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## **The Ability of Civil Society to Act against Corruption**

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**Abstract:**

*Actions against any acts of criminal nature should be complex. Fight against corruption as a multi aspect social phenomenon especially requires a complex approach. Each state that considers corruption as a negative social phenomenon and is willing to eliminate it, uses, maximum possible resources in compliance with political position of a ruling class. First of all, a state makes full use of legal remedies – regulative and protective (punitive). It is reasonable to make the steps in social and economic direction. However, reliance only on public law measures in terms of preventing and fighting corruption cannot be justified. The reason lies in the corruption itself, its expansion and tolerant attitude of the society. This proves the need to uproot corruption determinants not only “from the top” but from “down”, i.e. from the civil society as well. On the one hand, the society serves as a social base for corruption; on the other hand, it is the civil society that is able to control corruption and the work of public authorities in terms of corruption combat. The aim of this paper is to designate civil society as a subject fighting against corruption. The objectives are to detect the means with the help of which civil society could significantly increase efficiency in terms of combating corruption adding to governmental means.*

*The authors of the paper applied traditional methods of criminal science. The paper presents the results of criminological studies carried out by the authors of this paper and by other researches concerning corruption combating.*

**Key Words:** *Corruption, Crimes, Civil Society, Combating, Criminogenic Determinants, Public Awareness*

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## **Introduction**

The social danger of corruption is that, first of all, it affects all the segments of the society and comes up with ethical justification both from those who trade influence and those who tend to regulate social relations without being subject to law. Thus, Saratov Center for organized crime and corruption research conducted a survey of students in Saratov and Samara in 2008 – 2010. Replying to the question “Is corruption always an absolute evil for society?” in 2010 47.2% of respondents chose the following answer: “corruption is a negative phenomenon but it can bring benefits to a particular subject”. In 2008 the same answer chose 29% of respondents. In 2008 47% believed that corruption challenged the very foundation of society, abused the rights and freedoms of citizens. In 2010 only 37.9% chose this answer (Lapunin, 2010). The results of the study demonstrate tolerant attitude of one of the most active social groups, young adults, to corruption, and the threshold of tolerance is becoming lower. Criminological environment does not inspire optimism among the scientists who have to acknowledge that corruption is an inevitable integral and even necessary part of our life (Golik, 2003).

Secondly, corruption produces other crimes. For this reason, corruption is called a foundation of crimes. For the time being, we can say that forms of corruptive behavior as a national scale phenomenon on the state level have been recognized though with a significant delay. Thus, in paragraph 1 of the National strategy to combat corruption adopted by Presidential Decree No. 460 of April 13, 2010, it is emphasized that “corruption still discourages smooth functioning of all social mechanisms, preventing social transformations and modernization of national economy; it generates serious concern and mistrust in the Russian society to state institutions, creates a negative image of Russia in the international scene, and rightfully is considered as one of the security threats in the Russian Federation” (hereinafter we use normative legal acts from the legal system “Consultant Plus”).

Traditionally, corruption combating (law enforcement) is regarded as an exceptionally governmental task. Civil society is left within the “civil” sphere. Specificity of forms of corruption shows that without participation of civil society this problem cannot be solved. Corruption in modern Russian society is not only the face of the crisis but also the embodiment of the “vicious circle” which is impossible to break without participation of civil institutions. For scientists it has been clear for a long time. “We need to gain understanding and to attract support of the population in implementing state policy for combating crimes in general and their most dangerous forms. Today, when civil society and authorities exist as though in parallel worlds, it is a hard task”, thinks professor L.I. Romanova (2003).

Approved National strategy to combat corruption put on the first place “to provide participation of the civil society institutions in corruption combating” (subparagraph ‘a’, paragraph 8, section IV). This concept alongside the National strategy to combat corruption for 2014-2015 adopted by Presidential Decree No. 226 of April 1, 2014

suggest many measures concerning fostering public awareness and participation of population in corruption combating. We should note that these documents are not ‘state’ but ‘national’ which shows the efforts of authorities to act in consolidation with civil society.

## **Methods**

Technical, comparative legal, method of synthesis and analyses, systemic, sociological (surveys in the form of interviews and questionnaires), statistical, technical, comparative legal, and historical methods enable us to explore current and previous criminal and other types of legislation in terms of corruption combating; identify regularities and tendencies in its condition and development in dynamics.

Sociological methods are presented in the form of interviews and questionnaires. Among the respondents are law-enforcement officers, state and municipal employees, businessmen, psychologists, journalists and representatives of other social categories.

## **Results and discussion**

Currently, in Russia as well as in many developed countries the main objective of fighting against the crime is its minimization and social control. Prevention and deterring of crime, maintaining of a social peace may be regarded as the aims of modern criminal law policy.

Diversity of criminal law policy is reflected in its directions. One of the special directions in criminal law is corruption combating. A corruption element in the actions of a number of governmental officials increases the latency of certain criminal offences, and prevents the government from fighting the crimes to the full extent.

Anti-corruption function of the government is understood to mean the combination of actions to eliminate the reasons of corruption, work normalization of government machine organized by the most comfortable and beneficial for all the members structure. In a narrow sense anti-corruption function is displacement of corruption from the social life on all the levels of its organization with the help of specific measures (Malko and Petrov, 2005). Of course, implementation of anti-corruption system should be performed at the highest level of political leadership of the country followed by a close cooperation with the institutions of the civil society. Primarily, we should speak not only about the reforming of criminal legislation but also about finding out the reasons and conditions of corruption.

As stated the President of the Russian Federation V.V. Putin at the corruption combatting Council meeting on October 30, 2013, liberalization of criminal legislation works not as was expected. According to him, in the first half of 2013

almost 700 people were convicted of taking bribes, and only 8% of the bribers were actually sentenced. The majority of them were fined but, as the President noted, “the criminals do not pay the fines because they manage to find numerous normative loopholes”.

The Russian Federation President believes that in Russia we need to create an environment of intolerance to corruption. “The requirements of the law and formulations of these requirements (against corruption) is not enough. We need to create a social atmosphere of rejection of corruption”, said V.V. Putin at the corruption combatting Council meeting. In President’s opinion it is necessary to “build a reliable system of feedback between the society and the government”. “Each signal about corruption and its forms must be followed by an adequate reaction”.

The General Prosecutor of the Russian Federation Yuriy Chaika in his interview to “Rossiyskaya Gazeta” of January 10, 2014 pointed out to a new turn in organization of combatting corruption. “At the end of this year a new momentum was set for anti-corruption work. Liberalization of legislation in this sphere as we can see does not works properly. The convict successfully evade multimillion fines. Of course, this compromises the principle of inevitability of punishment and the idea of activating the measures against corruption. That is why we need act consistently, actively and, what is even more important, systematically. We have developed amendments to the criminal legislation aimed at toughening punishments for bribes and other forms of corruption. In general, during 9 months of the last year the courts considered about 8 thousand criminal cases concerning corruption.

Over 800 law enforcement officials were sentenced for bribes. Besides, sentences were passed on 637 officials of national and local authorities including 164 law enforcement officials, 224 heads of municipal entities and local administration, 5 deputies of the representative bodies on Russian entities and 73 elected deputies of local self-government bodies”, argued the Prosecutor.

Chairman of the Russian Federation Investigation Committee A.I. Bastrykin in his interview to “Rossiyskaya Gazeta” of January 20, 2015 also noted the unfolding tendency to increase the number of so called “untouchable” people sentenced for corruption: “Since 2011 we brought to responsibility for corruption 2487 people with a special legal status. Among them were 37 deputies of legislative bodies in constitutive entities, 1703 deputies and elected heads of local self-government bodies, 12 judges, 65 prosecutors, 213 attorneys, 231 MIA investigators, 34 FDCS investigators, and 1 FBI investigator. We are uncompromisingly clear our own ranks from betrayers. 44 investigators from the Investigation Committee were brought to responsibility”.

We should note that combatting corruption is not only legal but a political matter as well. Anti-corruption reforms should be justified, primarily, by a deep believe of the

authorities in the strong need of the fight against any forms of corruption. Besides, all the preventive work in this area should be aimed at preventing the occurrence of corruption elements and it is possible only by adoption of efficient anti-corruption legislation and its full realization in practice.

Currently, in the Russian Federation there is an extended anti-corruption legal base. Due to increasing the visibility of the struggle against corruption starting with the adoption of the Federal law No. 273-FZ of December 25, 2008 "On counteraction of corruption". Anti-corruption legislation has been extended and now it has a great number of normative legal acts including those aimed at combating corruption: Federal law of July 17, 2009 No. 173-FZ "On anti-corruption expert review of legal acts and draft regulatory legal acts"; Federal law of December 3, 2012 No. 230-FZ "On verifying the correspondence of the expenditures of individuals occupying state posts and other individuals to their levels of income"; Presidential Decree of April 13, 2010 No. 460 "On the national strategy and the National plan to combat corruption for 2010-2011"; Presidential Decree of July 1, 2010 No. 821 "On the Commission for the professional conduct of civil servants and regulation of conflict of interests"; Presidential Decree of March 13, 2012 No. 297 "On the National plan of combating corruption and amendments to some Presidential Decrees on combating corruption"; Presidential Decree of March 10, 2009 No. 557 "On confirming the list of position in the federal public service at appointment on which and when filling which the federal employees are obliged to submit information concerning their incomes, property or material liabilities as well as information concerning incomes, property or material liabilities of their spouses and minor children"; Presidential Decree of May 18, 2009 No. 558 "On providing the citizens with the information concerning incomes, property or material liabilities by those applying for state office and by individuals filling government posts in the Russian Federation"; Presidential Decree of May 18, 2009 No. 559 "On submitting by the citizens applying for state office and federal government employees information concerning their income, property and material liabilities"; Presidential Decree of May 18, 2009 No. 561 "On approval of procedure for submitting the information concerning the income, property and material liabilities by the individuals occupying state posts in the Russian Federation, the federal government employees and their family on the official web-sites of the federal authorities and federal authorities of constituent entities of the Russian Federation and providing this information to Russian mass media for disclosing"; Presidential Decree of September 21, 2009 No. 1065 "On verifying the accuracy and completeness of the information submitting by the citizens and federal government employees and compliance of the federal government employees to requirements of the official behavior"; Presidential Decree of July 1, 2010 No. 821 "On the Commissions of the compliance to the requirements of official behavior by the federal government employees and regulation of conflict of interests"; Presidential Decree of July 21, 2010 No. 925 "On the measures for implementing certain provisions of the Federal law "On combatting corruption"; the Frame Regulation on the division for preventing corruption and other crimes in the personnel department of the federal public authority (approved by the Russian

Federation government of February 18, 2010 No. 647p-P16); “On the national security strategy for the period to 2020”; Presidential Decree of March 13, 2012 No. 297 “On the national anti-corruption plan for 2012-2013 and amendments to some acts of the Russian Federation president on the issues of combating corruption” (with amendments and additions adopted on march 19, 2013); Presidential Decree of April 2, 2013 No. 309 “On the measures for implementing certain provisions of the Federal law “On combating corruption”; Presidential Decree of April 2, 2013 No. 310 “On the measures for implementing certain provisions of the Federal law “On verifying the correspondence of the expenditures of individuals occupying state posts and other individuals to their levels of income”; National anti-corruption plan for 2012-2013 (approved by the Presidential Decree of march 13, 2012 No. 297) with amendments and additions adopted on March 19, 2013; Presidential decree of April 11, 2014 No. 226 “On the national anti-corruption plan for 2014-2015”; the Russian Federation Government Resolution No. 1405 of December 18 2014 “On some issues of combating corruption”; Presidential Decree of march 8, 2015 No. 120 “On some issues of combating corruption”.

Analysis of anti-corruption legislation in the Russian Federation for the last ten years let us make a conclusion about activation of law-making activity in the sphere of struggle with corruption. Thus, during 2004-2008 5 federal laws concerning combating corruption were adopted, and during 2009-2014 2 more federal laws were adopted. Besides, for the period from 2004 to 2008 five Presidential Decrees were adopted, and from 2009 to 2014 this number grew to 15. In total since 2004 to 2014 twenty seven normative legal acts were adopted which enable to properly implement the state policy to detect and prevent corruption.

Revealed major trends regulating anti-corruption legislation prove the fact of creating modern adequate normative legal base in accordance with social and economic environment. Formulating regulation principles, the legislator strives to use any non-punitive mechanisms to combat corruption. Nevertheless, predominance of administrative authority is evident.

Speaking about criminal legislation, enhancement of repressive elements in government reaction of corruption is obvious. Analysis of the norms about crimes of corruption the list of which (No. 23) is approved by joint order of the Russian Federation General Prosecutor No. 744/11, Russian MIA No. 3 of December 31, 2014 “On the implementing the index of Articles of the Russian Federation Criminal Code used for statistical records” shows that during the last ten years there was no de-criminalization of the elements of any crime. Full or partial criminalization occurred according to the following norms: paragraph 4, Article 159 of the Criminal Code (2012); paragraphs 3 and 4, Article 160 of the Criminal Code (2011); 174, 174.1 (2013); 175 (2011); paragraph 2, Article 285 of the Criminal Code (2011); paragraph 3, Article 285.3 of the Criminal Code (2010); paragraph 3, Article 286 of the Criminal Code (2011); Article 286. of the Criminal Code (2010, 2011); paragraph 3, Article 287 of the Criminal Code (2011); Article 290 of the Criminal

Code of the Criminal Code (2011); Article 291 of the Criminal Code (2011); Article 291.1 of the Criminal Code (2011); Article 292 (2014); Article 292.1 (2008, 2014) etc.

The analysis conducted by the General Prosecutor's Office of the Russian Federation showed that in January – December 2014 there were 32 060 (-24.6%) crimes of corruption the proportion of which among the total number of registered crimes was 1.5%. The number of crimes under the Article 290 of the Russian Federation Criminal Code (bribery) decreased by 11.4% (from 6 710 to 5 945) in Russia. The same decreasing tendency is observed in the Republic of Kabardino-Balkaria (from 41 to 8; -80.5%), Altai Republic (from 9 to 2; -77.8%), and Zabaikal Territory (from 371 to 116; - 68.7%). However in certain regions the number of crimes of corruption increased. In Mari El Republic the number of crimes grew by 238.5% (from 26 to 88), in Magadan Region by 200% (from 1 to 3), in Kamchatka Region by 125% (from 4 to 9). Over this period the number of crimes under the Article 291 of the Criminal Code (bribery) on the territory of the Russian federation grew by 21.9% (from 4 811 to 5 866). In Primorsky territory the number of this type of crime grew by 236.4\$ (from 22 to 74). In Republic of Kabardino-Balkaria by 166.7% (from 3 to 8), in Chuvashia republic by 153.3% (from 15 to 38), in Kaluga region by 143.5% (from 23 to 56).

It is necessary to note that legislative steps to enhance repressive measures of responsibility for corruption affected law enforcement practice as well, in the result the number of people who committed such a crime increased. Despite the general tendency of decreasing the number of registered crimes of corruption (-24.6%), the growing number of convicted for such crimes demonstrates that the guilty verdict of the court may be handed down much later the reporting period which is explained by the specific character of the crimes.

According to the Judicial Division of the Supreme Court of the Russian Federation in 2012 6014 people were convicted for committing the crimes of corruption and 87 people were declared not guilty; in 2013 8550 people were convicted and 101 were free from an accusation. In terms of penalty there is a growing number of guilty verdicts with major punishments. Namely, in 2013 the courts more often sentenced the offenders to deprivation of liberty (+1.3% in comparison with 2012), compulsory community service (+100%), correctional labor (+260%). Besides, in 2013 the courts confiscated assets in 128 convicted which previously was rarely practiced. Deprivation of the right to hold certain posts or engage in certain activities as the major punishment doubled (from 63 to 105).

Executors of law also note a significant strengthening of criminal responsibility for crimes of corruption. After analyzing the cases in this category of acts, the judge of the Supreme Court of the Russian Federation E.V. Peisikova writes that a great number of convicted for bribery at the time of the sentencing did not have any property which might be directed to the administration of the punishment, and their

salary was not higher the average indexes of the region. Majority of convicted had dependents, primarily minor children, and many of the convicted already were unemployed (2013).

Consequently, the dominance of repressive measures reflects the desire of both the legislator and law enforcement officials to minimize the influence of corruption on all the spheres of the social life.

The main aim of the National strategy to combat corruption is to root out the reasons and conditions that give rise to corruption in the Russian society (paragraph 5).

In criminological literature the reasons and conditions of the crimes are usually understood as the combination of social life phenomena which contribute and give rise to the crimes, support its existence, generate growth or decline.

Corruption in Russia is a historical phenomenon associated with the system of mestnichestvo (regionalism). “In accordance with Russkaya Pravda in the 11th-15th centuries alongside allowances from the treasury extorting form the locals were considered the norm and legitimate income of soldiers. Extortions made the local authorities to take advantage of the situation. After the Zemstvo Reform in 1555-1556 this system was eliminated, however resources still mention about this practice as deeply entrenched in a social practice and societal mores during the second half of the 15th century” (Levakin, 2013). Due to this specific character bribery is considered as kind of an “award”, remuneration for work.

Among the conditions objectively contributing to corruption is an essential (and growing!) role of the government in regulating all spheres of life of both the society in general and individuals. There could not be science and education, economic segments and non-productive areas without participation of the government. Growing role of the government is also the growing role of officials in general and the highest ranking officers in particular.

The results of surveys among state and municipal employees and law-enforcement officers are of a particular interest. They were offered to identify the dominant criminal determinants of crimes of corruption. Among the major determinants they named the following conditions of corrupt conduct:

- Deeply rooted in a social consciousness legal nihilism; the habit to build relations not on the base of the existing legal framework but on the base of informal relations. Currently, the more widespread from of corruption is not material but service (social connections);
- Lack of understanding of the content and mechanism of law enforcement by the population;
- Grossly overstate role of the public servants in the life of society;

- Conviction of bribe givers that a bribe is an easy and efficient way of solving their problems because the other mechanism (without bribes) is not efficient enough;
- Lack of public control: major part of society approves of corruption.

The interviewed psychologists think that the following conditions are responsible for corruption in our society:

- Lack of civil society in Russia, but overcoming of corruption should rely on consciousness of the population, on thinking of oneself as a nation (but not a crowd of more successful and less successful), and on the psychological health of the population;
- Historical Russian tradition is the privilege of authorities; change of authorities leads to privileges of the “ruling party”;
- Conscious opinion of people having authority that power is their privilege (privileges as a consequence of obtaining authority);
- Lack of transparency in staff selection procedure; professionalism is appreciated less than social connections.

On the base of the survey results we could classify by the content revealed reasons and conditions of corruption into the following groups: organizational, economic, legal, psychological, social and informational.

**Organizational** determinants of corruption include:

- Multilevel and, consequently, not effective enough management apparatus;
- Inadequate criminal and government system;
- Insufficient social control;
- Lack of transparency in staff selection procedure; professionalism is appreciated less than social connections.

**Economic** determinants of corruption include:

- Low standards of living of the majority of people;
- Self-interest, material greed (often the greed is above the reasonable) of the employees. Specific character of polymotivation of corrupt conduct alongside self-interest is the desire to be better than the others; to be the first among the equal, primarily, in terms of income. In this way, people satisfy their feeling of superiority and vanity. This is how the respondents explained unlawful gratifications by wealthier individuals occupying posts in the state or municipal service.

The example of greedy interest alongside other criminal motives is the criminal proceedings initiated against the Governor of Sakhalin A. Horoshavin suspected of bribery in the amount of 5.6 million dollars.

**Legal** (law enforcement or political) reasons and conditions include:

- Impunity which is the consequence of inadequate implementation of the principle of inevitability of responsibility;
- Specific (sometimes very complex) procedure of administering criminal liability to certain categories of people (for example, to deputies);  
Gaps in current legislation on the one hand, and excessive regulation of actions, on the other hand which leads to unfeasible requirements.

**Psychological** (moral) determinants of corruption include:

- Employees and people (!) regard the bribe as remuneration for work including for breaking the rules;
- Leveling (sometimes substitution) of values;
- Legal nihilism rooted in the peoples consciousness;
- Regarding the power as a privilege;
- Special (historical) mentality of Russian people.

**Social** reasons and conditions of corruption include:

- Cronyism, social connections (friends, family etc.). It is interesting, but in legislative definition of corruption only selfish interests are mentioned but there are no other motives (paragraph 1, Article 1 of the Federal law of December 25, 2008 No. 273-FZ “On combating corruption”). As the respondents explained during the interview state resources, managing budget money are the conditions that make any public position very attractive. The appointment to these posts is often based on social connections;
- A habit to build relations not on the base of the existing legal framework but on the base of informal relations;
- Establishment of close relations between acquaintances;
- Conviction of bribegivers that a bribe is an easy and efficient way to solve their problems;
- Lack of civil society in Russia.

**Ideological** (informational) criminogenic determinants of corruption include:

- Legal ignorance of many people: they do not understand the content and the mechanism of application of the law by the population;
- Insufficient informing of the population about the ways of solving their problems (applications, complaints, appeal etc.);
- Lack of dominant of legal behavior. Primarily, corruption is based on mutually beneficial actions which remain unknown to law enforcement bodies;

- Social excuse, almost approve of corruption. This tendency is dangerous in its consequences when corrupt conduct is permitted both by the population and state and municipal employees. Moreover, society is more loyal to corrupt criminals than to violent criminals, for example. There is no public condemnation and blame of people committing a crime of corruption. As a result, it affects the population itself without understanding this fact.

- In Russian criminology there is axiomatic assertion that the key to effectively cope with crimes including corruption is timely and comprehensive impact on the reasons and conditions of crimes, in general and their forms, in particular.

Pursuant to the Article 6 FZ of December 25, 2008 No. 273-FZ "On combatting corruption" among the measures of preventing corruption are:

- Forming a society of intolerance to corrupt conduct;
- Anti-corruption expertise of legal acts and their drafts;
- Introducing in accordance with the procedure prescribed by law job specifications for citizens applying for state or municipal office and for posts in the state or municipal civil service;
- Verifying of information submitted by these citizens;
- Development of institutions of public and parliamentary control over the compliance with Russian Federation legislation concerning combating corruption and others.

The first and the last measures are associated with non-governmental impact on corruption. Let us assume that government at legislative level acknowledges importance and potential efficiency of measures to counter corruption on the part of the population and society, in general.

The results of our research prove this conclusion. The respondents were asked to answer the question whether state efforts are enough to combat corruption. The majority of respondents (both law enforcement officials and other individuals) mentioned the obvious lack of state measures underlining the need for complex measures of impact on corruption determinants.

In response to the question which non-governmental organizations and associations of individual persons are able to affect corruption, the majority of respondents noted capacities of the population and of mass media as the institutions of civil society being the most effective in combatting corruption.

The surveys conducted in various forms concerning non-governmental measures of combatting corruption gave us the following answers:

A significant role of social preventive measures for combating corruption was mentioned:

- Participation of the population, including confidential telephone hotlines;

- Control enhancements (including social control) over activity of governmental officials;
- Impact on corruption through mass media.
- Ideological (moral) measures for preventing corruption:
- Perception of oneself as a nation;
- Developing of a dominant of legal behavior;
- Forming of intolerant attitude to corruption. People must not justify corruption, on the contrary, it is necessary to develop the practice of social reprisal of corruption and its rejection;
- Social blame of corruption and corruptionists.

Currently both the state (as shows analysis of laws and other legal acts) and the population (as the results of the study show) acknowledge obvious priority of measures of non-governmental impact of corruption as the being the most efficient. It is evident that these measures are connected with the fact of existence of civil society and the level of its development as well as with the activity of its institutions.

The category (notion) “civil society” is developed by the theory of the state and law within the state doctrines. From the position of a doctrine a civil society is a relative notion as society cannot be “non-civil” or “anti-civil” (Matuzov and Malko, 2007). Society as a group of individuals existed since when a human being separated from the fauna designating in himself the signs of socialization. It means that a group of individuals objectively existed during pre-state period and after formation of the state. People, nation, population, citizens, society are not synonymous to a civil state, though, of course without a social base no civil society can exist. Still these are not the same things. Currently, civil society is associated not only with biological signs of the humankind but with the level of development of a society in different countries. Civil society is understood as social relations, autonomous from the state regulations, being not under the control of official powers, independent and self-regulating. With various degrees of certainty civil society and the state are opposed to each other: from the assertion that the state is evil and civil society is benign to admitting cooperation between civil society and the state.

Ancient philosophers Plato and Aristotle wrote about the phenomenon of civil society as well as the representatives of the Renaissance Grotius, Thomas Hobbs, John Locke, Montesquieu, and Jean-Jacque Rousseau. However down to 18th century the state and civil society de facto did not distinguish form each other. Hegel had a view very close to contemporary one. He pointed out that civil society is, primarily, the system of needs based on private property as well as religion, family, classes, state structure, moral, duty, culture, education, laws and resulting from them mutual legal bonds. Hegel wrote that from a natural “uncivilized” state “people should enter civil society because only in it legal relations are valid”. Hegel emphasized that civil society is possible only in a “modern world” meaning modern to him classic bourgeois society (Kaufmann, 1966). Speculating about the state and society Hegel wrote: “The state is valid and its validity is that the interest of the

whole is realized dividing on special aims. Validity is the union of generality and particularity ... If there is no unity, something is not valid, though one may assume that it does exist. A bad state is one which merely exists, a sick body exists too but it has no genuine reality" (Inshakov, 1997). To create a system of definite relations between the state and society a certain level or a mode of production is needed under which a certain part of society (class, group) obtained economic independence from the state. This independence gives right to private property. That is why, economic prerequisites of creating civil society as an entity independent to certain extent from the state, having its own interests and claims (Hegel called it "specific aims") appeared only during the period of capitalist regime. It is quite evident that creation and development of civil society is a dynamic process. In the states where market relations appeared a long time ago, the processes of creating civil society have a longer history. It is logical that the level and degree of civil society development in various countries is different (provided that there are some common features and signs). Globalization contributes to aligning and accelerating of globalization which has its own positive and negative aspects (Durkheim, 1993).

Russia announced its aim to build civil society and, consequently, civil society (as well as legal state) is a category that does not exist but expected in the future and we should strive for it. For this reason the acknowledgment of hallmarks of civil society is a difficult task as it is not possible to give characteristic to something that does not exist. Nevertheless, N.I. Matuzov and A.V. Malkov point out at some "general ideas and principles lying at the root of any civil society despite specific character of a country:

- 1) Economic freedom, diversity of forms of ownership, market relations;
- 2) Explicit recognition and protection of human and civil explicit rights;
- 3) Legitimate and democratic authority;
- 4) Equality of everyone before law and justice, adequate legal protection of personality;
- 5) Legal state based on the principle of separation and cooperation of powers;
- 6) Political and ideological pluralism, existence of legal opposition, multiparty system;
- 7) Freedom of opinion, speech and press, independence of mass media;
- 8) The absence of state intervention into the private life of the citizens, their mutual obligations and responsibilities;
- 9) Class harmony, partnership, national consent;
- 10) Effective social policy providing adequate standard of living".

Civil society is defined as a combination of non-state and non-political relationships (economic, social, cultural, ethical, spiritual, corporate, family, religious) creating a sphere of specific interests of independent individual owners and their associations (Matuzov and Malko, 2007).

Currently, Russian elite is under ideal impression about civil society. This ideal generalized image includes many attributes: developed market economy, multiple forms of ownership; economic freedom; protection of natural rights of personality; electivity and legitimacy of power; equality of everyone before law; developed and independent justice; legal state, division of powers, legal opposition; mass media independence; private life freedom within the law; mutual obligations and responsibility the citizens; effective social policy providing adequate standard of living" (Feldblum, 2008).

In our opinion, social and economic implications must be obligatory (though not exhaustive). Their value is equal, so it is not important in what order they will be considered.

No society including civil society may be formed without a social base. Size of the population and its density influence inner-social connections and interrelations. It is clear that "sparsity" of population cannot contribute to strong, multifaceted social relations. In the Russian Federation the issue concerning demographic situation is an acute one. Worsening of quantitative indicators led to occurrence of a phenomenon known as the "Russian cross" when the birth and death rates were equal at some point but then the death rate began to climb.

By the number of abortions per a woman Russia is holding one of the first places in the world. In other countries, for example, in France a woman has a right for one abortion only (excluding medical indications). In Russia in 2000 there were 40.3 abortions per one thousand women. In western countries – 15 abortions per one thousand women. In 2009 nearly 90 thousand abortions were performed in women younger than 16 years old. According to the Russian Federation Ministry of Health there 66 abortions per 100 births. Due to the abortions every fifth couple in Russia is infertile.

The family as the base element of the society is under the threat. Another indicative fact is the proportion of marriages and divorces. In 2008 there were 703.412 divorces per 1.179.007 marriages. Divorce statistics in Russia shows that in 2013 there were 667971 divorces per 12225501 marriages. If in the Soviet period every third marriage was cancelled, now it is every second marriage.

Life expectancy among the men is 59 years old and among the women is 72 years old. Disproportion of male and female population does not contribute to creating families, reproduction and creation of adequate psychological environment in the society.

In 2014 in prisons in Russian Federation there were around 640000 people. Among the convicted there is a growing number of aggressive people with the high level of excitability and psychiatric disorders. Over 400 thousand people in prisons disposed to destructive behavior – self-harm, suicide, aggression. Their actions are

unpredictable and they can attack the officers. There is a growing number of convicted who do not have neither profession nor job. The majority of the convicted are subject to regular medical check-up with various diseases. The possibility of integrating these people into society as active law-abiding citizens is under doubt.

The number of elderly people is greater than the number of youth. Consequently, a question to increase the retirement age was raised as working population is not able to provide adequate living standards for pensioners. Russia has acquainted itself with a previously unknown phenomenon – social orphanage when children having alive parents are left without parental care and financial support.

Alongside inevitable natural loss of population due to death there is one more reason which we cannot ignore, and that is suicide. According to quantitative indications Russia is on the third place after such heavily populated countries as China and India. Around 55 thousand of the Russian voluntarily lose their lives each year. Russia is referred to a group of countries with a high level of suicides; in our country there are 36 suicides per 100 thousand people. These figures are higher only in Lithuania and Belorussia. Since 1995 the rate of suicides in Russia decreased in total, however among the youth the rate tripled.

At the same time, in the society with mass media support the issues of death penalty and euthanasia are actively discussed. Physical and psychological health of the nation raises concerns. Russia still holds the first place in the world with the highest number of respiratory diseases and mortality rate from cardiovascular diseases, as for oncological diseases our country holds one of the first places. Significant health worsening is caused by the way of life and addictions.

In the result of alcohol abuse (9.7 liters per person a year at the norm of 9.0 liters per person), the number of alcohol addicts in Russia is around 7 million people. Premature deaths among the Russian men (18 years earlier than in the USA and 12 years earlier than in Europe) is associated with alcohol abuse.

One more factor affecting the health and life expectancy of the Russians is drug addiction. For the last ten years the use of drugs in Russia increased 9 times and among the drug addicts are people younger 30 years old. In 2009 in dispensary registry there were 503 thousand people. The specialists think that the real number of drug addicts is 2.5 million people. Mortality rate due to drugs increased 15 times and infant mortality 45 times. Alcohol or drug addiction is the reason of divorces in 51% of cases. For reference: in 1990 this was the reason in 33% of cases. All this brings raises unoptimistic question about the qualitative characteristic of the social base of creating civil society.

Economic prerequisite for building civil society is the creation of a middle class. It should be the class with its own economic interests concerning the property. This is the main class with enough citizens which is an economic support for the whole

society. This class should not contrast with low-income people. As the Soviet experience shows, equality even sanctioned by the government is impossible. In any society there will objectively exist prosperous and poor classes and the middle class is between them. Professor L.I. Romanova writes: "Modern civil society, stepping out of socialism, turned out for its citizens unusually multilevel, stratified and distorted. For a relatively short period of time in the country appeared a class of very rich people which constituted only a few percent of civil society, but over 40% of the population found themselves in poverty, and over half of this people have monthly income lower than subsistence level" (Romanova, 2003). If the gap between the classes is too big, then antagonistic processes should be expected. People with the lowest income may find themselves in the most disadvantage position expressed in marginalization.

Middle class is the core of civil society, around which all the rest social groups (strata) are consolidated. Due to its social purpose it should be the class producing the idea to consolidate the whole class and to attract other groups and maintain relationships with the government. Currently the right to private property is announced and protected on the level of the Russian Federation Constitution. The issue about economic prerequisites of creating civil society is far from reaching a positive result.

In Russia on a law-making level the efforts are made to create and legalize the institutions of civil society. Alongside the Russian Federation Constitution there are the following laws aimed at creating and supporting an effective functioning of civil society:

Russian Federation law of December 27, 1991 "On mass media";

Federal laws:

- "On public associations", No. 82-FZ of May 19, 1995;
- "On non-commercial organizations", No. 7-FZ of January 12, 1996;
- "On political parties", No. 95-FZ of July 11, 2001;
- "On general principles of implementing self-government in the Russian Federation", No. 131-FZ of October 6, 2003 and others.

Institutional forms of cooperation between the state and civil society are Presidential Council on Development of Civil Society and Human Rights; initiating of numerous civil forums, creation of public chambers and councils, support and financing of projects of non-commercial organizations etc. Today in the Russian Federation there are the following Presidential councils and commissions: Council for Realization of National Priority Projects and demographic policy; Council for Culture and Arts; Council for the Codification and Improvement of the Civil Laws; Council for Science, Technologies and Education; Council for Cooperation with Religious Associations; Council for Physical Training and Sports; Council for Development of Civil Society Institutions and Human Rights; Commission for Military and Technical Cooperation with Foreign Countries; Commission for citizenship; Pre-

selection Commission of the Applicants on Posts of Judges in the Federal Courts; Commission for State Awards; Commission for Rehabilitation of the Victims of Political Repressions; Commission for Improvement of the Government and Justice.

According to the Presidential Decree of May 19, 2008 “On the measures for combating corruption” a Presidential Council for combating corruption was established. The main objectives of the Council are preparation of proposals to the President of the Russian Federation concerning development and implementation of state policy in the area of combating corruption; coordination of activities of the federal government bodies, authorities of the constituent entities of the Russian Federation and local self-government bodies of municipal entities in terms of implementing state policy for combating corruption; control over implementation of measures provided for by the National plan for combating corruption. Council members operate on a pro bono basis.

One of the most relevant laws is a Federal law “on the foundations of public control”, No. 212-FZ of July 21, 2014.

The authors of this work sincerely believe in inner reserves of civil society which is still in the early stages of its formation according to the opinion of Russian scientists. Social control over the crimes (including corruption) is one of the most powerful law enforcement mechanisms. The problem of efficient social control over the crimes was the subject of studies of foreign and Russian criminologists (Freda Adler (2008), Ferdinand Tönnies, Emile Durkheim (1993). R. Merton (1968); V.V. Luney). The sociology of law developed the mechanism of the right in modern society which includes social control (public opinion), communication and an individual (Grevtsov, 2001). This paper analyses from the position of criminological studies the condition of civil society and its institutions as well as their abilities to social control, communication and impact on the crimes. Cooperation of the state and civil society institutions is announced as one of the principles of combating corruption (Article 3 of the Federal law “On combating corruption”). The idea of opposing civil society to the state is not supported; we believe in the necessity of combining the efforts of authorities and civil society institutions to build a truly democratic state.

## **Conclusion**

Thus, current legislation announces the priority of preventing over the prosecution as one of the principles of combating corruption. In this regard, civil society, in general and its institutions, in particular is intended to develop the program of measures for combating corruption. These measures, in our opinion, are characterized by social aspects as they reflect the living conditions of society, and by motivation as they are going through a social consciousness. In this regard, such measures will be highly efficient because they are produced by the society itself and in the interests of the majority. Of course, they have drawbacks concerning non-normativity, optionality,

and the lack of confirmation by the sanctions. To enhance public legal awareness, we need stage-by-stage measures.

1. Due to a highly latent character of corruption, it is necessary to conduct anonymous social surveys concerning crimes of corruption.
2. Society perceives impunity of corruptionists as injustice. Mass media should provide detailed information about significant criminal cases and about the sentencing of the accused.
3. The members of the public should take more active part in anti-corruptive expertise of legal acts.

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