

The Characters of the Corruption Crimes and Anti-Corruption in China

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The corruption crimes in China, according to Articles 382 to 396 of the Criminal Law of the People's Republic of China, are that any State functionary, by taking advantage of his office, appropriates, steals, swindles public money or property or by other means illegally take it into his own possession; extorts money or property from another person, or illegally accepts another person's money or property in return for securing benefits for the person; for the purpose of securing illegitimate benefits, gives money or property to a State functionary, or introduces a bribe to a State functionary; misappropriates public funds for his own use or for conducting illegal activities or for profit-making activities; divides up State-owned assets in secret, and so on. They include the crimes of embezzlement, of acceptance of bribes, of offering bribes, of misappropriation of public funds, of introducing a bribe, of unidentified sources of enormous property and of dividing up State-owned assets in secret, and so on. According to the prescriptions in the Criminal Procedure Law of the People's Republic of China, the People's Procuratorate is responsible for placing on file, investigating and prosecuting the corruption crimes.

I The Characters of the Corruption Crimes in China

1. There are many criminal cases among which the proportion of the major and important cases is high

In China, a major case means that the amount of the involved money equivalent in the bribery and embezzlement case is RMB 50000 and above, and an important case means that the position or grade of the suspect in the bribery and embezzlement case is at the deputy county or division level and above. During the period from the establishment of new China to the early days of reform and opening, i.e, from 1949 to 1978, the cases of corruption crime are less, the amount of money equivalent involved is not very large, and the position or grade of the criminals in bribery and embezzlement is not very high. Since the reform and opening, the quantity of the corruption crime cases has kept on rising, the major and important cases have increased constantly, the amount of money equivalent in the crime has easily reached about millions, even ten millions, and there have been suspected officials who were not only at the county or division level, at the prefecture or departmental level in a provincial or central governments, but also at the provincial or ministerial level or even vice premier level. According to statistic, since the reform and opening, there have been more than 30000 corruption crime cases investigated and prosecuted by the prosecution services every year, and sometimes the quantity was as high as 50000 and above. In 2005, the prosecution services in the whole country placed on file and investigated 41447 State

functionaries involved in bribery and embezzlement crime cases and malfeasance crime cases, and 30205 ones were prosecuted after investigation. Among the bribery and embezzlement cases investigated and prosecuted by the prosecution services, the proportion of major and important cases rises year by year, and has already got to about 50% so far. In 2005, the prosecution services in the whole country placed on file and investigated 8490 State functionaries who were suspected to embezzle or accept the bribe of RMB100,000 and above or to misappropriate public funds of RMB one million and above; and placed on file and investigated 2799 suspected State functionaries who were at the county or division level and above, among whom there were 196 ones at the departmental level in a provincial and central governments, 8 ones at the provincial or ministerial level.

2. The corruption crimes spread along with economic hotspots and bear obvious characters of the times and of the trades

The emergence of corruption crimes in China tightly related with the development of social economy, and they took on different trends in different historical periods. In early 1980s when materials and equipment were universally in need, the departments and officials taking charge of planned materials and equipment made use of the price difference in “double-track-system” which existed during the transformation from planned economy system to market economy system, to resell at a profit the planned approval documents, planning indicators and planned materials and equipment of the State, so as to wantonly embezzle money or property. In middle and late 1980s, Chinese economy began to develop with high speed, and the communications and transportation became the “bottleneck” of the reform and opening. The railway which took on long-distance bulk freight and passenger transportation became the backbone and nucleus in the transport network, and corruption crimes in railway system occurred frequently, among which the embezzlement case of Luo Yunguang, the former vice minister of railway ministry, involved even 47 persons in the railway system. Along with 1990s, the scope of national credit increased rapidly, and corruption crimes spread to the financial system as well. Almost all kinds of financial institutions, banks from the central to local levels, from the issuing banks issuing money to specialized banks dealing with money, and non-bank financial institutions and the money market, from national to territorial finance companies such as trust, insurance, securities to the financial market such as securities, notes, foreign exchange, have seen the emergence of the crime cases of accepting or asking for bribes during providing loans. Since 1990s, the freeway projects have been launched frequently, and some directors of the department or bureau of communications were prosecuted one after another due to the bribery and embezzlement crime, among whom there were as many as ten directors of the department of communications at the provincial level.

3. Litter cases and cluster cases

During the investigation of bribery and corruption crime cases, the prosecution services of China often start with one official who is suspected to commit a bribery and corruption crime, or with one clue of a bribery and embezzlement crime case, and then discover several, tens of or even hundreds of suspected officials in an unit, an area or even several departments in a trade in the end,

or discover many cases related with this one. One case investigated brings out a batch of ones, and one person discovered involves a group of others, just like a sow giving birth, one birth not being only of one piggy, but of “a litter”; like grapes producing fruits, not one by one, but by clusters of ones. As to the bribery and corruption crime cases brought out by one suspected official, one crime clue, the prosecution services name them the bribery and embezzlement litter cases and cluster cases as a whole. Among them, the cases occurring within the same unit, especially the complicity cases are called litter cases, and the cases involving several units, departments or systems are called cluster cases. Under the environment that the economic intercourse in China extends unprecedentedly, and that persons, money and materials are on the big move, the criminals of bribery and embezzlement, in order to pursue mint of illegal benefits, always commit the crime by means of collusion, from individual crime to complicity, so that in some bribery and corruption crime cases, many criminals are in one case, many crimes are on one person, one case brings out many, small case brings out big one, and litter cases mingle with cluster ones. According to the statistics by the prosecution services in some area, litter and cluster cases now have already accounted for more than 30% of the cases placed on file.

4. Corrupts the former, follows the latter

There is a phrase in China, “goes the former, follows the latter”, which means that when the former falls down the latter follows up, describing the heroiness of a battle. Current corrupt officials, however, turn it to “corrupts the former, follows the latter”, which is, one corrupt official falls down, another corrupt official follows up. On the same post of the same unit, the predecessor was punished because of corruption crimes, and the hold-over or the successor was punished because of corruption crimes as well, following the same road to ruin. For example, in the communication department of Henan Province, three consecutive general directors were investigated and prosecuted because of bribery and corruption crime; in Ningming County of Guangxi, four consecutive secretaries of county Party committee and heads of the county were sentenced to punishment because of bribery and corruption crimes.

5. Corruption of the whole family

“Corruption of the whole family” is derived from another saying in China, “photograph of the whole family” (good luck family, or good luck group) which means the group photo of all the members of a family, and also is usually used to describe the group photo of all the members of an organization, standing for the happiness and harmony of a family or an organization. “Corruption of the whole family”, however, is used to describe the situation where two or more than two people in a family commit bribery and corruption crime together. Among the corruption cases investigated by the prosecution services, there commonly occurred that husband and wife, parents and children make collusion in embezzlement, and even husband, wife, parents, children, daughter-in-law and son-in-law make complicity. In the corruption case of Bi Yuxi, the former director of Beijing Department of Communications, his wife acted as the “cashier”, his son took full advantage of the effect of the father to embezzle wantonly money or property, and all the three of the family were discovered in the end.

6. Official position bargain

During the reform of political system and personnel system, due to the weakness that cadre and personnel system lacks transparency and that it is possible for a few to decide on the matters of transfer, appointment and removal, some officials who are in charge of the transfer, appointment and removal of the cadre become the bribe object of those who illegally pursue official positions, and some officials also take his power to transfer, appoint and remove the cadre as the means of gathering fortune. These evil phenomena do sometimes occur within the ruling party and the government, and are very rampant in some place. The case of Ma De, the former secretary of the Party committee of Suihua City, Heilongjiang Province and Han Guizhi, the former president of Political Consultative Conference of Heilongjiang Province, who were sentenced to death with a reprieve in 2005, was called the biggest official position sale case since the establishment of new China, which involved Tian Fengshan, the former minister of Ministry of Land and Resources and hundreds of officials in Heilongjiang Province.

II The Characters of Anti-Corruption in China

1. Persevering in anti-corruption fight unceasingly

Since the beginning of the establishment of new China, the ruling party and all previous governments in China have attached great importance to anti-corruption fight. Since 1983 till now, the Central Committee of the Party convenes national anti-corruption monograph conference almost every year, and the State Council also convenes national anti-corruption working meeting every year, to discuss on, research and dispose the anti-corruption problems. All previous National Congress of the Communist Party of China and National People's Congress call for severe punishment to corruption crimes. In China, the achievements of the leaders of the Party and governments of all levels are connected with the anti-corruption work within their jurisdictional area, and one negative vote is effective. The leaders of four generations of the ruling party in China take the combat against corruption as one of the important tasks of the Party all the time, and the new generation of leaders in the Central Committee of the Party and in the Government, Hu Jintao as the General Secretary, emphasize that it is important to intensively launch the anti-corruption work and to build an honest and clean government under the new situation, to persist on comprehensive improvement of both temporary and permanent anti-corruption solutions, and at the same time, to enhance the education, develop the democracy, perfect the legality and strengthen the supervision, combining anti-corruption with other important policies and measures, so as to prevent and deal with the corruption problem from its root. In the fourth Session of the Tenth NPC, Premier Wen Jiabao emphasized again in the government work report that it is important to intensively launch the anti-corruption combat and to build an honest and clean government, to seriously carry out the tasks and measures punishing and preventing corruption, and to specially deal with the problems of commercial bribery, such as the commercial bribery problems in project construction, in the assignment of the right to the use of land, in the title transaction and government procurement.

2. Perfecting anti-corruption legislation unceasingly

In order to ensure there are laws to be observed in the anti-corruption combat, the ruling party and the government of China attach great importance to perfecting anti-corruption legislation. As early as the establishment of China, in order to coordinate with the Movement of Combating “the Three Evils” and “the Five Evils”, the government had enacted the Temporary Regulations Against Corruption. Among the first group of laws enacted in the beginning of the reform and opening, there were prescriptions on bribery and embezzlement crimes and on investigation of bribery and corruption crimes. Along with the development of the combat against bribery and embezzlement, the legislative organizations have successively amended and supplemented the Criminal Law and the Criminal Procedure Law for many times, interpreting some of their articles, making the regulations against corruption crimes more and more perfect. In view of the new problems in practices, according to the requirements in the investigation and trial, the Supreme People’s Procuratorate and Supreme People’s Court made a series of judicial interpretations on dealing with corruption crime cases. At the same time, the State Council enacted some administrative regulations such as Temporary Regulations on Administrative Sanction to the Corrupt State Functionaries, the Central Committee of the Party promulgated some anti-corruption party rules and disciplines such as Guiding Principles for Honest and Clean Governing by the Member and Cadre of the Governing Party of China, and the Central Committee of the Party and the State Council jointly promulgated some anti-corruption documents such as Provisions on Responsibility System of Building a Fine Party Style of Work and a Clean and Honest Government.

3. Strengthening anti-corruption organizations unceasingly

Based on the conditions of our country, the ruling party and the government of China set up the anti-corruption mechanism of trinity with socialistic characters in China. First, according to party constitution, the ruling party set up the discipline inspection committee within the party as the special organ to investigate party member’s actions violating party’s discipline, including illegal actions such as corruption. Secondly, the governments of all levels, according to the Organic Law of the Governments, set up special supervising department as the administrative organs investigating civil servants’ illegal actions including corruption. Thirdly, according to the Constitution, Criminal Procedure Law and Organic Law of the People’s Procuratorate, the prosecution services take on directly placing on file, investigating and prosecuting the crime of taking advantage of duty such as bribery and embezzlement, setting up anti-corruption bureaus within the prosecution services of all levels, which is specially responsible for investigating the bribery and corruption crime cases. The discipline inspection committee of the party, the supervisory organization over administration and the prosecution services separate in functions and coordinate in the work. As to the bribery and embezzlement cases, the discipline inspection committee is responsible for those violating the party’s discipline; the supervisory organization is responsible for those violating the government discipline; and those who are guilty of crime are investigated and prosecuted by the People’s Procuratorate. In order to bring anti-corruption organizations into full play, China attaches great importance to the construction of anti-corruption staff, on the one hand, paying attention to selecting, training, supervising and examining the

missionary in anti-corruption organizations such as the directors of the discipline inspection committee, the supervision department and the anti-corruption bureau; and on the other hand, paying attention to improving the capacity of anti-corruption organizations in cracking down illegality and crime.

4. Adjusting anti-corruption strategy unceasingly

Before the reform and opening, being short of anti-corruption experiences and perfect laws and mechanisms, anti-corruption combat in China was launched mainly by way of mass political movement. For example, the Rectification Movement, and the Movement of Combating “the Three Evils” and “the Five Evils” in early days of China, were to impel the mistaken cadre to correct his fault by studying documents, self examination, supervision and criticism of the masses and organization assistance, and to impose disciplinary punishment to the person who made severe corruption actions and breached and resisted the party’s policy on purpose. After the reform and opening, the ruling party and the government sum up the experiences and lessons in anti-corruption combat, and carry out the anti-corruption combat according to law. Deng Xiaoping, the Chief Architect of Chinese reform and opening, had pointed out in the beginning of the reform and opening: “As for the cadre and members of the Party, it is an important task to build an honest and clean government. Legality should be depended on, and the legal system is reliable.” During the period of anti-corruption combat according to law, originally, in face of the severe corruption crimes in economic fields, the main content of the combat was to fight against bribery and corruption crimes. Since the new century, in face of the trend that corruption crimes rapidly spread to all kinds of fields in the society, the Central Committee of the Communist Party of China and the State Council put forward the anti-corruption working guideline which is “to persist on comprehensive improvement of both temporary and permanent anti-corruption solutions, to pay attention to both punishment and prevention, and to lay stress on prevention”, emphasizing not only resolutely punishing the corruption crimes, but also paying attention to preventive measures against corruption crimes. The Central Committee of the Communist Party also put forward to establish and perfect the system laying equal stress on education, institution, supervision and corruption prevention and to arrange the relative matters, put forward to insist on both temporary and permanent solutions, preventing and dealing with corruption from its headstream, and specially enacted the Implemental Program for Establishing and Perfecting the System Laying Equal Stress on Education, Institution, Supervision and Corruption Prevention. As the responsible organization in investigating and dealing with corruption crime cases, People’s Procuratorate also pays full attention to uniting punishment and prevention. The prosecution services of all levels in the whole country not only established special department within themselves investigating corruption crimes, which is Anti-corruption Bureau, but also established special department preventing the crime of taking advantage of duty such as bribery and embezzlement, which is the Prevention Department or Division.

5. Enhancing international anti-corruption cooperation unceasingly

Since 1990s, along with the internationalization of corruption crimes, Chinese government increasingly pays attention to international cooperation, to fighting against transnational and

trans-border corruption crimes together. Firstly, actively joins the international conventions and treaties against transnational crime. According to statistics, by the end of this April, Chinese government has signed 73 conventions or treaties on judicial assistance with 49 countries, signed bilateral extradition treaties with 23 countries, and joined a group of international conventions and treaties against transnational crime such as the UN Convention Against Transnational Organized Crime, and UN Convention Against Corruption. Secondly, actively unfolds substantial international judicial cooperation, fighting against transnational corruption crimes together. Since 1998, the Supreme People's Procuratorate, Ministry of Public Security and Ministry of Justice of China have successively developed judicial cooperation with more than 100 countries and territories including USA, Canada and Russia, etc., and have extradited back some of bribery and corruption criminals from abroad, such as Yu Zhendong from USA, Chen Manxiong and Chen Qiuyuan from Thailand. Thirdly, actively promotes international cooperation against corruption. Since 1995, China has held and undertaken international anti-corruption conferences many time, such as the Seventh International Anti-corruption Conference, the Fifth Asia-Pacific Anti-Corruption Conference, etc, to promote international cooperation against corruption. This year, China participated in initiating International Association of Anti-Corruption Authorities (IAACA), the new international organization, the aim of which is to push forward the implementation of UN Convention Against Corruption, and to promote international cooperation against bribery and embezzlement. With the support of UN, Informal Consultation Group Meeting on Establishing an IAACA was held at the UN Office in Vienna, Austria on 19-20 April 2006. The IAACA will be inaugurated at its First Annual Conference and General Meeting at Beijing, from October 22 to 26, 2006, hosted by the Supreme People's Procuratorate of the People's Republic of China. We welcome everybody to attend the conference on the occasion, discussing together the important matters on international cooperation against corruption.