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Factors of the spread of the phenomenon Of abuse of power

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Abstract:

Abuse of power represents, in general, all the attempts made by managers and employees, by which they place their illegitimate private interest above the public interest, bypassing the values they are committed to respecting. Abuse of power is a violation of public duty, a departure from moral standards in work, and therefore illegal and unethical behavior. Several factors play an important role in the spread of the phenomenon of abuse of power in society. There are administrative and economic factors, as well as social and legal factors.

Keywords:

Regulation; Bribery; Coercion; Corruption.

JEL Classification Codes: k200, k420.

INTRODUCTION:

The phenomenon of corruption has received the 1970s, with great attention from most countries of the world, international organizations, NGOs, and research centers, given the negative effects of corruption, on the rates of political, economic, social, and cultural development ⁽¹⁾.

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In Algeria, since 1966, the legislator was keen to suppress corruption crimes that affect national wealth, the public treasury, and the national economy, which are committed by employees or agents of all degrees of the state, public institutions, and public groups, national companies, companies with mixed economy or private institutions that run an interesting Public or public funds ⁽²⁾.

Exploiting the authority of the administration is one of the most dangerous manifestations of this corruption, as it corrupts the state's administrative apparatus and destroys its structure, which calls for clarification of the reasons for its spread, and the dire consequences it has entails. Moreover, knowing how to avoid it legally, in an attempt to activate the means of this confrontation and eliminate this destructive phenomenon, with the inclusion of some cases of administrative corruption in Algeria.

The importance of the study: This research is important, considering that the exploitation of professional influence poses a great danger to the state and society, from a political, economic, and social point of view, as it undoubtedly leads to low rates of economic return, as it plays a dangerous role in the spread of corruption, nepotism, and bribery. The need for this study arose.

The problem: The exploitation of job influence is one of the most dangerous aspects of corruption, so what is the concept of exploitation of job influence? So that a group of questions is branched from this problem, which is what are the factors leading to its spread? What is the adequacy of legal texts to address and combat the phenomenon?

Study curriculum: This study depends on the descriptive-analytical approach, as it is the most appropriate approach to the nature of the subject of the study while using the historical approach to clarify some of the relevant issues.

The study plan: We address in the study of this talk what it means to exploit job influence, as it is one of the most important aspects of corruption, and then we discuss the reasons for its spread and the consequences of it, in addition to a conclusion in which public administration scholars make what in this regard.

2. The concept of exploitation of job influence:

2.1 The meaning of exploitation of job influence and some of its models:

The definition of abuse of power resonates at the internal and international levels, and this crime approaches many patterns of criminal behavior towards infringing the public interest, among which we mention the crimes of bribery and mediation. In addition, some models of abuse of power in Algeria, according to what was reported by some Algerian employees.

2.1.1 The meaning of exploitation of job influence:

The exploitation of job influence is one of the most important manifestations of administrative corruption, "and the word exploitation of those who took advantage of, and exploited the estate, that is, taking its yield. As for the word influence, it is authority, and the sphere of influence is the area in which a major country has extended its authority, control, and influence. or a group of people with common goals trying to make

decisions to support the values they prefer by various means, particularly by influencing the existing political system, or by influencing strongly ⁽³⁾.

The abuse of power is a manifestation of corruption, so some consider it one thing. And the abuse of power is defined, as the abuse of a job, by an individual, or a group of members of a government position, to achieve personal things or expediency. ⁽⁴⁾ Alternatively, is an expression of emotional or tribal tendencies, or everything that falls within the scope of the nepotism method, or a violation of the impartiality, or fairness of government administrative work ⁽⁵⁾.

Jurisprudence defines the exploitation of job influence, as "is that a person, from his social or job center or his prayer, is a weight that makes his intervention a weight to pressure employees in the state agencies or some of them to implement his will" ⁽⁶⁾.

It is an illegal practice by one of the government employees or a person who has a relationship with the owners of power, taking advantage of his real or alleged functional influence, to obtain certain illegal advantages, whether for himself or others, in exchange for material or moral ⁽⁷⁾.

The Supreme Court in Algeria, in its decision issued on 11/06/1981, defined the crime of exploiting job influence, "It is required to achieve it for a person to take advantage of his influence with one of the public interests, to enable others to obtain benefit or concession in exchange for a promise, tender, gift or gift ⁽⁸⁾.

It is assumed that the perpetrator in this crime is the owner of real influence, that is, he has a strong relationship that links

him to the public authorities or administrative authorities, so that he can affect these powers, and heads of the bodies to make decisions in his favor to obtain advantages, jobs, deals ... etc. ⁽⁹⁾.

2.1.2 Models of exploitation of job influence:

Abuse of administrative power is a white-collar crime, so high-ranking state officials often commit it, and they are responsible for many cases of abuse of this power.

Among the most famous cases of corruption and abuse of power in Algeria, the accused (A. O) was sentenced to Fifteen (15) years in prison, a fine of one million (1,000,000) Algerian dinars, and the confiscation of his seized property. Because of illegitimate gain as he did something that would harm the economic interests of the state. ⁽¹⁰⁾.

Among the cases of corruption and abuse of power in Algeria is the accused (A .S) the former prime minister, in which a final ruling was issued by the same council on 28/01/2021 regarding his accusation of graft and his punishment. Twelve (12) years imprisonment, a fine of one million (1,000,000) Algerian dinars, and the confiscation of his seized property, because he obtained illegal gains while exploiting the powers of his job, to obtain commissions from foreign companies, which led to an increase in his wealth He also carried out acts harmful to the economic interests of the state ⁽¹¹⁾.

The phenomenon of exploiting the employment impact has a significant impact on the societies in which it is spread, as it is based on inequality and imbalance injustice among members of society and the feeling that the law is applied only to the poor while it is. It does not affect the rich, which

generates hatred and social injustice that threatens the collapse of society. This is considered a violation of the offender's confidence in the public office, as it suggests that public authorities do not act according to the law, but according to the law of the authority of the influence of individuals, and this is what prompted the legislator. . Criminalizing the abuse of administrative power, and this is an important guarantee to protect the state and society from the political, economic and social aspects. On the other hand, the judge should study the file well, so as not to oppress innocent people, especially since political disputes may affect the judge's decision, as the media colonizes to shade public opinion, which affects the judges' decisions ⁽¹²⁾.

2.2 The Distinguish between the exploitation of the job impact and some of the public job crimes:

The exploitation of functional influence is similar to some behaviors that occur from a public employee in the context of his public functions, such as bribery and mediation. Where these crimes are related to public money and public office, and the essence of these behaviors is the crime of abuse of influence, in which influence is traded, in exchange for money or any other interest, and therefore it is necessary to distinguish between each of these behaviors in the following.

2.2.1 The distinction between the exploitation of job influence and bribery:

Bribery represents a deviation from the duties of the public servant in the performance of his job and the desired goal of his job, which is the public interest, to achieve purely personal interests, and enrichment without a legitimate reason at

the expense of the needy. From the audience. By presenting it without any obligation to pay for it, hence the seriousness of this crime and its negative repercussions on the public job and the public interest as a whole ⁽¹³⁾.

The crime of exploiting job influence with the crime of bribery shares, as it is one of the crimes that affect the reputation and integrity Or the alleged, and the other is the one who provides or promises to be presented, and the second requires the existence of two people also: the briber and the briber ⁽¹⁴⁾.

But the two crimes differ in that whoever abuses his influence does not have to be a public servant, unlike bribery, where the offender must be a public servant, and the crime of bribery is considered one of the crimes committed by a public servant during the exercise of his duties and functions ⁽¹⁵⁾.

As for the crime of abuse of power, it is one of the crimes committed by the employee outside the scope of his work, and therefore there is a difference between the two crimes in terms of the goal and purpose of the gift. And doing specific work for the benefit of the public does not claim competence, ⁽¹⁶⁾ and does not believe that there is an error in his work, as he is subject to his inefficiency, and calls for influence with the public authority to do it. Of the work required. Therefore. It does not matter in the offense of offending the competence of the employee. And whether the competence is real or illusory. As for the crime of bribery, the employee acted in the duties of his job. Or refraining from performing it, or breaching its duties, and this is the responsibility of the employee ⁽¹⁷⁾.

The bottom line is that the crime of exploiting job influence involves the meaning of trafficking in influence, while

the crime of bribery involves the meaning of trafficking in the public job itself⁽¹⁸⁾.

2.2.2 The distinction between mediation and the exploitation of job influence:

Mediation is the state of a public official responding to hope or recommendation made by others to the public, and this offense is based on the intervention of a person to influence a public official, with the public official responding to that person's recommendation in favor of a third person.

As for a public official, according to “Houreau” of French jurisprudence, he is someone who is appointed by the competent authority to a permanent position in a public institution run by the state or other public administrations⁽¹⁹⁾.

As for Arab jurisprudence, an employee is a person who is appointed continuously, rather than accidentally, to contribute to permanent work, in the service of public utilities, managed directly by the state, central government, or decentralized authorities⁽²⁰⁾.

As for the material pillar, it is represented in behavior based on an act, hope, recommendation, or mediation directly by the owner of the authority, or by others in the interest of the latter, and doing a job, or refraining from a job from the job work, and violating its duties, in response to hope or recommendation Or mediation.⁽²¹⁾

Hope is represented in every request accompanied by the sympathy or urgency of the immediate stakeholders, which will evoke and respond to the employee's emotions. A

recommendation is one of the specific forms, whether the recommendation is oral or written, this mediation is issued by others for the benefit and usually for the benefit of the needy, In the form of a wish, request, or order from a superior.

The crime does not occur unless it is proven that the public employee has responded to the hope, recommendation, or mediation by performing the work of his job, and there must be a causal relationship between the employee's actual implementation of what was requested of him. In addition, show the behavior of hope, recommendation, or mediation, so that it is proven that if it were not for one of these three forms, the employee would not have executed ⁽²²⁾.

As for the moral pillar, the mediation crime is considered a premeditated crime that requires the presence of criminal intent by the perpetrator. The employee's will to do an act or omission that contradicts the duties of his job and his will to respond to the hope, recommendation, or mediation should be directed by linking this to his knowledge of the content of the hope, recommendation, or mediation, and his knowledge of the violation or his refusal to practice the required law ⁽²³⁾.

Accordingly, the offense of abuse of power differs from the offense of mediation, in the offense of abuse of power there must be the opposite or benefit of the abuse of power, while in mediation it does not exist as it is in the offense of infringement. The act of exploitative influence is always in the form of something to be answered, while in the offense of mediation it is always in the form of hope or a recommendation ⁽²⁴⁾.

It should be noted that preventive action against bribery, mediation, and influence, begins to broadcast the culture of

education to avoid these pests from the educational stage, as well as educating administrative officials about the principles of integrity and transparency in their work, defending public and avoiding narrow interests ⁽²⁵⁾.

3. Reasons for the spread of the phenomenon of exploitation of job influence:

3.1 Administrative and Economic factors:

The relationship between the state and the private sector produced a common space between state employees on the one hand and businesspersons on the other, which eventually led to the creation of a fertile environment for the vulnerable souls of the first category (employees). Those wishing to gain illegal wealth, which call for studying a set of administrative and economic factors that contribute to the spread of the phenomenon of abuse of professional authority.

3.1.1 Administrative factors:

There is no doubt that the administrative approach has an important role in the success and performance of the administrative institution's function, whether this leads to raising its status or contributes to the spread of corruption in it. From this, we discuss in this section the most important of these factors that lead to the spread of corruption in the administration as follows:

A- Appointment of the employee according to the wrong criteria:

The employee is an integral part of the administrative institution, its efficiency, undoubtedly, contributes to the success

of the administrative institution, and therefore the appointment of these employees must take place according to objective criteria based on efficiency and the ability to contribute to the success of the administrative institution.

The moral of the employees, and their products, largely, are related to the extent to which they are assigned to them, and their compatibility with a group of a professional and social nature, which constitutes what he calls the work office, where attention is given to topics of understanding, and behavioral links between colleagues, then subordinates. Women are directly affected by the general work climate ⁽²⁶⁾.

If the appointment is based on the wrong criteria, such as patronage, mediation, and bribery, it necessarily leads to the spread of the phenomenon of functional corruption, because everyone who wishes to appoint, will take these illegal means to its goal, which means the widening of this phenomenon.

This also affects those dealing with the administration, as they deal with an incompetent employee, who is not suitable for the job he occupies, which affects the productivity of work within the administrative apparatus, and disrupts the interests of those dealing with him. And this may push them to use devious methods to collect their transactions, such as offering bribes, or resorting to those in power to complete their transactions, and thus these manifestations of administrative corruption spread ⁽²⁷⁾.

B- The complexity of administrative work procedures:

Routine is not a disease in itself; it is a method in which the intellectual and nervous effort is less than what should be

done, to carry out a certain action in similar situations. However, if the procedures are complex and excessive attachment is associated with several management levels in the organizational structure, then red tape becomes a disease of the organization⁽²⁸⁾.

This routine may lead to the spread of the phenomenon of abuse of power. It is known that administrative work procedures are complex, and the development of obstacles to the collection of administrative transactions, or the concentration of most administrative institutions in the capital, helps to slow down administrative work and increase complaints of dealers with the administrative institution. This may contribute to resorting to illegal behavior, to obtain their transactions, such as resorting to influencers to reach their goal, which means the spread of this bad phenomenon⁽²⁹⁾.

C- Weak control in the administrative institution:

There is no doubt that the presence of oversight in the administrative institution is important for the workflow within it, whether this oversight is on the part of the administrative head, or by an external control body, and therefore the weakness of this oversight leads to the failure to discover many cases of administrative corruption. Then the failure to hold officials accountable and punish them, and leads to their corruption, and the exploitation of their influence, for personal gain.

What leads to this weakness in oversight is the failure of the supervisory bodies as a technical body to assist in the exercise of the tasks entrusted to them, especially those related to them, through an objective assessment of performance levels, and the adoption of this assessment tool to encourage the

initiative. In addition, stimulate and raise the efficiency of production ⁽³⁰⁾.

What enhances this oversight, and makes it effective, is that the law places strict penalties on the employee if he abuses his job influence, as this will necessarily deter the employee, and prevent him from abusing his job influence. Alternatively, committing any other form of corruption.

3.1.2 Economic factors

Economic factors undoubtedly influence the emergence of many aspects of job deviation. In addition, the low salaries of many employees add to their suffering, which may lead to exploiting the impact of the job for additional financial gain, even in illegal ways.

What may push the employee towards the behavior of such illegal means is to find a large disparity between his salary and the salary of senior employees, especially in light of the so-called special funds, which makes him try to exploit his job to increase income. By any means, even if it is illegal.

Therefore, it is very important to achieve job satisfaction among public sector employees, which is achieved by several factors, the most important of which is determining their salary bonuses equivalent to work, living requirements, and helping them to live well. , to avoid their illegal work, such as exploiting their employment influence for material gain that helps them bear the burden of living ⁽³¹⁾.

The primary objective of the approval of economic and social rights is to achieve social justice, insurance against

poverty and inability to work, and the creation of decent work opportunities for individuals ⁽³²⁾.

3.2 social and legal factors:

Help helps spread its impact in daily life until it reaches the breaking point of most of the value controls that protect the individual and society's march from corruption. Thus, there is no doubt that social factors have a major role in the spread of the phenomenon of exploitation. The functional impact, and legal factors contribute to controlling the administrative side, and the most important of these factors are the following:

3.2.1 Social factors:

A- The spread of some corrupt values in society:

The concept of values refers to every attribute of importance, due to social, moral, psychological, or aesthetic considerations. The values are a mere and general perception of behavior, the members of the social group feel a severe emotional association, which allows them to a level of judgment on the actions or special goals.

In recent decades, some corrupt social values have spread among members of society, such as harmony and acquisition of opportunities, which had the greatest impact on the spread of the phenomenon of exploitation of job influence. Public employees are among the members of this society, and some of them are undoubtedly affected by these ideas, so they work to exploit their job authority, increase their earnings, or draw closer to a person with interests ⁽³³⁾.

What deepens this problem is that these employees justify their actions, claiming that their embezzlement of public money is a recovery of their usurped rights, they consider mediation, a kind of assistance and cooperation, they explain bribery as a gift, and they see in the exploitation of functional influence, a kind of social intelligence. Moreover, all of this undoubtedly contributes to the spread of the phenomenon of exploitation of job influence, because it reduces the employee's self-censorship, and thus establishes the wrong culture of the public job.

B- Weakness of religious values:

There is no doubt that religion fights all the deviant behaviors that a person may lead to, if his desires overcame him and his whims are not resistant, and here comes the role of religious faith in curbing the souls that tend to do sins.

Undoubtedly, the weakness of religious faith among people and employees contributes to perpetrating manifestations of administrative corruption, so they exploit their job influence to achieve illegal gains and goals, without thinking about the consequences of their actions, in this world and the hereafter. This is a trust that God has commanded to be performed, without thinking about standing before his Lord, responsible for his actions on the Day of Resurrection ⁽³⁴⁾.

3.2.2 Legal factors:

It is supposed, to enact laws that contribute to controlling administrative work, preventing employees from tampering with the capabilities of the public institution, preserving public money, and providing public services to individuals fully, and not using their functional influence to achieve personal and

moral gains, and their commitment to stay away from all other manifestations of corruption. . Unfortunately, some legislations contribute to the continuation of corruption, including the fact that it is not permissible to file a criminal case against an employee who intentionally harms the funds of the entity in which he works, except at the request of the Governor of the Central Bank, or the request of the Prime Minister. ⁽³⁵⁾.

This means that both the Prime Minister and the Governor of the Central Bank can prevent the criminal case from moving, and take any investigation measures into these financial crimes, and if an employee embezzles a small amount or takes an easy bribe, the Public Prosecution moves automatically ⁽³⁶⁾.

Legislation in some Arab countries also stops the criminal case at any stage before a ruling is issued in it, according to the condition of reconciliation, to fulfill the full rights of the bank and in accordance with the stipulation. For reconciliation. This means that the financial crimes committed by the offender, if he reconciles with the bank, will fall on him and he will not be tried after he deprived the state of investing these funds for a period that may long. ⁽³⁷⁾.

CONCLUSION:

The most dangerous thing caused by administrative corruption is the serious imbalance that affects the ethics and values of work and society, which leads to the spread of a psychological state among individuals that justifies corruption, and the pretexts to find justification and help for its continuation in this. Its impact extended to daily life until it reached the level of the collapse of most of the controls and values that protect the progress of the individual and society from corruption.

The spread of corruption and the abuse of influence in society contributes to creating a destructive culture that establishes deviant behaviors in society and turns them into normal and acceptable behaviors of individuals.

Accordingly, we recommend addressing the factors and reasons that led to this bad phenomenon by following transparent and fair procedures when hiring employees and ensuring that these employees are at an acceptable level, both financially and socially, so that the employee does not think about taking roundabout ways to increase his income. He also recommends the following:

Benefit from the experiences of countries with experience in combating corruption.

- Conducting an analytical study on this phenomenon to find out its causes so that it can be eliminated easily.

- Awareness of the dangers of the phenomenon on the national economy, society, and the state because it destabilizes political and economic stability.

Concern for the promotion of man, so that he stands behind his principles, as the quality of man plays a major role in maintaining the state and society.

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