

FACTORS CONTRIBUTING TO CONFLICTS OF INTEREST IN THE PREVENTION OF CORRUPTION AND EXISTING CHALLENGES.

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Abstract

This thesis provides a systematic analysis of the legal nature of the institution of conflict of interest and the political, social, administrative, and ethical factors contributing to its emergence. The author examines the normative legal acts adopted in the Republic of Uzbekistan to regulate and prevent conflicts of interest, the compliance of existing governance systems with the principles of transparency and accountability, as well as international practices and the activities of relevant institutions.

The research treats conflict of interest as an initial stage of corruption and substantiates the significance of mechanisms such as monitoring, declaration, public oversight, and preventive measures in combating it.

The conclusions put forward in this thesis offer relevant scientific and practical recommendations aimed at preventing conflicts of interest and strengthening legality and integrity in the activities of public officials.

Keywords: conflict of interest, corruption, public officials, legal regulation, personal interest, collective interest, ethical principles, transparency, accountability, regulatory and legal framework, preventive measures, institutional reforms, monitoring, declaration, international experience

Introduction

In modern public administration, the issue of conflict of interest is recognized as one of the key factors contributing to the risk of corruption. This phenomenon is particularly evident in situations where personal or corporate interests take precedence in the activities of public officials, resulting in conflicting circumstances. The institution of conflict of interest and its legal regulation mechanisms play a crucial role not only in preventing corruption, but also in ensuring that public officials operate based on principles of professional ethics, transparency, and collective responsibility.

In the Republic of Uzbekistan, institutional reforms undertaken in this area—most notably the adoption of the Law “On Civil Service”—represent an important step toward managing conflicts of interest and maintaining legal oversight. Therefore, analyzing the legal essence of conflict of interest, identifying the systemic, social, and political factors that give rise to it, and developing effective means for its elimination are of pressing scientific and practical significance.

Main Body

The factors influencing the emergence of conflicts of interest are numerous and diverse, closely interlinked with political, legal, social, and administrative systems.

Foremost among these is the occurrence of situations that create a sharp contradiction between the private interests of public officials and their official duties, which constitutes one of the primary causes of conflicts of interest.¹

According to Uzbek legal experts, the issues of corruption and conflict of interest are closely linked to the prevailing socio-political and institutional environment in society and typically arise from the interplay of multiple factors simultaneously.

Among the primary contributing elements are the level of legal awareness among the population, the system of moral values within society, the lack of compliance of existing governance mechanisms with the principles of transparency and accountability, as well as disparities resulting from ongoing economic reforms.

In his textbook "Combating Corruption", legal scholar A.Sh. Bekmurodov provides an in-depth analysis of the factors contributing to corruption and conflicts of interest within the system of public administration.² He emphasizes that, first and foremost, the root of these problems lies in the insufficient development of the principles of collective responsibility and transparency within society.

Additionally, the inadequate understanding of the legal consequences of abuse of official position and authority in public service, as well as the weakness of oversight mechanisms for monitoring the performance of public officials, are also acknowledged as significant issues.

In Uzbekistan, the legal foundations for preventing conflicts of interest and effectively combating corruption are being consolidated as one of the key priorities of state policy. In particular, the Constitution of the Republic of Uzbekistan, adopted by referendum on April 30, 2023, establishes zero tolerance for all forms of corruption as an integral part of national policy.

This approach is reinforced by the Law of the Republic of Uzbekistan “On Combating Corruption” (LRU No.419, dated January 3, 2017), which recognizes the identification, prevention, and management of conflicts of interest as a distinct legal institution.

Moreover, Presidential Decree (PD) No. 6013 of June 29, 2020, aims to strengthen the institutional framework for anti-corruption efforts by developing preventive measures and behavioral standards to ensure practical effectiveness.

These normative legal acts form the legal foundation for state policy and governance principles directed at the systematic elimination of conflicts of interest.

Conflicts of interest arise in various forms and as a result of different circumstances. Examples of such situations include: direct involvement of officials, civil servants, or members of parliament in commercial activities to obtain personal or corporate gain; misuse of official position to transfer state funds to commercial entities with the intent to embezzle; granting privileges from state resources to one's own corporate (political, religious, ethnic, etc.) group; use of official position to exert pressure on the media in order to gain personal or corporate benefit; involvement of public officials or civil servants in the use of fictitious persons or relatives in commercial entities for the purpose of personal enrichment; promotion of decisions related to the adoption of

¹ United Nations Development Programme (UNDP). Best Practices in Conflict of Interest Prevention. — New York: UNDP, 2020. — 48 p.

² Korrupsiyaga qarshi kurashish. Darslik. // Mas’ul muharrir: A.Sh. Bekmurodov: – Toshkent: “Akademiya”, 2022. – 44-bet.

normative legal acts in the interest of specific groups; allocation of public financial and material resources to the election funds of certain candidates; demanding payment in exchange for facilitating contracts or agreements; requesting commissions for placing state procurement orders; provision of services to public officials; sponsoring travel or vacations abroad; soliciting payment in exchange for expediting the resolution of issues or preparation of documents; employment of relatives or friends through abuse of position; and receipt of a portion of bribes extorted by subordinates by a superior³.

In his research, Bekmurodov also emphasizes that situations involving conflicts of interest create a favorable environment for corruption, particularly in cases where public officials prioritize personal interests over collective interests—an issue that is increasingly widespread. According to him, such conflicting situations, if not clearly regulated at the legislative level or are overlooked in practice, significantly increase the risk of corruption and undermine public trust in government institutions.

In this regard, Article 24 of the Law of the Republic of Uzbekistan “On Civil Service,” adopted on January 3, 2023, sets out specific mechanisms for the prevention of conflicts of interest. It explicitly stipulates that when an employee’s personal interests conflict with their professional duties, the employee is obliged to immediately report the situation to their superior.

At this point, it is also appropriate to refer to the views of another domestic researcher, PhD in Law, M. Sobirov. In one of his articles, he writes:

“Conflict of interest constitutes the initial stage of corruption. In such cases, an individual uses their authority to make decisions that benefit themselves or their close associates, thereby creating a foundation for corrupt practices”⁴.

Based on the above considerations, it becomes evident that eliminating corruption requires not only punitive measures, but also a strong focus on identifying and documenting conflicts of interest, conducting prompt monitoring based on available information, and implementing preventive actions.

Within the framework of international legal standards, the legal essence of the institution of conflict of interest is clearly defined in various regulatory instruments. In this regard, the “International Code of Conduct for Public Officials” is recognized as a key source. This international legal document outlines a set of fundamental principles related to the identification, prevention, and management of conflicts of interest.

In particular, the Code strictly prohibits public officials from using their official positions to pursue personal or financial interests for themselves or their family members. It stipulates that public officials must not have any financial or commercial interests in the course of performing their official duties and must refrain from directly or indirectly participating in any commercial transactions.

The Code also emphasizes that public officials are required to timely disclose, in accordance with established procedures, any personal, financial, or other interests that may give rise to a conflict of interest, and must take appropriate measures to eliminate such situations.

Public officials are strictly prohibited from using confidential or official information acquired in the course of their duties for personal gain or for the benefit of third parties. They are not permitted to use such information outside the scope defined by law, not only during their tenure, but also after leaving office. These restrictions are intended to prevent the misuse of former official positions for improper advantage.

³ Korrupsiyaga qarshi kurashish. Darslik. // Mas’ul muharrir: A.Sh. Bekmurodov: – Toshkent: “Akademiya”, 2022. – 43-bet.

⁴ M.Sobirov, “Manfaatlar to’qnashuvining oldini olish va huquqiy mexanizmlari”, Yuridik fanlar axborotnomasi, 2021-yil, №2

These principles embody international legal norms regulating the conduct of public officials and play a pivotal role in preventing conflicts of interest, which are a significant catalyst for corruption⁵.

In the Republic of Uzbekistan, significant political and institutional initiatives—particularly those advanced by the President—are being introduced to prevent corruption risks and systematically eliminate conflicts of interest. These initiatives are based on a comprehensive approach to combating corruption and are reflected in several priority areas.

In particular, one of the key priorities is the formation of the civil service based on the principles of meritocracy — ensuring transparency and fairness in the selection, appointment, and promotion of personnel through a competitive process.

In addition, measures are being taken to introduce a system for the declaration of income and assets by public officials, with the aim of ensuring financial transparency, as well as identifying and eliminating conflicts of interest. Particular attention is also being paid to ensuring fair remuneration for civil servants in order to enhance the attractiveness of public service and reduce corruption risks.

Furthermore, a number of organizational and legal measures have been introduced to improve the regulatory mechanisms for managing conflicts of interest, increase the transparency and accountability of public institutions, and strengthen the legal and social protection system for individuals who report corruption-related offenses.

In parallel, efforts are being made to cultivate a societal climate of zero tolerance toward corruption. This includes reinforcing the social foundations of anti-corruption efforts by supporting the free and effective operation of civil society institutions and the mass media.

As part of presidential initiatives, active cooperation is being expanded with international organizations, particularly foreign institutions specializing in anti-corruption policy and global rankings. The institutional basis of the national anti-corruption strategy is being reinforced through the incorporation of international best practices and standards into the domestic legal framework⁶.

According to A. Otajonov, in order to achieve effective results in preventing corruption and conflicts of interest, it is essential to instill a strong culture of zero tolerance for corruption among employees at all levels of public administration. To this end, it is of critical importance to incorporate specialized training programs aimed at fostering anti-corruption awareness into the professional development systems of all government agencies, regardless of the employees' field of specialization.

The author emphasizes that such training courses should not only contribute to the formation of sustainable immunity against corruption, but also serve to deepen practical skills and legal knowledge. Accordingly, the curricula should cover key topics such as the normative-legal foundations of anti-corruption activities, the types and legal nature of corrupt offenses, the conduct and professional ethics of public servants, as well as the identification and mitigation of corruption risk factors⁷.

The anti-corruption framework of the Republic of Uzbekistan has been thoroughly studied by international organizations. As a result of these assessments, a number of systemic challenges in the area of conflict of interest prevention have been identified, and corresponding recommendations have been developed to address them effectively. The key issues are outlined below.

⁵ Davlat mansabdor shaxslarining xalqaro xulq-atvor kodeksi. https://www.un.org/ru/documents/decl_conv/conventions/int_code_of_conduct.shtml

⁶ Toshev B. Korrupsiyaga qarshi kurashishga oid xalqaro normalarni milliy qonunchilikka implementasiya qilish // Yurist axborotnomasi – Vestnik yurista –Lawyer herald. № 5 (2020), s. 92-98).

⁷ Maqola, Davlat xizmatchilarida korrupsiyaga qarshi murosasizlik xulq-atvorni shakllantirishga kompleks yondoshuv . Otajonov Abrorjon Anvarovich /Yurist axbarotnomasi 5-son, 1- jild. Toshkent-2020

First — gaps and ambiguities in the normative-legal framework. In the absence of clear definitions, rules, and sanctions concerning conflicts of interest in legislation regulating the activities of public officials, the risk of abuse significantly increases. This problem is common in many developing countries, including Uzbekistan.

Second — issues related to individual awareness and ethics. When public officials fail to prioritize public interests over personal gain or disregard the principles of impartiality and accountability, conflicts of interest are exacerbated. A lack of ethical conduct, deliberate concealment of personal interests, and avoidance of disclosure further complicate the situation⁸.

Third — the ineffectiveness of internal control mechanisms within organizations. If internal audit units, compliance divisions, and transparent reporting systems do not function effectively, conflicts of interest may go undetected in a timely manner. This risk becomes even more pronounced when oversight of officials' financial disclosures and asset declarations is weak or poorly enforced⁹.

Fourth — political and administrative influence. When high-ranking officials benefit from political protection, engage in nepotistic appointments, or use administrative resources for personal gain, conflicts of interest can evolve into a systemic problem¹⁰.

Fifth — the absence or inefficiency of data systems and information technologies. When government agencies operate with unintegrated or fragmented information systems, it becomes difficult to identify and monitor conflicts of interest. In this regard, the use of information technologies and big data analytics remains insufficient¹¹.

Sixth — limited involvement of the public and the media. If civil society and independent media are not actively engaged in exposing cases of conflict of interest, such issues may remain hidden from scrutiny. In the absence of transparency and public oversight, it becomes easier for officials to conceal their personal interests¹².

Seventh — insufficient administrative resources. The effective establishment of a system for identifying and preventing conflicts of interest requires highly qualified personnel, as well as adequate financial and technical resources. The lack of such resources is particularly evident at the local level¹³.

It is essential to introduce a comprehensive legal mechanism for the protection of individuals who report conflicts of interest and related unethical behavior in the public sector. In the absence of proper legal safeguards, potential whistleblowers may refrain from disclosing violations due to fear of retaliation, disciplinary action, or reputational harm. This significantly weakens institutional transparency and hampers the early detection of systemic risks.

Therefore, a dedicated whistleblower protection framework should be developed in line with international standards, particularly the United Nations Convention against Corruption. This framework must ensure the confidentiality and safety of reporting persons, prohibit retaliatory actions, and establish independent and accessible reporting channels. Strengthening such guarantees will foster a culture of integrity, enhance public oversight, and serve as a critical tool in preventing conflicts of interest.

⁸ World Bank. Public Sector Ethics Training. 2021.

⁹ OECD. Managing Conflict of Interest in the Public Service: OECD Guidelines and Country Experiences. — Paris: OECD Publishing, 2004. — ISBN 978-92-64-10493-8. — Rejim kirish: <https://doi.org/10.1787/9789264104938-en>

¹⁰ Transparency International. Global Corruption Report. — Berlin: Transparency International, 2022. — Rejim kirish: https://images.transparencycdn.org/images/Report_CPI2022_English.pdf

¹¹ McKinsey Global Institute. Data Analytics for Governance. — New York: McKinsey & Company, 2023. — Rejim kirish: <https://www.mckinsey.com>

¹² Human Rights Watch. Freedom of Expression and Anti-corruption. — New York: Human Rights Watch, 2020. — Rejim kirish: <https://www.hrw.org/world-report/2020/country-chapters/uzbekistan>

¹³ Asian Development Bank. Institutional Reforms in Uzbekistan. — Manila: Asian Development Bank, 2023. — Rejim kirish: <https://www.adb.org/projects/documents/institutional-reforms-uzbekistan-2023>

Overall, the emergence of conflicts of interest is largely attributable to systemic factors, ethical shortcomings, and the availability—or lack—of technological solutions. Addressing these factors through a comprehensive and integrated approach is essential to effectively mitigating this risk.

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