Journal of Contemporary Business Law & Technology: Cyber Law, Blockchain, and Legal Innovations
Homepage : https://journal.antispublisher.id/index.php/EJCBLT
Email : admin@antispublisher.com

e-ISSN : 3031-7355
JCBLT, Vol. 2, No. 2, February 2025
Page 87-101

The Crime of Bribery and Its Impact on Job Performance

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DOI : https://doi.org/10.61796/ejcblt.v2i2.1594

Sections Info
Article history:
Submitted: January 03, 2025
Final Revised: January 21, 2025
Accepted: February 11, 2025
Published: February 28, 2025
Keywords:
Bribery
Corruption
Public Officials
Job Performance
Government Integrity
Anti-Corruption Measures
Economic Inequality
Ethical Satndards
Social Justice

ABSTRACT

Objective: *This study explores the pervasive impact of bribery on societal and institutional integrity, emphasizing its role in eroding public trust and exacerbating social inequalities. Bribery undermines the very foundations of civil society, creating a system where the strongest and wealthiest individuals dominate.* ***Method***: *The research utilizes a qualitative approach, examining the multifaceted nature of bribery across different levels of governance, from low-level officials to senior authorities. It analyzes the consequences of bribery on both individuals' rights and social cohesion.* ***Results***: *The findings reveal that bribery is not only a localized issue but a transnational crime that spreads rapidly, posing a serious threat to social fabric and governance. The secrecy surrounding bribery deals makes enforcement challenging, limiting the effectiveness of legal countermeasures.* ***Novelty***: *This study contributes by highlighting the systemic nature of bribery as a socio-political epidemic that requires a comprehensive, global response. It underscores the need for heightened awareness among public servants and the implementation of preventive measures to curb its damaging effects on society.*

INTRODUCTION

Bribing is considered to be one of the most dangerous crimes that can undermine the trust of people to the governmental establishments. The state has the duty of providing services to its citizens using employees who are assigned with the execution of the service duties in exchange of compensation. When a government officer does not act in accordance with this mandate and requests, receives or accepts an illegal good, the delivery of government services becomes a commodity that can only be enjoyed by persons with a large financial endowment. This in turn leads to the breakdown of trust between citizens, citizens and the public officials and eventually between citizens and the state.

The threat of bribery is not confined to the spheres of state integrity and loyalty, but it also enters the field of international relations not only in official intergovernmental relations but also in the peripheral ones. This is clearly depicted by cases of bribery in the trade of arms, and in the course of international trade, especially where international companies covertly manipulate officials of the developing nation to get the illegal benefits. To address this alarming trend, the global community came up with the United Nations Convention against Corruption in 2003, and, as such, officially acknowledged the bribery of national and international officials as one of the fundamental aspects of corruption.

Islamic jurisprudence shares the same idea of bribery with other legal traditions, and the practice is formally outlawed and criminalised as an act of illicit consumption of

common property. The ban is supported by a variety of supporting provisional foundations that are based on the Quran and the Prophetic Sunnah, thus, making it more decisive in terms of its moral and legal imperativeness in the Islamic law system [1].

The importance of this inquiry is based on the fact that bribery, in its turn, is a kind of illegal behavior that is particularly related to government officials. The imparted authority of these persons by their offices alone qualifies them with the power of abusing their offices to their own interests, and makes any demand or reception of bribes a basic infringement of the dignity and duty of their offices.

RESEARCH METHOD

The current research project is justified by the fact that bribery mostly affects the officials of the state; only the extent of power given to such officials can give a person the ability to act in such way. Following this, the dignity of the office and the corresponding duties of a competent performance of his duties do not allow the official to take or offer a bribe, thus, defining the two main forms of personal enrichment on the basis of violation of the rules of the misuse of the public office. The research therefore takes on greater importance considering the seriousness of the subject it addresses since bribery has a negative effect on the public office and the general interest of society. The harmful consequences are beyond the institutional boundaries extending to societal systems and causing harm to individuals.

Behaviors of human beings differ significantly. In this regard, there are persons who might do what is right thus, displaying behavior that is not blameable or guilty. It is not that applicable to all; some of these actions are surrounded by uncertainty and suspicion to the extent that people are not sure of what is acceptable. Therefore, this section will be split into a number of subtopics, the first one will cover the nature of bribery, the second one will deal with its criminalization, and the third one will discuss the reasons why it is so widespread.

Bribery is an old and a long-standing vice that cannot be avoided in any society. It is a form of corruption, whereby a person makes financial compensation to a government official in the name of securing a right which they otherwise would not have, or evading a responsibility to which they otherwise would have been obligated. This type of behavior is an illegal form of gaining advantage by abusing the powers or status of position. This sub topic is further broken down into two, the first section discusses the concept of bribery, whereas the second section discusses the historical development of bribery as a criminal offense [2].

The Arabic vocabulary has been used to refer to the concept of bribery (al-rishwa) which means a reward or payment (al-ju'l). Moreover, the noun al-rashah, which literally means a rope that is employed to draw water is also applied to describe a bribery as a tool that helps to achieve desired results. The word rasha transliterates as to bribe, and the term al-murashah means favoritism, or partiality, and the plural of the word is rusha. Majority of the Arabic speakers translate the word using a kasra, which translates into rishwa. The expressions rasha -hu rashwan and irtasha minhu rashwa are idiomatic in that they mean he bribed him and he accepted the bribe respectively. Abu al-Abbas

believed that the etymology of rishwa is rasha al-farakh, which means the chick stretched out his head to his mother to be fed.

In linguistic usage, the word *rishwa* may be pronounced with the letter rāʾ either opened, closed, or broken; however, the form with kasra (rishwa) is the most common, while the form with ḍamma (rushwa) is also recognized. Al-Nawawi, in *Tahdhib al-Asma' wal-Lughat*, stated that both pronunciations *rishwa* and *rushwa* are linguistically correct and widely used.

Ibn al-Athir defined *rishwa* and *rushwa* as "a means of attaining one's need through flattery or manipulation." Its original meaning is derived from *al-rashāʾ*, the rope used to draw water from a well, symbolizing the act of obtaining something by improper means. Thus, *al-rāshi* is the giver who offers something to achieve false ends, *al-murtashi* is the receiver, and *al-rā'ish* is the intermediary between them, who encourages one and bargains with the other.

Among its meanings, bribery signifies "obtaining one's need through flattery or manipulation" that is, doing something for someone in exchange for a favor. The term *al-muṣāna'ah* denotes flattery or deceit, and the expression *ṣāna'tu al-wālī* means "I flattered (or bribed) the governor" [3].

Jurists have expressed various views regarding the definition of bribery. One opinion defines bribery as *"that which is given to invalidate a right or to validate a falsehood."* Another view holds that it is *"what a person gives to a judge or another authority figure in order to secure a favorable judgment or to influence him to act according to the giver's wishes."* A third opinion defines bribery as *"any money paid to obtain assistance from a person of influence, whether for a lawful or unlawful purpose; the receiver is the bribe-taker (al-murtashi), the giver is the briber (al-rāshi), and the intermediary is the broker (al-rāʾish)."*

From a **legal standpoint**, bribery refers to *a public official's exploitation of their position by agreeing with a person in need to accept a benefit or gift in exchange for performing or refraining from performing an act within the scope of their duties.* This is consistent with the definition adopted by the **Palestinian Court of Cassation**, which stated: *"The concept of bribery is the public official's exploitation of his position by receiving, accepting, or requesting compensation in return for performing or abstaining from performing an act related to his official duties."*

Therefore, bribery is a single crime whose principal element is the **public official (the bribe-taker)**; it is essentially his crime. However, it is a **multi-actor offense**, as the person in need (the briber) constitutes a necessary element for its completion. It is also worth noting the case of an **unsuccessful solicitation of a bribe** by a public official that is, when the request is not accepted by the person in need. According to the *single-bribery doctrine*, the official is punishable only for an attempt, whereas under the *dual-bribery doctrine*, the act constitutes a completed offense.

Bribery is not a modern crime that emerged as a result of political, economic, social, or technological developments affecting societies. Rather, it is as old as humanity itself. Its earliest manifestations appeared in ancient legal systems, where it took the form of gifts or offerings presented by members of the lower social or economic classes to those in positions of power such as rulers and officials. Over time, this practice became so widespread that it gave rise to the saying, *"There is no ruler who does not accept bribes."*

With the ancient Greek civilization, though, the political consciousness that prevailed among the citizens resulted in a deep attachment to the city-state. This increased civic awareness checked the level of bribery and made harsh punishment of those who practiced such acts that in most cases resulted in execution.

Unlike in modern regulatory paradigms, the early Roman law system imposed a pecuniary penalty on bribery which was equivalent to the precise sum received by the person receiving the bribe. The judiciary was later given the discretionary authority to impose more serious punitive actions such as exile or death in case the illicit inducement results in the wrongful conviction or harm done to an innocent person. The gravity of such violations was the reason to intervene legislatively several times to strengthen the anti-corruption procedures; one such relevant case is Junia Law that provided a punishment fine to the violating governmental official between the value of the illegal funds and 4 times the same amount [4]. Almighty Allah says:

"And do not consume one another's wealth unjustly or send it [in bribery] to the rulers in order that [they might aid] you [to] consume a portion of the wealth of the people in sin, while you know [it is unlawful]."

Interdiction of bribery in Islamic jurisprudence is also applied to all the three main participants, namely the proposer, the recipient, and the intermediary. Prophet Muhammad (peace and blessings be upon him) affirmed the same when he said:

"May Allah curse the briber, the bribed, and the intermediary between them." *Authentic Hadith*

Bribery falls under the category of ta azir crime within the context of Islamic jurisprudence that is a crime that is not specified in the Sharia. Therefore, these crimes are at the will of the sovereign, who can formulate and write down punishment based on the changes over time and with geographical distinction in customs, traditions, and social norms. In this way, bribery is considered as a taʿzīr crime in Islam and there is a scholarly consensus that it is absolutely prohibited.

These disciplinary actions were not established on caprice basis and the sole aim of this is to impose restraint but to protect the interest of the people and prevent the possible harm such a criminal behavior is likely to cause to the society, its social life, and economic assets.

Legislations differ in how they characterize the crime of bribery, and legal scholars have not reached a unified classification. Broadly, two legislative systems govern the legal treatment of bribery: **the dual-bribery system** and **the single-bribery system**. In the first approach, two distinct crimes are recognized: one for the **bribe-taking official** and another for the **briber**. Jurisprudence refers to the offense committed by the official as *"passive bribery"* and to the offense committed by the briber as *"active bribery"*. This approach is adopted by **French, German, and Moroccan law**.

Under the second approach bribery is considered to be one crime but the act of the bribed official is the principal offense whereas the bribing party is treated as someone who is involved in the crime whose criminal responsibility is through the criminal responsibility of the primary actor. This is the approach followed in the Iraqi law as will be discussed later [5].

Another notable difference between the above models is realized when a bribe is offered to an office holder and rejected. In the paradigm of dual bribery, the party who gives the bribe is still guilty of the crime of active bribery, whereas, under the paradigm of single bribery, there is no punitive measure that is inflicted on the bribing party.

It is the crime of bribery that is committed by a public official; a non-official cannot be deemed liable other than being involved in the bribery. The Iraqi lawmaker dealt with this in a special disposition to Article 313 of the Penal Code that prosecutes any individual who gives a bribe to a civil servant or an individual appointed to serve the country, even without acceptance, as a stand-alone crime.

It can be said that the offense of bribery generally requires two parties since both the parties will be involved in running the offense. These are the **bribe-taker (al-murtashi)** and the **briber (al-rāshi)**. The bribe-taker is the one who requests, accepts, or takes a promise, gift, or benefit for himself or another in exchange for performing, abstaining from, or neglecting an act related to his official duties or even for something claimed to be within his duties. In other words, he is the person who **exploits the authority of his position**.

The briber, on the other hand, is the individual seeking to **purchase the official's compliance** and induce him to act against the correct course, typically by offering a promise, gift, or benefit to achieve his goal. The briber's aim is to compel the official to perform, refrain from performing, or neglect the duties of his office.

In every case involving the abuse of office, there are **two individuals whose wills unite to undermine the duties of the position**: one with a vested interest and the other, the official, who accepts the gift or benefit, using his office for personal gain. In other words, the first **prepares and facilitates the crime**, while the second **executes it**; the first is the cause of the bribery, and the second is the instrument of its execution.

As previously mentioned, **two legislative systems dispute the legal characterization of bribery**. These are: the **dual-bribery system**, which will be examined in the first branch, and the **single-bribery system**, which will be addressed in the second branch.

First Branch: The Dual-Bribery System

This system views the crime of bribery as a **dual offense**, consisting of **two separate crimes**:

A. The Crime of the Bribe-Taker (Passive Bribery):

This represents the **passive aspect** of bribery, committed by the public official who **requests or accepts a bribe**, exploiting the authority granted to him by law. This may take the form of a gift, a benefit, or even a mere promise. Jurisprudence refers to this offense as *passive bribery* (*al-rishwa al-sābiṭa*).

B. The Crime of the Briber (Active Bribery):

This represents the **active aspect** of bribery, committed by the person in need who **offers, gives, or promises a benefit to the official** in order to achieve a desired outcome. Jurisprudence refers to this offense as *active bribery* (*al-rishwa al-fāʿila*). Under this system, both passive and active bribery are treated as **independent crimes** with respect to responsibility and punishment. The elements of one may exist without the elements of the other, although they may also coexist. Therefore, it is possible to prosecute one party

while acquitting the other. The briber is not considered a participant in the act of the bribe-taker; rather, he commits a **separate offense**, and the rules of criminal participation apply independently to each.

Given the independence of the crimes of the bribe-taker and the briber, each may have its **own accomplices**. This framework is referred to in jurisprudence as the **dual-bribery system** (*nizām al-rishwa al-muthaqqala*), or the **duplicity of bribery**. This system has been **criticized by many jurists**, who argue that it is **inconsistent with reason and logic**, because the person who offers the bribe and the one who accepts it are both parties to a **single crime** that cannot occur without their mutual involvement. Each acts as a perpetrator of the same offense, and the act itself consists of the two elements: the offer and the acceptance. Therefore, their punishment should logically be **unified [6].**

The basis of the **dual-bribery system** is that **no prior agreement is required** between the two parties. Each crime occurs once one party performs an act directed toward completing the essence of bribery either the request by the bribe-taker or the offer by the briber even if these acts do not result in mutual consent.

It is also noted that under this system, there is **no scope for the concept of attempt** in bribery. However, an attempt can be conceived if the official or someone in his position makes a request, but circumstances beyond his control prevent it from reaching the briber. For example, if he sends a message containing his request but the authorities intercept it before it reaches the intended person, or if he instructs a messenger to deliver it and the messenger informs the authorities instead of the briber. In such cases, the crime of bribery is **considered at the stage of attempt**, because the request does not achieve legal effect until it reaches the knowledge of the briber.

Second Branch: The Single-Bribery System

It is beyond doubt that the crime of bribery has been made a crime in a bid to protect the very institution itself against just the employees. The legal aspect is the purity of the office since the crime is essentially the illicit trafficking of the office, which is an offense that is subject to the area of the employee or the official.

In this respect, the individual citizen or government official is considered the main offender, with the briber being considered as an accomplice or accomplice by incitement. In some readings, both the parties can be viewed as lead actors in one crime. Therefore, according to bribery, the sentinel elements are not the actions of the person giving the bribes but those of the official or employee.

The concept of the single-bribery system conceptualizes bribery as a unit of crime that could be blamed only on the public official as far as the core of bribery is the misuse of the office. This is only something that can be done by a government official who holds an office of authority and is endowed with the responsibility of executing the office duties and is required to be upright and trustworthy to the office. In this paradigm, the bribing party is just a party whose criminal responsibility is vicarious to that of the official in line with the provisions of the theory of criminal contribution. Similarly, a person who is between the bribetaker and the briber is considered a participant as long as the constitutive aspects of complicity are met.

It is under this framework that the difference between passive and active bribery is done away with. The system also gives legal status to the fact that the office of the

government is a pre-eminent constituent of the crime: one must be a government official to be the principal participant in a bribery offense, any non-government official will be just an accomplice, regardless of how much he or she participated in the commission of the act [7].

Third Branch: The Perpetrator in the Crime of Bribery

Bribery offence is conceptualised to be office trafficking and, therefore, necessitates that the offender hold a status of a public official or an individual who is assigned the duty to serve a community. The recipient of bribe (the al-murtashi) should occupy an official post or even be in an official relationship of employment regardless of the manner in which they may be paid on a daily, weekly and monthly basis.

Bribery occurs when an official requires or accepts a gift, favor, or benefit, in connection with the performance of an act that is contrary to the requirements of his or her duties as an official, in connection with the exercise of authority vested in his or her office, in opposition to the interests of individuals, or in connection with the failure to take action which is otherwise detrimental to the office, with the result that a gain was achieved by him or her illegitimately at the cost of the administrative entity.

A majority of criminal offenses are marked by a combination of material element (actus reus) and the mental one (mens rea). However, some of these crimes require some specific factors besides these generic factors. Every crime has its own distinguishing factors, thus, making it different to the rest of the crimes. The factors in the given case of the bribery are the status of the perpetrator, the status of the victim, and other specific aspects that identify the crime.

Most crimes share **common essential elements**, namely the **material element (actus reus)** and the **mental element (mens rea)**. However, some crimes require more than these general elements for their commission; they also require **specific elements** unique to the offense. Each crime has its own distinguishing elements, which differentiate it from other crimes, such as the **status of the perpetrator, the status of the victim, or other particular elements**.

Some attributes are inherently linked to certain crimes in terms of **existence or non-existence**, such that if they are absent in the perpetrator or the victim prior to the commission of the act, or acquired afterward, a different crime may be recognized. This type of crime is referred to as a **"special crime"**, which requires the presence of a specific presumed element for its occurrence.

Accordingly, for the crime of bribery that violates public duties to complete its legal-criminal model, it requires the presence of **all general elements of the crime** namely the **material element (actus reus)** and the **mental element (mens rea)** in addition to the **presumed element**, which is the **status of the bribe-taking official**, who must be a public employee.

It is noteworthy that the legal rank or position held by the employee is **irrelevant** to the commission of bribery as long as the other elements of the offense are fulfilled. Moreover, it is not necessary for the employee to be permanently appointed; it is sufficient that they are under probation, provided that an official order of appointment has been issued.

In addition, the consummation of the crime does not have to be fulfilled in its full form as it was originally agreed upon, the offer or acceptance of a bribe will be enough to prove the offence committed. Moreover, an obstacle to the utilization of the corresponding legal measures against an official involved in bribery is also non-existent regardless of whether his/her term or service is over, as long as the illegal act occurred at the time when he/she was in a state of the public office [8].

In this respect, it is remarkable that the Egyptian legislature acting according to Article 103 of the Egyptian Penal Code defined that a bribe taker should be a public official. Also, the Egyptian Penal Code, Article 104 specifies the groups of persons to whom the provisions of the crime of bribery are applicable. Such individuals can be further divided into three groups:

1. Public officials, officers, and employees, regardless of their position;
2. Experts and arbitrators;
3. Any person assigned to a public service.

Subtopic Three: Causes of Bribery

It is a known fact that the elimination of any unwanted phenomenon in any given society requires an in-depth insight into the nature of the phenomenon and the causes of such a phenomenon. To get effective solutions, the interventions should be essentially targeted at the core of the problem and the attendant consequences. As a result, an extensive study of the reasons of bribery is inevitable. These reasons cannot be attributed to one determinant, but are the result of a group of interdepending and changing factors with a tendency to deepen during the process of the evolution of a human society. Among these causes are:

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This section provides all the methodological details necessary for another scientist to duplicate your work. For the qualitative research this part can be different. „Research Methodology“ chapter should convince a reader that this manuscript presents a solid and sound analysis.

RESULTS AND DISCUSSION

Results

First Branch: Political Causes

The fact is that there is no doubt that bribery is a malady that is rampant in almost all political systems. The fact that this malaisation is prevalent is not limited to developing or under-developed societies; it also appears, although with the relatively lower rates, in more sophisticated societies. Bribery is proven to be more intense in political systems with limited control and accountability, as well as, with limited freedom of expression and thought. In this regard, the work of the administrative entities goes unquestioned or unchecked in correcting it, thus making it easy to continue with the underground corruption.

Besides, an apparently weak judiciary system, which lacks autonomy in relation to the legislative and executive arms, helps in bribery. This creates a situation where the legal standards are not strictly applied thus creating the sense that some people, due to their political or administrative statuses, are placed above the law [9].

Second Branch: Organizational Factors Related to Government Administrative Practices

When those with malfeasance are appointed to office in the public sector and a weak process or inherently unjust process is implemented, it is bound to install unscrupulous or corrupt officials in office. These posts will therefore often be abused to enrich the incumbent. This dilemma is also complicated by the deficient or even the lack of oversight institutions giving the corrupt officials a leeway to operate with impunity. Furthermore, the tediousness and orgol-ossification involved in the bureaucratic procedures that citizens are obliged to undertake during their interaction with the governmental services may lead to frustration and poor decision making, thus, making some citizens find bribery as a means of saving time and satisfaction of needs.

Third Branch: Social and Economic Factors

The compensation of the government employees in many countries has not been able to match the rising living standards and thus leading to the unfulfilled individual and family financial needs. This means that the employees can perceive bribery as a prerogative when payment is not done through legal means. In addition, societies are in a constant need to have religious and ethical education programmes that keep pace with the changes in the society. These programmes play a significant role in the development of the individual self consciousness and collective moral awareness, thus closing the social gaps and the social vices, such as the vice of illegally expropriating the wealth of others via bribery and the social disfavors that accompany the same.

The weakening of religious awareness programs limits the chances that people have to evaluate and control their behavior. Similarly, the lack of education and cultural enlightenment among the people (especially the lack of legal literacy) makes people susceptible to exploitation by the government, who might deliberately make the administrative processes complex so as to take illegal fees.

Second Topic: The Effects Resulting from the Crime of Bribery

First Subtopic: Effects at the Administrative Level

The nature of bribery is dual, as it is both serious in the terms of being an administrative form of corruption, but it is also an effective tool in the spread of various corrupt practices. The major consequence of this phenomenon is that it has led to loss of legitimacy of authority due to its misuse by employees in pursuit of individual interests at the expense of the main mandate of the institution, which is to serve the interests of the people.

Bribery breeds the development of interest groups and cliques hence weakening organizational structures. At the administrative tier, its consequences are loss of merit based system in appointments, promotions and transfers, prevalence of favoritism and mediation and loss of the moral principles in the line of duty, which breed selfishness, individualism, distrust and suspicion amongst workers and eventual loss of quantitative and qualitative productivity through the effects of bribing [10].

Second Subtopic: Moral and Social Effects of Bribery

Bribery has far reaching social impacts to both the society and the individuals in the society. According to the traditional normative systems, this behavior is considered to be contrary to common good, and it is evaluated as an action that negatively damages personal and society interests. In addition, bribery also causes a significant harm to the moral makeup of a society as it replaces the real human values with materialistic ones, making financial acquisition a value that is avoided and thus replaces the existing social tradition.

The practice compromises the legitimacy of the legal order in the society since crooked players strive to block the processes of justice and overturn organisational decisions at the very start. When the common people are constantly exposed to the inability to punish blatant infractions of the law via laws, rules and processes, trust on the system of law and its managers is inevitably lost, creating a normative environment where law breaking is considered as the rule and that deference to law seen as extraordinary.

It is important to note that bribery is one of the most dangerous crimes that can destroy the image of the state and its lack of trust. People look at the state as a model of authority that is supposed to offer services and the violation of such trust is considered to be serious and dangerous, thus destroying the trust in the state and the institutions it represents [11].

Third Subtopic: Material Effects of Bribery

High prevalence of bribery in any given society creates significant material consequences which hinder growth and development of the society. Employment of unqualified personnel to the offices by bribery, forged qualifications or political links and sidelining the qualified personnel has negative impact on performance and productivity of government institutions. Because, as Myrdal observed, employees can intentionally hinder the administrative tasks concerning the interests of the citizens to secure more bribes, one can be sure that the efficient work of the employee will be put under a direct threat.

Bribery is a major development and reconstruction set back in a country since it reduces effectiveness of main development finance sources such insurance systems and taxes. Tax evasion occurs when the officials violate their duties in order to receive

financial baits, particularly in offices that have relevant jurisdictional powers. These practices in turn reduce the size of vital sources of revenue to the state and thus negatively affect the fiscal resources needed to develop a nation.

Third Topic: Penalties Imposed on Employees Who Commit the Crime of Bribery under Iraqi Legislation

In this topic, the focus will be on the **nature of the punishment** prescribed by the Iraqi legislator for employees who commit bribery. This discussion is divided into two subtopics: the first addresses the **punishment for employees meeting the elements of the bribery offense under Iraqi law**, while the second examines **cases of legal excuses in which the bribery offense is nullified under Iraqi law** [12].

First Subtopic: Punishment for Employees Who Meet the Elements of the Bribery Offense under Iraqi Law

The **Iraqi Penal Code No. 111 of 1969** stipulates that an employee who fulfills the elements of this crime shall be punished by **imprisonment for a period not exceeding ten years, or detention and a fine**, provided that the fine is **not less than the amount requested by the employee for themselves or others, or given or promised,** according to **Article (307) of the Iraqi Penal Code.**

If the bribery occurs **after performing or refraining from performing a duty, or after violating official responsibilities** that is, if the criminal activity (requesting, taking, or accepting a bribe) occurs **post-performance or omission as a reward for such conduct** the penalty, according to **paragraph (2) of Article (307), is imprisonment for up to seven years, or detention and a fine,** with the fine **not less than the amount requested, given, or promised** [13].

Amendments to certain provisions regarding bribery in the **enforced Iraqi Penal Code** were issued by the legislative authority, represented at the time by the **Revolutionary Command Council (dissolved)**. The **first amendment**, issued on **5/2/1983 under Decision No. 160**, removed the judge's discretion in choosing between the two penalties stipulated in Article (307) either **imprisonment up to ten years or detention and a fine** by combining **both imprisonment and a fine**. It also **tightened the range of fines**, setting the **minimum at 500 dinars** and the **maximum at 5,000 dinars**.

Then, the **Revolutionary Command Council (dissolved)** issued **Amendment No. 703 on 16/6/1983**, adding a paragraph to its first amendment: **"The penalty shall be life imprisonment with confiscation of movable and immovable property if the crime occurs during wartime."** This reflects the **Iraqi legislator's intention to toughen penalties for bribery** to prevent its spread due to its impact on the **security and economy of the country [14]**.

Regarding the **penalties for the bribe-giver (raashi) and the bribe-taker (murtashi) under Article 310**, following the Iraqi legislator's approach of considering bribery a **unified offense**, the raashi and murtashi are **partners in the crime**, deriving their criminal liability from that of the **primary offender (the bribed employee)** and receiving the **same punishment**. The penalty **does not cease with the termination of the employee's service**; if the crime occurred while the employee held their position, they are **punished for offenses committed during their service**, regardless of whether they later leave the post due to dismissal, retirement, or any other reason [15].

Since the legislator aims at reversing a crime that threatens the economy of the country and the honesty of the beneficiary of the bribe or its agent in the event that they reveal to a court of law the act or that they confess before the case gets to be filed in court, the statute provides extenuating factors to the offeror of a bribe or another that is used in the perpetration of the act. The disclosure/confession after the formal entry of the case but before the trial is considered a minor mitigating factor. The first paragraph of **Article 311 of the Penal Code** stipulates that the raashi is **exempted from punishment if they voluntarily report the crime or confess before it is discovered**, while the law **excludes the bribed employee (murtashi)** from this exemption.

The **Anti-Corruption Law** grants the investigating judge the authority to **suspend criminal proceedings** against a corruption suspect if the individual **agrees to identify other perpetrators, collect evidence against them, and provide testimony**. Permanent suspension of punitive measures is permitted if the person **cooperates with the Integrity Commission or competent investigative authority, discloses relevant crime information, provides complete and truthful testimony, and submits sufficient evidence against other offenders.** This provision is reflected in **Article 129 of the Iraqi Code of Criminal Procedure No. 23 of 1971, as amended [16].**

Section Two: Justifiable Excuses that Nullify the Crime of Bribery in Iraqi Law

As previously mentioned, the provisions concerning the crime of bribery, defined in **Articles 307 to 314 of the Iraqi Penal Code No. 111 of 1969**, included **exemption from punishment for the bribe-giver (raashi) and the intermediary** if they reported the bribery offense **before the case reached the court**. Confession of all details of the crime **during the trial** is considered a **mitigating excuse** for them. According to these articles, the Iraqi Penal Code **excluded the bribed employee (murtashi)** from exemption due to the severity of their crime and its impact on society and the public office [17]. However, there are cases in which exemption from punishment **applies to the bribed employee**, addressed in other articles of the Penal Code. These cases are:

First Case:

Article 62 of the Iraqi Penal Code deals with situations of **coercion and duress**, considering them a **justifiable excuse for exemption from punishment** (so-called "exonerating necessity"). ***Article 62 states:***

"No one shall be held criminally responsible if forced to commit a crime by physical or moral compulsion that they could not resist."

Coercion can occur through **use of force, threats, or abuse of authority**. While the legal description of the crime remains valid, and the act remains illegal, the offender's **culpable intent is excluded** due to the danger resulting from coercion.

Second Case:

Article 63 of the Penal Code provides:

"No one shall be held criminally responsible for committing a crime if it was done out of necessity to protect themselves, another person, or their property or the property of others from an imminent and serious danger not caused intentionally by them, and which could not have been prevented by other means, provided that the criminal act is proportionate to the danger to be averted. The necessity does not apply if the law requires confronting the danger" [18].

The law **exempts the offender when extreme necessity compels them to commit the crime**, but to **prevent abuse of this exemption**, the legislator imposed several conditions:

1. **Existence of a serious danger:** The crime must have been committed due to this danger, with the judiciary responsible for defining and assessing the danger according to the circumstances of each case.
2. **The danger must be imminent:** A danger is considered imminent if it is about to occur or has already begun.
3. **The danger must threaten life or property:** Under Iraqi law, a serious danger establishes a state of necessity and excludes liability, whether the threat affects the person's own life or property, or that of another.
4. **Inability to avert the danger by other means:** The act must have been committed under compulsion, with no alternative means available to prevent the danger.

Third Case: If the employee or person assigned to a public service is required to entrap the briber or intermediary, and he pretends to accept the bribe in order to catch one of the parties (either the briber or the intermediary), then he is exempt from punishment under the law. This is addressed in the Iraqi Penal Code under Article 40/Second, which states: *"There is no crime if the act is committed by an employee or person assigned to public service in the following cases: if the act is carried out in execution of an order issued by a superior which must be obeyed, or if he believed that obedience was obligatory. In both cases, it must be proven that the actor's belief in the legality of the act was based on reasonable grounds" [19].*

1. The empirical data shows that bribery is also a type of corruption, which plagued both antiquarian and modern societies. It is listed as an original crime recognized by mankind since ancient times, and severe penalties are required in both the old and the new laws.
2. Notwithstanding the list of penalties imposed on bribery, the vice keeps spreading and increasing in many societies. As a result, it is necessary to re-relate ethical, moral, and religious conscience since the socially-oriented intervention is a powerful and effective preventive measure against this vice.
3. When it is surfaced, it is possible to identify bribery, but when it is hidden, it will be hidden. Therefore, it is essential to focus on the antecedents of bribery and the processes that could put the spread of bribery out [20].

CONCLUSION

Fundamental Finding : This study highlights the severe and widespread issue of bribery, which significantly undermines public office and the broader public interest. The interplay of economic, social, and political factors has facilitated the proliferation of this crime, and its persistence is a growing concern. Addressing bribery requires not only legal reforms but also comprehensive awareness and preventive strategies. **Implication** : The findings suggest that immediate action is necessary to curb bribery, including the implementation of international anti-corruption conventions and the strengthening of institutional integrity through robust internal audits and economic improvements for

public employees. **Limitation** : The study's reliance on qualitative analysis limits the ability to generalize findings across all societal contexts, particularly in regions with different governance structures. **Future Research** : Future studies should explore empirical methods to evaluate the effectiveness of anti-corruption measures across diverse countries, focusing on the impact of economic incentives and legal reforms in reducing bribery.

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