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# ANTI-CORRUPTION POLICY IN A SOCIO-CULTURAL SPACE: INDICATORS AND ACTUAL STRATEGIES

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**ABSTRACT**
The paper proposes a discussion of an essence, modern interpretation and directions of counteraction to corruption interaction.The paper analyzes wide (sociological) and narrow (formal-legal) approaches to the interpretation of corruption interaction, examines the causes and forms that activate the development of corruption in the post-Soviet space. The authors singled out and analyzed key aspects of the modern anti-corruption policy carried out in Russia at the beginning of the 21st century. The author's vision of the content of the anti-corruption legislation is separately argued, specific proposals are formulated to improve the legislation in the conditions of an unstable legal system and a transitional state, and the basic guidelines for its further development are determined.

***Keywords:*** *anticorruption legal policy, state, corruption, legislation, legal responsibility, law, legal culture, bureaucracy*

## INTRODUCTION

Corruption arises and is maintained as a very specific social phenomenon at the level of informal social ties that make up a basis of society; it can be found at all levels of the system of political and economic institutions. It is no exaggeration to say that, in general, corruption has become in the post-Soviet space a special part of the way of life of citizens. All of them, regardless of their social status and positions, live in the conditions of carrying out certain corrupt practices and procedures which are most often forced by the authorities. However, sometimes citizens themselves readily resort to those corruption practices for solving various problems. At the level of ordinary citizens, corruption is usually represent itself in *bribes* or the use of certain public goods in personal, family or clan interests. The opportunities for corrupt practices among officials and public politicians are much greater, and their corruption manifestations are more diverse.

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As the phenomenon of corruption becomes more and more clear, it becomes increasingly clear the fact that episodic and particular measures can not effectively counteract this evil. Corruption is a complex and systemic social-legal problem requiring the corresponding attitude, i. e. an integrated approach that combines various measures and means. Targeted efforts on the part of the state and civil society, and appropriate *anti-corruption policy* are necessary*; the* subject of them should be not only the state, but also the institutions of *civil society.*

Thus, the President of the INDEM Foundation, G. A. Satarov in his interview (posted on the Fund's website) noted that "The INDEM Foundation is dealing with the problem of corruption in Russia since 1996. And the most important is that from the very beginning our approach to corruption was not as a purely criminal problem, but as a systemic *institutional* problem. Such an approach means that for all of us, combating corruption is primarily related to identifying the *causes*, the system of factors that generate corruption, and eliminating these causes "[1].

## METHODOLOGY

Theoretical and methodological basis of our research are modern methods of political, legal and social cognition: common and general scientific (dialectical, system-structural, institutional dimensions, mental-axiological, sociological, etc.), as well as special legal (comparative legal, historical legal, and formal-legal).

In the theoretical, methodological and practical terms, this work is also based on the provisions of the new institutionalism developed in the works of such authors as P. J. DiMaggio, J. March, D. Norton, J. Olson, R. Taylor, J. Wallis, O. Favoro, P. Hull, F. Emar-Duverne and others, where political institutions are treated quite widely, on the one hand, as formal rules, normative models, procedures and norms; and, on the other hand, as symbolic systems, cognitive scenarios, sociocultural and spiritual-moral patterns organizing and controlling the thought activity of people. Such an approach is most appropriate for an adequate and complex description of public-power interaction, as well as consideration of corruption: on the one hand, as a socio-cultural and ethical deviation of power and power relations, and on the other hand, as an illegal act that violates existing legislation and destroys institutionally-normal order in society [2; 3].

The empirical basis of the research is information, sociological and factual sources, containing information about the specifics of development of the modern political process and public-power interaction. The work also used sociological studies, analytical materials and monitoring conducted by the Institute of Philosophy, Analysis and Forecasting of the Political Science Department from the Moscow State University named after M.V. Lomonosov. a laboratory of the Rostov Political Science School represented by the South-Russian Institute - a branch of the Russian Academy of National Economy and Public Administration under the President of the Russian Federation [4, 5, 6].

## MAIN PART

### 1. *Corruption as a systemic social phenomenon*

It is obvious that corruption is a complex social phenomenon that should be considered in two interrelated dimensions: *firstly,* broadly defined, corruption should be interpreted as a socially dangerous and negative socio-political and extra-legal phenomenon; *secondly,* in a narrow interpretation, corruption is considered as an illegal act and socially harmful acts of public authority, i. e. contradicting not only the laws that are in force, but also the interests of the state, society and a particular person.

In modern studies, corruption is interpreted as a system of various forms and practices deforming the essence and quality of public authority, distorting the essence, role, purpose and tasks of public power. It is no coincidence that a number of researchers note that it is necessary to begin to counteract corruption with preventing deformation of the legal consciousness of officials and citizens.

For example, the development of an extra-legal form of government activity is connected with the organizational and legal structure of its functioning, namely with the arising deformations in the

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political and legal thinking of citizens and officials, with low effectiveness and legitimacy of the activity of law enforcement bodies and other law enforcement agencies [7]. Moreover, these deformations are expressed in mass phenomena of political, legal, spiritual and moral infantilism (lack of formation and gaps in legal, moral and ethical views, knowledge, attitudes, ideas, ideals, etc.), nihilism (ignoring moral values, legal requirements, denial of social significance and value of social and regulatory systems, etc.) and criminalization (merging the legal consciousness of citizens, law enforcement and other bodies with criminal structures) [8].

In addition, the deformations are also conditioned by the processes of stereotyping, i.e. formation of political cliches and stereotypes in the process of public power activity. As P. P. Baranov notes, the most characteristic for this form of deformation are the templates, for example, of prosecutorial bias in the power-legal interaction of authorized officials with citizens; presumption of one's own infallibility in solving professional issues; stereotypes of closedness (almost "bureaucratic sacredness") of internal power-legal activity and rigid internal psychological "self-censorship"; orientation on toughening of punishment, and so on. [9, 84].

In the opinion of the researcher, these deformations generate not only all spheres, and also levels of political culture and sense of justice. They invade the field of specialized knowledge enjoyed by citizens and individuals, destroy political, legal and moral attitudes, feelings, convictions, distort the political, legal and spiritual-moral worldview. Modern strains of political and legal thinking are largely due to the transitivity of social and political organization of Russian society, breaking the traditional values and ideological orientation of development, spiritual and moral disorientation, and social anomie. All this leads to a nihilistic attitude to the law and the existing political reality. Nihilistic attitude to political order and law is undoubtedly a destructive factor that destroys both the political structure of society and its value, and activates the process of distortion of political and legal consciousness, etc.

It is well known that the subjective composition of nihilistic relations includes individuals who are inclined in their political thinking and behavior to a delinquent and criminal form of realizing their interests and needs, social groups organized for the purpose of achieving their ideological and material goals by improper, informal or immoral means, and also state officials, civil servants, departmental administrative units, etc.

Sometimes these groups are generally referred to as "an administrative and bureaucratic apparatus guided by the legalistic principles of etatist non-legality" [9, 527]. Let us recall in this context the civilism concept by V.S. Nersesyants, where he argued that a law adopted for etatistic purposes and violating formal freedom, justice and equality, violates the very essence of the law, its value [10]. In turn, the actions of civil servants represent just a nihilistic attitude towards law and to legal reality, what initiate the development of various forms of extra-legal activity of state government bodies and their officials.

Consequently, corruption leads to an essential deformation of the public authority and to serious institutional distortions, when public authorities do not realize their basic functions, legal powers and social expectations. Distortion of public-power relations dynamics consists in the fact that the basic characteristics and social functions of government institutions conditioned by the need to consolidate, represent and realize social interests (of a person, society, state) [11], are transformed into illegal and shadow activities related to the implementation of personal and (or) corporate interests, benefits, advantages, etc., causing significant damage to the individual, society, state, and socio-political unity as a whole.

In its turn, in the narrow sense of the word, corruption is regarded as an illegal "act of state power" (implemented, for example, by an official) carried out to obtain private (personal or group) benefits and violating the rule of law and damaging the state. In the formal legal aspect, corruption is perceived as an offense that "manifests itself in the form of bribery which means receiving, in violation of a statutory order, by a person in the state or public service of any advantages for performing legal actions (omissions) in the service and graft, i.e. obtaining any advantages for the commission of illegal actions (omissions)" [6, 8].

This principle understanding of corruption is consolidated in the legal definition of the current Russian legislation. So, Art. 1 of the Federal Law No. 273-FZ "On Combating Corruption" states

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"abuse of office, giving bribes, taking bribes, abuse of authority, commercial bribery or other unlawful use by an individual of his/her official position, contrary to the legitimate interests of society and the state, for the purposes of obtaining benefit in the form of money, valuables, other property or services of a property nature, other property rights for themselves or for third parties, or an unlawful provision of such benefits to the said person by other individuals" [12].
Within this approach, attention is focused on formal legal (violation of the rule of law, the state and the level of law and order in society) and institutional and regulatory characteristics of the power-legal activities of individual bodies, officials, and their interaction with public institutions.
Nevertheless, it is rightly noted that "corruption is not really reduced to primitive bribery, especially in the conditions of a market economy, free trade and democracy" and, accordingly, " mixtion, much less a substitution of the state's activities to combat corruption - combating bribery... is ineffective and meets the interests of the bureaucracy itself "[13, 34].

In addition, the complexity of anti-corruption policy is also due to the fact that corruption as a socio-economic and political-legal phenomenon is constantly changing. Corruption interaction is a fairly mobile and dynamic practice which now takes forms of network interaction. It is very difficult to struggle against this due to the fact that changes in the modern society are swift, therefore anti-corruption activity must always take into account the constant evolution of forms, types and practices of corruption relations. This evolution is activated both under the influence of modern socio-political transformations, and thanks to the development of innovative forms of social communication, interactive exchange technologies and so on.

2. ***Principles and priorities of anti-corruption policy***
Of course, anticorruption legal policy involves overcoming a rather narrow criminal-legal approach to this problem, which in recent years has been very well represented in the specialized literature. It is necessary to turn to the consideration of corruption in various echelons of the state and municipal authorities, other structures in the institutional dimension, to reveal the structure, content and peculiarities of the *institutional distortions* in this sphere of public relations that determine the required system of measures to combat them.
Some doctrinal and practical aspects of corruption are attracting attention in the foreign political and legal discourse as the most dangerous phenomenon for the existence of modern states. In particular, within the framework of this Western political and legal tradition, many researchers highlight the *economic consequences of corruption*, trace the *relationship between the politico-legal institutionalization of privatization and the "rampant" corruption*, reveal *deep sources of corruption at various levels of power structures*, including in the functioning of various institutions of electoral systems; they view *corruption as a social and cultural problem,* assess the place and role *of bribery* in the general corruption mechanism, etc.
Analyzing the results of work of western authors taking place in the above-mentioned areas, and also summarizing the results and conclusions they have obtained, a number of important points in the theoretical and methodological plan can be formulated.
Anti-corruption legislation should take into account a number of points:
- *Firstly*, officials in the public sector of the economy may have *insufficient incentives* for proper performance of their duties, given the size of their official salaries and the low level of internal control over their activities. This circumstance can serve as a source of bureaucratic delays and other arbitrary obstacles for business and other (political, social) institutions of civil society;
- *Secondly*, participants of quite legal transactions through bribe are trying to reduce the costs determined by the state and existing in the form of taxes, customs duties, etc. ;
- *Thirdly*, illegal business often buys from state officials the so-called "dirty" benefits. In the most odious cases, illegal business and representatives of organized crime subordinate to themselves law enforcement agencies and other institutions of state and municipal power through corruption and intimidation;

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- *Fourthly*, state structures can be charged with insufficient provision of benefits to private entrepreneurs and firms using legal grounds, rather than seeking to buy these benefits for a bribe. In this way, bribes clear the market of "superfluous players";
- *Fifthly*, when the number of preferences and privileges is limited, but varies, state officials can reduce the officially established number of services in the process of law enforcement in order to increase their "rent" owing to them as a reward for arbitrary sharing. On the contrary, if the state establishes the volume of proposed benefits below the monopoly level, the corrupted officials will seek to increase the volume of services provided to them. They will try to extract the maximum benefit for themselves, rather than setting the optimal volume of distributed services.

Indurate corruption is a deterrent to the reform of state and municipal institutions. It is clear that firms that have benefited from bribes, or who remain "afloat" due to other types of corrupted officials' activities, will by all means (including through lobbying institutions) suppress any attempts to improve the transparency of existing laws and subordinate legislation. Their "allies" in the state apparatus will also oppose attempts to carry out reforms aimed at making the economy of the country more open and competitive. Such practices also undermine the legitimacy of state institutions in the eyes of citizens.

Corruption in a planned and transitional economies can act as an equalization tool for demand and supply. Thus, the state often distributes free goods and services or sells them at below-market prices. Often there is a dual price system: a low state price and a higher market price. In this case, private companies will be willing to pay to government officials for the right of access to the sources of supplying goods and services at more favorable prices. "In China, for example, some goods were sold at both a preferential state and market price. And although in recent years the spread of prices has decreased, once these price scissors were very significant. As noted by Chinese researchers, in 1989 the market price of coal was 674% of the state ones. Market prices for some other types of products ranged from 250 to 478% of the state prices. It is not surprising that in China, the practice of giving bribes through which private sellers tried to obtain goods at public prices was widely spread" [14, 8].

Privatization may reduce the level of corruption by removing certain assets from the state control and translating the practice of making arbitrary decisions of officials into the process of choice stimulated by market mechanisms. However, the transfer of assets into private ownership also preserves and even multiplies corruption practices. Many of the motives for corruption are comparable to those emerging in the process of distribution of contracts and concessions. Instead of giving bribes to a state-owned company to obtain a contract and most favored nation treatment, participants in a privatization tender for the acquisition of a state-owned company may bribe employees of a state body responsible for privatization, or high-ranking government members. It is possible to buy for bribes the opportunity to be included in the list of participants admitted to the privatization auction. A firm can also pay bribes to narrow down the range of other potential competing applicants [14, 43].

Many government regulatory programs and budgetary expenditures are fully justified, and they need to be reformed, and not abolished. Corruption in the field of taxation can not be overcome by refusing to collect taxes; other programs are a reaction to market failures and unmet demand for public services and social justice. One possible solution may be to clarify and correct the existing legislation necessary to counteract bureaucratic self-will and to simplify supervision. Rules can be simplified and clarified with the help of a public explanations. The authorities should give preference to simple and eliminate the requirement for interpretation of laws in the field of taxation, public spending and regulation [14, 56-57].

An effective strategy for corruption control should be based both on strengthening the deterrent effect of the legal responsibility institution and on encouraging persons who provide documentary evidence of corruption. The control over criminal behavior of representatives of power structures and other structures depends on the likelihood of its detection and punishment, and on the nature of the sanctions imposed: both as punishment imposed by judicial instances, and more specific costs in the form of loss of reputation or public censure. Success in identifying the facts of corruption depends on the behavior of the insiders who are able to report abuses. Often, this requires a guarantee of

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relaxation for one of the participants in the corruption transaction, which, in turn, generates an interesting paradox in the activities of law enforcement authorities. The irrevocability of a serious punishment should serve as control over corruption, but it is possible to reveal the fact of corruption with high probability only if a relief in punishment is promised in advance to someone from the participants in a corrupt transaction.

**CONCLUSIONS**

In post-Soviet Russia, the understanding of corruption as a result and reflection of serious *institutional problems* makes it possible to identify a number of *issues* that are essential for the formation of the basic *guidelines for anti-corruption legal policy* :

1. The negative economic consequences of corruption in the country can be divided into two categories: firstly, they are direct losses from corruption, for example, such as budget losses during its formation and execution, and, secondly, a set of indirect losses that result from corruption, because the latter reduces the efficiency of an economy as a whole, distorts the mechanisms and institutions of market competition, and the investments fall. Unlike direct losses, indirect losses are much more difficult to assess, and accordingly, the selection of the legal and political resources needed to prevent them will be difficult and protracted.
2. Compared to Western countries, "low-level corruption" or "domestic corruption" is extremely common in Russia, when citizens face certain types of corruption in solving common problems (communication with the police, traffic police, admission to some universities, conscription, and so on.).
3. It is peculiar to Russia that representatives of big business do not try to perform seizure of governmental power (that can be observed in Western countries), but quite the opposite: officials of different levels are trying to establish corruption control over business. According to some modern domestic analysts, this situation is due primarily to the extremely weak development and insufficient legal protection level of the *private property institution*.
4. In the conditions of the long-standing transition period of the economic, legal and political systems development in the country, the existence of corruption is most often beneficial not only to officials (bribe-takers), but also to "bribers". This is due to obvious facts: firstly, corruption may be a price for the opportunity to violate the law, secondly, corruption often acts as a payment for the possibility of "making life easier", thirdly, corruption is a "reward" of an official for help in the suppression of the competitor, fourthly, many Russian citizens resort to a corruption mechanism for services to solve their quite legitimate business, when an official simply promotes progress of their case within the bureaucracy. It also happens that in the hope of receiving a bribe, authority representatives artificially delay ("freeze") the decision-making for a client, but most Russians show a very low level of legal skills and they simply are not able to resolve this issue in higher instances or in court, the more so that in these structures they can also expect a long bureaucratic delay.
5. Modern Russian modernization is based on a rather primitive model of *mechanical transfer* (instead of reception) of political, legal and socio-economic *institutions*, their transplantation. It is assumed within the framework of such a reform project, that a new institute will immediately work and give the same positive result as it provided in another country. However, often there is an effect of institutional distortions that is unexpected for power elites and civil society, what stimulates the development of the corruption mechanism around this institution. For example, the legal institution of bankruptcy in Russia began to be used in order to grab property by illegal methods from quite efficient owners with the help of the bureaucratic apparatus.

   Under such conditions, it is clear that the issue can be resolved not by separate "splashes" of the struggle of Russian law enforcement agencies with corrupted officials, not through a series of high-profile scandals with expositions of "werewolves" of all levels, but only through systemic legal, political, economic and moral events, included in the overall scientifically and practically justified strategy of the national anti-corruption policy.

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