

Nepotism, favoritism and cronyism as a source of conflict of interest: corruption or not?

Непотизм, фаворитизм та кронізм як джерело конфлікту інтересів: корупція чи ні?

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Abstract

The purpose of the article is to analyze the concepts of “nepotism”, “favoritism” and “cronyism” as the forms of conflict of interest, as well as to identify the relationship between the dissemination of these phenomena in the context of conflict of interest and the determinants of the latter. Methodology. Taking into account the purpose of the article, the links between the corruption and nepotism, cronyism, favoritism as forms of conflict of interest have been defined based on the method of a systematic analysis. The logical method, as well as comparative and legal method helped to analyze the concepts of “nepotism”, “cronyism”, “favoritism” and “clientelism”. The method of induction and deduction enabled to distinguish the key features of favoritism, cronyism, and nepotism. The method of hermeneutics allowed to interpret the above concepts through the prism of the features of corruption. The system and structural method made it possible to make a logical connection between the conflict of interest and the manifestation of favoritism, nepotism and cronyism. The legal modeling method was helpful in drawing conclusions of the research. The results of the study. The pros and cons of

Анотація

Метою статті є аналіз понять “непотизм”, “фаворитизм” та “кронізм” як форм конфлікту інтересів, а також виявлення взаємозв'язку між поширенням цих явищ та детермінантів останнього. Методологія. Враховуючи мету статті, на основі методу системного аналізу визначено зв'язки між корупцією та непотизмом, кронізмом, фаворитизмом як формами конфлікту інтересів. Логічний метод, а також порівняльно-правовий метод допомогли проаналізувати поняття “непотизм”, “кронізм”, “фаворитизм” та “клієнтизм”. Метод індукції та дедукції дозволив виділити основні риси фаворитизму, кронізму та непотизму. Метод герменевтики надав можливість інтерпретувати вищезазначені поняття крізь призму особливостей корупції. Системно-структурний метод допоміг у встановленні логічного взаємозв'язку між конфліктом інтересів та проявом фаворитизму, непотизму та кронізму. Завдяки методу правового моделювання були сформульовані основні висновки та пропозиції. Результати дослідження. У результаті дослідження визначено переваги та недоліки використання сімейних зв'язків та дружніх

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using family ties and friendly relations, depending on the scope of nepotism, favoritism and cronyism have been identified as a result of a study. The connection between these phenomena and the spread of conflicts of interest in the public service has been examined. Practical implications. An attempt to identify favoritism, nepotism and cronyism as the form of conflict of interest has been made, as well as some recommendations to amend the relevant legal acts have been provided. Value/originality. For the first time, the authors examined the possibility of having positive results from using nepotism, cronyism and favoritism in forming business environment.

Keywords: favoritism; cronyism; nepotism; nepotism; conflict of interests; clientelism; loyalty.

Introduction

The conflict of interest, which is manifested through informal types such as nepotism, favoritism and cronyism, is in the stage of active development in Ukraine. The conflict of interest as a phenomenon related to corruption is a prerequisite that contributes to the development of corruption offenses. The emergence of a conflict of interest precedes extracurricular relations that have, or may have, potential corruption risks associated with family, close relationship or business interests. As a rule, this concerns officials, who directly represent the interests of public authorities and local self-government, and who, at the same time, have their own private interests, which is contrary to the interests of the society. We regard nepotism, cronyism and favoritism as prerequisites for conflicts of interest underlying private interest. Therefore, the conflict of interest is a broader and deeper corruption phenomenon, covering not only the existence of a potential conflict of interest, decision-making under the conflict of interest, but also generating corrupt links within the State mechanism, the spread of such phenomena as the appointment of close relatives, giving benefits and privileges to friends, etc.

The conflict of interest has for many years been a hidden threat in the context of personal prejudice in public decision-making. These issues mainly focus on traditional sources of influence, such as personal or family relationships and gifts or hospitality offered to government officials. The convergence of the public and private sectors has broadened the scope of the conflict of interest and led to private

відносин, залежно від сфери розповсюдження непотизму, фаворитизму та кронізму. Досліджено зв'язок між цими явищами та поширенням конфлікту інтересів на державній службі. Практичні наслідки. Зроблено спробу дослідити фаворитизм, непотизм та кронізм як форми конфлікту інтересів. Для подолання цих негативних явищ надано рекомендації щодо внесення змін до відповідних нормативно-правових актів. Співвідношення / оригінальність. Уперше автори дослідили можливість отримання позитивних результатів від використання непотизму, кронізму та фаворитизму у підприємницькій діяльності.

Ключові слова: фаворитизм; кронізм; непотизм; кумівство; конфлікт інтересів; клієнтелізм; лояльність.

business interests in the form of partnerships, equity, board membership, investments, government contracts influencing the decision-making and non-decision-making processes or the actions in favor of the private interests of interested parties.

Literature Review

The phenomena of nepotism, cronyism and favoritism are explored by many scholars. In particular, G. Abramo, C. A. D'Angelo and F. Rosati (2014) studied the phenomenon of nepotism in academic spheres. They came to the conclusion that nations with high levels of corruption and higher education systems with no or low intensity of competition among universities are generally more exposed to phenomena of favoritism in faculty recruitment and career advancement, while the high intensity of rivalry among universities in competitive higher education system in itself represents a practical antidote to nepotism.

Some forms of nepotism were also investigated by M. Padgett and K. Morris (2005), D. M. Safina (2013), A. Siegert (2008), G. Kerse and M. Babadağ M. (2018). The issues of nepotism as a socially destructive phenomenon were discussed by D. Zaykov (2017), Yu. Matsiievskiy (2010) and other researchers.

The concept of "favoritism" was examined by N. Komliev (2000), D. Kreimer (2012), A. Kopystyra (2013).

The issues of clientelism were investigated by P. Keefer Philip and R. Vlaicu (2008), who stressed that policy outcomes in poor-performing democracies are often identified with the influence of clientelism and, specially, of patrons. The analysis here suggests that the influence of patrons is a symptom of the absence of credibility. Given that politicians are not credible, patron influence on policy outcomes is mixed rather than unambiguously negative. Politician reliance on patrons actually improves outcomes relative to the situation in which politicians can do nothing to make themselves credible.

A. Hicken (2011), having examined clientelism, stated that it is characterized by the combination of particularistic targeting and contingency-based exchange. This phenomenon exists in a large variety of cultural contexts. Confronted with economic development, clientelism fades away in some political contexts but adapts and survives in others.

R. Maiz and R. Requejo (2001), in their turn, explored the relationship between political clientelism and certain forms of corruption from the perspective of the exchange circuits that characterize both of these pathologies of democracy. The scientists believe that the corruption phenomenon that they have labelled corrupt clientelism or bastard patronage constitute the mechanism for reproducing and reinforcing the clientelist linkage networks, facilitating the illegal provision of resources along a nested circuit of indirect exchange.

Methodology

The methods of scientific research are the methods that allow to solve the scientific problems and to achieve the research goal. Many special scientific problems require the use of special scientific research methods. They represent a certain combination of methods, research techniques, principles of cognition that are applied in a particular scientific area.

Along with special methods, general methods are also used. They are divided into practical and theoretical ones. Practical or empirical methods allow to record and describe phenomena, facts, relationships between them. The detailed analysis of various facts is carried out, significant patterns are revealed, mental models are formed, and hypotheses are used with the help of the theoretical method.

In the course of the study general and specific scientific methods were used. Thus, based on the purpose of the article, the links between the corruption and nepotism, cronyism, favoritism as forms of conflict of interest have been defined with the help of the method of systematic analysis.

The logical method, as well as comparative and legal method helped to analyze the concepts of “nepotism”, “cronism”, “favoritism” and “clientelism”. These concepts were also generalized and systematized due to comparative and legal method.

The method of induction and deduction enabled to distinguish the key features of favoritism, cronyism, and nepotism.

The method of hermeneutics allowed to interpret the above concepts through the prism of the features of corruption. Some general and distinctive features of the mentioned corruption forms of conflict of interest were also outlined with the help of this method. These features are: the presence of kinship, friendship, business ties, unjustified privileges and advantages, the domination of certain elites on the basis of partnerships, the formation of dynastic clans, the lack of competence.

The system and structural method made it possible to make a logical connection between the conflict of interest and the manifestation of favoritism, nepotism and cronyism.

The legal modeling method was helpful in drawing conclusions of the research.

Results and Discussion

The issues of nepotism and cronyism have been studied poorly in Ukraine and are generally perceived as a type of political corruption. We are trying to find out the peculiarities of the development of these phenomena in the view of corruption, taking into account the experience of the countries of Western Europe.

Such countries as the United Kingdom, Germany, Spain, Italy, France, and the Benelux countries are considering conflicts of interest in general because of a conflict between their authority and their own private interest.

As the practice shows, the conflict of interests has so broadly encompassed all branches of government at all levels, where the presence of any private interest (property, business, family,

social, economic, political, etc.) leads to decision-making with violation of anti-corruption requirements, bans and restrictions.

In any case, the conflict of interest is based on the private interest, created by property or non-property interests, including those caused by personal, family, friendship or other outside activities with individuals, including those associated with membership or activities in public, political, religious or other organizations. It is worth noting when analyzing the concept of private interest that the source of nepotism, cronyism, favoritism, is in a situation, in which the person already has such interests, due to which there are opportunities to manipulate his own powers for their own benefit and the benefit of the other ones. Prohibition of cronyism is not a standard for “working without relatives”, but it prohibits a public servant from using and abusing his or her office to obtain public employment for the members of the family.

Favoritism (from the Latin word “mercy”) has the meaning of unjust and biased patronage, despite causing social harm (Chudinov, 1910). Favoritism is revealed through the appointment of the favorites to leadership positions in the public sector, despite the fact that they have neither the appropriate capacity nor the experience necessary to fulfill such responsibilities. So the favorite is a person, who is trusted, so he (she) influences the decision of the chief to mastermind the career.

The concept of “favoritism” is closely related to the terms nepotism (from the Latin word “nepotism” meaning “grandson, nephew”), as well as kronism (e.g., employment on the principle of old university relations), i.e. privileges and benefits granted to the relatives or friends regardless of their professional values. Favoritism, viewed from the standpoint of the form of conflict of interest, is a broader definition by its etymological content and covers the concepts of “cronyism” and “nepotism”. The report by the American organization Freedom House reveals the expansion of the process of “familiarization” (the role of family ties in strengthening power and corruption) in Ukraine (Kreimer, Nurik, Sushko, 2012).

It was in Ukraine during the transition period that nepotism emerged as a clan of relationships, driven by stable family ties, which turned politics into a hierarchy of family businesses. For example, favoritism, nepotism, cronyism, patronage and clientelism, bribes, bribery and trading in influence became especially

widespread forms of corruption during 1991–2018 (Kopystyra, 2013). Nepotism involves favoritism for family members and relatives regarding hiring or promotion, as well as appointing authorities in some areas. On the other hand, nepotism involves favoritism for friends or relatives of friends for recruiting or promotion.

The dissemination of favoritism in the civil service leads to the disappointment of the “new generation”, “brain drain” of the best university graduates, as the representatives of the so-called “family clans” have an advantage in employment in public sector.

Favoritism increases the demotivation of the workforce, negatively influences moral principles; may be based on sexual services. In particular, N.G. Komliev (2000) considers nepotism as the official patronage of relatives and right people. These definitions mean that favoritism and nepotism take place when the patron, imbued with the power, helps his people to mastermind the career, regardless of their experience, knowledge or ability.

Nepotism is also defined as the actual or perceived benefits given to family members. Nepotism is represented in the employment of family members in the same organization.

According to M. Padgett and K. Morris (2005), there are two forms of nepotism at work: hereditary (cross-generational nepotism) and matrimonial nepotism (paired employees). Hereditary nepotism involves the appointment of the members of the family and the relatives to political office, which generally refers to private business, including corporations, businesses, private business entities, etc. Matrimonial nepotism refers to the organizations, in which one of the spouses is appointed to the same work, where his or her spouse or wife already works.

Since nepotism is, first and foremost, dangerous in the appointment of government officials, because it entails a great deal of corruption risks and abuse of authority, attention should be focused on the officials as the main subjects of responsibility for nepotism. This also is confirmed by D. M. Safina (2013), who believes nepotism often leads to the artificial creation of management positions and even entire departments for the relatives.

Nepotism, as A. Siegert (2008) correctly points out, is a manifestation of corruption that lies in the abuse of power for personal gain, namely in

giving an advantage to genetic relatives over non-family members, regardless of their professional background and achievements.

Nepotism should be regarded as the breach of ethical rules of conduct by the officials, or as an administrative offense related to corruption, as the appointment of close relatives, by which should be considered persons, who reside together, have a joint household, mutual rights and obligations towards the subject of responsibility (except persons, whose mutual rights and obligations towards the subject are not of family nature), including persons who live together, but are not married, and regardless of the specified conditions – husband, wife, father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, sibling, grandfather, grandmother, great-grandfather, great-grandmother, grandson, granddaughter, great-grandson, great-granddaughter, son-in-law, daughter-in-law, father-in-law, mother-in-law, adopter or adopted, guardian or carer, a person under the guardianship or care of the said subject. Chronism, nepotism, favoritism, or other forms of privileged attitude, according to G. Kerse and M. Babadağ M. (2018) cannot be regarded as a clear guarantee of the manifestation of corruption offenses and offenses related to corruption, however, it leads to various acts of corruption.

Cronyism is a broader term than nepotism, and covers the situations, in which benefits and privileges are offered to friends and colleagues. Nepotism is fixed in the expressions “old school tie” or “old boys club” in the UK. Thus, C. Goman (1991) considers that emotional communication, the so-called fidelity, has two aspects – emotional and behavioral. Firstly, a person can express sincere gratitude, the so-called loyalty, for the service rendered to him by a close friend or acquaintance, who holds more favorable position, which is based on the relationship between the head and the subordinate. Secondly, the person’s behavioral aspect in the relationship is manifested by the “peace offering” and making uncritical comments about the work of the boss, which negatively affects the assessment of the situation and creates illusion of a “good leader” (Khatri & Tsang Eric, 2019).

Another interesting point was made by F. Fukuyama (2016), who considers such phenomena as patronage or clientelism a form of corruption. This kind of relationship implies mutual exchange of services between two persons of different status and power. The

peculiarity of such relations is that the client is protected in exchange for his loyalty and political support. Patronage and clientelism are indivisible phenomena and vary only in scale. The difference is that clientelism has a hierarchical class of intermediaries, and in the case of protectionism (patronage), protectors play a key role.

Nepotism related to family ties has the following features: 1) it includes favoritism towards relatives and family members in order to be promoted and to mastermind the career; 2) the appointment takes place without the assessment of competency, experience, knowledge and skills to perform tasks in the relevant area of activity; 3) it is based on friendships and partnerships.

Nepotism is not always regarded as a negative phenomenon. Thus, the practice of appointing relatives and friends to the positions in the private sector, which is only gaining momentum, is quite positive and is seen as an effective work organization. This situation is due to the fact that professional duties based on blood and friendship provide reliability and resistance in difficult situations in the face of low salaries and organizational insecurity in critical times of the development of private structures.

Therefore, it is customary to allocate socially positive and negative nepotism in international practice, which are caused, first of all, by the source of financial income. Private sector institutions and organizations are interested in establishing strong internal organizational relations with strong management, who is able to take responsibility at critical moments and accomplish complex tasks, notwithstanding time and own resources.

Typically, this degree of payoff can be obtained if: a) middle and senior executives are interested in the development of the enterprise in connection with their own financial inflows; b) such enterprises, as a rule, are family business and have a long enough history of development; c) socially positive nepotism has psychological links based on the motivation of the founders, owners or investors to increase the profit rate of enterprises (Jaskiewicz, Uhlenbruck, Balkin, & Reay, 2013).

Therefore, the key difference between cronyism and nepotism is the existence of blood ties or close relationships, while favoritism is a form of privileged formation along with nepotism and cronyism.

While nepotism demonstrates a privileged attitude towards relatives, cronyism demonstrates a privileged attitude towards friends. Thus, the dictionary provides an interpretation of “nepotism” as “patronage given on the basis of family relations, not merit” (Business Dictionary, 2020). Nepotism is a form of patronage or intercession. Implementation of both nepotism and patronage leads to the conflict of interest (Fukuyama, 2016).

This last opinion is shared by M. Kwon (2006), who believes that favoritism, nepotism, and cronyism are stimulants for the development of the conflicts of interest. This is manifested in various spheres, in particular in political and administrative ones, in which ineffective decisions are made, loss of motivation and a decrease in labor productivity are taken place because of these phenomenon. Cronism is a narrower form of favoritism, which is characterized by the expression “the thing is not in what you know, but who you know”.

Thus, the results of a poll conducted by the International Republican Institute (IRI) showed extremely high public concern about the spread of family ties in government. Thus, only 87% of respondents indicated that they consider corruption the main problem; 83% said that nepotism is the main problem that causes corruption at all levels of the state apparatus (International Republican Institute & the Government of Canada, 2015).

It is the spread of unjustifiably high levels of corruption risks through family and friends that has led to the situation, in which civil society has become aggressive to any reform within the country and has led to frustration and a declining level of trust in Government.

Having a family relationship is just one of the factors that can give rise to the conflict of interest, and is complemented by the existence of sufficient grounds to believe that under these conditions, individuals have an opportunity to use their powers for the personal benefit. Familial ties or links cannot always be recognized as a cause of a conflict of interest, and subsequently lead to more aggressive forms of corruption. To prove the causal link between the use of official powers for the benefit of family members, relatives, friends, etc., and the conflict of interest, the following conditions set must be met:

- 1) the existence of family relations between the parties to the alleged conflict of interest;

- 2) an improper performance of duties by a person due to the presence of personal interest;
- 3) the use of official powers with the violation of ethical norms;
- 4) the possibility of obtaining property benefit by one or both parties to the alleged conflict of interest.

Conclusions

1. Nepotism, cronyism, favoritism are hidden forms of corruption, which lead directly to the conflict of interest and create corruption risks in the exercise of official powers.
2. Nepotism, favoritism and cronyism are negative social phenomena when it comes to the public sector of government, generated by the desire to get rich; to advance one’s own status in the social hierarchy; to employ friends and relatives; elimination of the competency approach when appointing to leadership positions in public authorities and local self-government.
3. Nepotism, cronyism and favoritism can have a positive impact when it comes to dynastic campaigns, which are based on their own motivation to achieve well-being and increase profits.
4. In general, nepotism, favoritism and cronyism are inherently neutral in terms of corruption, but under certain conditions may lead to conflicts of interest and corruption. These phenomena are at the core of private interest because of the friendship or kinship and stimulate conflict of interest as a corruption risk. The main indicator is precisely the presence of interests of public authorities through the exercise of official powers by an official authorized to exercise the functions of the state. There may be contradictions between the exercise of delegated powers and the personal interests of an official, and these contradictions are risk factors when it comes to favoritism, nepotism and cronyism.

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