

Corruption Studies in Higher Education Schools

Views, Problems and Possible Solutions

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Material for the publication was prepared by:
Jolanta Piliponytė, Transparency International Lithuanian Chapter
Dr. Assoc. Prof. Arūnas Poviliūnas, Vilnius University
Dr. Romas Prakapas, Vilnius Pedagogical University
Natalija Rumianceva, Vanderbilt University
Vitalija Skėruvienė, Kaunas College
Gintarė Šatienė, Šiauliai University
Dr. Tadas Tamošiūnas, Vilnius Pedagogical University
Vaiva Zuzavičiūtė, Vytautas Magnus University

Compiled by
Daiva Penkauskienė, Modern Didactics Centre

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Reviewed by:
Prof. Habil. Dr. Juozas Bagdanavičius
Assoc. Prof. Dr. Valdonė Indrašienė

FOREWORD

“Corruption Studies in Higher Education Schools: Views, Problems and Possible Solutions” is methodological material for teachers and students of higher education schools. This publication shows the result of the two-year project, “Preventing Corruption through Education, Information and Consciousness Raising”: discipline programmes and expanded plans of lectures reflecting the opportunities of anti-corruption education in the programmes of social science studies. The project, funded by the United Nations Development Programme and the Government of the Republic of Lithuania, was implemented following the provisions of the National Anti-Corruption Programme. The aim of the publication was to contribute to one of the key objectives of the Programme, i.e. “by various means promote intolerance to corruption (...), develop and incorporate anti-corruption curricula in the education system”.

The readers will be able to use the teaching programmes developed. In addition, they will find more information about corruption, its spread in Lithuania and the world, its manifestation in the system of higher education, the views of teachers and students towards corruption and the concept of corruption. At the end, it contains a glossary of the main terms, a bibliography and a list of other information sources.

All of this material is copyright works of the project participants. Each author developed their programmes in line with the requirements of the appropriate school, particularities and opportunities offered by the discipline taught. The project participants and authors of the programmes consider their work as a pilot and hope that teachers of other higher education schools and disciplines will use this publication to build new and original programmes and create their own models.

DAIVA PENKAUSKIENĖ
The Compiler

JOLANTA PILIPONYTĖ

CORRUPTION PHENOMENON

Introduction

Recently, we have been hearing, seeing and almost involuntary feeling how corruption, some sort of mist, is covering every angle of our state and even courtyard. The question arises right away: is it an epidemic or another ambiguity of post-modern existence? In this case, the mass media, and television in particular, plays a key role. Almost every day we are informed about manifestation of corruption in various levels of state and private life. This shows that at present the topic of corruption is particularly relevant. The abundance of information and personal experience makes the Lithuanian population and business representatives agree that corruption is a huge obstacle for our state and business development. Paradoxically, asked about their readiness to give a bribe, the majority of the population and businessmen say “Yes” without giving it much thought (Lietuvos korupcijos žemėlapis 2004:13). Hence the question arises as to the definition and explanation of this multi-layer and even ambiguous phenomenon of corruption and the role played by the civil society.

The purpose of this article is to examine problems of the definition of corruption, to identify prospects for a theoretical analysis of corruption, to discuss diagnosis of corruption as one of the most effective ways of corruption control and prevention, and to explain the systemic view held by Jeremy Pope towards prevention of corruption and the role of civic society. Chapter One deals with the aspects of the definition of corruption and the role of legislation, public interest and public opinion in its definition. Chapter Two focuses on the analysis of problems that arise while trying to define corruption. Chapter Three looks at two theoretical perspectives. The first is held by Arnold Heidenheimer, one of the most influential researchers of corruption, who examines a variety of forms of corruption and performs a comparative analysis of them. The second is a view about the represented and the representative which explains what happens when the represented delegate their powers to the representative. Chapter Four deals with the diagnostics of corruption, which helps to identify vulnerable areas of this phenomenon and hence contributes to developing effective anti-corruption programmes. Chapter Five discusses the role of civil society and the systemic view of Pope towards prevention of corruption. Finally, there is a summary of all the insights discussed.

Searching for a Definition of Corruption

Norwegian scientists researching corruption say that this complex phenomenon should be examined in the multidisciplinary context (Andvig 2000:9), applying various theoretical models, performing surveys, and analysing separate cases and scandals

of corruption in closer detail. In a broader sense, “the authors researching corruption and writing about it could be divided into three groups” (Heidenheimer 2002:6-7).

1. The majority of scientists use the definition of corruption provided in the Oxford English Dictionary, which is related to the *concept of public duties*.
2. Another group of scientists have formulated a definition of corruption which is based on *the concept of need, consumption and exchange originating from economic theory*.
3. The third group talks about corruption using the *idea of public interest*.

Defined simply, corruption is *improper conduct of public officials*. A non-governmental organisation *Transparency International* defines corruption as “*the misuse of entrusted power for private benefit*” (Pope, 2000, p. 1). It is one of the most common definitions of corruption in the world..

The following forms of corruption could be mentioned: bribery, nepotism, favouritism, clientelism, unlawful lobbying, unlawful appropriation and re-appropriation of public resources, illicit privatisation, collection of unlawful charges, tax evasion, vote buying, illicit funding of political parties, etc.

As previously mentioned, corruption is often described as improper or non-compliant with rules and standards conduct of civil servants. James Scott, professor of political science at Yale University, also shares the view that corruption is a deviation from certain standards and raises the question: “*What criteria should we use to establish those standards?*” (Gardiner 2002:29). Let us proceed by discussing legal, public interest and public opinion aspects.

The role of legislation in defining corruption

While answering Professor Scott’s question, one would naturally resort to the clear-cut criteria set in the legal instruments. For example, an action of a public official prohibited by law is considered unlawful, i.e. corrupt. Otherwise, such an action is not corrupt, even if its elements include abuse or violation of ethics. Lawyers appreciate such formally clear definitions. Obviously, both civil servants and ordinary citizens should be aware of such requirements or prohibitions.

Although legislation of different countries clearly defines corruption, James Scott is concerned about the following issues:

- Is it really true that what is lawful is always compliant with the norms of ethics?
- There is a threat that due to different legal framework identical actions in different countries will be understood in their own way.
- It is difficult to compare corruption in countries with different-sized public sectors (for example, in some places the majority of people work in the public sector and in other places they predominantly work in the private sector) (Scott 1972:5).

The Aspect of Public Interest in defining Corruption

Let us start with two examples presented by John Gardiner illustrating the problem of the legal definition of corruption.

- In Nazi Germany during World War II, Jews were forbidden by law to emigrate. If a passport inspector took DM 1000 from a Jewish family and approved its departure, could it be called 'corruption'? The inspector would take money in exchange for an unlawful decision, but can it be considered corruption? Can we justify the inspector's action? The majority of people would probably say that imposing stricter legislation for Jews was an evil and the above-mentioned disregard of the law, i.e. approving their departure, was an ethical act.
- The situation described above shows that unlawful actions are not necessarily corrupt and the second example illustrates the opposite situation, i.e. that lawful actions may be considered corrupt. In 1950-1960, when US towns were suffering from a crisis, the Congress developed an Urban Revitalisation Programme according to which state agencies recognised the land in the destructed zones as improper, demolished the buildings on it and sold it. Pursuant to that programme, the majority of land plots were "revitalised". In most cases, the land belonged to poor people and representatives of racial minorities. In those places, new luxuries houses and institutions were built. Admittedly, public officials followed all the necessary procedures. Were these lawful actions corrupt? According to Scott, the Urban Revitalisation Programme was beneficial to middle and higher class people. Did this programme in fact help to solve economic problems in the towns? Obviously, poor people suffered and rich people became richer. It could be said that "this Urban Revitalisation Programme embodied corruption in the US political life." (Gardiner 2002:31). On the other hand, it is not good to use the term corruption every time we talk about political processes offering unequal opportunities and benefits. The first example is not a highly disputable matter, whereas the second one shows different attitudes towards "corrupt practices".

Hence the question arises, *What, on the basis of these examples, could we say about the definition of corruption?* Simply put, *it is an action:*

- causing damage to public interest corrupt, even if it is lawful?
- *which is beneficial to society not corrupt, even if it is against the law?*

Both examples, i.e. consequences of two official national documents, can be looked at both on the *individual level* (families trying to emigrate; residents whose houses were demolished) and the wider *public level*. To summarise, "consequences of corruption of public interests may be analysed separately from a number of aspects" (Gardiner 2002:32).

Analysis of corruption phenomenon is inseparable from the context of the political process. It is good to think that everything depends on legislation, yet it is worthwhile holding a critical view that corruption, like any other unlawful practice, *weakens or even*

invalidates the objectives of legislation. Yet if we admit that lawmakers are able to develop bad laws, especially when they consistently ignore, as a state practice, the interests of a certain social group or pay no attention to public opinion, then we could claim that corrupt practices are inevitable. “This allows us to combine *the public interest aspect with the definition of corruption*” (Gardiner 2002:32). Such a combination is also not clear-cut and rarely associated with a single answer that satisfies all. Yet it allows important questions to be raised when assessing cases, situations and adopting decisions.

The role of public opinion in defining corruption

If there is an apparent gap between the definition of corruption contained in legislation and the perception of people, it may happen that civil servants will be more inclined to pursue the values cherished by the general public rather than follow the law. Besides that, according to Gardiner, effective anti-corruption actions are not possible or difficult to implement if there is a yawning gap between public opinion about corruption and its legal definition.

Prosecutors and investigators are aware that citizens concerned about corruption are more eager to:

- report crimes;
- co-operate while conducting investigations;
- vote for honest politicians and against swindlers;
- follow the laws and not offer bribes.

“Due to these reasons public opinion about corruption is rather important when talking about effective anti-corruption actions of law enforcement” (Gardiner 2002:33).

Problems in Defining Corruption

No matter how hard we think, it is obvious that while defining corruption we inevitably face difficulties. Theorists identify the following key problems:

- there is a difference between the way national legal instruments define corruption, its impact and the way it is perceived by the public;
- significant discrepancies occur due to the different ways in which various countries define and perceive the aforementioned problems (Gardiner 2002:25).

Further, the article will present some thoughts about different definitions of corruption. A classic definition was provided by Harvard Professor Joseph Nye, who said that corruption is “behaviour which deviates from the formal duties of a public role because of private-regarding (personal, close, private clique) pecuniary or status gains” (Nye, 1989:966). Some of the aspects of this definition are particularly important. The majority will agree that this definition highlights the *element of public role*. Corruption is possible only when a public official performs his *public role*. What about the *pri-*

private-regarding mentioned by Nye? The author highlights abuse because of pecuniary or status gains. This definition talks about the money pocketed by public officials or their relatives, yet it ignores the cases of abuse when a public official *seeks benefit for a political party, an ethnic group or similar to which the public official belongs*. Another drawback of this definition is that Nye says that corruption is “*behaviour which violates rules against the exercise of certain types of private-regarding influences*” (Gardiner, 2002:26). However, it determines various interpretations of the spread of corruption in different countries. In some states, there are no formal rules regulating the conduct of civil servants; other states consider the fact that politicians and public officials may mix their official duties with private matters. Does that mean that certain actions in some countries fall within the limits of the formal definition of corruption provided by Nye and in others do not? That is the question raised by Professor Gardiner.

Another important category is *the abuse of public power by public officials*. It is probably impossible to define it exactly. Ken Gibbons, a political scientist from Canada, has identified actions which could be considered as “abuse of power”:

- a civil servant employs his relative in the civil service rather than a candidate with higher qualifications (nepotism);
- a political party which wins the elections removes from office all the officials who supported the opposition party (patronage);
- representatives of the legislature manage the resources of an iron ore company and vote for the draft law offering tax relief for similar types of companies (legislative conflict of interest);
- government officials use the knowledge and information they have to provide consultations to private clients (bureaucratic conflict of interest) (Gibbons, 1989:778).

Gibbons’ list could be expanded to include the following:

- concluding agreements with the government favouring friends and political supporters;
- lying to the mass media and the public;
- various other forms of funding political campaigns, etc.

To finish the category of abuse of power, it should be noted that the ambiguity in defining it is particularly relevant. Some forms of abuse of this kind are prohibited in certain countries. If this is true and if the second requirement of Nye’s definition is satisfied (i.e. the official obtains private-regarding gains), they can be considered equal to other forms of corruption. Even in countries where these forms of abuse are considered lawful, the actions and conduct of public officials are at least considered unethical and people show their discontent with them.

These are theoretical doubts concerning the definition of corruption. We could talk and discuss them extensively, particularly on the international comparative level.

We will proceed by discussing the possible theoretical analyses of corruption. The view of Arnold Heidenheimer is associated with the macro-analytical level, and the represented-and-representative model, with the micro-level theory.

Perspectives of Corruption Theoretical Analysis

Systemic view: Arnold Heidenheimer

The view held by Arnold Heidenheimer, a researcher of corruption, is one of the most influential. It is referred to when examining different sorts of corruption or performing its comparative analysis.

The basis of the concept of corruption used in the works of Heidenheimer is *public service*. Besides that, he uses public opinion surveys that help him to explain specific types of corrupt behaviour.

Heidenheimer examines the spread of corruption in different societies and makes forecasts about which type of corruption will be mostly apparent in a certain society. According to the types of relations of political commitments, the author divides societies into four groups:

- traditional family society (for example, the Montegrano community described in the works by E. Banfield);
- traditional society of guardians and the guarded (owners and clients) (Sicilian and Greek communities which were explored by anthropologists J. Boissevain and J. K. Campbell);
- modern society of supervisors and subordinates (big American cities during the first half of last century);
- society of civic culture (mid-size American and British cities and their suburbs) (Heidenheimer 2002:143).

This model shows the spread of a certain political behaviour among civil servants and ordinary citizens that the Western elite define as corruption. It also allows us to make an assessment of how (strictly or tolerantly) a certain society or its elite regards behaviour which is officially regarded as corruption. Heidenheimer identifies the three types of corruption as follows:

- petty;
- routine;
- aggravated (Heidenheimer 2002:150-152).

This division is based on the criteria of frequency and scale of the spread of corruption; it also shows the effect of its spread in society and whether corrupt behaviour is customary in different systems of political commitments and relations.

Bearing in mind how the elite and general society evaluate certain activities in different political systems, Heidenheimer has divided corruption into three categories:

- black;
- grey;
- and white (Heidenheimer 2002:152).

Black corruption is actions which both the elite and the majority of the public consider as corruption. The in-between concept of *grey corruption* includes actions concerning which there is no clear opinion or it changes depending on whether citizens tend to think that such actions should be punishable or not. Certain groups, usually the elite, consider certain behaviour unlawful and seek it to be punishable, whereas the

other social groups think differently. The opinion of the majority is simply undefined. According to Heidenheimer, in cases of *grey* corruption, the elite usually show their discontent and the general public remain indifferent. *White corruption*, according to professor Heidenheimer, is a phenomenon when the elite and the majority of the public tolerate certain corrupt behaviour and actions targeted against them do not always receive active support from the two groups.

Having combined those types of societies and corruption, Heidenheimer says that in modern society of civil culture, cases of aggravated corruption are rare or simply non-typical and should be referred to as *black corruption*. In the remaining three types of societies the situation is quite the opposite: *routine corruption* occurs accidentally (except in cases when clients are committed for votes) and is described as *black corruption*. Cases of gift-giving and nepotism, if transactions are collective (for example, political party funding), are regarded as *grey corruption*. Petty corruption is also more frequent and is also regarded as *grey*.

A Swedish scientist, Andersson, says that when applying Heidenheimer's corruption analysis model, one should bear in mind that the majority of corruption characteristics come from Southern Europe, America and Great Britain. This means that the hypotheses raised by Heidenheimer should be verified and the applicability of the theory expanded. A few years ago, Heidenheimer noted the impact of global changes. He said that with globalisation, the perception of corruption becomes more patchy and ambiguous. It means that the model describing black, grey and white corruption loses its strength in showing the true picture of corrupt behaviour.

To summarise, we should reiterate that Heidenheimer's view is *suitable both for comparative studies and case studies*. One of the key advantages of the theory is that the author is not bound by the legal definition of corruption and that he looks at the *wide perception of this phenomenon*. This aspect allows us to explore different types of corruption. The disadvantage of this view is that the *classification* of the system is rather *old-fashioned* and there is *insufficient regard to the context and the actors*. Further we will discuss another view, where actors and information is the core.

Micro-level: A Represented-and-Representative Model

The core of this model lies in one of the branches of the exchange theory: in a theory of rational choice, which is attributed to the theories of maximum choice. Having regard to the economic prospects, a theory of rational choice analyses an individual's strategic actions by which he or she seeks welfare or satisfaction of material needs. The focus is placed on the specific situation of the individual (for example, a corruptor) who is weighing the 'pro' and 'against' arguments.

The primary purpose of this model is to analyse the relations of employees and employers in the private sector. However, apparently it can also be applied in the public sector. The attitudes of the represented and representatives were used in research of the corruption phenomenon done by US scientist Rose-Ackerman, economists Klitgaard and Jain, and others.

The views held by the represented and representatives belong to the micro-level theory, which explains what happens when the *represented delegate their powers to a representative*. Representatives usually have the information or capacities which the represented lack. While choosing the model, it is worth remembering that the interests of the representatives and the represented should not necessarily coincide. “The problem with representation occurs when the interests or priorities of the represented and the representative differ, and also when the representative may obtain fuller or better information than the represented” (Andersson 2002:38). In certain cases, the represented, before or after delegating their powers, resort to defence.

In a modern democracy, a political system is described in terms of delegation of power to all levels of the government. Therefore, the key advantage of this theoretical perspective is *the possibility of analysing the chain of powers*. It also allows us to examine the reasons for strong and weak elements in the chain of powers. While exploring the process of delegation of powers, a few interesting questions are raised, as follows:

- Do the represented actually know that the representative holds the office prescribed for him?
- Is the representatives’ information about their activities correct?

Those questions make us think how representatives should report back to the represented and how should they be controlled by the represented so that the latter maintain their trust in the former. In this case, the determining factor is *access to information*. Usually the delegating party has less information than the party which is delegated the power.

Though subject to some criticism (Lambsdorff 2001:19), the theory of the represented and representative is becoming more and more popular in examining corruption. According to Andersson, questions determining the choice of individuals, as compared to institutional factors, should be considered distinct, yet they can support or explain the prospective goal. Corruption is not perceived as a result of a certain individual choice lying outside the boundaries of the context. On the contrary, in the decision-making process, *social context* is important. In corruption studies, the majority of represented-and-representative models have their antecedents in economic models. The first point of analysis is asymmetry of information, the rule of reward in mutual relations, decisions or choices among various types of prices: evaluation price, commitment price and losses.

The majority of represented-and-representative models are applied in public administration. While examining the danger zones of corruption in Sweden, Andersson applied the model to analyse the chain of delegation of powers and to identify the deficiencies of public administration. He said that while looking at the overall structure of the chain of delegations, apart from the potential benefit and price to a specific actor, the theory of represented and representative *helps to better understand the danger zones of corruption and supplement the ways of studying corruption phenomenon oriented towards process and quality rather than quantity* (Andersson 2002:42).

Corruption diagnostics

One of the most effective mechanisms of corruption control and prevention is *corruption diagnostics*, which helps to identify the most vulnerable areas of corruption and thus contributes to the development of effective anti-corruption programmes. Let us discuss the most prominent surveys of corruption conducted worldwide and in Lithuania.

International level

Corruption Perceptions Index

One of the key methods applied globally in diagnosing corruption is the *Corruption Perceptions Index* (CPI). Since 1995 it has been conducted annually by an international non-governmental organisation, Transparency International (TI). The CPI is a composite index based on surveys of business representatives and other experts. It is “a survey surveys”, grouping countries according to the spread of corruption within them. Based on the applied index, Lithuania fails to join the list of the “cleanest” countries scoring more than 5. In 2003, Lithuania scored 4.7 out of ten, ranking 41 out of 133 countries surveyed; in 2004, she scored 4.6, ranking 44 out of 146 countries.

Bribe Payers Index

Another survey of TI is the *Bribe Payers Index* (BPI), which was first conducted in 1999. The BPI provides information about:

- the propensity of multinational corporations to bribe;
- the business sectors most contaminated by bribery;
- the awareness of executives of major corporations overseas of the OECD Anti-Bribery Convention;
- the degree to which major corporations are enforcing compliance with the OECD Anti-Bribery Convention;
- the perceptions of unfair business practices used by firms to gain contracts.

The BPI represents perceptions of business leaders. In 2002, it was conducted in the following fifteen countries: Argentina, Brazil, Colombia, Hungary, India, Indonesia, Mexico, Morocco, Nigeria, the Philippines, Poland, Russia, South Africa, South Korea and Thailand.

These countries are involved in trade and investment projects with multinational firms. Lithuania was not part of the BPI survey.

Corruption in Enterprise-State Interactions in Europe and Central Asia

Another well-known corruption diagnostic method was presented by the World Bank in its 2000 report *Anticorruption in Transition: A Contribution to the Policy Debate*. The report covers techniques of conducting corruption analysis and includes data about corruption in transitional countries. The second report, *Anticorruption in Transition 2: Corruption in Enterprise-State Interactions in Europe and Central Asia*

1999-2002, was presented in 2004. It describes trends of corruption over time and seeks to explain the changes which are occurring.

The first report was developed using the data of the 1999 survey of businessmen and company operations as well as interviews of more than 4,000 company owners and executives from 24 transitional countries (including Turkey) about corruption. The second phase of the survey took place in 2002, interviewing 6,500 company owners and executives from 26 transitional countries (including Turkey).

The survey groups countries according to the scale of *administrative corruption* (which is measured by the frequency of bribery) and *state capture* prevailing in them. The latter type of corruption, which has an impact upon the “rules of the game” of the state, is assessed according to its damage to enterprises.

Eastern and Central European states, as well as Armenia, suffer from a relatively low level of those types of corruption. In Lithuania, as in the Czech Republic and Estonia, the index of administrative corruption stands at 2.2 and state capture at 0.32 (Anticorruption in Transition 2, 2004).

Other surveys

In addition to the aforementioned surveys, it is worth mentioning *TI Global Corruption Barometer 2003* involving 47 countries and a survey conducted in late 2003 by the World Economic Forum which interviewed business leaders from 102 countries. On 9 December 2004, a new *Global Corruption Barometer* was published, conducted jointly by Transparency International and Gallup International.

All of these and similar kinds of surveys play a significant role in determining the spread of corruption on the international, regional and national levels. While this is an important positive characteristic, these surveys do not show the problems faced by specific countries. With this in mind, we will proceed by focusing on diagnostic surveys of corruption conducted in Lithuania and give an overview of their findings.

National level

Lithuanian Corruption Map

In 2001-02, Transparency International's Lithuanian Chapter initiated the first diagnostic survey of corruption in Lithuania called the *Map of Corruption*. The sociological monitoring targeted two groups: Lithuanian residents and business representatives. The purpose of the survey was, based on national social surveys, to carry out institutional and geographical monitoring of the spread of corruption and identify the areas most vulnerable to corruption and Lithuanian institutions which are its hot spots. The latest *Lithuanian Corruption Map* was presented in November 2004.

The survey examined the following:

- the attitude of respondents towards corruption, its level and role in society;
- personal experience with corruption (bribery);
- sources of information about corruption;
- attitude towards anti-corruption measures.

It turned out that the specifics of the spread of corruption (and primarily its main form – bribery) in Lithuania cannot be determined by institutional monitoring alone. “Both Lithuanian residents and businessmen pay unofficially for specific services rendered and to representatives of concrete institutions. Such services may be provided by representatives of several institutions and the respondents are not always able to identify the institution which they paid unofficially.” (Korupcijos apraiškos 2004:6).

More Comprehensive Surveys of Corruption

In 2002, an *In-depth Survey of Corruption* was conducted to identify bribery mechanisms involved in performing important social life and business functions. The findings showed the importance of the survey and complemented the Lithuanian Corruption Map. In 2004, another survey, *Manifestation of Corruption on a National Scale in Selected Counties and Local Authorities*, was performed. It was initiated by the TI Lithuanian Chapter and the Special Investigation Service of the Republic of Lithuania. The purpose of the survey was to identify the level and means of effecting unofficial payments for important social services.

Local Level

With a view to identifying the attitude of residents towards corruption, determining its level and role in society as well as personal experience with corruption (bribery) at the local level, the TI Lithuanian Chapter is developing special methodology which allows measuring the spread of corruption in local authorities and the effectiveness of their anti-corruption efforts. It is due in mid-2005.

Survey findings

We will give an overview of the findings of corruption surveys recently conducted in Lithuania.

Lithuanian Corruption Map 2004

The social survey was conducted in March 2004, interviewing 1,015 Lithuanian residents and 1,047 businessmen on an anonymous basis. The representational surveys of Lithuanian residents and company managers were performed by a joint British-Lithuanian public opinion and market research company, *Baltijos tyrimai*. The survey findings were compared with analogous surveys of 2001 and 2002 (Corruption Maps of Lithuania 2001 and 2002). Analysis of the survey data and a follow-up report was developed by an expert of the TI Lithuanian Chapter, Aleksandras Dobryninas. The survey highlighted several key points.

Opinion about the Scale of Corruption

- As compared to the survey findings of 2001 and 2002, there were more company managers in 2004 who believed that corruption does not constitute a major ob-

stacle to business and that its scale remained the same or decreased in Lithuania over the last five years.

- In 2004, there were fewer people who saw institutions such as the Government, the Seimas, courts, and non-governmental organisation as “very corrupt”. However, there were more respondents who considered the President’s Office and the mass media as ‘very corrupt’.
- Lithuanian residents and businessmen still claim that a bribe helps to solve problems and two-thirds of the respondents were prepared to give one. However, as compared to 2002, there were many more company managers in 2004 who thought that a bribe does not help to solve problems and thus refused to give it.
- The year 2004 saw further growth in the role of television, identified by the respondents as the main source of information about corruption.

Experience

- Representatives of business enterprises give bribes in the following institutions most frequently:
 - traffic police;
 - customs;
 - state tax inspectorate;
 - town and regional authorities;
 - vehicle technical inspection centres (experience of company managers).
- Residents mostly give bribes to the following bodies:
 - out-patient departments;
 - local and national hospitals;
 - traffic police;
 - vehicle technical inspection centres.

As compared to 2002, the 2004 survey showed *a significantly smaller number of bribery cases reported* by respondents.

- Bribe demands, initiative and effectiveness.
Company managers were mostly asked to give a bribe and most frequently gave it to traffic police officers. Bribes were identified as the best “facilitators” in customs. Residents were mostly asked to give a bribe and gave it in national hospitals. Their bribes proved to be the most ‘effective’ in vehicle technical inspection centres.

Anti-Corruption Potential

- Both residents and business representatives think that *more responsibility lies with the bribe-taker*;
- The absolute majority of company managers and residents have not given a bribe in recent years for of the following reasons:

- they managed to solve their problems without it;
- it was not desired.

Refusal to give a bribe because it is illegal was mentioned by only nine per cent of company managers and three per cent of residents. Another 18 per cent of company managers and 12 per cent of residents said that bribe giving is against their principles.

- Both company managers and residents are more in favour of preventive rather than criminal anti-corruption measures.

Survey 'Manifestation of Corruption on a National Scale in Selected Counties and Local Authorities'

This social survey of Lithuanian residents was conducted in March 2004 by a public opinion and market research centre, *Vilmorus*. It included 3,026 Lithuanian residents, aged 18 and above, from 18 towns and 56 villages. The respondents were interviewed at home. The statistical error of the survey findings did not exceed 1.8 per cent, with 95 per cent reliability. The data were analysed and the report was developed by Mr. Dobryninas. The survey highlighted several key matters.

Opinion about the Spread of Corruption

Compared to the findings of the 2002 survey, the number of those who witnessed widespread corruption in Lithuania decreased. However, almost two-thirds of the respondents were still *pessimistic about its scale*. According to Lithuanian residents, corruption is rampant in all areas of public administration, undermining the trust in our state held by both citizens and foreigners.

Causes of Corruption

Lithuanian people think that corruption is caused by the following:

- lack of responsibility and accountability of public officials and other civil servants;
- lack of moral responsibility of public officials and other civil servants;
- weak legislative framework.

Unofficial Payment for Services

Unofficial payments are mostly spread in health establishments, traffic police and bodies that provide services related to the examination and decision taking concerning requests of restoration of title to the remaining real estate.

To summarise the 'techniques' used, most payments are given to *middle level officials*; the most popular form of unofficial payment is *cash*; the *initiators* of these payments are *people themselves* who act in this way usually following their own opinion or the opinion of others.

The survey findings show that *Lithuanian people would be willing to make those unofficial payments in the future* if they were to solve similar kinds of problems.

In summarising the survey findings, *corruption remains rampant*. Apparently, the majority of residents and businesses are determined to give a bribe “if need be”.

Theorists say that citizens intolerant of corruption are more inclined to report crimes of corruption and help investigate them. The electorate disapproving of corruption choose to vote for honourable politicians rather than swindlers. Finally, values of citizens and their perception of corruption determine their own behaviour: to bribe or to act in accordance with laws. More and more often, as one of the key corruption control and prevention methods, *strengthening of civic society* is mentioned. Therefore, we should look once again at the anti-corruption potential of Lithuania and think what we should do to promote higher intolerance of corruption by Lithuanian citizens.

Involvement of Civic Society

Anti-Corruption Potential Today

Attitude towards Corruption

While conducting the 2004 survey Lithuanian Corruption Map, residents were asked which of the attitudes listed mostly correspond to their opinion. Apparently, the majority of the respondents agree that corruption is a major obstacle or simply an obstacle in public life (See Fig.1).

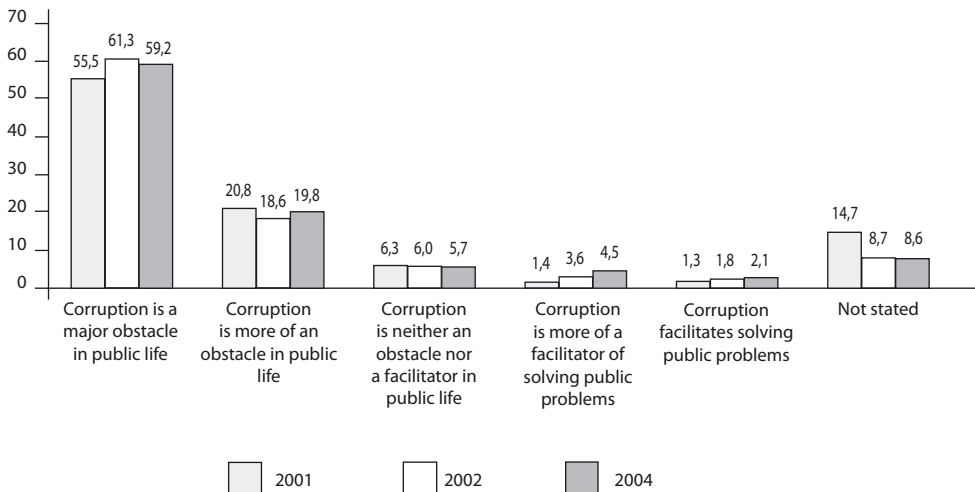


FIG. 1. Residents’ Attitude towards Corruption (2001-2004, %)

Information Sources

The Lithuanian Map of Corruption allows us to see public views and attitude towards corruption and what their experiences are while confronting corruption practices. Most often, people make their judgement about various phenomena from what they have read about it, heard or seen in mass media. Yet the latter tends to underestimate or hyperbolise the majority of social problems, including corruption. The main sources of information for Lithuanian people about corruption are shown in Fig. 2 below. The obvious leader is television, followed by experiences shared by friends and acquaintances. Lithuanian residents have lost their trust in the national press telling them about the corruption situation.

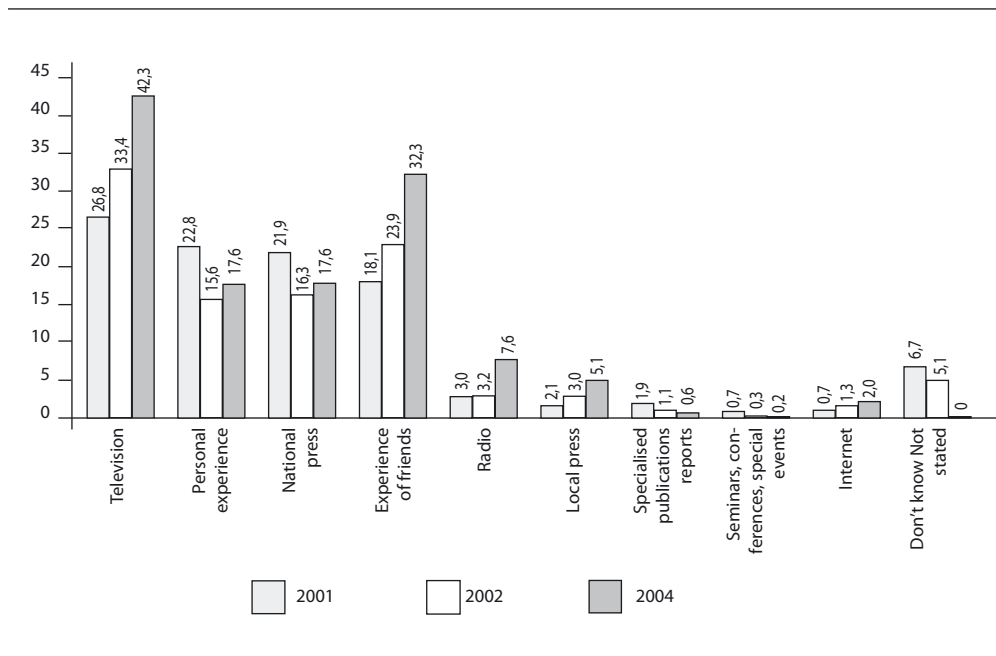


FIG. 2. Sources of Information about Corruption (2001-2004, %)

Bribery Experience

As mentioned before, mass media tend to underestimate or overestimate the majority of social problems. Therefore, the opinion of residents about corruption formed by television does not necessarily reflect the reality. A weightier argument is this respect would be *experience with corruption* on the part of residents. Lithuanian residents were asked whether they had given a bribe in the last five years (See Fig. 3 below).

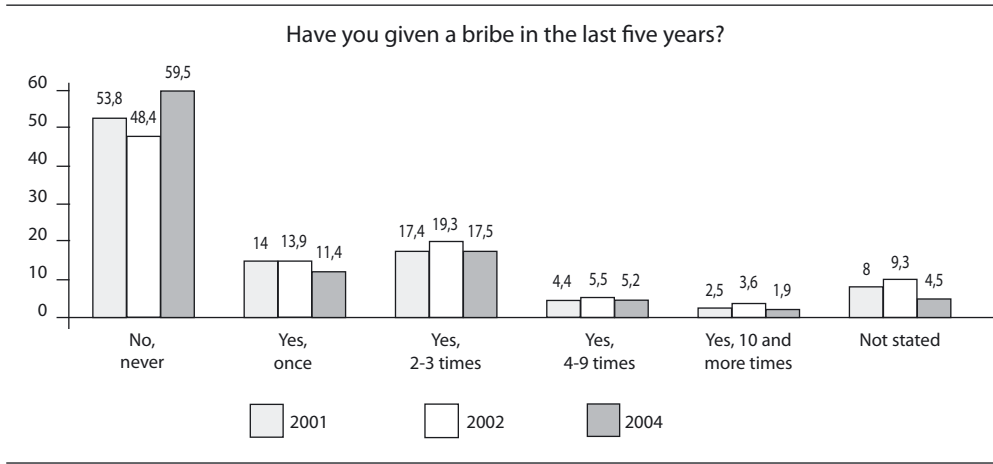


FIG. 3. Distribution of answers given by residents to the question about their bribe-giving experience in the last five years (2001-2004, %)

The survey results showed that 36 per cent of Lithuanian people had given a bribe in the last five years. We should also bear in mind that sometimes residents were victims, i.e. a bribe was demanded of them, and in other cases they were initiators, i.e. they were interested in moving away the obstacles confronted in a non-legal and the fastest possible way. The number of citizens who said they had not given a bribe increased and the number of those who gave no response decreased.

Further, the residents who refused to give a bribe where asked to state the reason (See Fig. 4).

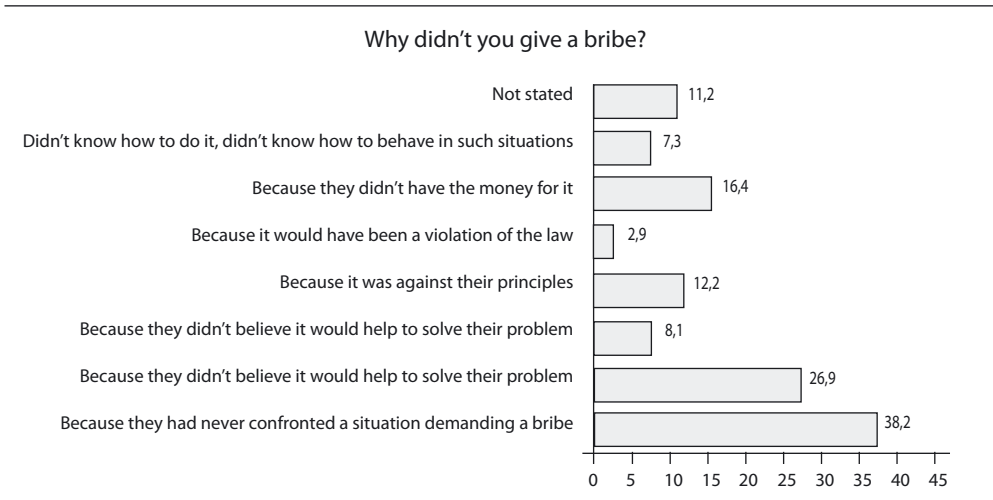


FIG. 4. Distribution of answers given by residents to the question why they refused to give a bribe (2004, %)

The majority of people claimed that they had never encountered a situation where a bribe was demanded of them. One-third of residents simply managed to solve their problems without bribes. However, *moral principles were mentioned by only 12 per cent of Lithuanian residents*. Another figure looks even more threatening, *as only three per cent of people respect the laws*.

As we know, the law prescribes liability both for the bribe-giver and the bribe-taker. Only one-fourth of the respondents see both parties as equally liable. One-half of the respondents are certain that the liability of a bribe-giver is greater (See Fig. 5 below). Perhaps this is the reason why the number of people willing to give a bribe hasn't been decreasing for a number of years (See Fig. 6 below).

Who should be held more liable in case of bribery?

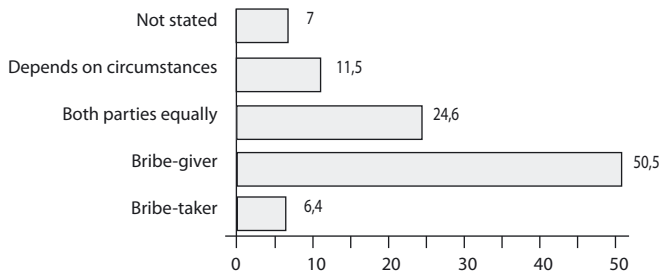


FIG. 5. Distribution of answers given by residents to the question about the greater burden of liability in case of bribery (2004, %)

Residents' attitude towards corruption

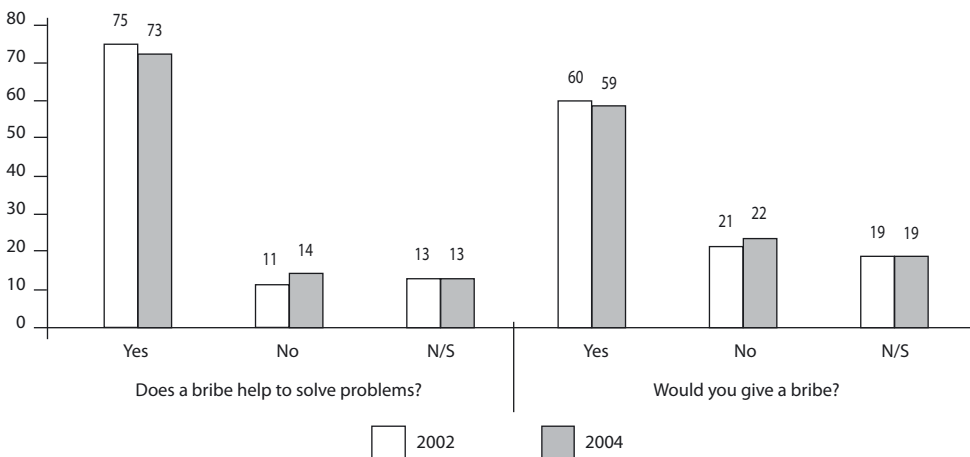


FIG. 6. Distribution of answers given by residents to the question about their attitude towards bribe-giving (2002 and 2004, %)

It appears that *every sixth citizen of Lithuania is determined to give a bribe "if need be"*. They continue to think that bribes help to solve problems. *The actual anti-corruption potential*, i.e. people who would not give a bribe because of their respect for the law or morality, accounts for *about 15 per cent*. That is the reality as seen by citizens who care. What can we conclude? One of them is to look at the findings of public surveys. Lithuanian residents do not trust the legislative government, political parties, do not particularly trust law enforcement and other authorities, i.e. those pillars of the government which are supposed to serve the public interest, ensure public security and well-being. Thus a natural question arises: What shall we do about it?

Role of Civic Organisations

Corruption prevention and control involves civil society groups, which are becoming more and more active. One example is a non-governmental organisation, Transparency International (TI), established in 1993 in Berlin. TI has developed a simple code of conduct based on work done by the International Chamber of Commerce and the United Nations. The government of Ecuador and TI applied the code to public officials and private companies taking part in public contracts (Klitgaard 2000:13). Companies promised they would not give bribes and public officials promised they would not demand or take them. Companies are interested in others abiding by the same principle. The companies which signed the Code of Ethics can also regulate the operation of other companies and, if necessary, ensure that the latter are subject to punishment or other means of investigation.

It shows that international organisations like TI and other international bodies such as the World Bank, the Organisation of Economic Development and Co-operation and the United Nations, whose work is to stimulate intolerance towards corruption and pursue anti-corruption activities, offer various ways of preventing corruption. One of the most appreciated undertakings today is *strengthening civic society*.

Corruption researchers say that the success of various reforms and the effectiveness of anti-corruption programmes depend on a strong and mature civic society that does not fear changes. Corruption control will not be effective if the total responsibility for the cure of this social illness is left to the state authorities or other responsible bodies to deal with and if civil society refrains from becoming actively involved in the process.

One of the first ideologists of TI, Pope said that civic society has the competence and powers to pay attention to public problems, including corruption. Therefore, the real role of civil society is to *claim and defend its own core values, and not leave this integral function to those in power* (Pope, 2000, p. 133-135).

Looking through the eyes of ordinary citizens we see that corruption raises concern, increases the sense of insecurity and undermines community values. Therefore, it is essential to gather together citizens who are not indifferent to openly and clearly showing their intolerance towards corruption. What concrete actions could they take? Here are some examples of corruption prevention taken in Hong Kong:

1. Establish an independent *Commission of Concerned Citizens* to share their ideas, concerns and proposals.
2. Involve *people that are respected and known to the public* in corruption control. Interest them and encourage them to be active; appoint them as advisors or independent evaluators on anti-corruption matters.

It is equally important to:

- emphasise the importance and public benefit of *whistleblowers* performing their duty as citizens in reporting corrupt practices;
- raise awareness about transparency as a public value and talk about it.

We can see in the concept of the National Integrity System introduced by Pope that society's values and public awareness are the foundation of a corruption prevention system.

Holistic Approach towards Corruption Prevention

Jeremy Pope, a founding father of TI, while presenting the concept of the National Integrity System, also presented a holistic viewpoint towards corruption as a phenomenon. It is oriented towards prevention rather than punishment. Describing the “national integrity system, the author identifies eleven elements” (Pope 2000:35) (See Fig. 7 below): legislature, executive, judiciary, auditor-general, ombudsman, watchdog agencies, public service, media, civil society, private sector and international actors.

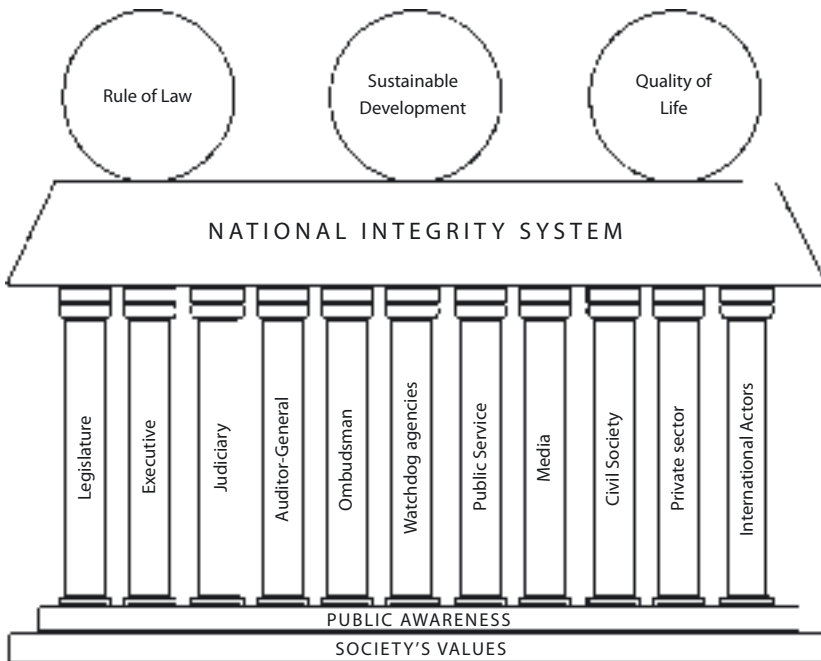


FIG. 7. A National Integrity System

As seen from this picture which looks like a Greek temple, there are three round balls: “sustainable development”, “rule of law” and “quality of life”. The temple is built on the foundation of “society’s values” and “public awareness”. If public awareness is high and values are strong, both will support the “pillars” which rest on them. However, if the public is apathetic or if the values are widely lacking, the foundations will be weak and the “pillars” will be empty and ineffectual. Pope notes that although these “pillars” are interdependent, they may be of different strengths. If one pillar weakens, an increased load is thrown onto one or more of the others. If several pillars weaken, their load will ultimately tilt, so that the round balls of “sustainable development”, “rule of law” and “quality of life” roll off, crash to the ground and the whole edifice collapses into chaos. (See Fig. 8 below).

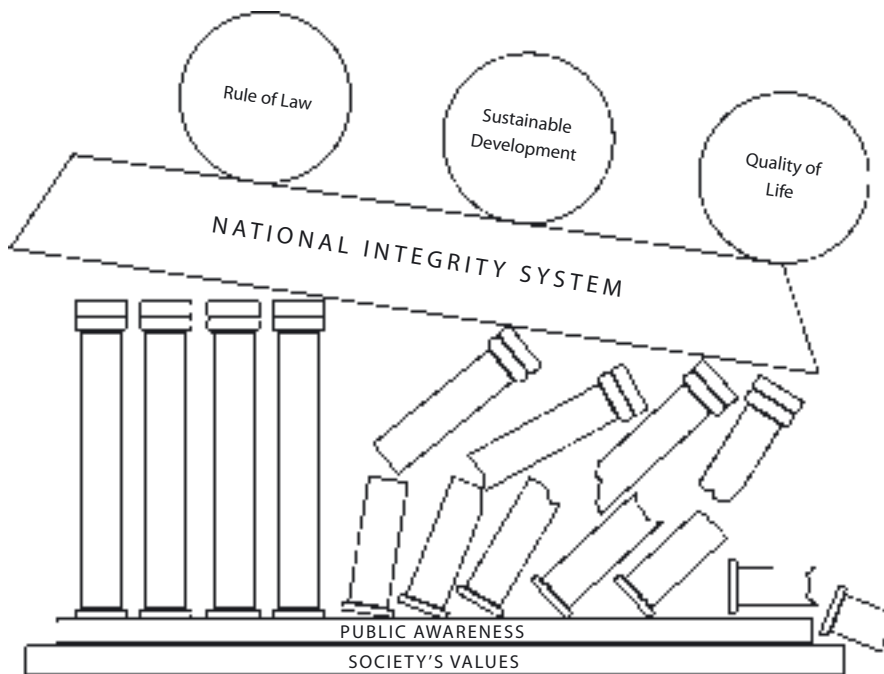


FIG. 8. Collapse of the National Integrity System

One must consider that the pillars shown are different in different societies: some of them are stronger, others weaker. However, there is always a balance. For instance, “In Singapore, insufficient freedom of speech is outweighed by intrusive and active anti-corruption agencies” (Pope, 2000, p. 36).

Pope says that the National Integrity System is constructed not just of institutional pillars, but also of core rules and practices. These rules and practices comprise the toolkit underpinning various institutions. The absence of core rules and practices are clear

indicators of weakness. They are not confined to any single pillar, for example, that the state control is accountable to society, that mass media provides access to information, that the legislature ensures fair elections, that ombudsmen deal with complaints and feedback, that anti-corruption and other watchdog agencies deal with implementation of legislation, etc.

According to Pope, the institutional pillars together with the rules and practices comprise a basic National Integrity System. This systemic approach unlocks a new form of diagnosis and potential cure. The concept of National Integrity suggests that instead of looking at separate institutions (e.g. the Judiciary) and measures applied by them (e.g. criminal punishment), we should create autonomous programmes and implement independent reforms. Pope urges us to look at the following:

- inter-relationships;
- inter-dependence; and
- combined effectiveness.

Conclusions

It the end it is worthwhile reiterating that recently corruption researchers and practitioners have been paying a lot of attention at the following two types of corruption control and prevention:

- corruption diagnostics;
- strengthening civil society, encouraging it to declare and defend its most important values.

Emphasis is placed on the systemic attitude towards corruption control and prevention which is seen as combined effectiveness in a holistic approach, inter-dependence and inter-relationships. The phenomenon of corruption is analysed and explained no longer in a subject matter of law and criminal justice, but also in a wider political, social, economic and cultural context. It is also worth mentioning that:

- there are many definitions of corruption;
- while defining corruption, various aspects of it are identified – public service, public interest, need, exchanges, etc.;
- difficulties arise when corruption as a legal concept does not coincide with its perception of society because legal bases are different for different countries, etc.;
- theoretically, micro and macro possibilities of analysis exist, allowing exploration of different types of corruption or performance of their comparative analysis (a systemic view) and explanation of the consequences of delegating power (an attitude of the represented and representative), etc.

The theoretical and empirical insights discussed in this article open up new aspects of corruption as a multifaceted phenomenon and promote further theoretical and empirical studies of corruption, looking at it from the perspective of time and space and bearing in mind its ever changing and more sophisticated forms.

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NATALIJA RUMIANCEVA

TAXONOMY OF CORRUPTION IN HIGHER EDUCATION

Introduction

Corruption has become a widespread phenomenon in higher education institutions in countries of the Commonwealth of Independent States (CIS). Both formal, (WorldBank, 2002, 2003) and informal, reports posit that bribes are increasingly necessary to gain admission into university programs, as well as to obtain high marks for academic achievements. Diplomas and dissertations are available for purchase and academic mentors charge their students for consultations. Corruption in higher education is not limited to the CIS region. According to the evidence presented by *The Chronicle of Higher Education*, corruption in academe is a worldwide phenomenon (2002). Developing countries appear to stand out on this measure; however the developed ones are not immune to it either.

Flourishing of educational corruption has a negative impact on society. It undermines public trust in higher education, exacerbates the quality of education, prepares unqualified young professionals and teaches them distorted values and culture. The media, student testimony, and a limited body of research on educational corruption (World Bank, 2002, 2003) suggest that corruption in education may be a far reaching occurrence. Despite the serious consequences that educational corruption forces on society and its possible pervasiveness around the world this observable fact only recently started to gain the attention of educational researchers. Although significant progress is observed in the field, insight into the structure and processes of educational corruption is still limited.

Similar to other contributions, the goal of this paper is to increase the awareness of the educational research community about the existence of educational corruption and its far reaching consequences for higher education and society. In addition, this paper attempts to gain new insights into the aforementioned problem by developing a new taxonomy of educational corruption. If a general understanding of the structure of corruption in the educational sector, as well as agreement on their definition and identification can be reached, then the issue can be addressed more effectively in the future.

Definition of corruption

How does one define corruption? Contemporary literature gives multiple definitions of corruption, all of which take into account one or another particular aspect but none can account for its complexity. As a result, some definitions are limited and only

applicable in a narrow range of cases. The opposite also occurs when the definitions become too broad and as a result useless (Waite & Allen, 2003). Additional research and scholarly discussion is essential to develop a better understanding of corruption. In the short term, however, use of multiple definitions illuminating different aspects of the phenomenon appears to be an acceptable solution for the analysis of the educational corruption.

The most commonly used definition of corruption is the “abuse of authority for material gain” (Anechiarico & Jacobs, 1996). A similar definition of modern corruption is described as a violation of the legally established barriers that exist between public office and private interests or as an abuse of authority for private gain (Nye, 1967). The obvious virtue of this definition is that it provides a starting point for analysis of corruption by explicitly mentioning the separation of public and private interests. An alternative definition of corruption is the exchange of wealth for power, where the power is rooted in a public position (Jain, 2001). This definition may be expanded by adding the possibility of exchanging power for power as a form of corruption. This paper draws on both definitions of corruption and applies them to education related corruption.

Corruption in the public sector is a widespread occurrence around the world. The media often reports cases of corruption in various countries and social subsystems, including police, customs, political system, courts and business. Corruption has also become a subject of multiple research studies. Substantial efforts have been made by scholars of corruption who tried to understand the costs of corruption in customs (Larmour & Wolanin, 2001), police (Bouza, 2001), political systems (Kotkin & Sajo, 2002); and more specifically, effect of corruption in one public sector (e.g. political) on other public sectors (e.g. health and education) (Gupta, Davoodi, & Tiongson, 2000), and adverse consequences of corruption on economic development (Theobald, 1990). Some interesting studies try to identify the antecedents of political corruption (Fjeldstad, 2003).

The educational system is not immune to corruption, and limited evidence suggests that corruption may be a widespread incident in this sector. The Chronicle of Higher Education and Transparency International regularly reports facts and testimonies on educational corruption in different countries. For a review of cases of educational corruption around the world see Rummyantseva (Rummyantseva, 2002).

Corruption in higher education deserves attention for many reasons, but in particular because of the negative impact it has on society. For example, analysis of newspaper articles and TV news programs about countries in the CIS region implies that corruption in higher education undermines employers’ and general public trust in the country’s colleges and universities. Many employers in Russia and Ukraine explicitly state in job advertisements that only graduates from certain universities are welcome to apply. The locals explain: this is because they do not trust other institutions due to corruption. When it applies to professional certification, corruption in education can

be detrimental to public health and safety by allowing incompetent doctors, teachers and other professionals, who have purchased their grades or licenses, to practice. Furthermore, it undermines the sources from which countries select future leaders when it interferes in the selection process in higher education. It diminishes the effectiveness and quality of higher education and inhibits access for the poor. As reported in the study conducted by the World Bank, the correlation between perceptions of quality and corruption in education in Kazakhstan is -0.27 and correlation between access and corruption is -0.25 (World Bank, 2003).

Corruption distorts civic culture by scarring the reputation of fairness normally associated with an educational establishment and breeding a culture of cynicism about the nation and its claimed civic virtues. When higher education is corrupt, young people come to believe that cheating and bribing is an acceptable way to advance their careers. Corruption undermines incentives that motivate young people to work hard, while teaching them that there are easier ways to achieve success. In essence, educational institutions characterized by corruption weaken, rather than strengthen, a nation's social cohesion (Heyneman, in press). Despite its negative impact and pervasiveness, corruption in education has remained a neglected research topic; scholars of higher education only recently began exploring this issue.

Corruption in Higher Education

Corruption in higher education may take multiple forms and permeate all areas of the system. Heyneman (in press) (Heyneman, in print) provides an overview of the categories of corruption in higher education and distinguishes between corruption in selection, corruption in accreditation, corruption in procurement, professional misconduct, and corruption in educational property and taxes. Chapman (Chapman, 2005, in press) provides a broad classification of corruption in secondary and higher education, which breaks down various illicit activities into groups by the level of occurrence and type of activities. To summarize, Chapman's classification suggests that corruption occurs in the following level of educational system: Ministry of Education, region/district, school level, classroom/teacher level, international agencies. It manifests itself through the following activities: favoritism in procurement, favoritism in personnel appointments, ghost teachers, selling admissions and grades, private tutoring, skimming from project grants to name a few. Waite and Allen dedicate an article to corruption in educational administration, where they provide several examples of such corruption (Waite & Allen, 2003). In his overview of corruption in academe Altbach (Altbach, 2004) distinguishes between professorial corruption and corruption in examinations. The first category includes favoritism in hiring and promotion while second category includes paying bribes for examination grades. Janashia (Janashia, 2004) describes corruption in higher education in the Republic of Georgia that occurs

in admissions, regular examinations, and in the process of private tutoring. According to some anecdotal evidence “the price for university admission may range anywhere from \$200 to \$10,000, depending on the prestige of a university department and a student’s qualifications” (Janashia, 2004). Bray (Bray, 2003) raises the issue of supplementary private tutoring as a possible subset of corrupt activities. He brings the fact that supplementary private tutoring is an issue widespread in East Asia, Africa, and Eastern Europe.

Every article on educational corruption reviewed here formulates recommendations on how to reduce the level of corruption in education. In the present paper, I argue that any suggestions may be premature and misleading if it is made before the complexity of the structure of educational corruption is thoroughly understood. Developing a deep and solid understanding of the structure of educational corruption is necessary for building strong theories on its potential causes and regulatory mechanisms. This paper intends to expand upon the existing understanding of educational corruption by developing a new taxonomy to better describe this phenomenon, and to distinguish qualitatively between different types of corrupt activities. In other words, this taxonomy acknowledges the complexity of educational corruption by qualitatively deconstructing corruption, rather than recognizing it as simply one large phenomenon. This method seeks to identify categories of corruption that are unique to education, as well as isolate those that are common to education and other public sectors. The usefulness of such a classification is based on the idea that understanding a particular type of corruption provides more insight regarding its causes and consequences. Therefore, by distinguishing between conceptually different types of educational corruption this taxonomy serves as a starting point for future studies on its antecedents, consequences and policy recommendations on anti-corruption measures. In addition, a new classification may become a starting point for the development of vocabulary on educational corruption that will facilitate future discussion and research on in this area.

Taxonomy of corruption in higher education

What is unique to educational corruption? Does it deserve special attention or can it be viewed as a subset of corrupt practices common to any public sectors? Perhaps the best way to answer these questions is to analyze the consequences of corruption in higher education on society by comparing them to outcomes of corruption in other public sectors. Chapman (2005, in press) distinguishes two different types of consequences of educational corruption. First, educational corruption leads to waste of the financial resources. This is similar to corruption’s consequences in other public sectors. Second, costs of educational corruption are incurred when children are denied access to schooling because of corruption in admission, when misallocation of talent occurs as a result of bribery in examinations and tracking process, when propagation of cul-

ture of corruption, manipulation and favoritism among the new generation of citizens occur as they personally participate in corruption. This type of consequences is not common to just any public sector. On the contrary, these consequences are interwoven with essential functions of higher educational system and therefore, the corruption that produces them is education specific.

Education is the public sector that possesses the greatest ability to influence the destiny and success of society's youth. It is perhaps the only public sector that has the greatest influence upon the young's values and beliefs about good and evil, right and wrong, legal and illicit. Moreover, higher education has strong influence on the selection of the elite and thus, the nation's future leadership. The importance of these functions of higher education for the well being of society is tremendous. When corruption interferes with the core tasks of higher education it tends to undermine the welfare of society by ultimately affecting its youth.

Does educational corruption always interfere with the core functions of the educational system? Does any type of corruption directly affect a student's opportunities in life, or change his/her values and beliefs? An affirmative response will perhaps be an unreasonable exaggeration. Some types of corruption, primarily those occurring in administrative or ministerial levels (Chapman, 2005, in press), may prove harmful for system's financial wellbeing or accreditation status; but it may be too remote from the students to directly affect their values, beliefs and opportunities. I argue that, the corruption that most profoundly affects the student body tends to involve them directly.

As a result of this discussion two types of educational corruption emerge: *corruption that involves students* as agents and has direct affect on their values, beliefs and life chances and *corruption that does not involve students* as agents and has limited *direct* affect on them. To clarify these definitions consider the following two hypothetical scenarios. Situation 1: A faculty member demands a bribe in exchange for a grade or admission to a university. Consequences: The student faces two choices. If the student cannot pay, then his/her chances of acquiring a university degree are threatened, or the student receives an unfair grade that does not properly reflect his/her knowledge. If the student pays for a grade, it puts him/her in an unfair comparative advantage over other students and develops a belief that there is no need to study to get a good grade. Both of these choices have the potential to mislead a possible employer, grant giving agencies and other parties interested in students' merit. Ultimately, the result of this situation damages low income students' future opportunities and nurtures the belief in all students that academic success may be purchased and hard work is a worthless investment.

Situation 2: An administrator embezzles school funds. Consequences: Public funds are not used effectively and the overall amount of resources available to the university has diminished. This type of corrupt activities influences students through the damages done to the institution's finance. Fewer scholarships may be available to students or the quality and/or quantity of essentials such as books, technology or equipment

available to students may diminish. Although the effect on students is present, it is indirect and is realized through various mediating factors. Figures 1a and 1b provide visual representation of the two types of corruption and its effect on students.

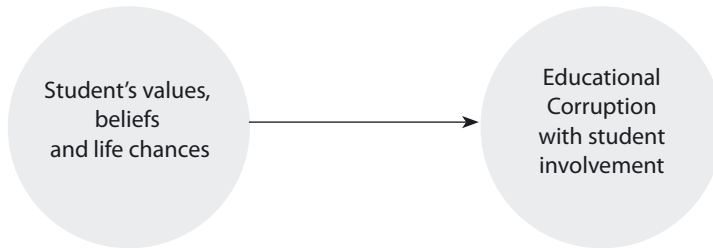


FIG. 1. A model of effects of educational corruption with student involvement on students

Educational corruption that directly involves students

The remaining discussion on taxonomy of corruption is focused upon corruption that involves students as agents that will be termed from now on as *education specific corruption*. Although identification of a subset of corrupt activities that involve students as agents of corruption is a useful tool for analysis, it does not provide sufficient precision in definitions. Students may be involved in many different subcategories of education specific corruption. A student may be asked for, or voluntarily offer, to pay a bribe to a faculty member for a grade or in order to pass an exam; a student may be coerced by an administrator to pay a “fee” for a good grade on a number of examinations (this may be paralleled with cases when a student seeks an administrator’s help to obtain satisfactory grades); or a student may be asked to pay a bribe to a librarian for the right to borrow a book. Depending on the participants involved in education specific corruption, I distinguish between the following types of educational corruption: student–faculty exchange, student–administrator exchange, student–staff exchange. Examples of all types can be found in Table 1.

Student–faculty exchange occurs in the classroom, admissions (this is especially pertinent to educational systems where faculty are involved in admission process), examinations, and routine tests. Material gifts, money and favors get exchanged for grades and other academic achievements. By definition participants in this exchange are students and professors. The exchange may be either student driven or professor driven.

Student–staff exchange occurs in the area of student services such as in the library, in the student dormitories, the acquisition of transcripts, and gaining access to student benefits (stipends or scholarships, discounted tickets for recreational events, etc.). Material gifts, money and favors are exchanged for favors to obtain access to student services. By definition the participants involved in this type of corruption are students and members of the staff. It may be student driven or staff driven.

Student-administrator exchange may occur both in academic and service areas. By definition the participants are students and administrators. The objects of exchange are academic achievements and privileges in using student services and receiving favorable treatment of the administration. The currency of exchange may be money, gifts and favors. When an administrator charges a student for a guaranteed admission into the university, we say that an exchange occurred in the academic area of the university. When an administrator charges a student for a guaranteed spot in a university dormitory (this is especially relevant to the countries where dormitory access is limited) this is classified as corruption occurring in the area of student services. Full taxonomy of corruption in higher education is presented in Figure 2.

Although it may seem at first that the last category is an extension of the first two, it is in fact different. *Student-administrator exchange* clearly sets aside the cases of corruption that are mediated by administrators as opposed to those initiated by professors or staff members. Cases involving a faculty member *deciding* to take a bribe in exchange for an undeserved grade raise issues regarding norms of academic profession as well as formal and informal codes of conduct (Goode, 1957) and professional misconduct (Braxton & Bayer, 1999). Cases involving the *coercion or invitation to collaborate* of a faculty member by an administrator to give an undeserved grade demand a discussion on administrative ethics, quality of leadership and distribution of power between administrators and professionals. A similar (but not identical) distinction may be drawn in cases when administrators bypass, coerce or collaborate with staff members on education specific corruption. Although both staff and administrators violate the law when engaged in corruption, involvement of an administrator indicates the depth of penetration of corruption in the organization and decayed leadership of the university. It is clear that this distinction has consequences for future studies in educational corruption as well as choices of intervention mechanisms.

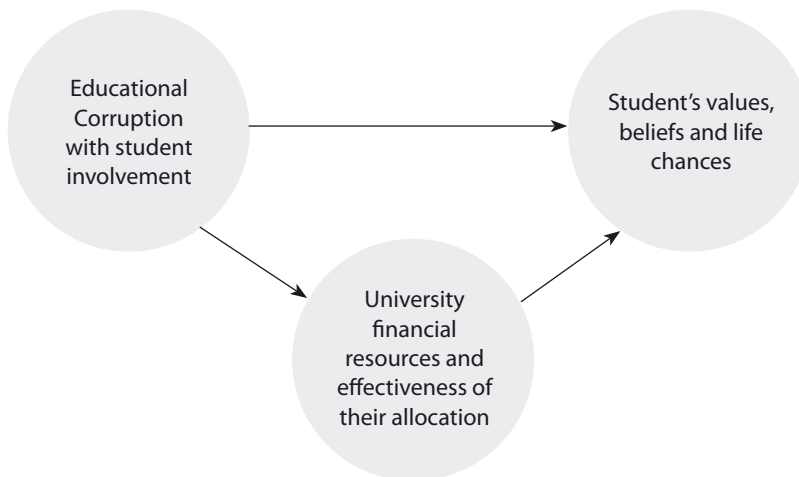


FIG. 2. A model of effects of educational corruption which does not directly involve students

Three types of education specific corruption possess similarities that allow for re-grouping them into two categories based on the area where exchanges occur. First, student–faculty exchange and some cases of student-administrator exchange occur in the area directly related to academic activities. These cases might be grouped into a category termed *academic corruption*. On the other hand, student–staff and some cases of student-administrator exchange occurs in the area of student services and may be termed *corruption in services*.

Educational corruption that does not involve students as agents

Corruption that does not directly involve students is demonstrated by the following examples: corruption in procurement, corruption in hiring, and the misuse of public funds for private purposes to name a few. These will be described as *administrative corruption*. The importance of understanding this type of corruption cannot be emphasized enough due to the consequences it tends to bear on educational systems. It is likely to lead to financial waste and misallocation of resources. At the same time, administrative corruption is qualitatively different from corruption involving students in a way that it is not education specific. Unlike corruption unique to education, administrative corruption does not imply direct student contact with illegal activities. It affects students indirectly. In this respect, it resembles corruption in public and private enterprises (e.g. politics, banking, state oil companies). Administrative corruption has gained substantial interest in the literature and has been a primary focus of research in this area.

Conclusions

Corruption in higher education is a worldwide occurrence and is particularly common in developing countries. It has detrimental consequences on the quality of education, the student’s morals, the future opportunities for students, and quality of future leadership. Even though corruption is widespread, the issue has not gained substantial attention by scholars in the field of higher education. As a result, the complexity of educational corruption has not been fully addressed in the literature. However, understanding the nature and the structure of corruption in higher education is essential if any research is to be done in this area.

This paper builds on the available literature and author’s knowledge to build a new taxonomy describing corruption in higher education by distinguishing education specific and general (administrative) corruption. Five overlapping subcategories were identified within education specific corruption depending on the participants involved in the act of exchange and the area of its occurrence. Different types of cor-

ruption may require different theoretical and methodological approaches if research is to be conducted on educational corruption. This taxonomy deconstructs educational corruption and serves as a tool for further research.

TABLE 1

Type of corruption	Example
Student–faculty exchange Academic corruption	Student offers money for examination grade and professor accepts and gives a good grade although the student does not know the subject.
	Faculty member sells a student a term paper.
	Professor gives a low grade to a student who knows the subject and recommends private tutoring. Later he/she passes the student regardless of how much the student learned.
Student–administrator exchange	An administrator “helps” a slow learner to obtain good grades in all subjects by ordering relevant faculty members to do so. Of course, student pays an administrator a “service fee”.
	Administrator charges student’s family a fee for guaranteed admission to his/her university.
Student–staff exchange Corruption in Services	Administrator charges a student a fee for guaranteed access to the university hostel bypassing the official waiting period.
	A librarian charges student a fee for the right to borrow a book, when the number of copies of this book is limited.*
	An administrative assistant charges a student for transcripts that are supposed to be free of charge.*
	Dormitory staff member charges a student a fee and promises him/her the accommodation in the dormitory without official waiting period.*

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TADAS TAMOŠIŪNAS

CORRUPTION IN HIGHER EDUCATION SCHOOLS OF LITHUANIA: VIEWS, PROBLEMS AND POSSIBLE SOLUTIONS

“Corruption is a social phenomenon more or less characteristic of all societies. Its scope can be reduced but so far no one has managed to eradicate it completely,” we often read in analytical literature and statements of organisations fighting corruption. Comprehensive comparative research shows that Lithuania is still among the countries which face big corruption problems¹. Is this malignant phenomenon characteristic of higher education schools in our country? The latest quantitative studies undoubtedly prove that. As revealed by the study initiated by the Lithuanian National Union of Student Representations, 33% of the respondents admitted to having bribed teachers. According to the data of Spinter research, the same was stated by 40% of the respondents. The numbers are striking and for many – primarily the administrations and teachers of higher education schools – must be very unpleasant. This is proved by the feverish and categorical response of many higher education schools to the research data. Professedly, the research methodology is not perfect, the respondents’ answers are biased, etc.² Certainly social surveys (which are not carried out by saints) are often characterised by errors related to selection of the respondents and reliability of data collection but corruption is still an obvious fact in the life of higher education schools. Various reasoning intended to downgrade this problem encourages us not only to question whether higher education schools are determined to eliminate manifestations of corruption but first of all to ask whether they are even ready to admit them. And maybe for some school staff and students corruption is no problem? To analyse those hypothetical questions the Modern Didactics Centre implementing the project on Preventing Corruption through Education, Information and Consciousness-Raising initiated quantitative³

¹ For more information see the research reports of Transparency International on Lithuania at <http://www.transparency.lt>

² Korupcija v vuzakh, *Ekspress nedelia*, 2004, No. 48.

³ Questionnaires to teachers of higher education schools. As corruption is a latent phenomenon loaded with negative emotional and institutional implications, the choice was made in favour of a targeted, or so-called available-case, survey of respondents. Although it does not provide for statistical significance parameters and is limited to descriptive statistics, it still allows discussing prevailing trends in the phenomenon in question. Moreover, the choice of targeted selection was also determined by limited research resources. The total number of respondents was 90 teachers from 10 higher education schools (7-12 respondents from each school). The data collected was processed using the SPSS/10 statistical data package.

and qualitative⁴ research to discuss the analysis of the corruption concept in higher education schools. The qualitative research data also has a partially quantitative dimension because repeated answers of the respondents are to be valued as a widely represented opinion. The research results bring better understanding of the attitudes of teachers and students and their position towards corruption and at the same time allow forecasting possibilities of preventing this phenomenon. Below is a brief presentation of the research results and conclusions.

Relation of Higher Education Schools with Corruption

According to the data of questionnaires, corruption, as expected, is one of the most latent phenomena in higher education schools and teachers feel quite uncomfortable when openly evaluating it. This is seen from the fact that the larger part (two-thirds) of the respondents have heard about or faced corruption in their higher education school but any information about it is usually spread indirectly and informally: through conversations with students (44%) or colleagues (42%) but not by the administration or, for instance, the school press. In assessing corruption in higher education schools, the respondents are undoubtedly influenced by the mass media – it has been the source of information about corruption in other higher education schools for five times as many respondents as those who learn about corruption in their own school.

The interview data supports the latent nature of corruption which was highlighted in the questionnaires – speaking openly about it, documenting its manifestations or all the more talking about personal relation to it is quite tricky for many respondents, even if the survey is anonymous. In general the answers of both teachers and students are quite similar but students are more open. In some cases feedback from teachers and students of the same higher education school was essentially opposite: while the students stated that corruption existed, the teachers denied it. Interviews highlighted a tendency that private higher education schools demonstrated a more open view of this phenomenon. Some of the answers showed that private schools devoted sufficient attention to prevention of corruption both in the process of establishment as well as in the course of their activities later. One could consider that higher education schools in a competitive environment have more prominent undertakings as regards prevention of corruption.

⁴ Semi-structured interviews with teachers and students of higher education schools. Those interviews are based on open questions which are elaborated on and specified during the interview. This method allowed collecting qualitative information important for disclosing the diversity of the notion of corruption among representatives of higher education schools. The data collected was divided (nominated) into certain groups. The total number of interviewees was 20 teachers and 25 students from 25 higher education schools (seven of them were non-public schools).

Notions of Corruption in Higher Education Schools

According to the data obtained from questionnaires, one could assume that in the teachers' opinion corruption is now not among the most important problems in higher education schools. Many think that in other schools it is somewhat higher (27%) than in their own school (19%). Having regard for the level of corruption in higher education schools captured by quantitative research, such an opinion shows that some members of the academic community underestimate the impact of this malignant phenomenon. Such an opinion could also have been determined by the fact that the respondents often narrowed corruption to direct bribery and, for example, offering and selling personal publications to students or small gifts given to teachers prior to examinations were not regarded as manifestations of corruption.

The interview data shows that a certain share of both teachers and students follow quite a relativised notion of corruption without clearly defined limits. Small gifts (including small amounts of money) given at the students' initiative or help to relatives of colleagues are often (and again primarily in public higher education schools) seen as a part of human relations. One respondent stated, "Is perfume at an examination or 50 litas corruption? What corruption? It's ridiculous." There are more opinions like that:

"In my opinion, corruption is huge financial flows, wheeling and dealing with them, and gifts or sometimes even helping to enter may be regarded as human help."

"Corruption is gifts which are provoked, demanded but not initiated by students."

"Gifts are not corruption."

"Depends on the value of the gift."

"Corruption and bribery – who knows if these are one and the same thing. I associate corruption with a decision taken by a public official which depends on a bribe. Teachers have no such opportunities."

"I have to pay for any certificate obtained at a public institution and resitting for an examination is not chargeable. So why should a box of chocolate given by students be regarded as corruption?"

"In the sense I understand it, there is no corruption in higher education schools. Maybe if the boss asked to give someone a better score, I would hold it as corruption. In this case the one corrupted would be the boss, not me."

The teachers who formulated the opinions quoted above should be seen as subjects of corruption spread in higher education schools. However the administration of higher education schools seems to be not yet mature enough to fundamentally evaluate the responsibility of such employees.

On the other hand, about half of all answers reveal the categorical attitude of some teachers to the phenomenon in question without any reservations – corruption is any gifts, customer relations, blackmailing of students, distribution of publications, favouritism and privileges. Here are some of the examples:

“I view any gifts as an attempt to influence the teacher. If the teachers forces students to buy his or her publications, it’s corruption. Teachers may look for contacts seeking personal benefits – I also see this as corruption.”

“An attempt to bribe a teacher with gifts, money, cheques, discounts, offering services, inviting to events. Where those events are attended by students themselves, this, of course, is not corruption, but if the event is organised exclusively for teachers, it already gives rise to suspicions, especially if the party is organised for the examination board before the examination.”

“Anticipatory gifts, monetary gifts, distribution of publications by insistently offering to buy them, connections with acquaintances, selling and buying term and final papers.”

“I view gifts before the examination as corruption.”

“Ruining somebody at the exam and saying that there are other ways to pass it. When the teacher does not tolerate independent thinking of students. Some teachers enclose students into some limits: what they know themselves is what students must repeat – no more, no less. Here I envisage some potential for corruption to develop.”

“I would view corruption as looking for acquaintances seeking personal benefit. It includes provision of privileges motivated by personal relations or feelings.”

“Relations with relatives and acquaintances when some discounts apply to them to enter a higher education school or in studies.”

“Favouring persons who are someone’s acquaintances or relatives.”

Students’ opinions are distributed in a similar way as those of teachers. They also often stick to a relativistic position: some think that corruption is not a problem and its limits are not clear while the attitude of others is high-principled like that of teachers. Thus we can state that there two groups of opinions regarding this issue shaped in higher education schools.

Answers to questionnaires reveal that the respondents are more likely to attribute responsibility for this phenomenon to students: it’s their own fault because they want to get a good score with less effort (65%). This is also proved by the second most popular reply – “if nobody gave, nobody would take” (44%). An opinion such as this can be seen as an obvious manifestation of ethical relativism and lack of moral maturity (if not breakdown): who, if not teachers and the administration, should primarily shape formal and informal general rules in a higher education school and they are the ones who are the most responsible for them. According to the interview data, teachers often see students as agents, initiators and organisers of corruption and students think these are teachers and the administration staff. Both groups also had respondents who pointed out two-way initiative. Qualitative observations (tone, accents, confidence of the respondents) constitute grounds for thinking that some higher education schools have quite a well-established procedure of corruption: it is clear how, when and who should be thanked to the satisfaction of both parties. Some forms of corruption mentioned by

the respondents (for example, envelopes left, gifts given openly, etc.) show that some higher education schools exist in a corruption-tolerant environment. Highly problematic circumstances are those under which the students unable to “thank” teachers suffer and where corruption becomes as if an understandable, natural phenomenon. So at first corruption is relativised and later it is justified (one student stated, “I can’t always attend lectures...A couple of times I thanked the teachers for that...I repeat, it’s not corruption, it’s mutual relations between people.”).

During interviews teachers mostly associated the causes of corruption with the financial difficulties of higher education schools and themselves, lack of honesty in some employees, “exaggerated” competitions, groundless strivings of students to acquire a prestigious profession, or the tradition of “thanking” inherited from Soviet times; students emphasised such causes as the difficult financial situation of teachers and willingness to contribute to their finances that way, as well as non-transparent study rules. The statement that in their own school corruption was not a big problem was expressed by more than half of the respondents but such an assessment reveals certain rationalisation as the comparison is made with the anticipated general level of corruption in other units of their school or in general in Lithuania thus downgrading the problem in question. The most significant damage done by corruption which was mentioned by the respondents was degrading the image of higher education schools, formation of a distorted attitude towards studies, and decreasing competence of trained specialists.

Ways to Prevent Corruption

In the questionnaires, the respondents primarily mentioned legal prosecution of corruption, tightening administrative control, anti-corruption education, enhancing social security of teachers and improvement of the educational process as measures to prevent corruption. The interview data in fact highlight the same aspects: tightening administrative sanctions and control, enhancing social security of teachers to ensure that they would appreciate their work more, and to increase publicity. A problematic circumstance is that a part of the respondents don’t see the necessity to avoid corruption.

The data of this research proves the outcomes of previous quantitative studies exposing the multi-directional spread of corruption and shows relativised understanding and justification of corruption by some members of the academic community (mainly representatives of public higher education schools). This hinders prevention of this phenomenon because it becomes unclear what manifestations to fight. Considering this trend, it is meaningful to encourage more active discussions in higher education schools. These schools as educational institutions, along with other functions, must cultivate moral values and adequate social skills of their students rather than shape deviational, socially deleterious behaviour. Unless higher education schools pay sufficient attention to corruption, we can hardly hope that the state will have competent and ethically pure specialists.

**INTEGRATION
OF ANTI-CORRUPTION EDUCATION
INTO HIGHER EDUCATION STUDIES**

ARŪNAS POVILIŪNAS

CORRUPTION IN TERMS OF SOCIOLOGY OF DEVIATION¹

Course Module of Sociology of Deviation

GOAL OF THE MODULE

To analyse the phenomenon of corruption in terms of sociology of deviation.

OBJECTIVES OF THE MODULE

1. To clarify differences in the interpretation of deviations.
2. To define objectivistic and subjectivistic explanations of deviations.
3. To describe the phenomenon of corruption as a deviation.
4. To present the variety of explanations of corruption.
5. To clarify factors on which various explanations of corruption depend.

LECTURE 1. OBJECTIVE AND SUBJECTIVE CONCEPTS OF DEVIATION

Sociology deals with social relations. Sociologists study how people come to common definitions and explanations of their situation; how groups are formed based on those definitions; how behaviour rules are set; how some attribute social roles to others and make them follow their rules. All these issues examined by sociologists are a part of a broader question – how does a social order (system) appear (or is created?) and how is it maintained?

Deviation is non-observance or violation of social norms. By analysing deviations one can acquire a better understanding of peculiarities of the social order. Examination of deviations clearly shows how “deviated” life models appear and on what they depend.

Deviation as a social phenomenon may be examined from at least two different angles. The first one regards deviation as an objective datum while the other one treats it as a consequence of interaction of subjects. The first notion of deviation is called the objective one, and the second notion – the subjective one.

¹ The second-year students of the master’s programme in Sociology and Sociology and Criminology of Vilnius University Mindaugas Liaudenskis, Vytis Kapturauskas, Jolita Pipiraitė and Jolanta Vonsevičiūtė contributed to collecting information. A sincere thanks to all of them for their active participation.

Objective Concept of Deviation

Sociologists treating deviation as an objectively existing phenomenon define public norms and regard any digression from them as deviation. They normally rely on three assumptions:

1. Professedly the society essentially agrees on norms, which is why, in the opinion of supporters of this approach, any deviation is relatively easy to notice and name.
2. Deviations are normally related to sanctions. Examples of such sanctions may be neglect, slander, legal action, etc.
3. Punishment imposed on a deviator once again proves to the group that its members are united by certain common norms.

The following crucial questions arise from the objective concept of deviation:

1. What social and cultural circumstances cause deviations?
2. Why do people violate norms despite independent sanctions?
3. What would allow minimising and controlling deviation?

These assumptions and questions give rise to several procedures to examine deviations:

Step One. To list what the society or the group “is allowed to do” and what it “is not allowed to do”.

Step Two. To analyse official documents and other materials about persons violating rules and norms established in the society.

Step Three. To speak with the people referred to in those documents and consult representatives of social control institutions such as the police and judges.

Step Four. To clarify how different deviators are from non-deviators (for example, the former may more often come from broken homes) to be able to identify social and cultural conditions under which deviant activities would be more likely.

Step Five. To develop a theory to explain deviations and later apply it to prevent and correct this phenomenon.

Assessment of the Objective Concept of Deviation

The advantage of the objective concept of deviation is clearly formulated questions while the disadvantages are related to key assumptions. The society consists of so many various groups and ways of thinking that people often cannot agree what is to be regarded as a norm. For that reason as well as because some people get into the network of social control institutions while others escape, it is often difficult to establish who is a deviator and who is not. Moreover, the majority of social control institutions work with selected groups, which is why certain groups of people have more opportunities to be punished for deviations than others. It means that the nature, causes and consequences of deviations are neither simple nor equal.

Subjective Concept of Deviation

Assumptions made by sociologists focusing on social differentiation of deviators are usually different.

1. They claim that people and groups interact and communicate with one another by using common symbols (verbal and body language, clothing style, etc.). The symbol communication allows people to establish certain types, attributing one another to those types and acting accordingly.
2. They make the assumption that deviation is best understood and explained through the interaction of some with others and their attribution to a certain type and that labels of a deviator are symbols which differentiate and stigmatise people.
3. Supporters of this approach think that people's behaviour relies on such definitions. Thus people hold suspected deviators different and act differently with them.

Sociologists supporting this concept mainly focus on social definitions and their impact on social interaction (communication).

On the one hand, they go deep into the approach and actions of those who define a person as a deviator. They analyse:

- 1) circumstances under which a person has the most chances to be attributed to deviators and labelled as such;
- 2) how the role of a deviator is attributed to a person;
- 3) what actions are taken by others relying on such a definition of that person;
- 4) what the consequences of those actions are.

On the other hand, the sociologists are also deeply interested in the approach and reactions of the person regarded as a deviator. They examine:

- 1) how a person reacts to such a judgment announced to them;
- 2) how they accept the role of a deviator;
- 3) how this changes their relations with the group members;
- 4) how this changes the deviator's self-perception.

Assessment of the Subjective Concept of Deviation

The interactive concept means that deviation is treated not as a phenomenon objectively existing somewhere beyond human will but as a result of human interaction. Thus, deviators are to a certain extent regarded as socially typified people. Such typification is usually related to attempts to understand obviously atypical (deviated or abnormal) actions and to give them some meaning. Trying to comprehend such actions and acts people normally start stereotypically interpreting and define the actor as a certain type of personality (freak, cuckoo, boozier, psycho, etc.) who evaluates the deviator's motives from a moral point of view as well as how to behave with them.

Comparison of the Objective and Subjective Concepts of Deviation

The objective concept of deviation is primarily focused on peculiarities characteristic of the deviator or conditions which caused actions or behaviour incompliant with

the norms while the subjective one elevates definitions and actions of deviators proper and people sticking the labels of deviators on to them as well as the interaction of both. Therefore the latter concept is called interactive.

LECTURE 2. WHITE-COLLAR CRIMES

At the joint event of the American Society of Sociologists and the American Association of Economists held in 1939 one American sociologist gave a lecture entitled White-Collar Crime (the English term “white-collar” refers to office work; physical work is accordingly called “blue-collar”; it is sometimes translated into Lithuanian word by word). *White-collar crimes* are crimes committed in offices related to office activities. Another important feature of these crimes is that criminals are quite respectful people often belonging to a higher social stratum. Thus, persons working in offices and most frequently committing financial crimes are called white-collar criminals and their offences are referred to as white-collar crimes.

Studying white-collar crimes, Edwin Sutherland together with his colleagues developed the Differential Association Theory which is based on the following nine postulates:

1. Criminal behaviour is learned.
2. Criminal behaviour is learned in interaction with others persons in a process of communication.
3. The principal part of the learning of criminal behaviour occurs within intimate personal groups.
4. When criminal behaviour is learned, the learning includes techniques of committing the crime, which are sometimes very complicated and sometimes simple, and the specific direction of motives, drives, rationalisations, and attitudes.
5. The specific direction of motives and drives is learned from definitions of the legal codes as favourable or unfavourable.
6. A person becomes delinquent because of an excess of definitions favourable to violation of the law over definitions unfavourable to violation of the law. Here we directly encounter differential association. A person becomes delinquent because they constantly face cases of criminal behaviour and see fewer and fewer examples of non-criminal behaviour in their environment.
7. Differential associations may vary in frequency, duration, priority, and intensity.
8. The process of learning criminal behaviour by association with criminal and anti-criminal patterns involves all of the mechanisms that are involved in any other learning. Thus criminal behaviour is not just imitation or simulation.
9. While criminal behaviour is an expression of general needs and values, it is not explained by those general needs and values, since non criminal behaviour is an expression of the same needs and values.

The society views white-collar crimes as less dangerous than street crimes such as robberies, rapes, thefts, etc. However the truth is the opposite – white-collar crimes are more dangerous because their consequences involve not only huge financial losses but may cause many deaths and injuries.

Four types of white-collar crimes can be defined:

1. Corporate crimes. Most of them are committed by the company staff or clients. They include thefts by employees at their workplaces. The following features are characteristic of them:
 - Staff thefts are more frequent in larger and less personalised companies. Stealing from a large company is as if stealing from no one.
 - Such thefts are more frequent in companies where employees feel abused, undertrained or receive too few incentives. Employees perceive theft rather as certain merited remuneration or compensation for their work.
 - Employees may start stealing to diversify their monotonous work.
 - Employees stealing at their workplaces do not consider themselves criminals.
2. Crimes against employees. Companies must ensure a secure and healthy working environment but they often disregard those requirements. Such behaviour is followed because:
 - maximum and prompt profit is sought while the security and health of the staff are often ignored because they require additional costs;
 - employees are depersonalised and viewed as quickly-replaceable components of the production process;
 - public institutions devote too little attention to these crimes.
3. Crimes against customers. These crimes are very different. The most frequent are customer fraud, misleading commercials, sale of goods dangerous for health, fraud, and price agreements.
4. Crimes against the public. They are mostly related to pollution of the environment.

Losses incurred through white-collar crimes may be divided into three groups:

1. Economic losses. These crimes cause huge financial losses. They mostly affect people of lower strata and older age.
2. Physical losses. Physical losses caused by white-collar crimes are more complicated, less personal and more difficult to investigate than damage done by street criminals.
3. Social losses. White-collar crimes weaken social institutions, undermine confidence therein, depress the public morale, and fuel social discord.

White-collar crimes are different from street crimes in the sense that they are rationally planned for, thoroughly performed, and bring large profit. Factors determining the uniqueness of these crimes:

1. Crime victims are not even aware that they co-operate in performing crimes planned in offices.

2. The public is relatively indifferent to white-collar crimes.
3. A relatively small number of white-collar crimes are investigated because the criminals are politically and economically influential persons.
4. White-collar criminals don't resemble stereotypical criminals but rather respectful, influential people and regard themselves as such.

Motives for which the crimes are committed are explained in three ways:

1. psychological factors (desire to behave against the rules, inability to resist, neurotic striving to take leadership and earn money at any price, etc.) are emphasised;
2. differential association (according to Sutherland, a person learns criminal behaviour if in a group which they belong to, such behaviour is more typical than non-criminal behaviour) is followed;
3. criminal behaviour is neutralised (delinquent persons do not tend to regard themselves as real criminals and rationalise or neutralise their actions in their own way). Matza, author of *Delinquency and Drift* recently published in the Lithuanian language, defines the following five ways of neutralisation:
 - responsibility is negated. The criminal thinks they are helpless to resist social forces and circumstances: the ones guilty are parents, alcohol, the employer, the company proper, etc.;
 - damage is negated. The criminal states that damage done by them is very insignificant;
 - the victim is negated. The criminal claims that they render justice and punish the victim;
 - law-enforcement structures are negated: "They are criminals themselves";
 - a higher position is highlighted. Legal requirements are overridden by other things: need to help the family, friends, etc.

LECTURE 3. DEFINITION OF CORRUPTION

Although almost all researchers agree that corruption is a phenomenon characteristic of all societies, systems and countries, research shows that opinions regarding the definition, assessment and interpretation of corruption are different. Empirical research constantly faces two things which can hinder proper understanding of the phenomenon of corruption:

1. A precise definition of corruption is missing. Like many other concepts of social sciences, the concept of corruption is not constant; it is changing and dependent on historical, social and cultural conditions.
2. The scope and understanding of corruption normally change depending on the social context. The assessment of the scope of this phenomenon as well as norms based on which it is defined and assessed change with place and time.

In different countries definitions are essentially different; this problem was first raised by cultural anthropologists identifying differences determined by the unequal social, religious and cultural context. Moreover, corruption is a specific political phenomenon, which makes it even more difficult to define. Definitions of political scientists differ from the concepts of corruption defined in modern criminal codes.

Definitions in Social Sciences

Very different definitions of corruption found in social sciences can be divided into three major groups. These are definitions focusing on:

- 1) the civil service;
- 2) market relations;
- 2) public interest.

Definitions of Corruption Focusing on the Civil Service

The majority of political scientists conventionally select definitions orientated towards behaviour or practices which violate legal or formal norms regulating the activities of the civil service.

Definitions focusing on the civil service could help to unravel this complicated phenomenon limiting the congeries of corruption down to the most visible and most obvious cases. In fact the norms which are used as a basis for definitions in this group are little different from the norms of criminal codes. Very often legal reforms seeking to reduce corruption are attempts to do away with the facts of the spreading corruption. Where certain cases of corruption spread and become difficult to control, norms regulating the civil service are revised or tightened. This increases the public's distrust in politicians and authorities.

Definitions focusing on the civil service are stable, objective and thus quite popular among political scientists. Legal reductionism simplifies regulatory aspects. Legal norms are said to convey the system of real and thus tangible values which *a priori* can be viewed as an expression of public customs and the ethical and legal structure of a certain time.

Criticism

However, even then it is impossible to avoid interpretation differences and imperfection of legal norms and changes thereof emerging in the course of time. The question arises as to which definition of the norms regulating the civil service should apply.

In the opinion of many authors, the criteria of the definition of corruption should be searched for in the regulatory discourse of lawmakers, courts and other authorities. However it should be borne in mind that legal norms probably mostly reflect the ethical norms and standards of a specific group – the ruling elite – which is why they may be socially questionable and changed.

Definitions focusing on the civil service can be superior to other definitions because it is easier to compare different countries, societies and systems but still many things remain undefined and thus unexplained.

Definitions of Corruption Focusing on Market Relations

Many fewer scientists explaining corruption derive their assumptions from the economy theory, i.e. explain corruption as political decisions which are obtained in exchange for money and sought by private actors and which civil servants can sell (supply) evading responsibility but may also be caught while doing this (liability). The definition is based on the statement coming out of the public choice theory that all social agents rationally seek benefit from their privileged official position (minimisation of taxes) whenever they have the occasion or opportunity.

The definition seems to be convincing when it refers to cases of corruption where the legal criterion is not so clear (bribery, sharing of illegally obtained money with a superior official). Corruption is essentially perceived as exchange between civil servants and private business representatives.

Criticism

However, if corruption is defined as rational behaviour seeking the maximum personal benefit, what should then encourage one to accept monetary remuneration if the law stipulates punishment for that? The definition also ignores “the moral price” (condemnation on behalf of the society, discontent of the management and colleagues and personal moral norms), which has an impact on logical arguments of social agents to become entangled in corruption. Some supporters of definitions focusing on market relations admit the existence of the moral price of violating the laws but do not provide any clear indication as to what that moral price is.

In following market concepts it is forgotten that norms and principles binding on and obliging civil servants and selected officials are different from principles and norms applicable to market players. The corruption market – a questionable notion – can be defined as parallel exchange where petty “goods” are distributed at an illegal price other than that set by the authorities and public policy is influenced (i.e. the black market). Such a definition is not even compatible with the free market mechanisms. The very description “black”, i.e. unclear and punishable, contradicts the freedom of choice characteristic of the market economy.

Definitions of Corruption Focusing on Public Interest

Lately representatives of social sciences more frequently tend to think that the definitions of both types described above have been understood in a narrow way. On the one hand, definitions focusing on market relations are handy when we deal with corruption of transactions but are insufficient when we talk about non-pecuniary social exchange and moral consequences and meanings thereof. On the other hand, some

opposition has been shown to the trend of treating corruption as norms and rules regulated by civil service applicable to a limited number of ways of behaviour, mainly of criminal nature. The classic concept of public interests has been revived and it is being proved that when explaining the essence of corruption, public interests are not only a useful but also an inevitable criterion. Public interest encourages people to overcome egoism and selfishness and to co-ordinate their own preferences and needs with the needs of others, assessing the right to choose without interest and impartially.

Criticism

This immediately provokes the question as to “whose moral norms” determine “who is corrupt”. Morality is perceived as a social construction and what is corruption and what is not corruption depends on the opinion of the commenter. However, if “public interest” is replaced with a still more obscure and worse established concept of “public opinion”, it brings no additional clarity.

Critics state that public interest is a weak reference because the term is often not defined: the concept of publicity is difficult to explain while the interest is another jargonism of pluralistic theories of the state. This concept lends itself to numerous interpretations, which is why it is normally rejected in comparative valuations. The notion “public interest” – its values, opinions and laws – differs in different societies and depends on what is listed as manifestations of corruption. Still, this should not be a hindrance in explaining why societies defining corrupt practices or behaviour use different norms or why those norms change in the course of time.

LECTURE 4. EVOLUTION OF THE CORRUPTION INTERPRETATION

Corruption as the Fall of the “Fair State”

For such pioneers of Western political thought as Plato or Aristotle corruption could mean the degradation of fair systems where countries are managed to achieve “universal good” and “benefit for all” down to systems where countries are managed to achieve personal benefits (i.e. tyranny, oligarchy, demagogics). This tradition survived through the entire formation of Western political thought from Thomas Aquinas to J. J. Rousseau, from Ch. L. Montesquieu to E. Burke, from the decadence philosophers of the 20th c. (R. C. Aron, A. Malraux) to modern theoreticians of democracy (R. A. Dahl, J. Sartori). The theoretical weakness of the moralistic approach is that empirically it remains unclear what norms and standards define corruption. Clarity has been sacrificed for the sake of brevity to such an extent that it is too indirectly explained how and why behaviour is deviant and from which norms.

What is more, the decolonisation which commenced after the Second World War brought to the world political map many new entities whose democratic values were not necessarily the same as those historically relied upon by Western democracies.

Corruption in Terms of Modern Social Theories

By attributing corruption studies to certain theoretical schools or directions, we do not seek to oversimplify the diversity of methods and approaches, which helps to grasp the complexity of this phenomenon.

Typification is intended to help those who are not familiar with the subject or who face these problems when carrying out research to perceive their interaction with each of the possible alternatives as well as the insufficiency and partiality of their evaluations determined by their own choice.

The specifics of each theoretical approach essentially depend on the definitions selected for the interpretation of the phenomenon. Their evolution shows how the ways of defining and explaining the phenomenon have been changing.

Functionalistic Approach

In the opinion of functionalists, corruption is another form of political influence. In the 1960s, functionalism tolerated certain forms of corruption claiming that they strengthened economy and political integration. A calmer feeling came together with cultural relativism because it claimed that corruption was a characteristic feature of a specific culture or society.

Here it is easy to envisage the political vision of Machiavelli. This thinker of Florence noticed that the fight for power, use of power and its retention opened doors to various general strategies of democratic and authoritarian systems which were not necessarily limited to the legal and ethical norms established in the society and functionalists moved still further claiming that corruption, although an amoral thing, had a positive impact on the political system. Corruption “lubricated the system wheels” in the countries where the bureaucratic administration apparatus was overloaded and helped to retain unstable systems.

Criticism

Today it would be difficult to prove the benefit of conventional forms of corruption in the countries where toleration of such practice has contributed to the spread of corruption and its institutionalisation in other spheres of public life and prepared the soil for the collapse of the political system. Furthermore, the opinion that in underdeveloped economies such as Latin America, Asia and Africa corruption promotes economic growth, political involvement and more efficient administration has historically proved to be erroneous. Functionalists have never managed to explain the long-term negative impact of corruption.

Market Approach

The market approach is essentially based on corrupt transactions of the bureaucratic level. Thus the theory of economics is combined with neoliberal theories of the state. Although deeply criticising the functionalistic approach to the benefit of corrup-

tion for development, these theoreticians have also sought to circumvent the issues of morale, directing their utilitarian arguments towards the rational choice of individuals to enter into corrupt transactions. This means that corruption depends on two crucial factors – structures of available alternatives and incentives.

The crisis of the welfare state and the collapse of the socialist economy created a favourable medium for conceptualisation of corruption as illegitimate compromise of the public and private sectors. Attempts have been made to prove that corruption spreads where the state is trying to penetrate the market directly – through intervention policy and property – and indirectly – through “obstructive” market regulation. The suggested measures were too simple: if the spread of corruption was determined by the excessive intervention of the state and regulation of the market economy, it meant that privatisation and non-regulation were needed. At the end of the 1990s supporters of the market approach tended to support the neoliberal statement that “the less of the state, the less corruption” not so actively. The global processes of privatisation and non-regulation created new opportunities for corruption and new factor structures promoting it. The contribution of political economists into corruption studies does not hinder neoliberal state theories from interpreting motivation of corrupt behaviour as public choice.

Criticism

Theoretically the concept of rational choice has devalued personal ethical norms constraining the public official’s “choice” or willingness to engage in corruption. In fact norms of honesty of every person which we could call the ethos of the civil service step over calculations of benefit and costs and constitute an important element of explaining what corruption is. Still the theoretical weakness of this interpretation of corruption is more associated with the disadvantages of neoliberal state theories.

Systemic (or Neoclassical) Approach

Supporters of this approach avoid simplified and mechanical interpretation of the democratic process and claim that democracy is not only a set of procedures and institutions but also a system of norms with ultimate goals which must be realised in the society. Modern literature on the theory of democracy thoroughly analyses regulatory aspects and peculiarities as well as their pathology and measures stopping it from degradation. This is so not because in democracies corruption would be more frequent than in non-democracies but because its consequences do more harm to the fundamental principles of democracy: equality, responsibility and transparency of public decisions and legitimacy of political institutions are more important than the state apparatus.

The revived moralistic approach comes along with the strengthening belief that in recent years ethical fundamentals of democracy have been degrading. Since the Cold War academic interest all over the world in the increasing corruption has been closely related to the processes of the state collapse and consolidation of democracy in Central

and Eastern Europe as well as with the crisis outlived by the liberal democracy model: political involvement and solidarity have weakened and the crisis of parties and the party system, the rule of law, and the welfare state is underway.

Corruption is viewed not as an accidental “rotten apple” but rather as a systemic phenomenon, often more successful than the legitimate political system from which it takes its resources. This seems to be not the exception but rather the rule: corruption threatens the principles of democracy, causes institutional crisis, destabilises the global economy, helps organised crime, promotes public contempt for political life and undermines the idea of the society or the common good. Corruption worships the union of power and economy: money increases the opportunities to acquire power while the power is enriching.

Social theoreticians are encouraged to take a critical view of their definitions and include regulatory aspects in empirical interpretations of corruption. The political crises of institutions and the reform have been the key conjuncture peculiarities bringing about the need to carry out regulatory analysis of corruption and this has not been unrelated to the global economic breakdown at the beginning of the 1990s. Society is no longer willing to tolerate political corruption: although the economic boom in the 1980s was favourable for an overly perfunctory approach to corruption, the negative changes of the last decade and the increasing social inequality encouraged us to pay attention to this phenomenon.

At the beginning of the 1990s corruption was condemned at all decision-making levels: local, regional, national and international. Some imbalance became more prominent between legal, formal norms or standards and norms followed in general by the entire society. The majority of democracies became involved in media exposures, scandals, political investigations and court proceedings. Authorities, even those which had held corruption as “someone else’s problem”, responded by implementing various controls and sought to make political life more moral.

With the strengthening of international governmental (the Council of Europe, the European Union, the Organisation for Economic Co-operation and Development, the World Bank, the International Monetary Fund) and non-governmental (the International Chamber of Commerce, etc.) organisations, concern with corruption coincided with other issues and problems on the international scale such as the devastation of the environment and human rights.

Corruption and Public Policy

The research took special interest in how corruption affected the ability and effectiveness of the authorities in decision-making having regard to the organisational and approach peculiarities characteristic of a specific country. In brief, corruption and good management are incompatible.

Corruption is a problem of not only moral but also of public policy. It prospers where the public ethics has degraded, where no clear rules exist based on which the public affairs would be carried out and where the public and private activities lack

proper ways of regulation guaranteeing that adequate and proper impact would be made on social processes. The changing nature of the state and the disappearing difference between publicity and privacy in the last years constitute the axis of the corruption problems, which encourages decision-makers to pay attention to the need for strengthening control and revising the norms of public life.

The complexity of the modern decision-making process (different layers, actors, political influence mechanisms) given the lack of public decisions and transparent procedures has created conditions for privileged use of public resources and undermined the public trust in democracy.

The price which the society pays for corruption is incalculable. Apart from the fact that corruption is a burden on taxpayers, it also enhances ineffectiveness and ignorance. The market prices of public services and goods provided to market players directly or under agreements, thus promoting clientism and killing fair competition. Corruption creates conditions for political favouritism cherishing incompetence and ignorance, which is why the politicians of many countries have tried to regulate and control the situation favourable for corruption.

The United Nations continuously speak about corruption and condemn it as the inability to manage and the outcome of poor policy at all levels. International organisations (the OECD, the International Monetary Fund, the World Bank) also understand that their programmes will not be realised by simply hiring qualified economists and that it is necessary to take into account specific social, cultural, political and institutional factors determining development. Financial aid to countries lagging behind instead of contributing to their growth helped the corrupt elite to retain the authority. The European Commission insistently states that the criterion which allows distinguishing economies lagging behind in the financial sense and providing for trading privileges for them should be good management. Evaluating corruption practices in the European Union institutions and in the European Commission in particular, the European Parliament also sticks to the reciprocity position.

LECTURE 5. EMPIRIC RESEARCH INTO CORRUPTION

Corruption research carried out in Lithuania can be reviewed at the web-site of the Lithuanian branch of Transparency International at www.transparency.lt.

Lithuania continuously has dual empiric corruption studies. It is already six years that the Corruption Perceptions Index (CPI) is measured (see Table 1), and since 2001 the research of the Lithuanian Corruption Map has been carried out.

The Corruption Perceptions Index shows to what extent the country in question perceives the existing corruption among civil and municipal servants and politicians. The CPI is a composite indicator established based on surveys of business representatives and other expert studies. International political institutions and business and financial structures regard the CPI as an important source of information.

TABLE 1. Corruption Perceptions Index in Lithuania in 1999–2004

Year	Corruption index	Number of studies	Total countries, position of Lithuania
1999	3.8	6	99/50
2000	4.1	4	90/43
2001	4.8	5	91/38
2002	4.8	7	102/36
2003	4.7	10	133/41
2004	4.6	9	146/44

The goal of the Lithuanian Corruption Map research is institutional and geographical monitoring of corruption spread carried out on the basis of surveys of the Lithuanian population and business representatives. It covers: 1) the analysis of the view of corruption of the Lithuanian population and business people, its level and role in the society; 2) the summary of personal experiences of the Lithuanian population and businesspeople in facing manifestations of corruption (bribery) and sources of information on corruption; 3) assessment of the anticorruption capacity of the Lithuanian society.

Which country is more corrupt? Was corruption spread more at the end of the 20th century than during the ninth decade? Representatives of social and political sciences are becoming more and more concerned with assessing corruption as an action leading to a broader, empirically justified comparative interpretation of this phenomenon.

The primary goal is to evaluate the level of corruption but there are some difficulties. Attempts to evaluate corruption in various countries following very different legal and moral norms were criticised as an academic stereotypical tool. The problem of stereotyping arises at the level of operationalisation but is also related to comparable parameters. How could one cover as many cases as possible without losing cohesion and comparability? Various countries are governed following different rules and norms, which gives rise to the question whose standards or norms should be regarded as a reference point when comparing.

Thus we return to the problems previously highlighted in comparative works – how to avoid “cultural relativism”. It is necessary to take into account the specific features of cultures although it often allows tolerating certain forms of corruption where they are viewed as professedly useful for the society. Therefore, experts emphasise that when evaluating the perception of corruption in a certain country one should refer to the CPI score rather than the position taken by the country. Both the score and the place can be corrected by overall changes in the research methodology.

Representatives of social and political sciences recommend using this Corruption Perceptions Index despite its undoubted methodological shortcomings and relying on it as a reference point when further specifying and interpreting corruption.

Unfortunately, there have been few attempts to assess the level of corruption at a good quality level, to describe the systems of corruption controls and evaluate the efficiency thereof. Finally, as a matter of politics corruption is a part of the cumulative

learning process where previous experience is accumulated through corruption control assessing its success and failures.

The variety of available definitions which are sometimes controversial may become a handicap when carrying out empiric research. An alternative is to operationalise the concept, which is not easy.

When defining the level of corruption empiric research very often relies on legal, or formal, criteria. Normally they are viewed as continuous and precise indicators of the level of corruption in a certain society and at certain time. However even legal norms are not homogeneous. The concept of corruption as it is defined in many criminal codes is not much different from other crimes such as fraud, blackmail and robbery. There was also a tendency to broaden the definition of corruption in order to cover more phenomena (for example, to include non-monetary incentives, to distinguish between passive and active initiatives, valid and invalid results).

Legal criteria are not a precise indicator either: the majority of corrupt transactions are invisible and secret. The changed scope may result from more efficient criminal prosecution. The removal of the public reaction from the concept of corruption creates the risk of causing legal dichotomy (for example, not corrupt in legal terms and corrupt – in non-legal terms). Besides, not everything what is legitimate is morally supported by citizens.

Corruption is also related to opinions. For many people it can mean different things and without cease be used as a political weapon. Another aspect of condemnation by the public opinion is that in spite of established legal norms different patterns of behaviour are seen as corruption. A better understanding by the society essentially depends on how and which obvious examples have been made visible for the society. The public opinion is unstable and easily influenced politically. In most cases it is an insufficient criterion based on unstable, vague and maybe even contradictory standards which cover various views of the public but criticism is not comparable with a flexible alternative of how to evaluate qualitative differences.

Still the interpretation based solely on the public opinion is not a solution either. To what extent the public opinion is important to understand changes in the ethical and legal structure is the extent to which condemnation of corruption is not just a matter of opinion. Public accusations go further that suspicions raised by popular newspapers, the rhetoric of election campaigns or passionate parliamentary debate, and condemnation may turn into criminal prosecution.

Corruption cannot be defined using only legal or public opinion criteria. As deviant behaviour, corruption is also related to breaking rules or norms which regulate the civil service and to the violation of unencoded, broadly recognised ethical norms.

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TADAS TAMOŠIŪNAS

CORRUPTION AS A FORM OF DEVIATION

A Course Module on Social Organisation

The course of social organisation deals with social order and disorder. From the point of view of those aspects it looks at social institutes, social agents, social structures and phenomena and issues of social conduct. The course presents corruption as a determining factor of disorder, as a form of deviation (intolerable behaviour). Such behaviour is analysed on the basis of the concept of deviation, which has already been discussed during the course of social organisation. The discipline is meant for students of social sciences (primarily sociology and political science). The course covers six hours of classroom activities and eight hours of individual work. Students are tested at the end of the course.

OBJECTIVES OF THE INTEGRATED COURSE

1. Familiarise students with the concept of corruption and its manifestation in various areas of social life; examine it in the context of deviation analysis.
2. Build students' ability to recognise manifestation of corruption and strengthen their position on anti-corruption.

COURSE STRUCTURE

TOPIC NO. 1 "Concept of Corruption"

Definitions of corruption. Types of corruption. Factors of corruption: international economic globalisation, privatisation, public procurement, relativity of values, lack of transparency in funding political parties and campaigns, tradition of nepotism, etc. Corruption perception relativity. Assessment of corruption from functional (arguments 'for') and dysfunctional (arguments 'against') points of view, looking at integral elements of deviation (behaviour, norms and evaluator).

TOPIC NO. 2 "Methodology for Measuring Corruption and the State of Corruption in Lithuania"

Findings of sociological surveys and their development in recent years. Controversial and uncertain public attitude towards corruption. Views of international organisations towards corruption in Lithuania. The main consequences of corruption in the country: decreasing efficiency of investment, limited competition, smaller amount of taxes collected, weakening trust in state institutions, etc.

TOPIC NO. 3 “Prevention of Corruption”

Legal grounds for the prevention of corruption. The key organisations preventing corruption. A holistic approach to preventing corruption. Anti-corruption initiatives in the OECD countries and Lithuania. The importance of civic society. Mass media as a stimulant of corruption prevention. The practice and importance of anti-corruption education.

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ANNEX. A Pro-active Exercise “Functions and Dysfunctions of Corruption”

Analysis of different forms of deviation often involves discussions about their functions and dysfunctions, while the former are perceived as positive influences from the social life point of view and the latter as negative. Discussing functions and dysfunctions while examining the phenomenon of corruption is helpful in understanding it better and gaining a more critical view towards stereotypes which are particularly prevailing in public life. This pro-active approach suits the first topic of the module. The duration is 45 minutes.

PROCESS

1. The teacher announces the topic of discussion: possible functions and dysfunctions of corruption. Students are divided into several groups, which elect a rapporteur and a note-taker to record all the statements made by the group. The teacher should decide on the number of groups, taking into account the number of students present (each group should be comprised of 4-6 persons). The number of groups should be even. The groups are given large pieces of paper. One part of them is tasked to write down the functions of corruption and the other group(s) should put down the dysfunctions of corruption. Some space should be left between the statements for comments.

2. The groups have 15 minutes to discuss the arguments for or against certain functions and dysfunctions and write them down on the pieces of paper. The rapporteurs present the statements and arguments discussed. The other groups are asked not to comment on the presentations.
3. After the presentation, the pieces of paper with the statements about the dysfunctions of corruption are given to the group(s) which made the statements about the functions of corruption and vice versa. The following task is to find counter arguments to the statements made by the opposing group and to write them down under them. The students are given 15 minutes to perform this task.
4. The students take turns in presenting the counter arguments. This time they are allowed to react and get involved in the discussion. At this stage, it is desirable to highlight and project the consequences of corruption and the indirect impact of it, which is not always seen. For example, students may give an argument (function) that corruption speeds up personal business matters. In this case, it is worthwhile discussing the indirect consequences of such behaviour or later outcomes, for instance, asking a question about increasing business costs, etc. The success of the discussion depends a lot on the preparedness of the teacher because many potential arguments 'for' and 'against' may already be anticipated.

VITALIJA SKĖRUVIENĖ

CORRUPTION AS A SUBJECT OF LAW

Commercial Law Course Module

PURPOSE AND SCOPE OF THE SUBJECT, ITS RELATION TO OTHER SUBJECTS

The subject consists of the fundamentals of law and commercial law and is intended for students of business management, tourism and hotel services. The students study the subject for two semesters (fundamentals of law in the fourth semester of the second year and commercial law in the fifth semester of the third year). The subject is awarded four credits and 160 hours in two semesters (56 hours of lectures, 56 hours of exercises, 74 hours of independent study). Sixty hours of the subject are earmarked for anti-corruption education.

The lectures will combine theory and practice. The study of the subject is expected to improve the general ability of the students and is therefore related to other subjects, including introduction to entrepreneurship, management, career management, finance, international marketing, and work safety.

GOALS AND TASKS OF THE SUBJECT

To provide the students with knowledge of legal theory, Lithuanian constitutional, labour, civil, administrative, criminal, and commercial law. To improve the logical reasoning of the students, develop understanding of regulatory acts, to introduce them to Lithuanian anti-corruption policies, and encourage civic maturity and awareness.

METHODS OF TEACHING

A scheme consisting of animation, understanding and reflection exercises is used during the lectures. Theory is combined with practical assignments of the students in order to reflect on theory, discussions are held as an encouragement to look for answers, analyse and solve problems.

EVALUATION

Assignment – 10 per cent.

Independent work – 20 per cent.

Tests – 20 per cent.

Examinations – 50 per cent.

LECTURES 1-6. LAW THEORY (6 academic hours)

TOPIC 1 – Law sources and their types. Regulatory acts (2 academic hours)

Goals and tasks of the lecture

1. Introduction to law sources.
2. Understanding the importance of regulatory acts, ability to find and analyse them.
3. Improvement of the logical reasoning of students.

Methods

Lecture, work with sources, analysis, discussion.

Animation

At the start of the lesson the students are asked what they know about law sources and their differences; a discussion follows.

Understanding the meaning

Lecture scheme:

1. Principal law sources in law history (custom of law, legal precedent, regulatory contracts, regulatory act).
2. Regulatory acts.
 - 2.1. Laws. Constitutional and common laws.
Adoption of laws (right of legislative initiative, debate on a draft law, adoption and publication of law).
 - 2.2. Secondary legislation.
General secondary legislation.
Local secondary legislation.
Institutional secondary legislation.
Internal organisational secondary legislation.

Reflection

- May law principles be attributed to law sources?
What is the difference between legal acts of earlier and new edition?

Students answer the questions:

1. What law sources are known in law history?
2. What is the difference between a regulatory act and a regulatory contract?
3. What is the difference between law and secondary law?
4. What are the stages in the law adoption procedure?
5. How is secondary legislation classified according to the scope and subjects?

Homework

1. Read from the book by P. Čiočys *Teisės pagrindai* the following topics: *Teisės realizavimas* and *Teisėtumas ir teisėtvarka*.
2. Find the legal act mentioned – Republic of Lithuania Law on Prevention of Corruption (*Official Gazette*, 2003, No. 38-1728). Search in the website www.lrs.lt. search engine for the Republic of Lithuania legal acts (specify the title of the publication, year of publication, number of the legal act).

TOPIC 2 – Corruption and laws (4 academic hours)

Goals and tasks of independent work

1. Introduction to ways of implementing the law.
2. Introduction to the sources of legislation governing anti-corruption measures.
3. Explanation of corruption as a concept.
4. Development of critical thinking of students.

Methods

Conversation, discussion, comparative analysis, independent work.

Animation

Could you summarise in one word the contents of the following quotation: “...deliberate actions of an individual directly or indirectly promising, offering, giving, soliciting or accepting illicit reward seeking personal gain for oneself or others for performance or non-performance of certain functions.” (Raudonienė A., *Modernėjanti klasikinio korupcijos apibrėžimo Lietuvoje kaita*, in *Jurisprudencija. Mokslo darbai*, t. 32. Vilnius, 2002).

Understanding the meaning

Discussion “What have you heard about corruption?”

The students are introduced to the laws governing anti-corruption measures, including the Criminal Code of the Republic of Lithuania and the Republic of Lithuania Law on Prevention of Corruption.

The students are asked to compare the definitions of corruption.

Corruption (as defined in the Republic of Lithuania Law on the Special Investigations Service) means “a promise, offer or giving by a person of any illicit reward to a state politician, official or employee, also a direct or indirect request or acceptance by a state politician, official or employee of any illicit reward for himself or another person, or acceptance of an offer or promise of such a reward for performance or non-performance of certain functions, also a promise, offer or giving by a person of any illicit reward to any person who claims he may influence the decisions of a state politician, official or employee, a direct or indirect request by a person who claims he may influence the decisions of a state politician, official or employee for or acceptance of any illicit reward or acceptance of an offer or promise of such a reward, also complicity in committing the acts specified in this paragraph.”

Conversation on the principles of lawfulness: rule of law; integrity of lawfulness; universality of lawfulness; unavoidability of legal liability; combination of lawfulness and relevance; safeguarding of individual rights and freedoms.

Discussion on the following issues:

Why are rules of law enshrined in laws and secondary legislation?

- To implement their requirements.
- To make us aware of the existence of such rules.

Why is it necessary to adhere to the rules of law?

- In order not to violate the requirements set forth by the legal standards?
- To prevent us from illicit acts?

Is the observation of law mandatory?

- Is it allowed not to pay taxes?
- Is it allowed to drive in a drunken state?

Using the law means:

- the right to take advantage of the powers granted by a regulatory act;
- the right to chose an opportunity to conclude transactions.

Application of law means:

- implementation of the requirements set forth in the rules of law by competent public institutions;
- actions of persons in order to protect their infringed rights.

Are public authorised institutions the subjects of law?

- Only competent public institutions.
- The rights of citizens are limited.

Who and on what grounds may exercise coercion?

- Courts, prosecutor's office, police, arbitrage, different government institutions with special authority.
- Citizens do not have such authority.

Are citizens entitled to participate in the application of law and if so, how?

- It cannot be said that citizens in general are not entitled to apply law.
- The right of citizens to apply law is limited to (in the court hearing of a case) the role of witnesses, criminal liability for concealing crimes, etc.

May citizens prevent violations of law and if so, how?

- Yes, they may warn or detain another person committing a violation of law.
- By reporting to relevant officials about a violation of law.

What is the importance of lawfulness in implementing the rules of law?

- It is understood as a practical implementation of the requirements of rules of law.
- It is understood as a general principle of law that means a requirement for all subjects of law to implement rules of law accurately and without divergence.

In which documents can you find the following definitions: bribery, corruption, bureaucracy, office abuse, subornation?

- Criminal Code.
- Law on Prevention of Corruption.
- Law on Public Service.
- Republic of Lithuania Law on Operational Activities.

What are the main requirements for lawfulness?

- It must be observed not only by ordinary citizens and organisations, but in particular public institutions and officials.
- To implement the principles of lawfulness: uniform lawfulness, universality of lawfulness, rule of law, unavailability of legal liability.

Reflection

Is corruption prevalent in our country?

Can we as citizens of our country fight against corruption and if so, in what way?

Conclusion

Corruption means abuse of public authority for personal gain.

Exercising the right means active actions implementing legal powers.

Implementation of law means the implementation of the rules of law, established requirements and opportunities in the practical activity of the subjects of law (public institutions, non-governmental organisations, officials, citizens). It is the only way to achieve the objectives of the rules of law and ensure the effectiveness of legal regulation.

Observation of law means the refraining from actions banned by the rules of law.

Application of law means a special way of implementing law where competent public institutions implement the requirements set forth by the rules of law adopting individual acts for application of the rules of law in order to implement the rules of law.

Execution of law means actions required by the rules of law. It is important that the principle of lawfulness be observed not only by ordinary citizens and organisations but especially by public institutions and officials. The actions by state officials, including bribery, subornation, office abuse, etc., are incompatible with this principle as they undermine the authority of the public institutions.

LECTURES 7-34. CONSTITUTIONAL LAW (28 academic hours)

TOPIC 1 – Fundamental human rights, freedoms and duties (2 academic hours)

Goals and tasks of the lecture

1. Knowledge of the rules of constitutional law and ability to analyse them.
2. Knowledge of the constitutional human rights, freedoms and duties.
3. Development of civic maturity and awareness of students.

Methods

Discussion, group work.

Animation

Discussion: “What do you know about human rights, freedoms and duties?”

“In developing open and coherent civic society and rule of law the law becomes an increasingly more important social value, a measure of human freedom. On the other hand, the level of human freedom depends on the extent the individual knows the Constitution, laws and other legal acts of the state and understands the necessity of observing the law.” (Prapiestis J., *Namų advokatas*. Vilnius, 2002).

Understanding the meaning

Group work. Reading and preparation for discussion on the following topics:

1. Human rights in the Lithuanian Constitution.
2. Personal rights and freedoms.
3. Political rights and freedoms.
4. Social and economic rights.
5. Personal duties.

Important to know

Article 28 of the Constitution of the Republic of Lithuania formulates a general principle that when exercising their rights and freedoms, persons must observe the Constitution and the laws and must not impair the rights and interests of other people.

The Constitutional Court observed in its ruling of 8 May 2002 that “the present Article of the Constitution enshrines one of the fundamental principles which means that lawful actions of an individual are not unrestricted and absolutely free. An individual, a social being, lives in a society among the likes of him and persons equal in their dignity and rights. Every person has his or her duties to the society, which is where a personality may develop freely and fully, and the underlying duty is not to restrict the rights and freedoms of other individuals.” (Birmontienė T., Jarašiūnas E., Kūris E. ir kt., *Lietuvos konstitucinė teisė*. Vilnius, 2002, p. 343).

Reflection

Are our rights and freedoms infringed?

Homework

1. Read the United Nations Convention on the Rights of the Child (*Official Gazette*, 1995, No. 60-1501).
2. Read the Republic of Lithuania Law on Fundamentals of Protection of the Rights of the Child (*Official Gazette*, 1996, No. 33-807).

TOPIC 2 – Legal guarantees of protection of human rights and freedoms (2 academic hours)

Goals and tasks of the lecture

1. Knowledge of the constitutional rules of law and ability to analyse them.
2. Knowledge of which competent public institutions to address in order to defend the infringed rights.
3. Encouraging students to analyse whether their rights are being infringed and if they fulfil their duties.

Methods

Discussion, analysis, group work.

Animation

Discussion on the following topics:

1. What cases of violation of children rights in Lithuania do you know?
2. Are human rights being violated in Lithuania?

Understanding the meaning

Discussion of the fundamental rights and freedoms of a child listed in the Republic of Lithuania Law on Fundamentals of Protection of the Rights of the Child: “(...) right to life and growth, right to good health, right to individual identity and its preservation, right to personal life, personal inviolability and freedom, right to living conditions, property rights of the child, right to a home, social rights (right to an education, copyright, etc.), right to state assistance and maintenance, right to rest and leisure, rights of children belonging to ethnic communities, rights of a refugee child, right of a child to take part in the child rights protection programmes” (*Official Gazette*, 1996, No. 33-807).

Group work. Students are divided into two groups.

The first group reads the Lithuanian Constitution and marks the relevant articles of human rights guarantees:

- Every person may defend his or her rights on the basis of the Constitution (Article 6).
- Institutions of power shall serve the people (Article 5).
- Any person whose constitutional rights or freedoms are violated shall have the right to appeal to court. The Law shall establish the procedure for compensating

material and moral damage inflicted on a person (Article 30).

- Every person shall have the right to defence (Article 31).
- Seimas controllers shall examine complaints of citizens concerning the abuse of powers by, and bureaucracy of, State and local government officers (with the exception of judges (Article 73).

The second group reads the Republic of Lithuania Law on Petitions (1999) and the Republic of Lithuania Law on the Reward of Damages Resulting from Unlawful Actions of Public Authorities (2002).

Important to know

The Republic of Lithuania Law on State-Guaranteed Legal Aid was adopted in 2002. A person who is financially disadvantaged is entitled to use this law in order to receive adequate legal aid in civil and criminal cases and appeal to court concerning his or her violated rights.

Reflection

Could I defend my violated rights on my own and if so, how should I do this?

Homework

Free reading:

1. Constitution of the Republic of Lithuania, *Official Gazette*, 1992, No. 33-1014.
2. European Convention on Human Rights and Fundamental Freedoms.

TOPIC 3 – System of state government (2 academic hours)

Goals and tasks of the lecture

1. Knowledge of the state government system.
2. Introduction to the constitutional status of the Seimas and competencies of the President, Government and Lithuanian courts.
3. Development of civic maturity of students.

Methods

Lecture, discussion.

Animation

Brainstorm: “Can the President of the Republic of Lithuania, being the head of state, bring about considerable changes in the country?”

Understanding the meaning

Lecture scheme:

1. Principle of power sharing (Article 5 of the Constitution of the Republic of Lithuania).

2. Seimas.
 - 2.1. Constitutional status of the Seimas of the Republic of Lithuania (Articles 55, 64 and 67).
 - 2.2. Structure of the Seimas.
3. President of the Republic of Lithuania.
 - 3.1. President of the Republic of Lithuania – head of state (Article 77).
 - 3.2. Election and term of the President of the Republic of Lithuania.
 - 3.3. Competence and types of powers of the President of the Republic of Lithuania.
4. Government of the Republic of Lithuania.
 - 4.1. Composition and formation procedure of the Government of the Republic of Lithuania.
 - 4.2. Competence of the Government of the Republic of Lithuania.
 - 4.3. Return of powers and resignation of the Government of the Republic of Lithuania.
5. Courts. Constitutional Court of the Republic of Lithuania.

Reflection

Some of the political parties call for amendment of the Constitution in order to grant more powers to the President. Do you think that the President needs to be given more powers? If so, what powers?

Is the principle of power sharing suitable for Lithuania?

Conclusions

Organisation and activity of public institutions is based on certain principles – these are the main ideas and regulations for creation of the state mechanism. The principles are those of publicity and openness, representation of interests of the citizens, professionalism and competence, legitimacy, and power sharing and reveal the social content of public institutions, their principal goals and tasks.

Homework

Find and read the Republic of Lithuania Law on Courts (*Official Gazette*, 2002, No. 17-649).

TOPIC 4 – Lithuanian court system. Law enforcement institutions (2 academic hours)

Goals and tasks of the lecture

1. Knowledge of the court system and court competencies.
2. Knowledge of law enforcement institutions and their competences.
3. Development of student analytical ability.

Methods

Discussion, group work.

Animation

Read the task and answer the question:

“Two students were driving to a morning lecture. They were stopped by a traffic warden who said they were driving too fast, although the students had not exceeded the speed limit. The students, though indignant at such an outrageous attitude, could not miss the lecture so they gave LTL 20 to the officer and drove on to school. Where could the students complain about the unlawful actions of the police officer?”

Understanding the meaning

Group work.

The first group reads the Constitution of the Republic of Lithuania and prepares to discuss the new things they found out about the Lithuanian court system and court competencies.

- District courts
- Regional courts
- Court of Appeals
- Supreme Court
- Administrative courts

The second group reads the relevant laws and prepares to discuss the following issues:

1. Lithuanian Prosecutor’s Office and its main functions.
2. Lithuanian police.

Conclusions

The court system provides an opportunity to implement the constitutional right of the citizens of the Republic of Lithuania to a court defence against infringement of their rights and freedoms enshrined in the Constitution, laws and treaties. Under the Constitution a person is entitled to a fair trial by an independent and unbiased court. The court must ensure in all of its activities that the cases are heard observing equality, publicity and in as short notice as possible.

Reflection

Presentation of student works.

Assignment

Students write a 5-7 page essay on the given topics and prepare a presentation of their work.

TOPIC 5 – Social and economic rights (2 academic hours)

Purposes of the assignment

1. Knowledge of the legal acts governing social care.
2. Ability to work with different sources.
3. Ability of delivering a presentation to the audience in the classroom.

Methods

Independent work with sources, discussion.

Course of work

Students write an essay on the topic under analysis and prepare a presentation of their essay. Proposed scheme:

1. Provisions on the right to work in the Constitution of the Republic of Lithuania and conventions of the International Labour Organisation.
2. Right to social care.
 - 2.1. Social care and European Social Charter.
 - 2.2. Legal acts governing social care.
3. Cultural rights.
 - 3.1. Right to education.
 - 3.2. Protection of persons belonging to national communities.

Discussion: “Is the principle that the citizens who demonstrate suitable academic progress are guaranteed education at establishments of higher education free of charge, as enshrined in the Constitution of the Republic of Lithuania, followed in reality?”

Presentation of the assigned work according to the questions presented by the teacher.

Conclusions

Social care is the total of social and economic measures as established by the state to provide its citizens with financial aid, benefits, and social services from specialised public funds under the circumstances of social risks recognised as important by the law.

Conventions of the International Labour Organisations govern different aspects of the right to work. The amended European Social Charter promulgates one of the main principles that every person shall have the opportunity to earn his living in an occupation freely entered upon.

Social support is understood as a set of measures embracing social services and financial support. The principal aim of social services is to satisfy the vital needs of an individual and provide living conditions worth human dignity when a person is unable to do so on his or her own. (*an essay of business management students*)

Literature

1. Birmontienė T., Jarašiūnas E., Kūris E. ir kt., *Lietuvos konstitucinė teisė*. Vilnius, 2002.
2. Čiočys P., *Teisės pagrindai*. Vilnius, 2002.
3. Republic of Lithuania Law on Higher Education (2002).
4. Constitution of the Republic of Lithuania, *Official Gazette*, 1992, No. 33-1014.

TOPIC 6 – Political rights and freedoms (2 academic hours)

Objectives of the assignment

1. Ability to find relevant law sources
2. Knowledge of the legal acts governing political rights and freedoms
3. Development of civic awareness

Methods

Independent work, discussion.

Course of work

Students write an essay in accordance with a proposed scheme and prepare a presentation of their essay.

1. Right to participate in the governance of the country.
2. Right to criticise actions of public institutions and officials, complain against their decisions.
3. Right to peaceful gatherings.
4. Right of unrestricted formation of communities, political parties or associations.

Discussion: “Do we have the right to participate in the governance of our country?”

Presentation of work according to the questions presented by the teacher.

Conclusions

The right declared by the Constitution of the Republic of Lithuania of the citizens to participate in the governance of their State both directly and through their freely elected representatives may be seen as one of the political rights. The right consists of the right to vote in the election, to initiate a referendum, right of legislative initiative, right of petition, right to criticise the work of public institutions or officials or appeal against their decisions. The right to freely form political parties and the right to work in public service on equal grounds are also considered to be political rights (see Article 33.1 of the Constitution of the Republic of Lithuania).

According to the Law on Administrative Proceedings (2000), complaints (applications) of citizens against the acts adopted or actions (i.e. failure to fulfil duties) by the officials of public institutions and local municipal institutions (services) may be heard by administrative courts or municipal, county or the Supreme Administrative Disputes Commission. Prosecution for criticism is not allowed (*an essay by a business management student*)

Literature

1. Čiočys P., *Teisės pagrindai*. Vilnius, 2002.
2. Republic of Lithuania Law on Administrative Proceedings, *Official Gazette*, 2000.
3. Constitution of the Republic of Lithuania, *Official Gazette*, 1992, No. 33-1014.
4. Republic of Lithuania Law on Petitions, *Official Gazette*, 1999.
5. Republic of Lithuania Law on Gatherings, *Official Gazette*, 1993.

TOPIC 7 – Constitutional status of the State Control. Seimas ombudsmen (4 academic hours)

Objectives of the assignment

1. Ability to find relevant law sources.
2. Knowledge of the powers of the Seimas ombudsmen and the State Control.
3. Development of critical thinking.

Methods

Independent work, discussion.

Course of work

Students write an essay on the following topic “Constitutional Status of the State Control. Seimas Ombudsmen”.

A discussion is held on whether the work of the Seimas ombudsmen is useful and necessary to the citizens of the country.

Presentation of work in reference to the following elements:

1. System of the State Control system and its enforcement.
2. The main goals of the State Control.
3. Powers of the Seimas ombudsmen.

Conclusions

The Republic of Lithuania Law on State Control stipulates that “the State Control of the Republic of Lithuania is the supreme state institution of economic financial control accountable to the Seimas of the Republic of Lithuania which supervises the legality of holding and use of state property and the State Budget performance process. The State Control is a legal person possessing a settlement account with the Bank of Lithuania and a seal bearing the Lithuanian State emblem and the name “Republic of Lithuania. State Control” (Article 2).

In its activities the State Control shall be guided by the Constitution and laws of the Republic of Lithuania, international treaties and agreements to which the Republic of Lithuania is a party, other legal acts (Article 3).

The Constitution also established the institution of the Seimas ombudsmen, whose principal task was to investigate the complaints of citizens against abuse and bureaucracy of state and municipal officials. The Seimas ombudsmen may not investigate the activities of the President of the Republic, members of the Seimas, the Constitutional Court and other courts, the Prime Minister, the Auditor General and the Government as well as activity of local municipal councils, or the lawfulness and validity of the procedural actions and decisions of prosecutors, investigators, and persons conducting an enquiry.

The Republic of Lithuania Law on Seimas Ombudsmen stipulates:

1. Every citizen shall have the right to file a complaint with the Seimas Ombudsman about abuse of office or bureaucracy of an officer of a state or municipal institution which comes within the competence of the Ombudsman.

2. The Seimas Ombudsman shall also investigate complaints of citizens of the Republic of Lithuania referred to him by members of the Seimas which are in conformity with the requirements of this Law and may also investigate complaints of foreign nationals and stateless persons.

The Republic of Lithuania Law on Seimas Ombudsmen makes it clear that an ordinary citizen may complain against a state official abusing his office and with the help of the staff of the Ombudsman institution the citizen may protect his or her interests (*an essay of business management students*).

Literature

1. Birmontienė T., Jarašiūnas E., Kūris E. ir kt., *Lietuvos konstitucinė teisė*. Vilnius, 2002.
2. Čiočys P., *Teisės pagrindai*. Vilnius, 2002.
3. Constitution of the Republic of Lithuania, *Official Gazette*, 1992, No. 33-1014.
4. Republic of Lithuania Law on the Seimas Ombudsmen.
5. Republic of Lithuania Law on State Control.

TOPIC 8 – Local government and governance (2 academic hours)

Objectives of the assignment

1. Ability to find and analyse relevant legal acts.
2. Knowledge of local government institutions and their competence.

Methods

Independent work, discussion.

Course of work

Students write an essay on the questions proposed by the teacher and prepare a presentation of their essay.

1. Definition of the local government and its legal framework.
2. Principle of self-government.
3. Self-government institutions and their competence.
4. Economic basis of local authorities.
5. Legal guarantees for the activity of local authorities.

First, students are asked if they or their family have ever addressed local authorities on any issue and if they have ever been disappointed with the performance of municipal staff.

The presentation of work according to the questions presented by the teacher.

Conclusions

The organisation and activities of local authorities stand in the foundation of every democratic order. Legal grounds of local governance are state laws, rules of procedure of local authorities and other legal acts. The underlying principles of the relations of local authorities are regulated by the European Charter of Local Self-Government. The

right of citizens to participate in the management of public affairs is seen as one of the principles of democracy. Consequently, the European Charter of Local Self-Government provides that the principle of local self-government must be recognised by domestic laws and, where necessary, by the Constitution of a country.

Literature

1. Birmontienė T., Jarašiūnas E., Kūris E. ir kt., *Lietuvos konstitucinė teisė*. Vilnius, 2002.
2. Čiočys P., *Teisės pagrindai*. Vilnius, 2002.
3. Constitution of the Republic of Lithuania, *Official Gazette*, 1992, No. 33-1014.
4. Republic of Lithuania Law on Local Self-Government, *Official Gazette*, 2000, No. 91-2832.

TOPIC 9 – Rights, duties and ways of defending them (6 academic hours)

Goals and tasks of the lecture

1. Knowledge of Constitutional standards and ability to analyse them.
2. Knowledge of which competent public authorities to address in order to protect infringed rights.
3. Encouragement of students to analyse if their rights are violated and if they fulfil their duties.
4. Develop civic maturity and awareness of students.

Methods

Group work, discussion.

Animation

Brain storm: “Have your constitutional rights ever been violated? If so, which rights?”

Understanding the meaning

Students write essays on the given topics and prepare presentation of their essays:

1. Social and economic rights.
2. Political rights and freedoms.
3. Constitutional status of the State Control. Seimas ombudsmen.
4. Local self-government and governance.

Meaning

Will I be able to defend my infringed rights in the future?

Assessment

Assessment of individual homework, general ability of students, creativity, academic activity during the seminar.

TOPIC 10 – Constitutional law (2 academic hours)

Goals and tasks of the lecture

1. Knowledge of the Constitution of the Republic of Lithuania.
2. Ability to analyse and assess.
3. Development of critical thinking.

Methods

Group work, discussion, analysis.

Animation

Brain storm: “Are constitutional provisions binding on everyone?”

Understanding the meaning

Discuss the following issues:

1. Fundamental human rights, freedoms and duties in the Constitution of the Republic of Lithuania.
2. Legal safeguards of protection of human rights and freedoms.
3. Principal provisions of the European Convention on Human Rights and Fundamental Freedoms.
4. Principle of power sharing.
5. Lithuanian court system.
6. Law enforcement institutions.

Reflection

Group work:

1. Would you like the Constitution to be amended or supplemented?
2. How should I act: as a citizen or as a free person?
3. Will active civic society change anything?

Assessment

Assessment of the ability to answer questions, participate in discussion.

LECTURES 35-44. ADMINISTRATIVE LAW (10 academic hours)

TOPIC 1 – Administrative law (2 academic hours)

Goals and tasks of the lecture

1. Knowledge of the concept and sources of administrative law.
2. Knowledge of the concept of public management and system of public management institutions.
3. Learning to distinguish between the legal relations governed by administrative law and other law branches.
4. Development of problem solving skills.

Methods

Lecture, comparative analysis, independent work.

Animation

Brainstorm: “Why do most students want to study public administration in university? What jobs could they obtain after receiving the qualifications? What is the difference between public management and public administration?”

Understanding the meaning

Lecture scheme:

1. Concept of administrative law.
2. Concept of public management.
3. System of public administration institutions.
4. Public service.

Students are given the task to read the Republic of Lithuania Law on Public Service and find out the definitions of public service and a public servant. Students are expected to know the categories and grades of public service positions.

Reflection

Tasks for the students:

1. Distinguishing administrative law from other law branches.
2. Is corruption prevalent in public management?

Students present and write down the conclusions of the lecture in a coherent way.

Important to know

Administrative law is a branch of law which entails provisions governing social relationships arising in public management.

Public management means activities of certain governmental institutions covering the most important areas of public life, leadership in national economy, social, cultural and other affairs, ensuring the implementation of the management of rights, freedoms and duties of citizens.

Public management institutions mean the Government, ministries, governmental agencies, county governor’s administrations, municipal institutions, etc.

The most important purpose of public management institutions is the implementation of laws and other legal acts adopted by state government institutions and organisation of implementation thereof.

TOPIC 2 – Administrative liability (4 academic hours)

Goals and tasks of the lecture

1. Knowledge of the grounds for instituting administrative proceedings.
2. Knowledge about which officials are entitled to handle the cases of administrative law offences.
3. Development of student analytical and evaluation ability.

Methods

Lecture, analysis, discussion.

Animation

Discussion: “Ignorance of the law is no excuse”.

Understanding the meaning

Lecture scheme:

1. Concept of administrative liability, its basis and characteristics.
2. Subject of administrative law violation.
3. Types of administrative penalties and their imposition.
4. Classification of administrative law offences.
5. Officials unable to handle cases of administrative law offences.

Reflection

What is the difference between administrative liability and criminal liability?

Students write down the conclusions of the lecture by answering the following questions:

1. When does administrative liability arise?
2. Who is liable for the violations of administrative law?
3. What are administrative penalties?
4. Which officials are entitled to handle cases of administrative law offences?

Conclusions

Administrative liability is a type of legal liability resulting from the offence of administrative law. A guilty person may be subject to administrative proceedings by legally authorised public institutions (officials), courts issuing a respective administrative penalty (warning, fine, deprivation of special rights, etc.).

A subject of administrative liability may be a natural person (citizen, official) 16 years of age and competent at the moment of the offence. In case of offences committed by minors it is their parents or equivalent persons who are prosecuted.

Administrative corruption means a deliberate distortion of existing laws, rules and provisions upon their implementation where public servants gain private benefits in an illegal and non-transparent way. One of the main reasons for this corruption is the discretionary power of public servants to grant certain privileges, set priorities for public services and decide who should apply rules and provisions and who should be granted exceptions. Public servants of the highest level abusing their position may create regulations distorting the implementation of state policies in a way that improves their own financial status or that of their relations.

TOPIC 3 – Administrative law offences threatening the established management procedure (2 academic hours)

Goals and tasks of the lecture

1. Introduction to administrative law offences threatening the established management procedure.
2. Development of problem solving skills.

Methods

Lecture, discussion.

Animation

Discussion: “Seimas ombudsmen investigate complaints of citizens against abuse and bureaucracy of public and municipal officials”.

Understanding the meaning

Group work. Students prepare to discuss the following issues:

1. Failure to implement the demands of the Seimas ombudsman.
2. Failure to implement the demands of the equal opportunities ombudsman.
3. Exceeding designated powers.
4. Obstruction of the State Control officials.
5. Obstruction of municipal ombudsmen.
6. Unlawful handling of personal data.
7. Preventing a person from becoming acquainted with his or her personal data or relevant information.

Important to know

The Seimas ombudsmen play an important role in safeguarding human rights: they have the right to propose to the court the dismissal of guilty officials from their jobs. The competence of the Seimas ombudsmen is specified as investigation of abuse or bureaucracy of state and municipal officials and does not cover human rights abuses in other areas. Consequently, two other control institutions were established – the Equal Opportunities Ombudsman and the Ombudsman of the Rights of the Child. Their competencies in these specific areas are much wider and cover more than the relations resulting from inadequate implementation of public administration functions.

Reflection

Discussion.

TOPIC 4 – Administrative law (2 academic hours)

Goals and tasks of the test

1. To check student knowledge and ability to analyse specific situations.
2. Develop critical thinking.

Methods

A test.

Course of work

The test. Students write on the following topics:

1. Concept of administrative law.
2. Public administration institutions.
3. Concept of administrative liability, its basis and characteristics.
4. Officials entitled to handle cases of administrative law offences.
5. Failure to implement the demands of the Seimas ombudsmen.
6. Obstruction of the State Control officials.
7. Obstruction of municipal ombudsmen.
8. Unlawful handling of personal data.

Reflection

Discussion of results.

Evaluation

Evaluation of student replies, academic activeness.

LECTURES 45-52. CRIMINAL LAW (8 academic hours)

TOPIC 1 – Criminal liability (4 academic hours)

Goals and tasks of the lecture

1. Knowledge of types of criminal acts.
2. Knowledge of the grounds for instituting criminal proceedings.
3. Development of analytical ability.

Methods

Lecture, discussion.

Animation

Discussion: “Differences and similarities of administrative, civil, disciplinary and criminal liability”.

Understanding the meaning

Lecture scheme:

1. Concept and system of criminal law.
2. Features and content of a criminal act.
3. Complicity in crime.
4. Circumstances removing criminal liability.
5. System and types of punishments.

Conclusions

The purpose of criminal law provisions is to protect a certain group of social relations (something good) from certain threats, while this protection necessitates the establishment of sanctions to be applied for the crime committed. The provisions of criminal law are targeted at the perpetrators who may be subject to certain personal or pecuniary restrictions for the crime committed.

Criminal act, gravity, and contrariety to law are intertwined elements. In the absence of any of these there cannot be crime or a criminal offence.

Homework

Is criminal law the only measure against violation of law?

What are the features of criminal acts?

Reading the Republic of Lithuania Law on Public Service, its principal definitions.

TOPIC 2 – Crimes and criminal offences against public service and public interests (4 academic hours)

Goals and tasks of the lecture

1. Knowledge of crimes and criminal offences against public service and public interests.
2. Finding out about corruption-related acts.
3. Understanding the goals and tasks of corruption prevention.

Animation

Look at the situations:

1. A public servant uses an official car for personal use during his annual leave.
2. A municipal mayor issues lucrative orders for a building company in exchange for electoral campaign donations.
3. Before an examination students congratulate their teacher on Teacher's Day and present her with a bouquet of flowers.

Understanding the meaning

Discussion: "Definition of a public servant and who may serve as a public servant".

Explaining the definitions of Article 230 of the Criminal Code of the Republic of Lithuania.

1. The public servants referred to in the present Chapter are persons employed in public service i.e. state politicians, public servants in public administration under the Law on Public Service as well as other persons who by working in public or municipal institutions or agencies, court, law enforcement, State Control and supervision or equivalent authorities perform the functions of government representatives or enjoy administrative powers as well as official candidates to such positions.
2. A person with a respective mandate in an institution of a foreign state, international public organisation or international judicial institution as well as a candidate to such an office is considered to be a public servant.
3. Furthermore, a person employed by any state, non-state or private agency, company or organisation or engaged in professional activity and enjoying adequate public administration powers or providing public services, except for maintenance or technical functions, may be considered to be a public servant.

Lecture scheme:

1. Nature of crimes and criminal offences against public service.
2. Criminal Law Convention on Corruption (signed by Lithuania in 1999).

1. Nature of crimes and criminal offences against public service

Article 5.3 of the Constitution of the Republic of Lithuania sets forth “that the institutions of power shall serve the people. Safeguarding and implementation of human rights and freedoms depend on the honesty, responsibility and dutifulness of persons working in public services.” Article 3.1 of the Republic of Lithuania Law on Public Service sets forth that “Public Service of the Republic of Lithuania shall be based on the principles of the rule of law, equality, political neutrality, transparency and career development.” Observation of these principles in public service is a sure way of safeguarding human rights, freedoms and legitimate interests, lawfulness in public and state life.

The provisions of Chapter XXXIII of the Criminal Code of the Republic of Lithuania provide for the protection of public service from such threats because public service may be harmed substantially in cases where the employees commit crimes.

Committing a crime against public service and public interests results in violation of the constitutional provision that the power shall serve the people, consequently, the trust of people not only in public service but in the state as a whole is lost and the normal course of activities of state and municipal institutions is disrupted and their authority undermined.

Crimes against public service and public interests mean dangerous activities of persons who, being in public service and abusing it, inflict considerable damage on state interests or other persons. These crimes and criminal offences are always related to the official status of the subject.

Heavy damage to state interests or other persons is an element of value, consequently, the nature and extent of the damage are determined with respect to the circumstances of a specific case (nature, number of victims, duration of activity, importance of position, impact, etc.).

Crimes against public service and public interests (except for the failure to fulfil official duties) most often manifest themselves as acts where abuse of service in public institutions is the means to seek or demand pecuniary or personal gain for oneself or another person while doing it in contradiction to the interests of service. These crimes are defined as crimes of corruption.

2. Criminal Law Convention on Corruption

Crimes and offences against public service may also be international in nature (related to credits, foreign investment, conclusion of contracts, and privatisation with participation of foreign capital).

On 15 December 1975, the United Nations adopted a resolution denouncing corruption and called for governmental co-operation against this phenomenon.

In 1999, the Council of Europe adopted the Criminal Law Convention on Corruption (27 January) and the Civil Law Convention on Corruption (November 4). Lithuania signed the Criminal Law Convention on Corruption in 1999. The document stresses that corruption manifests itself both in public and private sectors. Consequently, the priority of criminal policy is to protect the public from corruption when adopting and implementing respective laws and adequate prevention measures.

What criminal activities are corrupt in nature? Bribery, subornation and abuse.

Which state law enforcement institution prepares and implements corruption prevention measures, discloses and investigates crimes of corruption?

Students write down the definitions of bribery, subornation and abuse from Articles 225, 227 and 228 of the Criminal Code of the Republic of Lithuania and note the criminal elements of these acts.

Bribery (Article 225 of the Criminal Code)

The matter (object) of bribery may be defined as circumstances where a bribed public servant himself or through other persons accepts a bribe and must or seeks to promote the interests of the bribe giver or other persons through his official actions (omission) or by abusing his or her official position. The subject of bribe acceptance is special – only a public servant or official.

Bribery types (objective part of the crime) cover the following acts: 1) bribe acceptance; 2) bribe soliciting; 3) promise to accept a bribe.

The crime is complete when a state official or public servant accepts part or all of the valuables. (If a state official found a bribe left to him and reported it to law enforcement institutions there would be no ground to apply Article 225 of the Criminal Code.)

A bribe may be given in an open or masked manner (by losing a bet or a game, paying out bonuses that are not due, providing material benefits, etc.).

There are many forms of demanding a bribe. A guilty person may extort a bribe by threatening a person with an unlawful act or omission of what in fact he should do within his competence. The demand of a bribe may be masked where a public servant is stalling a decision, checking a company with unjustified frequency, or raising unsubstantiated demands when registering a company. A bribe may be given for omission as well.

The subjective part is only a direct intention. A guilty person realises that material benefits received from the bribe-giver are unlawful. It is a selfish crime. The official who accepts the bribe realises that it makes him richer, which makes him want the bribe again.

Subornation (Article 227 of the Criminal Code)

The object of subornation may be defined as handing a bribe to a state official or public servant in cash or material valuables or an agreement to hand a bribe or make it possible to deliver material benefits in exchange for favourable treatment, a favourable decision, a vote or an opinion which benefits the suborner or another person on the part of the state official or public servant. The subject of subornation is not necessarily special as it may be a person aged 16 and older. The objective side of subornation means 1) handing a bribe; 2) an agreement to hand a bribe. Subornation is over when any of the above-mentioned activities have been completed.

A bribe may be given in an open or masked manner or through intermediaries. The element of subornation is evident in the case where a person incompetent of performing an act that is in the interest of the bribe-giver accepts a bribe.

The subjective part of subornation is only a direct intention. A suborner understands that he hands a bribe unlawfully in exchange for specific unlawful actions for his benefit or that of another person on the part of an official or servant.

Abuse (Article 228 of the Criminal Code)

The object of abuse may be defined as deliberate abuse on the part of an official or public servant of his official position for selfish and personal ends contradicting service interests and inflicting damage on the state or other persons. The subject of abuse is special as it is a public servant or official. The objective part of abuse means active actions (the guilty person unlawfully receives gain for himself or other persons at the expense of state or municipal property, exploiting the work of his subordinates, etc.).

In certain cases the abuse of office is over when significant damage is inflicted on state interests or individuals. In most cases it is the pecuniary interests of state and municipal institutions that suffer. Extensive (250 minimum subsistence level amounts) damage is one of the main features.

Usually the abuse of constitutional human rights and freedoms (right to education, free of charge medical service) by public servants or officials may be treated as significant damage.

The purpose of public service is to serve the people. By abusing this task damage is inflicted not only on persons but on the authority of public service and the interests of the state.

The subjective part of the abuse is a direct intention or abuse of an official position for interests contradicting service. This has several psychological aspects. The guilty person:

- 1) understands the seriousness of his activity and is aware that he disregards legal provisions and violates the law;
- 2) understands that he acts in contradiction to service interests;
- 3) foresees that because of such activity damage will be inflicted on the state or persons;
- 4) wants such consequences.

Reflection

What is the difference between crimes against public service and other crimes?
 Who suffers as a result of these crimes and criminal offences?
 Review of corruption goals and tasks.

Homework

1. Knowledge of crimes and criminal offences against public service and public interests.
2. Understanding corruption prevention goals and tasks.

Independent work

Read and do the following tasks:

Task 1. The registrar of the register of legal persons, whose task is registering legal persons, received documents for the registration of *Paukščių pienas UAB* from Mr. Jonaitis. The documentation was prepared in line with the requirements of Article 2.64 of the Civil Code of the Republic of Lithuania. Mr. Jonaitis asked the registrar to immediately check if the documents came up to the requirements. The registrar said he was very busy and was not providing consultations but proposed to come another day. Mr. Jonaitis came the next day but got the same answer, moreover, the registrar said, as if by the way, that every service had its price. Mr. Jonaitis came in a week, placed LTL 200 on the table, and asked the registrar to check his documents. The registrar took the money and said politely that the documents were in order and the *UAB* would be registered one month after the date of document filing.

Please qualify this act under the Criminal Code of the Republic of Lithuania.

Task 2. A city mayor announced a tender for the overhaul of a municipal building. Two contractors *Remontas UAB* and *Statybos paslaugos UAB* participated in the tender. The contract was awarded to *Remontas UAB*, although its estimate (LTL

600,000) was twice as large as that given by *Statybos paslaugos UAB*. The manager of *Statybos paslaugos UAB* found out that the executive director *Remontas UAB* was the mayor's cousin and addressed the court complaining about the illegal tender outcome, although the repairs had already been completed and the total amount indicated in the estimate had been already paid.

The court concluded that *Remontas UAB* had simultaneously repaired the municipal building and the mayor's son's house. The experts designated by the court determined that the municipal building repairs cost only LTL 200,000.

Please qualify the act under the Criminal Code of the Republic of Lithuania.

Evaluation

Evaluation of participation in discussions, responses to questions, activeness, ability to work with respective articles of the Criminal Code.

LECTURES 53-60. CIVIL LAW (8 academic hours)

TOPIC 1 – Implementation and protection of civil rights (2 academic hours)

Goals and tasks of the lecture

1. Knowledge of the principles of implementation and ways of protecting civil rights.
2. Knowledge of what civil legal liability for violations of civil rights is.
3. Ability to find and apply respective legal provisions.

Methods

Lecture, discussion.

Animation

Do you know what the principles governing civil relations are?

Understanding the meaning

Lecture scheme:

1. Basis for civil rights and duties.
2. Implementation of civil rights and duties.
3. Protection of civil rights.

Reflection

How persons may exercise their civil rights?

How the court may defend civil rights?

TOPIC 2 – Concept and types of civil liability (contractual and non-contractual) (2 academic hours)

Animation

What types of civil liability do you know?

Understanding the meaning

1. Concept and types of civil liability.
2. Contractual liability.
3. Non-contractual liability.

Reflection

How contractual liability is different from non-contractual liability?

TOPIC 3 – Liability to compensation for damage caused by the defects of products or services. Compensation of damage resulting from misleading advertising

Independent work and seminar (2 academic hours)

Please read Sections 4-5 of Book 6 of the Civil Code of the Republic of Lithuania and prepare to discuss the following issues:

1. Liability to compensation for damage caused by the defects of products or services.
 - 1.1. Liability of the producer and service provider.
 - 1.2. Definition of a product and services.
 - 1.3. Definition of defectiveness.
 - 1.4. Terms of liability.
 - 1.5. Solidary liability.
 - 1.6. Fault of an aggrieved person.
 - 1.7. Exemption from liability.
 - 1.8. Damage subject to compensation.
 - 1.9. Prescription.
2. Compensation of damage resulting from misleading advertising.
 - 2.1. Concept of misleading advertising.
 - 2.2. Subject of liability.
 - 2.3. Terms of liability.
 - 2.4. Prohibition and denial of misleading advertising.

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12. *Teisė į privatų gyvenimą ir jo slaptumą, Verslo komercinė teisė*, 2003, No. 1.

EXAMPLE OF A LECTURE. Concept and types of civil liability

Goals and tasks of the lecture

1. Introduction to the concept and types of civil liability.
2. Ability to distinguish contractual and non-contractual types of liability.
3. Ability to analyse and compare.

1. Concept and types of civil liability

Civil liability is a pecuniary obligation, one party of which shall have the right to claim compensation of damages (damage) or demand payment of a penalty (fine, interest) and the other party shall be bound to make compensation for damages (damage) arising therefrom, or pay the penalty (fine, interest). (Article 6.245 of the Civil Code of the Republic of Lithuania). The definition leads to the conclusion that there are two forms of civil liability – compensation of damages and penalty.

There are two kinds of civil liability: contractual liability and non-contractual liability. Contractual liability is a pecuniary obligation resulting from failure to perform a contract or from its defective performance, where one party of the obligation has the right to claim compensation of damages or demand payment of a penalty (fine, interest) and the other party is bound to make compensation for damages, or to pay a penalty (fine, interest) caused by failure to perform the contract, or by defective performance thereof. Non-contractual liability is a pecuniary obligation which is not related to contractual relations, except in cases where it is established by law that non-contractual liability shall also result from damage related to contractual relations (for example, the case of non-contractual liability would be the contract of carriage or donation that is binding the parties).

Features of contractual liability:

- breach of contract;
- both reward of damages and penalty.

A feature of non-contractual liability – only reward of damages.

The differences between the types of civil liabilities:

- different prescriptions;
- different meaning of guilt – solidary liability is possible only in the cases stipulated by law or contract;
- liability for the actions of third parties is different.

Civil liability shall arise from non-performance of a duty established by law or a contract (unlawful refrainment from acting), or from performance of actions that are prohibited by law or a contract (unlawful acting), or from violation of the general duty to behave with care. (Article 6.246 Unlawful Actions of the Civil Code of the Republic of Lithuania).

Only those damages can be compensable which are related to actions (acting or refrainment from acting) giving rise to the civil liability of the debtor in such a manner that the damages, taking into account their nature and that of the civil liability, can be imputed to the debtor as a result of his actions (acting or refrainment from acting). (Article 6.247 Causation of the Civil Code of the Republic of Lithuania).

Civil liability shall arise only upon the existence of the fault of the obligated person, except in the cases established by law or a contract when civil liability arises without fault. The fault of a debtor shall be presumed, except in the cases established by law. (Article 6.248 Fault as a condition for civil liability of the Civil Code of the Republic of Lithuania). For example, the damages inflicted by pets are rewarded by their owner (Article 6.267 of the Civil Code of the Republic of Lithuania).

Terms for civil liability to arise:

- infliction of damage and damages;
- unlawful actions;
- causation between the actions of a debtor and damage or damages;
- fault.

Damage shall include the amount of the loss or damage to property sustained by a person and the expenses incurred (direct damages) as well as the income he has been deprived, i.e. the income he would have received if unlawful actions had not been committed. Damage expressed in monetary terms shall constitute damages. Where the amount of damages cannot be proved by the party with precision, it shall be assessed by a court.

2. Contractual liability

The contract governs relations between parties. The liability of the debtor arises from the contract. The Civil Code stipulates that every person shall have the duty to perform his contractual obligations in a proper way and without delay. (Article 6.256.1 of the Civil Code of the Republic of Lithuania). A person who fails to fulfil his contractual obligation or fulfils it in an improper way, is required to reward damages incurred by the other party of the contract, pay penalties (fine, interest) (see Article 6.258 of the Civil Code of the Republic of Lithuania about damages and penalties).

3. Non-contractual liability

Obligation to compensate for damage caused:

1. Every person shall have the duty to abide by the rules of conduct so as not to cause damage to another by his actions (active actions or refrainment from acting).
2. Any bodily or property damage caused to another person and, in the cases established by the law, non-pecuniary damage must be fully compensated by the liable person. (Article 6.263 of the Civil Code of the Republic of Lithuania).

Every person is required to act with care. The nature and level of care is often stipulated by different legal acts, rules of professional conduct, etc. For instance, a bailiff shall be held liable for the damages caused by his actions in line with the procedure set forth by Article 16 of the Republic of Lithuania Law on Bailiffs.

The essence of the compensation function in civil liability is total compensation of damages i.e. the pecuniary loss of the aggrieved party is sought to be compensated through civil liability and return the party to such a pecuniary status prior to the infliction of damage. It is only pecuniary damages that are wholly compensated, while the principle is not applied to non-pecuniary damage because it is difficult to measure in money. (see Articles 6.264-6.279 of the Civil Code of the Republic of Lithuania about liability and compose a table).

Non-contractual liability means:

- liability of an employer for damage caused by the fault of his employees;
- liability to compensation for damage caused by others;
- liability of the owner (possessor) of buildings;
- liability to compensation for damage caused by animals;
- liability to compensation for damage caused by a natural person incapable of understanding the meaning of his own actions;
- liability arising from the exercise of hazardous activities;
- liability to compensation for damage caused in the state of necessity;
- liability to compensation for damage caused by minors under fourteen years of age;
- liability to compensation for damage caused by a minor between fourteen and eighteen years of age;
- liability to compensation for damage caused jointly by several persons.

Important to know

Contractual liability is a pecuniary obligation resulting from failure to perform a contract or from its defective performance.

Non-contractual liability is a pecuniary obligation which is not related to contractual relations, except in cases where it is established by law that non-contractual liability shall also result from damage related to contractual relations.

GINTARĖ ŠATIENĖ

CORRUPTION AND LAW

Fundamentals of Law Module¹

A Course for the BA Students of Public Administration, Business Administration and Economics

PURPOSE OF THE DISCIPLINE

1. Familiarise students with the key aspects of state theory.
2. Clarify the system of legal sciences.
3. Examine the features and system of state governance bodies.*
4. Familiarise students with separate branches of law and identify their characteristics.*
5. Mould civic maturity of students, their sense of responsibility and ability to adjust their private and public interests.*

The goals specified in subparagraphs 3-5 above relate to corruption as a problem of state governance and civil service, to the causes of corruption and the anti-corruption policy undertaken by the state.

While examining the problem of corruption in state governance and civil service, the following additional sub-themes may be discussed:

1. The concept and problem of corruption in civil service.
2. The spread of corruption (its level and scale) in Lithuania.
3. The causes and consequences of corruption.
4. Crimes and criminal offences against the civil service and their characteristics.
5. Analysis of case studies of crimes and criminal offences against the civil service and their evaluation from the criminal law point of view.
6. Prevention of corruption carried out by the state and the appropriate legal acts regulating prevention.

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2. Corruption Prevention Law of the Republic of Lithuania, *Official Gazette*, 2002, No. 57-2297.
3. Law on the Special Investigation Service of the Republic of Lithuania, *Official Gazette*, 2003, No. 38-1657.
4. Law on Civil Service of the Republic of Lithuania, *Official Gazette*, 2002, No. 45-1708.
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¹ The asterisk is used to mark the topics that have been dovetailed to include anti-corruption education into the module.

1. CLASSROOM ACTIVITIES

- 1.1. The system of legal sciences. The constitutional concept of the law, legal norms. The origin and characteristics of the state and the law.*
- 1.2 Regulation of legal relations by legal acts of the state. The features and the system of state governance bodies. Entities in charge of state governance and their area of competence. *
- 1.3. Administrative law as a branch of law focusing on state governance. Normative acts as sources of administrative law. Characteristics, entities and fundamentals of administrative liability. Administrative legislation as the basis of public administration.*
- 1.4. Types of administrative sanctions, their levying and enforcement.
- 1.5. The concept and system of criminal law. The purpose and application of criminal legislation.*
- 1.6. The concept of criminal liability and its objectives. Imposition of punishment. Exemption from criminal liability.*
- 1.7. Procedural measures of coercion. Pre-trial investigation. Case hearing in the court of first instance.
- 1.8. Sources and entities of labour law. Employment. The concept, contents and expiration of the labour contract. Changing the conditions of the labour contract and its termination.
- 1.9. Working and leisure time. Work pay. Systems and types of payment for work. Guarantees and compensations. Discipline at work. Material responsibility. Labour safety.
- 1.10. Employer's responsibility for the injury of employees at work. Compensation in case of accidents at work.
- 1.11. The system of civil laws and their application.
- 1.12. The concept of the family law. Entering into marriage. Declaration of marriage null and void.
- 1.13. Rights and duties of spouses. End of marriage.
- 1.14. Rights and duties of children and parents. Adoption. Guardianship of the child. The legal status of guardians and foster parents of the child.
- 1.15. The concept of the enterprise. The enterprise as a legal entity. The regulation of the procedure of establishing an entity.
- 1.16. Reorganisation and liquidation of enterprises.
- 1.17. International private law. Tasks and application.
- 1.18. Natural persons and legal entities. Representation.
- 1.19. Acquisition and loss of proprietorship. Trust law. Administration of other person's property.
- 1.20. The concept of law of succession, inheritors, forms and inheritance.
- 1.21. The concept of obligation and the basis of its occurrence.
- 1.21. Types of obligations, a guarantee and a restitution. The validity and form of contracts.

2. PRACTICAL EXERCISES

- 2.1. Constitutional law and the social purpose of constitutional law.*
- 2.2. Tasks and sources of administrative law, particularities and elements of administrative procedural relations.*
- 2.3. The purpose and application of criminal laws.*
- 2.4. The principles of labour law. Collective labour relations.
- 2.5. Work pay and work quality.
- 2.6. The structure and purpose of civil laws.
- 2.7. Regulation of international civil relations.
- 2.8. The legal principles of obligations.

LEGAL ACTS

1. European Social Charter (amended, unofficial translation) in *Žmogaus teisės: Europos Tarybos ir Europos Sąjungos dokumentai*. Vilnius, 2000.
2. European Convention for the Protection of Human Rights and Fundamental Freedoms (1950)”, in *Žmogaus teisės. Regioninių tarptautinių dokumentų rinkinys*. Vilnius: Mintis, 1993.
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4. Criminal Code of the Republic of Lithuania, *Official Gazette*, 2000, No. 89-2741.
5. Civil Code of the Republic of Lithuania, *Official Gazette*, 2000, No. 74-2262.
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Practical Exercise No.1

Evaluation of case studies for the lecture *Concept and System of the Criminal Law of the Fundamentals of Law* discipline, taking into account the changes which occurred after the integration of anti-corruption education into the module.

Please read the description of the events and write down the human rights (for example, the right to property, health, life, equity, etc.) which these criminal acts violate.

SITUATION NO. 1. A rural resident and a mother of four small children, Ms. A, was charged with the murder of her child. Ms. A. disguised her pregnancy and when labour pains started she went into the forest to deliver the baby and then strangled it. She explained the criminal act by having no material means to raise one more child. Her husband had approved of her act. Besides, he helped his wife to go into the forest and was next to her when she was committing the crime. Although he had not directly taken the life of the child but he helped to bury the body. The Service for the Protection of the Rights of the Child issued a certificate that the man and the woman were socially degraded, did not care about their children and were constantly drinking heavily.

The criminal event described above violates the following human rights and freedoms:
.....
.....

SITUATION NO. 2. Knowing where two prostitutes settled who had illegally come from Ukraine to Lithuania, two police officers went to visit them and asked them to show their identity cards. Since the two ladies had no documents verifying their legal stay in Lithuania the police officers suggested that they should pay one thousand litas to avoid deportation from the country. The ladies said they had no money and agreed to provide them sexual service free of charge. When later a criminal case was filed it turned out that the police officers had been using the services of ladies for several months.

The criminal event described above violates the following human rights and freedoms:
.....
.....

SITUATION NO. 3. While celebrating a birthday party, one person was by accident injured severely. Investigation of the event revealed that a drunk police officer, Mr. B, was boasting about his official gun to the other guests at the party and gave it to his friend, Ms. C., to have a look at. When Ms. C took the gun, she pulled the trigger by accident. The gun fired off and hit a close-by standing man. Ms. C said she had not seen the gun before and she did not know that it had been loaded and she did not understand what actually happened.

The criminal event described above violates the following human rights and freedoms:
.....
.....

Practical Exercise No. 2

Evaluation of case studies for the lecture “*Concept and System of the Criminal Law. Purpose and Application of Criminal Legislation*”, taking into account the changes which occurred after the integration of anti-corruption education into the module.

Do you think the cases described below, which violate the law, constitute corruption?

Case Description	Does that constitute corruption? (Y/N)
1. The <i>solicitation</i> or <i>acceptance</i> , directly or indirectly, by a government official or a person who performs public functions, of any article of monetary value, or other benefit, such as a gift, favour, promise or advantage for himself or for another person or entity, in exchange for any act or omission in the performance of his public functions.	
2. The <i>offering</i> or <i>granting</i> , directly or indirectly, to a government official or a person who performs public functions, of any article of monetary value, or other benefit, such as a gift, favour, promise or advantage for himself or for another person or entity, in exchange for any act or omission in the performance of his public functions.	
3. Any act or omission in the discharge of his duties by a government official or a person who performs public functions for the purpose of illicitly obtaining benefits for himself or for a third party.	
4. Any act or omission in the discharge of his duties by a government official or a person who performs public functions for the purpose other than illicitly obtaining benefits for himself or for a third party but in violation of legal provisions.	
5. The fraudulent use or concealment of property derived from any of the acts referred to in cases 1, 2 and 3 herein described.	
6. Participation as a principal, co-principal, instigator, accomplice or accessory after the fact, or in any other manner, in the commission or attempted commission of, or in any collaboration or conspiracy to commit, any of the acts of corruption or its concealment.	

The lecture Concept and System of Criminal Law in the Fundamentals of Law syllabus. A case study on the Purpose and Application of Criminal Law, taking into account the amendments introduced after the integration of this syllabus module into anti-corruption education.

Criminal law is a legal framework designed to ensure efficiency of the regulatory norms which:

- 1) Reinforce national criminal policy principles;

- 2) Define which actions infringing prohibitions contained in regulatory norms shall be regarded as crimes or misdemeanours;
- 3) Establish the grounds and conditions for prosecution of perpetrators;
- 4) Lay down the types of sanctions and forms of guilt, etc.

The purpose of criminal law is to guarantee prohibitions laid down by other branches of law. The major *regulatory method* of criminal law is an imperative (which manifests itself by instruction). The key *source* of the criminal law is a criminal code made up of the general and special parts.

In the *general part* of the criminal code:

- 1) There are regulatory general provisions;
- 2) The issues of validity of the criminal law are defined;
- 3) The concept of crime and misdemeanours are defined;
- 4) The stages and forms of criminal acts are identified and defined;
- 5) Liability exemption circumstances are laid down;
- 6) Cases of liability exemption are discussed;
- 7) The concept of sentence is identified along with the issues of imposition thereof;
- 8) Penal measures and the imposition principles thereof are discussed;
- 9) Postponement of the execution of a sentence or remission thereof is described;
- 10) Features of juvenile criminal liability are laid down;
- 11) The period of limitation of criminal liability is regulated;
- 12) Issues of criminal record are discussed ;
- 13) Coercive medicinal measures and the application features thereof are discussed.

Meanwhile, chapters comprising the *special part* of the criminal code define individual criminal acts regarded as crimes or misdemeanours. These criminal acts are classified into groups in terms of the attempted entity, i.e. in terms of legal wealth and values infringed by a criminal act.

Hence, the special part of the criminal law contains rules of the criminal law defining the framework and features of acts classified as criminal acts as well as defining liability and penalties (sentences) to be imposed on perpetrators of particular criminal acts on the basis of principles and statements of the general part of the criminal law. The rules of the special part of the criminal law define the purpose of criminal laws, the application limits, the grounds of criminal liability, forms of perpetrating crimes, establishes the penal framework and imposition of penalties (sentences), as well as tackles other general issues related to criminal prosecution and imposition of sentences on persons who were found guilty.

It shall be underlined that the rules of the special part of the criminal law define specific features of types of crime, characterising relevant elements of crime, and define a sanction which may be imposed for a crime that has been actually committed.

Compared to the rules of the general part of the criminal law, the rules of the special part of the criminal law have a number of specific features: usually the rules of the special part present an exhaustive list of acts regarded as crimes or misdemeanours (*nullum crimen sine lege*), therefore, only by means of applying the rules of the special part is it possible to identify whether an act constitutes a crime or a misdemeanour.

Contemporary written sources of criminal law usually group the rules in terms of the defended good, i.e. in terms of a specific item of a crime/misdemeanour. However, it is equally possible to find a certain group of rules classified under one chapter by more than one specific item. Traditionally chapters start with listings of more serious crimes down to less serious crimes. However, tackling these issues sometimes gives rise to the axiological problem, namely, which of the items of good defended by criminal laws shall be regarded as more valuable and which one as less valuable. The new version of the Criminal Code of the Republic of Lithuania has opted for the following order of chapters of the special part:

1. Crimes against humanity and war crimes.
2. Crimes against the independence, territorial integrity and constitutional framework of the state of Lithuania.
3. Crimes against human life.
4. Crimes against human health.
5. Crimes jeopardising human life and health.
6. Crimes against human freedom.
7. Crimes and misdemeanours against the freedom of sexual choice and inviolability of person.
8. Crimes and misdemeanours against human dignity and honour.
9. Crimes and misdemeanours against children and family.
10. Crimes and misdemeanours against inviolability of private life.
11. Crimes and misdemeanours against equal treatment and freedom of conscience.
12. Crimes and misdemeanours against electoral rights of citizens and against the procedure of Presidential elections, elections to the *Seimas* [national parliament] and municipal councils, and against the referendum procedure.
13. Crimes and misdemeanours against social rights of persons.
14. Crimes and misdemeanours against property, property rights and property interests.
15. Crimes against intellectual and industrial property.
16. Cyber crimes.
17. Crimes and misdemeanours against economic and business framework.
18. Crimes and misdemeanours against financial framework.
19. Crimes and misdemeanours against civil service and public interests.
20. Crimes and misdemeanours against justice.
21. Crimes against public security.

22. Crimes and misdemeanours related to disposal of arms, ammunition, explosives or radioactive materials.
23. Crimes and misdemeanours related to disposal of drugs or psychotropic, poisonous or powerful materials.
24. Crimes and misdemeanours against environment and human health.
25. Crimes and misdemeanours against traffic safety.
26. Crimes and misdemeanours against public order.
27. Crimes against activities of civil or public servants.
28. Crimes and misdemeanours against managerial order.
29. Crimes and misdemeanours against managerial order related to counterfeiting of documents or measuring devices.
30. Crimes and misdemeanours against morality.
31. Crimes and misdemeanours against the memory of the deceased.
32. Crimes and misdemeanours against national defence service.

It is noteworthy that crimes and misdemeanours in each group infringe not only the legal norms laid down in relevant laws, but also the human rights, freedoms or rightful interests enshrined in the Constitution of the Republic of Lithuania (for instance, a person who has committed a robbery, i.e. a crime defined in chapter 28 of the Criminal Code titled Crimes and Misdemeanours against property, property rights and property interests, also infringes the right of another individual to inviolability of his/her property enshrined in Article 23 of the Constitution), which carry corresponding penalties (sanctions) on perpetrators. It can therefore be concluded that by means of fixing the list of prohibited criminal acts the Criminal Code serves as the guardian of human rights, freedoms and rightful interests.

The material provided precludes a conclusion that the object regulated by criminal law is *crime* and *punishment*. The new Criminal Code of the Republic of Lithuania provides a formal definition of crime as a form of criminal act: “*Crime shall mean a criminal act carrying an imprisonment sentence*”. Let’s make a more detailed analysis of elements of crime.

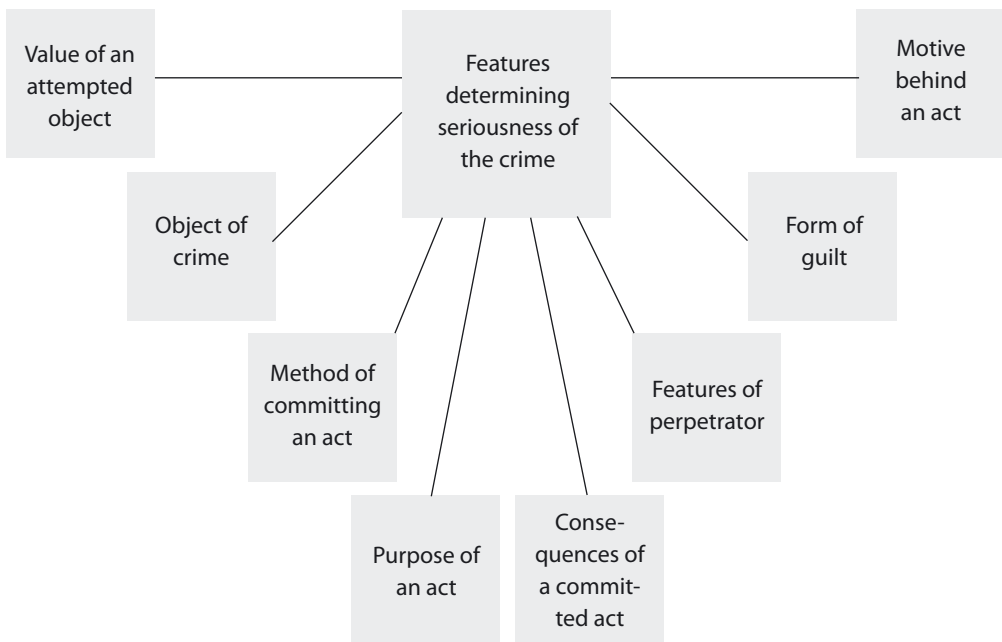
1. *Crime is an act dangerous to the established system of values*. Dangerousness of human behaviour is the first element of crime, a precondition for criminalisation of an act, a guiding principle of a legislator. Non-dangerous acts cannot be criminalised. The degree of danger of an act is a material element of crime, because it illustrates the essence of the crime explaining why a human act shall be regarded as crime. The Criminal Code of the Republic of Lithuania explains “dangerous” as “causing danger, inflicting damage, attempting to infringe or infringing something”. Last but not least, another important fact is whether an attempted object is a state, person or society at large which suffers from a criminal act.

The entire body of societal values may be divided into two groups:

- Values shared by all people that are recognised and respected in a democracy by all political parties (such as human life, health, freedom, dignity, property, public safety). These values are more or less protected (at least by laws) also in totalitarian states;
- Ideological values which are characterised by different approaches of individuals political parties due to a unique scale of values cherished by every society.

Since the highest values are protected by the criminal law, it may be maintained that acts with the highest degree of danger jeopardising the highest values are regarded as crimes.

Crimes differ in terms of the degree of danger that they pose. They can be defined by two aspects, namely the nature and degree of danger.



The degree of danger is mostly determined by the value of an attempted object. For instance, bodily harm differs from robbery in terms of degree of danger, because infliction of bodily harm is a more serious crime considering the higher value of human health against that of property.

Meanwhile, several identical or homogenous crimes may differ in terms of degree of danger which is conditioned by the level of presence of certain features (e.g. serious bodily harm is more dangerous than a mild bodily harm, etc.).

2. Incompatibility of an act with the criminal law. Only such dangerous activity which is criminalised in the law is regarded as crime. This feature means not only that the activity concerned poses threat to certain values, but also the existence of a legal act

describing elements of an unwelcome behaviour and stipulating criminal liability. Criminal laws are specific in that they formulate prohibitive rather than imperative legal rules. They prohibit committing acts which are described by criminal laws.

If at least one element of a crime is missing, no crime has been committed. Elements of crime are the basis for launching criminal prosecution.

1. A committed act is regarded as dangerous to the established values, but not contradicting the criminal code.

2. An act contradicts the criminal code, but poses no danger to the established system of values and does not inflict damage thereon.

A short overview of certain types of criminal acts

Concept of crime against human life and health (posing threat to human life and health)

One of the main tasks of criminal law is to protect individuals and their most precious values against criminal intents. The Constitution of the Republic of Lithuania proclaims that individual's right to life shall be protected by the law, that human freedom and personality shall be inviolable, and that human dignity shall be protected by the law. In addition, these provisions are enforced in the Criminal Code of the Republic of Lithuania.

Whilst in objective terms, interests of an individual are violated by every crime, only a certain group of crimes targeting at specific and direct as well as major (rather than minor) object, such as a person as a creation of nature, including his/her major and inherent features shall be regarded as crime against a human life. In most countries criminal codes grade crimes against an individual as the most serious type of crimes. An object of significant crimes against individuals is the same person, i.e. a biologic creature, an individual. A direct object of such crimes may be life, health, freedom or dignity of a person. In terms of direct object, crimes against persons are grouped as follows:

- 1) Crimes against human life (premeditated murder, aiding and abetting suicide);
- 2) Crimes against human health (various bodily injuries, illegal abortion, abandonment of a person in a life-threatening situation);
- 3) Crimes against human freedom (child kidnapping or swapping, illegal deprivation of freedom, taking hostages);
- 4) Sexual crimes (statutory rape, forced sexual intercourse for women, sexual abuse);
- 5) Crimes against human honour and dignity (slander, libel, offence).

Concept of crimes and misdemeanours against the civil service and public interests

Article 33 of the Criminal Code of the Republic of Lithuania defines the elements of crimes and misdemeanours against the civil service and public interests. Article 5 of the Constitution of the Republic of Lithuania provides for that the powers of the state shall

be exercised by the Seimas, the Government, and the Judiciary. The scope of powers shall be defined by the Constitution. *Institutions of power shall serve the people. Civil and public servants shall discharge their official duties properly, respecting the established working discipline and the loyalty to the state.* These statements emphasise the importance of the overall state machinery – the guarantee of the human rights and freedoms and the guarantee to exercise them. This very much depends on integrity, senses of duty and responsibility of individuals in civil employ. Article 3(1) of the Civil Service provides for that the civil service in the Republic of Lithuania shall be based on the principles of the rule of law, equality, political neutrality, transparency, and career development. Adherence to these principles in the civil service provides for real guarantees of protection of human rights, freedoms, interests, legality in the public life and life and economic welfare of the state, etc.

Staff in civil employ is responsible for performing certain functions of public authorities and bodies, i.e. they are entitled and obliged to provide appropriate public services to citizens. However, when they fail to perform their duties or perform them improperly, dishonestly or by abusing their office to serve their own interests, they disorganise and destroy work of the civil service in various areas and levels of activity, suspend or even block the implementation of important projects or enforcement of laws, etc. Such acts constitute direct or indirect infringements of human rights and freedoms, impoverishing welfare of all members of the society. It is noteworthy that the level of consequences of attempt to abuse public office is directly linked with the significance of duties held by the perpetrator: the higher the position in civil service is held by the perpetrator, the more grievous consequences his/her criminal activity may bear, particularly in political terms. *Therefore, crimes against civil service distort or disregard provisions of the Constitution on the duty of those in power to serve the people, which undermines people's trust not only in the civil service in general, but in the state as such.*

Crimes against civil service mean dangerous acts of people, who when engaged in civil employ and by abusing office inflict material damage to the interests of the state or other individuals. These crimes are always related to the occupational status of the perpetrator. The perpetrator holds office in civil service and can therefore become the subject of such crimes. Hence, crimes against civil service, unlike other similar crimes, such as crimes against the state or against the administrative procedure, are committed by in-house servants, i.e. the work of the civil service is encroached from within. Namely the occupational status provides a person with a possibility to commit an act which constitutes a sign of objective elements of a crime against the civil service.

Certain public office held or mandate in the civil service are used (provide for possibilities) to commit a criminal act, i.e. to act contrary to the interests of the service. Such acts infringe the principles of civil service, usual activities of institutions with the public service mission, contradict the obligations and functions of the civil service. In some cases such crimes are committed by making a direct abuse of power or competence, in other cases criminal act is committed in the area other than official authority of the perpetrator, but by exercising duress to activities of other individuals engaged in civil

employ. The position held with the civil service, as well as the nature and significance thereof, have a direct impact on the nature and scale of impact of the infringement of civil service. In addition, it has to be noted that crimes against civil service violated not only the general requirements applicable to it and enshrined in the laws, they also constitute failure to enforce or improper enforcement of special requirements enshrined in other laws, for instance, in the code of conduct or job descriptions.

The very title of “crimes against civil service” reveals not only the typical object of this type of crimes, but also defines an area against which such crimes are committed. Pursuant to the Law on Civil Service of the Republic of Lithuania, civil service means public administrative, managerial or technical activities of a civil servant in public authorities and agencies. Public and municipal institutions mean representative, executive and judiciary authorities as well as the institution of the Head of the State, and institutions and agencies exercising control (supervision). Civil service is therefore, the field of public management, handling and provision of services. Activities and relations of civil service are dominated by public interest. Enforcement of the public interest as a statutory and legal interest of the society is one of the most significant conditions of existence and development of the society.

Place of committing a crime against civil service does not necessarily coincide with the place of public office of the perpetrator. Illegal acts may be committed outside public office held by the perpetrator, e.g. in another state or municipal institutions or agency. The perpetrator, by means of abusing his/her office, official relations or authority may exert duress on other individuals to force them to commit certain acts.

Since crimes against civil service (except for misconduct in office) often manifests itself as criminal acts whereby by means of abuse of office in state institutions a perpetrator is seeking personal gain and interests and by doing so violates the interests of the state, such crimes are described as comprising elements of corruption. It is noteworthy that these types of crime are often of an international significance (e.g. regulation of foreign investments and credits, award of service contracts, privatisation process involving participation of foreign capital).

On the basis of understanding of crimes against civil service, the typical object of such crimes are considered to be normal and effective activities of state and municipal institutions and agencies not contradicting the principles of the delegated authority, rule of law, the Constitution, laws and other legal acts. A direct target of such crimes is normal and effective activities of state and municipal institutions and agencies which are carried out in accordance with the principles of the delegated authority, the rule of law, the Constitution, laws and other legal acts, such as statutes and job descriptions.

Therefore, the typical object and direct target of crimes against civil service are described on the basis of identical type of values, while possible additional values may be the personality, health, dignity, property, etc. of the aggrieved party.

An objective side of crimes against civil service usually manifests itself in the form of active actions. Elements of several types of crimes against civil service (bribe taking,

corruption on the part of the intermediary) are described as formal elements, which do not mean, however, that these crimes do not result in certain consequences. Every crime against civil service inevitably constitutes a violation of usual activities of state and municipal institutions and agencies undermining their authority. Rather often such crimes bear obvious or miscellaneous consequences, while sometimes they can be discovered only after some time since a criminal act has been committed; this is why such consequences are not indicated in the set of elements of individual crimes.

The content of the target, the level of seriousness of crimes and the resulting consequences, the mechanism of committing such crimes or emergence of consequences as well as other features allow presupposing a special subject of crimes against civil service – civil or public servant.

The Law on Civil Service defines a civil servant as a natural person who has acquired the status of a civil servant and performing public administrative, managerial or technical activities of a civil servant in a state or municipal institution or agency or providing public services.

The subjective side of crimes against civil service is defined by the law as deliberate criminal act comprising elements of corruptive nature or personal gain. The degree of deliberateness of crimes against civil service is determined on the basis of several factors. A perpetrator:

- 1) is aware of his/her status as a civil servant;
- 2) is aware of his/her authority, duties and functions he/she is obliged to fulfil as prescribed by the laws, other legal acts regulating the civil service and the employment contract;
- 3) is aware that his/her actions in office may bear legal or other consequences;
- 4) Is aware that his/her acts (or omission) go beyond his/her authority, competence or contradict the interests of the service and as such are prohibited;
- 5) foresee damage which may be inflicted by his/her illegal acts when abusing office;
- 6) understand that such behaviour is related to the duties currently held or are inseparable from them, and apart from its harmful consequences also undermines the authority of civil service;
- 7) Is seeking to carry out illegal acts which are related to his/her official duties or is attempting or deliberately permits occurrence of consequences resulting from such actions. From the point of view of consequences the deliberate act of the perpetrator often lacks concreteness. If the formal elements of the crime against civil service are described, the psychological and wilful relation of the perpetrator is identified only from the point of view of the act concerned.

With regard to individual types of crime against civil service (for instance, bribe taking or illegal participation in commercial or financial activities of the company) seeking personal gain is not directly identified as an essential element. The manner of committing such crimes, circumstances, the subjective part, however, presuppose the motives and aims of deliberate personal crimes against civil service.

GINTARĖ ŠATIENĖ

ASPECTS OF BUSINESS ETHICS

Business (Commercial) Law Course Module

PURPOSE OF THE DISCIPLINE

1. Familiarise students with the concept of business law, its sources and system.
2. Examine legal relations of business, entities of business law and their legal status.
3. Analyse types of enterprises, their establishment, reorganisation, licensing and liquidation.*
4. Clarify the bankruptcy procedure of enterprises and the process of their restructuring.
5. Discuss the issue of responsibility in commercial relations.
6. Examine the main aspects of business ethics (the concept of ethics, its object and functions, its importance in public administration and business, the principles of professional ethics and values of civil servants, the importance of discretion with regard to ethics in public administration).*
7. Familiarise students with the problems of ethics and their causes.*

The objectives identified in paragraphs 3, 6 and 7 of the discipline of business (commercial) law relate to corruption as a problem of business ethics and to the reasons for its occurrence.

To examine corruption in business, the following additional sub-themes require attention:

1. The concept of ethics and corruption as a problem of business ethics.
2. The spread of corruption (its level and scale) in Lithuania.
3. The causes and consequences of corruption.
4. Problems of abusing public office.
5. Analysis of practical problems and situations of ethics.
6. Anti-corruption activity and its directions.

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2. Rose-Ackerman S., *Korupcija ir valdžia: priežastys, padariniai ir reforma*. Vilnius: Vaga, 2001.

PRACTICAL EXERCISES

The tasks are targeted at students of business (commercial) law, taking into consideration the changes to the module that appear after anti-corruption education is integrated into it.

TASK NO. 1. In your opinion, what are the causes of corruption in Lithuania? Please note the statements you agree with and add more to supplement the list.

External reasons	Internal reasons
<ul style="list-style-type: none"> • lack of proper mentality • lack of civic awareness • unclear and controversial public attitude towards corruption • lack of resistance against corrupt civil servants • passiveness of citizens in anti-corruption activities • improper legal acts, their frequent amendment and legal collisions • non-punishment • inefficient control systems and witness protection programmes • inefficient legal procedures and measures • inefficient procedures of appointment, suspension and dismissal of public officials • lack of professional code of ethics for civil servants • unemployment • inefficient health insurance system • small salaries of civil servants 	<ul style="list-style-type: none"> • improper data protection • lack of control • improper organisation of work • lack of qualification • lack of clearly defined powers • weak risk administration • lack of the principle of rotation • motivated career system • underdeveloped internal and external audit systems • insufficiently transparent decision-making process • the remaining preconditions of corruption while appointing managers of companies with the predominantly state capital and defining their responsibilities, etc.

TASK NO. 2. Assess the impact of traditional anti-corruption measures.

Corruption reduction measure	The impact is targeted towards? (please insert)
Huge fines for corruption and increasing liability	
Increasing salaries for public officials	
Increasing funds for special services	
"Hot lines"	
Public education (increasing intolerance towards corruption)	

TASK NO. 3. Answer the questions below:

1. Where do you draw the line between a gift and a bribe?
2. What is your attitude towards gift-giving of things of small value: a calendar, a postcard, a package of coffee?
3. Can a civil servant accept a gift, for example, a picture, and show it publicly?

4. Should a code of ethics for civil servants be developed?
5. What measures should the leaders of civil service institutions take to encourage exemplary conduct of their staff and what sanctions should they impose to punish those who do not behave properly?
6. What measures and sanctions are lacking and what action do you think should be taken?
7. What strategy could be used to fight corruption?

VAIVA ZUZAVIČIŪTĖ

PRIVATE INTERESTS AND REPRESENTATION

The Course Module of Life-Long Learning Strategies

The course is a part of the curriculum of the first level of group C (speciality), designed for students of the bachelor's study programme in andragogics; the lectures are also attended by future bachelors of psychology and sociology. In total – 71 students.

GENERAL DESCRIPTION OF THE LECTURES

The purpose of the lectures is on the basis of sources (scientific literature, documents, etc.), to provide opportunities to discuss and provide arguments for publicising and protecting private interests in the broader context within the discourse of life-long learning by indicating the forms acceptable to a democratic society.

PLACE OF THE MODULE IN THE COURSE

J. Delors' report on the opportunities of public and economic development in the unified Europe that was publicised in the last decade of the twentieth century has revealed several fields where learning is emphasised – learning to work and co-exist together and learning to be a citizen. Co-existing together means developing appropriate social skills covering inter-cultural communication and co-operation; learning to be a citizen means learning to solve a variety of local, regional, national and international level problems. The accomplishment of social (reduction of social exclusion and integration of various social groups), ecological and political tasks is integrally related to two aspects – participation and strengthening of social cohesion appreciating diversity. Learning to be citizens covers the knowledge of how to express opinions according to the procedures acceptable to a democratic society and having the courage to do so. The essence of active citizenship is the protection of one's interests and needs as well as the interests and needs of one's immediate surroundings, various associations, movements and the community and also common and unique social values, one's own rights and the rights of individuals who find it difficult to protect them themselves (marginal groups, minors, the disabled, etc.). Ensuring that each person, each member of the community or society adheres to the principles of the rule of law is the principal condition for the creation of a society of equal opportunities. It is possible to misuse power in all layers of the socio-economic structure: a grown up can misuse his powers in respect of a child, a healthy person in respect of a disabled one, a full-fledged citizen in respect of an immigrant. Surveys have revealed that the misuse of power is spread in all countries and, therefore, in the EU educational policy documents, having acknowledged that features such as active citizenship, actively defending one's rights and voluntary fulfilment of one's duties have to be promoted and developed, this issue deserved special

attention. In the module of the course devoted to anti-corruption education, separate attention is given to appropriate ways of expressing the power and the duty of citizens and especially of educational specialists (as the listeners of the course are mainly the future teachers and managers) to protect their own rights as well as the rights of those they are responsible for. The module uses a broad approach to the concept of anti-corruption which covers not only the misuse of power of officials, but also that of private persons and every individual that has some kind of power over another person and his misuse of this power. To highlight this modern conception of anti-corruption, the ideas expressed in an article by A. Raudonienė, a pre-doctoral law student, grounding the necessity to protect one's rights at all levels were used.

AFTER HEARING THE LECTURES, THE STUDENTS WILL BE ABLE TO:

- Distinguish between a private and public interest;
- Discriminate between life-long learning strategies in the light of education/self-education of an individual and a citizen;
- Understand the dissemination of the diversity of active citizenship in a democratic country;
- Indicate the opportunities of active citizenship within the discourse of life-long learning.

DISTRIBUTION OF HOURS DEVOTED TO THIS SUBJECT

A total of eight hours are devoted to this subject (of this number, six hours are lectures, one hour is individual work and one hour is testing knowledge through discussion).

EVALUATION

The following aspects are evaluated – familiarity with the material presented in the reading material and participation in the discussions.

METHODS

These lectures are an integral part of the course. They are delivered after familiarising the students with the basic requirements, topics and issues of the course, as well as with various didactic material. Active participation is encouraged (learning based on the *discovery* method) as the students are already familiar with this lecture organisation logic. The second method that is used is *learning by participating*. Individual search for reading material, questions and doubts should be encouraged as the topic under consideration is related to the active position of citizens. *Group work* method is also applied. This work is generalised by providing examples of associations and representation phenomenon in the society; a lecture where the main topics are emphasised. For the discussions, reading material is prepared and the students can familiarise themselves with it in advance; the information, data and arguments are searched for to ensure a meaningful discussion.

EXTENDED PLAN OF THE LECTURES

LECTURE 1

1. Democracy – general principles and the diversity of concepts.
2. Private and public interests – a conflict and their adjustment.

Stage	Method	Literature, materials
Previous lecture	Lecture	The argument structure was introduced.
When preparing for the lecture	Independent work (analysis of prepared texts and recommended literature)	Compulsory literature: 1) <i>Mokymosi visą gyvenimą strategijos. Sąvadas</i> . Kaunas, 2003, Chapter 3; 2) Reading material I (Pranevičienė B., <i>Kvaziteismai administracijos kontrolės sistemoje</i> . Vilnius, 2003).
Lecture or consultation	Group discussion	<i>Questions for initial discussion based on the reading material:</i> What seems to be most important? Why? What makes you doubt and what would you like to dispute? Ground your opinion. <i>Questions to elaborate on in the discussion:</i> How would you describe private and public interests? What is especially important to Lithuania in this respect? Why? Are private and public interests separated in our country? Where do they intertwine? In which fields do they have to intertwine? In which fields and why should they not intertwine?
	Generalisation of discussions	<i>Questions to generalise the discussion:</i> What are the roles of an educationalist, a teacher of adults, when protecting the fields where private and public interests should not intertwine? Why is it important to discuss these issues in a democratic society?
	Lecture	The concepts of public and private interests are being analysed, as well as their links in the context of human rights and active citizenship, and proper manifestations of private interests in a democratic society.
	Generalisation	On the basis of the reading material, discussions, and the material presented during the lecture, generalisations were made regarding the legal and acceptable (to a democratic society) way of publicising and protecting private interests and why this is important for a democratic, knowledge society.

Literature

1. Pranevičienė B., *Kvaziteismai administracijos kontrolės sistemoje*. Vilnius, 2003, p. 27-32.
2. Raudonienė A., “Modernėjanti klasikinio korupcijos apibrėžimo Lietuvoje kaita”, *Jurisprudencija*, t. 32 (24), 2002, p. 114-121.

LECTURE 2

1. Representation in a democratic society.
2. The forms of manifestation of private needs in the democratic space.
3. Active citizenship – the origin of the concept, its diversity and the essential elements.

Stage	Method	Literature, materials
Previous lecture	Lecture	The concepts of public and private interests were analysed.
When preparing for the lecture	Independent work (analysis of prepared texts and recommended literature)	Compulsory literature: 1) <i>Mokymosi visą gyvenimą strategijos. Sąvadas</i> . Kaunas, 2003, Chapter 3; 2) Reading material II (Welton M., <i>Pilietinė visuomenė ir viešoji sfera</i>).
Lecture or consultation	Group discussion	<i>Questions for initial discussion based on the reading material:</i> What seems to be most important? Why? What makes you doubt and what would you like to dispute? Ground your opinion. <i>Questions to elaborate on in the discussion:</i> Are there any problems that arise for certain people that are not publicised and represented in our country? If there are, then what type of problems are these? If there aren't, then who gives publicity to them and represents them? Which NGOs do you know? If you are participating in the activities of an NGO, introduce the goals, forms of activities and target groups that it attempts to represent. Share your experience and say whether it's an easy job. Are you represented by an NGO? What are the opportunities for active citizenship education/self-education in our country in the light of life-long learning? Provide examples of how citizens express their will. What are the rights and opportunities to express it? Why do people sometimes not exercise these rights and opportunities?
	Generalisation of discussions	<i>Questions to generalise the discussion:</i> What aspects of personal, social and professional activity should we learn in the light of life-long learning strategies? How would you do this?
	Lecture	The theory of J. Habermas on social learning; associations in a democratic society; the essence of the concepts of active citizenship and their diversity; the expression of active citizenship activity.
	Generalisation	On the basis of the reading material, discussions, and the material presented during the lecture, generalisations were made regarding one of the life-long learning strategies – the promotion of active citizenship.

Literature

1. Chambers C., “Feminist Discourse / Practical Discourse”, in J. Mehan, (ed.), *Feminists Read Habermas*. New York: Routledge, 1995.
2. Dahl R. A., *Demokratija ir jos kritikai*. Vilnius: Amžius, 1994.
3. Habermas J., *Between Fact and Norms: Contribution to a Discourse Theory of Law and Democracy*. Cambridge, MA: MIT Press, 1996.

Lecture 3

1. Memorandum on active citizenship within the strategy of life-long learning – is it an innate ability or something that can be achieved through education?

Stage	Method	Literature, materials
Previous lecture	Lecture	The concept of active citizenship, the activities of citizens, responsibilities, rights and obligations, as well as exercising them, were analysed.
When preparing for the lecture	Independent work (analysis of prepared texts and recommended literature)	Compulsory literature: 1) <i>Mokymosi visų gyvenimą strategijos. Sqvadas</i> . Kaunas, 2003, Chapter 3. 2) Reading material III (an extract from the memorandum on life-long learning).
Lecture or consultation	Lecture	Versatility of social life in the European Union. Learning as a way of identifying and solving social and political problems.
	Group discussions	<i>Questions for initial discussion based on the reading material:</i> What seems to be most important? Why? What makes you doubt and what would you like to dispute? Ground your opinion.
		<i>Questions to elaborate on in the discussion:</i> What arguments can be provided to prove that active citizenship, the ability to work together and culture are the centre of attention of life-long learning? Which of these aspects are being implemented in Lithuania? Which ones are still lacking? Which aspects of learning to co-exist and work together would you emphasise? Why?
		<i>Questions to generalise the discussion:</i> Why, under life-long learning strategies, is it not enough to develop only professional competence? Which public phenomenon existing in Lithuania could be mitigated only by learning to properly co-exist and work together?

	Generalisation of discussions and lectures	On the basis of all three reading materials, discussions, and the material presented during the lectures, generalisations were made by emphasising individual abilities and capabilities (in respect of opportunities and their diversity) to learn to seek the harmony of competences; professional and personal competences; active citizenship competence as participation in public affairs, protection of private interests in the way that is acceptable and appropriate to the rule of law and a democratic, knowledge society.
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Literature

1. Dahl R. A., *Demokratija ir jos kritikai*. Vilnius: Amžius, 1994.

REFLECTION ON THE LECTURES

After delivering the course module of life-long learning strategies “Private Interests and Representation” for students of the bachelor’s study programme in andragogics, the students were asked to reflect on the considered topics and the discussions.

Working in groups of 5-7, the students identified several levels where an andragogue, a teacher of adults, can contribute to the formation of a civic society:

- *Individual level*: here individual responsibility is the most important;
- *Community level*: here the role of an individual, educational and state institutions and non-formal education organisations is important;
- *Economic level*: seeking to attain cohesive and sustainable development, the efforts on the part of the trade unions and organisations as well as an appropriate national strategy are required.

The students defined the responsibility of an andragogue:

- *motivation*, for example, to convince a person that it is important to develop his competence; to show a person that he is important in the organisation; to encourage people not to be afraid of innovations and to use them; to demonstrate the relational link of the new competence with the practice;
- *assistance for learners*, for example, to teach how to properly allocate time; to help to acquire individual work skills; to create adequate conditions for learning (place, time and materials); to create a proper and safe environment for learning (favourable atmosphere and confidentiality); to tell about the diversity of learning opportunities and to create the conditions to choose (for example, the appropriate working methods);
- *civic position*, for example, to educate, not sticking to the principles of competition; to promote active citizenship; when preparing the future teachers, to emphasise civic responsibility; to help people adapt in the organisation.

ROMAS PRAKAPAS**SOLUTION OF CORRUPTION
AS A MORAL ISSUE IN A CODE OF ETHICS****A Lecture of Professional Ethics Course****OBJECTIVE**

To familiarise students with codes of ethics as sources of solving moral issues.

METHODS

Group work, text analysis and interpretation, contemplation.

MATERIAL

Texts (codes of ethics, descriptions of the concept of corruption), tables with the analysis of codes of ethics, a scheme picturing the concept of corruption.

PROCESS

1. Students learn that specialists of different areas usually perform their activities on the basis of certain values and that representatives of different organisations and professions often develop and agree on certain principles, declarations and codes of ethics, etc. All of these matters are certain imperatives helping to ensure in a formal way proper professional conduct of a certain group. According to Palidauskaitė (2001), the mission of codes of ethics is to be an intermediary in formal relations between the general public and representatives of a certain profession or organisation and define the interrelations between the members of a certain profession or organisation. The necessity to define such interrelations comes to the forefront in the event of various crises, scandals and in particular when solving ethical issues. This happens because the majority of problems arise in the so-called in-between situations, when values intertwine with legal issues (deceit, corruption, abuse, conflict of interests, etc).
2. Students are divided into groups and each group is given different codes of ethics (see Bibliography below). The groups analyse the code of ethics and identify their objective, values, principles, advantages and disadvantages.
3. The groups present their work by filling out the table shown below:

Codes of Ethics		
Objectives	Values	Principles
Advantages		Disadvantages

The discussion reveals the main objectives of codes of ethics (prevent unethical conduct; set boundaries of responsibility; promote ethical conduct; perform a function of moral education; discipline representatives of the profession or members of the organisation; help in decision-making; increase public trust; create a better image of the profession to the public), values and principles (care, good will, honesty, accountability, equity, respect, civic awareness, etc), advantages and disadvantages.

- Students are given texts with the concept of corruption and introduced to the scheme of corruption (corruption = monopoly + secrecy - accountability) (See Fig. 1), on the basis of which corruption (gift, bribe, individual or systemic corruption) is examined as an ethical issue.

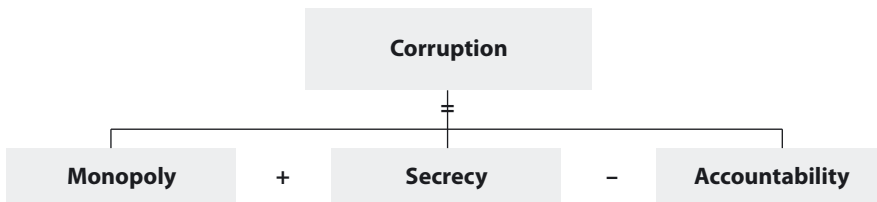


FIG. Scheme of the Concept of Corruption

- After identification of the objectives, values and principles of codes of ethics and examination of the concept of corruption, students receive the task to highlight the opportunities for corruption prevention established in the codes of ethics. While looking at the text of the codes of ethics, groups of students fill out the table and summarise their solutions on a flip-chart, as follows:

Manifestation of Corruption	Prevention Measures in Codes of Ethics

- After summarising the tasks performed by the student groups and putting them down on the flip-chart, the students think about reaction to corruption as an ethical issue originating from the codes of ethics. A discussion is held to find out why representatives of certain professions fail to abide by the adopted codes of conduct.

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OPTIONAL COURSE MODULES

TADAS TAMOŠIŪNAS

CORRUPTION AND ITS PREVENTION

Optional Course

PURPOSE AND SCOPE OF THE COURSE AND ITS RELATION WITH OTHER DISCIPLINES

The course will familiarise students with the concept of corruption, its nature and manifestation in different spheres of public life: politics, economics, law enforcement, etc. It will also provide knowledge about prevention of corruption and develop adequate skills. The content of the course is based on a multi-disciplinary approach, lying on sociology, history, law, political science and other social and humanitarian sciences. The duration of the course is 80 hours (including 32 hours of lectures and exercises and 48 hours of individual work).

RELEVANCE OF THE COURSE

While undermining trust in the state, slowing down economic progress, restricting democratic development, impeding activities of individuals in various private business areas, corruption has a very negative impact on the development of the state and social co-existence. Bearing in mind the role of prevention played by education, it is relevant to introduce this complex phenomenon of corruption to future specialists in more detail. Besides that, the course will be useful from the more overall social point of view, because every person, to a smaller or bigger extent, encounters corruption, which calls for an adequate and competent reaction.

TASKS

1. Familiarise students with the concept of corruption and its characteristics in various areas of public life, analyse its impact from the point of view of an individual, institutions and society.
2. Examine the legal and organisational basis for the prevention of corruption, familiarise students with the corruption preventive initiatives taken in Lithuania and abroad.
3. Build students' abilities to identify corrupt practices and strengthen their civic anti-corruption attitude.

CONTENT OF THE COURSE

TOPIC NO. 1 "Concept of Corruption"

Corruption as a universal historical phenomenon. A variety of definitions of corruption and relation with the socio-cultural context. Expansion of the definition of corruption and its comment. Analysis of the concepts of unlawful *promise*, *offer* and *giving* by a person in different areas of social life in Lithuania.

TOPIC NO. 2 “Types of Forms of Corruption”

Measurements of manifestation of corruption: its forms, scale and impact. Administrative, political, private sector and international corruption. Classification of corruption used by the Special Investigation Service of the Republic of Lithuania: bureaucratic, regulatory, preventive and eliminating consequences. Grand and petty corruption.

TOPIC NO. 3 “Factors and Conditions of Corruption”

International economic globalisation, privatisation and public procurement. Consumption culture. Relativity of values in the Post-Soviet countries. Lack of transparency in funding political parties and campaigns. Tradition of nepotism. Fragile civic society. Weak institutes ensuring legal liability.

TOPIC NO. 4 “State of Corruption in Lithuania”

Methodology for measuring corruption. Findings of sociological surveys and their development in recent years. Controversial public opinion. Views of international organisations towards corruption in Lithuania. The main consequences of corruption in the country: decreasing efficiency of investment, limited competition, smaller amount of taxes collected, weakening trust in state institutions, etc.

TOPIC NO. 5 “Legal Grounds for Preventing Corruption”

Direct and indirect impact upon corruption. Preventive measures against conflict of interest. Declaration of property and income. Increasing transparency in economic relations. Conditions for giving gifts and engaging in lobbying activities. Provisions of the Law on Civil Service. National Anti-Corruption Programme. The main organisations involved in the prevention of corruption. Corruption scandals in Lithuania and their legal and political assessment. Whom to report to corruption practices.

TOPIC NO. 6 “Political, civic and educational initiatives”

Holistic approach towards prevention of corruption. Anti-corruption strategies in the OECD countries. Mass media as a stimulant of corruption prevention. The importance of civic pressure towards prevention of corruption. The relationship between prevention of corruption and responsibility, democracy and critical thinking, etc. Anti-corruption education and practice in Lithuania.

EVALUATION OF THE COURSE

Aggregate mark.

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SAMPLES OF EXPANDED TOPICS

TOPIC NO. 1 “Concept of Corruption”

Corruption as a universal historical phenomenon. A variety of definitions of corruption and links with the socio-cultural context. Expansion of the definition of corruption and its commentary. Analysis of the concepts of *promise*, *offer* and *giving* in different areas of social life in Lithuania.

Tasks

1. Familiarise students with the concept of corruption and the other important concepts of the course. Formulate a simple and at the same time comprehensive definition of corruption.
2. Disclose the complexity and diversity of the phenomenon of corruption.

I. Introductory lecture (plan)

1. Students are familiarised with the importance of corruption studies, presenting a short definition of this phenomenon (the misuse of power for personal gain). The focus is made on the destructive impact of corruption on society. The complex nature of corruption is a characteristic typical of Post-Soviet countries. The reference is made to the publication of T. G. Grosse “Anti-Corruption Actions in the Countries of Organisation for Economic Co-operation and Development (OECD)” placed on the website of the Special Investigation Service of the Republic of Lithuania (see http://www.stt.lt/lt/files/antikorup_1_dalis.pdf and http://www.stt.lt/lt/files/antikorup_2_dalis.pdf (in Lithuanian)).

2. Discussion is held about the importance of having a holistic approach towards corruption in the life of an individual and society because we all encounter corruption, some more often than the others. The issue is raised concerning corruption preventive functions of teachers. The emphasis is put on the importance of critical analysis and the main arguments 'for' and 'against' corruption are presented (the same publication of T. G. Grosse can be used as a reference). Corruption is mentioned in the context of social institutionalisation: the fight against corruption often becomes a way of expressing one's interests (for example, many politicians favour anti-corruption slogans).
3. The historical nature of corruption is disclosed: the Ancient Orient (examples of administrative corruption¹), Republic of the Two Nations (examples of political corruption²), the Republic of Lithuania during the inter-war period (the bacon cutting case, Sakharin's case and stamps' case³), Soviet Union (examples of administrative and political corruption⁴). A short recollection of the recent corruption scandals in Lithuania. It is highlighted that corruption is impossible to eliminate entirely yet it may be reduced and controlled.
4. Presentation of corruption definitions formulated by the United Nations, Transparency International, international and Lithuanian authors, and the ones laid down in the legislation of the Republic of Lithuania (Law on Special Investigation Service of the Republic of Lithuania). The problem of making the definition.
5. The seminar participants are provided a memo with the main concepts used during the course (žr. Annex below).

II. "Your Position" (discussion method)

Duration

The duration of the exercise is 1–1.5 hours, with 10–30 students participating.

Purpose

While applying the method, students are encouraged to examine their attitude towards corruption and the ability to share opinions is developed despite individual differences.

Process

1. A piece of paper is placed in one part of the classroom with the sign '+' on it and another piece of paper, in another part of the classroom, with the sign '-' on it.

¹ See manuals on ancient history, for example, J. Varnienė "Senosios civilizacijos" (Vilnius: Vilniaus knyga, 2004).

² Žilėnas A., *LDK finansų pagrindai*, d. 1. Vilnius: Lietuvos banko leidybos ir poligrafijos skyrius, 1996; Ragauskas A., *Vilniaus miesto valdantysis elitas XVII a. II pusėje*. Vilnius: Diemedis, 2002.

³ *Lietuvių enciklopedija*. Bostonas: Lietuvių enciklopedijos leidykla, 1961.

⁴ Voslenskij N., *Nomenklatura*. Moskva: Progress, 1995.

2. The students are told that different statements will be read out. Those who agree with the statement should move to the classroom with the sign ‘+’ on it and those who disagree, to the opposite side, with the sign ‘-’ on it. Those who have no opinion should stay in the centre of the classroom and will not be able to comment their views.
3. The first statement is read out. (Sample examples: “While going to a doctor, you should bring him something”, “It is normal to have an agreement with the traffic police: it is beneficial for both parties and it is not harmful to society”, “Corruption speeds-up decision-making”, etc.) The statements made should be controversial and make it possible to proceed with the situations of follow-up consequences. For example, it is beneficial to have an agreement with the traffic police but if it turns into common practice it may happen that a drunk driver who is released by the traffic police against a bribe runs over a pedestrian.
4. After the statement is read out, all the students take one of the possible positions and each of them is asked to comment their choice. Each student is given 2-3 minutes to ground their choice.
5. When all the opinions are listened to, those willing to change their choice may proceed to the other side of the classroom.
6. After examining of all the statements, a discussion is held to cover the following issues:
 - Was it difficult to choose the position? Why? Was it difficult to stand in the centre of the classroom and have no opportunity to express your opinion?
 - Which arguments were expressed? What were they based on: facts or emotions? Which ones were more effective?

Note. The statements may be changed and adjusted yet it is essential to keep them debatable.

Experience in Applying the Method

The method described above was applied while working the students of History Faculty of Vilnius Pedagogical University. It helped to achieve the objectives of the exercise, prepared students for a follow-up examination of corruption, strengthened their critical attitude towards stereotypes prevailing in society and the clichés tolerant of corruption. For example, several respondents said that it is always worth ‘giving’ to a doctor because then you would receive better services and save your time on procedures (a common stereotype and from social psychology we know that a strong attitude determined adequate behaviour). Yet the discussion went further in expanding the thought: what would happen to people who were not able to pay the doctor and which negative consequences could be expected from a doctor who studied medicine paying bribes and did not require the necessary knowledge. Several times students mentioned the tradition of clientele relations rampant in Lithuania. They said that it is difficult to

find employment without the help of acquaintances and patrons and this circumstance justifies corruption. There were students who challenged this thought and provided grounded arguments that commitment to work (and primarily studying) in a market economy pays off and corruption in the private sector, which is mostly based on competence, is not advantageous.

Evaluation

This exercise is introductory and its purpose is to have opinions expressed rather than evaluate the knowledge or skills possessed. Therefore, participation should suffice for evaluation.

ANNEX. Key Concepts used during the Course

Anti-corruption education is development of anti-corruption attitudes of citizens.

Anti-corruption standards are a set of behavioural and legal norms that help to the maximum reduce corrupt conduct.

Clientele relations is a system of relations based on mutually beneficial commitments and connections of a guardian and another person or a group of persons (clients).

Conflict of interests a situation where a person in the civil service, when discharging his duties or carrying out instructions, is obliged to make a decision or participate in decision-making or carry out instructions relating to his private interests.

Corruption is misuse of public power for personal gain (one of the possible definitions).

Criminal acts related to corruption include bribery, bribery of intermediary, other criminal acts committed in the public administration sector or while providing public services for one's own benefit or for the benefit of third persons, including: abuse of office or exceeding one's authority, abuse of official power, counterfeiting documents or measuring devices, fraud, misappropriation of property or embezzlement, disclosure of official secret, provision of false data about income received, profit generated or property owned, legalisation of illegally obtained money or property, interference with activities of a civil servant or a person performing the functions of public administration or other criminal acts when they are committed seeking or demanding a bribe, bribery or to disguise or conceal bribery or bribe-taking.

Detection and prosecution of corruption is disclosure of acts of corruption and implementation of the principles of equity and inevitability of punishment.

Identification of corruption is the ability to manifestation of corruption in a timely and thorough manner.

Forms of corruption according to the area of its occurrence are administrative, political, private sector, and international.

Forms of corruption according to the purpose of acts are bureaucratic, regulation, preventive, and of eliminating consequences.

Lobbying activities are remunerated actions of lobbyists that are used to influence amendment, supplementation or invalidation of legal acts, adoption or non-adoption of new legal acts. The purpose of those activities is to fulfil the interests of the client with no prejudice to human rights or public and state interests.

Lobbyist is a natural person or an enterprise, institution or organisation put on the list of lobbyists in compliance with the procedure established by law.

Money laundering is conduct whose purpose is to conceal or to make appear as legal the illicitly acquired origin of proceeds.

Nepotism is the clients' system which involves support of relatives.

Patron is a part of the system of clientele relations, an institution or a person guarding or protecting someone or something.

Prevention of corruption is elimination of causes of and factors contributing to corruption.

Principles of public administration include the rule of law (activities are based on legal grounds), objectivity (actions must be unbiased), and prohibition against abuse of authority (prohibition from performing unauthorised actions or for making decisions within the scope of their competence for purposes other than those prescribed by law).

Private interests are private economic or non-economic interests of a person in the civil service or his close relative or a family member which may affect his decision-making in the discharge of his official duties.

Public administration is the activities of state and local authorities, regulated by laws, intended for the implementation of legal acts and local government ordinances and for the administration of planned public services.

Public interests are the public's expectations with regard to impartial and just decision-making of the persons in the civil service.

TOPIC NO. 6 "Political, Civic and Educational Initiatives"

A holistic approach towards preventing corruption. Anti-corruption strategies in the OECD countries. Mass media as a stimulating factor of corruption prevention. The importance of civic pressure for the prevention of corruption. The relationship between corruption prevention and responsibility, democracy and critical thinking, etc. Anti-corruption education and its practice in Lithuania.

Tasks

1. Evaluate opportunities of preventing corruption and expand them in the closest environment of students.
2. Strengthen anti-corruption position of students and, indirectly, that of their colleagues.

Duration

The topic is covered in 8 academic hours of workshops and 10 hours of individual work.

Introductory Lecture (Plan)

During the lecture the teacher reminds students of the key statements presented during the previously discussed topic, “Legal Grounds for the Prevention of Corruption”, and highlights that it is not sufficient to have a legal regulation and prosecution in place; it is also necessary to have a proactive role played by civic society and mass media, conduct anti-corruption education and carry out other initiatives. The teacher presents examples of how mass media initiated facts of corruption (scandals of Paksas and members of the Seimas). While noting the complex nature of corruption, the importance of mature civic society is emphasised. Integrity and law abiding are some of the main civic virtues that are best established in Western democracies. To illustrate the importance of civic society, an Italian case is examined fully discussed in the study of R. Putnam “To Have Democracy Work”⁵. On the basis of qualitative and quantitative data presented by Putnam the teacher shows the influence of civic attitudes and conduct on the system of clientele relations, patronage, indifference of public officials, abuses and other manifestations of corruption. The underlining idea leading to follow-up work is the importance of civic virtues and civic ethics in the prevention of corruption.

II. “We develop a Code of Ethics for Teachers (Students) of High Education Establishment” (a pro-active method)

Process

1. **During the first workshop**, the teacher reminds students of the recent survey findings which show that corruption in high education establishments has become a systemic phenomenon; he (she) highlights the importance of ethics and suggest conducting a practical exercise “We develop a Code of Ethics for Teachers (Students) of Higher Education Establishments”. One constituent element of those codes could be prevention of corruption.
2. Depending on the number of participants, they are divided either into two or four groups (1 + 1 or 2 + 2) which are tasked to develop codes of ethics for teachers and students. The first task is to have the groups discuss the functions of such codes in the academia (possible use of the brainstorming method).
3. Working groups present the functions of codes discussed, the teacher summarises them and formulates another task: examine the documents defining activities of teachers and students in the Republic of Lithuania (the Statute of Higher Education Establishment, Law on Education, Law on Higher Education) and abroad (for example, statutes of foreign universities). The main objective of

⁵ Putnam R., *Kad demokratija veiktų*. Vilnius: Margi raštai, 2001, p. 114–159, 215–251.

homework is to identify places in the documents where are directly or indirectly related to the ethics of teachers and students.

4. The first task of the **second workshop** is to have working groups agree on the places of documents highlighted at home, amend them and approve as appropriate for the codes to be developed. The groups present their views, take notes of remarks and suggestions.
5. The second task is to formulate positions of the codes developed which are not solely based on the formal documents examined but also include provisions on morality and ethics. The latter are often of relative nature, hence it is essential to agree on common position and discuss it. The working groups present their wordings, ground their importance and listen to critical remarks. The homework is to include suggestions made into the codes and bring the amended texts of codes to another workshop.
6. The teacher says that the draft codes developed will be assessed by the potential targeted group, i.e. teachers and students. He (she) offers the interview method and reminds them of the main requirements for conducting an interview.⁶
7. Following the teacher's advice, a representative of each group interviews several teachers and students to find out their opinion about the codes developed. They could also interview the administration, for instance, heads of departments, deans, etc.
8. **The third workshop** starts with the discussion of data collected during interviews. The groups supplement the codes developed. If a code of ethics for teachers and another one for students is developed by two groups each, some time is set for reaching a common position and developing a joint document. The final versions of documents are reviewed and proof-read.
9. The teacher introduces another stage of presenting the codes developed to the academia. The presentation will involve all the members of working groups who will present all the paragraphs of the codes and comment them. Plans are made with regard to the date of presentation, the audience, technical equipment, etc.
10. **The fourth workshop** is about the presentation of the codes developed to the academia, i.e. invited teachers, administrative staff, leadership of the Students' Union, and students who agreed to take part in the event. The presentation is carried out following the procedure agreed in advance. It is worthwhile commenting why certain points were included into the code; the examples, answers of the respondents and other material used while preparing the code.
11. The event is finalised with the suggestion that the codes developed should be put on the agenda of the department, faculty, university administration, or the Students' Union, hoping that they will be further improved and finally pub-

⁶ One could rely on a variety of methodological material, for example, K. Kardelis "Socialinių tyrimų metodologija" (Kaunas: Judex, 2003, p. 194–200).

lished. Since ethical attitudes are formed over a long period of time, it would be difficult to expect that a final document could be formulated during the presentation, yet it could set “the mind rolling” and at least “tickle morality”. This also helps to strengthen anti-corruption position.

Evaluation

The evaluation comprises the student’s participation in group work, the quality of interviews, and presentation of the codes developed. The evaluation of this exercise constitutes up to 25 per cent of the overall evaluation as it covers 25 per cent of the overall time of studies set for the optional course.

Contemplating over the Method

1. While developing the code of ethics for teachers (students) I learned that...

.....
.....

2. While developing the code of ethics for teachers (students) I learned (to do, to act, to be, etc)...

.....
.....

3. While developing the code of ethics for teachers (students) I realised that ...

.....
.....

GINTARĖ ŠATIENĖ

CORRUPTION AND ANTI-CORRUPTION POLICY

An optional course for BA studies

Expanded Programme

PURPOSE OF THE COURSE

1. Develop the civic maturity of students, their sense of responsibility and ability to recognise a possible conflict between private and public interests.
2. Help students form a critical attitude towards corruption as a multifaceted problem of society and the state.

TASKS

1. Provision of knowledge about corruption as a multifaceted problem.
2. Examination of reasons for corruption and the ways of eliminating it.
3. Assessment of the damage of corruption.
4. Examination of characteristic features of the Lithuanian anti-corruption policy.
5. Overview of the European Union anti-corruption policy.

CLASSROOM ACTIVITIES

Lectures and Exercises

TOPIC NO. 1 "A Variety of Corruption Concepts"

Lecture (2 hours)

The objective is to familiarise students with various concepts of corruption as a problem of society and the state, summarise them and form a critical attitude towards this phenomenon.

Tasks and issues to be examined

1. Provide a criminological and legal description of corruption.
2. Familiarise students with the classical definition of the concept of corruption.
3. Discuss the definitions of corruption provided for in the legislation of the Republic of Lithuania.
4. Examine descriptions of corruption laid down in the legislation of the European Union institutions.
5. Summarise different definitions of corruption, identify their advantages and disadvantages.

Exercise (2 hours)

The objective is, looking at the characteristic features of this phenomenon, to formulate an accurate definition of corruption.

Tasks and issues to be examined

1. Understand and critically assess striving for personal gain and opportunities to abuse power for personal gain.
2. Identify concealment as an obvious feature of corruption.
3. Examine active and passive characteristics of corruption.
4. Relate theory with practice, taking into consideration assessment of possible cases of corruption.
5. Provide arguments while presenting the work results.
6. Co-operate while sharing ideas and experience.

Methods

1. Group performance of tasks and presentation of work results within the group.
2. Situation analysis: case assessment from the manifestation of corruption point of view.
3. Pair work in examining the course outline (questionnaire) to provide grounded responses.

TOPIC NO. 2 "Types and Forms of Corruption"

Lecture (2 hours)

The objective is to help students understand and examine types and forms of corruption and specify their characteristics.

Tasks and issues to be examined

1. Discuss the place of corruption in a democratic state guided by the rule of law.
2. Analyse bureaucratic, business, preventive, regulation corruption and that of liquidating consequences.
3. Examine administrative and political corruption, private sector and international corruption of economic relations (transactions), as well as corruption related to international organisations.
4. Identify characteristic features of various types and forms of corruption and assess them.
5. Identify the impact of political systems and regimes on the concept of corruption and the forms of its manifestation.

TOPIC NO. 3 “Manifestation, Identification, Diagnostics and Spread of Corruption”

Lecture (2 hours)

The objective is to help students understand the opportunities of corruption manifestation and develop their abilities to recognise cases of corruption.

Tasks and issues to be examined

1. Analyse the Corruption Perception Index.
2. Examine external relations with other bodies and inner relations within the institutions.
3. Discuss the elements of identification and diagnostics of corruption.
4. Become familiar with the trends of corruption ‘hot spots’.

Exercise (4 hours)

The objective is to help students identify cases of corruption and the probability of its manifestation.

Tasks and issues to be examined

1. Become familiar with the methods of investigating corruption.
2. Analyse the cases of alleged corruption.
3. Become familiar with statistics and learn to provide arguments when presenting it.
4. Discuss the opportunities of investigating corruption.
5. Examine the data of an interview with the experts.
6. Learn to discuss corruption scandals.

Methods

4. Group work and presentation of work results within the group
5. Situation analysis: case assessment from the manifestation of corruption point of view.
6. Free writing, discussion in pairs and within the group.
7. Reading and summarising.
8. Putting separate elements of the topic into one structure showing the whole picture.

TOPIC NO. 4 “The Scale and Level of Corruption in Lithuania”

Lecture (4 hours)

The objective is to familiarise students with the findings of the survey of the level, scale and new trends of corruption and discuss them.

Tasks and issues to be examined

1. Become familiar with the areas of public life most prone to corruption.
2. Examine and assess the findings of the survey of the level, scale and trends of corruption.
3. Examine the features of the relative level of corruption in Lithuania.
4. Discuss the trends of corruption in Lithuania.

TOPIC NO. 5 “Level and Spread of Corruption in the European Union”

Lecture (2 hours)

The objective is to learn about the features of the level and spread of corruption in the European Union member states (Germany, France, Italy, Spain, etc.).

Tasks and issues to be examined

1. Make an assessment of the level and spread of corruption in the EU.
2. Identify the characteristic features of the level and spread of corruption in the EU as opposed to the level and spread of corruption in Lithuania.
3. Compare instances of corruption occurring in Lithuania with instances of corruption in the EU member states.

TOPIC NO. 6 “Accidental and Systematic Corruption in Lithuania”

Lecture (2 hours)

The objective is to learn about characteristic features of accidental and systematic corruption in Lithuania and assess these types of corruption.

Tasks and issues to be examined

1. Examine the features of accidental corruption and the instances of its manifestation in Lithuania.
2. Examine the particularities of systematic corruption in Lithuania.
3. Discuss the process of how accidental corruption turns into systematic corruption and the reasons for that.
4. Examine the situations; look at them from accidental and systematic corruption perspectives.

TOPIC NO. 7 "Causes for Corruption and their Analysis"

Lecture (2 hours)

The objective is to examine different views about the causes of corruption; discuss their advantages and disadvantages.

Tasks and issues to be examined

1. Familiarise students with the economic theories of causes for corruption.
2. Examine the features of the economic view of corruption and the methods of anti-corruption influenced by it.
3. Discuss the organisational theory of causes for corruption.
4. Identify a cause and effect relation between corruption and the lack of institutional control.
5. Familiarise students with the ethical and cultural theory of causes for corruption.

Exercise (4 hours)

The objective is to examine a complex of causes for corruption and on the basis of these make an assessment of Lithuania.

Tasks and issues to be examined

1. Learn to identify causes for corruption.
2. Examine the formulas of the economic theory of the causes of corruption and the probability of bribe-taking.
3. Analyse a complex of factors contributing to the occurrence of corruption.
4. Learn to explain the features of the organisational theory of corruption.
5. Discuss the main aspects of the ethical and cultural theory of corruption.
6. Assess corruption and the lack of institutional control.
7. Comprehend the relation between the morality of public officials and corruption.

Methods

1. Group performance of tasks and presentation of work results within the group.
2. Situation analysis: case assessment from the manifestation of corruption point of view.
3. Free writing, discussion in pairs and within the group.
4. Group performance of tasks and supplementation of answers after analysis of their part of the text. Presentation of the results.

TOPIC NO. 8 “An Integrated Theory of Corruption”

Lecture (2 hours)

The objective is to familiarise students with the integrated theory of corruption, emphasising corruption as a universal phenomenon which has existed in a variety of time frames and public systems.

Tasks and issues to be examined

1. Familiarise students with the concept and features of corrupt public officials.
2. Analyse the mechanism of a theory of neutralising personality.
3. Examine depersonalisation of a decision taken by a public official, its essence and meaning.
4. Discuss the mechanisms ensuring depersonalised decisions (bureaucratic career, bureaucratic ideology, and legal sanctions).
5. Examine the personal features of a public official, emphasising the inner conflict.
6. Discuss the consequences of the inner conflicts of a bureaucrat.

TOPIC NO. 9 “Threat and Consequences of Corruption and their Analysis”

Lecture (2 hours)

The objective is to make students familiar with various perceptions of the threat of corruption and its consequences, summarise them and form a critical attitude towards the damage of corruption.

Tasks and issues to be examined

1. Discuss negative outcomes of corruption defined in legislation.
2. Become familiar with the views of different authors towards the threat and consequences of corruption.
3. Summarise the views of different authors towards the threat and consequences of corruption; identify areas of public and private relations that experience outcomes of corruption.
4. In the context of those areas, analyse concrete consequences of corruption (for example, unimplemented objectives of the state authorities, increasing governance expenditure, worsening quality of administrative work, deteriorating conditions for operating the market and private business, decreasing efficiency of the market, etc.).

TOPIC NO. 10 "Corruption and Law. Law Enforcement Agencies and Corruption"

Lecture (2 hours)

The objective is to examine the relation between corruption and legislation in the context of the operation of law enforcement bodies and politics.

Tasks and issues to be examined

1. Discuss the relation between corruption and legislation (for instance, violation of a criminal law, discretion and powers of a public official, and the definition of corruption provided in the legislation, etc.).
2. Analyse the relation between the civil service and corruption by identifying the opportunities for corruption to occur in the civil service.
3. Discuss the particularities of political corruption, with the primary focus on criminal acts against the right to participate in elections.
4. Analyse corruption and the effect of the lack of institutional control over it.

Exercise (4 hours)

The objective is to help students understand the opportunities for corruption in the civil service, public administration and politics.

Tasks and issues to be examined

1. Examine the particularities of bureaucracy and the right of discretion.
2. Discuss the personality of a bureaucrat, his or her characteristic features and learn to separate positive features of this personality from negative ones.
3. Learn to evaluate the role of bureaucracy in corruption.
4. Analyse the inner conflict and social and psychological consequences of such conflict; properly understand its meaning.
5. Examine legal provisions regulating the civil service and public administration (transparency of the civil service and public administration, recruitment into the civil service and public administration, their operation and accountability) and their role in anti-corruption policy.
6. Discuss the features of political corruption and the necessity to limit the powers of politicians.
7. Using the knowledge gained during the other disciplines, properly perceive and examine concrete cases of manifestation of corruption in the law enforcement bodies, politics and public administration, identify and formulate the main ideas and proposals on how the legal system should be improved to reduce the opportunity for corruption to occur in the areas mentioned.

Methods

1. The use of the composition method to select the features corresponding to a concrete case of corruption.
2. Work in small groups and pairs when analysing the situations.
3. Questioning method and presentation of results.
4. Reading and summarising in pairs.

TOPIC NO. 11 “Key Aspects and Constituent Parts of the Corruption Prevention System”

Lecture (2 hours)

The objective is to make students familiar with the features of the corruption prevention system.

Tasks and issues to be examined

1. Examine the concept of corruption prevention.
2. Discuss the origin and sources of the concept of the fight against corruption in Lithuania.
3. On the basis of international practice, examine the features of continuity and stability of a successful anti-corruption strategy.
4. Identify and examine separate constituent parts of the system of organisation of the fight against corruption.
5. Identify the key constituent parts of the fight against corruption and highlight their advantages.

TOPIC NO. 12 “Development and Implementation of the Anti-Corruption Policy in Lithuania”

Lecture (2 hours)

The objective is to examine the characteristic features of development and implementation of anti-corruption policy in Lithuania.

Tasks and issues to be examined

1. Examine the concept of anti-corruption policy.
2. Discuss the constituent parts of anti-corruption policy.
3. Examine the impact of the lack of benchmarks on anti-corruption policy.
4. Learn about anti-corruption legislation.
5. Discuss the bodies fighting corruption and evaluate their performance.

Exercise (2 hours)

The objective is to help students understand the necessity of having a corruption prevention system and to discuss its advantages and disadvantages.

Tasks

1. Examine the legal and institutional basis for fighting corruption.
2. Discuss anti-corruption legislation and its key provisions.
3. Familiarise students with the practical application of anti-corruption legislation.
4. Examine the problems related to the adoption procedure of anti-corruption legislation and formulate the decision-making options in relation to them.
5. Discuss the operation of anti-corruption bodies and specify their advantages and disadvantages.

Methods

1. Group performance of tasks and presentation of work results within the group.
2. Situation analysis: evaluation of actions taken by anti-corruption bodies.
3. The use of the composition method to select the features allowing identification of deficient anti-corruption legislation.

TOPIC NO. 13 “Legal Basis for the Prevention of Corruption in Lithuania”
Lecture (4 hours)

The objective is to examine the legal basis for the prevention of corruption in Lithuania.

Tasks and issues to be examined

1. Learn about the main features of historical development of the legal basis for corruption prevention.
2. Specify and examine the main provisions of the national anti-corruption strategy.
3. Discuss the basis for the lawfulness of property and funds.
4. Examine the conditions for the prevention of money laundering.
5. Examine lobbying activities and their conditions.
6. Learn about the system of the civil service and public administration and its transparency.
7. Discuss a transparent political system and the features of its operation.
8. Examine the main features of the right to access information about the operation of state and municipal bodies.

TOPIC NO. 14 “Features of Anti-Corruption Policy in the European Union Member States”

Lecture (2 hours)

The objective is to make students familiar with the main features of anti-corruption policy in the EU member states.

Tasks and issues to be examined

1. Particularities of the perception of anti-corruption policy in the EU member states.
2. Legal acts regulating the particularities of anti-corruption policy in the EU.
3. The main anti-corruption policy measures applied in the EU member states.
4. Comparison of the main features of anti-corruption policy undertaken in the EU member states with the Lithuanian anti-corruption policy.

Exercise (2 hours)

The objective is to understand the importance of the anti-corruption policy and identify factors contributing to a successful fight against corruption.

Tasks and issues to be examined

1. Examine the practice of corruption implemented in concrete member states of the EU (for example, Germany, France, etc.).
2. Discuss the opportunities to apply anti-corruption projects of those countries in Lithuania.

Methods

1. Situation analysis and group work in selecting positive and negative features of an anti-corruption policy implemented in a concrete state.
2. Brainstorming and discussion of responses in groups.
3. Reading and summarising.

Total duration of lectures: 32 hours.

Total duration of exercises: 16 hours.

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SAMPLE LECTURE

A Variety of Corruption Concepts

People say that little has changed from the times of the Roman Empire: power corrupts and absolute power corrupts absolutely. Newspaper headlines and TV talk about offences committed by civil servants around the globe¹. The phenomenon of corruption is as old as the world itself. Different literature sources say that corruption has existed since the times of the establishment of public service, official positions and trust in public officials². Those words prove to be true as seen from about 150 cuneiform inscrip-

¹ Christian D., Fisanick A., Csonka P. ir kt., *Šiuolaikinis nusikalstamumas*. Kaunas: Vytauto Didžiojo universitetas, 2002, p. 18-19.

² Justickis V., *Kriminologija*, 1 d. Vilnius: Lietuvos teisės universitetas, 2001, p. 344-345.

tions discovered by Danish archaeologists in the town of Raka, Syria, and announced in December 1997. The inscriptions showed that this was the administrative centre of the Assyrian civilisation which existed in the 13th century B.C. The archaeologists found a special archive belonging to an institution equivalent to the present Ministry of the Interior which contained data about bribe-taking officials³. Today nobody doubts that the problem of corruption exists both in Lithuania and other countries on a scale that is difficult to define. Official legal proof of the existence of corruption is official statistics of registered and investigated crimes of corruption corresponding to specific articles of criminal law and analysis of court decisions taken after the court hearings of appropriate criminal cases.

It should be highlighted that corruption is one of the main characteristics of organised crime, manifesting itself as the development of the security system from social control⁴. In fact, it is no surprise to anyone that organised crime groups have links with law enforcement and state authorities. Perpetrators use bribery, services, blackmail, and friendship connections to obtain information of interest to them, allowing them to act safely, avoid criminal liability or cushion it. Organised crime is almost always related to corruption, hence posing a threat to a country's system of government and political security⁵. For example, the Organised Crime Investigation Centre established in Kharkov, Ukraine, has gone as far as making the following radical conclusion: organised crime cannot survive for a long time without the support of public officials⁶. Undoubtedly, this kind of support is secured by links to corruption.

Thus corruption is a phenomenon destroying the state from the inside. The state is destroyed by those who should be protecting it. This is an extremely huge problem calling for a comprehensive analysis, which should look not only at the concept and nature of corruption as a separate socio-economic phenomenon but also examine its causes, consequences, prevention and investigation of concrete corruption practices.

The social phenomenon of corruption has existed since ancient times as one of the most widespread forms of behaviour, extremely damaging to the civil service. The first attempts to fight corruption by means of criminal law in Europe are associated with the Criminal Code, issued in 1810 under Napoleon, which established considerably strict punishment⁷. Corruption is some sort of mystical phenomenon: everybody talks about

³ *Measures to Prevent Corruption, Study of European Centre for Parliamentary Research and Documentation in the EU Member States*. Strasbourg, 1999, p. 36-42.

⁴ Gutauskas A., *Tarptautinio organizuoto nusikalstamumo prevencijos organizavimas Lietuvoje*. Vilnius: Lietuvos teisės universitetas, 2000, p. 38.

⁵ Dapšys A., "Organizuotas nusikalstamumas ir korupcija: prevencijos ir kontrolės sistemos kūrimo Lietuvoje prielaidos ir perspektyvos", in *Teisės problemos*, Nr. 4. Vilnius, 1997, p. 61; Resolution No. 10-220 of the Government of the Republic of Lithuania, *Concerning the Organised Crime and Corruption Prevention Programme*, Official Gazette, 1999.

⁶ "Survey of the Struggle of Law Enforcement Agencies Against Corruption in Ukraine", in *Organised Crime Watch*, Volume 1, No. 6. Washington, D. C., 1999, p. 9-10.

⁷ *Explanatory Report to the Criminal Law Convention on Corruption (ETS 173)*. Strasbourg, 1999 (<http://conventions.coe.int>).

it but nobody can specify exactly what it is. There is a prevailing opinion that crimes such as acceptance of a bribe or undue remuneration and giving a bribe are inseparable from the concept of corruption. Yet it is also obvious that although corruption includes those crimes it is not limited only to them. Before we shed light on the nature and concept of this phenomenon we will not be able to develop a multifaceted system to control it⁸. Bearing this in mind, during the first lecture on corruption and anti-corruption policy it is essential that we learn about the concept of corruption and have a look at the international, as well as Lithuanian, legal acts defining it.

As mentioned before, corruption of some sort or scale has existed since the birth of the state government. Legal or illegal bribery of public officials, judges or officials of different levels of the government has been long tolerated or subject to punishment. It happens often the problem of corruption becomes a tool of ideology and politics. People say that the growing relations of market economy in Lithuania (ownership, production, commerce and consumption) are more criminal than legitimate. “Sovietisation” of these problems, i.e. attaching the blame for all the troubles to the former state and social formation may sound persuasive only to the naïve. The real matter is that Lithuania is experiencing the formation of “wild” capitalism market relations, which have been in existence in other countries since the beginning of last century. In other words, Lithuania is lagging behind the social, economic and other relations of democratic capitalism formed in the civilised Western states some fifty or more years ago⁹. What is said about this phenomenon allows us to infer that corruption of some form and scale has existed since the establishment of the state of Lithuania. The present transitional period, which started in the late 1970s, has activated the problem, with the scale of corruption growing and taking on new forms. All of this creates the need to show more interest in this phenomenon, analyse it, and take efforts to fight it effectively. Yet in order to carry out those tasks effectively, first of all we have to understand what corruption is. Therefore, we should start with the issue of the concept of corruption, defined both on the global as well as the national scale.

The Dictionary of International Words reads as follows: “Corruption [*Lat. corruptio* – deterioration, bribery] is the abuse of official position for personal gain; bribery of an official or a political figure.”¹⁰ Another Dictionary of International Words gives a broader definition of this word: “Corruption is acceptance of a bribe by a public official or a political figure for the performance of duties or a violation of the law seeking personal or mutual gain, giving a bribe, bribery.”¹¹ More academic sources using the term corruption reveal that it involves behaviour of public officials, their abuse of power or distinct position for personal, selfish reasons. I think it is not permissible to use an in-

⁸ Jočienė D., “Korupcija postkomunistinėse šalyse”, *Teisės problemos*, 1997, Nr. 1, p. 81.

⁹ Pivoriūnas A., “Nusikaltimai valstybės tarnybai ir korupcija – problemos ir jų sprendimo būdai”, *Justitia*, 1997, Nr. 6, p. 14.

¹⁰ *Tarptautinių žodžių žodynas*. Vilnius: Alma littera, 2001, p. 405.

¹¹ *Tarptautinių žodžių žodynas*, A-K. Vilnius: Žodynas, 1999, p. 673.

ternational word in the national legal acts without giving its official definition. Bearing in mind the complexity and danger of corruption phenomena, it is not permissible to rely on the explanation of the term provided in the Dictionary of International Words or international legal instruments. It is noteworthy that one of the requirements set for laws and regulations is clarity.

In 1999, a group of authors headed by the State Security Department conducted the study "Preliminary Evaluation of Corruption Situation in Lithuania and Preparation of Outline of Strategy for Fight Against Corruption". The study was ordered by the Ministry of Foreign Affairs of the Republic of Lithuania and initiated by the Phare programme. In the section "Definition of Corruption in Lithuanian Legislation and other Legal Acts", the authors of the study noticed that "The term corruption is used in legislation and other legal acts of the Republic of Lithuania; however, the key shortcoming of our legal system and the legislature is that we still lack a strict and legal definition of corruption." We must take immediate measures to do this, otherwise the anti-corruption strategy and the object will remain unclear and undefined. As a result, all the legal and other practical anti-corruption measures, corruption prevention tactics and practice will remain rather ineffective.¹² The draft *Outline of the National Anti-Corruption Strategy* signed in October 1999 by the head of the Special Investigation Service says that "the concept of corruption should not be forgotten while carrying out legal reform in Lithuania and it should be reflected in appropriate legislation."¹³ Regretfully, the newly adopted criminal law has not included the definition of this phenomenon although we are talking about dangerous matters that are in conflict with the law.

Admittedly, attempts have been made to solve the legal problem by providing a definition of corruption in draft Law on the Special Investigation Service of the Republic of Lithuania and draft Law on the Fight against Corruption and Racketeering of the Republic of Lithuania, both of which have been submitted to the Seimas. The former legal document reads as follows: "Corruption is the abuse of official position or related opportunities by state politicians, public officials or civil servants seeking to obtain illicitly certain benefit for themselves or other persons, also provision of certain benefits or privileges to state politicians, public officials or civil servants by natural persons or legal entities in exchange for the performance or non-performance of their official duties, as well as any intentional acts of organising, instigating, aiding or participating as an intermediary in the commission of the acts specified in this paragraph."¹⁴

This definition is followed by a long explanatory note. It is rather a broad definition which at present is important only from a theoretical point of view. As a result, we pay attention to the appropriate international legal instruments. In this domain, the

¹² The study "Preliminary Evaluation of Corruption Situation in Lithuania and Preparation of Outline of Strategy for Fight against Corruption". Final report. Vilnius, 1999, p. 4.

¹³ *Draft Outline of the National Anti-Corruption Strategy*. Developed by the Special Investigation Service, 1999.

¹⁴ Ibid.

key international instrument is the Criminal Law Convention of Corruption, No. 173, signed on 27 January 1999 in Strasbourg. Among the signatories to that Convention were authorised representatives of the Republic of Lithuania. Paragraph 1, Article 6 of the Convention* provides for the following forms of corruption¹⁵:

1. The solicitation or acceptance, directly or indirectly, by a government official or a person who performs public functions, of any article of monetary value, or other benefit, such as a gift, favor, promise or advantage for himself or for another person or entity, in exchange for any act or omission in the performance of his public functions;
2. The offering or granting, directly or indirectly, to a government official or a person who performs public functions, of any article of monetary value, or other benefit, such as a gift, favor, promise or advantage for himself or for another person or entity, in exchange for any act or omission in the performance of his public functions;
3. Any act or omission in the discharge of his duties by a government official or a person who performs public functions for the purpose of illicitly obtaining benefits for himself or for a third party;
4. The fraudulent use or concealment of property derived from any of the acts referred to in this article; and
5. Participation as a principal, co-principal, instigator, accomplice or accessory after the fact, or in any other manner, in the commission or attempted commission of, or in any collaboration or conspiracy to commit, any of the acts referred to in this article.

Analysis of the forms of corruption specified in the above-mentioned Convention shows that analogous descriptions of prohibited acts were included in the Criminal Code of the Republic of Lithuania¹⁶ valid until 1 May 2003 (Articles 282-284 and others), as well as the new Criminal Code of the Republic of Lithuania¹⁷ (Articles 225-228) valid after 1 May 2003. They include the relevant forms of corruption, i.e. bribe-taking, bribe-taking by an intermediary, and bribery, which are also defined internationally. However, there is no definition of corruption as a separate phenomenon either on the international or national scale. Paragraph *b* of Article 7 of the Commentary to the United Nations Code of Conduct of Law Enforcement Officials says that the definition of corruption must be subject to national law.¹⁸ We have already mentioned that Lithuanian legislators did not attempt to define corruption, hence building grounds for a general doctrine.

* Apparently, the author is quoting the Inter-American Convention against Corruption (<http://www.oas.org/juridico/english/Treaties/b-58.html>) (translator's note)

¹⁵ *The TI Source Book Part A: Analytical Framework*.

¹⁶ Criminal Code of the Republic of Lithuania, *Official Gazette*, 1997, No. 118-3046.

¹⁷ Criminal Code of the Republic of Lithuania (approved by 26 September 2000 Law No. VIII-1968). Vilnius: Ministry of Justice, 2000.

¹⁸ *The TI Source Book Part A: Analytical Framework*.

We encounter only limited attempts to describe corruption. For instance, the Government Resolution of the Republic of Lithuania, *Concerning the Corruption Prevention Programme*, approved the Organised Crime and Corruption Prevention Programme.¹⁹ The developers of the Programme, who assessed the analysed situation in the second part, have presented the following two aspects of corruption:

1. Corruption is a set of white-collar crimes.
2. Corruption is a factor ensuring the existence of organised crime.

The Programme also notes that organised crime is almost always related to corruption. Such symbiosis of organised crime groups and corrupt public officials may manifest itself when criminal structures adopt legal acts favourable to them, when they “guard” smuggling in oil, alcohol, tobacco, weapons and drugs, prostitution, trade in stolen vehicles, when leaders of organised crime groups are not criminally prosecuted or such prosecution is not properly performed. Hence the Programme sees organised crime as a complex system of various links and relations between crime groups and crimes committed by their members (usually as a business) and seeking to ensure safety for such activities resorting to bribery of officials and corruption. This understanding comes in handy in attempting to comprehend the essence of corruption. Crimes and offences against the civil service and public interests defined in the criminal law allow us to identify two types of corruption according to the domains in which they are manifested: state governance corruption and commercial corruption. A conclusion can be made that the Lithuanian Corruption Prevention Programme identifies facts of corruption identical to corrupt practices mentioned in the International Convention against Corruption, yet the difference between the two documents is that the latter narrows down the concept of corruption to the area of state governance. Corruption of state governance is a precondition of a stable and secure functioning of organised crime groups and a guarantor of profit from illicit business. On the other hand, this maximum profit provides more opportunities to continue bribing officials who, unfortunately, find it extremely difficult to resist the temptation of quickly and easily becoming rich as they systematically obtain huge amounts of money from organised crime groups.²⁰ The share use of the general and type-oriented subject and the statements listed in the above mentioned programmes do not allow us to define the types of corruption. We should perform a more thorough analysis of the phenomenon and identify its limits. A bribe-taking public official or civil servant often engages in committing other types of crime; bribery may precondition other types of crime and block the opportunity to restore justice. If all customs officials or border guards were honest people, smuggling as a phenomenon would almost disappear or its scale would be minimal.

¹⁹ Resolution No. 10-220 of the Government of the Republic of Lithuania, *Concerning the Organised Crime and Corruption Prevention Programme*.

²⁰ Bluivšteinai J., *Kriminologija*. Vilnius: Pradai, 1994, p. 256.

Generally speaking, in the context of all the crimes committed in the country, corruption (in its narrow sense) is not very widespread and constitutes on average 0.1 per cent of the registered crimes. Yet we should not be complacent about such statistics and remain vigilant because another qualitative characteristic (latency) of corruption or bribery is committed more professionally: bribes are given or taken via reliable intermediaries. However, this assumption is difficult to ground using practical examples; it is best known to operatives. Perhaps this is part of the reason why official statistics are so small in number.

It is difficult to fight phenomena that are latent. "Such crimes include economic, organised and professional crimes, including corruption, smuggling, tax evasion, counterfeiting of currency, drug trafficking, prostitution, etc."²¹ The problem of factual data revealing bigger numbers than statistics was identified by the 7th Symposium of Criminologists of the Baltic countries. Why is that? Both the bribe-giver and the taker are interested parties and they are happy with the achieved result. In most cases, both parties have material or another type of gain. When the benefit is reciprocal, there is no one to complain. In this case, corrupt practices are revealed only by operative forces. Official statistics also include cases when there is no reciprocal interest, i.e. one party is not happy.

We could conclude that corruption in Lithuania can be described as follows:

- 1) it manifests itself in a number of areas;
- 2) this old phenomenon has become particularly widespread during the transitional period after the restoration of the country's independence;
- 3) there is no definition of corruption provided for in one legal act, the doctrine of corruption is still being developed;
- 4) it is an extremely latent phenomenon;
- 5) it distorts the concept of equity, the essence of civil service and the most important public good – the rule of law.

To sum up my thoughts on the definition of corruption, I suggest that you should follow the comprehensive definition provided by the Council of Europe's Multidisciplinary Group on Corruption (GMC) which reads as follows: "Corruption is bribery and any other behaviour in relation to persons entrusted with responsibilities in the public or private sector, which violates the duties that follow from their status as a public official, private employee, independent agent or other relationship of that kind and is aimed at obtaining undue advantages of any kind for themselves or for others."²² Hence corruption should be perceived as a regular, reoccurring, integral and criminal activity of an individual having official links with state authorities, a private sector entity, the electorate or the mass media audience (readers, TV watchers) which manifests

²¹ 7th Symposium of Criminologists of the Baltic Countries. *Prevention of Crime and Criminal Policy in Transitional Market Economy*. Vilnius, 1995, p. 21.

²² *The TI Source Book Part A: Analytical Framework*, p. 54-58.

itself as an abuse of position and trust for personal gain (which should be perceived much wider, i.e. not simply as material gain but also as prestige, career prospects, and reciprocal service). Therefore, we should think of corruption not as a single case of bribery, but more or less constant practices of bribery characteristic of a person or a group of persons. We should bear this broad concept in mind while talking about its spread in customs.

To sum up the legal sources describing the concept of this anti-social phenomenon, its harm and reasons, we could state that corruption poses a threat to public safety and human rights because:

- 1) corrupt officials leave unattended the tasks they must perform and fail to forestall the further spread of corruption;
- 2) a bribed public official improperly performs his duties;
- 3) due to corruption, fundamental human rights may be violated;
- 4) corruption may raise the investment price of every country by up to thirty per cent;
- 5) often being a tax imposed on foreign direct investment, corruption prevents the attraction of more foreign investment.²³

The Corruption Perception Index conducted by *Transparency International* in 2002 revealed that Lithuania's index remained the same as in the previous year, scoring 4.8 out of 10, just 0.2 points short of being the least corrupt country of those surveyed. This index shows the perception of corruption on the part of businessmen and international experts. Lithuania shares positions 36 to 39 with Belarus, the Republic of South Africa and Tunis. In the table of 102 countries the last on the list are Angola, Madagascar, Paraguay, Nigeria and Bangladesh and those on top include Finland, Denmark, New Zealand, Iceland, Singapore and Sweden. In 1999, Lithuania was ranked 50th. In a period of three years it moved up 14 positions.²⁴

Lithuania has adopted approximately ten laws that in one way or another provide for the prevention of corruption. It has also adopted several national anti-corruption programmes. Nevertheless, like the Chinese philosopher Mencius (372-289) said, laws do not act on their own.

In recent years, Lithuania has undertaken a streamlined policy of fighting corruption. Having regard of the provisions of the Law on the Basics of National Security of the Republic of Lithuania and recommendations of the European Commission, Lithuania developed and adopted the National Anti-Corruption Strategy of the Republic of Lithuania, and prepared a draft National Anti-Corruption Programme of the Republic of Lithuania. The main objective of the Programme is to reduce the level of corruption in Lithuania and aim for it to become a smaller hindrance to building the economy, promoting democracy, strengthening national security and the legal system as well

²³ Ibid.

²⁴ <http://www.transparency.lt>

as the national efforts of Lithuanian institutions and international co-operation in the fight against corruption. The purpose of the Corruption Prevention Law is to lay down the main principles of corruption prevention in the civil service and the private sector, corruption prevention measures and their legal basis, corruption prevention bodies and their rights and duties. More vigorous anti-corruption actions have been taken by the Lithuanian law enforcement agencies in the areas of crime detection, prevention of corruption, and public education. According to the data presented by the Informatics and Communications Department under the Ministry of the Interior of the Republic of Lithuania, during the period of 1995-2001, the database registered 1,530 crimes against the civil service, including 388 bribe-taking cases and 1,142 other crimes against the civil service. Analysis of the performance of the Special Investigation Service of the Republic of Lithuania (further – STT) shows that in 1999, this agency initiated 125 criminal cases, in 2000, 90 criminal cases, in 2001 and 2002, 118 and 79 criminal cases, respectively. During the first four months of 2003, the STT initiated 28 criminal cases. When the new Code of Criminal Procedure came into effect on 1 May 2003, the STT initiated 88 pre-trial investigations during the period from 1 May to 31 December 2003. From 1 January to 30 September 2004, the STT started 72 pre-trial investigations.

From 1 January to 30 September 2004, the STT received 18 pre-trial investigations from other bodies and transferred 6 to them; 34 pre-trial investigations were discontinued and 23 were finished (i.e. submitted for indictment), 98 pre-trial investigations still continue.

In 1999, the STT detected 168 persons who had allegedly committed acts of corruption and other types of crimes. Those persons included 115 (68 per cent) civil servants and 53 (32 per cent) private citizens. In 2000, the STT detected 98 persons, including 68 (69 per cent) civil servants and 30 (31 per cent) other persons; in 2001, 124 persons, including 81 (65 per cent) civil servants and 43 (35 per cent) other persons; in 2002, 99 persons, including 60 (61 per cent) civil servants and 39 (39 per cent) others; in 2003, 158 persons, including 106 (67 per cent) civil servants and 52 (33 per cent) others; from 1 January to 30 September 2004, the STT detected 92 persons, including 59 (64 per cent) civil servants and 33 (36 per cent) others.

In 1999, 160 criminal acts were detected, including 98 (61 per cent) against the civil service and 62 (39 per cent) other types of crime; in 2000, 126 criminal acts, including 56 (44 per cent) against the civil service and 70 (56 per cent) other types; in 2001, 193 criminal acts, including 117 (61 per cent) against the civil service and 76 (39 per cent) other types; in 2002, 134 criminal acts, including 85 (63 per cent) against the civil service and 49 (37 per cent) other types; in 2003, the STT detected 210 criminal acts, including 143 (68 per cent) with elements of crimes and criminal offences against the civil service and public interest and 67 (32 per cent) having elements of other types of crimes and criminal offences. From 1 January to 30 September 2004, the STT detected 229 criminal acts, including 167 (73 per cent) having elements of crimes or criminal

offences against the civil service and public interests and 62 (27 per cent) other types crimes or criminal offences.

From 1 January to 30 September 2004, the STT detected the following types of crimes or criminal offences against the civil service:

- Art. 225 of the Criminal Code (taking a bribe) – 32 (19 per cent);
- Art.226 of the Criminal Code (taking a bribe via an intermediary) – 0 (0 percent);
- Art. 227 of the Criminal Code (giving a bribe) – 26 (16 per cent);
- Art. 228 of the Criminal Code (abuse of office) – 59 (35 per cent);
- Art. 229 of the Criminal Code (non-feasance) – 39 (23 per cent).

The greatest amount of attention was given to the elimination of corruption in public administration, customs and tax systems, public procurement, privatisation, law enforcement, and judicial bodies. In addition, there is more co-operation among state institutions in forestalling and detecting crimes and corruption related to them. While implementing corruption prevention measures, draft and adopted legal acts have been reviewed from the anti-corruption perspective and corruption assessment surveys have been performed in the areas most prone to corruption.

GLOSSARY OF KEY TERMS

Abuse of office is an act whereby a civil servant or a person of equivalent status abuses his position or exceeds his authority causing substantial damage to the state, an international public body, a legal entity or a natural person.

Anti-corruption education is development of anti-corruption attitudes of citizens.

Anti-corruption standards are a set of behavioural and legal norms that help to reduce corrupt conduct.

Bribery means an act when a civil servant or a person of equivalent status directly or indirectly in his own interest or in the interests of others accepts, promises or makes an agreement to accept a bribe, or requires or provokes someone to give a bribe in exchange for lawful acts or omissions in the discharge of his authority.

Civil servant is a person working in the civil service, a state politician, a civil servant of the public administration pursuant to the Law on Civil Service, as well as any other person who when working at state or municipal authorities or institutions, judicial law enforcement, state control and supervision institutions or at institutions equivalent to them, performs the functions of a representative of the state or has administrative powers, as well as an official candidate to the duties mentioned.

Clientelism, clientele relations is a system of relations based on mutually beneficial commitments and connections of a guardian and another person or persons (clients).

Conflict of interests is a situation where a person in the civil service, when discharging his duties or carrying out instructions, is obliged to make a decision or participate in decision-making or carry out instructions relating to his private interests.

Corruption means misuse of public power for personal gain.

Detection and prosecution of corruption is disclosure of acts of corruption and implementation of the principle of equity and inevitability of punishment.

Deviation means violation of common social rules and norms of society or a group.

Forms of corruption according to the area of its occurrence are administrative, political, private sector, and international.

Forms of corruption according to the purpose of acts are bureaucratic, regulation, preventive, and of eliminating consequences.

Giving a bribe is an act whereby a bribe is, directly or indirectly, offered, promised or given to a civil servant or a person of equivalent status in exchange for a pursued lawful act or omission in the discharge of authority or to an intermediary seeking the same results.

Identification of corruption is the ability to recognise manifestation of corruption in a timely and thorough manner.

Lobbying activities are remunerated actions of lobbyists that are used to influence amendment, supplementation or invalidation of legal acts, adoption or non-adoption of new legal acts. The purpose of those activities is to fulfil the interests of the client without violating human rights or public and state interests.

Lobbying is a process whereby information is exchanged and the opinion of a group, organisation or a part thereof is transmitted to public officials (the elected and the appointed), with a view to influence decision-making for their benefit.

Lobbyist is a natural person or an enterprise, institution or organisation put on the list of lobbyists in compliance with the procedure established by law.

Money laundering is conduct whose purpose is to conceal or to make appear as legal the illicitly acquired origin of proceeds.

Nepotism is recruitment of relatives, friends and close acquaintances without competitions while violating the principle of *the most appropriate person for the proper place*. This creates a system of subordinates and colleagues that are indebted to each other; this system is used in taking decisions.

Non-performance of official duties occurs when a civil servant or a person of equivalent status due to his negligence fails to perform his official duties or performs them improperly and such actions cause substantial damage to the state, an international public body, a legal entity or a natural person.

Patron is a part of the system of clientele relations, an institution or a person guarding or protecting someone or something.

Person equivalent to a civil servant is a person having respective powers at foreign state institutions, international public organisations or international judicial authorities, as well as an official candidate to the duties mentioned; a person working in any state, non-governmental or private institution or engaging in professional activities and having the relevant powers of public administration, except persons who provide economic or technical functions.

Prevention of corruption is elimination of causes of and factors contributing to corruption.

Principles of public administration include the rule of law (activities are based on legal grounds), objectivity (actions must be unbiased), and prohibition against abuse of authority (prohibition from performing unauthorised actions or for making decisions within the scope of their competence for purposes other than those prescribed by law).

Private interests are private economic or non-economic interests of a person in the civil service or his close relative or a family member which may affect his decision-making in the discharge of his official duties.

Public administration is the activities of state and local authorities, regulated by laws, intended for the implementation of legal acts and local government ordinances and for the administration of planned public services.

Public interests are the public's expectations with regard to impartial and just decision-making of the persons in the civil service.

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