



## Criminalizing Bribery of Foreign Public Officials and Officials of International Institutions

“A Realistic and Analytical Vision”



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**Corruption has been known since ancient times, its roots deeply entrenched, its forms and methods varied, and its devastating effects exacerbated in many societies. The consequences of corruption vary depending on its forms and fields and differ in magnitude. In our era, corruption has become a global phenomenon, spreading like a cancerous network to encompass all countries, whether rich or poor, strong or weak, developed or developing. This phenomenon has raised concerns and fears among governments and people around the world.**

**Bribery is considered a form of administrative corruption, if not the most important and widespread. It is one of the most dangerous ailments afflicting public functions, tarnishing their honor and reputation, and leading to a loss of public trust in the state. For this reason, religions have prohibited bribery, and secular laws have long agreed on punishing it.**

Bribery is an act committed by a public official or a person in a public position when they exploit their position for personal gain. This misuse of power is the gravest betrayal a bribed person can commit. By exploiting the authority entrusted to them, they not only betray their professional duties but also the society that relied on their integrity and honesty.

In recent decades, the international community has recognized that bribery is no longer confined to national public officials. It is also committed by foreign public officials and officials of international institutions. This form of corruption has become one of the most detrimental to the values of justice, development, and progress in contemporary societies. Consequently, this form of bribery has been criminalized in various international agreements such as the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the United Nations Convention against Corruption. Regional agreements include the African Union Convention on Preventing and Combating Corruption and the Arab Convention against Corruption. These agreements have influenced the national legislation of many countries across different continents and legal systems, reflecting the imminent threat bribery poses to nations worldwide.

The Egyptian criminal legislator has been keen on protecting all

elements that ensure the proper performance of public duties by criminalizing various behaviors—whether actions or mere omissions—that harm or endanger these elements. The state has ensured that public employees are criminally liable if they perform their duties for a reward. Public employees should carry out their duties without expecting personal gain and without receiving any undue benefits.

Therefore, the Egyptian legislator has emphasized the integrity of public office by criminalizing the behavior of employees who seek or obtain undeserved benefits through their position. This is reflected in Chapter Three of Book Two of the Penal Code No. 58 of 1937 (Articles 103 to 111), which details various forms of bribery and prescribes severe penalties.

Being aware of the seriousness of bribery involving foreign public officials and officials of international institutions, and the importance of combating it, and in compliance with international and regional conventions that Egypt has joined, which require the inclusion of such bribery in national legislation, the Egyptian legislator has issued Law No. 5 of 2018. This law amended certain provisions of the Penal Code, adding a new article (Article 106 repeated “B”) to criminalize the bribery of foreign public officials or officials of international public institutions, as well as adding a second paragraph to Article 111 to define these officials. The texts are as follows:

Article (106 repeated “B”): “Any foreign public official or official of an international public institution who requests for themselves or others, or accepts, or takes a promise or gift, to perform or refrain from performing their international duties, or to violate their duties, is considered a bribe-taker and shall be punished with life imprisonment and a fine of not less than one thousand pounds and not more than twice the amount given or promised. The same punishment applies to anyone who offers a bribe to a foreign public official or an official of an international public institution and the offer is not accepted.”

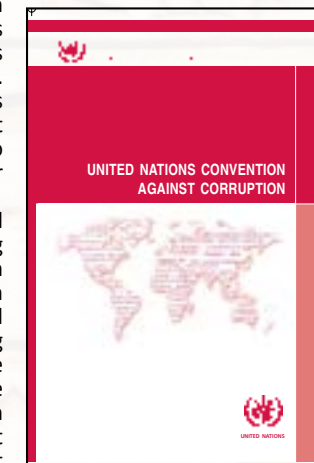
Article (111) Second Paragraph: “For the purposes of this chapter, a ‘foreign public official’ means anyone who holds a legislative, executive, administrative, or judicial position in a foreign country, whether appointed or elected, and any person who performs a public function for a foreign country. An ‘official of an international public institution’ refers to any international civil servant or any person authorized by such an institution to act on its behalf.”

The definitions of a foreign public official and an official of an international public institution in Egyptian legislation align with their definitions in the United Nations Convention against Corruption and most international, regional, and comparative national laws. The elements and pillars of this crime in Egyptian legislation are consistent with many international and regional conventions and comparative national laws. However, some international conventions, such as the United Nations Convention against Corruption, regional conventions like the Arab Convention against Corruption, and comparative national laws such as the US Foreign Corrupt Practices Act, limit this crime to international commercial transactions only. In contrast, the scope of the crime in Egyptian legislation includes all acts of foreign public officials and officials of international public institutions within the official functions of their positions. Therefore, the crime of bribery applies regardless of the nature of the act, omission, or breach that was exchanged for the bribe, whether related to international commercial transactions or any other official function.

It is worth noting that the elements and components of the crime of bribery involving a foreign public official and an official of an international public institution do not differ from those of the crime of bribery involving a national public official, except for the element concerning the identity of the bribe-taker in the first instance (the employee exploiting their position) and the identity of the official being offered a bribe in the second instance (offering a bribe without acceptance). In both cases, the individual must be a foreign public official or an official of an international public institution who is functionally competent in relation to the work involved in the crime, regardless of their specific role. Apart from this, it is the same crime of bribery involving a national public official, with both its material and moral elements, and all the provisions of the bribery crime detailed in Chapter Three of Book Two of the Penal Code apply.

Egypt’s recognition of the seriousness of bribery involving foreign public officials and officials of international public institutions, and the inclusion of provisions in its national legislation—the Penal Code—criminalizing this form of bribery, is an important step in combating this crime. This is in line with the international and regional conventions Egypt has joined, and with the international efforts and practices of many countries around the world in this regard. It strengthens Egypt’s efforts to prevent and combat corruption, enhances the outcomes of these efforts both nationally and internationally, and contributes to improving its ranking in corruption indices. However, since the law’s enactment in 2018 without its provisions being applied in practice, it does not mean that this crime is not being committed; rather, it indicates the presence of obstacles preventing its application. This

**Training and preparing judicial officers specialized in enhancing the understanding and awareness of the importance of combating the crime of bribery of foreign public officials and officials of international public institutions, and its legal elements and components, with an explanation of the key rules to be observed during crime fighting. The aim is to link legal provisions with their practical application**



undermines the purpose of the law, which is to protect the interests of the Egyptian state, foreign states, or international institutions to which the official belongs from exploitation, causing significant harm to their interests.

As a result, there is no benefit in international consensus on combating this crime, as expressed in ratified and effective international and regional treaties, and in national laws enacted to achieve this goal unless efforts are made to apply these treaties and laws with a full understanding of their objectives, a deep comprehension of their provisions, and the necessary means for effective practical combat to achieve the intended purpose of criminalization. Some proposals to achieve this are as follows:

**Training and Preparing Judicial Officers:**

This is done through:

Enhancing their understanding and awareness of the importance of combating the crime of bribery involving foreign public officials and officials of international public institutions, its elements, and legal components.

Highlighting the key rules to be observed during the fight against this crime, linking the law’s texts to their practical application.

Developing the skills of Judicial Officers in foreign languages and modern technology—using trusted translators and experts when necessary—to uncover the crime and obtain evidence of its commission, especially if any of the perpetrators use foreign languages or modern technology, ensuring the most efficient and effective combat of this crime.

**Understanding the Work Nature of Foreign Public Officials and International Institution Officials:** It is important for judicial officers to comprehend the job functions of the entities where the foreign public official or international institution official works. This will help identify the loopholes that corrupt employees may exploit and analyze the language and terms used by the crime’s parties accurately.

**Conducting Parallel Financial Investigations:** Carry out financial investigations immediately upon learning of the bribery crime to determine if the perpetrator has committed money laundering from the bribery proceeds. Quickly take the necessary legal measures to seize illegal funds to prevent their disposal, smuggling, or use for harmful purposes to society.

**4. Raising Public Awareness**

Raising public awareness about the seriousness of the crime of bribery involving foreign public officials and officials of international institutions, as well as related crimes such as money laundering, is crucial. It is important to encourage citizens to contribute to combating these crimes by reporting any information

they have about these crimes and their perpetrators to the relevant authorities.

**Anti-Corruption Academies:** These institutions, in their training, awareness, and monitoring roles, should conduct courses for employees in organizations that interact with foreign public officials or officials of international institutions. These courses should highlight the importance of combating this crime, its elements, and the crucial role of employees in reporting any information they have about incidents related to this crime and assisting in identifying perpetrators.

**Local Cooperation:** Enhance local cooperation among various relevant entities and agencies involved in combating corruption crimes. This cooperation should focus on improving methods for detecting the crime of bribery involving foreign public officials and officials of international institutions and tracking down perpetrators.

**International Cooperation:** Strengthen international cooperation between law enforcement agencies and their regional and international counterparts to combat the crime of bribery involving foreign public officials and officials of international institutions. This should include the exchange of information as regulated by international agreements, as well as establishing bilateral protocols and memorandums of understanding on this matter and activating existing ones.

**Collaboration Among Anti-Corruption Academies:** Develop collaborative efforts among anti-corruption academies in different countries to organize joint training courses, workshops, and conferences for law enforcement officers and members of investigative agencies on combating the crime of bribery involving foreign public officials and officials of international institutions. This should involve linking legal texts to practical reality, sharing experiences and expertise from countries that have effectively combated this crime, discussing the latest developments, and identifying the best ways to address the crime and apprehend perpetrators. Given that most countries are parties to the United Nations Convention against Corruption and have similar legislative provisions regarding this crime, such collaboration is especially beneficial.