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Corruption in Russian history and law

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Abstract

The article studies the genesis of the phenomenon called "corruption" in Russia. It also analyzes the problems and different aspects of the development of the phenomenon of "corruption" and anti-corruption fight. The research on the history of corruption in Russia is carried out with a view to receiving data that will help to improve the understanding of the prerequisites for its appearance, interpret the modern trends and make the prognosis of the further development of this phenomenon more exact. As the modern state of any phenomenon is for the most part determined by its historical development, the results of the analysis of the genesis of corruption in the history of Russia can be considered to be a base for the development of a comprehensive anti-corruption policy. The article evaluates the measures against corruption taken during different periods of the history of Russia. Corruption is considered as a phenomenon that destabilizes all spheres of social life: it modifies legal and ethical relations, deforms public legal awareness and morality. This phenomenon not only reflects alarming trends in the development of society, but also prevents the economic and political development of the state, poses a threat to the effective development of the society.

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Keywords

Corruption, genesis, trends in the development of society, legislation, fight against corruption, bribery.

Introduction

The study of the historical past of any phenomenon, event or process provides an opportunity to gain the knowledge contributing to a better understanding of the prerequisites of its occurrence, allows a more objective interpretation of current trends and more accurate prediction of the development of the phenomenon or process in the future.

This fully applies to corruption, which at the present stage of development of the Russian state has acquired signs of an unpredictable in nature global legal, social and political phenomenon. This phenomenon destabilizes all spheres of public life: it transforms legal and ethical relationships, distorts public legal awareness and morality. Corruption not only reflects the disturbing tendencies in the development of the society, but it also prevents the sound progressive economic and political development of the state and also constitutes a menace to the effective development of the society.

Due to the fact that the current state of any phenomenon is largely conditioned by its historical development, the results of the analysis of the genesis of corruption in the history of Russia can be considered as the basis for the development of anti-corruption policy.

The history of bribery and corruption in Russia is analyzed on the scale of dissertation research¹, monographs (see, for example: [Andrianov, 2011]), articles². However, the problem of the historical genesis of corruption as an integral multilevel phenomenon still remains insufficiently covered.

¹ Astanin, V.V. (2001) *Korrupsiya i bor'ba s nei v Rossii vtoroi poloviny XVI-XX vv. (kriminologicheskoe issledovanie)* [Corruption and fight against it in Russia in the second half of the 16th-20th centuries (criminological research)]. Dissertation.

Golovanova, E.I. (2002) *Pravovye osnovy bor'by s korrupsiiei v Rossii v XVI-XIX vv. (istoriko-pravovoe issledovanie)* [Legal fundamentals of fight against corruption in Russia in the 16th-19th centuries (historical-legal research)]. Dissertation.

Dul'nev M. (2008) *Korrupcija i bor'ba s nej v sovetskom gosudarstve v 1917-1991 gg. (istorikopravovoe issledovanie)* Diss. for jurisprudence [Corruption and struggle against it in the Soviet state in 1917-1991 (historical and legal research) Doc.Dis.]. p 181.

² Berlin, P. (1910) *Russkoe vzyatochnichestvo kak sotsial'no-istoricheskoe yavlenie* [Russian bribery as a social and historical phenomenon]. *Sovremenniy mir* [Modern world], 8, pp. 48-56.; Durmanov, N. (1937) *Vzyatochnichestvo po russkomu dorevoljucionnomu ugolovnomu pravu* [Bribery in pre-revolutionary Russian criminal law]. In: *Problemy sotsialisticheskogo prava. Sbornik I* [The problems of socialist law. Collected works I]. Moscow: Yuridicheskoe izdatel'stvo NKYU Soyuza SSR Suleimanov, T.M. (2012) *Bor'ba s korrupsiiei v Rossii v IX-XIX vv.: istorikopravovoi analiz* [Fight against corruption in Russia in the 9th-19th centuries: historical-legal analysis]. In: *Protivodeistvie korrupsii* [Counteraction to corruption], 2, pp. 89-93; Tsechoev, V.K. (2010) *Istoricheskii obzor zarozhdeniya i razvitiya rossiiskogo vzyatochnichestva v XV-XVII stoletiyakh* [Historical survey on the origin and development of Russian bribery in the 15th-17th centuries]. *Nauka i obrazovanie: khozyaistvo i ekonomika; predprinimatel'stvo; pravo i upravlenie* [Science and education: economy; entrepreneurship; law and administration], 3, pp. 27-39;

In this regard, the aim of this work is to study the origin of corruption, the transformation of the concept of corruption, the evolution of the nature of this phenomenon and the struggle against it through the prism of the historical past.

The study of the genesis of corruption is based on the hypothesis that the understanding of corruption will be more in-depth and objective, provided that this social phenomenon and process are considered in relation to the past, present and future. Research in the historical context of the causes and the process of formation of corruption will contribute to a deeper understanding of this problem at the present stage of social development. The study of the genesis of corruption manifestations from the point of view of the historical aspect of social development will make it possible to draw objective conclusions, to avoid mistakes made by previous generations, and to use in modern practice the experience gained in the past to resist this phenomenon.

The emergence of corruption

Corruption as such came to existence in prehistoric times, it developed with the expansion and deepening of the system of government. Scientific analysis and legislative methods of combating it belong to the Roman Law, which for the first time formed the concept of corruption as official abuse and developed methods of counteraction. Corruption phenomena were also observed in medieval Europe in the form of abuse by Church dignitaries and secular officials.

The modern term *corruption* goes back to lat. *corruptio* – "seduction, bribery, corruption, decline, perversion; disorder, looseness, bad condition" [Chervinskij, Nadel'-Chervinskaja (2012), 289]. In Russia this term for the first time was introduced into scientific use by A. Jestrin in 1913, having united under it both administratively punishable and criminally prosecuted manifestations [Astaniin (2001), 8]. Prior to this period, as well as during the Soviet period of Russian history, the term *corruption* was not used in Russian legislation. Despite this, officials in Russian history allowed a variety of mercenary abuses of office, falling under the understanding of corruption in the modern domestic law.

The history of the Russian state, as well as any other one, testifies to the antiquity of manifestations of corruption; in the ancient Russian, and then Russian language there was a number of terms for expression of the social and economic phenomena which subsequently became illegal and falling under definition of corruption.

In the public service system, the most important phenomenon that later formed the basis of the socio-psychological basis of corruption as a phenomenon remained *feeding*, which acquired the status of illegal action over the course of history. Feeding meant a system of the local government, which

provided for the maintenance of the sovereign's servants (Prince's Posadnik) by the local population, without participation of any centralized system of taxation. Moreover, the vassal had to give the suzerain a portion of the collected taxes – *a task*; the rest of the tribute was *food*. In Russian Truth there was stipulated the amount of the feeding provided by the community; in Bilozersk Statute of 1488 for the first time the clear amount of the maintenance of the state governors – tiuns and closers was designated. However, traditionally, feeding from plaintiffs and petitioners was not limited to any rules, which paved the way for the corruption of such rewards and mass abuse. Only in the conditions of a centralized state there appeared an opportunity to provide employees with a salary and land remunerations. Although in the XVI century the system of feeding had been eliminated, the system of charges of the population was not stopped and turned into "feeding payback."

A certain role in the development of the phenomenon of corruption was played by the practice of *gifts* and *gifts in return*, characteristic of the period of the Golden Horde yoke, when the Prince buying the "Golden Label", had also to give presents to the khan and his family. In general, the direct purchase of positions and further extraction of benefits from the tribute levied from the population, was characteristic of the state for two and a half centuries and could not avoid affecting the perception of the position in power as a source of enrichment and object of sale.

One of the "corrupt" phenomena, mainly in the judicial sphere, was the concept of *promise*, – a term which until the XVI century meant the payment by a defendant to a judge; later *the promise* – "presents, extortion, bribes, offerings" [Dahl (1882), vol. 3, 359]. *Promise* as a legitimate payment for legal costs was mentioned in the Dvina Charter in 1397-1398., article 6: "And lynching is four rubles; and lynching is: who catches a thief red-handed, and takes the promise, and the governors learn about that, it is considered to be lynching; the rest is not lynching" [Dvina Charter..., (1985), 185]. In the Pskov Judicial Charter of the same period(1397), in art. 4 we read: "...secret promises should not be possessed neither by Prince nor by his deputy" [Pskov Judicial Charter, 1984, 337]; a number of historians believe that back in those days the word *promise* already meant a bribe; however, "no punishment for the collection of the secret promise was not provided" [Golovanova, 2002, 10], except the moral one and justice of Heaven. The word is also used in the Novgorod Judicial Charter and in the Court Book of 1497. The Court Book of Ivan III already clearly forbade judges to take offerings: "and promise in court should not be taken..." [the Court Book of the sovereign Tzar..., 1786, 11]. In the Council Code of 1649, CH. X *the promise* is also mentioned, that is, this practice was not stopped [Council code..., 2011, 81]. Thus, the *promise* is the basis of corruption in judicial system, and the legal status of the *promise* from the legalized one was transformed into the illegal one.

Other traditional terms used to refer to bribery of a person in power in Russia and neighboring

countries (Byzantine, Turkey, the Caucasus) were *magarych* [to owe a drink], *mzda* [recompense]. For defining corruption on a high, elite level, when the embezzlement of public funds of the country took place, there was used a term *embezzlement*.

To refer to the actual "grassroots" bribery as the acceptance by an official of a fee for some action there were used such terms as *bribery* and *extortion*. Bribery (as defined by Dahl: "acceptance of gifts, bribes, payoffs "[Dal, 1881, vol. 2, 331]) meant a bribe for the performance of one of the actions of the duties of an official. Extortion (*extorting*– "to take bribes, to extort gifts, offerings for providing the service according to one's position, to indulge in unlawful bribery, to extort, to be a corrupted servant" [ibid., 262]) also meant the cost for a misconduct or crimes committed by an official. Such difference between bribery and extortion, disclosed by Astanin V. V. [Astanin 2001] to follow Jesipov V.V. [Jesipov 1906] АСТАНИНЫМ [АСТАНИН, 2001] вслед за В.В. is discovered through a comparative etymological analysis of the both terms.

The problem of low earnings of officials was a difficult one to be resolved in a large fragmented Russian state, that created the ground for the development of corruption. That is why even in the documentation of the XVIII century there is a separation into *accidents* (actually legal feeding, "permitted revenues for the affairs") and the criminal bribe.

A key feature of corruption phenomena in Russia in the early period is the absence of a negative attitude to promises and bribes, which should be considered as the root of the mental attitude of modern citizens of the Russian Federation to corruption not as to an illegal act, but as a historically established method of achieving the pursued goals of material and non-material nature.

The system of *feeding* and *promises*, which initially contributed to the progressive development of the administrative system of the state, later gave grounds for the development of a wide network of bribery and various types of abuse of office (*extortion* and *bribery*). Thus, "by the XVI century in Russian history bribery is already becoming an ingrained phenomenon passed on from one generation to another among the ruling class and the privileged service class" [Cechoev, 2010, 30], that is, acquired all the characteristics of a custom. The problem was not only recognized as part of the country's social life; numerous legislative acts and the establishment of commissions demonstrated the rulers' intention to deal with corruption, if not to annihilate it, then to reduce it.

Tougher penalties for corruption

The first document, which provides for bribes more severe punishment than the "commercial penalty" (whipping), was the Court Book of 1550. This document and the Judicial Charter of 1561 provided criminal liability for corruption: temporary and indefinite imprisonment, as well as the death

penalty [Sulejmanov, 2012, 91]. An important but isolated phenomenon in the history of the struggle against corruption in Russia was the revolt of 1648 in Moscow, when the people were given the most malicious bribetakers - the judge of the local government department [Zemskij Prikaz] L. Pleshheev and the head of Pushkarskij local government department P. Trahaniotov .

In the code of 1649, the classification of crimes is given, where there are crimes committed during the administration of the court, extortion by the low level officials. The description of criminal activity of officials of judicial bodies, the local governments and generals administrations in many respects is based on the concept of the *promise*. The punishment for the unjust trial was the payment by the judges of the duties, re-trial, and the "right ten", as well as removal from the office, up to the "trade execution". For the missing case from the court a clerk and a clerk's assistant were not only punished with the whip, but were fired from their positions [Man'kov, 1980, 273].

The era of Peter I, when the centralized mechanism of state officers was formed, new principles of functioning of the system of state bodies were defined, became the first in the history of Russia period of consistent administrative and legislative fight against corruption. In one of the decrees of Peter I a set of acts constituting the phenomenon of corruption is defined in the following way: "All bribes and theft of the Treasury, and so on that leads to a damage of the State interest, no matter what name it has" [Full collection of laws..., 1830, vol. V, 89]. The anti-corruption policy was supported by the proclamation of the requirements of the legality of the actions of officials, and by strengthening the hierarchy, and the control and accountability of officials for their own range of duties.

In documents of Peter I it is accurately stipulated that officials should not take any payment from people, but have to be content with their salary: "it is forbidden to all officials who are in charge of high and low ranks, <...> so that they did not dare to take any promises from the state budget or from people via bargains, contracts, and other fabrications, no matter what their titles or positions were, neither for their own advantage or the interest of any third party, except for their salaries" [Complete collection of laws ..., 1830, vol. V, 135-136]. This reasonable and progressive principle, however, was not only ignored by the officials, but also in the 1720s in the state policy it gave way to *accidentia* , that is, the direct payment to officials from petitioners.

The Military Code of 1715 referred to many articles of malfeasance. Among them there was the severely punishable mercenary abuse of an official position (art. 194): "Who when having his Majesty's or the state money in his hands, hides or steals some of it and uses it to his benefit, if the expenditure has less recorded than what he received, he must be deprived of his life and has to be hanged. The same penalty should be for those who knew about the abuse, but did not report it" [the Russian legislation..., 1986, vol. 4, 362-363] and bribery (art. 184): "If anyone for presents, interest or his own benefit lets

someone through the guarded area, where nobody should be allowed to get into, he should be hanged for that" [ibid., 362]. The fight against corruption under Peter I has taken a systemic nature for the first time in Russia. The decree of Peter I of 24 December 1714 says the following about the punishment of bribe-takers: "And who dares to commit these things, will be very severely punished corporally, will be deprived of his entire estate, exposed to public dishonor, and cast out of the number of good people, or will be executed" [Complete collection of laws of..., 1830, vol. V, 136]; the same fate awaits the accomplices of those who "were aware, but did not inform".

Among the means of the fight against corruption not the last place belonged to *izvet* [tip-off] i.e. a denunciation. In the era of the reforms of Peter I agents of fiscal service worked in all central and local institutions, they were headed by the head of the fiscal service; the main task of the newly formed structure was the control of bribery and embezzlement. The head of the fiscal service was to be chosen "clever and kind (from any rank)," his task as well as of his subordinates was "to secretly supervise all affairs and find out about unjust trials, inpayments into the Treasury and other things" [Complete collection of laws of..., 1830, vol. IV, 644]. With all that, after catching someone in corrupted practices, the fiscal officer was to receive part of the fine from a bribe-taker. Reporting of wrong doings, however, did not prevent embezzlement and bribery as much as it contributed to growth of blackmail and led to the further disintegration of the system of bureaucratic work. Soon after the establishment of the fiscal service in 1723, the head fiscal officer A. Nesterov was executed for bribes [Klokov, 2006, 41].

Corruption in the period of the Russian Empire

The results of the analysis of corruption issues and anti-corruption measures inherent in the development stage are considered to be fruitful of Russian statehood in the period of the Russian Empire. The fact of strengthening and systematization of corruption schemes as a kind of alternative to the official form of solving issues related to the implementation of the power of prescribing authority in the state apparatus, by the majority of researchers is associated with the activity of prince A. Men'shikov. The good idea of creating a single salary system for officials has not been applied during this period, the idea of feeding in the form of *accidentia was again actualized*: so, in 1726, the prince A. D. Men'shikov offered again not to give salaries to the clerks of Ministers: "And in the cities the clerks of Ministers, according to my opinion, should not be given any salary, and they should be allowed to accept payments from cases, unlike the former regulation, they can be satisfied with those payments, and the cases can be settled more efficiently, as anyone will work hard for the payment" [cit. of: Klokov, 2006, 179]. According to the decree of 20 March, 1726, the newly appointed officers on positions where salaries had been paid before, were receiving salaries, and the clerks who were not paid

had to draw payments, accidents. Thus, the financial difficulties of the country actually forced its lower rank officials to roll back to the stage of *feeding* of the employees with offerings and bribes from plaintiffs and petitioners, which lasted legally until 1764. The notion of *bribery*, which had just begun to lose its legal status, had again become the legal norm, and only "excessive bribes" were condemned. And, of course, no one could make sure that the officials who received salary did not take bribes.

The accession to power of Anna Ioanovna marked attempts to change things in the bureaucratic system; for example, a commission was established to draw up new personnel lists of boards and offices. In the nominal decree of Anna Ioanovna of October 22, 1737, it was said about the unacceptable situation in the area of officials' nepotism: "it is known what is going on <...>, that in the Senate, in the Synod and in the Boards and Offices and in the Offices of Secretaries and Clerical officers there are quite few of officers who are worthy, who understand the meaning and are able to reason, and the rest even though they understand nothing and are incapable of management, being under protection of their benefactors for their particular services or being their relatives and cousins are the staff members together with the worthy ones and receive the same salary, but they do nothing for their lack of intelligence, which makes it not possible..." [Complete collection of laws of..., 1830, vol. X, 321]. As a measure to get rid of careless and stupid officials it was proposed to make lists of officials with the details of their salaries and merits on the basis of which it was supposed to reduce the bureaucracy; also there was established a system of approval of officials for their positions. The disclosure of personnel abuses under Anna Ioanovna led to the issuance of a series of decrees on the order of appointment of officials; however, the situation with salaries was still difficult and largely depended on the state's revenues. Thus, the resolution of the Cabinet- Minister on the report of the Senate on the issuance of salaries to civil officers in 1737 stated: "payment of money was allowed only in case of successful sale of furs in St. Petersburg, which were received as tribute from Siberia to the Treasury" [Klokov, 2006, 180]; such problems were over only with the introduction of paper banknotes by Catherine II.

In 1738-1739, the Senate received instructions to draw up a salary table for all civil ranks, which indicated the unformed nature of this system; however, the highest ranks could even receive their salaries ahead of time: so, in 1740, there was issued a decree on not collecting from the top rank officials their overdrawn salaries.

In general, in the middle of the XVIII century there were the following factors of corruption:

- the actual absence of salaries of some of the lowest rank officers;
- low and irregular payment for provincial employees;
- the difference in salaries of officials in St. Petersburg and other Russian cities;
- indirect dependency between the level of a rank and the amount of a salary; so, "on reaching the

position of an assessor of the VIII-th rank and higher ranks salaries were quite often reduced, as the government in accordance with the practice of the XVII century believed that the top positions in the state system should be occupied by wealthy landowners, who in case of the lack of funds in the Treasury were able to live comfortably on the income from their estates" [ibid, 181].

The deplorable situation with bribery was recorded in the decree of Elizaveta Petrovna of August 16, 1760: "Multiple harmful circumstances are obvious for everyone, long lasting trials, bankruptcy in many places, judges getting extraordinarily rich, endless investigations, negligence of Our interest by those who are appointed to guard it, theft in the salt trade, at recruitment, and at any tax imposed on people for the needs of the State, all these are an indisputable proof which creates means to prevent the general harm" [Complete collection of laws of..., 1830, vol. XV, 498].

Only under Catherine II there was introduced a standard salary for officials of all ranks. Catherine II issued a Manifesto on the courts [Complete collection of laws..., 1830, vol. XVI, 457-462], rightly calling such reasons of judicial extortion as low salaries of judges and non-professional selection of candidates for this position. The Empress proposed to solve the problem in the following way: "All judicial offices should employ worthy, knowledgeable and honest people; and in order to keep such kind of officers, give them salaries according to their positions for their comfortable life" [ibid., 458]. The Manifesto was accompanied by a register of positions and salaries, which were significantly increased and were supposed to solve the problem of corruption not only in court, but also in other areas of the state service; for this purpose, taxes were increased. Only during this period, the *accidencia*, payments, were canceled, to mark the end of the legal status of bribery (gifts from the population) in the system of public service.

With all that it is obvious that corruption could not be exterminated overnight. In 1766, a special decree was issued to punish 39 officials of Belgorod province, who had been "caught in crimes»: the Governor prince Grigorij Shahovskoi was found guilty in taking bribes from "unspecified wine making" in the amount of 1.315 rubles for the three years time; he was exiled to a village for four years, with an eternal ban on entry to Belgorod province, fined twice the amount he had received in favor of the orphans' home [Full collection of laws..., 1830, vol. XVII, 1938]. Other officials were punished in various ways: with fines, temporary deprivation of ranks. At the same time, the Senate's opinion on the punishment was much stricter, while the Empress softened it with her decision.

During the reign of Catherine II, the registrar of the Novgorod province office, Ja. Renber was exiled to Siberia to work [Complete collection of laws..., 1830, vol. XV, 23]. However, in the history of the XVIII century, the embezzlers were hanged and quartered.

Nevertheless corruption remained a distinctive and inescapable feature not only of the social but

also of the judicial and administrative system of the Russian state.

In 1832, by the will of Nicholas I, a decree was issued "On the prohibition of commanding persons to accept offerings from the public", which once again urged the officials to limit themselves to the state salary. The government commission at the beginning of the XIX century characterized the processes of *fraud* and *extortion* as an inseparable phenomenon of bribery and corruption [opinions of senators..., 1827, 54-55]; "this was the first most fully formulated domestic scientific and theoretical prerequisite for the development of the definition of corruption" [Astaniin, 2001, 17]. In the Code of laws of the Russian Empire of 1832 and the code of criminal and corrective punishments of 1845 the Chapter "About bribery and extortion" was presented»: in case of acceptance of a bribe, that is a gift, without violation of official duties, the civil officer was punished by a penalty or removal from a position; the extortion, that is the bribery connected with violation of official duties and laws of the country, was punished according to a criminal order [Mel'nikov, Nechiporenko, 2000, 125]. Thus, at this stage, a dual approach to the manifestations of corruption is already obvious: administrative and criminal. However, at that time, the law has not yet formulated the concept of an official: it "was called either an official or a guilty person, a civil servant, a person employed in state or public service, etc." [Sulejmanov, 2012, 93]. At that period, the object of the crime of an official was considered the duty, which the person violated; subsequently, from the second half of the XIX century., as the object of the official crime was considered the legal benefits that were received by the official and which he could use in a criminal way.

The history of Russian law shows constant fluctuations when defining the measures of liability for various types of corruption. Thus, the Code of 1845 (Art. 411-413) pointed at the responsibility for both bribe-takers and bribe-givers; however, already in 1866 the new version of the Code does not contain resolutions on "evil-givers". With all that, the Code specified many aspects of corruption activities: there were singled out not only traditional bribery and extortion, but also non-execution and non-declaration of imperial decrees and decrees of the Senate, abuse of authority and inaction, embezzlement and peculation, injustice and forgery.

The establishment of a capitalist socio-economic system in Russia has led to the rise of one of the determinants of corruption in the civil service. The intensive stage of capitalization of Russia (the last quarter of the XIX century – the beginning of the XX century) is associated with the change of a number of provisions of the Charter on the national civil service of 1894 and the consolidation of the right of civil servants to acquire ownership of shares, to receive remuneration for the exercise of their powers in making important decisions [Satarov, 2004, 78-79].

A particularly significant stage in the spread and qualitative changes in the phenomenon of

corruption has become the XX century. This is due to the growth of state regulation of most spheres of public life and correspondingly the growth of the state apparatus.

By the beginning of the XX century Russia was a country with a developed corruption network. The researcher of the beginning of the XX century P. Berlin explained the growth of corruption as a way, firstly, to equalize the low salaries of officials, and secondly, to mitigate the archaic and sometimes severe legislation [Berlin, 1910, 48, 51, 52-54]. The uneven payment for the work of officials depending on their loyalty to the authorities and personal relations with the senior ones also contributed to the development of corruption as a systemic phenomenon, as a kind of a spontaneous way of justifying the level of social benefits, which, of course, was far from any legality.

The corruption scandal around the tsarist government, provoked by the investigations of the provisional government, was an example of the use of corruption as a pretext for the unauthorized accusation of the royal family: "numerous allegations of corruption of the members of the royal government that had functioned before the revolution of 1917, later did not find any sufficient documented evidence, although the provisional government made significant efforts to look for the evidence" [Bystrova, Sil'vestros, www].

Corruption in the Soviet law

Beginning of the Soviet power was also marked by the adoption of a number of legislative documents designed to eradicate corruption as an integral feature of the "rotten" regime. The decree of CNK "About bribery" of May 8, 1918, provided for the persons "employed in the state or public service in the Russian Socialist Federal Republic", who were caught on bribery, imprisonment for the term of not less than five years, with compulsory work for the same term. The same punishment was deserved by "those guilty of giving a bribe" together with "instigators, accomplices and all those involved in bribing employees", and the attempts to give a bribe were considered as a confirmed crime. A special article provided for "the most difficult, unpleasant and forced labor" and confiscation of property for persons of the propertied class seeking to preserve or acquire privileges related to the right of ownership [Decree of May 8, 1918..., www]. Thus, in the new Soviet state the bribe was considered within the frame of the general strategy of fight against private property and the class approach.

The term "corruption" was not used in the Soviet law; instead, there were concepts of *bribery*, *abuse of office* and some other. Along with the absence of the term, its analysis was impossible; the study of corruption as a holistic phenomenon, including a variety of different manifestations of abuse of office, became possible only at the end of the XX century.

The phenomenon of corruption in Soviet Russia has gone through several stages of development.

Estimates of corruption in the Soviet state are different: some researchers tend to believe that the Soviet period of history led to the formation of a "model of a corrupt both horizontally and vertically society" [Popov, 2009, 8], others defend the idea of positive dynamics in the anti-corruption movement in the Soviet era.

A. L. Karabinov and S. K. Mel'kin [Karbinov, Mel'kin, 2010, 5-9], after V. V. Pankratov [Pankratov, 1993, 37], distinguish three stages of historical existence of corruption in Russia of the Soviet and post-Soviet period. Other researchers of the subject in general adhere the periodization [Golubev, Eles'kin, 2002].

The first stage: until the 60s. XX century. (the period of Stalin and Hrushhev), is characterized by the presence of political repressions limiting the manifestations of corruption throughout the power vertical; the most important motivation of officials under the threat of repression was the desire to stay on a well-paid and providing significant benefits position through conscientious service to the regime, but not the conversion of power into capital.

Already during the period of NEP, some measures were taken to tighten the legal norms in the fight against bribery: so, the directive of the People's Commissariat of Justice in 1922 ordered to finish within the shortest possible time inquiries and investigations on cases of bribery, and to send those found guilty to especially remote places of imprisonment (Ural, Siberia) [Plehova, 2012, 171-172]. A considerable psychological effect was achieved by announcing in press the date and time of the hearing of each of the cases of bribery, as well as the names and circumstances of the case, which created the effect of an organized campaign against the phenomenon. In 1924, the measures were introduced to control the income of civil servants: a "questionnaire" containing data of the income of an employee and his family. The same period there were introduced, though without much success, boxes for "complaints" and the institution of informants in public institutions.

Theoretical understanding of the corruption phenomena has remained unchanged since the beginning of the Soviet period: bribery was seen as a phenomenon generated by an unjust exploitative society³, that is, the causes of corruption in the Soviet era, according to the official view, were destroyed. The existing facts of corruption were explained by shortcomings, first of all, in educational work, in private spheres of social life.

At the same time, the attempts of entrepreneurial activity were realized only through bribery of employees of the state apparatus; "corruption often acted as the only possible means of introducing

³ Closed letter of the Central Committee of the CPSU "On strengthening the fight against bribery and plundering of the people's property" of March 29, 1962,

market relations into the planned economy" [Levin, Satarov, Cirik, 1998, www].

The formed party nomenclature had many opportunities as well as possibilities to plunder state property as it was, in particular, in post-war Leningrad where the principle of "self-supply" allowed a party worker to receive a lot of additional benefits and privileges. Thus, "on the peat enterprise located in Shuvalovo, during January–June, 1946, on banquets and treats for the checking self-supply commissions there were wasted 778,5 kg of bread, 336,2 kg of grain, 55,9 kg of sugar, 29,4 kg of meat which were written off as if allocated for additional food for workers. For the same purposes there were spent 135 l of vodka intended for support of loaders of peat during severe frosts (100g per person per day)" [Govorov, 2011, 67]. Despite the fact that corruption activities in the USSR in the postwar period "acquired a systemic character" [ibid, 79], there followed mass exposures of corrupt nomenclature groups in different places ("Leningrad", "Mengrel", "Moscow" cases at the turn of 1940-1950). At the same time, law enforcement officers had a fairly clear idea of the extent of corruption activities, but did not always have the authority to open a criminal case against top rank party officials, that required resolutions special kind. Despite the presence of new corruption schemes, the early Soviet period is characterized by a high level of control of corruption phenomena by law enforcement bodies.

The problems and various aspects of the development of the phenomenon of corruption and the fight against it were relatively little studied during the Soviet period. One of the first works on this topic was an article of N. Durmanov [Durmanov, 1937], dedicated to bribery in pre-revolutionary Russia. Not devoid of the shortcomings of the class approach to history, that article gave a number of interesting documents and data. Later, domestic scientists and researchers quite often addressed the topic.

The second stage: the second half of the 60's - late 80's: the inviolability of the party high officials predetermined the active use of shadow mechanisms to ensure the development of entrepreneurship. The scale of bribery was rapidly developing: in 1980 there were revealed more than 6,000 cases, which amounted to 50% more than in 1975.⁴ During that period the advantage of a one-party system in the development of corruption and monopolistic merging of the authorities with economic structures became obvious; the first organized corrupt groups appeared: in particular, a group in the Ministry of Fisheries of the USSR headed by the Deputy Minister numbered more than a hundred people.

Since staying in the official chair has become almost a lifetime occupation, nepotism blossomed. A certain part of persons in power began to dispose of the state property as if it was their own. The typical crimes were: sale of scarce products including equipment and materials, tampering with planned

⁴Note by the administrative bodies of the CPSU Central Committee and CPC at the CPSU Central Committee of May 21, 1981, on strengthening the fight against bribery in 1975-1980.

buildings, appointment to positions and concealment of fraud [ibid.]. Cases of bribery were often closed, especially if the case concerned high rank officials.

Historical experience shows that persons performing state functions were constantly prone to corruption: they are, with the connivance of the public, wrongfully appropriated public property while not participating in their production. This drawback has become a central feature that is inherent to the bureaucracy, the constant interest of the administration at all times of historical development and in any society.

During this period mainly punitive measures against bribery were applied; however, new types of penalties were introduced into the criminal code – the denial of the right to hold certain positions and conduct certain activities. Under the leadership of Y.A. Andropov there was carried out a system of "clearing" of corrupt elements in the Azerbaijan and Georgian SSR, launched (but not brought to the end) a large-scale fight against bribes in trade and industry.

In a report prepared by the INDEM Regional Public Foundation, analysts suggest the following scheme for the development of corruption in the later Soviet period:

- reduction of the centralized control;
- collapse of the ideological ties;
- economic stagnation, decline of the economic development;
- the collapse of the USSR and the emergence of Russia;
- replacement of the centralized corruption by the variety of "federal" corrupt systems [Levin, Satarov, Cirik, 1998, www].

This is the ⁵ period of national history in which some scientists see the foundations for the modern system of the shadow economy: command and administrative management system led to mismanagement, weakening control over economic processes in the country, which led to a deficit in light industry and, as a natural consequence, to the developed market of clandestine goods with its high prices and nonpayment of taxes.

The third stage: from the early 1990s to the present days, it is characterized by an unprecedented spread of corruption, the merger of criminal business with the vertical of power; the massive transition of national resources into private, personal and joint-stock ownership.

⁵ Larichev V. D. (2003) *Prestupnost' v sfere jekonomiki (teoreticheskie voprosy jekonomicheskoy prestupnosti): Monografija*. [Crime in the sphere of economy (theoretical questions of economic crime): Monograph.] Moscow: VNII MVD of Russia, pp.131; Magomedov A. A., Naumov Yu. G. (2008) *Korrupcija i organizovannaja prestupnost': problemy i sootnoshenija* [Corruption and organized crime: problems and relations.] *Biznes v zakone* [Business in law], 11, pp.15-22.

Conclusion

The initial large Russian capital, which was formed in the 1990s, emerged for the shortest possible time by the illegal redistribution of the state budget and resources. The initial impulse of unfair income distribution in favor of corrupt officials, the "nomenclature", launched a mechanism of deepening of social inequality. The penalties for bribes, severe under the Soviet law, were revised and reduced in the early 1990s.

With all that, it was in the 1990s when the fight against corruption was proclaimed for the first time in Russia. In the 1990s, a number of laws related to corruption were adopted. During the same period legislation was adopted on corruption in the customs service⁶ and the Interior Ministry, ⁷traffic police⁸. The rapid transition to a new economic system, not confirmed by an appropriate system of legal support and devoid of any centralized control, has created a situation of total multi-level corruption of the country.

The decree of the President of the Russian Federation of 4 April, 1992, #361 "On measures to combat corruption in the public service" became one of the first regulatory acts, which determined measures and methods for the prevention of corrupt practices, which included the prohibition for civil servants to engage in entrepreneurial activities and participate in the management of economic entities. However, many of the provisions of the Decree have not been fully implemented yet. Anti-corruption legislation is growing significantly, while public surveys show increasing distrust to the authorities and increasing confidence in the total corruption of power structures.

Thus, the current state of corruption in Russia is largely due to the history of the genesis of this phenomenon in the country. Corruption is very deep-rooted, and at the initial stage of development is inextricably linked to the bureaucracy and its officials as a tool to solve the dilemma between unmet human needs and the lack of real mechanisms to achieve them.

We tend to see the specifics of corruption in Ancient Russia and then in the Russian Empire in the absence of a negative color of corruption and extremely narrow localization of the concept only in the circle of officials.

Only in the XVII-XVIII centuries corruption was recognized as a serious social problem and the

⁶ The order of the State Customs Committee of the Russian Federation of April 26, 1995, # 287 "About the state of work on struggle against corruption, official crimes and tasks of ensuring private safety of customs authorities of the Russian Federation".

⁷ The order of the Ministry of Internal Affairs of Russia of February 26, 1996, #129 "About measures for ensuring legality in law-enforcement bodies of the Russian Federation and strengthening of private safety".

⁸ The order of the Ministry of Internal Affairs of Russia of December 4, 1996, #456 "On measures to strengthen the rule of law and discipline in the activities of the state traffic Inspectorate."

first systematic attempts to combat this phenomenon were made, but the definition of corruption was of an exclusively local nature – unlike European thinkers, who recognized the comprehensive nature and extraordinary danger of corruption, representatives of the Russian authorities remained mainly stuck to the vision of corruption as abuse of official position.

As a result of the analysis of the genesis of the phenomenon of corruption in the administrative law doctrine of the Russian Federation (see also [Konovalov, 2012]), it is necessary to determine the main difficulties in the formation of a unified national anti-corruption doctrine in historical retrospect:

- imperfection of the terminological basis as a prerequisite for an inadequate assessment of the severity and scale of corruption;
- uneven assessment of the risk of corruption for some areas of the state and excessive assessment - for others.

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Коррупция в российской истории и праве

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Аннотация

В данной статье исследуется генезис феномена коррупции в России. Проводится анализ проблематики и различных аспектов развития феномена коррупции и борьбы с ней.

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Ключевые слова

Коррупция, генезис, тенденции развития общества, законодательство, борьба с коррупцией, взяточничество.

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