

Why Do Anti-Corruption Institutions Work or Do Not Work

Valery Alekseevich Glazyrin*

Department of Philosophy and Sociology, Ural State Law University, 620137 Yekaterinburg, Russia

**Corresponding author. Email: glazur@olympus.ru*

ABSTRACT

Corruption is no longer terra incognita. The work emphasizes that scientific research has accumulated a significant amount of knowledge about corruption; there are extensive anti-corruption international legislation, national legal acts and diverse experience of their practical application in different countries. Several states have achieved convincing accomplishments in the fight against corruption; they managed to reduce it to a level that does not pose a public danger. However, not all countries manage to free themselves from corruption. Therefore, the work primarily considers the conditions and causes of failures, as well as failures in the confrontation with it. Realizing the fact that society is a complex social organism, the article examines the importance of socio-cultural and moral preferences that develop in society in the fight against corruption. At the same time, the priority in countering it is given to official institutions. The aim of the work is to present the basic aspects of an effective anti-corruption institutional design based on a theoretical sociological and legal discussion of the problem, which consists in posing the question that hinders the effectiveness of anti-corruption institutions. The final statement of the work is the assertion that institutions can then properly resist corruption when the institutional matrix of societies acts as a kind of "instrumental" embodiment of the social contract of society members regarding rules of their joint life, rules-institutes that establish law in societies. The perspectives for the study of the presented direction of corruption cognition lie in conducting surveys related to describing and explaining the circumstances of how anti-corruption institutions work.

Keywords: *law, institution, corruption, capitalism, social contract, constitutionalism*

1. INTRODUCTION

Corruption is no longer terra incognita. The public, experts and scientists have accumulated a significant arsenal of knowledge about its essence, structure, forms of manifestation and social consequences. There are acts of international law and national legislation to combat this social evil, extensive experience accumulated by their practical application in various countries; there are states in the world that are essentially free from corruption. Therefore, it is possible nowadays to change the approach of studying corruption. The question of what corruption is becomes not as important as the question why many countries are unable to overcome it.

Modern Russia is one of such countries. Considering the ratings and indices presented by various analytical and research groups and centers that demonstrate the state and dynamics of corruption in the Russian Federation, it is hard not to notice that the results of the fight against it do not yet meet public expectations. For example, the Corruption Perception Index (CPI) for 2019, published by the international anti-corruption movement International Transparency, shows that Russia, having scored 28 points out of 100, climbed one position higher than in the

previous year, taking 137th place out of 180 (countries are ranked on a scale from 0 to 100 points, zero means the highest level of corruption perception, and 100 - the lowest).

The Dominican Republic, Kenya, Liberia, Lebanon, Mauritania, Papua New Guinea, Paraguay and Uganda received the same points as Russia. CPI results can be compared to the ones of 2012. Russia had the same 28 points as in 2019, and from 2012 to 2017 it had 29 points each. A correct understanding of CPI indicators assumes taking into account the fact that countries with public and business involved in political communications, on average, receive 61 points; and states with "conserved" political relations, on average, receive 32 points [1].

International Transparency believes that for a full-fledged struggle Russia particularly needs to: promote the separation of powers by strengthening the system of checks and balances; ensure that decisions concerning the budget and actions of the authorities are not dictated by personal ties and interests; improve legislation related to the regulation of conflicts of interest; regulate lobbying activities, promote an open and meaningful decision-making government processes; strengthen control over the integrity of electoral process; fulfill obligations of international anti-corruption law, as well as recommendations of the Group of States Against

Corruption (GRECO) [1]. These would seem as intelligible proposals, but a complex range of circumstances does not allow their implementation.

2. MATERIALS AND METHODS

The methodological basis of this article is the institutional analysis of the study of social phenomena and processes, which in its briefest presentation were described by D. North: "Institutions matter". Institutions primarily represent the rules governing the interactions of social actors, normative establishments that structure social orders. Institutions include formal / official and informal institutions.

Based on the position of K. Popper that social sciences, such as economics and sociology, should study abstract (impersonal) relations as long as not personal / personified connections, but abstract relations "create actual conditions for social life" [2, p. 174-175]. The article focuses on the importance of formal institutional arrangements in the fight against corruption.

The research problem of this work is to pose the question of what hinders the effectiveness of anti-corruption institutions. In its analytical analysis, the article uses the case study method. The purpose of this study is to present the basic aspects of an effective anti-corruption institutional design based on a theoretical sociological and legal discussion of the problem under study.

3. RESULTS AND DISCUSSION

It is customary to consider the will of states' political leaders, manifested in their rhetoric and demonstration of intentions to pursue a steady and firm policy to eradicate corruption of state institutions and various spheres of public life, as the initial obligatory condition and a resource in the fight against corruption. Obviously, proclamations and speeches cannot eradicate corruption. Is it personal anti-corruption activity of political leaders that allows them to get the best of it?

Russian historian N. M. Karamzin said that Russia does not need a Constitution and new laws. It needs 50 smart and honest governors [3]. It turns out that for the author of the "History of the Russian State" institutions do not matter. In fact, being a supporter of "manual" management, he does not notice that if there are no official institutions, then the achievement of any managerial goals and the implementation of any social transformations will be carried out in a compulsory way. In conditions when the impersonal format of formal institutions is being replaced by the regime of personalist government, the effective fight against corruption is highly questionable, since this method of administration makes arbitrariness of the officials possible.

It seems that the Singaporean experience of fighting corruption, a country that has overcome this serious social ailment, speaks of the opposite. It is fairly emphasized that

it was possible to cope with corruption in this state thanks to the policy of Lee Kuan Yew. At the same time, the fact that the fight against corruption in Singapore was an integral part of its transformation from third world countries to the first one is often overlooked [4, p. 135-147, 168-188]. Lee Kuan Yew's "dirigisme" in his state activities aimed at eliminating any privileges of officials and politicians at any level, ensuring the independence of the court, and establishing a law based regime.

As you can see, countering corruption requires not a regime of political personalism, but the establishment and approval of institutional matrices in societies that ensure governance through the Rules.

Does any system of rules allow to build an institutional system that rejects corruption? Not at all. In modern societies, social order is primarily ensured by legal rules and institutions. Their effectiveness in the establishment and maintenance of social orders is based on their general obligation, the certainty of written legislative acts, legal proceedings, and state-power enforcement of laws. However, one must be aware that legal institutional formations can personify and create different social orders. This is due to the fact that *lex* ("rule of government" - government through the rules / rules of the state representative / state) is not identical to *jus* ("rule of law" - government through the principles / norms of law; rule of law). The real fight against corruption is combined with the formation of the rule of law. The fact is that an act (positive legal law) that does not correspond to the nature and requirements of law can be used to legalize authoritarianism [5. P. 37], which is characterized by the emergence of corrupt patron-client structures of social communications.

Institutional constructions, which the Peruvian economist E. de Soto called "Braudel's glass bell", after the famous French historian Fernand Braudel, is also an example of inappropriate anti-corruption. In many non-Western countries, as the South American scientist notes, there is a situation of unequal access of various social groups to the legal law system, which means that the principle of equality of all before the law and the court operates in an electoral regime [6, p. 73-74]. The presence of these "glass bells" in societies leads to the formation of illegal, corrupt social ties. The insidiousness of the Braudel caps is that they do not officially exist, since in modern states, law is not a privilege of individuals and social groups.

An important matter of understanding the importance of institutions in the fight against corruption is that modernist societies need working anti-corruption institutions, the institutional core of which are principles of modern constitutionalism. According to M. Weber, rational productive capitalism with clear legal institutions arose in the European West, but capitalism does not always happen like this, the activities of economic actors can be aimed not at making a profit in a competitive market, but at making money in politics and state management [7, p. 53]. Complementing these Weberian statements, we note that states in their history are faced with development junctures. For example, A. Greenspan and A. Wooldridge [8, p. 85-106] write in their notable work on the formation

of American capitalism that in the period from 1777 to 1865 all the diversity of views and structures in the United States collided in a great dispute of two points of view, which was initiated by Alexander Hamilton and Thomas Jefferson. Gradually, this controversy about what America should be – an industrial free labor country or an agrarian one, with the use of slave labor - grew into a civil war between the North and South.

Societies have their own unique culture. Do the universal institutions of constitutionalism, born in the Western world, subject socio-cultural characteristics and identity of the peoples of the non-Western world to destruction? Do they need a special way of fighting corruption? The assumptions on the destruction of culture and identity of modernizing societies, without denying the complexity and contradictions in their formation and development, are not entirely correct.

One should not oversimplify social dialectics. Japan, Taiwan, Hong Kong, Singapore, South Korea have mastered many Western institutions in various areas of society, including those related to anti-corruption struggle, but at the same time they have their own culture. Initially, North Korea and South Korea share a common culture. But the fundamental institutional differences that have taken hold in these countries in recent decades have turned them into two deeply different states.

What if formal institutions do not work, they turn into “paper tigers” in a way? A common point of view is that without changes in culture, which sets the goal and meaning of any social institutions and social reorganizations, institutional transformations of a modernist sense are doomed to failure, since pre-reform practices will be reproduced within new institutions [9, p. 193].

Without ignoring the arguments of this position, we believe that there is a more reliable explanation of the effect of non-functioning formal institutions, which consists in the understanding that socio-cultural practices accumulated in the past lead to the formation of groups interested in their reproduction in the present and in the future; they will make efforts to prevent changes that threaten their social survival [10, p. 83].

Let us present two examples, a “negative” and a “positive” one, of the influence of moral norms on corrupt social practices.

Societies “stuck” in their historical development are likely to get bogged down in networks of corrupt ties. American sociologist and political scientist Edward Banfield studied social relations in the small town of Chiaramonte in southern Italy in 1955. Based on the results of his research, he published the book “The Moral Foundations of a Backward Society” [11], which has received worldwide fame. The work shows that the inhabitants of this settlement community sacrificed the public good for the sake of their daily personal and family interests; therefore, disunity reigns in the city, there are no values, norms, rules that ensure trust and cooperation, and the desire to act together. All the above led to underdevelopment.

What is the manifestation of this social order that deprives people of a better future? According to E. Banfield, no one

will act in the interests of the community, if he does not see the benefit for himself personally; only officials are involved in public affairs, since they receive money for this; the official position is used by their owners for personal purposes; the law is respected only under threat of punishment. If a person holding a public office has the opportunity to take bribes with impunity, he takes them; no one believes people and organizations that explain their actions by concern for the common good; there is no connection between abstract political principles and real behavior in everyday life.

Citizens use the right to vote in order to get material benefits for themselves in the shortest possible time; public control over government officials has been undermined; people lack the willingness to make small significant sacrifices for the interests of others. Citizens are supporters of the “firm hand” order; long-term public interests are sacrificed to the momentary material benefits of individual families [11, p. 85-106]. E. Banfield expressed deep pessimism concerning the fact that the selfish family institutions and “warm friendships” in such communities could be eliminated. Whatever it was, similar systems of social ties and relations in one form or another continue to exist to this day in the regions of southern Italy. There is no doubt that in any society, similar social practices will prevent or even block the action of modernist institutions, the fight of social actors against corruption.

Moral supports and attitudes can be different, they may act as a party to the anti-corruption value-normative public consensus [12], for example as zero tolerance for corruption, moral prohibition on illegal enrichment, awareness that the appropriation of budgetary funds damages the future of new generations, understanding that a corrupt official lives in fear of exposure and just retribution, the idea that personal success is based on education and personal achievements, understanding that corruption undermines the rule of law leads to the formation of patron-client relationships. These and corresponding in spirit moral foundations, together with working official institutions, make it possible to get rid of corruption.

We emphasize again that in societies without shifts in their institutional systems, hopes for the implementation of any significant social changes are low and it is impossible to achieve significant milestones in the fight against corruption. It is clear that formal institutions do not exist in a social vacuum; they are an integral part of societies as complex social organisms. At the same time, having highlighted them as key social instruments in the fight against corruption, we focus on the fact that there is no real alternative to countering it.

The issue of corruption in today's Russia is multifaceted and complex [13–15]. Institutional aspects of corruption in Russian society are supposedly studied more sufficiently by the authors of the monographic publication “Rent Society: in the Shadow of Labor, Capital and Democracy” (2019) [8]. Based on the material of this work, the deep basis of corruption in Russian society lies in the sustainable reproduction of the system of power and

property relations [9, p. 192-277]. The market transformations carried out in the country in the last decade of the 20th century was radical, but superficial; they were marked by a rent-class rollback. As a result, today's Russia is a society in which its institutional center is organized according to the rental model, and market values and institutions constitute the periphery, which acts as a socio-political and economic basis for corruption [9, p. 192-247].

Corruption undermines the social cohesion of Russian society. If the ruling elite does not make efforts to build the proper constitutional state and political institutions, if it creates an indefinite, changing institutional structure that covers the practice of generating income in their favor, then, according to M. Olson, it acts like a "nomadic bandit" [9, p. 199, 229].

On the one hand, the elites seek to guarantee the political loyalty of the majority of citizens through their rent dependence. On the other hand, the elite alliance is constantly striving to increase its share in the total rent, which can motivate the subordinates who have realized this situation to revise the status quo, the prevailing social order. In addition, within the ruling coalition there is an unceasing struggle for positions, spheres of influence, powers and resources. In turn, the "consensus" of groups in a rental-estate society cannot be perceived as a social contract concluded by the parties on a voluntary basis. For non-elite groups, this is a compulsory (forced) contract [9, p. 199, 229-231].

The main beneficiaries in the societies based on the rental-estate institutional matrices are not interested in the fight against corruption. Until the problem of power ownership is overcome at the institutional level, serious practical progress in the fight against corruption is impossible. This situation jeopardizes the worthy future of these countries. So far the rhetoric of the fight against corruption in Russia does not touch upon the initial aspects of countering it. Therefore, the real fight against corruption in the country is still ahead.

4. CONCLUSION

To sum up the results of the work and to answer its main question about the institutional foundations of an effective fight against corruption, we note that the view on corruption and its "anatomy" can be different. On the one hand, corruption is reduced to individual facts of illegal acts, bribes. Then the key actors-fighters against it are law enforcement agencies and the court. Another way of looking at it is that corruption is a structured system of relations in society. Then corruption is not identified with bribery; it becomes important in its understanding of the idea of dependence and privileges of some individuals and social groups over others.

The role of the law enforcement system and the court in combating corruption is not diminishing, but the focus of the fight against it is changing. The question of the structure of institutions capable of "restraining" and "suppressing" corruption in societies and ensuring the

reproduction of public goods becomes significant. Institutions matter in the fight against corruption. Without proper and working anti-corruption institutions, the fight against corruption will be imitative, it will lead to individual, local and short-term "demonstrative" results of countering it.

In societies with unchanging institutional structures, it is impossible to achieve tangible results in the fight against corruption. There is no alternative to formal regulations in opposition to it. It is important that the anti-corruption institutions can then fulfill their mission when the fight against corruption becomes an aspect of the social contract of citizens on the structure of society and the state, the principles, rules of their public life and their practical implementation. The rule of law is the cornerstone of this social contract, which lays the institutional basis for the life of societies.

REFERENCES

- [1] Russia in the Corruption Perceptions Index - 2019: 28 points and 137th place. Retrieved from: <https://transparency.org.ru/research/indeks-vospriyatiya-korruptsii/rossiya-v-indekse-vospriyatiya-korruptsii-2019-28-balloov-i-137-mesto.html>
- [2] K. Popper, *Open Society and Its Enemies*, vol. 1: *The Charm of Plato*; vol. 2: *The Time of False Prophets: Hegel, Marx and Other Oracles*; Nika-Center, Kiev, 2005, 800 p.
- [3] B. Mezhuev, *In search of 50 honest governors*. Retrieved from: <https://um.plus/2016/07/29/v-poiskah-50-chestny-h-gubernatorov/>
- [4] Lee Kuan Yew, *From the third world to the first. History of Singapore, 1965-2000* (translated from English); Mann, Ivanov and Farber, Moscow, 2013, 576 p.
- [5] V.S. Nersesyants, *Philosophy of law*, Norma: INFRA-M, Moscow, 2016, 256 p.
- [6] E. de Soto, *Capital mystery. Why capitalism triumphs in the West and fails in the rest of the world*; Olymp-Business, Moscow, 2004, 272 p.
- [7] M. Weber, *Selected Works*. Edited by P.P. Gaidenko; Progress, Moscow, 1990, 880 p.
- [8] A. Greenspan, A. Wooldridge, *Capitalism in America: a history*; Penguin Press, New York, 2018, 486 p.
- [9] L.G. Fishman, V.S. Martyanov, D.A. Davydov, *A rental society: in the shadow of labor*,

capital and democracy; Higher School of Economics, Moscow, 2019, 416 p.

[10] D. North, Understanding the processes of economic change; Higher School of Economics, Moscow, 2010, 256 p.

[11] E.C. Banfield, L.F. Banfield, The Moral Basis of a Backward Society; The Free Press, Glencoe, IL, 1958, 203 p.

[12] Ilkka Taipale (Ed.), 100 social innovations from Finland; Itämerikeskussäätiö, Helsinki, 2007, 212 p.

[13] S. Aleksashenko, Counterrevolution: How the power vertical was built in modern Russia and how it affects the economy; Alpina Publisher, Moscow, 2019, 408 p.

[14] V.Y. Gelman, "Unworthy Rule": Politics in Contemporary Russia; European University, St. Petersburg, 2019, 254 p.

[15] V. Inozemtsev, Unmodern country: Russia in the world of the 21st century; Alpina Publisher, Moscow, 2019, 404 p.