

## **Specific Features of Anti-Corruption in China**

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### **Abstract**

This article describes the experience of fighting corruption in China. The analysis of the regulatory and legal framework, the features of legal technology related to the criminal-legal prohibitions of manifestations of corruption and a number of organizational measures aimed at preventing corruption crime. It was noted that the norms of the international standard on combating corruption began to be introduced in the country since 1980. In 2007, the State Department for the Prevention of Corruption was created. His responsibilities include identifying corrupt officials, taking anti-corruption measures, and conducting investigations. The author concludes that criminal and disciplinary sanctions are the most commonly used measures in the fight against corruption around the world, and these features are most clearly seen in China, where such repressive mechanisms are the main levers in the fight against corruption.

**Keyword s-** Corruption, Economic Development, Anti-Corruption Activities, Civil Servants, Ethics, Criminal Law, Legal Technique, Justic.

### **I. Introduction**

Corrupt crime is common in all countries of the world, but in some countries its rates are lower than in others. This is largely due to the preventive measures used by countries in the fight against corruption. The proposed work examines the measures used in the People's Republic of China, due to the fact that, according to most researchers, the greatest successes in the fight against corruption have been achieved in China and Hong Kong.

Until the economic reforms (the transition process started in the 1980s) in China, widespread corruption was limited by the fact that money was not really a medium of exchange: it was more a means of exchange between firms, and for end users it does not always give access to the desired goods. In China's planned economy, funds were strictly controlled. For example, it was difficult for any organization to store cash. Companies had suppliers and buyers associated with them, but for consumers, goods were in short supply and the distribution of large goods was controlled by the state. In this regard, money could not buy what one wanted. Therefore, very often corrupt transactions were barter.

The existence of special ties between ministries and related enterprises was the norm in a planned economy. Considerable progress has been made in this regard since the economic reform. The administration is no longer interfering as much in many competing sectors, and numerous powers have been devolved to large ministries such as the Ministry of

Finance and the National Development and Reform Commission. The creation of the State-owned Assets Control Commission was an important step and helped to clarify the relationship between the state and state-owned enterprises.

## **ii. Literature Review**

The following scientists have considered in their works the problems arising in the fight and fight against corruption in China: Tavrovsky Yu.V. [2], Pakhomov A.S. [3], Xu Zige, Cai Ren Qun [4], Aminov D.I., Gladkikh V.I. [5], Andrianov V.D. [6], Gong Bing [7], Tsirin A.M. [8], Troshchinsky P.V. [9], [10], [15], Hu Run [11], Makarov A.V. [12], Batmanova M.Yu. [13], Smirnova L.N. [14], Kulakova V.A., Cherdakova T.B. [16], Podolko E. [18], Shmeleva K.L. [19], Tikhomirov S.A. [20], Zotov G. [21], Lukin A.V. [22], Yurkovskiy A.V. [23], Sukharenko A.N., Truntsevsky Yu.V. [24], Mirzaev R.[25].

## **iii. Research Methodology**

In this research, we used of methods of analysis and synthesis, grouping, comparative and structural analysis, induction and deduction.

## **Iv. Analysis And Results**

The ongoing reforms in China have not been accompanied by reforms in reporting and control systems. In general, control systems have two levels: institutional (government bodies are responsible for audit and control, relevant procedures, etc.) and moral (perception of society and the state, values expressed in public discussions, etc.). The first system of control was represented by the Chinese Communist Party, and its presence in all aspects of life and activity is “close” control. For example, private property and personal enrichment were condemned and criticized. Today, China has moved to a modern reporting and control system. In contrast to the Western culture of political accountability, which emphasizes external scrutiny, balance of authority, and rule of law, traditional Chinese society places a strong emphasis on personal moral standards and lacks external scrutiny of authority.

The country’s leadership is currently emphasizing the importance of the National Audit Office of China and taking steps to introduce control mechanisms.

As you know, there are no universal methods of combating corruption in the world, and, apparently, they are unlikely to be found. International anti-corruption standards in China have been introduced since 1980.

The general fight against corruption was announced in 2012, after the XVIII Congress of the Chinese Communist Party. Today, the fight against corruption in China is carried out according to the plan to fight corruption for 2013-2017.

An important element in the fight against corruption was the introduction of a telephone hotline and an Internet site, where any citizen can anonymously report officials.

An equally important role in combating corruption in China is played by the property declaration system.

An important role in the fight against corruption in China is assigned to the Ministry of Control and the Central Commission. In 2007, the State Office for the Prevention of

Corruption was created. His responsibilities include identifying corrupt officials, taking anti-corruption measures, and conducting investigations.

Like most countries, China has established more than one system of sanctions: criminal sanctions applicable to any citizen are complemented by disciplinary and other administrative and economic sanctions.

Disciplinary sanctions target a limited number of people and are used to enforce specific norms of behavior associated with their particular situation or role. In China, such disciplinary mechanisms exist mainly for civil servants and members of the Communist Party.

In recent years, to combat corruption in certain provinces, administrative and economic sanctions have been imposed on legal entities. As in most countries, in China, criminal, disciplinary, administrative and economic sanctions can be applied cumulatively if the conditions are met.

There are three bodies in charge of coercion in China: the People's Procuratorate and the courts enforce criminal law, the Ministry of Oversight is responsible for disciplining civil servants, and the Communist Party's Central Disciplinary Commission is responsible for disciplining members of the Communist Party. In addition, several institutions have recently been established that are responsible for combating corruption at the administrative sublevel and investigating cases of certain types of corruption.

Chinese criminal law has punished certain forms of corruption for many years. Over the past few decades, these provisions have repeatedly undergone changes due to the expansion of the range of illegal acts and the introduction of new legislation, as well as the difficulty of concealing illegal proceeds.

The current Criminal Code of the PRC and other regulations stipulate many categories of corruption. But in comparison with the policies developed by the member states of the Organization for Economic Cooperation and Development (OECD), these laws differ significantly in three aspects.

At first, the severity of punishment for corruption in China, which has increased as part of the adoption of new reforms, significantly exceeds the standards for member states of the Organization for Economic Cooperation and Development (OECD). Bribery can be punished with life imprisonment, and bribery or asking for a bribe in China can result in the death penalty. Other forms of abuse of state power, punishable under anti-bribery or money-theft legislation, are punishable by life in prison.

Second, Chinese law punishes bribery — the incitement or receipt of a bribe by a government official or a member of the Communist Party — much stricter than bribery. Under certain conditions, giving a bribe, which was requested, in the case of small amounts, may even be excluded from punishment. This unequal treatment of the two parties is a common belief that those who give a bribe have no choice, but it is also the result of the peculiar circumstances of the transition period in the economy: in order to be economically efficient, standards for party members and government officials should be stricter, than in the growing private sector.

Third, the same principles apply to reporting standards in the public and private sectors: they are stricter in the public sector. A reporting offense is considered corruption if it is committed in a government organization, but less stringent measures apply to private firms. Over time, the term “government organizations” began to include state and collective firms, joint-stock firms, and joint ventures between China and foreign countries.

Recent reforms, including criminalization and administrative penalties for legal entities, and litigation in some provinces, may be evidence that bribery is becoming more punishable.

In Art. 382 of the Criminal Code, the Chinese legislator, fixing the concept of "corruption", considers it as alternative specific crimes, without indicating the appropriate types of sanctions for the commission of these actions related to crimes falling under the same definition of "corruption". In Art. 383 of the Criminal Code of the PRC considers individual corruption as a crime, and, depending on its size, a specific punishment is imposed: imprisonment for a term of 1 to 7 years or for a term exceeding 10 years, or indefinite imprisonment with or without confiscation of property.

Interesting in its content is Art. 384 of the Criminal Code of the PRC, which is one of the forms of corruption crimes. A special subject of corruption here is not a narrow-minded official, but broadly a civil servant, and the head of an enterprise or institution is recognized as a qualifying feature in compositions with a special subject.

The sanctions for corruption under the Chinese Criminal Code are very harsh - up to indefinite imprisonment and the death penalty with deprivation of political rights (as an additional type of punishment in accordance with Articles 54 and 57 of the Criminal Code of the PRC - those sentenced to death, indefinite imprisonment should be deprived of political rights for life. right).

In accordance with Art. 383 and 386 of the Criminal Code of the PRC, civil servants guilty of embezzlement (embezzlement) of public property or of taking a bribe in the amount of 100 thousand yuan can be sentenced to death.

China's criminal offenses such as bribery, illicit enrichment and money laundering are more effective in preventing corruption-related crimes. So, Art. 11 (1) of the Supplementary Anti-Corruption and Bribery Provisions and Art. 395 (1) of the Criminal Code punishes the possession of unexplained wealth: a civil servant whose property or expenses clearly exceed legal income must explain their sources. Otherwise, they are considered to have been obtained illegally and may be confiscated, and the crime could result in a five-year imprisonment. This provision also includes so-called spending, a highly popular bribery scheme in China, which consists, for example, of offering expensive education for the children of officials abroad.

Legislative provisions that provide for punishment for money laundering and are contained in Art. 191 of the Criminal Code of the PRC, in fact, apply to the proceeds of drug trafficking, organized crime and smuggling, not corruption. In addition, the Bank of China, which is responsible for banking oversight, jointly with the State Administration of Foreign Exchange and the China Banking Regulatory Commission, established in July 2004 the Supervisory and analytical center for combating money laundering (the Anti-Money Laundering Supervising and Analyzing Center). The creation of a Financial Intelligence Unit is planned. Banks are required to report suspicious or large foreign currency exchange

transactions. Since 2000, when opening a bank account, depositors have to indicate their real names, but these rules do not yet apply to existing accounts. Security firms and insurance companies are subject to the same scrutiny.

Enforcement of the law is regulated by the Law on Criminal Procedure and the Law on the Organization of People's Prosecutor's Offices.

The international aspect of the growing number of corruption-related crimes poses a serious obstacle to prosecution, since effective investigation and prosecution by law requires the involvement of foreign law enforcement systems, and most of these cases involve officials who fled abroad with stolen property and attempts to repatriate and both are unsuccessful. China has concluded extradition agreements with 19 countries and mutual legal assistance agreements with 24 countries, but there are no such agreements with Australia, Canada, the United States and other highly developed countries, where criminals usually flee.

In September 2003, China ratified the UN Convention against Transnational Organized Crime, and in December 2003 signed the UN Convention against Corruption. In April 2005, as part of the Organization for Economic Cooperation and Development's Anti-Corruption Initiative, China approved an Action Plan against Corruption in Asia and the Pacific. The initiative, which brings together 25 Asian and Pacific countries, strengthens the exchange of experience and develops cooperation with the countries of the region.

In the current anti-corruption policy, it is very important for the PRC to bring legislation in line with the norms of the UN Convention in order to bring the international direction of combating corruption to a new level.

Other recent reforms aimed at improving the efficiency of the law enforcement system should enhance the competence of prosecutors and judges, as well as enhance professional ethics in legal proceedings.

Codes of conduct and disciplinary sanctions for Chinese civil servants are set out in numerous laws and regulations that stipulate ethics of conduct, reporting income and receiving gifts. Violation of these norms may result in an administrative warning, reprimand, severe reprimand, demotion, dismissal. Certain sectors of government and the judiciary are subject to specific codes of conduct. For example, in June 2003, the Supreme Court issued a Code of Conduct for Chinese Judges in order to strengthen preventive measures against corruption among judges.

Disciplinary action against civil servants and the investigation of potential misconduct cases are the responsibility of the Ministry of Oversight and its subordinate agencies. This ministry, in turn, is subordinate to the State Council and inspects the work of all departments and employees of large state-owned enterprises.

Investigation procedures under the 1997 Administrative Control Act are similar to investigations under criminal law: there is a reporting system, including hotlines and public hearings, which allows citizens to bring charges against government officials. Various forms of denunciation are acceptable, including anonymous.

Like civil servants, CPC members are subject to disciplinary codes and sanctions set out in the CPC's constitution and other statutes. Minor violations of discipline are dealt with in general meetings. The CPC's Internal Party Control Norms and the Rules for Punishing



Disciplinary Offenses were revised with an emphasis on combating corruption. Disciplinary sanctions for CPC members include warning, severe warning, dismissal from the CPC or probation and expulsion from the party in 2004.

The responsibility for applying these rules to CPC members rests with the CPC's Central Commission for Disciplinary Supervision, which works closely with the Ministry of Oversight and exchanges information on organizations and employees.

China launched the SkyNet program to search for 100 escaped corrupt officials and their property in 2015. The implementation of the SkyNet program is entrusted to the Organizational Department of the CPC Central Committee, the Supreme People's Prosecutor's Office, the Ministry of Public Security and the People's Bank.

## **V. Conclusion/Recommendations**

Major corruption-related criminal cases that have recently been initiated in the PRC were covered in most of the state-controlled media, perhaps this played a special role in reducing corruption crime. One explanation may be that the legal and regulatory framework for fighting corruption is changing rapidly and outdated legislation is being replaced by new one. But often the legislation turns out to be contradictory in terms of both domestic laws and foreign standards of the legislative system, leaving a lot of freedom of action at the law enforcement level. The priority given for determining the sanctions against civil servants, as opposed to those who pay bribes in business-related transactions, that is, local and foreign business representatives, is illustrated by the relatively large number of laws, regulations and law enforcement policies aimed at determining the sanctions for civil servants, compared with the same norms for the private sector. The sanctions for civil servants who take bribes are significantly higher than for potential bribe-givers.

Until the end of the 1980s, most of the member states of the Organization for Economic Co-operation and Development have followed a similar approach to prioritizing the prosecution of bribe takers over bribe givers in business-related transactions. Recognizing that a comprehensive and effective anti-corruption strategy requires equal treatment of bribe-givers and bribe-takers, they began to take preventive and repressive measures against them. An illustration of this provision can be considered the reforms adopted by the member states of the Organization for Economic Cooperation and Development (OECD) under the 1997 Convention against Bribery of Foreign Employees in International Business Transactions.

Finally, in light of China's serious concern about the massive outflow of illicitly obtained revenues to foreign countries and its rapidly growing role in international trade, China's anti-corruption efforts can benefit from active participation in regional and international programs, including the OECD Convention against Bribery of Foreign Employees in international business transactions and related documents, as well as the UN Convention against Corruption, as these documents will enable China to more effectively combat the source of corruption and establish close working relationships with foreign countries for mutual legal assistance. In this context, the decision of the Chinese government to sign the Action Plan against Corruption in Asia and the Pacific under the Organization for Economic Cooperation and Development's Anti-Corruption Initiative can be seen as a positive outcome.

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