Poissons understand this term as “the systematic use of a position of authority for personal gain.”[5] Hans-Wolf Graf describes it as “an unnatural exchange between several persons, in which these persons (also unnaturally) obtain advantages at the expense of third persons and in violation of existing laws and current morality.”[6] A. Heidenheimer proposed to define corruption in terms of white, gray, and black colors.[7] “White color denotes practices for which there is a consensus in public opinion: these actions are not condemned. They are essentially integrated into the culture and are not perceived as a problem. Black corruption is the object of a different consensus: actions are condemned by all strata of society - “when the elite and public opinion agree to condemn them and want to punish them by law”. A. Heidenheimer calls “gray corruption”, practices for which there is no agreement, some, usually representatives of the elite, want to punish corruption, others do not, and the majority does not have a clear opinion on this issue”[8].

Among the range and direction of ideas existing in the legal doctrine, two main approaches to its definition can be distinguished. Proponents of the first, narrower approach: A.I. Dolgova[9], N. F. Kuznetsova[10], N.A. Lopashenko[11], S.V. Maksimov[12] and others propose to consider corruption as bribery and arbitrariness of state or other officials (as a deal): Proponents of the second approach: A. A. Aslakhonov[13], L. M. Kolodkin[14], V. V. Luneev[15], N.I. Melnik[16], Z.A. Neznamova[17], N. V. Shchedrin[18] and others include in the concept of corruption, in addition to bribery and extortion of an official (deal), other types of abuse of official position for personal purposes.

In the teachings that explain the concept of corruption, the authors describe its following features: the scope of existence, the scope of subjects and goals. The spheres in which corruption exists are an open question. In the initial scientific studies of this phenomenon, the prevailing opinion was that the existence of corruption was limited only to state and municipal administration[17]. With the development of scientific knowledge about corruption, including under the influence of international law, ideas about the boundaries of the existence of corruption have expanded. At the same time, its existence is becoming increasingly evident in education, healthcare, sports, the private sector, the electoral process, the judicial system, the legal profession and other areas.

The scope of subjects of corrupt relations is directly related to the recognition by scientists of the existence of corruption in certain spheres of social relations.

Traditionally, two sides of corrupt relations are distinguished: passive and active bribery. Passive bribery subjects are individuals who use their official (service) position or status for personal or group interests, in the interests of the party receiving benefits and advantages. When describing corruption, most authors refer to the use of official (service) position and official powers by the subject of passive bribery. Some authors additionally emphasize the possibility of using status, duties, powers of the position held, etc. Without going into a scientific debate, it should be noted that corruption in a broad sense is characterized by the use of all of the above by the subject of passive bribery, that is, from the official position to the powers of the position held.

Active subjects of bribery are citizens and groups that provide privileges and advantages to the passive

briber. The illegal purpose is an integral feature of corrupt relations. Passive subjects of bribery use their official position to obtain certain privileges and advantages. A number of authors emphasize that corruption offenses are committed solely for the purpose of obtaining selfish profit. Therefore, intangible interests are not considered to be violated.

However, as Z.A. Neznamova rightly noted, “The receipt and provision of intangible benefits and privileges to subjects of corruption are no less widespread and no less socially dangerous. For example, corrupt lobbying in the interests of individuals and legal entities, financial and industrial groups and organized criminal groups, protectionism, provision and receipt of confidential information”[17] and others are among them.

The legal definition of corruption is contained in Article 3 of the Law of the Republic of Uzbekistan “On Combating Corruption” No. ZURQ-419 dated January 3, 2017, according to which “corruption is the unlawful use of a person’s official or service position to obtain material or non-material benefits for personal gain or for the benefit of other persons, as well as the unlawful provision of such benefits.”

The subjects of the Law “On Combating Corruption” include both passive and active bribery.

The parties to passive bribery are persons who use their official position. V.V. Astanain emphasizes that the approach chosen by the legislator to identify subjects of corruption complies with the requirements of international treaties on combating corruption to which the Republic of Uzbekistan is a party (the Criminal Law Convention of the Council of Europe on Corruption of January 27, 1999 and the United Nations Convention against Corruption of October 31, 2003). “If we combine all the characteristics of subjects of corruption in the above-mentioned conventions, then in terms of content, subjects of corruption actions can include not only civil servants, but also persons performing state functions in general, regardless of the sector - private, state or public (political), regardless of any specific position (leader, executive)”.

At the same time, in a number of corruption relations, subjects of passive bribery are considered not to have an official position. For example, in corruption relations, such as when bribing a judge, an expert who does not hold an official position, a member of an election commission working on a part-time basis as part of a commission, a member of a conflict of interest commission - a representative of a scientific organization, and others, passive bribery subjects use not their official position, but a separate legal status. In this regard, a significant part of corruption-related relations is perceived outside the scope of the definition of corruption in the legislation. N.V. Shchedrin, noting this imperfection, proposes to define the subject of passive bribery in corruption relations as a “person with a public position”[21].

It should be noted that, according to the definition provided for in the legislation, corruption, along with bribery and abuse (dealings), is also recognized as the use of an individual’s official position for personal gain by an individual.

According to the definition of the legislator, a person who brings material benefit to the party of passive bribery is an active party to bribery. The goals of corruption are defined by the legislator in the concept of “corruption” not only as material benefits: obtaining money, valuables, other property or services of a property nature, other property rights for oneself or third parties, but also obtaining intangible benefits and interests constitute a corrupt act. This definition of corruption goals corresponds to international law.

Corruption in the field of education is a type of corruption and has its own characteristics. Taking into account the fact that social relations in the field of education are regulated by the Law “On Education”, the main terminology of the relevant areas of legal regulation was taken from this regulatory document to describe corruption in the field of education. At the same time, it should be noted that the scientific

literature notes the vagueness of the categorical apparatus of education legislation[19].

This type of corruption is manifested in social relations in the field of education. "Education is a single-purpose process of upbringing and education that has social significance and is carried out in the interests of the individual, family, society and the state, as well as a system of knowledge, skills, abilities, values, experience of activity and a certain volume and complexity of activities acquired to satisfy his intellectual, spiritual-moral, creative, physical and physical needs."

Relations in the field of education are "social relations aimed at mastering the content of educational programs by students (educational relations) and creating conditions for the realization of the right of citizens to receive education associated with educational relations."

Corruption in education is present in the following relations:

- on the management of the education system;
- on the organization of educational activities.

Management of the educational system includes the following: formation of a system of interacting bodies that implement management in the field of education (state and city), adoption and implementation of programs aimed at the development of the educational system, monitoring of the educational system, informational and methodical provision of the activities of state and municipal bodies that implement management in the field of education, regulation of educational activities by the state, etc.

The organization of educational activities includes:

- educational process;
- administrative activity;
- economic activity to ensure the educational process.

Corrupt relations existing in the indicated types of activities of the educational organization have their own characteristics. The most visible signs of corruption in education are manifested in the relationship between the pedagogical team and the student (his representative) during the educational process. The administrative activity of the educational organization also has its own characteristics. For example, if we take a higher education institution, this includes the admission (exit) of students, their reinstatement in the educational institution, transfer to full-time or part-time education, granting academic leave, accommodation in a dormitory, granting personal scholarships, etc.[20].

The corruption relations developing in the economic activities of an educational organization have their own, not very well-defined characteristics and are typical for most economic entities. The range of subjects of corruption relations in the field of education is diverse. As noted above, in the scientific literature, two sides are distinguished in corruption relations: the passive bribery side and the active bribery side. This classification of participants in corruption relations is also very suitable for describing corruption in the field of education.

Passive bribe-taking subjects in education are participants in relations in the field of education who use their official position (status) for personal or group benefits in return for payment.

Active bribery subjects in education are participants in the relationship in the field of education, who provide benefits and privileges to the passive bribe taker.

Both participants in the field of education and participants in educational relations can participate in corrupt relations in education as passive and active bribe-taking subjects.

Participants in educational relations include:

- participants in educational relations;
- state authorities, local self-government bodies, employers and their associations.

Participants in educational relations are “students, parents (legal representatives) of minors, teachers and their representatives, organizations carrying out educational activities”.

Thus, the legislation includes direct participants in the educational process among the participants in educational relations: on the one hand, students and their parents (legal representatives), on the other hand, teachers, their representatives and organizations carrying out educational activities.

The following categories of employees of educational organizations can be identified as the main subjects of passive bribery in corrupt relations in education: managers, teachers, scientific, administrative and administrative-economic employees, medical workers, etc.

There are forms of corrupt relations specific to each type of subject of passive bribery in education. For example, the most widespread and socially dangerous form of corruption in education is the use of a teacher's official position for money during the process of certifying a student (taking an exam, test, control work or coursework).

The corrupt activities of an administrative employee in an educational organization can take the form of raising a student's score, helping him/her to exchange abroad on an academic exchange in exchange for a bribe. Corrupt relations of administrative and economic employees can be associated with receiving benefits in exchange for transferring the property of an educational organization to third parties for use without the appropriate documents.

For medical workers, corrupt relations can manifest themselves in the form of receiving illegal payments in exchange for issuing certificates of temporary incapacity for work and documents exempting students from physical education classes.

In education, students and their parents (legal representatives) as active bribe-paying subjects, as well as other persons who provide benefits to the passive bribe-taking party, participate.

The goal of corruption is an integral feature of corrupt relations in education. The goals of corruption in education are diverse and have their own specific characteristics. Passive bribe-taking subjects, as a rule, regardless of the direction of the educational sphere, use their official position to obtain material or non-material benefits.

The goals of corruption of active bribe-giving subjects depend on the sphere of activity of the educational organization in which the corruption offense was committed: the educational process, administrative or economic activities.

If we are talking about the educational process, the goal of the active bribe-giving subject is for the student to pass the intermediate or final certification.

In corrupt relations in the sphere of administrative activities, active bribe-giving subjects may pursue the goals of obtaining academic leave, transition from contract to budget studies, obtaining accommodation in a dormitory, and other similar goals.

Corrupt relations in education are diverse and can be classified according to various criteria. They exist directly in the educational process, as well as in the spheres of administrative and economic activities related to ensuring the educational process.

Depending on the type of educational organizations implementing basic education programs, the following types of corruption can be distinguished:

- corruption in preschool educational organizations;

- corruption in general education organizations;
- corruption in vocational education organizations;
- corruption in higher education organizations.

Depending on the nature of the powers used, one can talk about corruption of persons with managerial authority in educational organizations and persons without such authority.

Depending on the number of subjects of corruption, the following types of corruption can be distinguished:

- unilateral corruption - in this case, the subject of corruption uses his official position for his personal interests;
- bilateral or multilateral corruption - in this case, the subject (or subjects) using his official position acts in the interests of the subject (or subjects) actively bribed in exchange for material and (or) non-material benefits.

Depending on the nature of the use of official position by passive bribe-taking subjects, corrupt relations can be divided into two types:

- use of official position within the scope of official powers;
- abuse of official position or use in connection with the increase of powers.

Depending on the structure of corrupt relations in education, two types can be distinguished:

- Relations with a simple structure - in this case, corrupt relations arise between the bribe-giver and the bribe-taker, or a person uses his official position for his personal interests.
- Relations with a complex structure - this situation is called "trading for influence". In this case, a person, taking advantage of the opportunity to exert real or alleged influence on other persons, provides this influence to a person who needs it in exchange for material benefits.

Depending on the nature of the benefits received, corruption in education is divided into the following types:

- Corruption associated with material benefits - taking bribes, illegally accepting funds, using material assets, etc.
- Corruption related to non-material interests – increasing career or social status, obtaining privileges, promotion, etc.

Depending on the level and nature of the threat to society, corruption offenses in the field of education are classified as follows:

- Corrupt actions (disciplinary, civil and administrative offenses);
- Corruption crimes.

As a result of the analysis of scientific literature and anti-corruption legislation, the main features of corruption as a complex, systemic-structural socio-legal phenomenon were identified.

The knowledge gained was applied to the system of relations in the field of education.

Analysis of the terminological base in the legislation on education showed that the sphere of existence of corruption in education is social relations in the field of education.

Corruption in education exists in relations related to the management of the education system, as well as in relations related to the organization of educational activities.

At the same time, corruption relations in education have their own characteristics depending on the type of activity related to the provision of education: the educational process, administrative and economic activities.

The most obvious features of corruption relations are manifested in the educational process and administrative activities related to its provision.

Corruption relations that arise in the course of the economic activities of an educational organization are typical for most economic entities.

The subjects of corruption relations in the field of education include the following:

- Passive bribe-taking subjects - participants in the education sector who receive rewards by using their official position for personal or group interests.
- Active bribe-giving subjects - participants in the education sector who provide benefits and privileges to the passive bribe-taking party.

The main subjects of passive bribe-taking in corruption relations in education are: representatives of educational organizations (heads of educational organizations, pedagogical, scientific, administrative and economic employees).

Each passive bribe-taking subject has its own specific forms of corruption relations.

The goals of corruption in the education sector are diverse and have their own characteristics. Passive bribe-takers, regardless of the field of education they work in, usually use their official position (status) to obtain material or non-material benefits.

The corruption goals of active bribe-paying entities depend on the area of activity of the educational organization in which the corruption offense was committed.

- If corruption was committed in the educational process, the student uses such relationships to pass an intermediate or final certification.
- If it was committed in the field of administrative activities, the student may pursue goals such as obtaining housing in a dormitory, switching from contract to budget studies.

The classification and typological separation of corruption in education can be based on various criteria. For example, depending on the type of educational organization, there are the following types of corruption:

- corruption in preschool educational organizations;
- corruption in general education organizations;
- corruption in vocational education organizations;
- corruption in higher education organizations.

The research conducted has shown that corruption in education is a negative phenomenon from a socio-legal point of view, existing in social relations in the field of education, and includes the illegal use of their official position or status by participants in the education sector in order to obtain material or non-material benefits, as well as the provision of such benefits.

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