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Corruption as a threat to human rights and freedoms

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■ **Abstract.** This paper considered the essence of corruption, its main manifestations in the modern globalized world and its impact on human rights and freedoms. The article stated the relationship and interdependence between the scale of corruption and the possibility of exercising human rights and freedoms. It was noted that corruption hinders the economic development of Ukraine, adversely affects all spheres of public life, and poses a real threat to the state, society, and every person. Presently, under martial law, corruption is just as dangerous as looting. By stealing budget funds, selling spare parts for military equipment to the aggressor country, and even selling humanitarian aid, corrupt officials actually work for the aggressor, which poses a serious threat to life, health, and other human rights and freedoms. This confirms the relevance of this study. The purpose of this study was to establish and characterize the interdependence of corruption and human rights and freedoms, to determine the consequences of the transformation of human rights and freedoms under corruption manifestations and the possibility of their prevention. The methodological framework of this study included dialectical, phenomenological, and synergetic approaches, as well as formal-dogmatic, formal logical, formal legal, systemic, and structural-functional methods. The conclusions state that there is an inversely proportional relationship between corruption and human rights and freedoms: the greater the scale of corruption, the less the ability to realize human rights and freedoms becomes. Violation of rights and freedoms is often a consequence of the activities of corrupt officials. Corruption undermines the credibility of state institutions, seriously obstructs the delivery of justice, the achievement of the rule of law, legal equality, and social justice. The duty to prevent corruption and any other illegal encroachments, and therefore to ensure the possibility of exercising rights and freedoms, is assigned to the state and civil society. The results of the study should contribute not only to curbing corruption, but also to creating conditions for real human and citizen security, which confirms the practical value of this study

■ **Keywords:** bribery; felony; responsibility; right; warning

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■ Introduction

In the modern, globalized world, corruption has ceased to be a problem of individual states and has become a global issue that the international community must solve. Transnational corruption is not limited to the borders of one state, corrupt officials extend their influence to other countries. It can be said that in the globalized world, corruption acquires new features that allow it to be classified as global corruption (Teleshun, 2020). At the same time, corruption leads to poverty in the world's poorest countries, unemployment, hunger, weak state institutions, and lack of proper enforcement (Bahoo, 2020). It also adversely affects investment, competition, and government efficiency (Dung *et al.*, 2021).

People belonging to marginalized and disadvantaged groups, such as national minorities, people with disabilities, refugees, migrants, and prisoners, are most affected by corruption. Corruption greatly affects women, children, and impoverished people, specifically by restricting their access to basic social goods such as health, housing, and education. From a global standpoint, it is alarming that hundreds of billions of euros are paid in bribes every year. This would be enough to raise the standard of living above the poverty line for the 1.4 billion people who live on less than \$1.25 a day and maintain it for at least six years (Mijatović, 2021).

The problem of corruption attracted the attention of the international community in the late 1990s, as a result of which several documents were adopted at the level of the United Nations and the Council of Europe. In particular, on January 27, 1999, the Council of Europe Convention on Criminal Liability for Corruption¹ was adopted, which emphasizes that corruption threatens the following values: the rule of law; democracy; human rights; undermines the principles of good governance, equality and social justice; hinders competition; complicates economic development; threatens the stability of democratic institutions and the moral foundations of society. United Nations Convention Against Corruption² adopted on 31 October 2003, it stated its aim as follows: "(a) to promote and strengthen measures aimed at more effective and effective prevention and control of corruption; (b) to promote, facilitate and support international cooperation and technical assistance in preventing and combating corruption, including the adoption of asset recovery measures; (C) to promote integrity, accountability, and proper management of Public Affairs and public property". This convention makes provision for preventive measures,

criminalization and law enforcement, international cooperation, asset recovery, technical support, and information exchange between countries. Furthermore, the purpose of sustainable development is to substantially reduce corruption and bribery in all their forms. Today, the convention is the main comprehensive international legal act regulating anti-corruption issues in the member states of the United Nations.

Human rights and freedoms are threatened not only by corruption. In the 21st century, the entire world faced an unprecedented combination of transnational threats, armed conflicts and instability that engulfed the entire globe. Human rights violations such as mass murder, genocide, slavery, mass rape and others, along with other similar phenomena around the world, are a global threat to modern times. The level and extent of violations of human rights and freedoms is usually proportional to the emergence of threats to global security, which creates conditions for new threats and challenges (Ruzmetov, 2021). These threats can create conditions for corruption and its self-reproduction.

In Ukraine, corruption has affected all spheres of public life, it poses a real threat to the rights and freedoms of every person, their security, and therefore corruption must be fought. Accordingly, the subject of this study is relevant.

The purpose of this study was to investigate the impact of corruption on human rights and freedoms, to characterize the threats to rights and freedoms associated with corruption, and to determine the possibility of preventing these threats. Scientific originality lies in substantiating the direct connection and interdependence between corruption and the danger that a person feels in the modern world.

■ Literature Review

Theoretical and applied problems of preventing and countering corruption in Ukraine were investigated by V.M. Trepak (2020), who substantiated the opinion that corruption is a way of converting public-authority powers and opportunities into illegitimate profit, and the defining feature of corruption in Ukraine is its mass nature, which is associated with the long-term institutional weakness of the state, the inefficiency of the legal system and low level of legal awareness of the population. O.V. Petryshyn & O.S. Hyliaka (2021) analysed the main threats and challenges facing human rights and freedoms in the context of digitalization, while offering areas for protection against such threats. These scientists focused

¹Criminal Law Convention on Corruption. (1999, January). Retrieved from <http://conventions.coe.int/Treaty/Commun/QueVoulezVous.asp?NT=173&CM=8&DF=&CL=ENG>.

²United Nations Convention against Corruption. (2003, October). Resolution 58/4 at the 51st plenary meeting of the 58th session of the UN General Assembly. Retrieved from https://www.un.org/ru/documents/decl_conv/conventions/corruption.html.

their attention on the study of new rights, such as the right to be forgotten, the right to personal data protection, the right to anonymity, etc. N.I. Karpachova (2021) substantiated the opinion that the causes of human rights violations lie not only in the problems of Ukraine, but also in the consequences of global processes, including poverty, which is constantly worsening. I.I. Voitovych (2020) considered the criminological principles of combating corruption in the field of military security. Voitovych identified socio-economic, political, cultural-psychological, legal and organizational-management factors of corruption crime in the specified area. O. Busol, O. Kostenko & B. Romanyk (2022) proved that corruption in Ukraine today is not an isolated phenomenon, but an organic consequence and symptom of a fundamental social crisis in the country. This refers to “crisis-type” corruption, which is caused by a social crisis, which itself deepens it. Citizens’ assessment of security issues was investigated by L.G. Valia (2022). Aissaury & F. Fabian (2022) investigated the impact of corruption on the economic development of states and found that economic growth is necessarily accompanied by increased integration, and the relationship between globalization and development depends on the appropriate institutional context. S. Reznik & Hwang-Bom Lee (2021) considered the perception of corruption by citizens of Ukraine as determinants of trust in local self-government. It was found that young people are more inclined to trust government institutions than representatives of the older generation, substantiated the opinion that citizens should have a sanctioning mechanism to hold the government accountable, that reforms aimed at increasing the transparency of government activities should be carried out in parallel with measures aimed at strengthening people’s ability to act on the information they receive.

The studies of these authors are a considerable contribution to the study of the phenomenon of corruption and the substantiation of measures to prevent it. However, the authors ignored the problem of threats to human rights, freedoms, and personal security in connection with corruption in the modern globalized world, i.e., the study of these problems in interrelation and interdependence. This can be useful for both legal science and political and legal practices. The authors of this paper consider such a study as their own task.

■ Materials and Methods

The methodology of this paper is based on a dialectical approach, which allowed investigating various aspects of understanding corruption, considering it in the context of multilateral relations with other social phenomena, and tracing the impact on human rights and freedoms. Thanks to the dialectical approach, the

causes and consequences of processes that contribute to the violation of human rights and freedoms were determined, the place of corruption among these factors was specified, the harm of this phenomenon was understood, specifically its adverse impact on the life of society and the functioning of the state.

The phenomenological approach helped investigate the theoretical legal foundations of human rights and freedoms through the perception of the subject whose rights were violated, to determine their subjective attitude towards corruption and its consequences. Phenomenology was used to evaluate the purpose of corruption acts and their consequences for a particular subject and society as a whole.

A synergistic approach was also used to investigate previously unknown trends in the evolution of the phenomenon of corruption in a globalized world. Random factors that can influence the transformation of corruption and its perception by the population were identified. The synergistic approach provided insight into the complexity of legal phenomena and stimulated the search for guidelines for understanding these phenomena as a functional subsystem of a complex system of social relations. The impact of corruption among other threats affecting personal security was highlighted.

Using the formal dogmatic method, the definitions of the terms “corruption”, “bribery”, “nepotism”, and several other terms were formulated.

The formal-logical method allowed investigating corruption as a factor that threatens rights and freedoms, specifically from the perspective of their structure. The following techniques of the formal logical method were used: analysis and synthesis, induction and deduction, analogy, comparison. As a result, logical contradictions in the structure of certain judgments were established. Thanks to this, it was possible to avoid errors in the formulation of conclusions.

The formal legal method was also used to investigate the legal categories of political and legal reality. It is known that this method is used within the law based on formal logic. Thus, new knowledge is gained about the threats to rights and freedoms, personal security that arise due to corruption.

The use of the system method proved to be useful when investigating the components of each of the considered phenomena. Their integrative properties inherent in the system as a whole, but absent in some elements, have been determined. The study established the significance of certain elements for the entire system, specifically the importance of security for the system of human and citizen rights and freedoms. The systematic method, which involves considering a set of objective and subjective factors, helped expand the boundaries of cognition for the phenomenon of corruption and human rights and freedoms, its security.

Using the structural and functional method, the role of each component of the phenomena under study was determined. Corruption and human rights and freedoms were considered through the functions they perform in society. The following techniques were applied: structural analysis (to identify the components of the objects under study); functional analysis (to specify the functions that the elements of this system perform); complex analysis (to investigate legal phenomena in their interaction with other phenomena and processes, i.e., as a structural element of the system, whose activities are aimed at achieving a common purpose).

■ Results and Discussion

Corruption is investigated in many sciences. In sociology, corruption is interpreted as a dysfunctional phenomenon, a pathology of society, which gives rise to despicable forms of relationships between people. In political science, corruption is interpreted as behaviour that manifests itself in the illegitimate use of an advantageous position by officials to seize and retain power in society. In economic theory, corruption is usually interpreted as a type of behaviour of civil servants aimed at obtaining benefits through state resources for personal purposes. The reasons for the spread of corruption are seen in excessive and ineffective state intervention in the economic life of society. In legal science, the phenomenon of corruption is usually considered as a socially dangerous illegal behaviour, characterized by bribery and corruptibility of officials when they use their official powers usefully. That is, this is a type of offence, a crime of officials against the state.

Abuse of official position for personal purposes affects both the public administration system and the functioning of society as a whole. Within the limits of this approach, corruption is interpreted as an illegal act consisting of the following elements: the subjects of the offence (individuals who are officials or seek to benefit from the official position of another individual; the motive (receiving a benefit in the form of money, valuables, or property services character, illegal acquisition or provision of certain advantages), criminal action (abuse of position, giving or receiving bribes, etc.), united by an important a priori property – contradiction to the legitimate interests of society and the state.

By threatening human rights and freedoms, corruption also threatens personal security. Any interaction with other people, communities, technical means, etc. can be a potential source of danger to humans. Six groups of hazards are distinguished by origin: natural, technogenic, anthropogenic, ecological, social,

biological, which are further subdivided by the particular source and object of influence, methods of influence and consequences, possibilities of countering the danger, etc. Corruption is a type of social danger.

Human security is traditionally a concern of international organizations. Back in 1994, the United Nations in the "Human Development Report"¹ clearly formulated the concept of human security, which is based on the idea of the right of everyone to live freely, a life independent of poverty and despair. All people have the right to live without fear and poverty, while everyone has equal rights to develop their abilities to improve the quality of their lives and ensure security through its seven components: political security (the enjoyment of political and civil rights, as well as freedom of political expression); public security (ensuring observance of customs, traditions, survival of ethnic groups, and their material support); personal security (physical protection of the population from torture, war, crime, ill-treatment, domestic violence, etc.); economic security (freedom from poverty); food security (everyone should have access to sufficient food at all times); health security (access to medical care and disease prevention); environmental safety (protection against pollution and other environmental hazards). Evidently, due attention is paid to personal safety. The concept focuses on the individual as the principal source of security and turns national security into a means of protecting it. Corruption does not just threaten all these benefits, including human security, it makes them virtually inaccessible to the majority of the population.

In the 2021/2022 Human Development Report, the UN emphasizes that humanity is currently living in uncertain times. The COVID-19 pandemic has been going on for several years, and all new strains of the virus are appearing. Military actions in Ukraine affect the lives of many people around the world, are accompanied by human sacrifice and suffering, and therewith, in one way or another, affect the developing crisis associated with a sharp increase in the cost of living. Climatic and environmental disasters worsen the world every day. Billions of people already have to contend with food insecurity. This is mainly due to inequality in well-being and the power that defines basic rights, such as the right to food. People around the world are now admitting that they feel increasingly insecure. Insecurity and polarization only complicate the current situation. No technological innovation can replace decent leadership, concerted action, and trust. But neither trust nor proper leadership is possible in corrupt states.

Special attention should be paid to the personal security of a human, which can be considered as a

¹Human development report. (1994, March). Retrieved from <https://hdr.undp.org/system/files/documents/hdr1994encompletenostatpdf.pdf>.

concept that includes everything that improves the quality of life of people and society in different dimensions – political, economic, social, environmental, etc. Thus, in the political dimension, personal security is possible if there is no electoral fraud, decision-making at all levels of government is effective, governance principles are not violated, the government does not resort to violence against individuals, human rights standards are observed, the authorities take appropriate measures to combat terrorism, the population enjoys constitutionally proclaimed rights and freedoms, the state protects and expands the rights and opportunities of people, provides for their basic needs and does not harass them in any way. In the economic dimension, personal security involves overcoming unemployment and poverty, and providing adequate food. In the social dimension, personal security is impossible without legal equality, social justice, social harmony, the ability of the authorities to resist any violence, the spread of diseases and epidemics (Hassan, 2020).

In the ecological dimension, safety involves the state of the natural environment, which ensures the prevention of deterioration of the ecological situation and the emergence of threats to human health, which is guaranteed by the implementation of a wide range of interrelated environmental, political, economic, technical, organizational, state-legal, and other measures¹. Manifestations of corruption at any stage of these measures negate all the efforts of society and every citizen.

Bribery is receiving money, services, or other valuables by an official, as well as giving them money, services, or other valuables for performing work that this individual should have done anyway, or for performing their functions in a specific way. A bribe can be active or passive. Acceptance of an offer, promise or receipt of an illegal benefit by an official in Ukraine is a criminal offence.

Bribery is closely related to other corrupt criminal offences in the sphere of official activity and professional activity related to the provision of public services, specifically with the bribery of a person providing public services, official negligence, official forgery, abuse of power or official position, etc.

Legalization (laundering) of property obtained by criminal means also constitutes a criminal offence (Gurzhiy, 2014).

Nepotism deserves special attention. The term “*nepotism*” is now used quite rarely to denote official favouritism, injustice, and privileges for relatives, cronies, friends, mistresses, which are granted regardless of professional qualities (usually low) and

the lack of benefit or even harm to the cause mainly in those areas where relatives connections and subjective attitude are inappropriate, e.g., when hiring for government institutions, when entering higher education institutions, when defending theses and attesting scientific personnel (Tymoshenko, 2019). Nepotists represent a serious threat to the safety of citizens. Such people are used to achieving what they want without effort, they are used to being allowed everything, and other people can be considered as service personnel who exist only to create comfortable conditions for them. As a rule, these individuals have a very low professional competence and even lower moral qualities and spread their mentality onto everything they touch. Today, nepotism is essentially replaced by *cronyism*, which is an effective means of “privatizing” the state in the light of clan capitalism.

Abuse of influence is a form of corruption where a person exchanges the possibility of real or potential influence on decision-making, e.g., by an official, for illegal benefits. According to Article 369² of the Criminal Code of Ukraine (2001)², abuse of influence is “an offer, promise, or granting of an unlawful benefit to an individual who offers or promises (agrees) for such a benefit or for provision of such a benefit to a third party to influence the decision-making by an individual authorized to execute functions of the state or local government”. This criminal offence is comparable with bribery, but with a significant difference: abuse of influence involves an “intermediary” or an individual who acts as an intermediary between the decision-maker and the party seeking an undue advantage. However, the beneficiary is not necessarily an official. They cannot make decisions that benefit the individual in whose interests they act, but they can use their position to influence the individual who makes such decisions.

Corruption contributes to political instability, underdevelopment, and imperfection of legislation, ineffectiveness of government institutions, weakness of civil society institutions and the destruction of democratic traditions, as well as a decrease in the level of political culture of citizens, deformation of legal consciousness, weakness of the judicial system, neglect of the rights and legitimate interests of citizens, impunity for violations of legislation, clannishness in solving political and economic issues, the spread of crime. These factors threaten the personal safety of every person and citizen. Of particular concern is the increase in crime rates. Crime is a substantial threat to human rights and freedoms and their security. The basis for recognizing crime as a type of violation of human rights is the fact that the common object of

¹Law of Ukraine No. 1264-XII “On Environmental Protection”. (1991, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/1264-12#Text>.

²Criminal Code of Ukraine. (2001, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/2341-14#Text> 2341-III.

crimes is a set of public relations that ensure the enjoyment of a person's rights and freedoms. As a way of violating human rights, crime is characterized by a comprehensive nature, permanence, scale, and increased harmfulness (Tymoshenko *et al.*, 2021).

Presently, there are increasingly more fair calls to equate responsibility for wartime corruption with punishment for collaborating with the enemy. While Ukrainians protect the safety of the civilized world, the personal safety of every person from Russian aggressors, Western countries should open a second anti-corruption front and hit the "moneybags" of corrupt people from the previous and current government (Dunda, 2022; Peters, 2018).

A key issue for determining human rights violations as a result of corruption is the causal relationship. This is true both for the inaction of the state as a whole and for the corrupt actions of individual state officials. Corrupt actions (or inaction) cause violations of human rights in the legal sense only if the violations – those concerning, e.g., the right to an adequate standard of living, housing, education, etc. – are predictable and directly related to the actions of corrupt officials (Hladky, 2018).

The reason for the high dynamics of the spread of corruption is the lack of opportunities for people to exist with dignity, as a result of which a person trusts only those individuals who can help them get the necessary benefits for an additional fee (Kramer, 2017).

It is quite difficult to agree with this. Usually, people who take and give bribes are not the poorest people. An exception may be a bribe for the provision of medical services, when a person is faced with a dilemma – pay or die. A person who gives a bribe may be a victim of corruption.

Another interesting idea that deserves attention is that corruption is a natural form of adaptation of an undeveloped person to the conditions of a developed civilization. Under the modern conditions of the market economy, those people who are most able to adapt survive. A person who refrains from bribes, crimes, meanness, and impudence thereby loses the means of survival in conditions of insufficient resources. "If a person had to live under the conditions of economic standards that came from the outside,

most likely, they will use new opportunities according to the old rules (thinking how it is easier to steal under new conditions)" (Kramer, 2017).

Corruption is a new form of exploitation. Almost all transnational threats, including human trafficking, terrorism, and arms trafficking, are linked to corruption, without which it is impossible. Corruption adversely affects people who are forced to live in a corrupt world. It undermines democracy, the rule of law, hinders the effective provision of public services, and negates people's hopes for security, without which it is impossible to fully realize human rights and freedoms.

■ Conclusions

As a result of the conducted study, the authors concluded the purpose of the study was achieved. The possibility of exercising human rights and freedoms depends on the absence of corruption. Under the influence of corruption manifestations, rights and freedoms are transformed, and a person's opportunities to realize their legitimate interests decrease. The same can be said about rights and freedoms.

Since corruption is a natural tendency of an individual, it is impossible to overcome it, but it is possible to prevent many of its manifestations and thereby reduce the damage it causes.

As a first step on this path, it would be appropriate to introduce changes to the legislation not only regarding the strengthening of responsibility for corruption, but also to eliminate opportunities for corruption as much as possible.

Economic measures will also be useful, namely the creation of mechanisms for withdrawing everything illegally acquired from corrupt officials. It is necessary to strengthen the social function of the state, eliminate unemployment, poverty, and achieve real implementation of the principle of legal equality and social justice. Finally, the state should pay attention to the legal awareness of the population. Moral and ethical education also requires attention. An individual should realize that personal safety depends on many factors, including the behaviour of each person, their civic position and respect for the current legislation.

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Корупція як загроза правам і свободам людини

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■ **Анотація.** Розглянуто сутність корупції, її основні вияви в сучасному глобалізованому світі та вплив на права і свободи людини. Констатовано взаємозв'язок та взаємозалежність між масштабами корупції та можливістю реалізації прав і свобод людини. Зауважено, що корупція стримує економічний розвиток України, негативно позначається на всіх сферах суспільного життя, становить реальну загрозу державі, суспільству та кожній людині. Нині, в умовах воєнного стану, корупція настільки ж небезпечна, як і мародерство. Розкрадаючи бюджетні кошти, продаючи країні-агресору запчастини для військової техніки, навіть продаючи гуманітарну допомогу, корупціонери фактично працюють на агресора, чим створюють неабияку загрозу життю, здоров'ю, іншим правам і свободам людини. Зазначене підтверджує актуальність статті. Мета дослідження полягає у встановленні та характеристиці взаємозалежності корупції та прав і свобод людини, визначенні наслідків трансформації прав та свобод людини під впливом корупційних виявів і можливості їх попередження. Методологічну основу статті становлять діалектичний, феноменологічний та синергетичний підходи, а також формально-догматичний, формально-логічний, формально-юридичний, системний і структурно-функціональний методи. У висновках констатовано, що між корупцією та правами і свободами людини існує зворотно пропорційна залежність: чим більшими є масштаби корупції, тим меншою стає спроможність реалізувати права та свободи людини. Порушення прав і свобод нерідко є наслідком саме діяльності корупціонерів. Корупція підриває довіру до державних інституцій, стає серйозною перешкодою для відправлення правосуддя, досягнення верховенства закону, юридичної рівності та соціальної справедливості. Обов'язок запобігати корупційним виявам і будь-яким іншим протиправним посяганням, а отже, забезпечувати можливість реалізації прав і свобод, покладається на державу та громадянське суспільство. Результати дослідження мають сприяти не лише стримуванню корупції, а й створенню умов реальної безпеки людини та громадянина, що підтверджує практичну цінність

■ **Ключові слова:** хабарництво; підкуп; відповідальність; право; попередження