

# A Brief Discussion on the Problem of Grassroots Duty Crime from the Perspective of Pluralistic Solution

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## Abstract

Although the state has strengthened the prevention and punishment of grassroots job-related crimes from legislation to the judiciary, it is difficult to form a truly comprehensive and perfect governance system only from the perspective of general legal governance, so we should further explore diversified grassroots job-related crime prevention and punishment mechanisms. We must give full play to the role of supervision of the public. Therefore, the government must adhere to the combination of scientific management and mass supervision. In addition, when the government establishes a data and information work platform for fund transfer, it also needs to give full play to the supervision role of the masses.

## Keywords

Duty Crime; A Brief Discussion; Definition; Diversified Approaches.

## 1. Introduction

The ruling party and the government of China have always attached importance to the prevention and treatment of job-related crimes, and there have been many times in history that they have focused on the problem of corruption. After the 18th National Congress of the Communist Party of China, a new historical period of prevention and punishment of job-related crimes has begun. Chinese President Xi Jinping has repeatedly pointed out that: "We will resolutely investigate and deal with major cases, seriously investigate and deal with cases of abuse of power, corruption and bribery, corruption and dereliction of duty among leading organs and cadres, and also focus on solving the problem of corruption around the masses, seriously investigate and deal with various cases that harm the interests of the masses, effectively safeguard the legitimate rights and interests of the people, and strive to achieve upright cadres, incorruptible government, political correctness." Therefore, the problem of duty crime, especially the problem of grassroots duty crime is a major issue related to the social governance of the country and whether the government can get the support of the people.

## 2. The Concept of Duty Crime and the Scope of Grassroots Duty Crime Definition

Duty crime refers to the use of existing power by staff of state organs, state-owned companies, enterprises and institutions, and people's organizations to commit corruption, bribery, malpractice, abuse of power, neglect of duty, violation of personal rights and democratic rights of citizens, and damage to the state's official activities. A crime that should be criminally punished in accordance with the criminal law.

Common duty crimes are defined in the criminal law as the crime of embezzlement and bribery and the crime of dereliction of duty, which also includes many specific crimes such as the crime of embezzlement, the crime of accepting bribes, the crime of accepting bribes by non-state

functionaries, and the crime of perverting the law. The grassroots duty crime refers to the constituted crime that is concentrated in the government agencies below the county government and the non-governmental social self-governing institutions, or, although the amount does not meet the criteria for constituting a crime, it is an illegal and criminal act that is in line with the characteristics of a duty crime. In practice, grassroots duty crimes generally include illegal and criminal acts that take advantage of their positions to seek personal gain, such as staff of township government agencies, staff of villages and communities, staff of grassroots state-owned enterprises, and staff of hospitals or schools.

### **3. The Characteristics and Outstanding Problems of Grassroots Duty Crimes**

In the current situation, grassroots duty crimes present some prominent characteristics and problems, which can be summarized as follows.

#### **3.1. The Crime Involves a Wide Range of Fields, Involving All Aspects of the Grassroots Economy and Society**

The occurrence of grassroots duty crime cases is extensive, and it shows a trend of spreading from the initial economic management department and resource allocation department to the party and government organs, judicial organs and other departments. Even in some areas, duty crimes by rural grassroots self-governing organizations and urban sub-district management departments have also occurred from time to time.

#### **3.2. The Grassroots Duty Crimes in Some Economically Developed Areas Involve Huge Amounts of Money**

In some economically developed areas, due to the large economic resources and power held by the relevant personnel of the grassroots government, major cases have occurred frequently, causing heavy losses to national interests and collective property.

#### **3.3. The Crimes Involved in the Case are Relatively Concentrated, Bribery and Embezzlement Crimes Occupy the Main Position**

Grassroots cadres taking advantage of their positions to accept or solicit bribes and embezzling public property are frequent crimes, which have increasingly become the focus of investigating and preventing grassroots cadres' job-related crimes. In addition to the crime of accepting bribes and embezzlement, the relatively concentrated crimes of grassroots cadres also include misappropriation of public funds, abuse of power, and dereliction of duty.

#### **3.4. Leading Cadres at the Grassroots Level, Especially the " First Chair ", have Prominent Duty Crimes**

In judicial practice, especially the phenomenon of "first-in-command" duty crimes is prominent. This is mainly because they often have certain power and resources. If they are not strict with themselves or lose their supervision, they can easily slip into the abyss of committing corruption crimes. In addition, the phenomenon of criminal groups is prominent, and the increase of nest cases, cluster cases and cases in cases. In judicial practice, many criminals collude with each other to embezzle the state and collective property and take bribes, some of them commit corruption as groups. The group characteristics of grassroots cadres' duty crimes reflect the current development of grassroots cadres' duty crimes and their harmful tendency of seriousness.

#### **3.5. Rural Grassroots Cadres Duty Crime Phenomenon is Increasing**

Due to the uneven quality of rural grassroots cadres, the phenomena of rural grassroots cadres abuse their powers, embezzle bribes, and embezzle public funds are increasing. Some of these

corrupt behaviors directly infringe on the interests of farmers, resulting in intensified conflicts, and some even lead to group petitions and petitions by leaps and bounds, seriously affecting the harmony and stability of the countryside.

### **3.6. The Methods of Grassroots Duty Crimes are Simple and Direct. These Methods Mainly Include Direct Bribery, Embezzlement of Public Funds, False Reporting of Expenses, Etc**

Compared with senior and middle-level cadres, grassroots cadres are less educated, less aware of the legal system and have lower overall quality. Moreover, because of their long-term dealings with the peasants, their modus operandi in general shows a relatively simple and direct characteristic. Most of the criminals involved in the case are either directly accepting or soliciting bribes, making power-for-money deals; or not recording income, duplicate reimbursement, fictitious expenditures, fictitious projects to cheat the state financial funds; or directly embezzling public funds, etc.

### **3.7. Relatively Short Incubation Period for Grassroots Cadre Duty Crimes**

In general, the higher the position, the more subtle and complicated the means of committing crimes, and the longer the incubation period of crimes. For example, in order to evade legal sanctions, many middle and senior cadres usually commit corruption crimes by purchasing houses at low prices, investing in shares, entrusting financial management, receiving high salaries by holding a sinecure or receiving bribery in the name of borrowing. These corrupt acts are hidden and confusing, and the corresponding cases are often difficult to be exposed and investigated. However, the grassroots cadres are at the grassroots level, their cultural level, legal awareness, and overall quality are relatively low, and their anti-investigation capabilities are weaker. Most of their methods of committing crimes are relatively simple and direct. This makes it easy for grassroots cadres to expose their duty crimes, and the incubation period for their crimes is relatively short.

## **4. Current Regulations and General Punishment Measures for Grassroots Duty Crimes**

At present, in response to the frequent occurrence and spread of grassroots duty crimes, the state has taken many measures in top-level design, focusing on regulation in legislation, judiciary and law enforcement.

On the one hand, the state strengthens the legislation and perfection of grassroots duty crimes, which will enable the prevention and punishment of grassroots duty crimes to be guaranteed by law. For example, on the basis of revising and improving the Judges Law, the Prosecutors Law, the People's Police Law, and the Regulations on Punishment of Civil Servants of Administrative Organs, the government has also formulated and promulgated the Interim Regulations on Punishment of Public Institution Staff. A series of laws and regulations, such as the Bidding Law and the Drug Administration Law. These laws clarify the prohibitive requirements for administrative actions in the fields of medical care, education, bidding, etc., and effectively compensate for the original loopholes in the regulatory system, which makes the prevention and punishment of grassroots job crimes based on laws and regulations.

On the other hand, the government needs to strengthen the implementation and supervision measures, strengthen the "zero tolerance" anti-corruption determination, and strengthen the awareness of the serious harm of duty crimes. In addition, the government needs firm determination and courage to eliminate the phenomenon of grassroots office crime, which requires the government to make efforts to find grassroots corruption from within the administrative system and impose severe legal penalties. When the government needs to focus on investigating the duty crimes committed by cadres in important grassroots leading positions

in key areas, the government should vigorously investigate and handle cases of power-concentrated, capital-intensive, and resource-rich departments and positions, especially in the process of demolition in rural areas and urban areas. Cases involving loss of state-owned property in the areas of assignment, mineral resource development, and restructuring of state-owned enterprises. While the government is cracking down on the crime of accepting bribes, the government should further increase the punishment for the crime of offering bribes. The government needs to correct the notion that it only pays attention to investigating and punishing bribe-taking, but not active bribery, and deploy the investigation and punishment of active bribery as an important task at present; the government needs to deal with active bribery cases strictly according to the law, and not to downgrade or indulge active bribe payers without reason. In addition, the government needs to actively recover and deprive the bribe-giver of the illegally obtained benefits in accordance with the law. These actions will be able to keep the work of punishing duty crime become institutionalized and normalized.

Finally, the current government crackdown on grassroots job crimes at the law enforcement level also needs to focus on strengthening the ties and cooperation of various supervisory departments to form a joint effort to combat corruption and bribery crimes. Law enforcement departments need to pay attention to strengthening the links and cooperation with discipline inspection, supervision, procuratorate, public security, audit and other departments. Through holding joint meetings to inform the work in anti-corruption, especially in the investigation and handling of economic cases in violation of law and discipline, as a way to exchange work information and experience. Other departments need to have a clear division of labor and close interdepartmental collaboration, which will create a strong synergy that will help combat corruption at the grassroots level. The government also needs to take severe judicial action against corrupt elements of corruption and bribery.

The above measures have improved the supervision measures for grassroots duty crimes in terms of legal improvement and implementation supervision and have achieved good results.

## **5. Methods and Significance of Diversified Approaches to Solve the Problem of Grassroots Job Crimes**

Although the state has strengthened the prevention and punishment of grassroots job-related crimes from legislation to the judiciary, it is difficult to form a truly comprehensive and perfect governance system only from the perspective of general legal governance, so we should further explore diversified grassroots job-related crime prevention and punishment mechanisms.

The first is to create a more effective atmosphere of honest government culture at the grassroots level and strengthen the cultivation and education of a culture of honest government and rule of law. The root cause of the high incidence of grassroots job-related crimes in some areas is that the awareness of the rule of law is weak. The cultural level of many grassroots organization personnel is generally not high, most of them are Chinese in the first and high schools, and even some people only have primary school education. Coupled with its own weak awareness of the rule of law, weak legal awareness, lack of legal knowledge, and influenced by the traditional "official-based" ideology and the unhealthy social atmosphere, a fluke mentality often exists when they are in the face of interests. The loss of self-discipline, some mistaken believes like "the rights not to be used equal to nothing", lead to the voracity in face of the money, which results in the expansion of selfish desires, do not hesitate to take risks, and defy the law.

The second is to improve and improve the supervision and restraint mechanism of grassroots organizations. Many grassroots organizations and units are unable to apply standardized and standardized working mechanisms in accordance with the operation and management procedures of state organs, meanwhile, they do not have a work process that adapts to local

realities either, which results in the concentration of power and the lack of supervision. In the vast grassroots rural areas, the power of village affairs and finances is mainly concentrated in the hands of a small number of people, such as village branch secretaries or village directors; the awareness of mutual supervision among grassroots organization personnel is weak; and all the affairs of village committees, large and small, as well as financial revenue and expenditure, are often decided by the village branch secretary alone, and no complete and effective mechanism for mutual supervision and restraint has been formed. In addition, mass supervision is often a formality, and in order to cope with inspections. Although some villages have set up public bulletin boards for information disclosure, the information disclosed is often not specific, comprehensive, standardized, and timely. Therefore, in view of the actual situation of local work, the establishment of a supervision and restraint mechanism that conforms to local characteristics will help solve the problem of job-related crimes at the grassroots level from a mechanism point of view.

The third is to further improve the system construction for preventing and punishing job-related crimes at the grassroots level and give play to the role of big data. To prevent job-related crimes at the grassroots level, we must first strengthen control at the source, establish and improve the management system for village cadres and the management system for poverty alleviation funds, and give full play to the role of administrative means. It is necessary to combine administrative means with criminal means, and it is necessary for the competent personnel departments and criminal justice organs to strengthen exchanges and cooperation, so that administrative management means and criminal punishment means can complement each other, promote each other, and seamlessly connect. It is necessary to improve the system from the perspective of administrative supervision and management, plug loopholes, and effectively reduce the opportunities for personnel handling project funds to commit crimes, and on the other hand, it is also necessary to improve the system from the perspective of investigation and evidence collection, build a platform for collecting evidence, so that those who dare to commit crimes have to leave "clues and traces" everywhere, and also improve the criminal law from the perspective of conviction and sentencing, reduce the loopholes in the criminal law, and make it impossible for those who dare to commit crimes to evade the punishment of the law in the end.

We must rely on big data and the automatic comparison and automatic alarm functions of intelligent supervision and management software. By making good use of big data, our duty crime prevention can accurately and timely grasp the real situation of duty crime prevention work. In fact, without the supervision of the people, the government's anti-corruption efforts will not be carried out, whether by big data or by the competent authorities or auditing departments. For example, the requirements for approving the release of funds for the renovation of dangerous houses are simple, as long as the amount reported by each village matches the amount approved by the competent authorities. Even if the village cadres "transferred" the renovation money from A to B, the audit department could not find out the problem. Therefore, we must adhere to the combination of scientific management and supervision of the masses, in the establishment of funds to use the data and information platform at the same time, we must give full play to the role of supervision of the public. Therefore, the government must adhere to the combination of scientific management and mass supervision. In addition, when the government establishes a data and information work platform for fund transfer, it also needs to give full play to the supervision role of the masses. To improve and implement the funds project public announcement system, if the funds project public announcement system is not implemented, or leave the supervision of the masses, reporting, then the prevention of job-related crime work "the last mile" is difficult to open. The last is to improve the management and distribution of grassroots social resources and collective property scientifically and rationally. Job-related crimes, especially grassroots job-related

crimes, are more often generated around public resources and collective property. In the past period, legal punishment focused on the prevention and punishment of the subject object, while ignoring the optimization of the objective situation. If we can improve the optimal allocation of grassroots social resources and form more effective and scientific methods and systems for the management and distribution of public property and collective property, we will effectively avoid the problem of duty-related crimes caused by the allocation and management of resources.

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