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“State and governmental corruption: situation in Russia and other countries “experience”

Corruption is an attribute of human societies since the times immemorial. So is the fight against it. The reasons of corruption are as various as its manifestations. Undoubtedly, one of such reasons originates in imperfect legislature, a situation common to many countries, especially those with transition economies, of which Russia is a vivid example. There is, however, a historically proven fact that no laws could ever eliminate corruption completely because in its essence it is a reflection of people's eternal vices. Another solid reason for corruption to develop itself is the growing army of bureaucrats. And this is typical to almost any country because development, both political and economic, necessitates development of an administrative system. Often the system gets clogged by unnecessary procedures and too much paperwork only to create a comfortable habitat for corruption. And finally, the reasons that cause corruption are related to such economic phenomena as monopolies, fast evolution of the market, the growing role of mediators of all sorts among the businessmen. Of course all those groups of reasons are connected and it is hard to trace the effect of one or another. Nevertheless the majority of specialists recognize that today the reasons related to the economy are the most powerful ones [6]. That means that the transition market gives birth to many kinds of divergences between business and the existing laws. In order to avoid corruption the legal basis either needs to be reinforced or corrected according to the modern market realities.

The analysis of the publications on corruption in Russia shows that the main reasons of it are in the multi-level monopolization of the economy, unorganized forming of business, lack of clear statement and understanding of the rights and the duties of the participants in the market activity, as well as absence of legal guarantees of their rights. Corruption in Russia existed since the times of the first Russian rulers. Among the various reasons for that is the mentality of the nation. The latter is very much influenced by the Russian Orthodox Church, the basic principle of which encourages the people to blindly respect the ruler because s/he is believed to be appointed by God. The system itself at the time was very much downward-structured and all officials were subjected to one another to a very high degree. There was no space for initiative, unless one would get a higher status. All this was complicated by the fact that the lower levels were in the same position – they were looked at as something completely devoid of any rights or privileges. So, to lead a good life while on a certain stage of bureaucratic ladder a person needed to take bribes, which were a part of the strictly structured system – from below to the top, the size of a bribe growing. And the lower strata learned that nothing can be done without bribes which then turned into something natural, a third “survival law”, which became a Russian mentality. Even in our recent past, in the times of the Bolshevik-created command-administrative system the level of corruption dramatically increased. It is plausible to say that in this particular case the cause of corruption was hidden within the communist ideology. The ideology created three kinds of laws: the laws for the mighty “people's servants”, the laws for all the rest, and the unwritten laws of bribery and corruption, required for survival. The official law became something separate from real life. The command-administrative system laid on the foundation, with the same principle, but further developed due to the fact that the “servants of people” came from that lower level for who bribes were something natural (to give). It was based on the principle of privilege – some had it, some did not. Also it was boosted by the fact that all normal products and services were in very short supply – a deficit of everything left no choice for the people. To get better clothes people had to bribe a salesperson, to get better food people had to bribe a waiter, etc. All was further aggravated by the fact that the Communist officials had no respect for people who lacked their privileges, and this disrespect was even deeper than in the case of the older

times. They had respect for only those who were above them, and in certain cases had to bribe those, too. The system created by the Soviet power is still very much visible today.

In everyday life corruption is associated with the state service. And indeed, state officials possess considerable powers and have many possibilities to use this power in their own interests. The most successful experience in fighting corruption among the state officials has been obtained in the countries with effective administrative systems like Great Britain, France, Germany, the USA and Canada. State service legislature in these countries is quite uniform. The peculiarities of each country were taken into consideration when composing the legislature of it. The positive experience of these countries undoubtedly is useful for Russia when trying to build an effective anti-corruption legislature, especially the experience of the democratic countries with the administrative system close to Russian one. These are USA, Germany and Canada.

In American anti-corruption legislature the definition of the word “bribe” is very broad. For example, American legislature provides punishment not only for taking a bribe by corrupt officials with the intention to misuse their power, but also for being “tipped just-in-case” [5]. The definition of bribe does not carry only the property sense. It also assumes that the corrupt might profit from the whole deal by receiving some kind of favor or support. It is necessary to mention here that Russian legislature defines “bribe” more in a sense of property. This is a bright example of ignoring the creativity of corruption manifestations [2].

It is strictly forbidden for US state officials to accept any gifts from anybody that have any interest in the official’s activity or is somehow connected to that activity [4]. Meanwhile Russian legislature allows for the state officials to accept “usual gifts which cost no more than five legally established minimal wages”. Receiving and accepting this kind of “usual gift” does not lead to any consequences for the officials or for the ones offering “the gift” [5]. In US this kind of gift, no matter the cost, would be considered a bribe if the official extorted that gift, if the gift was offered with the intention of profiting from it or if the gift was given for some kind of illegal actions from the official’s side.

American system requires from the state officials to exclude any personal or financial interest from their work. Therefore US system requires a very thorough financial declaration from the state officials, listing all property that they and their relatives own [4]. In Russia the requirement of listing the property of the officials and their relatives applies only to a certain kind of officials. High officials, such as executives, legislative leaders, deputies, ministers, judges and other federal level officials are obliged only to list their personal property, though it is well-known that a corrupt official never registers the property on him/herself [5].

Divulging the secret information is one of the main aspects of the corruption problem. German state officials even after their service is over can not divulge any information concerning their activity without a special permission. The permission could only be given by the head of the service for which the official used to work. For any other work rather than state service the official also needs a special permission [4]. As for situation in Russia - in the last 5-6 years there have been about 15 different ministers of economy, finances and vice-ministers, all of them after being fired almost immediately getting employed in big commercial banks, companies, etc [6]. No special permissions or obligations for them to keep the secret information take place. This is a serious underestimation of the information matters.

In Canada, independence of the judiciary is a constitutional principle of utmost importance. The objective of an independent judiciary is to ensure that everyone has access to an impartial judge, who is in control of the judicial proceedings, so that the rights of the person appearing before the bench will be determined solely on the basis of the facts and the law. The basic constitutional provisions handle the matters of tenure and removal, salaries and guarantee judges against any interference by the executive level of government [3]. According to the Canadian “The corruption of foreign public officials” act, not only would the offence of

bribing a foreign official be subject to prosecution, but it would also be possible to prosecute for aiding and abetting in committing the offence, an intention in common to commit the offence, and the counseling of this offence [3]. In Canada one of the requirements for the behavior of the parliamentarian in case of some conflict of interest is publicity. Making government information accessible to Canadians is an important element of open government in Canada [3]. Bribery among the parliamentarians results in about 14 years of prison [5]. The same practice in Russia would probably only result in firing the official. Canada is a good example of how liberal legislature manages by the means of specific instructions to keep on eliminating the level of corruption.

The analysis of the positive experience of USA, Germany and Canada in eliminating corruption clearly reveals the necessary basis for the building an effective strategy against the corruption - clear, thorough and detailed legislature that would describe and prosecute all possible forms of corruption. Each of the analyzed countries also amends their anti-corruption legislature in a response to the situation in the country. Russian legislature due to the drastic changes in the political course of the country just few years ago still has many contradictions [2]. There has been several attempts to pass the "On fighting the corruption" law but every time the law would not pass either Duma or would not be approved by the President [1]. So to the present day Russia still does not have the specific law concerning corruption or a sole anti-corruption legislature. The existing legislature is lacking clear definitions which gives the opportunity for the corrupts to take advantage of it, and also takes away the people's confidence about them being guaranteed their rights. This factor itself results in businessmen seeking protection and guarantees not in the law but elsewhere which often leads if not to the crime, then to the connivance.

Another big problem in Russia is the described mentality. Education takes a great part in building up the national mentality. So it is vitally important to start creating just and patriotic mindset as early as possible - teach children in school, even in kindergarten, certainly students in colleges, universities. It is necessary to create a healthy atmosphere in the society, at least in the future one through educating children now.

Struggle with corruption is not a one-time affair and complex approach is necessary. All the measures offered are not enough to destroy the phenomenon of corruption but they are the ones of foremost importance to be applied in Russia. However this struggle should not be an individual struggle of each country, such a serious matter needs an integrated international approach to it. Corruption is a world problem and therefore requires the united efforts of all countries to stop it from developing.

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