

6. Elena Ovcharenko

“Fighting corruption and the role of Mass-Media”

Significance: Why is this talk about corruption necessary? It does not seem to be effective. They say power corrupts. Politicians in the prosperous European Union sometimes can be as well corrupt as politicians in Ukraine that ranks as one of the most world-corrupt countries. Nevertheless, **the truth as well as solutions for a way out can be found only in an open discussion.**

Arguments:

1. Corruption: psychological roots

Corruption exists since humankind evolved from the era of barbarity. It is rooted so deeply that seems impossible to eliminate. In Ukraine you would fail to find a person who has never in his (or her) life given a bribe to a public official. The social opinion accepts such actions as an appropriate and unavoidable way to reach a goal in certain cases. In comparison, try to persuade a middle-class American to give a bribe... You would face resentment and misunderstanding. This difference of attitudes shows the core of the problem.

But one may wonder : what is it about the bad Ukrainians and the good Americans? They all are just the same humans but the first are known as one of the most corrupt nation in the world while the last serve as an example of an “ideal” democracy... The thing is that Americans have for many years worked out effective mechanisms of corruption prevention. The healthy investment climate, minimum of government regulation of business, the institute of parliament lobbies, the unlimited freedom of speech... All these factors provide a prosperous society that brings up an active enthusiastic responsible individual, who tends to set and reach goals by himself. On the contrary in Ukraine the social background and the totalitarian heritage stimulates less legal business activity (but rather shadow incomes), few investments, and a specific attitude to the state, which is supposed to solve all citizens’ problems. A huge and ineffective bureaucracy machine forces a person into bribing as the only way to solve his problems. The society is so tolerant to corruption that it lets the highest officials transfer millions of dollars on the foreign bank accounts. Corruption penetrates the whole state machinery. The society is silent. It does not have the right to speak up. It does not have the courage. This is a vicious circle.

2. Corruption: scientific approach

Cicero used to say: the scope of corruption in a country is determined by the quantity of laws in this state (the more laws—the more corruption). We should also note that the quality of laws also determines the scope of corruption. Some claim that enforcement of a stricter criminal responsibility for corruption would reduce its scale. This approach does not seem appropriate as it’s been proved that punishment enhancement does not serve to deter from crime.

There are different ways to define corruption. The narrow definition catches only the act of bribing; it is rather a simplified approach. Legislators in most countries broaden this notion, taking into consideration different aspects of misuse of power by the state officials. Sometimes this phenomenon is classified according to the spheres of public life (political, public sector, police and bank corruption)¹. The Black’s Law Dictionary defines *corruption as an act done with an intent to give some advantages inconsistent with official duty and the rights of others. The act of an official or fiduciary person who unlawfully and wrongfully uses his station or character to procure some benefit for himself or for another person, contrary to the duty and the rights of others.*

We can give various names but it does not change the core of corruption. It is a weapon more dangerous than the atomic bomb. It does not need to kill to destroy. It is like cancer – it works silently, slowly but aims right into the target.

3. The USA: an effective model of corruption fighting to emulate

1. The federal and state laws – Racketeering Influenced & Corrupt Organizations (RICO) Laws¹—provide an effective legal mechanism of remedies against corrupt organizations and public officials. Federal RICO laws prohibit a person from engaging in activities which affect interstate or foreign commerce, including:

- (1) using income received from a pattern of racketeering to acquire an interest in an enterprise;
- (2) acquiring or maintaining in the affairs of an enterprise through a pattern of racketeering;
- (3) conducting or participating in the affairs of an enterprise through a pattern of racketeering;
- (4) conspiring to commit any of the above offenses.

RICO provides both civil and criminal remedies for violations of its provisions. A civil suit may be brought in any district court by any person whose rights has been violated or a prosecutor. RICO's extensive criminal penalties provide prosecutors with an effective weapon to combat both domestic and transnational crime. Under section 1963, an individual convicted under RICO may “be fined not more than \$25,000 or imprisoned not more than 20 years, or both...”. RICO also authorizes longer prison terms for offenders than do most criminal statutes and sets a 10 years term from the moment of crime commitment to bring the violator under responsibility¹.

2. The Mass-Media are free to expose the circumstances of corruption-related cases. Under the First Amendment to the Constitution, conferred by the U.S. Supreme Court rulings, a journalist has the right to publish any information, even obtained illegally. The law does not give its protection only to spreading state secrets¹. Thus the journalists are not afraid to conduct investigations of their own and roar a discussion to expose the corrupt officials. Bill Clinton was not even corrupt. Nevertheless, his private life has been ungently disturbed by the Mass Media and judged by the whole country. This is the real freedom of speech.

4. Ukrainian reality: where is a way-out?

1. According to the World Bank data corruption is valued as one of the most serious obstacles for business development in young democracies like Ukraine¹. Among the reasons of this social evil are:

- problems of the shadow economy;
- imperfect legal base;
- weak judicil system;
- the dependence of the Mass Media;
- lack of information about the government decisions;
- social indifference towards the problem.¹

This list may be continued endlessly...

A special law “On Corruption Fighting”(1995)¹ and the Criminal Code of Ukraine¹ impose sanctions upon corrupt public officials. But there are quite a few problems with its implementation. First, it is difficult to draw a line between a corruption act as a crime and an act punished by this law. The remedies under the law include a fine (from around \$78 to \$157 in equivalent)¹ or removal from the office with a commitment not to take the same position during a period up to 3 years. The legislator provided **only 2 months!!** from the moment of the corruption acts for prosecution. Considering such a short term only a small percentage of the corruption acts are being investigated. In spite of tremendous efforts of the police, prosecutors and the Security Department – the organs that are empowered to fight corruption – only a few out of hundreds of the guilty are being brought under responsibility. And practice shows that they are not the major violators¹.

At the same time numbers of “Lazarenkos”, intelligent white-collar swindlers, avoid the punishment due to their high positions and links with the judiciary. A court decision on a case if corruption is rather a miracle than common practice (the Kiev city court decision of 2001 on the case of V.Bozhenko: a policeman convicted of bribing was found guilty in committing a crime under the Criminal Code of Ukraine)¹. This case may seem an ordinary one, but when it comes to the policemen or other public officials the so called “dignity of the office” does not let the hidden violations be exposed publicly. This usually is done from the silent consent of the highest leaders. It happens that some investigators are being killed in this conspiracy. For instance, on the 7th of August 2001 an officer of the Security Service was assassinated in Odessa. He was responsible for investigating corruption crime in the sphere of judiciary and prosecution. The investigation is going on...

2. The Mass-Media experiences a significant pressure from the side of “the people in power”. The real freedom of speech exists only in the Internet. The instruments of control vary from such a “democratic” method as shutting down the sources of information to unveiled violence. But the “Gongadze case” provides an effective government strategy of shutting down the opposition. The worst thing is that the journalist assassination company did not stop on that. In June a journalist from Donetsk Igor Aleksandrov was killed¹. He was an person, who strongly opposed the people in power and moreover he dared to expose some of them in his TV program. He had a talent to conduct a good investigation and figure out facts that some high Donetsk officials, connected with the criminal authorities and closely tied up with covering serious crimes, would like to hide. On the eve of the parliamentary elections many conflicts tend to stir up... Would we ever find the truth? Maybe the truth is not wanted. Maybe it is a thing that too many people fear. Maybe no one wants to seek the truth. And in reality there are just too many obstacles put on the way of a journalist who wants to find out what really is going on...

5. Corruption and Freedom of Speech.

We may draw vivid graphs and tables of statistics, we may proudly and loudly declare from the main tribune of the country how impressively successful our efforts of corruption fighting are. We may claim with great optimism that that quantity of corruption facts investigated and corrupters brought under responsibility over that particular period of time has grown in percentage. But all our speeches and discussions would be a useless game to impress the public until we view into the essence of the problem. It is much deeper than an official’s report, based on legislation provisions and prosecutors’ practice. It lies deep in the human heart, human psychology and nature. Despite of numerous efforts and smartest theories, we would fail to answer the crucial question – what makes a person empowered misuse his position and get the most advantages out of it. Is it just the greed for money, an interest, driven by a malicious purpose or the declined morals? Only a sharp unprejudiced approach to one specific situation can unveil the hidden motives. A prosecutor, preoccupied with the burden of ascertaining blame, does not always figure out the core of the problem. An independent journalist investigation in numerous cases would be more useful for society. It would not only lance the abscess of the crime, but provide the audience with all necessary ingredients for working out a cure.

Conclusions: The Mass Media in a post-industrial society can provide one of the most effective remedies of corruption-fighting strategy. It is the best forum for an open discussion and the best prevention instrument for the public officials not to take bribes (an effect of a fear to be publicly exposed and criticized). Only strong institutions of civic society (like an independent journalist) and the good will of each citizen can challenge the corrupt state machinery. When all measures seem to fail, when everyone is overvalued with pessimism and the reforms do not go, there’s got to be a starting point to begin with. And this has got to be

the FREE MASS MEDIA. **It takes more power of thought to meet a change than to make it.**

Research: In this work a series of sources were analyzed:

*the Black's Law Dictionary;

***legislation** of the USA and Ukraine in a comparative aspect;

* news-paper materials on the cases mentioned;

*scientific articles etc.