

## Ethikos Volume 32, Number 1. January 01, 2018

# What ethical and legal action can you take when you are forced to bribe?

---

By Robin Singh

**Robin Singh** ([robinsingh002@yahoo.com](mailto:robinsingh002@yahoo.com)), Ms.(Law), MBA, CFE, CFAP, is a Compliance & Ethics Lead Officer at Abu Dhabi Health Services Company in Abu Dhabi, UAE.

Have you ever been forced to pay a bribe in return for certain services? Well, if you have, you could have very well committed a crime. If you haven't and are being forced to, don't do it. You will be prosecuted for aiding and abetting a crime.

Bribery is a menace that leads to corruption and several other consequences. In this article, we'll be exploring bribery, the legal aspects of it, and how to respond when asked for a bribe.

However, the perspective differs from continent to continent and culture and culture. What would be viewed as cronyism in the West is seen as sharing the gain resulting from the help of others in other parts of the world. Some see this conduct as unethical, but when viewed from a cultural perspective of some other continents, it is regarded as not only ethical, but also morally required. Gifts in the Middle East are considered as a gesture of goodwill for the other person. Most probably, giving a gift is viewed as a bribe in the West. Giving gifts is an integral part of conducting business in Confucian cultures, where relationships are everything and, trust me, for some cultures, relationships are everything.

### The legal definition of a bribe

A bribe is legally defined as the corrupt practice of accepting, soliciting, and transferring a thing of value in return for an action. The action here can refer to anything that is official or legal. For example, if you have to pay someone at the Department of Motor Vehicles to provide you with a license, you're paying a bribe.

Bribery aims to influence the actions of a person who carries out duties in the legal or public sector. The problem with bribery is that it results in objective duties being carried out in favor of an individual's subjective interests. It is, therefore, a crime and both the recipient of the bribe and the one offering it are punishable by law.

However, like all legal matters, an offering of value must be first proven to be a bribe. For this to happen, a "quid pro quo" relationship must first be established (i.e., it must be proven that the recipient has purposely carried out a duty with the intention of providing the offeror with specific benefits). This is exactly why campaign donations do not fall under the category of bribes. A quid pro quo relationship cannot be established in these exchanges.

Proving a bribe also requires that there must be intent to influence the recipient's official actions. In some cases, both the recipient and the offeror are required to have shown an agreement to the exchange. For instance, if the recipient or offeror has not agreed to the arrangement, the exchange is not necessarily seen as a bribe.

The attempt to bribe falls under common law and is assessed according to the Model Penal Code.<sup>[1]</sup> The punishment for bribery, whether attempted or completed, is the same. In fact, solicitation is also a crime as far as US laws are concerned. Whether or not the solicitation results in the bribe being completed has no effect, and the

---

solicitation is still seen as a crime.

Apart from the fact that crimes interfere with the regular functioning of public or legal systems, they also have an impact on the economy. Economists state that it leads to what is known as “rent-seeking behavior.”<sup>[2]</sup> This refers to the practice of increasing one’s wealth without contributing to the creation of wealth.

A good example of this would be the illegal attempts made by corporations to influence the open market in order to expand their own wealth disproportionately. When this happens, it leads to the improper allocation of resources, eventually causing an economic crash or depression. Those who are charged with attempting to bribe or bribing are prosecuted under the federal statute 18 U.S.C. § 201 – Bribery.<sup>[3]</sup>

This document is only available to subscribers. Please log in or purchase access.

[Purchase Login](#)