

Legal and administrative mechanisms to combat corruption

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Abstract

Increased interest in the issue of financial and administrative corruption in most countries of the world due to the serious repercussions of its spread affecting various fields in the country, in addition to the serious threat it poses to the security and stability of society.

If countries of different progress and development suffer from the spread of the phenomenon of administrative and financial corruption, however, we find the underdeveloped or developing countries most affected by its exacerbation, and this is due to several reasons such as the low standard of living of public servants in the state on the one hand, and the poor cultural level and general awareness of the citizen in general On the other hand. Accordingly, the fight against financial and administrative corruption in such circumstances requires the combination of two mechanisms, one of which is preventive, aimed at preventing its occurrence and spread, and another punitive, aimed at imposing penalties and penalties on all those found guilty of corruption crimes.

Keywords : corruption; Confronting; Legal Mechanisms; Administrative Mechanisms.

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I. INTRODUCTION

Increased interest in the issue of financial and administrative corruption in most countries of the world due to the serious repercussions of its spread affecting various fields in the country, in addition to the serious threat it poses to the security and stability of society.

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Confronting the phenomenon of corruption in all its forms and manifestations basically requires the elimination of its main causes. Therefore, countries that know the spread of this dangerous scourge do not spare the slightest effort to combat it.

In addition to allocating security services whose task is to track the effects of the perpetrators of corruption crimes, combating this dangerous social phenomenon requires a combination of two mechanisms, one of which is preventive, aimed at preventing its occurrence and spread, and another punitive, aimed at imposing penalties and penalties on all those found to have committed corruption crimes.

The main problem posed by this study is: **to what extent can the mechanisms put in place by the legislator be sufficient to reduce or even reduce the spread of the phenomenon of financial and administrative corruption?** To answer them, we decided to divide our study as follows:

1. Legal Means to Combat Corruption

In this section, we will address the fight against financial and administrative corruption in both the Constitution by adopting the highest laws, then how the Penal Code dealt with this phenomenon or rather serious crime, and we will also address combating it in some special laws.

1.1 the fight against corruption in Constitution

The constitutions provide for some principles that are relevant to the fight against financial and administrative corruption, the most important of which is the provision for the accountability of ministers and senior officials before the parliament in democratic countries, where parliamentary control over the work of ministers by its various means: such as parliamentary questioning, questioning, and parliamentary investigation is necessary to avoid abuse of government power(Presidential Decree No 20/251, Article 25),Any imbalance that emerges during the accountability process would produce ineffective, corrupt and irresponsible administrative systems, and the processes of detecting administrative and financial corruption often begin by the daily newspapers

provoking scandals related to corruption, causing the opposition to demand an investigation by parliamentary bodies (Presidential Decree No 20/251, Article 115).

Perhaps one of the most important recent initiatives at the Arab level in the field of the role of parliament in combating financial and administrative corruption was the holding of the first conference of the Organization of Arab Parliamentarians Against Corruption, an Arab organization that was officially announced in November 2000 and includes so far ten Arab countries - representing the regional branch of the parent organization called (Parliamentarians Against Corruption)-- In the Moroccan capital Rabat in April 2006 under the title: The Role of Parliaments in Controlling Public Funds through the Control of Public Budgets, the recommendations of this conference emphasized the amplification of the phenomenon of administrative and financial corruption in the Arab world and its negative repercussions on development projects and the process of democratic development and the impact on attracting investments.

The constitutions also stipulate the principles of equality, social justice, security, tranquility and equal opportunities for all citizens, that public functions and national service are entrusted to those in charge of them, and that the public servant in the performance of the duties of his job is aimed at the public interest alone. Members of the executive branch and senior officials of the state shall by their conduct target the interests of the State, uphold the word of the common good and deny self-interest altogether, and shall not exploit their official positions in any way whatsoever for their own benefit or for the benefit of those with whom they have a special relationship. . It further stipulates that the protection of public funds is the duty of every citizen, and that the law is among the cases in which violation of this duty is punishable... The performance of taxes and public costs is a duty of every citizen that should not be derogated from in any way because of their great benefit to the public interest of benefit and great good, as their proceeds are used to establish structures, build schools, hospitals, health insurance and finance public services and facilities that serve all people (Presidential Decree No 20/251, Article 82).

1.2 combating corruption in the penal law

Punitive laws contain legal articles that contain penalties for anyone who commits a crime of financial and administrative corruption, such as bribery, embezzlement, and abuse of functional influence. The Algerian legislator has already done well to dedicate an entire law to combating such serious crimes, Act No. 06/01 of 20 February 2006 on the prevention and control of corruption. Among the most important rules and provisions contained in this legislation are:

Authorization of property in order to ensure transparency in political life and public affairs, the protection of public property and the preservation of the integrity of persons entrusted with a public service, obliges the official to declare his property (Law 06/01, article 4). Subjecting the conclusion of public transactions to the procedures in force in

the field of public transactions on the rules of transparency, fair competition and the cause of objective criteria((Law 06/01 ,article 9).

Take measures to prevent the involvement of the private sector in corruption and, where appropriate, provide for effective, appropriate and deterrent disciplinary sanctions resulting from their violation.

Encourage the participation of civil society in the prevention and combating of corruption (Article 15).

Provide for the establishment of a national body in charge of preventing and combating corruption, with a view to implementing the National Anti-Corruption Strategy (arts. 17 et seq.).

Provide for deterrent penalties for anyone who commits the crime of bribery or embezzlement of the segment of public officials of all forms by imprisonment from two to 10 years and a fine from 200.000 DZD to 1000.000 DZD (Article 25).

Punishment of a public official for the crime of exemption and illegal reduction in tax and fee by imprisonment from 05 years to 10 years and a fine from 500.000 DZD to 1.000.000 DZD (Article 31)

Provide for the criminalization of acts of exploitation or exploitation of the influence of the post committed by any public official and the imposition of penalties ranging from temporary hard labour, imprisonment and a fine equivalent to the value of the money and other things obtained by the employee or the inclusion in his liability of what was entrusted to him or who obtained a personal benefit from one of the transactions of the administration to which he belongs, whether he does so directly or by a borrowed person or by resorting to sham instruments and documents.

Provide for the criminalization of infringement of public funds and the imposition of criminal punishment on the perpetrators with a view to providing protection to public funds from being attacked or damaged to ensure the continuation of this situation intended for the public benefit.

The criminal protection of funds was not limited to the provisions contained in the Penal Code, but there are other laws that explicitly criminalize the attack on public funds, such as the Finance Laws, which added crimes other than theft, embezzlement and bribery and did not limit the criminalization to the public official when committing these crimes, but included the accomplice, the instigator, the intervener, the agent and the commercial intermediary.

Amend the penal codes of developing countries to include international bribery in which the briber is a foreigner, whether a natural person or a legal person, prosecute the briber criminally (Article 28), exempt this crime from the regional rule similar to state security crimes, prohibit the use of bribes by officials of national companies or businessmen from foreign companies in exchange for providing facilities in the completion of contracts, or features by illegal methods and impose deterrent penalties on

those involved in such a These institutions. The problem with combating corruption as an illegal activity through the Penal Code is not the lack of penal articles or the lack of strict penalties against spoilers, but rather that these articles are not always applied appropriately or are selectively applied by the criminal system itself. The investigation of corruption cases is usually very complex and is committed in disguise with legitimate equations and thus the physical evidence available is few, and for this reason some countries have resorted to the establishment and formation of independent special units for detection, sabotage and investigation to confront administrative and financial corruption. In addition, it is also difficult for senior officials in senior management to enjoy immunity and not to be subjected to political pressure, which constitutes a major obstacle to the bodies investigating corruption cases, and the failure to provide legal protection to witnesses in corruption cases(Boubchota Basma,2021,p556).

2. Administrative means to combat corruption and the consequences of its underdevelopment.

2.1 Administrative Means to Combat Financial and Administrative Corruption.

As a preventive strategy, the Algerian state has developed many factors that may help it prevent and reduce the spread of the phenomenon of administrative and financial corruption, such as taking care of the public employee, both in terms of general and specific conditions for assuming the job, as well as surrounding him with many guarantees and rights that provide him with the appropriate atmosphere to perform his duties to the fullest. Face .

Among the most important administrative mechanisms that can be relied upon to prevent corruption are the following: :

2.1.1 the adoption of a system of job conduct for state employees that includes: adopting the ethics of a sound job, promoting the principles of equality, equal opportunities, justice, transparency, accountability, concern for public funds, respect for the rights and interests of others without discrimination, and gaining the trust of the public through integrity and responsiveness to its demands, Not to use the public function for administrative and financial gains, and the employee's abstention from using deception, and nepotism or to carry out any activity that would lead to a conflict between his interest, personality and public interest, or to disclose official information, documents and documents to which he is acquainted, by virtue of his job, and the employee must adhere to the implementation of the orders and directives of his superiors and their legitimate instructions, according to the administrative sequence and treat him with respect and honesty with his superiors and colleagues without Distinguish and be a good role model for his subordinates at work, and abide by the laws, regulations and instructions in force(Ordinance 06/03, Articles 40-57) .

2.1.2 the selection of competent and impartial administrative leaders according to objective criteria, especially in developing countries, including the Arab countries, as the

appointment of administrative leaders who are distinguished by the characteristics of integrity and competence and those with the relevant experience to assume senior administrative positions in government agencies and public institutions (Ali ben Ahmed, 2013, p159).

2.1.3 ensuring the rights of employees: because one of the repercussions of administrative and financial corruption in the administration is that the rights of employees are underestimated and reduced or wasted by the arbitrariness of the administration itself in the application of laws and regulations, as the employee's destitution, need and sense of instability and security at work, In addition, the management adopts a method of evaluating the employee's job performance according to objective criteria that entails removing any employee who is suspected in his dealings with the public and moving him to another location away from dealing with the public. Therefore, it is necessary to build trust about the public employee in his department and in the preservation of his rights and not to take them away so that he does not feel fear and worry about the loss of his rights, and therefore corruption does not leak into the administration by the extravagance of employees to exploit their jobs by graft (Ordinance 06/03, Articles 26-39).

2.1.4 activate administrative and financial control to ensure that all administrative activities are on a correct path towards achieving the objective objectives of the administrative plan, and to preserve public funds through supervision, examination, review and self-control to determine how the administrative work is conducted and to ensure the validity of the use of public funds for the purposes allocated to them in accordance with the regulations and instructions that have been legislated for them, as well as in order to ensure the integrity of the results in these works, As well as following effective and specific steps to put forward tenders and auctions and signing administrative contracts for public works, which facilitates control and supervision of the implementation of administrative contracts, and plays continuous control and follow-up so that it is a positive and effective control that ensures the full and effective supervision of superiors over their subordinates (Nawaf Kanaan, 2005).

2.1.5 adopting the method of job competitions in the appointment of employees in government agencies in a way that ensures the placement of the right man in the right place of reputable and highly qualified people. This method leads to the elimination of nepotism, nepotism and courtesy in the appointment of the public servant, which has been and continues to lead to the selection of corrupt elements who are willing to behave dishonest in their dealings with the public to gain a private interest at the expense of the public interest (Hamid Mahdid, 2019-2020, p58).

2.1.6 the interest of the various print, audio and visual media in highlighting the phenomenon of administrative and financial corruption and its consequences and its negative effects, whether economic or social, on the individual and society, and to raise

awareness of the dangers of corruption through educational institutions and civil society organizations, , with a focus on the religious and moral aspect, as well as exposing the crimes of administrative corruption and money and publishing them in all media so that they can be a sermon, a lesson and a deterrent to those who beg to commit them, regardless of their location(Ahmed Hassan al-Qadi, 1998, p 26).

2.1.7 the use of modern practical means, especially computers, to collect and exchange information, and the need to take advantage of the benefits of globalization in the need to develop new approaches that meet the requirements of combating corruption at the local and international levels. International cooperation plays a positive role in this area through the cooperation of States among themselves in exchanging information and training to use the latest technical means in collecting investigations and how to monitor and control to detect these crimes, by exchanging modern devices to be used in the process of eavesdropping and recording audio and video of conversations that take place during meetings and filming all the movements of the perpetrators of the crimes of bribery, embezzlement, money laundering and exploitation of the influence of the job without them feeling Until the hand of justice reaches them(Khadidja Médjahdi,2015 , p267).

2.2 the consequences of the failure of mechanisms to protect against financial and administrative corruption

The failure to activate the aforementioned mechanisms of protection from financial and administrative corruption has serious effects and consequences that are difficult to remedy and reparation, perhaps the most prominent of which are: hindering the process of sustainable development, limiting the opportunities for administrative reform, harming the national economy, compromising social and security conditions, and we will present these effects as follows:

2.2.1 Hindering the process of sustainable development

Administrative and financial corruption is one of the most important obstacles to sustainable development and good government performance, especially in third world countries, when it disrupts the steps drawn up to reform government institutions as well as the procedures that achieve the goals set in the first place.

The spread of the causes of administrative and financial corruption has negative effects on the exploitation of resources and economic and administrative performance in general, as this results in weakness in government imports, economic growth and disruption in the level of poverty and income distribution and thus affect the level of performance of the state in the provision of services in all its forms and increase the burdens on the shoulders of the state and society. The poor groups are affected primarily by the low rate of investment, and the gap between them and the rich widens because the increase in economic growth helps the economic well-being of all segments of society,

and the varying degree of this benefit and the decline in growth are felt by the poor class in society before others (Youssef Khalifa, 2002, p 258).

Developed countries contribute to spreading financial and administrative corruption in developing countries because corruption and bribery are part of the laws and culture of these countries, where we find that most European countries consider bribery paid to officials outside these countries as expenses that they deduct from taxes paid by companies and individuals to the government, this means that the governments of European countries support bribery and fuel corruption in developing countries, although some developed countries have recently tended to correct this situation as the OECD countries have signed an agreement prohibiting bribery to officials in developing countries to conclude deals. Also, the use of foreign companies fraud methods and deception to obtain tenders for the implementation of projects in developing countries, which requires the use of modern technologies in the detection of fraud and corruption, and a recent conference was held in Cairo on The role of modern technologies in the detection of fraud and corruption issued several recommendations, the most important of which are: Emphasize the keenness of the state to pursue corruption as soon as it is discovered and deal seriously with the reports of the regulatory bodies, and the establishment of qualitative supervisory bodies whose function will be to submit field reports to the government, and allow the publication of cases of corruption regardless of who is involved in them and strengthen the role of organizations and bodies working in the field of combating administrative and financial corruption (Conference of Modern Technologies in Detecting Fraud and Corruption, 2006).

2.2.2 Reducing the opportunities for administrative and financial reform

Jurists define administrative reform as: "Administrative efforts that are specifically designed to bring about fundamental changes in both the structure and procedures of the bureaucratic apparatus, and in the attitudes and behaviors of employees with the aim of improving organizational effectiveness and achieving the goals of national development" (Sahar Abdellah Alhamli, 2013, p 336).

It may be agreed that administrative and financial corruption would harm administrative reform efforts, as some forms of administrative and financial corruption were the result of inequality between employees and the continued abuse of power, the length and complexity of administrative and judicial procedures, the absence or weakness of the functional ethics of government work and the absence of the concept of accountability, and each divorce led to doubts about the role of the state and the law. If administrative and financial corruption is concentrated on two basic elements, namely the public servant who sells his services exploiting his powers and functional influence, and the second party who deals with this employee, whether who buys services that he does not have the right to receive, or who pays additional amounts has the right to receive them, taking advantage of the weakness of the religious and moral consciousness

of the employee, the corrupt bureaucracy and the absence of follow-up, hence the role of financial and administrative corruption in the These two elements hinder administrative and financial reform efforts(Maamar Botalbi-Sayeb Zitouni, 2012, p147) .

2.2.3 Damage to the national economy

The economic effects of administrative and financial corruption vary according to the levels of corruption classified by economists into two levels: small corruption that relates to the completion of routine procedures quickly or not originally such as those carried out by customs officials and their ilk, and large corruption carried out by senior officials which is related to influencing decision-making such as decisions to establish economic projects, and the award of tenders and tenders, and both levels of corruption are harmful to the national economy, where corruption leads to The small one to inflict serious damage on the entire quality of life economically, and also in the case of the spread of large corruption there is no hope of eliminating small corruption(Redouen Doudah, 2014,p158).

Among the most important negative effects that administrative and financial corruption has on the national economy , Decrease in government revenues due to tax and customs evasion and the provision of support to those who are not entitled to it and their access to this support through bribery and exploitation of functional influence, which leads to reducing development expenses such as infrastructure projects, increasing administrative costs due to loss and shortage of government revenues and increasing payments for the prices of materials and supplies. A recent study by the Bank showed that the economic cost of administrative and financial corruption and its impact on the revenues of countries is represented by the high volume of tax evasion thanks to corrupt practices, which leads to the deficit of the public budget and the weak level of public spending of necessary goods and services, the rise in the cost of services to 10%as a result of the additional costs caused by corrupt practices, and the high costs of capital formation (buildings and equipment) as a result of commissions ranging in some third world countries. Some Arab countries include between (20-50%) or more above the original cost(Jassim Mohammed Al-Dahabi, 2000, p 6).

2.2.4 Prejudice to social and security conditions

The social damage caused by financial and administrative corruption is no less serious than the economic damage, it leads to a severe collapse in the social and cultural environment, when generations accept corruption as a way of working and a way to obtain advantages in society, the social moral fabric begins to collapse, and perhaps in the transformed economies there is clear evidence of the negative and destructive effects of corruption as well as the rapid and sudden transformations that corruption causes in the social structure and the perpetuation of social inequality, and the spread of The spirit of despair among the members of society where social scientists agree that the lower the hope, the lower the initiative, the lower the effort, the less effort decreases, when the

effort decreases the achievement decreases, and in the absence of achievement, people pass on frustration and despair from generation to generation(Jassim Mohammed Al-Dahabi,2000,p76).

The phenomenon of financial and administrative corruption also leads to damage to the social entity of the state, since public authority is an essential element of the social entity, and its men are faithful to the interests of the nation and the proper application of laws, and any imbalance of power automatically applies to the damage to the system of the nation, and individuals often follow the behavior of their leaders in honesty, sincerity, dedication, giving, altruism and redemption, if it falls into the behavior of those in power - and they are the focus of attention The nation – which reflects these concepts or scratches their connotations in practice, the effect of this automatically applies to the whole of people, thus disturbing the third element - society - as the most important pillar in the social entity of the nation(Abdul Baqi Jasmo, 1991, p128) .

3. Conclusion:

When the reasons or rather the preventive plan represented in the good selection of qualified employees, the improvement of their living conditions and the development of moral and professional conscience in them did not achieve the hoped for in addressing the phenomenon of corruption, the Algerian legislator intervened by stipulating the criminalization of many acts of corruption according to several articles of the Penal Code, except That was also not enough to deter the perpetrators of such crimes, so Law 06/01 was issued, which includes the prevention and combating of corruption, as a special text, criminalizing any possible criminal acts described as corruption.

Therefore, we tried through this modest study, to stand on the strategy of the Algerian state in combating the crime of corruption, by addressing the various preventive and legal mechanisms used in this field, which we see as insufficient in fact even to mitigate its spread due to the presence of many obstacles such as immunity that Some people enjoy judicial follow-up, as well as bank secrecy, as well as the difficulties that impede the extradition of criminals.

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