



Problems of State Social Function Formation and Anti-Corruption

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Abstract

The relevance of the problem is associated with the progressive development of our society. In addition, the relevance is due to the shortcomings of legal, organizational anti-corruption, especially in the social sphere. The purpose of the study is to develop proposals to minimize grassroots corruption. The quality of life of people, their material and moral well-being depends on the achievement of this goal. The key research method is the method of analysis of the current social legislation. This article is prepared using comparative research methods and thus it is aimed at developing proposals for combating corruption and legal support of the social function of the state. The practical significance of the article lies in the fact that it reveals the possibilities of legal regulation of anti-corruption combatting, as well as the elimination of the causes and conditions that determine the level of corruption in the social sphere. In addition, the work reveals the essence of legal and organizational support of anti-corruption combatting; the types of organizational and legal means involved in the mechanism of ensuring the social function of the state are defined.

Keywords: Corruption, Counteraction, State, Function, Protection

1 Introduction

The problems of combating corruption in the system of public administration are of paramount importance, the success of socio-economic reforms, social well-being of people, as well as the formation of an effective social state depends on the solution of this issue. It should be noted that the problem of corruption has now become one of the global in international and national law. In this regard, almost every state develops legislation on combating corruption, carries out a set of legal and organizational measures related to its counteraction, and carries out the fight against certain forms of corruption, both in the structure of public administration and in other segments of public administration. It should be recognized that corruption takes place in almost any system of public administration, indicates its danger in any political and legal regime, however, despite its manifestation, the phenomenon in question has a different level of public danger. Attention should be paid to the fact that in 2016, 32.9

thousand corruption crimes were registered, while the amount of property damage caused by them amounted to 78 billion rubles. According to the corruption perception Index in 2017, Russia ranked 135th out of 180 places. Corruption, which manifests itself in the social sphere, is particularly dangerous. The presence of corruption in this segment of public administration hinders the formation and legal support of the state social function, in this regard; public efforts should be focused on combating corruption in the social sphere of public administration. It should be mentioned that in 2018 in an array of cases of corruption the following prevailed: *Petty corruption* (1 366 criminal cases); *Fraud* (1210), *bribery* (1105); *receiving a bribe* (926); *Misappropriation or embezzlement* (509); *Abuse of office* (228); *abuse of authority* (199); *forgery* (161); *Mediation in bribery* (166); *Commercial bribery* (165); *Abuse of power* (33).

Corruption, including in the social sphere, increases social and political tensions and poses a threat to the security of the state and society as a whole.

2 Literature Review

Issues of legal regulation of social relations have been the subject of scientific analysis for a number of scientists.

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Therefore, separate issues of legislation development on social security were under consideration J.V. Vasilyeva (2010), S.I. Kobzeva (2009). The problems of legal and organizational support of the social services market were considered in the works: A.V. Barkova (2008), N.A. Kazibekova (2010). Social insurance relations were the subject of research V.P. Galaganova (2009) (5, 14, 16, 19, 31). It should be noted that the issue of legal regulation of social relations has an extensive scientific base (32), but the problems of combating corruption in the social sphere have not been specifically addressed. The issues of legal support of the state functions were studied in various aspects. Thus, the functions of administrative coercion were the subject of research E.N. Pastushenko (1986). Separate state functions are examined in works M.A. Lapina (2002), A.A. Saidamanov (2006). From the theoretical side, the functions of the state are examined A.A. Dembitsky (2017) and R.E. Zhikhoreva (2017) (12, 21, 24, 28, 34).

The research of the scientific literature shows that the problem studied by us has been studied quite significantly from the standpoint of criminal law and criminology. In particular, the designated subject is described in thesis of S.V. Plokhov (2013) and T.A. Balabanova (2013) (4, 25).

The social sphere, unlike other areas of public administration, has a certain specificity, since its functioning involves the majority of citizens of the country (18), certain social services are provided by both budgetary and extra-budgetary social institutions and organizations that, for objective reasons, often operate in a situation of economic competition, for example, clinics, educational organizations, etc. On the social sphere substantial amounts of funding are allocated, for example, only the state program of Russian Federation *Development of health* is allocated 2017 3 971 027,7 rubles for the state program of the Russian Federation *Development of education* for 2013-2020 – 37 403,9 rubles, the Russian Federation state program *Social support of citizens* – 1 079,7 rubles. It is necessary to ensure that all amounts allocated from the budget are spent only on the addressees.

3 Results and Discussion

It should be noted that the issues of ensuring social function in conjunction with the fight against corruption were not specifically considered. It should be noted that the difficulties are caused by the fact that there is no normative concept of *social sphere* to date, but a list of activities in the field of health, education and social sphere carried out by legal entities and individual entrepreneurs has been established.

The decision of the Government of the Russian Federation dated 15 April 2014 № 296 "On approval of the state program of the Russian Federation Social support indicated the following sub-programs: 1) Provision of measures of social support of separate categories of citizens; 2) Modernization and development of the social service of the population; 3) state support of the families having children; 4) improving the effectiveness of government support to socially oriented nonprofit organizations; 5) the Older generation; 6) Ensuring the conditions for the

implementation of the state program of Russian Federation Social support of citizens.

The reasons that give rise to corruption in one or another state on the one hand are the same, and on the other - a number of national characteristics influences their determination. As it was noted at the time Yu.A. Dmitriev (2012) "...the main cause of corruption is the murderously low standard of living of the population of our country, generated by low productivity and multiplied by the very high cost of this life" (13).

In this regard, the task of each state is to form a legal regime against corruption, to put it under control, and not to allow it to become a significant threat to national security. As it is noted, in the decree of the President of the Russian Federation of May 13, 2017 *Strategy of economic security of the Russian Federation for the period until 2030* one of the threats to economic security is the high level of criminalization and corruption in the economic sphere (p. 12).

In its turn, the Concept of public security in the Russian Federation (approved by the President of the Russian Federation on November 14, 2013 № Pr-2685) notes that "...at present legal and organizational bases of anti-corruption are created, its level continues to remain high. Numerous facts of corruption crimes committed against the state power, interests of public service are noted. There are stable tendencies to merging of interests of business and officials, inclusion in corruption schemes of officials and representatives of business of foreign States".

These and some other facts require the state to make additional efforts to create a full-fledged anti-corruption system, as well as to protect the rights and freedoms of citizens in various segments of public administration. Considering the problem of corruption in the institutional aspect, it should be noted that it is a social phenomenon and thus a *mandatory* companion of the state or public administration. While the corruption offense is subjective and with this offense now, in fact, the fight is carried out. Corruption literally means *decomposition, spoilage, depravation*. As it is noted (3) "...corruption is the complete indifference of the individual to the public benefit and solidarity in the name of personal benefit".

In due time (22) correctly noted, "...conditions of effective fight against corruption is definition of this concept and its characteristic as social and legal phenomenon. In this regard, it is necessary to distinguish the concepts of *corruption* as a phenomenon, and *corruption* as the behavior of certain individuals and their groups." On this basis, it can be concluded that the concept of *corruption* is not identical to the category of *corruption offense*. There is a very original view of the problem of corruption (7). In particular, the indicated author writes "... corruption is a system of actions of a public servant, carried out through the misuse of power, including by providing protection to relatives and brothers-in-law, for the purpose of personal enrichment or strengthening of personal power in return for the provision of certain services to others".

Modern corruption is complex and not homogeneous, which objectively causes the need to consider a variety of aspects of its manifestation. It should be noted that in a certain segment of the social sphere's functioning so-called

petty corruption manifests itself, the public danger of which is often underestimated. As it is noted Yu.V. Truncevski (2018) "...domestic corruption is a phenomenon with deep historical roots and pervasive, this phenomenon is generated by the interaction of ordinary citizens and officials of lower and middle level. Domestic corruption is widespread, especially in education, health care and other segments of the social sphere" (29).

Petty corruption in view of its prevalence forms an unfavorable moral and psychological climate in society, it must be recognized that this form of corruption is a breeding ground for other forms of corrupt behavior. The public danger of petty corruption, as was already noted, is underestimated, while a holistic anti-corruption in the system of public administration without countering petty corruption is ineffective. An integral state system of combating corruption should cover all levels of manifestation of this social phenomenon, only in this case can we count on a certain positive result in combating corruption manifesting itself, in particular in the social sphere. Attention should be paid that the social sphere is the basis for the formation of the concept of a social state. In addition, the social sphere as an institutional category enables citizens to realize the social rights granted to them, as well as to receive the necessary social protection from the state. The current legislation does not define such a category as *social sphere*; however, this definition has its own doctrinal interpretation. As it is noted M.D. Chesnokova (2009)" ... the social sphere includes the area of social life associated with the formation of man, the development of his/her abilities, in addition, it concerns the full satisfaction of his/her basic life needs" (9).

Thus, we can conclude that the social sphere, the area of human life that helps him/her to develop, as well as to satisfy their rights in the field of culture, education, science, art, sports, to receive from the state social assistance, support, as well as various kinds of social benefits and guarantees. The social sphere performs other functions that enable a person to feel a complete personality. Let us note that the full functioning of the social sphere is possible with the proper level of social protection, in this regard, we note that social protection is a kind of legal protection of the individual. As it was noted at the time S.D. Poroshchuk (1994) "...social protection assumes the presence of the actual opportunities at the disposal of the society, for the provision of particular categories of citizens with certain social benefits, as well as the regulatory consolidation in the law of corresponding social benefits' providing".

The level of social protection and social security of citizens directly depends on the quality of economic development of the state. A number of social rights of citizens, despite their constitutional consolidation, are subject to adjustment in difficult economic conditions. In this regard, it is necessary to agree with E.G. Azarova (2018) who pointed to «... instability of social rights, as well as the reduction of guarantees of the constitutional rights of citizens in all elements of the social sphere." It should be noted that the social rights of citizens are logically interrelated with the social sphere. Therefore, it is possible to agree with T.K. Mironova (2008) who noted "...social rights are rights that are realized in the social sphere". The review of the scientific

literature makes it possible to conclude that some social rights and the mechanism of their implementation were studied specifically. Therefore, Yu.S. Kabanova (2018) considered the human right to access to cultural values E.V. Chulichkova (2018) concerned the rights of citizens on a favorable environment (2, 11, 15, 23, 26).

Returning to the characteristics of corruption offenses, we emphasize that the category in question officially appeared relatively recently. Thus, the Federal law of December 25, 2008 *on anti-corruption* defines that " ... anti-corruption is the activity of detection, prevention, suppression, disclosure and investigation of corruption offenses (fight against corruption). Anti-corruption is aimed at minimizing and (or) eliminating the consequences of corruption offenses (article 1). One need to pay attention that the corruption is based on the principle of inevitability of responsibility for corruption offences (article 2), etc. Let us give another example of the use of the designated categories in the current legislation on combating corruption. Thus, one of the duties of a civil servant is to notify the head and other authorized entities of the fact of inducing him/her (the employee) to commit corruption offenses (article 9).

Using the term *corruption offense* legislation does not disclose its content, thereby making this category somewhat abstract. It seems to us that this provision in the current legislation weakens the regulatory and protective potential of the law *on combating corruption*. Taking into account the peculiarities of the legal means involved in combating corruption, it can be concluded that a corruption offense based on the criteria of public danger can be divided into corruption crime; corruption administrative offense, as well as corruption disciplinary offense. The designated illegal acts, each in its own way, cause harm to protected public relations. We also emphasize that each of the above-mentioned acts is an integral element of corruption as a social and legal phenomenon.

In 2017 for the Commission of corruption offences 6, 8 thousand legal entities were involved to administrative responsibility. The most common administrative offense of corruption is article 19.28 of the Code of administrative offences of Russia. Thus, in 2017, 503 cases on administrative offences under this article were initiated. Because of the work of the Prosecutor's office to oversee compliance with anti-corruption legislation, 464 legal entities were brought to administrative responsibility. The total amount of administrative fines imposed on legal entities amounted to 950, 7 million rubles.

As it was already mentioned, the danger of corruption is very significant, corruption undermines the foundations of statehood, distorts the principles of the legal and social state, harms the economy, it should also be emphasized that due to corruption there is a violation of the rights and freedoms of citizens. Among the system of rights and freedoms of citizens, which are violated because of corruption, social rights, the implementation of which is identified with the social state, occupy a special place. We must agree that the social rights of the individual, as the phenomenon is relatively new, this group of rights in fact began to be discussed only in the twentieth century. As it is noted E.V. Aristov (2017) "...the spread in the twentieth century of social

rights as the most important human rights, contributed to the development of the concept of the social state." (1)

According to the Constitution of Russia, the Russian Federation is a social state whose policy is aimed at creating conditions that ensure a decent life and free development of a person (article 7). The Constitution defines a citizen's right to education (article 43); everyone has the right to health care and medical care (article 41). In addition, everyone is guaranteed the freedom of literary, artistic, scientific, technical and other forms of creativity (art. 26), etc.

The ordinary citizen is interested in the realization and proper maintenance of social rights. As it is noted V.E. Chirkin (2018) "...after the second world war the constitutional development of individual States put forward socio-economic provisions, issues of human life support, as well as issues related to social justice in the foreground" (10).

As already it was noted, corruption undermines the foundations of social policy of the state, *pushes* citizens away from a number of free social wellbeing and services, and violates the principles of equality and social justice. That is why the formation of a social and just state is impossible with a high level of corruption in the system of public administration, especially in the social sphere. It should be noted that due to corruption, it is primarily the social rights of citizens that are violated, the implementation of which falls on the sphere of education and health care. In today's world, there is no state that is economically and socially developed, and in which there is a high level of corruption in public administration. It is an axiom that this is excluded.

It should be noted that the Federal Executive bodies that carry out public administration in various segments of the social sphere are concerned about the problem of corruption. Confirmation of this may be: the order of Ministry of health of Russia from December 25, 2015 № 1010 *About approval of the list of functions of the Ministry of health of the Russian Federation, the implementation of which gives rise to the risks of corruption*; order of Ministry of health of Russia from August 21, 2018 № 551 *On approval of the Plan of the Ministry of health of the Russian Federation for countering corruption in 2018-2020*; order № 571 of the Ministry of education and science of 16 may 2016 *on approval of the anti-corruption Plan of the Ministry of education and science of the Russian Federation for 2016-2017*, etc.

The analysis of the documents adopted on the issue of fighting corruption in the named and certain other management bodies of the social sphere, allows making a conclusion that in these papers the emphasis is on fighting corruption mainly in the public service system, the passage of which is implemented in the relevant Executive authorities. It should also be emphasized that a significant part of the regulations contained in departmental normative legal acts aimed at combating corruption in certain segments of the social sphere functioning concerns the relations arising in the course of the implementation of management relations.

It is noteworthy that departmental plans and other documents related to the problem of combating corruption largely do not take into account the peculiarities of the functioning of the social sphere; they in particular do not reflect the specifics of the decentralized nature of the management of this sphere. An important feature of

combating corruption in the social sphere is the fact that social services are provided to citizens not only by state (budgetary) institutions, but also by non-governmental organizations working in the social sphere. It should be borne in mind that in the social sphere there is a competitive relationship between state and non-state organizations that provide certain social services. This point should also be taken into account when developing regulations aimed at combating corruption in the social sphere.

It is also important to understand the fact that the regulations that are aimed at combating corruption in the social sphere, should relate to the social sphere as a whole, and not only affect the work of the relevant Executive authorities, which exercise managerial influence on its individual segments. Only such an approach can create a holistic system of combating corruption in such a sensitive element of public administration, which is the social sphere, and thus move towards the formation of a social state and ensure its social function. As D.A. Kerimov (2007) wrote in his time "... state power by its nature is social, and therefore its goals and objectives are not only the organization of society, but also the satisfaction of material and spiritual needs, as well as the interests of people" (17).

Speaking about a social state, it should be noted that such a state has a number of qualities that allow citizens to feel confident, as well as receive a number of social benefits, which are provided for by the Constitution and social legislation. The welfare state leads to the formation of such state functions as a *social function*. As it was already partially noted, today in effective work of this function the majority of citizens of our country is interested. As it is noted O.V. Rodionova (2007) "... the social function is the activity of the state aimed at minimizing the differences in the access of members of the state to public goods, in order to ensure the stability of society" (27).

It should also be emphasized that the social function of the state cannot be isolated from other functions of the state. In this regard, almost all functions of the state need legal and institutional support. In particular, the effective functioning of the social function cannot be ensured without the proper implementation of the law enforcement and economic functions of the state. In this regard, it can be concluded that the social function is logically included in the system of various functions of the state, both internal and external. Despite this, we emphasize that the social function of the state has its own internal content, as well as its special scope. The social function is aimed at ensuring a decent standard of living for all members of society without exception. The quality of this function of the state is directly related to the quality of the state itself, as well as its social and economic policy.

It should be noted that the function of the state is traditionally considered as the fundamental direction of its activities. Revealing the law enforcement function of the state, M.V. Zhigulenkov (2017) writes "...any direction of the state at a certain historical stage of its development is called its function". A variety of political and legal factors, as well as features of the historical period of development of the state affect the definition of priority areas in its activities. In this regard, it is not without reason that the point of view

regarding the allocation of the functions of the state in the system – *anti-corruption functions*. At one time A.V. Kurakin (2008) raised the question of the need to enshrine in the Constitution of Russia a separate function of the state as a *function of combating corruption*. In particular, the author wrote that "... for formation of a legal regime of policy of the state on counteraction of corruption it is necessary to fix in the Constitution separate function on counteraction of corruption" (20, 33).

The key actors performing the functions of the state in the social sphere are the Executive authorities. As it is noted K.S. Belsky (1997) "... functions should be defined as the leading direction in the activities of the Executive authorities, they Express the target load of this branch of government. In other words, functions can be understood as the goals that the state sets for the Executive." We can agree with this position, but at the same time note that the functions of the state are quite difficult to distinguish from its goals and objectives. In this regard, D.D. Tsubria (1975) rightly pointed out "...the functions of the state, express the main directions of its activities, they are so pervasive that they are even difficult to distinguish from the task of the state" (6, 30).

It should be noted that such a category as the *function of the state*, as an institutional category is considered in a variety of aspects while it is always said that one of the functions of the state is the *social function*, the quality of the provision and implementation of which influences the level and life expectancy of people. As it is noted Yu.N. Belyaeva (2016) "...the main task of the state in the social sphere is to improve the standard of living of the population, ensuring the quality of life of every citizen and the observance of guarantees for those who for objective reasons cannot realize their potential" (8).

On this basis, it should be noted that the social function of the state should not be adjusted in the direction of its deterioration, this function should be provided with a system of legal and economic guarantees. Only in this case we can talk about the formation and development of the social state.

4 Conclusion

In conclusion, it should be noted that currently the priority areas of the state's activities in the field of socio-economic development are defined by the decree of the President of the Russian Federation of May 7, 2018 *on national goals and strategic objectives of the development of the Russian Federation for the period up to 2024*, and the key areas in the anti-corruption system are indicated in the decree of the President of the Russian Federation of June 29, 2018 *on the National anti-corruption plan for 2018-2020*. These policy documents complement each other and are aimed at the formation of the necessary level of law and order in our country, as well as the creation of a regime of safety and protection of the rights and freedoms of citizens from corruption. It should be noted that the social sphere is fundamental for the humanitarian development of the individual, in this regard, it was quite logical to adopt a separate *national plan against corruption in the social sphere* to protect this sphere from corruption. Such an approach would strengthen the social function of the state, as well as the creation of a legal regime to protect it from corruption.

Scientific and practical results obtained, allow developing certain areas in the formation and maintenance of the social function of the state in conjunction with the solution of the problem of combating corruption. The results are directly aimed at improving the legal and organizational means of combating corruption in the social sphere. The results provide an opportunity to expand the boundaries of the use of state coercion for violation of anti-corruption legislation. The results of the study reveal the problem of theoretical and law enforcement provision of anti-corruption in the social sphere, so they are of direct practical importance from the point of view of:

1) Development of proposals to improve the legislative and departmental regulatory and legal regulation of anti-corruption in the social sphere;

2) The organization of anti-corruption in the social sphere, as well as the definition of corruption risk functions of Federal Executive bodies exercising their competence in the social sphere.

3) It is established that corruption in the social sphere increases social and political tension in society, creates a threat to the security of the state, worsens the quality of life of citizens;

4) Corruption in the social sphere can be defined as a dangerous social and legal phenomenon, manifested in the use of medical, pedagogical, other social worker with authority, or performing organizational and administrative, administrative and household, managerial or professional functions to extract property or non-property benefits for themselves or third parties, destabilizing the normal management work of bodies and institutions of health, education, social protection and others, undermining the authority of the state or municipal service or the status of a socially significant profession..

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