

## Comparative Analysis of Criminal Liability for Bribery in the Criminal Laws of Iran, Russia, and Azerbaijan

Ali Kiani Shams<sup>1\*</sup>, Samira Valiev<sup>2</sup>

<sup>1</sup> Graduated of Criminal Law and Criminology from the Institute of Philosophy and Law of the National Academy of Science of the Republic of Azerbaijan in Baku, Baku, Azerbaijan.

<sup>2</sup> Criminal Law and President Odal Yurdu University Baku, Baku, Azerbaijan.

\*E-mail ✉ Kianiali59@gmail.com

### Abstract

This article presents a comparative analysis of the legislation of the Azerbaijan Republic, the Russian Federation, and the Islamic Republic of Iran concerning the definition of responsibility for bribery. Implementing the proposed measures is expected to enhance criminal legislation. The study also addresses issues related to responsibility for bribery within the framework of fundamental criminal law. Criminal liability refers to the capacity to bear legal sanctions established to prevent criminal acts. On this basis, individuals are classified into two categories: those possessing criminal liability and those without it. Individuals with criminal liability are considered mature and legally competent, whereas those without it—such as minors—are exempt from facing penalties for specific reasons. This article focuses on criminal liability in the context of bribery. Throughout human history, bribery has been recognized as a social crime and condemned by society due to its detrimental impact on economic and administrative systems. Given the significance of this offense in various religious and legal frameworks, bribery is prohibited and universally condemned, often provoking severe societal and legal responses.

**Keywords:** Employee, Bribe, Corruption, Criminal responsibility, Mediation

### Introduction

Criminal liability can be examined under three main aspects: the range of offenses, the scope of criminal liability, and the conditions under which criminal liability applies [1, 2].

Administrative corruption is not confined to Iran, Russia, or Azerbaijan; it represents a global social threat. Bribery has spread across nations and, despite often being carried out secretly, occupies a significant place among criminal acts. Offenses such as bribery undermine governmental authorities and institutions, diminishing their credibility, authority, and respect in the eyes of the public.

Access this article online

<https://smerpub.com/>

Received: 18 February 2022; Accepted: 06 May 2022

Copyright CC BY-NC-SA 4.0

**How to cite this article:** Shams K, Valiev S. Comparative Analysis of Criminal Liability for Bribery in the Criminal Laws of Iran, Russia, and Azerbaijan. Asian J Ethics Health Med. 2022;2:54-60. <https://doi.org/10.51847/9jEqsEsSRY>

Additionally, bribery disrupts the administrative order, infringes upon citizens' rights and interests, and compromises social equality and justice. Some individuals engage in bribery with the belief that by influencing governmental employees, they can resolve personal issues or satisfy their needs. Since those involved in bribery must face legal consequences—and because bribery often facilitates other crimes such as theft, money laundering, and illegal possession of property—it contributes to heightened social insecurity. In bribery, the perpetrator seeks personal gain through money, property, documents, or the misuse of information to carry out unlawful acts or to avoid duties that belong either to themselves or to other officials within the relevant organization. The act of bribery involves collusion between the briber and the bribee or their agents. Legally, the physical element of the crime is fulfilled when the sentenced individual accepts the payment, property, or documents in exchange for

performing or refraining from performing the desired action as defined by law.

Shambiati asserts that bribery is a crime specifically associated with government officials, employees, or official authorities. When a non-employee receives any amount for completing tasks within governmental institutions, their action constitutes extortion or fraud rather than bribery [3, 4].

Bribery is considered an absolute crime, meaning its commission does not depend on the outcome. Even preparatory steps toward committing bribery warrant legal penalty, as the offender demonstrates intent to commit a crime even if the material element is incomplete. In certain situations, attempts to commit bribery are recognized legally as punishable offenses. Here, although the intended harm may be prevented by external factors beyond the perpetrator's control, the criminal intention itself reflects anti-social behavior. Therefore, both the briber and the bribee are subject to legal sanctions. For example, Article 594 of the Islamic Penal Code of Iran prescribes the minimum penalty for initiating bribery, while Article 63 of Azerbaijan sets rules for punishing individuals who commit bribery.

Mozaffari emphasizes that mere acceptance of a promise does not constitute a crime. If a promise is accepted before the action and later the briber fails to act as intended or the employee refuses the payment, the bribery offense is not realized. However, if a governmental employee accepts a promise before the action and the briber does not fulfill the agreed act, it constitutes a bribery offense, as the acceptance of the promise is directly linked to the performance of the work [5].

#### *Liability of legal entities related to the crime of bribery*

Criminal liability is not restricted to natural persons; legal entities can also bear responsibility. According to Section 15-2 of the amended Criminal Code of Azerbaijan, legal entities are held liable for bribery, although they are not classified as criminals. In other words, natural persons bear direct liability for bribery, while legal entities are responsible for giving or receiving bribes. Similarly, the Islamic Penal Code of Iran imposes liability on legal entities for certain offenses, including bribery, with penalties such as restrictions on employment in specific positions and suspension of the entity's activities. The United Nations Convention against Corruption, approved on October 31, 2003, reinforced international regulations

concerning bribery. Article 15 addresses bribery by national governmental authorities, Article 16 pertains to foreign governmental and public or international organizational authorities, and Article 21 relates to the private sector (Palermoltaly convention and Merida Mexico convention (2003)).

Bribery has long posed a threat to the integrity of human societies, manifesting in various forms and across different eras. In contemporary times, bribery is no longer confined to traditional methods; as administrative systems expand, social interactions become more complex, and public expectations grow, the crime has evolved into more sophisticated and multifaceted forms. Bribery-related offenses are often concealed and have significant implications for the study of criminology.

#### *Bribery in Azerbaijan and the Russian federation*

An examination of bribery in Azerbaijan and Russia revealed that in 2001, Russia recorded 4,797 instances of giving bribes and 3,112 instances of receiving bribes, totaling 7,909 cases, with a bribery coefficient of 5.45. Subsequent years showed the following:

1. In 2002, there were 4,533 cases of giving bribes and 2,758 cases of receiving bribes, totaling 7,291 instances, with a bribery coefficient of 5.03.
2. In 2003, 4,425 cases of giving bribes and 2,921 cases of receiving bribes were reported, totaling 7,346 cases, with a bribery coefficient of 5.07.
3. In 2004, 5,273 cases of giving bribes and 3,655 cases of receiving bribes were documented, totaling 8,928 cases, with a bribery coefficient of 6.16.
4. In 2005, 5,720 instances of giving bribes and 4,104 instances of receiving bribes were registered, totaling 9,821 cases, with a bribery coefficient of 6.77.
5. In 2006, 6,546 cases of giving bribes and 4,517 cases of receiving bribes were recorded, totaling 11,063 instances, with a bribery coefficient of 7.63.

Between 2001 and 2006 in Russia, instances of giving bribes exceeded those of receiving bribes, which appears to be linked to the fact that, during that period, the penal code did not impose criminal liability on the briber. In Azerbaijan, 54 cases of bribery were recorded in 2001, with a bribery coefficient of 0.67. In 2002, 9 cases were registered, with a coefficient of 0.11; in 2004, a total of 5 cases with a coefficient of 0.05; in 2005, 13 cases with a coefficient of 0.15; in 2006, 12 cases with a coefficient of 0.14; in 2007, 9 cases with a coefficient of 0.10; in 2008, 4 cases with a coefficient of 0.05; in 2009, 7 cases

with a coefficient of 0.08; and in 2010, 7 cases were also recorded, maintaining a coefficient of 0.08 (Report of statistics ministry of the interior of Republic of Azerbaijan (2000-2009)) (Statistical Report of the ministry of the interior of Federation of Russian (2000-2009)).

The aforementioned data indicate that, compared to 2001, bribery in the Russian Federation increased by 0.40 from 7,909 cases to 11,063 cases in 2006. In contrast, during the same period in Azerbaijan, bribery (including both giving and receiving bribes) decreased approximately 4.5 times, from 54 cases down to 12. This downward trend continued in subsequent years. At times, the number of bribery cases recorded in Azerbaijan was 50 to 120 times lower than in Russia. This suggests a reduction in the commission of bribery in Azerbaijan; however, the statistical decline may partly reflect the fact that many instances of bribery remained undisclosed. Factors contributing to this concealment include mutual satisfaction of both the briber and the bribee, fear of penalties, potential dismissal from criminal organizations, inefficiencies within judicial institutions, and managerial negligence, all of which allow the crime to remain hidden and facilitate its commission.

Article 311 of the Penal Code of Azerbaijan addresses receiving bribes, while Article 31 covers giving bribes. Similarly, Articles 290 and 291 of the Russian Penal Code, approved in 1996, define criminal liability for those committing bribery. According to Article 311 of the Penal Code of Azerbaijan, an employee who receives a bribe for performing or omitting a duty (action or omission) to benefit a third party, and acquires material property or other advantages—directly or indirectly, personally or through an agent—commits bribery (Penal code of Republic of Azerbaijan). Article 312 of the Criminal Law of Azerbaijan specifies that bribing an employee for executing actions within their competence occurs when material property or benefits are offered to the employee or a third party, directly, indirectly, or through intermediaries, in exchange for fulfilling or not fulfilling certain actions.

Article 290 of the Russian Penal Code addresses the act of receiving bribes, whereas Article 291 does not provide a definition for giving bribes (Penal code of Federation of Russia). Bribery occurs within ruling bodies, government offices, local organizations, commercial and service institutions, and other sectors responsible for delivering public services. Material property, privileges, and donations are considered subjects of bribery.

Bribery is primarily a crime committed by governmental officers, employees, or official authorities. When a non-employee accepts any amount for performing tasks within governmental authorities, the act constitutes extortion or fraud rather than bribery [3]. Dr. Validy emphasizes that accepting a bribe relates to performing or failing to perform duties associated with governmental organizations and public services [6].

The material aspects of a received bribe are outlined in Paragraph 1 of Article 311 of the Penal Code of Azerbaijan and Paragraph 1 of Article 290 of the Russian Penal Code, while the subjects of bribery are identified in Paragraph 1 of Article 311 of Azerbaijan and Paragraph 1 of Article 291 of the Russian Federation.

Unlike Azerbaijan and Russia, statistical data regarding bribery in Iran are not available, making it impossible to access comparable statistical tables for the country.

#### *Age of criminal liability in committing the crime of Bribery*

The acts of giving and receiving a bribe constitute a formally linked crime. Bribery occurs when the briber offers a portion of property with intent and the bribee knowingly accepts it. It is important to note that competent individuals possess specific characteristics, and by accepting a bribe, they assume criminal liability in practice. Typically, such individuals are over 18 years of age. Accordingly, anyone aged 16 or older who demonstrates sufficient judgment is regarded as criminally liable.

Under the Penal Code of Azerbaijan, individuals who have reached 16 years of age are considered criminally liable. Those under 18, having not yet attained the legal age of majority, are subject to mitigated penalties and are not prohibited from employment in certain positions. The Russian Penal Code provides similar regulations in this regard [7].

Prior to the 1979 revolution, Iran held varying perspectives on the legal age for criminal liability, and on instances in which the general Penal Code might not apply across different administrative and legal institutions. While the legislation attempted to define a religious age for criminal responsibility, administrative practices differed. For instance, Article 88 of Iran's Penal Code stipulates that children and juveniles who commit crimes are subject to ta'zir penalties. The type and extent of such penalties depend on the judge's discretion, who determines the maximum or minimum applicable

punishment. Generally, for children aged 9 to 15, the court may decide to:

- a) Return the child or juvenile to their parents or grandparents, or
- b) Place the child or juvenile under the care of real or legal entities; if none of these options are feasible, the court acts in accordance with the child's best interest.

Article 89 of the Penal Code specifies that teenagers aged 15 to 18 (solar years) who commit ta'zir crimes may receive penalties including:

- Probation for a period of three months to three years
- Financial fines proportional to the type of crime committed

Iran's legislator allocated Section 4 of the Islamic Penal Code to outline the conditions and obstacles of criminal liability. Article 146 states that immature individuals do not bear criminal liability. Article 147 defines the age of maturity at puberty as 9 years for girls and 15 years for boys (lunar months). Article 148 mandates that security and educational measures be implemented for immature individuals. Additionally, Article 976 of Iran's Civil Law considers individuals whose father is a foreign citizen and who have resided in Iran for at least one year by the age of 18 to be Iranian citizens. Thus, Iran employs different age criteria depending on the context: 18 years for general legal purposes, and 9 or 15 years (lunar) or 18 years (solar) in other contexts.

Although differentiated criminal liability applies to juvenile offenders compared to adults, recognizing persons under 18 as juveniles in domestic and international regulations remains subject to debate. The precise age range and the onset of criminal liability continue to be controversial [8].

#### *The different and amended suggestions in laws related to bribery in Russia, Azerbaijan, and Iran*

Iran's legislator must address the inconsistencies and divergences present in existing regulations and work to integrate them. Disparities are evident in bribery-related laws as well. Article 594 of Chapter 11 of the Islamic Penal Code, which deals with bribery, lucre, and fraud, states that the penalty for initiating such crimes is determined by law. Similarly, Notice 2 of Article 3 in another law, known as the rule of aggravating punishment and concerning bribery and fraud, specifies that the penalty for commencing a bribery offense is the minimum prescribed punishment. Article 18 of the Military Criminal Law provides that any military

personnel who, in performing or avoiding duties that are theirs or another personnel's, accepts money, property, or documents—or gives property gratuitously or below market value under any condition—commits bribery, even if their action or omission does not violate other laws.

Additionally, the Law on Developing Administrative Health includes provisions to combat corruption, including bribery. Following the legal hierarchy, Iran's legislator, like those of Russia and Azerbaijan, must amend and harmonize regulations to establish a unified system. This integration will eliminate inconsistencies in the criminal legislative framework and facilitate practical implementation and enforcement of the law.

It is important to note that only natural persons who have reached the legal age and possess adequate judgment can be considered criminally liable. In the case of receiving a bribe, the liable party is typically a state employee or an official of governmental or public institutions. In contrast, anyone—including state employees—can be considered a briber when giving a bribe. In certain circumstances, legal entities such as companies or their legal representatives may also bear criminal liability for giving or receiving bribes.

According to Article 312 of the Penal Code of Azerbaijan and Article 291 of the Russian Federation Penal Code, a briber who gives a bribe under coercion from officials with governmental authority and voluntarily reports it to state organizations is exempt from criminal liability. Similarly, Article 311, Paragraph 2 of the Penal Code of Azerbaijan, and Article 290, Paragraph 2 of the Russian Penal Code, state that an individual with authority who engages in illegal acts constitutes a bribe offense.

Articles 311, Paragraphs 1 and 2 of the Penal Code of Azerbaijan and Article 290, Paragraphs 1 and 2 of the Russian Federation Penal Code provide that actions planned and repeatedly executed by organized groups under coercion are subject to aggravated punishment. Notably, in December 2003, descriptive provisions of the Russian Penal Code regarding receiving bribes were revised.

Criminal liability for agents of bribery is separately defined in Article 312, Paragraph 1 of the updated Penal Code of Azerbaijan and Article 292, Paragraph 1 of the Russian Federation Penal Code. If an agent participates in giving or receiving a bribe but voluntarily reports it to state authorities, the court may exempt them from penalties.



In Iran, Article 118 of the Military Penal Code (2003) and Articles 588, 589, and 590 of the Islamic Penal Code address bribery in the armed forces, including receiving and executing bribes. Article 592 governs giving bribes, Article 593 regulates intermediation and attempts to receive bribes, and Article 539 specifies that physicians who accept bribes are criminally liable.

According to Article 588, if an arbitrator, auditor, or expert, appointed by a court or by the parties involved in a transaction, receives money or any type of property to act in favor of one party, provide opinions, or make decisions on their behalf, they shall be sentenced to imprisonment for a period of six months to two years or fined financially, and all received assets will be confiscated in favor of the government.

Article 589 states that if a judge engages in bribery and consequently imposes a penalty more severe than prescribed by law, they will be subject both to the penalty for bribery and the penalty associated with their judicial decision.

Article 590 clarifies that if a bribe is given not in cash but as gratuitous property, or as goods sold significantly below their usual price—or goods appearing to be sold at the usual price but effectively valued much lower—and such items are provided to government employees or agents, whether judicial or administrative, directly or indirectly, those employees are considered bribees and partners in the bribery.

Article 539 stipulates that if a physician issues a false testimonial regarding an individual's character to exempt them from official or military service, or to submit it to judicial authorities, they will face imprisonment of six months to two years or a financial penalty.

To enhance the penalties for bribery committed, on December 6, 1988, Iran approved a law known as the Act of Punishment for Aggravation of Bribery, Embezzlement, and Fraud, dedicating Articles 3 and 4 specifically to bribery.

Article 3 of this act declares that any state employee or agent—judicial or administrative—council members, municipal or revolutionary officials, armed forces personnel, governmental company employees, or any official or non-official public service agent who performs or omits acts related to their organization and directly or indirectly accepts payment, property, or documents, or receives offers of property, shall be considered as committing bribery.

Article 4 provides that all movable and importable property of individuals who establish or direct activities

to commit bribery, embezzlement, or fraud shall be confiscated by the government. Additionally, these individuals will pay a financial fine equivalent to the value of the property, be permanently barred from government service, and face imprisonment ranging from 15 years to life.

It is recommended that the Penal Code of Azerbaijan establish specific penalties for agents of bribery, similar to the approach in Article 3 of the Islamic Penal Code of Iran.

#### *Similarities between bribery laws of Russia, Azerbaijan, and Iran*

When examining bribery, notable similarities can be observed in the legislation of Russia, Azerbaijan, and Iran. For example, under article 591 of the Iranian penal code, if it is established that the briber was compelled to pay money or provide property to secure his rights, he is exempt from prosecution, and the money or property is returned to him. Similarly, the note attached to article 592 of the same code specifies that if the briber was forced to deliver a bribe, report it, or make a representation, he will not face imprisonment, and his property will be restored (Penal code of Iran).

In comparison, article 312 of Azerbaijan's penal code and the note to article 291 of the Russian Federation's penal code provide that upon fulfillment of similar conditions, the briber is released from criminal responsibility; however, the money or property involved is suspended rather than returned. In contrast, Iran's articles 591 and 592 explicitly mandate that the property used in bribery be returned to the briber. Hence, this stipulation of returning the bribed property could be incorporated into article 312 of Azerbaijan and the note to article 291 of Russia, potentially allowing these articles to be restated as: "If the briber through the thread of the state employee gives bribe and informs the governmental organizations, he will be exempted of criminal liability and the money or the property which is spent through bribery, is returned to himself."

Furthermore, according to Iran's penal code, the briber may be subjected to a financial fine, return of the received bribe, imprisonment, and temporary or permanent suspension from state service, depending on the circumstances. In cases involving military personnel, the briber's rank may be reduced, and he may be discharged from service.

1. Legislations in Azerbaijan and the Russian Federation could benefit from adopting this aspect of Iran's law.
2. In Iran, penalties for the briber and the bribee differ. For instance, article 592 of the Islamic penal code prescribes that the briber may face seizure of the property obtained through bribery, imprisonment from 6 months to 3 years, or 74 lashes, whereas article 3 concerning aggravating punishments specifies that the bribee's penalty is determined by the bribe amount and the briber's position.
3. Regarding the nature and conditions of giving or receiving a bribe, articles 311 and 312 of Azerbaijan's penal code impose imprisonment and financial fines on both briber and bribee. In contrast, article 592 of Iran's penal code limits the briber's punishment to imprisonment from 6 months to 3 years or 74 lashes.

Overall, liability in bribery-related crimes depends on the specific regulations and circumstances in each country. In terms of aiding a bribery offense, if the assistance is unilateral—meaning it pertains solely to the bribee—and the governmental employee may commit bribery as a consequence of the assistant's action or participation, either due to his share in the bribe or failure to claim it under certain conditions, such acts are considered criminally liable [9].

#### *Reasons justifying the crime and removing the barriers of criminal liability*

Fines, as the most customary and natural societal response to criminal behavior, may be ineffective in certain cases, such as when justifiable reasons for the crime or conditions removing criminal liability are present.

In criminal proceedings, the accused or their representative may raise various defenses, including invoking justifiable reasons for the crime or circumstances that remove criminal liability. The justifiable reasons for a crime refer to specific conditions that legitimize the criminal act, such as coercion, necessity, or legitimate defense. In contrast, removing the barriers of criminal liability pertains to personal or mental conditions of the accused that eliminate responsibility even if the criminal act occurred. Examples of such conditions include minority (minor age) or insanity, which can serve as grounds for exemption from liability.

Regarding legal entities, it is generally recognized that criminal liability primarily rests with natural persons.

However, a legal entity may also bear liability if a legal agent commits a crime on its behalf or for its benefit. Importantly, the criminal responsibility of a legal entity does not exempt the natural person who committed the offense from liability.

In the context of bribery, a person committing the crime may invoke justifiable reasons or conditions removing criminal liability. It should be noted that a person's liability for taking a bribe does not necessarily require the commission of additional bribery offenses; for instance, the act may occur under urgent circumstances.

#### **Conclusion**

This article compared and analyzed the provisions concerning bribery in the penal codes of Iran, Russia, and Azerbaijan. While there are both differences and similarities among these regulations, the study suggests certain amendments that could improve the current penal codes of Azerbaijan, the Russian Federation, and Iran by addressing existing deficiencies.

The discussion included comparative analysis of criminal liability, the legal age for committing crimes, the initiation of criminal acts, and restitution related to bribery, along with special circumstances such as emergencies and exemptions from liability. Statistical evidence indicates that due to the sensitive nature of bribery, both the briber and bribee often attempt to conceal the act to protect their interests. Reporting may occur only occasionally, either voluntarily by the briber or otherwise, and criminal liability in bribery is considered strict [9]. A limited number of offenses, known as strict liability crimes, can be committed without mens rea [10].

When bribery is described as an absolute crime, this means its commission does not depend on the occurrence of specific outcomes. Thus, the crime of bribery is realized regardless of whether the governmental employee carries out the act requested by the briber, or whether the act is legal or illegal [11]. In classical criminal law, proving a crime typically requires both the physical element and the virtual (mental) element. However, given the evolution of law and the emergence of new types of crimes in response to social and environmental changes, legislators recognize that strict enforcement may be necessary to maintain social discipline. Consequently, general fault is not always considered essential to establish liability, and fines or imprisonment may be imposed even when this diverges

from traditional criminal liability philosophy. Such measures ensure that neither natural persons nor legal entities can evade responsibility.

Analysis of the criminal laws in the three countries studied shows that violations by professionals such as physicians, experts, or arbitrators do not automatically incur fines. Instead, issuing a certificate of violation and recognizing the individual as a bribery offender constitutes the basis for appropriate punishment for taking bribes.

**Acknowledgments:** None

**Conflict of Interest:** None

**Financial Support:** None

**Ethics Statement:** None

## References

1. Andrew A. Principles of criminal law. London: Biddles Ltd; 1991. p. 2.
2. Thobity AFA, Alghamdi TZA, Alqurashi AMA, Althobaiti MAM, Jawmin SAH, Alharthi MFM, et al. Awareness of smoking as a risk factor for bladder cancer in Taif city. *World J Environ Biosci.* 2021;10(3):5–9. doi:10.51847/SITMXmYKtq
3. Shambayati. Allocated criminal law. Vol. 3. 2018. p. 437.
4. Yandri Y, Suhartati T, Satria H, Karlinasari S, Yuwono SD, Hadi S. Stability enhancement of *Bacillus subtilis* ITBCCB148 originating  $\alpha$ -amylase by immobilization using chitin. *J Adv Pharm Educ Res.* 2021;11(3):63–9. doi:10.51847/FzQcrN5wmD
5. Mozaffari A. Studying crime of bribery in Iranian law. *Papers of I.R. Iran's Ministry of Justice.* Vol. 2. 1996. p. 194.
6. Validy MS. Allocated criminal law. Vol. 2. 2017. p. 306.
7. Samandarov. Commentary of panel code of Republic of Azerbaijan. *Digestn-Baku;* 2011. p. 937.
8. Abozari M. Fuzzy attitude in the age of criminal responsibility. *Judic Law J.* 2019;83(108):1–23.
9. Malkoach I. Crimes of bribery and commitment. Ankara; 2010. p. 377, 388.
10. Elliott C, Quinn F. Criminal law. London; 2006. p. 35.
11. Safari M, Shahabi S. Bribery, bribery in light of rules and judicial procedure. *Jungle Press;* 2021. p. 144–8.