

POLITICAL INSTITUTIONS AND SOCIO-POLITICAL PROCESSES

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CRIMINOLOGICAL ANALYSIS OF ECONOMIC FACTORS OF POLITICAL CORRUPTION IN UKRAINE

The article is devoted to criminological analysis of economic factors of such phenomenon at present stage of state building in Ukraine as political corruption. Special attention is given to research of oligarchic influence on formation and strengthening of corrupted elements in politics.

Substantiated a particular public danger of the relationship of the oligarchy and corruption. Analyzed negative influence of oligarchic elements on the political parties and their representatives, as well as its influence in implementation of reforms in Ukraine.

Special attention is focused on analyzing the causes of the combination of business and political interests in activity of political forces in Ukraine through party structures and economic lobbying of business interests during the reform. Concrete measures to solve the problem of oligarchic influence on political corruption are proposed.

Key words: economic factors of corruption, political corruption, oligarchy, combating corruption, political factors of corruption.

Introduction. We should agree with the idea that revealing the complexity of the interplay, especially internal interdependence and interconnection of corruption causes, is difficult, and evaluating the importance of each factor is the task close to insoluble. However, we can unequivocally assert the fact that corruption becomes most prevalent in those states where persons endowed with political power are not able to distinguish between their private interests and the public good.

Thus, analyzing the corruption world map, an inevitable question arises, what is the cause of the pervasive corruption in some countries and its absence in the others, while the countries may seem similar in basic parameters: form of state or territorial government, political and economic systems, etc. Elucidating the answer to this question requires a special approach, since it is complicated by a number of both direct, and indirect, causal relationships between various corruptogenic factors. For example, low level of economic development of a particular state, undoubtedly, promotes corruption, which in its turn is the most serious barrier to economic growth. Political instability provokes corruption as well, but it is often also the cause of violations of the mentioned stability, etc.

This characteristic has always been inherent to Ukrainian political elite that, even in the conditions of advanced democratic reforms, keeps being the bearer of the post-Soviet world, for whom corruption is an everyday norm. For its members it is still not obvious that democratic state, by definition, cannot be corrupted, that minimising corruption is not the only condition, but a prerequisite for building a successful society¹.

The rooting of the deformed system began after the collapse of communist regime in the former USSR. Thereafter, a crisis political and legal vacuum suddenly appeared, in which there was an acute need for radical change in the rules of the economy, legal system, social sphere, etc. However, political functionaries, who were at that time in power, instead of implementing radical structural reforms, used the

¹ Трепак, В.М. (2016). Явище олігархії як чинник політичної корупції в Україні: кримінологічні аспекти. *Право і суспільство*, 6.

opportunity to improve people's lives for improper personal benefits and profits. Even when the measures introduced by them were reasonable, a lot of officials still kept relying on political connections, dysfunctional state institutions and corrupted judges, which ultimately contributed to the strengthening of the corruption-related practices and made the prosecution of perpetrators impossible¹.

All this led to the emergence of a specific form of government in Ukraine – oligarchy. It ensures the supremacy of a narrow circle of the richest people (the oligarchs) and the ruling elite which heads and represents the oligarchic rule². Developing this logic, we must conclude that there is an indissoluble, caused by common features, interdependent relation between such socially dangerous phenomena as corruption and oligarchy, where the first triggers the second and vice versa. Therefore, any statement that the unlawful influence of big business on government is an inevitable and natural (essential) part of the current stage of state building does not stand up to criticism, and a comprehensive counteraction to such influence has to become one of the major tasks within general combating corruption in Ukraine.

Main body. Throughout the whole history of independent Ukraine, political corruption was a major obstacle in the way of its democratic development. It has become both the cause and consequence of unfavourable political situation in the country that is still characterised by volatility, unpredictability and constant struggle of political forces for redistribution of cash flows and related spheres of influence.

Of course, the implementation of powers and authorities, received from the people according to certain democratic procedures, requires that government officials follow the principles of high-level law abidingness, moral integrity and professionalism. The absence of even one of these attributes makes any reform efforts futile. Actually, we have been watching this during all the years of Ukraine's independence, when the environment of permanent social and political transformations and unfinished reforms was becoming a constant source of corruption.

We should agree with the fact that during this time the laws, which protect the interests of the elite and are socially unfair for most of the population, came in power, while the law enforcement agencies, protecting the oligarchs' interests, caused distrust and contempt for authorities among people³. For example, as the author of this article has already noted in previous publications, the essential reform of the judicial and law enforcement systems is being implemented much longer and in a more complicated way than expected and declared. That is why there are still no effective safeguards against politicisation of law enforcement agencies: sustainable developed democracy, effective civilian control, independent court. All this creates preconditions for the transformation of law enforcement agencies into a political tool and means of solving personal issues.

In fact, it is not a secret that neither the law enforcement system, nor the state power in general, are separated from business, and major financial and industrial groups not only dictate the decisions on current activities to the representatives of the state apparatus, but also have a significant impact on the strategic socio-economic and other fundamental reforms. Merging the state institutions, especially the law enforcement ones, with business creates a very favourable environment for corruption, which destroys the already questionable thesis of inevitability of responsibility for each offence.

We cannot ignore the fact that oligarchisation of Ukrainian government is caused by socio-economic factors as well. These include property polarisation of the population, which is a factor of the spread of various forms of deviant behaviour and criminalisation of society in general; periodic economic and financial crisis, and the absence of appropriate ethical standards of business resulting from incorrect privatisation and reorientation to the capitalist system of economy that was not accompanied by elaboration of the owners' culture. The powerful factors in corrupting social relations are: criminalisation of economy and shadow economy, excessive government intervention in the economy, fallacious methodology and not transparent privatisation of the state and municipal property.

We should completely agree with the above mentioned, since, according to official data of the Ministry of Economic Development and Trade of Ukraine, despite some reduction in the increasing tendency of shadow economy, initiated in 2013 and continued in terms of price and devaluation shocks, and escalation of military conflict, the level of shadow economy in Ukraine is 40% of official GDP as of 2015.

¹ Fisman, R., Gatti, R. (2002). Decentralization and corruption: evidence across countries. *Journal of Public Economics*. <https://www.researchgate.net/profile/Roberta_Gatti/publication/222576016_Decentralization_and_corruption_evidence_across_countries/links/02e7e53687bb7d736300000.pdf>.

² Ревак, І. О. та ін. (2001). *Корупція: теоретико-методологічні засади дослідження*. Львів: ЛьвДУВС, 56.

³ Пелішенно, П.О. (2015). Основні чинники формування клептократії в Україні. *Сучасне суспільство: політичні науки, соціологічні науки, культурологічні науки*, 94–104.

It should be noted that shadow economy exceeded the critical level of 30% of GDP, which shows that the situation is approaching to a crisis, since shadow relations are functioning in the economy¹.

Apparently, the funds that circulate within the shadow economy are nothing else but a "payment instrument", without which corruption-related transactions would be impossible. Therefore, judging from the amount of shadow economy funds, we can draw conclusions, with some reservations, not only about the scale of corruption in Ukraine, but also about the amount of effort and resources needed to overcome it.

Political corruption has been existing in Ukraine for a long time and has constantly been provoked by representatives of big businesses. The struggle against it is very feeble in comparison with the scale of the damage that it causes. Thus, the main means of combating political corruption, according to prof. M. I. Melnyk, should be the real (genuine) separation of politics from business. However, he emphasises that despite the declared intention of such separation in Ukraine, politics and business actually merged. Moreover, this merger is demonstrated in open and often brutal forms (almost undisguised business financing of election campaigns of political parties and individual candidates, "buying" seats in the electoral lists, making decisions of special interests by the state authorities and local self-governments in favour of certain businesses, purely formal withdrawal of politicians from running their businesses, etc.). Business (personal financial interest) dictates the politics, motivates politicians, their behaviour and decisions. Thus, in most cases due to various corruption-related relations, politicians are on service of private business, not society².

The above mentioned is intensified by the fact that systematic governmental declarations on the need to strengthen the corruption combating have not been implemented yet. The political will of the representatives of the authorities to combat corruption is noticed by less than 14% of the population, and this figure is lower for each of the proposed levels and branches of government, compared with previous periods³.

Thus, it makes sense to distinguish political corruption as the most socially dangerous kind of corruption-related crime in Ukraine. It would be rightly to add that political corruption is a determining factor of corruption processes in the country, generally, since it is characteristic for the subjects that form fundamental for the whole state factor – political will, so the degree of contamination of such subjects by corruption defines the nature and content of state policy in all public areas, including combating corruption.

Continuing the above mentioned idea, the position of prof. A. M. Boyko seems quite reasonable. He emphasises the features that are of a primary criminological interest for understanding the determination of corruption in Ukraine. Among which is the politics inherent to business according to public and private interests, which occurs due to the immaturity of civil society institutions that should limit and control the authorities⁴.

Moreover, in the worst case, the desire to satisfy personal interests of certain officials is often close to outright anti-state activities. This is especially true in cases when political corruption-related crime is committed in favour of a foreign business. With good reason even the Law of Ukraine "On Basis of National Security of Ukraine" defines the fact of blending business and politics as an organised crime, a real and potential threat to Ukraine's national security and stability in society⁵. At present, these norms acquired special significance, as the frozen conflict in eastern Ukraine serves as a good background for undermining the situation controlled by radical political forces and business structures from the outside, discrediting the prestige of the government, implementing questionable, in terms of law and state interests, political projects.

In particular, it is not a secret that the most powerful agents (intelligence service) of the Kremlin's

¹ Тенденції тіньової економіки в Україні у січні-вересні 2015 року (2016). Офіційний сайт Міністерства економічного розвитку і торгівлі України. <<http://www.me.gov.ua/Documents/Download?id=5cee93d1-07dd-4d66-bd8b-98754ded9423>>

² Мельник, М. (2009). Політична корупція: сутність, чинники, засоби протидії. Центр Разумкова <http://www.razumkov.org.ua/ukr/files/category_journal/NSD111_ukr_5.pdf>

³ Стан корупції в Україні: порівняльний аналіз загальнонаціональних досліджень 2007, 2009, 2011 та 2015 (2015). Київський міжнародний інститут соціології. <http://kiis.com.ua/materials/pr/20161602_corruption/Corruption%20in%20Ukraine%202015%20UKR.pdf>

⁴ Бойко, А.М. (2001). Політичні чинники корупції в Україні. Вісник Львівського національного університету (Серія юридична), 53, 284–289.

⁵ Закон про основи національної безпеки України 2003 (Верховна Рада України). Відомості Верховної Ради України, 39, 351.

influence are in Ukraine. The agents (intelligence service) – literally and figuratively. They are everywhere – in political, economic, banking, information and other spheres.. The agents feel quite comfortable occupying high positions or formally holding no positions, and influence key governmental processes.. Alas, the Russian agents of influence is one of the biggest "Achilles' heel" of Ukraine, both in terms of maintaining independence and sovereignty, and in terms of democratic development¹.

It is impossible not to notice that inadequate political corruption in terms of public sentiment, and obvious influence of oligarchs on the decisions of the supreme authority, especially the parliament, leads to dissatisfaction with the government. The credibility of the political system of the national sample, especially after the absence of significant changes in this sphere after the Revolution of Dignity, is at extremely low levels.

In this regard, of course, we should positively evaluate the adoption of the Law of Ukraine on "Amendments to certain legislative acts of Ukraine on preventing and fighting political corruption", which provides for the right of political parties for governmental funding, restrictions in voluntary contributions and donations to the funds of political parties, the duty of political parties to account for the received funds, strengthening the administrative and criminal responsibility for the violation of these restrictions². Nevertheless, it is worth considering the excessively rooted tradition of the representatives of "oligarchic class" of creating political parties without ideological foundation and aiming exclusively at protecting private interests of their founders. Therefore, the above mentioned law, in our opinion, has no potential to significantly prevent the influence of financial and industrial groups on Ukrainian politics.

One of the issues, which is unlikely to be solved by this law with the adverse socio-economic conditions in Ukraine, is a real ability of the state to offer funding for political parties in an amount that would be sufficient for distancing funds from the oligarchs.

Besides, we should pay attention to the fact that corruption-related crimes eventually cause not only unfair elections and forging the people's will, but also, as a result, the authority is acquired by those, whose business and moral qualities do not meet the required level of democratic society. As a result, the government is perceived by citizens as something that is a prerogative of individuals who are not just dishonest, but extremely immoral, and who use the power solely for the purpose of illicit enrichment. This perception of power leads to a loss of interest in political participation of persons who profess high moral values and are interested in and able to introduce positive changes and tackle crime.

Thus, a significantly adverse effect of corruption on the political system is manifested in shifting politicians' objectives and destructing political values. The protection of citizens' interests ceases to be regarded as a political task, while the desire for personal enrichment and solving personal matters with corruption-related methods becomes a priority.

In conditions of rooted corruption in the system of government, the corruption becomes its principle element that distances this system from the ideas of democracy and destroys the mechanism of checks and balances. In such circumstances the state governance is handed over to corrupted officials who are subject to a simplified perception of the power and its essence, and see their official position as a means of satisfying personal interests. Therefore, taking into account the fact that the people are the only source of power in Ukraine, and representatives of the political elite are only temporarily endowed with authority for optimal implementation of the people's interests, each case of a political corruption-related act in Ukraine has to be regarded not only as a crime but also as a neglect of democratic values, encroaching on the whole system of the rule of people.

Conclusions. Consequently, political corruption is a major obstacle to democratic development of Ukraine. The existence of this phenomenon is caused by a merger of political power and big business, which creates a special kind of influential subjects of social relations, oligarchs, for whom the power is a means of improper accumulation of financial resources, which in their turn are the main instrument for maintenance and increase of this power. It is impossible to change this situation without expressing the political will of the highest level, as was noted above. All the other measures proposed for fighting political corruption, either of preventative or repressive nature, are ineffective without this political will.

Pronounced problem requires activation of analytical work on the part of academia and the legal

¹ Трепак, В.М. (2016). Явище олігархії як чинник політичної корупції в Україні: кримінологічні аспекти. *Право і суспільство*, 6.

² Закон про внесення змін до деяких законодавчих актів України щодо запобігання і протидії політичній корупції 2015 (Верховна Рада України). Офіційний сайт Верховної Ради України. <<http://zakon3.rada.gov.ua/laws/show/731-19>>

community in general. As politicians unable unconscious at the appropriate level to ensure in a quick run an effective fight against corruption. There is still enough work, because since the majority of studies on political factors of corruption in Ukraine were published, not only the arrangement of political forces has changed, but also the legal framework, within which political processes and the level of citizens' involvement in solving the issues of the state occur. This is necessary in order to achieve the goals that the state, together with the society announced – namely the achievement of the values the European Community.

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