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Department of Forensic Medicine & Toxicology, Third Floor, Library Building, Seth G S Medical College & KEM Hospital, Parel, Mumbai, Maharashtra, India. Pin-400 012. Email id: mlameditor@gmail.com Phone: 022-24107620 Mobile No. +91-9423016325.



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Short communication

The Crime of Bribery in Forensic Medicine

Noor Issa Alhendia^a, Asem baniamer^b, Muammar Hasan Salameh^c

^aAssociated Prof. Applied Science Private University, Jordan. ^bAssociated Prof. university of Jordan, Jordan. ^cAssistant Professor, Prince Mohamad Bin Fahid University. Saudi Arabia

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Abstract

Introduction: This study deals with the issue of the crime of bribery by the forensic doctor, by clarifying the concept of the crime of bribery. Clarifying its pillars represented in the material and moral pillars, and clarifying the penalties stipulated by the legislator, which are imposed on the forensic doctor when he commits this crime or when its pillars are fulfilled. **Medicolegal Aspects:** Because of its impact on judicial decisions, justice decisions, the rights of people, and society, the forensic doctor is an employee and an expert, and therefore the provisions of the Jordanian Penal Code relating to this capacity apply to him, including his criminal responsibility for the crime of bribery, if its elements are available. **Conclusion:** The study concluded that the crime of bribery is one of the most dangerous crimes of corruption, and its severity increases when it is committed by a forensic medical expert such as a forensic doctor.

1. Introduction

Forensic medicine is a medical subspecialty that focuses on determining the cause of death, by examining the body, and the autopsy process is done by the forensic doctor, and these cases are usually done through the investigation of criminal law cases, and the judge often requests a criminal investigation to ascertain the identity of the body. The forensic doctor is the one who searches and investigates cases of deaths and injuries, which occur under mysterious, suspicious, and unusual circumstances. Therefore, in the eyes of criminal justice, the forensic doctor is a technical expert charged with giving the competent court an advisory opinion on issues of a delicate technical nature concerning the victim, whether he is alive or

dead. It concerns the accused in terms of his psyche and the soundness of his mind.¹

There are formal controls for the forensic doctor shows the mental and psychological map, and clarifies the minutes of its affairs before the judiciary in the lawsuits that he is concerned with, so there are formal controls for the forensic doctor's report to assist the judge in achieving criminal justice, as well as ethical controls must be observed by the forensic doctor. And when he violates it, he will be a perpetrator of crimes against the honor of his job. The formal controls are the apparent general description of the case, the description of the tools used in the crime, and the determination of the cause of death in the murders.

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Corresponding author: Dr Noor Issa Al-Hendi, Associated Professor, Faculty of Law, Applied Science Private University, Al Arab St 21, Amman, Jordan. Email: n_alhendia@yahoo.com (M): 00962790191160.

As for the ethical controls, they are sincerity of intent, sincerity of work and performance, which requires accuracy, because the forensic doctor's report depends on the conviction or innocence of the accused in the lawsuits, and it is also the result of the technical expertise that he provides to the judiciary at his request or the request of his representative, as it is an aid and support for the judiciary in passing judicial judgment and then achieving criminal justice. Therefore, he must take all necessary precautions when writing his report. The forensic doctor plays a positive role in the lawsuit, but as a human being who is not infallible, he may fall into the forbidden and commit acts¹ that harm him and harm the truth, justice and the judiciary, so he may commit the following acts. Submitting a false expert report, giving false testimony about his report in the lawsuit, not clarifying the forensic report, forging the documents that were handed over to him, destroying or altering one or more documents he received, disclosing the expert report to one of the litigants before delivering it to the court entrusted with it.

Failure to comply with the court's decision regarding the litigants for the purposes of discussing the expert report submitted by him, requesting a bribe from one of the litigants. Accordingly, we can say that the forensic doctor may commit financial and non-financial crimes that require the punishment stipulated by the law. Therefore, the study will be limited to clarifying the two crimes of bribery and medical secret disclosure, and these two crimes have been given the research because they are crimes that are perceived to occur by the forensic doctor and because of their wide practical application, before the courts.¹

2. The crime of bribery:

The crime of bribery is considered one of the most serious crimes of corruption, and its severity increases when it is committed by a judicial medical expert such as a forensic doctor, Because of its impact on judicial decisions, justice decisions, the rights of people, and society.¹ The forensic doctor is an employee and an expert, and therefore the provisions of the Jordanian Penal Code relating to this capacity apply to him, including his criminal responsibility for the crime of bribery, if its elements are available. Bribery is defined as a behavioral pattern that leads to a corruption in the performance of the forensic doctor, or an act committed by a public official or a person of a public quality when he trades in his job or

takes advantage of the powers granted to him under his job. It is an agreement between two people who are a forensic doctor who asks or accepts money or a promise of it in return for his doing or refraining from doing an act of his job and he is called a bribe-taker., forensic physician. This crime is considered one of the most serious crimes related to money because it affects the most important principles on which public utilities operate. The crime of bribery is two separate and independent crimes, namely, positive bribery, committed by the person in need when he presents the money to the forensic doctor or prepares it and accepts it, and it is called the crime of the briber. A negative bribery committed by the forensic doctor when he asks or takes money or accepts a promise, and it is called the crime of the briber, the reason for the bribery is to do an act of the job, to refrain from doing an act, or to breach the duties of the job. The reason for bribery is the benefit or the promise of it, and it is one of the elements of its material pillar.² The penal legislation explicitly stipulates that the forensic physician be punished if he receives a bribe because of his work as an expert in the case, to ensure that he performs his work faithfully and so as not to weaken himself and beg him to accept a bribe from one of the litigants. There must be elements available for the crime of bribery to be committed, which are the moral element, the material element, and the criminal intent.

2.1. The moral element

That bribery is a deliberate crime in which the criminal intent is present in the forensic doctor's direction to request or take a benefit or accept the promise of it, as it is not required for the criminal intent in the crime of bribery to be the will of the forensic doctor directed to implement what was requested of him, but it is sufficient for his will to seize the benefit or the financial amount, with knowledge of the purpose of providing them.³

2.2. Criminal intent

The crime of bribery is one of the intentional crimes, for its occurrence, the presence of criminal intent is required by the forensic doctor, so that his will is directed to taking the benefit or the financial amount. The general rule is that the moral element presupposes that the bribe-taker is aware of the work he is performing, that is, he is aware at the time of taking the money that he is taking advantage of his position. Although the legislator was clear about trading in the medical field.

Knowledge: For the criminal intent of the perpetrator to be established, he must be aware of all the elements of the material element of the crime. The bribery forensic doctor must know all the realistic elements extracted from the text of the criminalization of bribery, where the act constitutes a crime punishable by law, since this knowledge is assumed in all cases in application on the basis of the assumption of knowledge of the law, it is not acceptable for the accused forensic doctor to claim that he was ignorant and did not know that the act he had done was considered a crime.

Will: The offender's tendency to buy the forensic doctor's responsibility, i.e., to make him do an action or refrain from doing an act, and on this basis the criminal intent is negated if the briber believes that he is directing his activity to someone other than a forensic doctor. It is one of the temporary crimes for which the criminal intent must be proven, and it does not take a specific time until the crime is completed.⁴

2.3. The material element

The material element of the crime of bribery against the forensic physician is investigated from the actions on which the material element of the crime of passive bribery is based, in requesting, accepting, taking, or receiving.⁵

Request: The request means the affirmative issued by the forensic doctor for the bribery, and it is sufficient once the forensic doctor expresses his will to obtain a sum of money to perform an act or refrain from performing it to achieve the material element of the crime.

Acceptance: It means the acceptance by the forensic doctor of the offer, and the material element of the crime is realized as soon as the acceptance of the forensic doctor meets the person's offer, regardless of the briber's implementation of his promise or not, and it is required that the acceptance be serious and emanating from a conscious will.

Taking or receiving: It means that the forensic doctor receives the thing, that is, he receives the money from the briber.⁶

The Jordanian legislator stipulated in the Jordanian Penal Code that⁷ "every employee and every person delegated to a public service, whether by election or appointment, or every person assigned an official mission, such as an arbitrator or expert, who requested or accepted a benefit for himself or for others, to perform an act by virtue of his work was

punished by imprisonment for a period not less than two years and a fine equal to the value of what was requested or accepted.⁸ We note through this legal text that the legislator expressly stipulates the crime of bribery by the forensic doctor as a judicial expert, and the penalty that must be inflicted on him. The forensic doctor, as an expert,⁹ is also barred from being an expert in any other lawsuit for life. This is due to the importance of his work and its danger, so the forensic doctor, as an expert in the case, must do his work with accuracy, honesty,¹⁰ sincerity, impartiality and integrity without taking sides without the other, or accepting or requesting a sum of money for him or for others, or a gift, benefit or promise to him or to others. He may not receive any kind of bid, no matter what, in return for performing the task of expertise, abstaining from performing it, or delaying it.¹¹ Otherwise, he will be subject to criminal accountability and the imposition of punishment on him.¹²

3. Conclusion

After addressing the issue of bribery by the forensic doctor, the study concluded that the forensic doctor is a technical expert charged with giving the competent court an advisory opinion on issues of a delicate technical nature concerning the victim, whether he is alive or dead. It concerns the accused in terms of his psyche and soundness of mind. The forensic doctor shows the mental and psychological map and clarifies the details of its affairs before the judiciary in the judicial cases that he is concerned with.

The crime of bribery is defined as a behavioral pattern that leads to a corruption in the performance of the forensic doctor, or an act committed by the forensic doctor when he trades in his job or takes advantage of the powers granted to him under his job.

It is an agreement between two people who are an employee who asks or accepts money or a promise of it in return for his doing, doing, or refraining from doing an act of his job. The elements of the crime of bribery are the moral element, the material element, and criminal intent. The penalties imposed on the perpetrator are imprisonment and a fine.

4. Recommendations

Tightening the punishment for the forensic doctor when he commits crimes because of the seriousness of his task on which the performance of

the judiciary depends, and for the courts to investigate the accuracy, justice, and honesty of those they elect to carry out the task of the forensic doctor because it wastes the rights of people.

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