



PROBLEMS OF FAMILY TIES IN THE PUBLIC SERVICE SYSTEM

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Article history:	Abstract:
Received: September 1 st 2022 Accepted: October 1 st 2022 Published: November 4 th 2022	This article deals with the problems of kinship relations as the main problem of public service. As the basis of the anti-corruption system for the new Uzbekistan, it is very important to study the problems of the mechanism of regulating kinship relations in the civil service system. The success of economic, social, legal and political changes in our country largely depends on solving this problem. One of the ways to improve the activity of the public administration system is to create an effective mechanism for regulating the conflict of interests and kinship relations, which will put a legal obstacle to the use of the position of the civil servants for their personal interests. The normative legal documents, norms and rules of foreign countries in this field have been thoroughly analyzed. Proposals for the prevention of consanguinity have been developed.

Keywords: Public service, kinship relations, corruption, conflict of interest, nepotism.

Restrictions related to public civil service are established in Article 13 of the Law of the Republic of Uzbekistan "State Civil Service" dated August 8, 2022. Statutory restrictions and prohibitions on public officials serve as an important deterrent that ensures a high level of prevention of corruption-related offenses.

In particular, the law provides that with persons who are closely related or related by god (parents, brothers, sisters, sons, daughters, spouses, as well as parents, brothers, sisters and children) to serve together in exactly one state body, if their service together means that one of them is directly subordinate to the other or holding a state civil service position that is under his control, to engage in other paid activities, in addition to pedagogical, scientific and creative activities, to engage in entrepreneurial activities, to organize entities of entrepreneurial activity, to be their founder (participant), to perform organizational-management, administrative-economic tasks in the entity of entrepreneurial activity, to directly or through representatives acquire shares, shares and shares in organizations under the control of the state body in which he serves or having relations and interests with it to get through, the physical powers of their service to receive any rewards, profits or gifts in exchange for performance or non-performance in the interests of

private and legal entities, to obtain citizenship of a foreign country, to use privileges, preferences or advantages not provided for by law in connection with their service position, to open accounts outside the territory of the Republic of Uzbekistan and to them it is established that the civil servant of the state does not have the right to own real estate and other property. In the Law of the Republic of Uzbekistan "On Administrative Procedures", in order to prevent situations related to the conflict of interests, if an official of an administrative body is an interested person in administrative proceedings, is related to one of the interested persons participating in administrative proceedings, or is in a relationship of kinship or brother-in-law or god-in-law, if he is a representative of one of the interested parties participating in the administrative proceedings, or if he previously participated in the same administrative proceedings as his representative, it is assumed that he will recuse himself, and this can also be considered as a positive legal reform implemented at this stage as a mechanism for preventing conflicts of interest.

Nepotism and favoritism at the local and regional level hinders the effectiveness of public service delivery, undermines public confidence and undermines



the perception that local and regional government bodies serve the interests of their constituents.

K.Petrini and L.Riva note that the basis of the conflict of interests is the formation of kinship and mutual relations, and they recognize that the conflict of interests occurring in each field is primarily a social phenomenon that occurs as a result of creating opportunities and advantages for mutual relatives¹.

Some Uzbek legal science say that today's widespread corruption is familiarity, kinship, favoritism, help, and corruption committed between state authorities and business representatives, as well as by higher authorities, is for personal gain by high-ranking officials².

In contrast to the legislation of Uzbekistan, foreign legislation covers a much wider range of persons whose incomes, expenses, assets and obligations of a property nature are subject to state control in connection with obtaining or entering the public service, and in this regard, it is useful to study the experience of a number of other countries.

For example, US law requires government employees to report their expenses and income to the ethics department, as well as the expenses and income of their immediate family, which includes not only children and spouses, but also parents³.

Although our national legislation states that public servants must submit a declaration of their income and property within the time limits and in the manner prescribed by law, the income, property and property of their close relatives, that is, their spouses, children, or persons related to them by close kinship or property relations Obligations to provide information about the nature of obligations are not specified.

When we study the experience of the Russian Federation, according to Article 20 and Article 201 of the Federal Law "On Civil Service of the Russian Federation" dated July 27, 2004⁴, civil servants are required to pay not only their own expenses, but also those of their family members, to the representative of

the employer in accordance with the procedure established by law and other normative legal documents. we can see that the obligation to provide information is defined.

We can show the circle of persons whose incomes, property and obligations of a property nature should be provided by public servants and persons entering the public service through two regulatory approaches: firstly, by determining the level of kinship, and secondly, by determining the signs of running an economy on the basis of common livelihood.

In order to fight corruption, the level of kinship should be understood as broadly as possible: parents, spouses, children, brothers and sisters (including step-siblings), grandchildren of civil servants or persons entering the civil service should be included in the list of controlled persons⁵.

Based on the above, Article 20 of the Law of the Republic of Uzbekistan "On State Civil Service" (declaration of income and property by a civil servant) states that a civil servant must declare his income and property as well as that of his close relatives within the time limits and according to the procedure established by law. it would be appropriate to change it as mandatory to present. This will help prevent corruption and conflicts of interest in the future.

Nepotism can deter qualified, motivated, and capable candidates from applying for certain positions, resulting in the hiring of unqualified personnel, and ultimately hindering the proper functioning of government agencies by allowing personal interests to prevail over public interests.

The term "nepotism" is used for kinship relations between industry representatives and citizens. Nepotism is derived from the Latin words nepos - clan, breed, dynasty and the second nepotis - grandson, nephew, in the form of abuse by church hierarchs in the 15th and 16th centuries in connection with the granting of privileges, positions, land holdings, high ranks and titles to the closest relatives⁶. Nepotism is giving priority

¹ Carlo Petrini, Luciana Riva, Conflicts of Interest Result from Relationships // Journal of Bioethical Inquiry Pty Ltd. 2021. <https://doi.org/10.1007/s11673-020-10081-0> 2020

² Зуфаров Р.А., Ахраров Б.Ж., Мирзаев У.М. Коррупция. Қонун. Жавобгарлик. Монография // Масъул муҳаррир: ю.ф.д., проф. Рустамбаев М.Х. – Т.: ТДЮИ нашриёти, 2011. – Б. 27.

³ Противодействие коррупции в субъектах Российской Федерации: Научно-практическое пособие / Под ред. Т.Я. Хабриевой. - М., 2013. - С. 149

⁴ Федеральный закон от 27.07.2004 N 79-ФЗ (ред. от 07.10.2022) "О государственной гражданской службе

Российской Федерации" // [Электронный ресурс] http://www.consultant.ru/document/cons_doc_LAW_48601/3b6f5c58f637796cb049a479235e9eac0521f921/#dst98

⁵ Противодействие коррупции в субъектах Российской Федерации: Научно-практическое пособие. - С. 149.

⁶ Конфликт интересов на государственной И муниципальной службе, в деятельности организаций: причины, предотвращение, урегулирование: научно-практическое пособие Т.С. Глазирин, Т.Л. Козлов, Н.М. Колосова [и др.] М.: Институт законодательства и сравнительного правоведения при Правительстве Российской Федерации: INFRA-M, 2016. S. 15



to kinship and kinship ties, ignoring their shortcomings and other qualities, creating special conditions for them in politics or business, supporting them, and helping them to gain wealth by rising in their profession and work.

Nepotism is a form of corruption that threatens the basic components of states, because it is a phenomenon that poses a real threat to the stability of social, cultural and economic security in society due to the absence of standards of justice and equality.⁷

Nepotism is kinship, the moral patronage of a leader to his relatives and close people, in which the nomination and appointment of new employees is carried out on the basis of religious, caste, tribal affiliation, as well as personal loyalty to the leader..

Nepotism is a narrower form of favoritism that involves favoritism toward family members. Both nepotism and nepotism are common when political parties recruit candidates for public office. Self-interest, nepotism, and nepotism in the public sector also harm the common good⁸.

D.V. Osinsev expressed his opinion that the law prohibits the direct subordination and control of civil servants - relatives, but noted that there are many situations or cases of functional subordination that are simply not taken into account and described in normative legal documents⁹. For example, relatives may be employees of a structural structure that is not subordinate to each other in terms of organization. Organizational units have the right to issue mandatory instructions to all subordinate departments and civil servants, regardless of whether one of them is directly subordinate to another¹⁰.

According to the Labor Code of the Republic of Uzbekistan, persons who are close relatives or godparents are prohibited from working together in the same state enterprise, provided that one of them is directly subordinate to the other or serves under his control. As mentioned in the article, one of the reasons for the conflict of interests is personal interest. There is a high probability of conflict of interests between relatives. From this point of view, the legislator paid special attention to the issue of kinship in labor activities.

⁷ Muaath S., Nepotism and Corruption: A Descriptive and Analytical Study in the Reality of Kuwaiti Society. Corruption - New Insights Journal DOI: 10.5772/intechopen.106976

⁸ Глезерман, Г.Е. Интерес как социологическая категория // Вопросы философии – 1966. – № 10. – б. 15-26

REFERENCES

1. Carlo Petrini, Luciana Riva, Conflicts of Interest Result from Relationships // Journal of Bioethical Inquiry Pty Ltd. 2021. <https://doi.org/10.1007/s11673-020-10081-0> 2020
2. Зуфаров Р.А., Ахраров Б.Ж., Мирзаев У.М. Коррупция. Қонун. Жавобгарлик. Монография [Corruption. Law. Accountability. Monograph]// Масъул муҳаррир: ю.ф.д., проф. Рустамбаев М.Х. – Т.: ТДҶОИ нашриёти, 2011. – Б. 27.
3. Противодействие коррупции в субъектах Российской Федерации: Научно-практическое пособие / Под ред. Т.Я. Хабриевой. [Countering corruption in the constituent entities of the Russian Federation: Scientific and practical guide / Ed. T.Ya. Khabrieva]- М., 2013. - С. 149
4. Федеральный закон от 27.07.2004 N 79-ФЗ (ред. от 07.10.2022) "О государственной гражданской службе Российской Федерации"[Federal Law of July 27, 2004 N 79-FZ (as amended on October 7, 2022) "On the State Civil Service of the Russian Federation"]/ [Электронный ресурс] http://www.consultant.ru/document/cons_doc_LAW_48601/3b6f5c58f637796cb049a479235eceac0521f921/#dst98
5. Противодействие коррупции в субъектах Российской Федерации: Научно-практическое пособие.[Countering corruption in the constituent entities of the Russian Federation: Scientific and practical guide] - С. 149.
6. Конфликт интересов на государственной и муниципальной службе, в деятельности организаций: причины, предотвращение, регулирование: научно-практическое пособие Т.С. Глазырин, Т.Л. Козлов, Н.М. Колосова [и др.] М.: Институт законодательства и сравнительного правоведения при Правительстве Российской Федерации: [Conflict of interest in the state and municipal service, in the activities

⁹ Осинцев, Д. О дальнейшие меры по предотвращению конфликта интересов в системе государственной службы // Российский юридический журнал. - 2011. - №4. - С. 226-227.

¹⁰ Муродуллаев, Достонжон. "Значение международных правовых стандартов в области охраны труда." Review of law sciences 4. Спецвыпуск (2020): 82-87.



of organizations: causes, prevention, settlement: scientific and practical guide T.S. Glazirin, T.L. Kozlov, N.M. Kolosova [and others] M.: Institute of Legislation and Comparative Law under the Government of the Russian Federation:] INFRA-M, 2016. S. 15

7. Muaath S., Nepotism and Corruption: A Descriptive and Analytical Study in the Reality of Kuwaiti Society. *Corruption - New Insights Journal* DOI: 10.5772/intechopen.106976
8. Глезерман, Г.Е. Интерес как социологическая категория // Вопросы философии [Glezerman, G.E. Interest as a sociological category // *Questions of Philosophy*]- 1966. – № 10. – С. 15-26
9. Осинцев, Д. О дальнейшие меры по предотвращению конфликта интересов в системе государственной службы // Российский юридический журнал.[Osintsev, D. On further measures to prevent conflicts of interest in the public service // *Russian legal journal.*] - 2011. - №4. - С. 226-227.
10. Муродуллаев, Достонжон. "Значение международно-правовых стандартов в области охраны труда." *Review of law sciences* 4. Спецвыпуск (2020): 82-87.