

Punishment for Bribery and its exemption in rules in Islamic Republic of Iran

Mahshid Mahtabi (M.A)

Department of Law, Payam noor University, Karaj, Iran

Email: MahshidMahtabi@yahoo.com

Yoseph Niazi (M.A)

Department of Law, Payam noor University, Kermanshah, Iran

Ghobad Naderi (M.A)

Department of Law, Payam noor University, Kermanshah, Iran

Abstract

There is the importance of security and public peace to maintain order in the society. Laws are offered in community when misuses and frauds are made. In this study, researchers first provide the definition of bribery: Thing that is given to someone ruling to favor a person or his decision or act according to his desire. Then the penalties are expressed for a bribe giver. And following the cases of impunity, Exemptions are then studied in terms from the distress of bribe giver and in terms of compulsion to pay bribes in order to protect person's rights. Emergence of administrative corruption dates back to the length of the human community, and its relation to the development of the political system is directly seen in as far as it could be, causing disruption to the political system of a country. In a corrupt administrative system, employees take advantage of the situation and as their job is to do business, this in addition hurts the development of healthy competition in a social justice manner.

Introduction

Public welfare in the legal sense of the term is: The availability of the necessary circumstances and facilities for carrying out various activities, so that scientific, economic, commercial, administrative, social and cultural rights of individuals in society are achieved and any person ranging from natural or juridical can feel secure in the community.

After dealing with the effects and adverse consequences of crimes on the community in general and in particular with financial crimes against the public peace, criminal prosecution and punishment of offenders is also necessary. To prevent crimes by identifying social, personal and environmental imbalances, rate of occurrence of crime can be reduced and implementation of integrated programs and measures to reduce or eliminate criminal offense can be increased.

Definition of Bribery

"Bribery in dictionary reads: Something that is given to someone, or to establish a right to invalidate the right illegitimately. And in term is: Something that person gives the ruling or non-ruling, until, the verdict in favor of his or their desire to act accordingly" (Dekhoda, 1967). And elsewhere, in world means what that is given to someone, until act contrary to their duty to do (Amid, 1985).

Bribery word "Fthh" include: the financial assistance to the judge is given, and it matters little that the verdict is right or invalidated (Ibn al-Athir, 1970).

In terminology of law, bribery is defined as: the financial giving to the state-appointed official or unofficial or municipality, in order to do the administrative tasks and other tasks, even though it is not related to the job of the property receiver, whether it will receive property directly or taken through another person (Langeroudi, 1993). Using the Content of Article 3 of the law of punish, perpetrators of aggravated bribery, embezzlement and scams adopted 1989, the Expediency Council and as well as, Article 592 suspended law, Adopted Islamic Consultative Assembly in 1997, Tamper defined such that:

"Bribery offense, this means that: Someone who, by money or property or document order to perform or refrain from doing something that which corresponds to one of the agencies and organizations mentioned in Article 3 Intensify law punishment is for perpetrators of bribery, one of the officers mentioned in this article, whether directly or indirectly concerned. "

And British law reads as: "Bribery is: A proposal or give anything of value to someone who holds public job or in other words pay anything valuable to a government official in the line of duty, bribery called" (Jkolasa, 1978).

Punishment for "Rashi" or Bribe giver

The penalty for Bribe giver in law passed in 1984 suspended in Articles 67 and 70 with respect to the character and qualities of acts of bribe giver, three types of punishment were predicted as follows:

- 1** - Whenever the bribe giver of public officials is, he will be punished imprisonment from two months to a year.
- 2** - Whenever the bribe giver of public servants is, receptor bribes will be sentenced to the punishment and it means permanent dismissal from government jobs and up to 74 lashes.
- 3** - But if it was proved in court on judicial review that bribe giver, for the annulment of the right, achieve the invalidate money or financial is given as a bribe, Ranging from or not the bribe giver of public servants, Pursuant to Article 70, to be sentenced imprisonment from six months to two years.

However, the Act of 1997 suspended the parliament and with amendments and revisions and regulations regarding bribery and the deletion of Article 70 of the former law suspended, in Article 592 of the Penal Code for punishment "bribe giver" reads as: "Every person who, with intent or intentionally, for action work or refrain from doing something, which is duties of the persons mentioned in Article 3 of the law, punishment perpetrators of Intensified bribery, embezzlement and scams Expediency Council is passed in 1989, submits money or financial or payment is given or the direct or indirect financial or document, in sentence "bribe giver" is, and as punishment in addition to confiscation of property, the imprisonment from six months to three years, or up to 74 lashes, is condemned. "

According to Article 590 (bribery through the buying or selling) for cases where cash is not a bribe, But also by resorting to the transfer of property, form donations or from the gross amount cheaper than the usual price or apparently the usual price but the tremendously less amount than the price for a public employee, ranging from judicial or administrative, either directly or indirectly or that bribe giver gives money as bribe with intention, directly or indirectly, to purchase tremendous expensive object than its price, bribe giver, is sentenced to imprisonment from six months to three years and 74 lashes.

But punishing employee (Bribe Receiver) according to set forth in Article 3, law aggravation punishment, the perpetrators of bribery (Act, 1989) the Expediency Council, and notes related to the appropriateness of the price of property or payment of bribes is estimated as follows:

- 1-** If the price of property or payment of bribes is more than twenty thousand riyals. In this case, the "bribe recipient" has to bear temporary separation from six months to three years, and if the act is committed by the person of rank of General Manager or equivalent, is the general Manager or above, will be sentenced to dismissal from government employment permanently.
- 2-** If the price of the property or money is bribed to hundred thousand riyals. In this case, the "bribe giver" has to be punished from one to three years in prison and fines of property prices or money and temporary separation will be sentenced from six months to three years, and if the act is committed by the person of rank of general Manager or equivalent, is the general Manager or above, will be sentenced to dismissal from government employment permanently.
- 3-** Whenever the price of property or money of bribes will be more than two hundred thousand riyals to one million riyals. In this case, the "bribe Receiver" to be punished from two to five years in prison and fine equivalent to property or funds and permanent dismissal from government service and will be sentenced to 74 lashes, and if the act is committed by the person of rank lower than general manager or equivalent; Instead of a permanent separation to temporary dismissal will be sentenced from six months to three years.
- 4-** In that case, price of property or money about bribes is more than a million riyals. In this case the "Receiver of bribes" will receive punishment of five to ten years imprisonment and a fine equivalent to price of property or funds and permanent dismissal from the government service and will be sentenced to 74 lashes, and if act is committed by the person of rank of general Manager or equivalent, is the general Manager or above, Instead of permanent dismissal to temporary dismissal will be sentenced to three years six months.

Of impunity

For cases, the exemption is restricted and depends on the severity and no serious crime but rather concerns according to the penal legislative and policy may result in impunity or causing it to be discounted, and the limited scope of this excuses in the Islamic Penal Code offenses and punishment is a deterrent. However cases of impunity in Law aggravation punishment, the perpetrators of bribery 1968, the divided into can be considered as follows:

- 1- Importance of cooperation of "bribe giver" with officers.
- 2- Emergency and coercion of "bribe giver" in paying bribes to protect himself rights.

Exemption for "bribe giver" in terms of the importance of cooperation with Officers: This excuses or mitigation in the Islamic Penal Code or the Criminal Code has been predicted in the texts, Relates to cases where one of the perpetrators of the crime discovered before the crime or the after is arrested by himself, the officer or officers who facilitate pursuit and arrest of the defendant provides in the, Clause 5 of Article 3 "of the law punished the perpetrators of aggravated bribery, "it said: "In any case of bribery, when the "bribe giver" before the discovery of mass, makes officers aware of the crime, of financial punishment, will be exempt, about the rating action be accordance with regulations, and a "bribes giver" in while pursuists his confession facilitate prosecutions "bribes receiver" to establish, Up to half of the funds will be returned to as bribes is paid. And privilege is revoked. "

First state: When the "bribes giver" before the discovery of the crime, personally goes to the police forces or judicial officers and notifies the bribery crime. It will cause the financial Exemption of "bribes giver". But it seems that manner and extent of exemption is projected in terms of the penal policies and measures so that it does not help in discovery of the crime of bribery. Because often person "the bribes giver" that causes the contamination and provides all public servants, his role in realization of the crime of bribery is very fundamental and critical, and on the other hand, breaks the financial punishment for the bribes giver and causes to motivate and expose the bribery is not crime. Measures foreseen in the legislative "Clause 5 of Article 3 of the Law of escalation" due to problems arising from the implementation of the above note that makes exemptions for "bribes giver" of the imprisonment and will not be flogged and this is harmful to "bribes giver" that makes them refuse to cooperate with the officers and crime will be disclosed and prediction of criminal legislative is neutral and inert.

Second state: This is only if bribes givers are arrested after crime and interrogated by the police or the judiciary. With confessing to his crime that facilitates prosecutions for bribes receiver and results that bribe giver, when necessary, with intention and deliberately causes the property receipt or shall provide certificates of paying bribes, this causes exemptions to the "bribes giver" of half the amount of fiscal paid as bribes to him be refunded. In this case, as in first state can't incentive the bribe givers for disclosure of bribery as crime.

Exemptions in terms of emergency for bribes giver

State of emergency as one of the institutions of criminal law is the basis of lack of liability and exemptions of penalty is known for this, general rule, an emergency, in jurisprudence, the Qur'an and hadiths and narrative and from non-liability, is known and in Article 55 the Islamic Penal Code as provided in compliance with the state of emergency. Legislatures, law (suspended in 1997), in Note of Article 592 of the said Law "bribe giver" and in this way brought: "If the "bribe giver" was forced to pay bribes or payment, report or complaint made will be exempt from prison sentence and his money will be refunded."

In general we can say: Such exemption does not support the legislative main goal but also in terms of social justice is not deemed appropriate and caused abuse of individuals, this legal vacuum will profiteer.

Exemption from in terms of "coercion to pay bribes in order to protect rights"

In Article 591, "Law suspended" this exemptions is in this way predicted: "Whenever it is proven that the" bribe giver" has to protect his rights and was forced to give financial, has no prosecution and the money or the financial given by him will be refunded ".

Here's what it looks like, compared with Note 5 of Article 3 of the Law "punish perpetrators of aggravated bribery" and also the phrase contained in the Note of Article 592 will be achieved. However, the pressures caused by material or spiritual factors on "Bribe giver" should be such that Gnostics will be unbearable and recognized as responsible by court.

Discussion

Emergence of administrative corruption dates back to the length of the human community and is in direct the relationship with the development of the political system. Bribery as criminal act and as a social phenomenon is ominous. There is no a community that is protected and secure from harm of criminals of these actions. Kickbacks and bribery is most related to religious beliefs. Statistics for committing such offenses in Islamic societies is lower than other countries. Tamper and taking bribes are among the crimes against public peace. That causes the loss of trust and confidence over the administration and the disappearance of healthy competition and employees are corrupt. Bribery offense in Islam is a great sin and unforgiveable. Bribery offense is punishable as anticipated include:

Received lashings, monetary fines, getting money, property confiscation in favor of the government, imprisonment from 6 months to 15 years or life, dismissal from governmental and public occupations and in some cases corruption on earth is known as it is executed.

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