

# Prevention of Corruption Crimes in China and Russia: Problems and Ways of Solution

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## Abstract

The article examines the means of legal education which are innovative in substance and forms of implementation and aimed at prevention of corruption-related crimes. These means have been formulated taking into account the norms of legislation in relation to counteraction the corruption crimes as well as the law-enforcement practice of the Russian Federation and the People's Republic of China. The experience of anti-corruption training seminars has been summarized. The article lays out the theoretical foundations for development of multi-disciplinary, brief recommendations, comprehensible to broad layers of population and which are to be distributed in the form of memos, manuals, both on "paper" and in electronic form. It is suggested that the prevailing directions for all the sciences of anti-crime cycle should be: 1) the elaboration of applied inter-branch publications of such type; 2) based on which – the creation of software applications adapted to well-known mobile and desktop operating systems. These applications need to be distributed freely, including well-known online stores ("Apple AppStore", "Google Play", "Windows Store" and others). Based on scientific recommendations on prevention of corruption, the approximate content of similar paper and electronic software products is provided.

**Keywords:** Russia, China, comparative law, criminalistics, criminal law, prevention of corruption, corruption-related crime, training seminar, anti-corruption education, bribe, innovation in education, electronic-application, operating system

## 1. Legal Foundations for Prevention of Corruption-related Crimes in Russia and China

In the National Security Strategy of the Russian Federation (RF) until 2020 (approved by the Presidential Decree on 12 May 2009, № 537), the corruption is named among the main sources of threats to national security. The Federal Law of 25 December 2008, № 273-FZ "On Corruption Counteraction" proclaims the principle of priority use of measures aimed at preventing corruption (p. 6, Part 1, Art. 3), as well as the principle of cooperation of the state with institutions of civil society, international organizations and physical persons (p. 7, Part 1, Art. 3).

In the People's Republic of China, at the legislative level there is no special anti-corruption law yet. The relevant regulations are presented in the Law "On Public Servants" (approved by the Decree of the President of the PRC on 27 April 2005, № 35), the Criminal Law of the PRC (1997) and Amendments to the Criminal Law of the PRC, etc. With the accession of China to the UN Convention against Corruption (adopted by the UN General Assembly on 31 October 2003) and in connection with the widespread expansion of corruption in China in recent years, the adoption of a special law has become very urgent.

On 9 March 2013, at a press conference dedicated to the first session of the 12th National People's Congress (NPC), commenting on the "legislative plan for the next five years" Mr. Lang Sheng – the Deputy Director of the Legislative Affairs Commission under the NPC Standing Committee noted that the improvement of legislation on combating corruption, the real formation of the penal system and means of prevention of

corruption will be an important part of legislative activity in the next five years. In this regard the experience of Russia, Singapore and other countries can be very useful. At the same time, the Russian Federation, with its legal, political and ideological points of view, is one of the closest countries to China among countries of the Asia-Pacific Region (APR). As is known, the systems of public authorities of the PRC, as well as its legal system in the process of formation had largely been based on the model of the Soviet Union.

Brief comparative legal analysis indicates that in terms of legal foundations of realization of measures of anticorruption education in Russia and China, something has been done, but much remains to be done. Thus, in the Russian “National Anti-Corruption Plan for 2014–2015” (approved by the Presidential Decree on 11 April 2014, № 226) it is repeatedly mentioned that there is a need for developing and putting into practice the anti-corruption educational programs as well as the set of educational measures aimed at creating intolerance to corruption in the society. In full, these measures are specified and detailed in the “Program on Anti-corruption Education for 2014–2016” (approved by the Decree of the Government of the Russian Federation on 14 May 2014, № 816-r).

In the People's Republic of China, in its turn, at the normative level there was adopted the “Action Plan for the Creation and Improvement of Penal System and Prevention of Corruption, Involving Education, Institutions and Control” (16 January 2005). Details of corresponding educational and control measures are provided in the “Work Program on Creation and Improvement of the Penal System and Prevention of Corruption for 2008–2012” (13 May 2008), “Work Program on Creation and Improvement the Penal System and Prevention of Corruption in 2013–2017” (26 December 2013).

## **2. Practical Issues of Counteracting the Corruption-Related Crimes in Russia and China**

However, the problem of effectiveness of counteraction the corruption offenses, as the most dangerous manifestations of corruption, is still very acute, even with the account of all measures of legislative and organizational-administrative nature taken by both countries,

Thus, in Russia, regardless of the fact that in recent years the statistical data on results of the fight against corruption crimes remain at the same level and, by some indicators even decreasing (Note 1), the latency coefficient of those infringements remains extremely high (Note 2) (Karabanov & Melkin, 2010). Since the corruption in Russia “...seems to be not only dangerous from a social point of view as the factor undermining the State authority, but also as one of the dominant causes determining organized, economic, political criminality” (Avdeev, Avdeeva, & Agildin, 2013), hardly anyone would doubt that the measures of criminal-legal battle with it will be intensified in the future.

In the People's Republic of China, notable results have been achieved in combating the corruption-related crimes. So, a unique experience has been accumulated in the country, in relation to counteraction against the theft of the state (public) property and inefficient use of budget funds and state property. In particular, according to American experts, the volume of proceeds of corruption in 2008 in China was 1.9 times lower than in the Russian Federation. One unit of public investments in the economy of China leads to 1.7 times greater an increase in GDP than similar public investments in the U.S. and 5.3 times greater than in the Russian Federation (Goncharov, 2010). The state and society in China have achieved significant progress in counteracting the other manifestations of corruption as well. Surely, not all the problems have been solved in this area yet, but, as we were informed by colleagues in judicial bodies of China, there are tens of thousands of corruption-related crimes detected annually (Note 3). According to preliminary data, after the 18th Congress of the CPC PRC (November 2012) more than 30 high-ranking officials were subjected to an anti-corruption investigation, including Jiang Zemin – a candidate member of the CPC Central Committee, Chairman of the Committee for the Control and Management of State Property (since March 2013) (Note 4). In such an atmosphere no one doubts that the measures of the criminal-legal fight with corruption-related crimes will only be intensified and extended to all, without exception, corruptionists in the future.

And yet, despite all the achievements in measures of penal sanctions, there is still a valid question: have the preventive functions of law and anti-corruption measures of legal culture in Russia and China been implemented properly? The Russian experts say more about systemic problems in the country and proposals to overcome those than about any particular achievements (Savenkov & Savenkova, 2012).

## **3. Scientific and Didactic Problems of Prevention of Corruption-Related Crimes: Results of the Sociological Study**

We believe that in both countries the problems of prevention of corruption crimes at the theoretical-methodological and educational-methodical levels must be addressed systematically, with the

involvement of those experts from various sciences, who would be ready to apply innovative and interdisciplinary approaches to scientific research and who have the appropriate methodology.

Thus, in Russia the attempt to exercise similar approaches was undertaken by the group of forensic scientists, in cooperation with the Prosecutor's Office of Zabaykalskiy Region and Office of Prosecutor of the Republic of Buryatia. The first of those two subjects of the Russian Federation, as it is known, is bordered by China, and the second is located in close proximity to China. In the period of 2011–2013, we conducted special monitoring, the results of which demonstrated that the overwhelming majority of the Russian citizens working in different organizations just do not have a clear idea of what the corruption-related crimes really are, what the indicative marks of their commission are, how to differentiate them from lawful acts, and the most important – how to not let yourself get involved into corrupt practices. Therefore, the surveys and questionnaires we conducted revealed that over 80% of respondents – civil servants and employees of local governments fundamentally misjudge legal signs of punishable corruption offenses. A special questionnaire offered to answer some very pressing, in our opinion, questions of differentiation between criminal corruption offenses and lawful behaviour. The results of the study showed a large number of common misconceptions that may cost expensive for everyone. For example, the majority of those asked did not know that:

- Actually, there is no minimum limit for a bribe;
- “Ordinary gift” (Note 5) and “protocol gift” (Note 6) – not a bribe.

None of the respondents knew the substantial differences between those three categories. However, “the price of this innocent ignorance” is criminal penalties, including long-term imprisonment.

It is indicative that among 320 respondents asked – 52 had a higher legal education. However, even they, when questioned, gave more than half of wrong answers to the questions above. Even acting investigators responded to those questions wrongly, unless they had experience of investigation of corruption crimes. To say nothing of persons without legal training!

Furthermore, the overwhelming majority of respondents did not know that people in Russia are incriminated and sentenced by the courts to the real imprisonment mostly for attempted bribing, but not for bribe-taking (other corruption offenses). According to the statistics of the RF Ministry of Internal Affairs in the various regions of Russia, up to 70% of convictions for corruption offenses are delivered against persons who attempted to give a bribe rather than took it. Frequently, the operational experiments (Note 7) on detecting of such individuals are held with signs of provocation and other illegitimate instigations by some unfair or unprofessional law enforcement officials. This means that literally anyone who reached 16 years of age can be provoked, prosecuted and sentenced to imprisonment at the corruption charges. And here we speak about mostly of plain people who do not occupy high positions (students – for attempted bribery of doctors and teachers, drivers – traffic police, etc.). The reason of such odd priorities in the work of law enforcement bodies is simple: these “corruptionists” are so much easier to expose than high-ranking officials who sell their powers embezzling millions of national heritage. Besides, high-ranking corruptionists often have connections and support in the same law enforcement and judicial authorities as well as influence stemming from their official capacity and material resources required for hiring highly paid lawyers and exercising the media support. All these do not contribute to the realization of principle of justice in the fight against the most dangerous corruption-related crimes.

#### **4. Disadvantages of Anti-Corruption Education and Their Consequences**

It turns out that, firstly, as the government has declared war on corruption, very few of the people living in it understand the terms and rules of this “war”, which means literally anyone who is not an official, may not only consciously but involuntarily become a corruptionist. Secondly, it is more often that the small, in terms of degree of social danger, members of the so-called “domestic” or “grassroots” corruption fall victim to the “war”: doctors, teachers, university professors, regional low-ranking officials, etc.

The People's Republic of China happened to be in the same sort of situation. Not every literate person knows well how to distinguish between corruption crimes, official misconduct and lawful deeds. What's the difference between graft and bribery? Not all citizens are familiar with the new policy of the government in the fight against corruption. In order to detect the most dangerous corruption crimes it is imperative to systematically pursue anti-corruption propaganda and mobilize the masses. After all, in China, people have a saying: “The eyes of the masses are sharp”!

The mentioned above is one more proof that in both countries, for all the categories of citizens, including lawyers, it is just necessary to periodically exercise anti-corruption education. We believe it is necessary to constantly hold classes about prevention of corruption crimes among broad circles of the population, primarily,

in criminogenic spheres. For example, in Russia, according to official statistical data, the corruption risks are especially high in such areas as education, health care facilities, law enforcement agencies, local self-governing authorities. In China, these are such spheres as engineering construction, real estate turnover, land development, mining, finances and judicial authorities, educational and medical institutions.

As is known, now such classes are being held everywhere and quite actively. However, the study of practice, didactics of holding such classes have demonstrated, in our opinion, the significant gaps in the content, structure and form of presentation of information, and other, notably – systemic and widespread shortcomings of anti-corruption education. And the main problem here is not the qualification level of those who teach. Most of our colleagues, providing corresponding lectures, seminars, round tables – are indeed skilled practitioners, experienced teachers and well-known scientists. The problems of methodology, methods of preparation, distribution of didactical materials and provision of training come out to the forefront.

### **5. The Experience of Implementing the Anti-corruption Measures in the Siberian Regions of Russia**

Without going deep into analysis of didactic and methodological issues, we would like to emphasize that in the framework of anti-corruption education it is necessary to, at least, demonstrate and explain:

- Different anti-corruption norms of criminal law (for example, Art. 290-291.1 of the RF Criminal Code, Art. 382-386, 389-390 of the Criminal Code of PRC, etc.);
- Typical misbeliefs regarding delimitation between corruptive criminal offenses and lawful behaviour (such as those listed above);
- For what kind of typical corrupt practices (methods), and in what sort of typical situations the employees of particular sphere of activity are brought to legal responsibility;
- Vivid examples of the court practice in the cases of relevant category (preferably regional) with reference to the strict but fair punitive measures ruled by the court;
- How and by whom, by what means and methods the fight is carried out against these crimes, how to resist provocations and other illegal methods of pseudo-fight against corruption (Note 8);
- How to not involve yourself into corrupt practices in typical situations familiar to listeners;
- It is also advisable to inform the public that the government officials and different institutions are often surrounded by various criminal activities of “phantom intermediaries” who take bribes “on their behalf” without participation of the officials actually selling off their powers and services.

As already noted above, in the regions of Eastern Siberia, the criminalistic scientists together with the prosecution authorities have been undertaking measures considered here on preventing the corruption. In the framework of the project supported by the Russian grants, in the period of six years we conducted relevant training seminars in the offices of state authorities, institutions, bodies of local self-government, and other organizations. The subject of the classes is defined as “Prevention of corruption in sphere of (depending on the category of trainees) and protection from unlawful prosecution in the cases of corruption crimes”. In particular, special electronic and paper memos, as well as electronic databases were prepared and widely introduced (Note 9). The prosecution authorities had contributed to the organization of these activities, their representatives were often involved in their conduct.

### **6. Suggestions on Development of Methodology of Didactic Materials**

In general, we assume that the development and active introduction of short, easy-to-formulate and comprehensible recommendations can and should become top-priority direction for the development of practical applications of all the sciences of anti-criminal cycle, at the educational-methodological level, mainly in interactive multimedia (“fixed” plus “mobile”) form, with cross-subject content.

It is not a secret to anyone that currently the brief recommendations are in a particular demand, not only in the form of paper-based editions, but also as special software products, especially in the form of mobile and other applications for phones, smartphones, tablets and desktop computers, laptops. These products of scientific-technical progress are still few in the legal sphere of China and Russia, but in high demand. Thus, in the applications' store “Google play” of Google Company (for the owners of devices with “Android” operating system there is a number of free programs-directories on Traffic Rules for Russian users. Their popularity is very high (on average, there are more than 100,000 downloads of each directory). And this is despite the fact that, as a rule, they contain no actual recommendations or tips. If there had been those inside, it is believed that the popularity of such applications would have increased several times. And still they are mainly somewhat handy reference books on legislation and other official reference information. However, at this moment, even this

would already be enough to succeed in distribution in volumes several times greater than magnitude of sales of traditional “paper editions”.

Of all the materials of anti-crime content, in internet shops we can mainly find few “icons” such as “Criminal Code”, “Code of Criminal Procedure” (on average, of more than 100,000 downloads), a number of textbooks, manuals, magazines and other large textual works previously published on paper and then converted into electronic form (average from 0 to 500 downloads). We failed to find any brief applications or memos or even any reference books on any anti-crime, including anti-corruption issues for Chinese or Russian users in online stores.

Along with this, the demand for any electronic products is destined for permanent and rapid growth. We repeat, particularly if these products of science are elaborated with the use of interdisciplinary approach, in multimedia form, especially for the mobile format and presented in the form of electronic applications – memos, brief manuals.

It should be specially underlined that the authors of these lines are not opponents of theoretical fundamental research formulated in scientific language and on traditional paper form. Without such studies, the gradual, evolutionary development of society and the state would be impossible.

## 7. Conclusions

Understanding the importance of results of fundamental scientific studies, it is believed that the brief and comprehensible applicative recommendations tend to be in special demand today, both on paper and in electronic form. This is true for anti-corruption measures as well as for any other legal education for broad layers of population. Modern teenagers and young adults, adults aged 25-55 years – that is, the most active part of the population all over the world use desktop and mobile computers today (laptops, netbooks, ultra-books, tablets, etc.), devices for reading electronic books etc. both at work and at home, in public transport and on other trips. Up to half of the citizens use sophisticated mobile phone devices everyday – smartphones and communicators under operating systems “iOS”, “Android”, “Windows Mobile” equipped with modern software allowing reading and listening to the books either at home and or in public transport, viewing photos, presentations and slide shows, videos and other content.

The development of brief and comprehensible recommendations, mainly in interactive, multimedia (fixed plus mobile) form, with interdisciplinary content, can and should become the top-priority direction for the development of practical elaborations of the sciences of anti-criminal cycle, both in China and Russia. And didactic materials of anti-corruption content can serve as an experimental platform of this evolutionary process.

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## Notes

Note 1. For example, in 2010 there were registered 7647 facts of bribe-taking (Art. 290 of the RF Criminal Code) and in 2013 – only 6710. See data at the portal of legal statistics of the Prosecutor General’s Office of the Russian Federation: URL: <http://crimestat.ru/21>. Date of access: 03/29/2014.

Note 2. Thus, the latency ratio of the bribe-taking (Art. 290 of the RF Criminal Code) is 1:150.

Note 3. The Supreme Court of the People's Republic of China: China executive power is vulnerable to corruption. URL: <http://vz.ru/news/2009/10/29/343015.html>. Date of access: 25.06.2014.

Note 4. Prior to that, Jiang Zemin was for a long time the President of the China National Petroleum Company, Chairman of the Board of Directors of PetroChina.

Note 5. The usual gift is believed to be: 1) the one that is granted in line with traditions, such as, birthdays, the 8th of March, professional and other holidays and so on; 2) the one that is a subject, so to speak, of the “gift agreement”, i.e., unconditional transaction, which does not match the pattern of bribery.

Note 6. See: Resolution of the Government of the Russian Federation №10 dd. 09.01.2014 “On the Order of Notification by Certain Categories of Persons about Receipt of a Gift Due to their Official Position or Performance of their Professional (Official) Duties, Handover and Evaluation of the Gift, Disposal (Buyback) and Depositing of the Proceeds from its Realization”.

Note 7. The type of the operative-investigative activities, specified by Part 1 of Art. 6 of the Federal Law of RF dd. August 12, 1995 “On Operative-Investigative Activities”.

Note 8. Here it is appropriate to set forth an important limitation: namely, the impermissibility of “advertising” of the criminal activity, “instructions for committing crimes” as well as veiled recommendations on how to avoid responsibility for their commission. Methodology of such restrictions has also become the subject of our work.

Note 9. For more details, see the website of the International Union for Assistance to Justice (IUAJ). Mode of access: <http://www.iuaj.net/node/1559>. There's also one of electronic memos on prevention of corruption as well as protection against unlawful prosecution of corruption-related crimes (in Russian) available for a free download.

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