



Discussion on the Complex Issues of Corruption and Bribery Crimes

Fang Yang*

Faculty of Public Administration, Guizhou University, Guiyang, Guizhou, 550001, China

*Email: 1425723341@qq.com

Abstract. This paper first analyzes the experiences and practices of the international community in preventing and combating corruption and bribery crimes, such as establishing anti-corruption standards through legislation, focusing on legislation for prior prevention of corruption, strengthening regulations on the moral obligations of civil servants, and constructing a comprehensive and systematic anti-corruption legal system. Then, it summarizes the practice and effectiveness of the domestic work against corruption and bribery, including the investigation and prevention work of the procuratorial authorities, the coordination and cooperation with the disciplinary inspection and supervisory authorities, and the legal supervision of the trial activities and the execution of penalties. On this basis, the article puts forward suggestions for innovative governance mechanisms and strategies, emphasizing the integration of investigation and prevention, innovation in the content and carriers of preventive publicity, and the combination of professionalized and socialized prevention. Finally, the article emphasizes the importance of strengthening international cooperation in order to form a global synergy against transnational corruption.

Keywords: Corruption and bribery crimes; prevention and governance; international cooperation; legal regulation; innovative governance

1 Introduction

The crime of corruption and bribery is a global social problem, which not only erodes national finance and undermines social justice, but also seriously damages the credibility of the government and the international image of the country. With the deep development of globalization, corruption and bribery crimes also present the characteristics of transnationalization, concealment and complexity, which poses new challenges to the legal system and governance capacity of each country. The purpose of this paper is to discuss the prevention and governance strategies of corruption and bribery crimes, analyze international experience, summarize domestic practice, and put forward innovative governance mechanisms and strategic recommendations, with a view to providing theoretical support and practical guidance for the fight against corruption.[1]

2 Overview of Corruption and Bribery Offences

2.1 Definition and Characteristics of Corruption and Bribery Offenses

The crime of corruption and bribery refers to the behavior of a state official who takes advantage of the convenience of his position to illegally take possession of public property or illegally accept other people's property and seek benefits for others. This kind of behavior violates the basic duties and moral norms of public officials, and destroys the reasonable distribution of public resources and fair competition in the market economy. The characteristics of the crime of corruption and bribery are mainly manifested in the following aspects: firstly, it is functional, i.e., the criminal act is closely related to the position of the public official; secondly, it is of interest, and the criminal act is usually accompanied by the illegal possession of property or the exchange of improper benefits; again, it is hidden, and the perpetrator often adopts all kinds of means to cover up the criminal act, which makes this kind of crime difficult to be discovered and investigated; finally, it is socially harmful. Finally, it is socially harmful, and the crime of corruption and bribery not only harms the interests of the state and the public, but also may lead to the deviation of public policy and the rupture of social trust.[2]

2.2 Types and Manifestations of Corruption and Bribery Offenses

There are various types of corruption and bribery crimes, which can be categorized into embezzlement, bribery, active bribery, misappropriation of public funds and so on according to the nature and means of the crime. Each type of crime has its specific manifestation. For example, the crime of embezzlement usually manifests itself in the form of a State official taking advantage of his or her position to embezzle, steal, defraud or otherwise unlawfully take possession of public property; the crime of passive bribery manifests itself in the form of a public official taking advantage of the convenience of his or her position to solicit or unlawfully accept the property of another person and to seek benefits for another person; the crime of active bribery refers to the act of giving property to a State official in order to seek an improper benefit; and the crime of embezzlement refers to the act of a State The crime of misappropriation of public funds refers to the behavior of a state official who takes advantage of the convenience of his or her position and misappropriates public funds for personal use and illegal activities, or misappropriates public funds in a larger amount and fails to return them for more than three months. With the development of society and the progress of science and technology, the manifestation forms of corruption and bribery crimes are also changing, such as electronic corruption through network means and money laundering activities using complex financial instruments.[3]

3 Legal Regulation of Corruption and Bribery Crimes

3.1 Regulation of Corruption and Bribery Crimes Under the International Legal Framework

The international community has provided a legal basis and cooperation platform for the fight against corruption on a global scale through multilateral treaties such as the United Nations Convention against Corruption. The Convention specifies the criminalization standards for bribery of national public officials, bribery of foreign public officials or officials of public international organizations, trading in influence, and embezzlement of public officials, and requires States parties to adopt the necessary legislative and other measures to ensure that these acts can be effectively prosecuted. In addition, the Convention emphasizes the importance of international cooperation, including mechanisms for mutual legal assistance, extradition, transfer of sentenced persons and asset recovery through international cooperation for purposes of confiscation.[4]

3.2 Regulation of Corruption and Bribery Offences in the Domestic Legal System

China has made clear provisions on corruption and bribery through the Criminal Law and other relevant laws, establishing such crimes as embezzlement, passive bribery and active bribery, and setting corresponding penalties according to the seriousness of the crime. In recent years, China's legislature has continuously increased its efforts to combat bribery crimes, such as adding the crime of accepting bribes through the use of influence through amendments to the Criminal Law, expanding the scope of the subject of bribery crimes, and refining the manifestations of bribery. In judicial practice, China's courts are also constantly improving the rules of adjudication of corruption and bribery crimes, such as through specific cases to clarify the characterization rules of the illegal possession of public property through "shadow companies".[5]

3.3 Problems and Challenges in Legal Regulation

Although the regulation of corruption and bribery offenses in international and domestic laws is becoming more and more perfect, there are still many challenges in actual implementation.[6] For example, it is difficult to obtain evidence for transnational bribery crimes, and there are legal differences and conflicts of judicial sovereignty in international cooperation; domestic laws lag behind in adapting to new types of corruption, and there is a need to constantly update the legal definitions and penalties to cope with newly emerging forms of crime. In addition, how to balance the stability and adaptability of the law, and how to better reflect the preventive and educational functions in legal regulation are also issues to be considered in the current legal regulation.

4 Discussion on Difficult Issues of Corruption and Bribery Offenses

4.1 Difficulties in Defining the Crime of Corruption and Bribery

The difficulties in defining the crime of corruption and bribery are mainly reflected in the understanding and application of the elements of the crime. In practice, corruption and bribery crimes often involve complex legal relationships and diverse behavioral patterns, and how to accurately define the boundaries between crime and non-crime is a major challenge for the judicial authorities. For example, how to define “undue advantage” in bribery offences, whether it includes non-material benefits, and how to judge whether the conduct of a public official constitutes the “use of functional facilitation” are all issues that need to be explored in depth. In addition, with the development of society and the advancement of science and technology, new types of corruption and bribery continue to emerge, such as bribery through the Internet and money-laundering through the use of virtual currencies, etc., which pose a new test for the application of existing laws. Therefore, the legal profession needs to constantly update the theory and practice of defining the crime of corruption and bribery to meet the needs of social development.

4.2 Difficulties in Obtaining and Recognizing Evidence

The covert nature of corruption and bribery crimes makes it difficult to obtain and identify evidence. [7]This type of crime often involves internal information and secret transactions, and the perpetrators usually adopt covert means to avoid legal prosecution. In terms of obtaining evidence, due to the lack of direct witnesses or evidence, investigating authorities often need to construct the chain of evidence through indirect evidence, which not only increases the difficulty of investigation, but also raises the requirements for the professional competence of investigators. With regard to the identification of evidence, how to ensure the legality, relevance and sufficiency of evidence is a key issue in judicial trials. In particular, in cases involving a large amount of circumstantial evidence and electronic data, how to effectively analyze and identify them has become a difficult point in judicial practice. In addition, evidence of corruption and bribery offences often involves multiple sectors and fields, requiring cross-sectoral collaboration and international cooperation, which also increases the complexity of obtaining and identifying evidence.

4.3 Sentencing of Corruption and Bribery Offenses

The issue of sentencing for corruption and bribery offenses involves how to balance the relationship between punishment and prevention, as well as how to ensure the fairness and reasonableness of sentencing. In sentencing, the judge needs to consider factors such as the nature of the crime, the circumstances, the degree of social harm and the offender's repentance. However, in practice, how to quantify these factors and determine their specific weighting in sentencing is a complex issue. For example, in the case

of embezzlement of a large amount, should the sentence be based solely on the amount or should more consideration be given to the degree of damage to the public interest caused by the criminal act. In addition, the question of how circumstances such as surrender and merit should be reflected in sentencing is also a matter for careful consideration. Unfairness in sentencing will not only affect judicial justice, but may also have a negative impact on social order and the public's belief in the law. Therefore, how to achieve scientific and standardized sentencing within the legal framework is a topic that the judiciary needs to continuously explore and improve.

5 Corruption and Bribery Crime Prevention and Governance Strategies

5.1 International Experience in Preventing Corruption and Bribery Crimes

At the international level, the experience of preventing corruption and bribery crimes is mainly reflected in the following aspects. Firstly, many countries have established anti-corruption standards through legislation, such as the Anti-Corruption Law enacted by Russia in 2008, which introduced anti-corruption standards and set prohibitions, restrictions and permissive conditions for activities in specific areas in order to prevent corruption. [8] Secondly, some countries focus on prior legislation to prevent corruption, such as the United States with the Ethics in Governmental Conduct Act, the United Kingdom with the Code of Honour and the Preservation of Corruption Act, and Singapore with the Prevention of Corruption Act and the Civil Service Disciplinary Rules, which prevent corruption from festering and spreading by restraining the behaviour of the Government and government officials. In addition, international cooperation is also an important part of preventing corruption and bribery crimes, such as the United Nations Convention against Corruption, which provides a framework for cooperation among countries and promotes international cooperation against corruption.

5.2 Domestic Practice and Effectiveness in Preventing and Combating Corruption and Bribery Offenses

A series of effective measures have been adopted domestically in preventing and combating corruption and bribery crimes. The Supreme People's Procuratorate, in its anti-corruption and bribery work, adheres to the principle of investigating and punishing corruption wherever it occurs, and highlights the investigation and handling of major cases, while focusing on the investigation and handling of cases that are strongly reflected by the public. Economic losses have been recovered for the State and the collective through the handling of cases, while coordination with the disciplinary and supervisory authorities has been strengthened to enhance the synergy of the work. In addition, the procuratorial authorities have promoted the regularization of efforts to combat commercial bribery, increased penalties for bribery offences, and strengthened legal supervision of trial activities and the enforcement of penalties. These measures have,

to a certain extent, curbed the growth and spread of corruption and promoted the construction of anti-corruption and integrity.

6 Conclusion

The prevention and governance of corruption and bribery crimes is a systematic project, which requires the comprehensive application of various means such as law, economy and culture. This paper puts forward a series of innovative governance strategies and recommendations by analyzing international experience and domestic practice. In the future, with the development of society and the advancement of technology, the forms and means of corruption and bribery crimes may change, so we need to constantly update our governance strategies and strengthen international cooperation to adapt to new challenges. At the same time, we should also strengthen civic education and moral construction to raise the public's legal awareness and morality, so as to fundamentally reduce the occurrence of corruption and bribery crimes. Through the joint efforts of the whole society, we are confident of building a clean and honest social environment.

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