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## **CURB ON CORRUPTION IN UKRAINE: CIVIL SOCIETY'S COMPETENCE AND AGENDA**

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*The paper suggests a set of functions (to be developed) and analyzes reform potential (to be exploited) of civil society organizations in Ukraine with regard to anti-corruption policies. The priorities and tasks, implementation of which is crucial for civil society organizations' transformation into full-fledged anti-corruption drivers in Ukraine, are identified as well.*

**Keywords:** *civil society, corruption, fight, community, potential, transformation.*

**Introduction.** Since gaining independence in 1991 there have been a lot of changes in Ukraine. New effective economic methods have been introduced. Strong and free media have developed. Active civil institutions have appeared. Nevertheless, market transition involved tremendous difficulties, and the government proved unable to manage them aptly so that to secure the well-being of the people. The people themselves naturally were not taught to deal with the market. Surviving often was their main concern. Due to hard life the people turned callous in terms of morality. Social apathy is common now. After 22 years of reform, Ukraine is still in search of its path. The country endures a dramatic lack of responsibility in everyday life, as well as in governance. Partially due to this lack the most pernicious challenge for the country nowadays is the widespread corruption. Its seriousness can be easily perceived both from the outside (being internationally recognized) and from the inside (being experienced heavily by most of Ukrainians themselves). Finding a certain remedy for the corruption issue is a matter of national security in the country. Government efforts (both preventive and combative) do not seem to be effective so far. In fact, sometimes they are even more provoking than alleviating. Civil society institutions (CSIs) pose a possible alternative solution to this problem. Nevertheless, the anti-corruption policies of CSIs in Ukraine are to be developed yet. They lack focused permanency and an integral approach.

**Studies conducted and solutions offered so far.** Corruption has been a major concern and a research focus for many Ukrainian scientists. This includes papers of M. Melnyk, E. Nevmerzhtsky, L. Arkusha, O. Kalman, M. Bezdolnyj, L. Dolya, S. Rogulskyj who have studied the nature of corruption in Ukraine and dwelled on possible anti-corruption measures. The historical origins of corruption in Ukraine were thoroughly studied by O. Prutska. Frequently corruption is considered to be a part of the issue of shadow economy. Such are the specifics of the papers of V. Bazylevych, I. Mazur, V. Predborskyj, O. Cherevko and others.

Comprehensive studies of CSIs' sector are being undertaken by the experts of the National Institute for Strategic Studies, Ukrainian Center for Independent Political Studies, Counterpart Center. Nevertheless, the anti-corruption efforts of civil society do not seem to be the obvious focus of the national research endeavors. That focus is much clearer for the foreign experts. In Ukraine, however, the fight against corruption is associated mainly with the improvement in public governance and regulations which is not sufficient and adequate.

**The paper's objective.** The present paper aims to analyze and structure the potentials of CSIs' anti-corruption drive in Ukraine, with a set of recommendations on civil society's preventive and combative involvement in the fight against the corruption being suggested.

**Ontology of the problem under consideration.** A number of international expert groups monitor corruption in the country and report annually. For instance, Freedom House in its Nations in Transit Report has registered stagnation of Ukraine at the rate of 5.75 on the scale from 1 (very clean) to 7 (highly corrupt) since 2003 [2].

The Worldwide Governance Indicators (World Bank), measuring corruption from 0 (most corrupted) to 100 (very clean), also display Ukraine's poor performance. It has significantly improved since 2000 (8 ranks) and registered 30 in 2005 but worsened dramatically afterwards and fell to 17 in 2011 [4].

Corruption Perceptions Index (Transparency International) gives us a grim picture as well. In 2011, Ukraine scored 2.3 on the scale from 0 (highly corrupt) to 10 (very clean). The methods used in assessing the Index change annually, so comparisons between years are difficult. It could be said though that the Index for Ukraine was never higher than 2.8. International comparison could be more reliable. In 2011 Ukraine shared the ranking with Tajikistan. Other prominent former USSR republics showed approximately the same score: 2.4 for Russia and Belarus, 2.7 – for Kazakhstan. Slightly better was the performance of some other non-European countries: 2.5 – for Pakistan, 2.9 – for Vietnam, 3.1 – for India. The cleanest countries were New Zealand, Denmark, Singapore and Norway (with the scores above 9.0). Somali was presented as the most corrupted country and scored 1.0 [1].

The inside view regarding the corruption issue in Ukraine is even more interesting. According to The Comparative Analysis of the National Sociological Surveys on the State of Corruption in Ukraine conducted in 2007, 2009 and 2011 (Kyiv, International Institute of Sociology) over 60% of the respondents experienced corruption at least once during a year. Though a noticeable decrease in the actual corruption experiences in 2011 has been registered compared to 2007 (67.0% vs. 60.1%) , the figure is still astonishing [10].

As the 2011 Corruption Fight Report of the Ministry of Justice of Ukraine states, there were about 17000 cases of official malfeasances detected in 2011. This was reported to be 25% more than in 2010. Graft and corruption were the most common type of offences. The Report confirmed that corruption in Ukraine had become a ubiquitous phenomenon. It reached the unprecedentedly high rates and remained steadily devastating over the past decade.

The most staggering fact the Report officially unveiled was the high degree of corruption in the courts i.e. in bodies designed to introduce and ascertain justice. The document indicates that 12% of Ukrainians encountered corruption in the judiciary system in 2011. The average size of a bribe accounted for 1320 UAH (approx. \$165). Most bribes exceeded 2000 UAH (\$250) [8].

The proliferation of corruption was unleashed in early nineties – at the dawn of the independence and in time of actual absence of nationally acknowledged effective regulatory tools. In that time, corruption was deemed as the possible «remedy» itself with law being imperfect and legal ways to deal with bureaucrats being very costly as compared to a corruption agreement.

By now, corruption has become a major hindrance to further development throughout the country. Law regulations and legal system are still flawed. Nevertheless, law imperfection and the issue of corruption today can hardly be thought as «teething» problems. The point is that after 20 years of independence, total tolerance of corruption has embedded in the social mind. From being the «last resort» compelled by a situation corruption has transformed into a national «habit» and a «tool» for doing business. The following cases are typical. Instead of obeying road regulation norms an average motorist in Ukraine easily gives a bribe to a traffic police officer so that to escape a fine. An ordinary student in Ukraine often willingly gives a bribe to a professor for good examination score instead of properly learning the subject. A businessman commonly tries to enter the market through commercial and other privileges obtained from the authority rather than through competitive production of goods in demand.

The national sociological surveys indicate the almost equal spread of extortion and voluntary bribery (incl. misuse of personal connections) in Ukraine. Sometimes the latter even prevailed over the former. Furthermore, the surveys show that at present nearly half of Ukrainian population morally justifies corruption as a way to resolve personally important matters.

There is no reason to vest the government with the whole responsibility for the fight against corruption. The governmental institutions are bureaucracy-managed. It is a common fact that bureaucracy is corrupted in some way or another having no obvious inducement to alleviate the problem. Both high-ranking officials (either elected or appointed) and typical clerks are corruption-prone to the same extent.

This does not mean that adequate anti-corruption governmental policies are not necessary. Nevertheless, the government's efforts cannot be the sufficient and principal instrument. National strategy must be developed with civil society as the main actor and fighter. Civil society is understood as not just a spectrum of numerous NGOs. It also accounts for other initiatives and groups, communities and individuals enjoying social trust and working for the society. Even a family must be considered in that range. It is apparent though that NGOs (organized CSIs) are more effective and more influential institutions than others in the range.

Civil society could be a very strong anti-corruption factor in Ukraine (unlike many other countries severely affected by corruption) because the Ukrainian non-profit sector is comparatively well-structured and well-developed. In the independence era, it has been gradually considered a noticeable social actor (which is not quite the case, for instance, in Russia or Kazakhstan or Belarus – see Nations in Transit Report 2011 or USAID CSO Sustainability Index 2011 [3]).

Civil society is of primary importance for the anti-corruption strategy. CSIs' role becomes explicit when the following reflections are taken into consideration:

- civil society is considerably closer to the «grass roots» and deals with social demands of the people directly because it is composed of ordinary people;
- it has much fewer incentives to act opportunistically (it is less corruption-prone);
- it assembles individuals who are highly motivated and not seeking «administrative rent»;
- it is much more flexible due to network organizational patterns (contrary to hierarchically managed cumbersome and inadaptably government structures).

Anti-corruption potential of CSIs is multidimensional. It could be understood as a set of the following functions:

- educating people in their rights and means to fight corruption, promoting the importance of building a non-corruption society;
- monitoring the quality of governmental activities and policies;
- representing rights and interests of different groups and individuals when involved in the transactions with the public institutions;
- maintaining the communication and liaison between citizens and the government (and other public institutions).

CSIs pose a powerful force strengthening the «negotiating power» of different social groups and individuals. Those organizations publicly advocate human rights and mediate in the communication with bureaucratic institutions and firms prone to opportunistic (unethical) behavior. Using the tools and resources of civil society, citizens become able to resist any socially irresponsible and environment-unfriendly plans or policies or actions. Thus it becomes quite possible to affect the corrupt extorting and procrastinating officials.

To fulfill its functions civil society has worked out or customized the appropriate control and communication tools:

- public education, social media and social networking;
- advocacy;
- anti-corruption expertise;
- community councils.

Some other tools, capable of assisting the anti-corruption fight, (such as government procurement control or popularization of the corporate social responsibility (CSR) concept) are obviously derived from the above-specified phenomena. Because the government procurement control must be perceived as a form of anti-corruption expertise. The popularization of CSR concept is a part of the public education and advocacy tool. The author considers the difference between them and more general phenomena negligible in terms of the present research.

The major weapon CSIs must use in the fight against corruption is public education (both formal and informal) and social media, aimed at persuasive communication with population (to implant intolerance towards corruption). The second important tool is advocacy, supporting individuals who experience corruption but do not accept it. Advocacy is also aimed at lobbying any legislation making corruption impossible or hard to practice. The third indispensable tool is public assessment of each governmental action (incl. anti-corruption expertise of any authority or an office). This one means expert activities detecting in any regulatory act provisions that contribute or may contribute to corruption manifestation.

Methodical maintenance of the «negotiation power» and professional advocacy can be provided by a network of community councils. A community council is an advisory body functioning at a particular executive authority to ensure citizens' participation in the public policies (participatory democracy). The core of such a body consists of members of CSIs

delegated to the governmental or municipal authority for consultation and expert work. Through a community council, CSIs become able to advocate and promote the positions, interests and rights of their stakeholders directly in the early phase of formulating of certain policies and programs. Thus «vox populi» becomes harder to ignore. If it is eventually ignored the consequences for political image of an official would be damaging.

Current laws in Ukraine, however imperfect they are, enable civil society to use these tools more or less effectively. But only two of them (public education and advocacy) are generally employed. Alas, anti-corruption expertise and community councils remain vacant or gain partial or bureaucratically restricted employment in terms of anti-corruption drive.

Empirical data indicate the importance and the common use of public education and advocacy. According to 2011 Annual Sociological Survey of Ukrainian CSIs sector, conducted by Counterpart Center, training and teaching activities hold the first position in the rating of the most common activities of CSIs. Advocacy holds the second position. Informational service provision is ranked the third in the top 3 list [11].

Numerous cases support this survey's records and prove the success of the CSIs' efforts. The most known is the case of the online community «Road Control». The community was formed in December 2008 in response to awkward policies regarding motorists, initiated by the Ministry of Internal Affairs. At that time the large majority of motorists had no knowledge and poor awareness of how to protect themselves against illegal actions of corrupt traffic inspectors. The situation became dramatic when the Parliament voted the amendments to the legislation raising the penalties for traffic rules violation [6].

At first «Road Control» was a sheer journalistic project with the clear mission of exposing law violations by the Traffic Police. Very soon the project gained countrywide popularity and the significance of a national movement. Common people supported the initiatives of «Road Control», revealing abuse of power by traffic police (incl. bribery) and resisting fake accusation and attempts of extortion. Today, the initiators of the project not only inform, but also actively help people directly on the roads of Ukraine, as well as in the courts.

Another case elucidating the CSIs' advocacy potentials is the case of the legislation Act «On Access to Public Information» (No. 2939-VI), considered the most remarkable achievement of CSIs regarding calling the government to accountability. The Act introduces and guarantees to the public the mechanisms and means to obtain any information on the governmental activities and public policies except state secret matters. The Act resulted from simultaneous and very timely advocacy and social media campaign of CSIs [7]. The draft of the Act was designed by the coalition of CSIs within the project «Decent Ukraine» (Kyiv). But it is not only the draft that counts for the achievement of the civil society. To a far greater extent the importance of the civil influence is attributed to the consolidated efforts of different CSIs when lobbying the Act. Having passed in 2009 its first reading in the Parliament, the document remained not voted on in 2010 for the second reading. A less progressive alternative draft was designed by the Parliament instead. Meanwhile, a number of civil and media organizations launched the public campaign to support the previous draft. Numerous publications in the media, public speeches and lectures of concerned experts have made the risk of the failure of the Act a key political topic in the country. As a result, consensus has been reached. More public experts, professionals, parliamentarians were involved. It has been agreed to develop and finalize the very first draft. The Act has been voted on in 2011. Now it is recognized as one of most advanced documents in the world regulating citizens' access to public information. Shortly after the adoption of the Act, CSIs took the immediate initiative to audit its implementation. A number of



governmental institutions have received critical opinion and recommendations as to the proper conformity to the Law.

Despite the poor use of other combating tools, a certain progress has been already noted. Since 2011 the procedure of anti-corruption expertise has been institutionalized into the legislation. The law states that the principal institution responsible for the expertise's employment is the Ministry of Justice. It also allows and encourages CSIs to perform such an expertise. Nevertheless the respective practices cannot possibly become common due to the lack of a proper methodology suitable for CSIs. The personnel problem is also urgent: only few CSIs have appropriately trained and certified experts. The most prominent organizations in the cohort of CSIs employing anti-corruption expertise are «TORO» Group, Association of Lawyers of Ukraine, the National Attorney Association, Ukrainian Legal Foundation and Independent Judicial Association of Ukraine with «TORO» Group being the most successful and very seminal [9].

Instead of being a choice of a few, anti-corruption expertise must become the responsibility of many. Community councils are the best possible platform for this. According to the Ukrainian Center for Independent Political Research and «TORO» Group 566 community councils were formed in 2011 (93% of the necessary number) in Ukraine. Human rights «watchers», environmental organizations, youth organizations, charitable foundations, social services providers, non-governmental think tanks, business associations, religious organizations, labor unions and pension funds took an active part in forming the network of community councils. Nevertheless, to date the expertise and public consultations remain unwanted by most governmental and municipal agencies. The consultations with community councils, if any, are basically ritualistic without any practical implications [5].

**Recommendations.** Becoming a full-fledged anti-corruption driver requires a set of reformations from CSIs sector. The primary one is the professionalization of the sector which means enhancing the organizational capacity of NGOs. Financial and human resources management are deemed to be the priorities of the organizational capacity formation. This is very important particularly for provincial communities, suffering from the lack of professional skills and qualified personnel. Human resources policies must shift the focus from attracting enthusiasts to attracting professionals and experts. The venture philanthropy concept and method must be considered in this regards.

Economic independence of community councils is another urgent issue. Today a council is funded by an executive authority receiving consultations and advice from a council. Such funding mechanisms cannot possibly ensure the unbiased and unaffected assessment of the government policies and proper exposure of corrupt or corruption-prone activities. The alternative to that funding scheme is multi-source financing. Business partnerships and international assistance must be considered as possible substitutes. The regional, national and international programs within European Neighborhood and Partnership Instrument launched in 2007 are to be taken into account as complementary finance.

Strengthening of the communication between CSIs and the population is also an indispensable change. People in Ukraine are generally unaware of the civil activities. The public benefits of CSIs' efforts often remain socially unperceived. Anti-corruption campaigns are at a serious risk of failure, public relations policies underdeveloped and public image of CSIs ignored.

The next important issue is managing the fragmentation and incohesion of the sector. It is feasible through building a coalition of CSIs (a network of community councils). This must result from forming effective partnerships within the sector to develop a joint strategic

vision on the anti-corruption issues. A code of civil ethics is to be designed. In the code, anti-corruption drive and public intolerance to corruption are to be declared the basic civil responsibilities.

**Conclusion.** Fighting corruption in Ukraine is a matter of strategic importance. Current situation in the country requires involvement of a wide range of institutions capable of affecting corruption. CSIs are the most appropriate in the range. A challenge comes though: civil society still remains unfocused and acts sporadically in anti-corruption matters, detecting few symptoms but neglecting the «malady» itself.

Curb on corruption through CSIs' efforts is possible provided that the sector endures the organizational transformations strengthening its potentials. Building sustainable structure and focusing on marketing of the concept and the benefits of a corruption-free society are the most significant of the transformations.

The main idea communicated in the present paper is to be an unambiguous call to civil society to deploy stronger and more organized control on corruption issue in Ukraine no matter how friendly or unfriendly the government policies are. The realistic vision thereof is provided. To galvanize civil society into systematic action, to give it a spirit and a sense of that action is undoubtedly a sure responsibility of academia. This very paper aims to share that responsibility and to insist: the «cure» is certainly feasible.

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## ПРОТИДІЯ КОРУПЦІЇ В УКРАЇНІ: ПОТЕНЦІАЛ ТА ПОРЯДОК ДЕННИЙ УЧАСТІ ГРОМАДЯНСЬКОГО СУСПІЛЬСТВА

У статті аналізуються функції і реформаторський потенціал організацій громадянського суспільства в контексті їх впливу на прогрес у боротьбі з корупцією в Україні, а також визначено першочергові завдання, реалізація яких необхідна для перетворення громадянського сектору на повноцінний суб'єкт антикорупційної політики.

Новітнє становлення України як держави актуалізувало складні і суперечливі проблеми суспільного розвитку. Серед них особливе місце як за масштабністю поширення, так і за глибиною ураження належить корупції. У сучасній Україні корупція із характерної для перехідних суспільств «проблеми росту» перетворилася на реальну загрозу національній безпеці. Корупційні і «тіньові» відносини дедалі частіше і впевненіше витісняють систему як морально-етичних, так і правових стосунків між людьми, гальмуючи економічні, соціальні, правові та інші реформи.

При цьому, незважаючи на гостроту проблеми, ефективні заходи боротьби з корупцією, з умовами та причинами, які її провокують і призводять до поширення, в країні майже невідомі. Як основний суб'єкт такої боротьби і на державному рівні, і в суспільній свідомості фігурують владні інституції. Однак вони органічно не здатні протистояти масштабності прояву корупції без залучення ресурсів і можливостей громадянського суспільства. Опортунізм і рентоорієнтована поведінка з боку бюрократичного апарату у принципі ставить під сумнів ефективність державної антикорупційної політики.

Натомість активна позиція інститутів громадянського суспільства, їх комунікативна близькість до населення, значно менша кількість мотивів до опортуністичних діянь у їх середовищі створює передумови для становлення адекватної системи контролю за діяльністю владних структур, а також для формування нетерпимого ставлення до корупції і корупціонерів в соціумі. Активність громадянського суспільства веде до зміцнення «переговорної сили» різних верств населення у відстоюванні їхніх прав та інтересів перед інститутами влади, забезпечує інформаційний зв'язок владного сектору з його клієнтами.

Антикорупційний потенціал громадянського суспільства в Україні не реалізовано повністю. Окремі інструменти впливу активно використовують різноманітні громадські інституції (громадянська освіта, адвокати), тоді як інші перебувають у зародку. Найближчим часом необхідно посилити впливовість таких важелів антикорупційної політики, як громадська антикорупційна експертиза та функціонування громадських рад. Громадським ініціативам, особливо на периферії, не вистачає ні фінансів, ні професіоналів для того, аби здійснювати контрольні функції і рівноважувати вади політичного процесу. Тому вкрай важливо цілеспрямовано зміцнювати економічну незалежність громадських організацій, а також звернути увагу на кадрово-професійні складові розбудови організаційної спроможності сектору. Слід також активніше працювати з населенням у напрямі соціального маркетингу, створюючи позитивний імідж громадянського суспільства як ефективного і такого, що викликає довіру, антикорупційного агента. Адже поширена соціальна апатія і тотальна зневіра у суспільстві здатні нівелювати зусилля й інноваційність пошуку та ідей громадських активістів. Відповідальність за необхідну активізацію впливу громадськості на корупцію мають розділити власне громадські інституції та науково-експертна еліта країни. У сучасних умовах покладати надію і чекати покращення в цьому виключно від владних інститутів й державних заходів нереалістично і не конструктивно.

**Ключові слова:** громадянське суспільство, корупція, боротьба, потенціал, трансформація.

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## ПРОТИВОДЕЙСТВИЕ КОРРУПЦИИ В УКРАИНЕ: ПОТЕНЦИАЛ И ПОВЕСТКА ДНЯ УЧАСТИЯ ГРАЖДАНСКОГО ОБЩЕСТВА

В статье анализируются функции и реформаторский потенциал организаций гражданского общества в контексте их влияния на прогресс в борьбе с коррупцией в Украине, а также определены первоочередные задачи, реализация которых необходима для преобразования гражданского сектора в полноценный субъект антикоррупционной политики.



Становление Украины как независимого государства актуализировало сложные и противоречивые проблемы общественного развития. Среди них особое место по масштабности распространения и по глубине поражения принадлежит коррупции. В современной Украине коррупция с типичной «проблемой роста», характерной для большинства переходных обществ, превратилась в реальную угрозу национальной безопасности. Коррупционные и «теневые» отношения все чаще и увереннее вытесняют систему как нравственных, так и правовых отношений между людьми, замедляя экономические, социальные, правовые и другие реформы.

При этом, несмотря на остроту проблемы, эффективные меры борьбы с коррупцией, с условиями и причинами, ее провоцирующими и способствующими распространению, в стране почти неизвестны. Как основной субъект этой борьбы и на государственном уровне, и в общественном сознании фигурируют властные институты. Однако они органически не способны противостоять масштабности проявления коррупции без привлечения ресурсов и возможностей гражданского общества. Оппортунизм и рентаориентированное поведение со стороны бюрократического аппарата ставит под принципиальное сомнение эффективность государственной антикоррупционной политики.

Зато активная позиция институтов гражданского общества, их коммуникативная близость к населению, значительно меньшее количество мотивов к оппортунизму в их среде создает предпосылки для создания адекватной системы контроля над деятельностью властных структур, а также для формирования нетерпимого отношения к коррупции и коррупционерам в социуме. Активность гражданского общества ведет к укреплению «переговорной силы» различных слоев населения в отстаивании их прав и интересов перед институтами власти, обеспечивает информационную связь сектора власти с его клиентами.

Антикоррупционный потенциал гражданского общества в Украине не реализован полностью. Отдельные инструменты его влияния активно используются различными общественными институтами (гражданское образование, адвокаты), тогда как другие все еще не освоены в должной мере. В ближайшее время необходимо усилить влияние таких рычагов антикоррупционной политики, как общественная антикоррупционная экспертиза и функционирование общественных советов. Общественным инициативам, особенно в регионах – на периферии, не хватает ни денег, ни профессионалов для того, чтобы осуществлять контрольные функции и уравновешивать недостатки политического процесса. Поэтому крайне важно целенаправленно укреплять экономическую независимость общественных организаций, а также обратить внимание на кадрово-профессиональные составляющие развития организационной способности сектора. Следует также активнее работать с населением в вопросе социального маркетинга, создавая положительный имидж гражданского общества как эффективного, вызывающего доверие, антикоррупционного агента. Ведь распространенная в обществе социальная апатия и тотальное разочарование способны нивелировать усилия и инновационность идей общественных активистов. Ответственность за необходимую активизацию влияния общественности на коррупцию должны разделить между собой собственно общественные институты и научно-экспертная элита страны. В современных условиях уповать на властные институты и ждать улучшения в этом исключительно от государственных мер нереалистично и не конструктивно.

**Ключевые слова:** гражданское общество, коррупция, борьба, потенциал, трансформация.