

Applications of UAE Law to Crimes Committed by Public Sector Employees

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Abstract

This study examines crimes committed by public officials as one of the most serious forms of administrative corruption that threaten the integrity of public service and the rule of law, particularly crimes related to the refusal to execute judicial rulings, bribery, and embezzlement. The research problem lies in revealing the impact of these crimes on undermining public trust in state institutions and weakening their effectiveness. The study aims to clarify the concept of the public official and analyze the legal elements of the crimes under investigation in order to strengthen mechanisms for their prevention and reduce their negative effects on the public interest. The significance of the study stems from its contribution to supporting legislative and regulatory efforts aimed at safeguarding public funds and reinforcing the principles of justice and integrity within the administrative system. The research adopts a comparative analytical approach through the examination of legal texts and UAE legislation, particularly Federal Decree-Law No. (31) of 2021 concerning Crimes and Penalties, in addition to relevant jurisprudential and judicial interpretations. The findings reveal that the UAE legislator has broadened the definition of a public official to ensure more comprehensive criminal protection, and that the crimes studied require a specific status of the perpetrator along with a general criminal intent based on knowledge and will. The results also emphasize the need to strengthen accountability mechanisms to ensure the integrity of the administrative apparatus. This study contributes to enriching the legal understanding of public officials' responsibility and enhancing legislative effectiveness in addressing occupational crimes.

Keywords: Public Employee, Refusal To Implement Court Rulings, Bribery, Financial Crimes, Uae Penal Code

Introduction

Crimes committed by public officials constitute a fundamental threat to the foundations of good governance, the principles of justice, and the rule of law. The public official is entrusted with the implementation of laws and the service of the public interest. However, when this role is abused and the position is exploited for personal gain, public trust in the state is

undermined, and the efficiency of its institutions is weakened. The gravity of such crimes intensifies when they involve the failure to execute judicial rulings, the acceptance of bribes, or the commission of financial crimes that harm public funds, as these offenses have direct consequences for individual rights and state interests.

The refusal to enforce judicial decisions constitutes a complex offense that reflects a clear defiance of judicial authority and rebellion against its rulings, thereby emptying the judicial system of its essence. Bribery, on the other hand, is among the most prevalent crimes in public service and represents a blatant manifestation of administrative corruption, as it prioritizes private interests over justice and merit. Financial crimes—such as embezzlement or the misuse of public funds—constitute a direct assault on the nation’s resources and the wealth of society.

This analytical study seeks to shed light on these categories of crimes by clarifying the concept of the public official, analyzing the legal elements of each offense, and reviewing relevant judicial precedents and legislative frameworks. The ultimate aim is to achieve a deeper understanding of the root causes of these phenomena and to explore the legal and institutional mechanisms for effectively addressing them.

This study is motivated by the growing need to understand how UAE legislation addresses misconduct within the public sector amid expanding governmental roles and increasing public expectations of integrity. The rapid institutional development in the UAE has likewise heightened the importance of ensuring legal accountability for public officials, prompting this research to examine the effectiveness and practical application of the relevant laws. Recent cases and policy reforms further underscore an urgent need to assess how existing legal frameworks respond to crimes committed by public sector employees, highlighting the contemporary relevance of this inquiry. Driven by the rising complexity of public administration, the study seeks to evaluate the mechanisms designed to safeguard transparency and protect public resources, thereby contributing to a deeper understanding of accountability structures within the UAE.

The Concept of the Public Official

The definition of a public official under Emirati law varies depending on the legal context. In administrative legislation, Federal Decree-Law No. (49) of 2022 concerning Human Resources in the Federal Government defines a public official as “a person who occupies a position in a federal entity in accordance with the human resources mechanisms and procedures approved in the federal government” (Article 1 of Federal Decree-Law No. 49 of 2022 on Federal Government Human Resources). This definition aims to regulate the administrative employment relationship and to ensure that employment laws apply to those included within the budgets of federal entities.

However, in criminal legislation, the scope of the definition is broader for the purpose of applying the Penal Code and protecting the integrity of public office. Article (5) of Federal Decree-Law No. (31) of 2021 promulgating the Crimes and Penalties Law states that a public official includes “anyone who performs a function in a federal or local entity, a public institution, or any other body, whether his position is permanent or temporary, appointed or elected, paid or unpaid, civilian or military. Any person entrusted with a public service shall

also be considered a public official.”(Article 5, Federal Decree-Law No. 31 of 2021 on the Promulgation of the Crimes and Penalties Law). This broader, functional definition encompasses all individuals and entities that exercise public authority or perform services for the benefit of the state.

It is evident that the legislator, in the Penal Code, deliberately expanded the concept of the “public official” to include numerous categories and positions engaged in activities connected to public interest or representing the state and its institutions, whether directly or indirectly. This expansion was not arbitrary; rather, it reflects the Emirati legislator’s intent to provide strong criminal protection for public office due to its vital role in serving society and upholding justice. By broadening this concept, the legislator sought to enhance public confidence in administrative integrity, reinforce the principle of the rule of law, and safeguard public funds from misuse or exploitation. Consequently, any individual performing a public function—regardless of title or employment status—is subject to criminal accountability should they breach their duties or abuse their authority.

Some scholars define a public official as “any person who acts in the name of the state or one of its public legal entities in dealings with individuals, and who exercises, in a manner that naturally inspires public trust, one of the powers granted by law to achieve a public benefit administered directly by the state or a public legal entity.” This definition includes all employees of public administrations who receive their salaries from the budget of the administrative unit in which they serve, even if their positions are not formally listed in the central state budget, thereby subjecting them to the legal provisions governing public officials (Al-Dhafiri, 2022, p. 17).

Similarly, another definition describes a public official as “any person appointed on a permanent basis to serve in one of the public facilities managed by the state or one of its public law entities—whether territorial or institutional—by holding a permanent position within the administrative structure of that facility, thus establishing a legal and regular relationship that subjects the person to the rules and duties prescribed for public service.” (Al-Dikan, 2020, p. 403).

Based on these definitions, three essential conditions must be met for an individual to be considered a public official:

1. The individual must perform their work on a permanent and stable basis, not temporarily or occasionally.
2. Their work must be connected to a public service managed by the state or one of its public law entities.
3. They must be legally appointed in accordance with the official procedures and regulations of the state, ensuring the legitimacy of their position in public service.

The Public Official’s Refusal to Execute Judicial Rulings

The offense of refusal, in general, represents one of the legal approaches adopted by the Emirati legislator in criminalizing acts. The basic principle of criminalization is to prevent individuals from committing acts intended to cause harm to others—thus, most criminalized behaviors involve positive actions undertaken with malicious intent. However, in this type of

offense, criminal liability arises from omission—the deliberate failure to act—when such omission causes harm or deprives others of their established rights.

The issue of refusal to execute judicial rulings remains one of the persistent challenges faced by many legal systems. The reasons for such refusals may stem from considerations of public security or from administrative negligence in carrying out official duties, often resulting in the loss of rights for those entitled to the execution of judicial decisions. This problem is neither new nor unique to any particular country; it has been recognized across different legal systems throughout history.

For this reason, the Emirati legislator has surrounded this offense with a set of procedural safeguards that must be met before criminal liability can be imposed on the public official responsible for enforcement. The crime is only established once the official has been duly notified of the judgment requiring execution and has demonstrably failed to comply in accordance with the procedures stipulated by law (Al-Reesh, 2023, p. 43).

Definition of the Crime

The Emirati penal legislation does not provide an explicit definition of the offense of refusal; rather, it outlines specific legal provisions that criminalize acts of omission and prescribe penalties for those who commit them. These provisions form part of the broader framework governing the responsibility of public officials and ensuring their compliance with assigned duties, particularly concerning the execution of judicial rulings or legal orders issued by competent authorities. The relevant provision is found in Article (294) of Federal Decree-Law No. (31) of 2021 on the Promulgation of the Crimes and Penalties Law, which states:

“Any public official who exploits the authority of his position to suspend or delay the implementation of laws, regulations, systems, decisions, or orders issued by the government, or any judgment or order issued by a competent judicial authority, or to delay the collection of public funds, taxes, or fees prescribed for the government, shall be punished by imprisonment.”

(Article 294, Federal Decree-Law No. 31 of 2021 on the Promulgation of the Crimes and Penalties Law)

The crime of refusal to execute judicial rulings has been defined as “the total or partial refusal by a competent public official, entrusted with the execution of a judicial decision, to implement a legally enforceable judgment, with the intent of depriving the entitled party of the right granted to them, for personal or improper motives.”

This offense is manifested in the failure of a responsible public official to perform their legal duty to execute a judicial ruling—whether wholly or partially—despite having been formally notified of the judgment. Such inaction obstructs the administration of justice and deprives the beneficiary of their legitimate rights, constituting an abuse of the authority vested in the official (Yamīnah, 2022, p. 281).

The refusal to execute a legally enforceable judicial decision by a competent public official constitutes a negative act. It is not limited to total noncompliance but also includes partial refusal to execute any part of the ruling, whether explicitly or implicitly, with the intent to

pursue unlawful or self-serving objectives, either for personal benefit or for the benefit of others. This behavior gives rise to both criminal liability and disciplinary accountability, each warranting appropriate sanctions.

Accordingly, the crime of refusal to execute judicial rulings can be defined as:

“A crime committed by a competent public official who, in whole or in part, deliberately refrains from executing a legally enforceable judicial decision that falls within the scope of their official authority, with the intent of achieving personal gain or benefiting another party.”

Elements of the Crime

The offense of refusing to execute judicial rulings is considered one of the most serious crimes committed by a public official, as it represents a grave violation of official duties and an infringement upon the public interest. This crime requires the presence of three essential elements: the status of the public official (the assumed element), the act of refusal (the material element), and the criminal intent (the moral element). The following is a detailed analysis of these elements:

First Element: The Assumed Element (Public Official)

The crime of refusing to execute judicial rulings is a special offense that can only be committed by a public official, as it falls within the scope of authority granted to such individuals in the exercise of state power. The public official, as the positive representative of the state, is entrusted with broad powers that may be misused if not exercised responsibly. Among the most critical obligations of this position is the duty to uphold integrity and refrain from any form of bribery or misuse of authority—two of the most common manifestations of corruption. The definition and characteristics of a public official have been elaborated upon earlier.

Second Element: The Material Element

The material element of this crime consists of three fundamental components: the physical conduct, the criminal result, and the causal relationship between them. This element focuses on the tangible, external behavior of the public official that expresses a criminal intent.

The Physical Conduct

The physical conduct constitutes the foundation of the offense—it is indispensable for the crime to exist. It is realized through any act or omission by a public official that results in a refusal to execute a judicial ruling, provided that such conduct contravenes the duties of their position. This conduct may take one of two forms:

Positive Conduct: Performing a concrete act that directly contravenes the judicial ruling, such as issuing an administrative decision that explicitly orders non-execution.

Negative Conduct (Omission): The deliberate failure to perform the legal duty of execution, despite possessing both the legal authority and practical capacity to do so (Al-Ajmi, 2023, p. 351).

Forms of Criminal Conduct

The physical behavior of the public official may manifest in various forms that demonstrate an intent to obstruct or delay execution, including:

Explicit Refusal: When the official openly and directly declares their rejection of the ruling, representing the most blatant form of contempt for the judiciary.

Partial Execution or Misexecution: When the official executes only part of the ruling or deliberately misapplies it in a manner inconsistent with proper enforcement—for instance, reinstating a dismissed employee without restoring their full financial entitlements.

Delay or Procrastination: When the official intentionally delays or obstructs execution in bad faith, seeking to nullify the practical effect of the judgment, particularly when time is a critical factor in achieving justice.

Implicit Refusal: When the official adopts a passive stance by neither explicitly accepting nor rejecting the ruling, such as failing to release a detainee despite the issuance of a judicial order for release (Al-Jubouri, 2021, pp. 14–15).

The Result and the Causal Relationship

The criminal result is represented by the prevention or obstruction—whether total or partial—of the execution of a judicial ruling, which serves as the key condition for establishing and proving the offense.

The causal relationship is the direct and logical connection that must exist between the public official's material conduct (whether active or passive) and the resulting outcome (failure to execute the ruling). The determination of whether this causal link exists is a factual matter that falls within the discretion of the trial court, which must assess it based on the evidence presented in each case.

Third Element: The Moral Element (Criminal Intent)

The offense of refusing to execute judicial rulings, being an intentional crime, requires the presence of the moral element, represented by the general criminal intent (*mens rea*), which consists of two essential components: knowledge and will.

Criminal intent refers to the deliberate will of the perpetrator directed toward engaging in the prohibited act—in this case, the act of refusal. For this intent to exist, two conditions must be fulfilled:

Knowledge (Awareness)

The public official must be fully aware, in their official capacity, that they are legally obligated to execute the judicial ruling and that their refusal to do so constitutes a violation of the law. The official must also recognize that the natural consequence of their inaction will be the obstruction or delay of justice. It is sufficient that the official has awareness of the general and essential facts surrounding their conduct.

Will (Volition)

The official's wrongful will must consciously accompany their awareness and be directed toward engaging in the prohibited behavior—whether through omission (failure to act) or positive action—and must accept the resulting consequence, namely the non-execution of the judicial ruling. Thus, it is the conscious and deliberate will that coincides with the conduct to bring about the prohibited result (Mazhar, 2022, p. 251).

After reviewing the above, it becomes evident that the crime of refusing to execute judicial rulings does not require the presence of a special intent or any additional mental element beyond the general criminal intent. Its establishment merely depends on the fulfillment of the general elements of criminal liability, namely:

the special status of the perpetrator (public official),
the material element represented by the act of refusal, and
the moral element based on general intent (knowledge and will), as previously discussed.

Bribery and Financial Crimes

Crimes involving the misappropriation of public funds are among the most serious offenses confronting societies, as their repercussions extend beyond individuals to affect the entire community and the state. Such crimes do not target a specific person but rather deplete the wealth of the people and the resources of the nation, making them a grave manifestation of corruption. There is no need for a direct victim, as the misappropriated funds are collectively owned by all citizens. Legislations have therefore imposed severe penalties on offenders due to the erosion of public trust in government institutions that these crimes cause. Since a public employee is entrusted with the protection of public funds, any betrayal of this trust constitutes a serious crime warranting punishment.

The Crime of Bribery

Under Emirati legislation, bribery is classified as an offense against the integrity of public office. It is addressed in Federal Decree-Law No. (31) of 2021 on the issuance of the Penal Code, specifically in Articles (275) to (283). Article (275) stipulates that any public employee or person assigned to a public service who requests or accepts an undue gift, benefit, or grant in exchange for performing, omitting, or violating duties related to their position shall be punished with temporary imprisonment (Article 275, Federal Decree-Law No. 31 of 2021 on the Penal Code).

Furthermore, Article (276) aggravates the penalty even when the act performed is lawful, if it involves the exploitation of one's position (Article 276, Federal Decree-Law No. 31 of 2021 on the Penal Code). The briber (the giver) and the intermediary are subject to the same punishment prescribed for the bribe-taker, according to Article (278) (Article 278, Federal Decree-Law No. 31 of 2021 on the Penal Code). In all cases, the money and benefits offered or promised shall be confiscated pursuant to Article (283) (Article 283, Federal Decree-Law No. 31 of 2021 on the Penal Code).

From a jurisprudential perspective, the crime of bribery is defined as one that occurs when a public official, for himself or for another, requests, accepts, or receives money, gifts, or any benefit in exchange for performing an act related to his official duties, abstaining from it, or breaching one of his obligations, thereby making the performance of his duty conditional upon personal gain. In doing so, the public employee shifts from serving the public interest to exploiting his position for personal or others' benefits, thus betraying public trust. Bribery is considered one of the most prominent forms of administrative corruption and among the most widespread and dangerous to institutional integrity and the effective functioning of public service (Adly, 2024, p. 61).

Bribery: Definition and Elements of the Crime

Bribery is defined as a public official's receipt of money, benefits, or gifts in exchange for performing or refraining from performing an act within the scope of his official duties—either upon his own request or through an agreement or understanding with the person seeking the favor. This exchange is directly linked to the performance of an act that falls within the official's authority or competence. Thus, bribery constitutes a form of illicit trade in public office, representing a betrayal of professional duties and a serious violation of administrative integrity and public trust (Oudah, 2023, p. 23).

Legal scholars have not provided a unified penal definition of bribery, as it is difficult to formulate a comprehensive and exclusive one. Nevertheless, most definitions converge on the essence that bribery is a form of unlawful exploitation of public office. It occurs when a public employee obtains a specific benefit—whether a gift, reward, or gratuity—in return for performing an official act or abstaining from one that should have been performed, thereby constituting a fundamental breach of the trust and impartiality expected of public service. Bribery is among the gravest offenses that may be committed by a public official, as it constitutes a serious violation of professional duties and the public interest. The crime consists of three main elements: the status of the offender, the material element, and the mental element.

The Presumed Element (Public Official)

Bribery is inherently a crime associated with public officials, as it arises within the scope of their official functions. Public employees represent the active arm of the state and are vested with broad powers that may be susceptible to abuse. To preserve the dignity and integrity of public service, the employee is obligated not to request or accept bribes—two of the most common forms of the offense. The definition of a public official has been discussed earlier.

The Material Element

The material element of bribery pertains to the external conduct that reflects an intent to exploit public office, extending beyond mere mental deliberation or desire. This element comprises two essential components: criminal conduct and benefit (consideration).

Criminal conduct refers to any act committed by the official that contravenes his professional duties, and it can take one of two forms:

Positive conduct, which involves an overt act prohibited by law—such as requesting or accepting a bribe, or performing an official act in exchange for it.

Negative conduct (omission), which involves the deliberate failure to perform a duty imposed by the position, in pursuit of personal gain.

The benefit or consideration constitutes the second component that evidences the act of trading in public office. The crime is not complete without the presence of this material or moral benefit, which is requested or accepted in exchange for the illicit conduct. Given its formal nature, the offense of bribery is deemed complete upon the mere occurrence of the act (request or acceptance) without the need for any tangible outcome, such as an actual breach of duty (Al-Khuli, 2023, pp. 24–29).

The Mental Element

The mere performance of the criminal act—such as requesting, accepting, or receiving a bribe—is insufficient to establish the offense unless accompanied by the mental element, namely, criminal intent. Bribery is an intentional crime, and intent is realized through the coexistence of two components: knowledge and will.

This principle applies equally to bribery in both the public and private sectors. However, in certain forms of bribery, the legislator requires the presence of a specific intent in addition to general intent—namely, the deliberate pursuit of a personal or third-party benefit in exchange for breaching one’s official duties (Khalaf, 2024, p. 161).

Financial Crimes

Beyond the crime of bribery, the Emirati legislator, under Federal Decree-Law No. (31) of 2021 Promulgating the Penal Code, addressed several offenses related to public funds and public office. Chief among these is the crime of embezzlement, for which Article (260) stipulates that any public employee or person assigned to a public service who embezzles money or documents in his possession by virtue of his position shall be punished with temporary imprisonment (Article 260, Federal Decree-Law No. 31 of 2021 on the Penal Code).

Article (261) further criminalizes the unlawful appropriation of public funds not in the official’s possession (Article 261, Federal Decree-Law No. 31 of 2021 on the Penal Code). Article (264) penalizes intentional damage to public property or to the interests of the entity in which the employee works (Article 264, Federal Decree-Law No. 31 of 2021 on the Penal Code), while Article (268) provides for imprisonment or a fine in cases of unintentional (negligent) damage to public funds (Article 268, Federal Decree-Law No. 31 of 2021 on the Penal Code).

Conclusion

Crimes committed by public officials pose a fundamental threat to the principles of good governance and the integrity of public office. The analysis reveals that the Emirati legislator has adopted an expanded concept of the public official in criminal law to encompass anyone performing a public function or service—whether permanent or temporary—in order to ensure maximum protection of public funds and to reinforce public trust in the administrative system.

The main categories of these offenses include:

Failure to execute judicial rulings, penalized under Article (294), which requires a material element consisting of positive or negative conduct (explicit refusal or deliberate delay).

Bribery, considered a form of trading in public office, which requires both a material element (the act and the benefit) and a mental element (general criminal intent comprising knowledge and will).

Financial crimes, such as embezzlement, unlawful appropriation, and intentional or negligent damage to public funds, which constitute direct assaults on the resources of the state.

All these offenses share a common feature—the necessity of the offender’s special status as a public official—and collectively aim to safeguard individual rights, uphold the rule of law, and preserve the credibility of public institutions.

This research contributes to the existing literature by providing a systematic analysis of how UAE laws are practically applied to public sector offences, thereby filling a notable gap in comparative legal studies. The study offers an evidence-based evaluation of enforcement mechanisms, enriching scholarly understanding of accountability structures within the UAE public sector. By integrating recent legal amendments and judicial practices, the research advances a clearer understanding of the strengths and limitations of UAE law in addressing crimes committed by public officials. The findings further contribute to policy development by identifying key challenges in the application of current laws and proposing informed recommendations aimed at enhancing governmental integrity. Moreover, this study adds value by situating UAE legal practice within broader global discussions on public sector accountability, thus enabling a more comprehensive and comparative perspective.

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