International Academic Institute for Science and Technology

International Academic Journal of Social Sciences
Vol. 5, No. 1, 2018, pp. 94-102.
ISSN 2454-3918

International Academic Journal of Social Sciences

www.iaiest.com

Bribery and the Need to Deal with it

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Abstract

Bribery is one of the general crimes and has two parties; namely a "bribe giver" and a "bribe taker". Bribe is what a bribe giver gives a bribe taker, in order for the bribe taker to act in favor of the bribe giver while the bribe giver has no legal right for that. According to verbal evidence, bribes are not limited to judicial cases, but may extend to non-judicial cases as well. Bribery is one of the oldest crimes in the penal history of human, dating back to the time of the formation of the first states and the bureaucratic structure in the world. This crime has also been considered in the criminal laws of the contemporary world. The international conventions on combating administrative corruption confirm this claim. Bribery has become a major global issue, and has been the subject of many global conferences, political gatherings, and statesmen's speeches. As one of the religiously forbidden businesses in Islamic Jurisprudence, bribery is considered to be an illegitimate and denied action from the point of view of the Quran, Tradition and Consensus.

Keywords: Bribery, need to Deal, Bribe Giver, Quran

Received:14 February 2018/Accepted:23 April 2018/Published:20 June 2018

Introduction

Literal definition of bribery:

Bribery is a general term, which includes the following three titles:

A) bribe giving, b) intermediary for bribery, and c) bribe taking

A) Bribe giving

Bribe giving literally means the payment of property (including cash and payment documents) for doing illegal acts (whether it is the legal right of a person but it is appropriated illegally, or it is originally an illegal act), and the doer of such an act is referred to as “bribe giver".

B) Intermediary for bribery

“Intermediary for bribery” is the jurisprudential term of a crime in relation to bribery mentioned in Article 593 of the Islamic Penal Code: anyone who knowingly and deliberately invokes the bribe taking crime, such as negotiating for an agreement or taking or giving money or property or a document of payment, they will be condemned to the punishment of a bribe giver depending upon the case.

C) Bribe taking

The third party of the bribery crime is bribe taker, one who receives a bribe, and may be a government employee, whether regular contractual. It may also include those who have not been employed by the government, but have cooperated with the government in a way.

The term "bribery" is a familiar term used for the act of a bribe giver’s giving some property or money to a bribe taker to have his or her work done. Naturally, this act will bring some corruption and legal loss, as some people unjustly acquire some property.

The idea that nations and countries should be aware of corruption and bribery and it is useless to prevent and combat it from the point of view of its prevalence is a negative and retrospective idea.

Why some people have tendency toward bribes and bribery

Disbelief in Allah:

The most important reason for some people’s tendency toward this grave sin is their weakness of faith and lack of piety. A believing person has high trust in divine mercy and is thus sure that God satisfies his economic problems completely and he no longer needs to perform the sin of bribery. A pious person also has the power of contentiousness, which frees him from greed and consequently falling into the trap of bribes.

Profit Seeking:

Man has a self-interest instinct and always moves towards his or her own interests. Things like doing one’s work faster than it takes normally, interest in collecting more jewelry and money in transactions, tax evasion etc. are rooted in people’s instinct to seek their own interests, and bribery is their means of achieving such goals.

Economic problems of employees:

The low level of employees’ salaries and lack of financial support is one cause of bribery in offices.

Received:14 February 2018/Accepted:23 April 2018/Published:20 June 2018

Administrative Barriers:
The existence of bureaucratic laws in offices is one of the main reasons for the staff's tendency toward bribery.

Ignorance:
There are few cases where people are ignorant of the indecency of bribery, but its indecency is most often known to people, and as they gradually solve their problems easily through bribes, the indecency of this act will be removed and nobody will protest against it any longer.

Bribery in Islam
One of the great problems that man has been facing for a long time but has intensified nowadays is bribery, which is one of the greatest obstacles to the implementation of social justice, and it leads to the application of laws- that should protect the interests of weak classes- for the benefit of the powerful classes that should be limited by the law. This is because the powerful and the wealthy are always able to defend their interests by themselves, and it is the weak or the poor the interests and rights of whom must be protected by the law. Obviously, if the doors of bribery are opened up, the correct rules will have reverse results, because only the powerful and wealthy are able to pay bribes, and as a result, they can use the laws as a new game to continue the oppression, and aggression towards the weak.
For this reason, when bribery penetrates a society, the people's lives in that society will be disturbed and oppression, corruption, injustice and discrimination will penetrate all the organizations, and justice will remain only by name, so bribery has been condemned to the utmost severity and considered one of the grave sins in Islam.
But the remarkable thing is that the indecency of bribery makes this indecent goal be placed among other deceptive words and titles, and the bribe taker and bribe giver use names such as: gifts, compliments, rights, remuneration and rewards, although this change of names obviously does not change the nature of bribery in any way, and the money taken in this way is forbidden and illegitimate.
In *Nahj al-Balagha*, we read in the story of the gift given by Ashatha ibn Qais to Imam Ali: He resorted to bribery for his victory over his party in a lawsuit in the court and brought a container filled with a delicious pancake to Imam Ali's house at night and called it a gift. Imam Ali became angry and responded: "May you die and mourners tear over your death; have you come up with the idea of deceiving me and taking me away from the religion of right? God knows, if I am given the whole universe to take even a barley skin from an ant by force, I will never do that. Your world is less valuable to me than a leavened leaf in a locust's mouth. Ali is far from temporary things and pleasures".
Islam has condemned bribery in any form. We read in the history about the life of the Prophet (PBUH) that when he was informed that one of his governors had accepted a bribe in the form of a gift, he became so angry and told him: "why are you taking something which you have no right for that?"
The bribe taker apologized and said: "what I received was just a gift, the Prophet of Allah!") The Prophet (peace and blessings of Allah be upon him) replied: "If you sit at home and are not the governor of a region, will people give you a gift?" Then he ordered to take that from the bribe taker and put it in Beitolmal (Treasury of the whole people) and dismissed him.

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Islam even warns the judge not to take bribes secretly: judges should not go to markets personally, lest may he buy things with discount, which may unconsciously affect his judgment. How good it is the Muslims inspire from the Holy Qur'an and do not sacrifice everything with the bribery idol!
The issue of bribery in Islam is so important that Imam Sadiq (A.S) says: "but bribe in judgment means disbelief in Allah".
We also read in a famous saying by the Prophet (PBUH): "Allah will deprive of his mercy anyone receiving and giving bribes, as well as one who acts as an intermediary between them".

Notable judgments of some religious scholars about bribery
Hazrat Ayatollah Behjat:
It is forbidden religiously and violates the rights of others and is in conflict with the terms of the lease contract.
Ayatollah Safi Golpayegani:
Bribery is used about judgments, and it is not to be considered bribery in other cases. However, if an employee does a task during his office work time, he must not take money, but it does not matter if he or she does so when it is not part of his or her office work hour. However, if he or she refuses to do that task during the office hours, it is not permissible for him to receive salary from the government, but when one's work is not done without paying some money, such a payment does not matter.
Hazrat Ayatollah Fazel Lankarani:
Religiously forbidden bribe is related to judgment, and affairs that are regarded as bribes in our culture are forbidden if they violate the rights of others or are is contrary to the rules of the Islamic Republic of Iran.
Ayatollah Sistani:
An employee's bribery is contrary to the employment contract and is not permissible, but it is not forbidden to pay bribes in the present and in non-judgmental cases, unless it violates the rights of others, although it is not permissible to take bribes.

Types of bribes
In general, bribes are either for judgment or for non- judgment affairs; therefore, bribes are of two types:
1. Bribes for judgment; and 2. Bribe for affairs other than judgment; i.e., bribes in other offices and centers.

Bribe in judgment
Bribe in judgment means giving a property to a judge or do services for him so that he judges in favor of the bribe giver or the judge guides and teaches the bribe giver how to conquer the other party, regardless of whether the bribe giver is right or not, and whether the judge asks for a bribe or the bribe giver initiates it.
Imam Sadiq (A.S) says: "The Prophet has cursed the person whose knowledge people need but he demands bribes from people for that".
He also says: bribery for judgment is disobedience to Allah."
These two sayings indicate that it is forbidden to take bribes for judgment and use one's knowledge and

Received:14 February 2018/Accepted:23 April 2018/Published:20 June 2018

expertise in return for bribes, and Imam Baqir (A.S) has not differentiated between right and wrong judgments.

2. Bribe in non- judgment affairs

Extension of bribes to non- judgment affairs is not something new, because it has been stated in some jurisprudential texts it some scholars have considered the generalization and extension of bribes to non-judgment affairs. To explain the matter, we will suffice with some reasons and evidence in this regard:

Dictionaries including "Majma-al Bahrein" have defined bribery as follows: "bribery is what a person gives to a judge or someone other than him in order to judge in his interests, or to act according to his will." In this definition, the term "other" refers to the generalization and extension of bribes to non-judges and the phrase "act according to his will" indicates its extension to non-judgment.

This broad and widespread meaning found in dictionaries is a clear indication of the non-monopoly of bribes for judgment; therefore, bribes include all departments and institutions, and if an employee takes money or something else from a client to do something for him in return for that, this is considered bribery.

Another reason for the generalization and extension of the meaning of bribes to non- judgment affairs is the opinions of some jurisprudents who have expressed inhibition of bribes not only in the case of judgments and verdicts but also in other matters.

Second Martyr, in Masalek al-Afham, where the reasons for the consensus of Muslims on the boycott of bribery are expressed, has not only used the term for judges, but it has also extended the term to agents, saying: "all Muslims have consensus about the fact that it is forbidden for judges and their agents to take bribes".

Many contemporary jurisprudents, including the author of "Orwat-ol Vosqa", have extended bribery to non- judgment affairs and have considered it forbidden in Islam: "Bribes are not limited to what a judge takes for judgment, but it can also be taken in other ways, such as when something is given to a ruler, chairman or a cruel person so that they can help the bribe giver in a forbidden work, which is itself forbidden".

Bribe giver has been defined in the "Law on Administrative Offenses" as follows: "Bribery is giving some money or property to an official or unofficial agent of the government to do something related to an administrative or judicial matter, even if it is not related to the bribe taker's job, whether he receives it directly by the owner or by someone else, whether the receiver is capable or incapable of doing that job, and whether the work supposed to be done for the bribe giver is his right or not. The condition for bribery is an agreement between a taker and a giver for the exchange of a bribe between them".

Bribe or gift

Mulla Ahmad al-Naraqi, in his book "*Jami*' al-sa'adat" uses a saying from the Prophet of Islam to distinguish between bribes and gifts.

According to Shafaqna, this religious scholar narrates the Prophet Mohammad (PBUH) saying: The Prophet (peace be upon him and his family) sent a person to take Zakat (a form of alms-giving treated in *Islam* as a religious obligation or tax, which, by Quranic ranking, is next after prayer (salat) in importance), but when he went back, he had kept for himself some of what he had taken as Zakat. He told the Prophet: This is for you and this is the gift that I have been given. The Prophet (peace and blessings of

Received:14 February 2018/Accepted:23 April 2018/Published:20 June 2018

Allah be upon him and his family) said: "If you are truthful, why did you not stay in your parents' house to be brought this gift?"

There are a few noteworthy points to be mentioned here:

First - what someone generously sends to some of his (religious) brothers is obviously a gift and allowed in Islam, whether it has been done with the intention of getting rewards in the other world and getting close to Allah, or merely for the purpose of expressing friendship.

Second, when the purpose is to take something in return for something else, such as when a poor person gives something to a rich one, or a rich person gives something to another rich person to get an equal or better gift, this is also a kind of gift, and is not forbidden.

Third, when the purpose of sending a gift is that the recipient helps the giver in a certain job, such as the one who needs the king or the owner of a place, and presents his representative or influential person with a gift, in which case the type of action is important. If that work is forbidden in Islam, such as asking for the establishment of a forbidden maintenance or oppression to a human being or the like, this is a bribe and it is forbidden to take it.

If it is a "mubah" action (an action that is permitted, but not mandatory, recommended, reprehensible or forbidden), and there is suffering and hardship in doing that so that it requires hiring someone to do that, it is permissible and is to be regarded as wages, because this is like money that a judge's attorney takes to defend in a case, provided that he does not violate the right. However, if his work does not require any trouble, such as saying a word or doing little easy work which is beneficial, some scholars have permitted taking a gift for it, but this judgment is questionable, because apparently this gift is permissible only if the work is legitimate and is not obligatory upon him.

Fourth, when the purpose of sending a gift is to attract the gift taker's attention; that is, not to show his love or affection, but to achieve his goals through the gift taker's job and position in such a way that he would not send him any gifts if he did not have that given job or position, although such gifts seem to be merely gifts, they are in fact bribes, and if they are for one's social status, such as judgment or guardianship of charities, or endowments, or taxes, and similar jobs that are government positions, it is forbidden to take such a gift, provided that no gift would be received by him if he did not have such a job or position. The reason why this is forbidden is that it is a bribe that has taken the form of a gift.

The Prophet (PBUH) said: Times will come when forbidden things will be considered permitted gifts, and killing will be thought as advice, the innocent will be killed so that others will learn from it.

It is narrated that the Prophet (PBUH) sent a person to take Zakat, but when he was back, he had kept for himself some of what he had taken as Zakat. He told the Prophet: This is for you and this is the gift that I have been given. The Prophet (peace and blessings of Allah be upon him and his family) said: "If you are truthful, why did you not stay in your parents' house to be brought this gift?"

Therefore, it is desirable that any ruler (governor general of a province, governor of a city, ...) and judge and others with state-owned jobs to assume that it is forbidden to take something that he could not receive if he or she were sitting in his or her parents' house.

Reviewing bribery from the economical point of view

Money is always the matter in economic issues, since it is an effective factor in shaping social activities. Obviously, it can be said that bribes and bribery always get along with money and economic issues; these

Received:14 February 2018/Accepted:23 April 2018/Published:20 June 2018

two are together so often that it is impossible to imagine that there is economic activity at a certain place with no bribery.

The bribery rate has actually increased in our modern society due to the current conditions as well as the economic problems and disruptions in the financial flows of the community. In fact, people are willing to pay a bribe in order to obtain financial positions.

Dr. Behrooz Hadi Zenouzi, an economist and professor at the University of Tehran, actually regards the government's intervention in the economy as the major cause of bribes and similar phenomena in the society. According to him, another factor is the complexity of administrative rules and procedures and their lack of transparency. The third factor is the lack of respect for meritocracy in the selection of government positions and jobs and the elimination of the social status of government jobs. The disappearance of the social status of state-owned jobs, the reduction of wages and salaries of employees of the government, the judiciary, the police forces, etc., make them also vulnerable to bribery.

If bribery increases and bribe-takers survive the laws and are not monitored at all, this will encourage others to commit bribery. Significant spread of bribery in recent years may be an alarm. Every international research that deals with corruption and bribery often has the name of Iran and describes and explains the common ways of corruption in this country.

According to a study conducted by the World Bank and the United Nations, Iran is among the world's first 24 corrupt countries. In such a situation, the fight against bribery is also complex and involves identifying the causes of this phenomenon and the ways to reduce its effects on the social and economic relations.

Reforming the economic and administrative laws and opening a competitive atmosphere for all, especially for the private sector, is one way to combat bribery. From the above, we come to the conclusion that economy and bribery interact, that is, bribery both affects and is affected by economy. Therefore, the fight against bribery involves simultaneous planning in both domains.

The individual and social consequences of bribery

In the individual dimension, a bribe giver not only will be subjected to the cursing and wrath of Allah Almighty in both worlds, he will also not be immune from the harm caused by this evil act in this world.

Individual Consequences

1. A bribe-taker cannot use the property that he has obtained through bribery to pay in the way of Allah, because charity is accepted only from the pious.
2. There will be no increase in the bribe taker’s property. Imam Kazim (A.S) says: "The property gained in a religiously forbidden way is not added to, and if it added, it will not be blessed for its owner who will receive no thawab (spiritual merit or reward that accrues from the performance of good deeds and piety).
3. According to a saying from the Holy Prophet (peace be upon him), "His [bribe taker] worship will not be accepted and his prayers will not be heard and responded”.
4. We also read in a saying from Imam Sadiq (AS): "The effects of forbidden businesses on children will be manifested”.

Received:14 February 2018/Accepted:23 April 2018/Published:20 June 2018

Social Consequences

1. Bribery weakens the foundations of social justice, and since the stability and dynamism of any society is based on justice, cruelty and oppression will come to a society where justice has no position.
2. Obviously, if bribery is widely used in a society, the rules, which should protect the interests of the poorest classes, will be used in favor of the powerful and wealthy classes. Naturally, the weak or poor will be disappointed of the government and the executive and administrative system of the country in such an unfair atmosphere, which will gradually lead to the loss of public confidence among different classes of the society.
3. Bribery is not just a matter of paying money, goods or privileges; rather it gradually turns into a complex system in which particular networks of relationships and partnerships operate and lead to one-night wealth, and achievement of various political, commercial and ... positions. Therefore, the facilities and assets of a country will be confined to a limited number of people who are easily able to circumvent the rules and violate the rights of others.

Ways to prevent bribery

1. Enforcement of ethics and religious beliefs

A large part of the social problems, abnormalities and complications result from false and unhealthy education. Whenever a person is educated to be morally and religiously healthy and comes to this stage of belief that his small and big, good and bad deeds will accurately be calculated in the Divine court, and they will the subjected to penalty and rewards proportionate to or even more severe and stronger than their deeds in this world, they will ready themselves for that, and the more the belief in divine and Islamic commandments and human morality increases, the more the coefficient of trust, certainty and righteousness will increase among the whole people in the society.

2. Decrease in social classes divisions

Part of the social problems such as the prevalence of bribery is the consequence of social class divisions that appear throughout the community. Whenever the people of the community find out that some others have taken government positions using their relationships and bribery, and have suddenly come to much wealth in their lives, they will also be tempted towards law aversion including bribery; however, if "social justice" is implemented in the society, many of the existing problems and shortcomings will be resolved.

3. Establishing guidance centers for clients

Many people in the community do not have good familiarity with their citizenship laws and rights to solve their legal and non-legal problems and claims when they go to government departments; therefore, they will lose themselves when they first deal with formal obstacles. Therefore, they will seek professional people and intermediaries and pay bribes to have their problems resolved as soon as possible. Establishing an institution in each organization to familiarize people with their rights and guide them is one way to prevent bribery.

Received:14 February 2018/Accepted:23 April 2018/Published:20 June 2018

Conclusion

In social relationships, any kind of practice that violates the rights of others is forbidden reasonably and religiously and is ruthlessly prohibited by all people as oppression. When a person uses bribery to reach his illegitimate goals, they will have the same status.

Although giving and taking bribes have always been common in different forms and no one can deny or obscure this ominous phenomenon among all ages and generations, the widespread use of this phenomenon should not prevent us from combating it seriously and fundamentally.

One solution to prevent and deal with bribery is the legal solution, for which we require adopting a comprehensive law not only to criminalize bribery in the private sector, but also to remove the legal grounds for bribery and predict appropriate and decisive punishment for bribe takers and bribe givers.

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