



The Jurisprudential Ruling Concerning the Offering of Gifts to Judges in Islamic Law

Shirin Aramesh

School of Medicine, Guilan University of Medical Sciences, Rasht, Iran

Article info

Received: 02.10.2025

Accepted: 10.11.2025

Available Online: 28.11.2025

Checked for Plagiarism: Yes

Keywords:

Gift, Bribery, Judge, Litigant, Imāmi Jurisprudence

ABSTRACT

The permissibility of a judge's acceptance of gifts from litigating parties or from others is among the significant issues long debated within Islamic jurisprudence. Given the unanimous consensus among jurists regarding the prohibition of bribery, there is no dispute that a judge's acceptance of bribes is categorically forbidden. Consequently, in the discussion of a judge's acceptance of gifts whether from litigants or even from individuals with no pending dispute before the judge it is often presumed that any gift offered to a judge must necessarily be a bribe and cannot be motivated by any other legitimate intention. The majority of jurists have categorically ruled that it is impermissible for a judge to receive such gifts. Their principal argument is that a judge's gift effectively constitutes a form of bribery and must therefore fall under the same prohibition. In contrast, some jurists distinguish, at the level of subject and definition, between bribery and gifting, and consequently deem the judge's acceptance of gifts permissible. The central question raised in this article is whether the prohibition on bribery extends to gifts as well. A descriptive-analytical examination of juristic opinions indicates that a gift is not inherently equivalent to a bribe; however, certain types of gifts may, under specific circumstances, constitute bribery and thus fall under its legal ruling of prohibition.

Introduction

There exists considerable disagreement among jurists concerning the ruling on giving and receiving gifts in the context of judicial authority. The primary source of this divergence appears to lie in the conceptual relationship between bribery and gifting. Given the unanimous consensus among jurists regarding the prohibition of bribery, there is no dispute that a judge's acceptance of bribes is categorically forbidden. Consequently, in the discussion of a judge's acceptance of gifts whether from litigants or even from individuals with no pending dispute before the judge it is often presumed that any gift offered to a judge must necessarily be a bribe and cannot be motivated by any other legitimate intention. Therefore, such gifts are assumed to fall under the evidentiary basis for the prohibition of bribery. This study seeks to examine the relationship between gifting and bribery and to clarify its implications for the ruling on judges receiving gifts from the standpoint of Islamic jurisprudence.

Accordingly, the article aims to answer the following question: Are gifts presented to a judge in fact a form of bribery, subject to the same legal prohibition? Evidently, clarifying this relationship significantly contributes to a more precise understanding of the ruling regarding a judge's acceptance of gifts.

Conceptual Analysis of Bribery and Gift

To assess the relationship between bribery and gifting, one must first clarify the meaning of each term. In fact, jurists and lexicographers differ over the precise definition of rishwa (bribery), with each group offering its own interpretation. Fayrūzābādī, in al-Qāmūs, equates bribery with ja'l (a form of payment). Ṭurayhī in Majma' al-Baḥrayn states that anything by which a person renders falsehood as truth, or employs false means to attain an end, is called bribery. Although the linguistic scope of the term may encompass both ja'l and wages, its common usage distinguishes bribery from both.

*Corresponding Author: Shirin Aramesh (aramesh@gums.ac.ir - ORCID: 0000-0002-2936-2553)

Some have argued that bribery is given directly for the purpose of influencing a judicial ruling. One of the clearest definitions offered by lexicographers is: “That which a person gives to a judge or another individual in order to compel him to issue a ruling in his favor or to act according to his wishes.” Jurists of various Islamic schools have offered similar definitions. Based on these descriptions, several interpretive possibilities emerge:

A group of jurists define bribery as any property that a judge receives from either party to a dispute or from both, or from an unrelated third party for the purpose of issuing a judgment, regardless of whether the judgment is correct or false. Some consider the prohibition of bribery for judges to be among the essentials of the faith. Others rely solely on rational argument as sufficient proof of its prohibition. Another group cites Prophetic and Imamic traditions, including reports identifying *suḥṭ* (“illicit gain”) in Qur’ān 5:42 as bribery in judicial rulings, along with other forms of unlawful income.

Some jurists maintain that both giving and receiving bribes are forbidden; however, if the judge is corrupt and unlikely to issue a ruling consistent with Islamic law, and the payer has a legitimate right and knows that paying the bribe will compel the judge to rule justly, then no blame falls upon the payer. Nonetheless, the judge must return the payment even if he ultimately issues a correct ruling. Many jurists concur that returning the bribe is obligatory, citing consensus as well as general legal maxims negating harm and hardship.

Accordingly, bribery refers to property given to a judge in order to incline him toward a ruling beneficial to the giver whether that ruling is true or false. The definition therefore applies broadly: bribery encompasses both just and unjust rulings. Furthermore, bribery is identified by the giver’s intention; if the payment is made with the purpose of influencing the judgment, it constitutes bribery regardless of whether it actually affects the judge.

These jurists offer several evidentiary bases for their interpretations

A) Customary Usage (‘Urf): Common social understanding aligns with this definition. Custom does not concern itself with technical distinctions; even when a judge issues a correct judgment after accepting money, people still regard the payment as bribery. From the standpoint of common perception, no distinction exists between a “gift” received by the judge and a bribe: in both cases the judge accepts property and subsequently adjudicates between disputants. Thus, custom interprets any such gift as intended to influence the judicial outcome, regardless of the giver’s stated intention.

B) The Ṣaḥīḥa of Muḥammad ibn Muslim: He reports: “I asked Abū ‘Abd Allāh (Imam al-Ṣādiq, peace be upon him) about a man who offers another

man *rishwa* (a bribe) in order that the latter vacate his house so that he may reside in it. He replied: ‘There is no objection to it.’” In this report, the payment is made in pursuit of a legitimate right, yet the narrator still employs the term *rishwa* to refer to the payment, and the Imam does not contest this usage as though, from his perspective, the application of the term to such a case poses no difficulty. Moreover, when the nature of a word’s usage is unclear, the foundational principle of *aṣālat al-ḥaqīqa* requires that the term be taken in its literal sense unless a contextual indicator suggests otherwise. Hence, the use of the term *rishwa* in this narration, in the absence of any such indicator, must be understood as literal and in its original meaning.

C) Definitions from Other Jurists: A number of other jurists particularly among the Ḥanbalī and Ḥanafī schools define bribery as property given to a judge on the condition that he issue an unjust ruling or refrain from issuing a just ruling. In this formulation, *rishwa* refers specifically to compensation offered in exchange for an unjust judgment; thus, the concept is contingent upon the presence of injustice. Some lexicographers have also adopted this interpretive approach.

Beyond these two major definitions, additional descriptions appear in juristic literature, most of which fall within the scope of the preceding formulations and can be considered their subsets. The most significant of these include:

C1) Additional Juristic Definitions: Bribery has been defined as anything given to a judge so that he may rule in favor of the giver through falsehood, or so that he may rule in his favor more generally whether such a ruling is just or unjust. It may also include assisting the giver in argumentation so that he might prevail over his opponent. The object given may be monetary or non-monetary, such as performing a service for the judge (e.g., sewing his clothes), offering praise, or fulfilling one of his personal needs. Another definition states that bribery is property offered to a judge for the purpose of influencing his ruling, even if it is presented under the guise of wages or compensation. The common denominator among all these definitions is that bribery consists of property given to a judge with the intention of inclining his judgment toward the giver.

C2) Concept of Gift (Hadiyya): Linguistically, *hadiyya* carries meanings such as “present,” “offering,” and “what is given without expectation of return as a gesture of honor toward the recipient.” In juristic literature, multiple definitions appear. Some jurists describe a gift as “that which is given in the form of a donation to create affection.” Others define it as “property given to a judge in order to manifest love and goodwill toward him.” Their argument for the impermissibility of a judge’s

acceptance of gifts rests on various transmitted reports—among them a narration from Imam al-Riḍā (peace be upon him), in which Imam ‘Alī interprets the phrase “akkālūna lil-suḥṭ” (“those who consume illicit wealth,” Qur’an 5:42) as referring to one who issues a judgment in favor of his brother due to his need and then accepts his gift.

Some jurists hold that if a gift exceeds what is customarily given, it is forbidden for a judge to accept it, citing the Prophet’s statement: “The gifts of officials are a form of misappropriation.” They add that even when the gift is customary such as an amount normally exchanged between friends its acceptance remains prohibited if the giver has a case pending before the judge. If no such case exists, it is recommended (though not obligatory) for the judge to refrain from accepting it to avoid suspicion. According to this view, a gift is essentially a donation intended to generate affection in the heart of the judge; once emotionally influenced, he may consciously or unconsciously rule in favor of the giver. The best formulation for distinguishing between the two concepts is as follows: a gift is a donation given to create affection, increase closeness, or seek nearness to another person or to God. Bribery, by contrast, is property given to a judge to win favor in adjudication either by securing a ruling for or against another, or by enabling the giver to overcome his adversary in court. In summary, the distinction lies in that bribery is compensation for obtaining an unjust ruling or avoiding a just one, whereas a gift is unrestricted. Although gifts are inherently lawful, it is ethically advisable for judges to avoid accepting them in order to remain above suspicion, given the exalted nature of judicial office. Moreover, whenever the giver intends presently or in the future to secure the judge’s bias in a potential dispute, the payment becomes bribery rather than a gift. Among Sunni schools it is reported that a judge may only accept a gift from one who used to give him gifts before adjudication; however, if a dispute later arises, accepting a gift from that individual becomes prohibited, as it is treated as bribery.

From all these definitions, it can be concluded that the essential nature of a gift lies solely in “cultivating affection and honoring the recipient.” Anything given with motives other than these cannot be considered a gift and must be classified differently.

Juristic Opinions on the Relationship Between Bribery and Gifts to Judges

Regarding the relationship between bribery and a judge’s acceptance of gifts, two main positions appear among jurists. In this section, to better understand this relationship, the two positions are outlined and analyzed.

A) First Opinion: Some jurists maintain that a gift to a judge is effectively equivalent to a bribe, or even constitutes bribery in the strict sense. In their view,

a gift is simply an indirect form of bribery an offering by the giver designed to cultivate favor with the judge so that, knowingly or unknowingly, he may rule in the giver’s favor when adjudicating. This position is adopted by a number of Imāmī jurists as well as some Sunni scholars. According to them, bribery may manifest under various labels: sometimes explicitly as bribery, and at other times under alternative titles such as *hiba*, *bay‘ muḥābātī* (preferential sale), or reconciliation agreements.

A1) Evidences for Classifying Gifts to Judges as Bribery: Among Imāmī jurists who regard gifts as a form of bribery, several evidences are advanced in support of their position. These will be examined in detail in the following section.

- ✓ **Custom (‘Urf):** In common practice, gifts offered to judges whether by litigants or even by individuals who have no current dispute before them are generally regarded as falling under the category of bribery. Consequently, such gifts are likewise subject to the evidences establishing the prohibition of receiving bribes [23].
- ✓ **The Intention of the Giver:** The decisive criterion for distinguishing bribery from other forms of transfer is the intention of the giver. Naturally, whenever a gift, a preferential sale, or similar transactions are offered to a judge by litigants or by someone who may plausibly bring a case before him in the future this act is almost always motivated by the same intention associated with bribery [33].
- ✓ **Identifying the Common Rationale (Tanqīḥ al-Manāṭ) Between Bribery and Gifts:** Some jurists argue that a careful examination of the textual evidences prohibiting bribery through the method of identifying the underlying rationale reveals that a gift is effectively a form of bribery. This is because the rationale (‘illah) behind prohibiting a judge from accepting bribes is the possibility that it may divert him from ruling according to truth and incline him toward false judgment. The same effect, they contend, can likewise result from accepting a gift [11].

This argument essentially articulates an alternative basis for subsuming judicial gifts under the category of bribery through the method of *tanqīḥ al-manāṭ*. Since the complete causal basis for prohibiting bribe-giving to a judge is the intention to alter his judgment in favor of the giver, and this intention appears equally applicable to many cases of gift-giving, judicial gifts would, by this analysis, inherit the same ruling.

- ✓ **Critique:** This reasoning namely, that the rationale for prohibiting a judge from accepting bribes is the risk of diverting him

from rightful judgment, and that gifts naturally lead to the same consequence has been challenged by a number of Shi'i jurists. Among them are the late al-Khū'i and the late Montazeri, both of whom respond as follows:

First, the ultimate product of *tanqīh al-manāṭ* is mere conjecture, and such conjecture is not authoritative; it falls under the evidences prohibiting reliance on speculative reasoning or at minimum, evidences denying its probative force such as the Qur'anic verse: "Most of them follow nothing but conjecture; surely conjecture avails nothing against the truth." (Yūnus 10:36). Thus, the rationale for prohibiting bribery may not necessarily be limited to the diversion mentioned above [17].

Furthermore, equating gifts with bribery and thereby assigning them the same ruling as al-Shahīd al-Thānī and others have stated cannot be applied universally across all categories of judicial gifts, particularly when the gift is offered after judgment has been issued, or when it is genuinely given for the sake of God, or solely to encourage the judge toward justice and fairness [34].

Accordingly, the above rationale, which equates gifts with bribes and treats a gift as a species of bribery, is ultimately weak. In addition, the attempt to extend the ruling of bribery to judicial gifts through *tanqīh al-manāṭ* fails, because the method relies on speculative reasoning, and the evidences forbidding acting on conjecture prevent such an extension.

The Second View

Another group of jurists distinguishes between gifts and bribes, holding that the two are fundamentally different and therefore must carry different rulings. Many Imami jurists [35,36, 37] as well as some Sunni jurists adopt this position [38]. These two categories are essentially distinct in subject-matter, with no overlap, and thus gifts cannot automatically fall under the ruling governing bribes.

A) Evidences for Differentiating the Rulings on Bribes and Gifts: As previously noted, some similarities exist between the two forms of financial transfer. Nonetheless, they are not identical. In other words, there are points of divergence between a bribe and a gift, and a brief reflection on these distinctions reveals their substantive difference:

- ✓ **Divergent Purposes:** The purpose behind bribery is to win the judge's favor in order to secure a ruling in the briber's interest. A gift, however, does not necessarily involve such an intention; its purpose may be devotional (seeking divine nearness), cultivating goodwill and affection, or merely an act lacking any specific motive. Sometimes a gift may be offered as a gesture of respect for the judge's moral

qualities, knowledge, piety, or integrity. Hence, a clear and substantive distinction exists between the two [23,35].

As some scholars phrase it: a bribe is given in exchange for a ruling, whereas a gift is intended to generate affection that may incidentally incline the judge toward the giver [36,11].

Al-Naraqī writes:

"Bribery is that which is given initially and explicitly for the purpose of obtaining a judgment; a gift, however, refers to any transfer made without specifying a purpose, or to that which is given to create affection, closeness, or for the sake of God" [18].

Therefore, when the subject-matter of a gift is essentially different from that of bribery, the former cannot be subsumed under the latter, nor can the evidences prohibiting bribery be extended to gifts since gifts, by definition, fall outside the domain of those evidences.

From the evidences relied upon by scholars who prohibit the judge from accepting any gift both from Imami jurists (6) and from Sunni jurists [30,39,20,40] it appears that they consider gifts to judges effectively a form of bribery. Thus, they rule categorically that such gifts are forbidden, reasoning that no plausible motive exists for giving property to a judge because of his office except the hope that he will rule, even unjustly, in the giver's favor. Even if this is not bribery in its strict sense, it would at least fall under the same prohibition. (This argument was discussed earlier under the evidences for including gifts under the ruling of bribery).

Similarly, even jurists who allow judges to accept gifts among both Imami scholars [17,34] and Sunni jurists [41,34,31,32] implicitly acknowledge that the decisive factor is the giver's intention. They concede that if the giver's true intention is bribery, then the gift acquires the ruling of bribery. In other words, the intention behind the transfer plays an essential role in determining its legal nature—a principle extensively discussed by Islamic jurists under the *fiqh maxim*: "Contracts follow intentions" [42,43].

Conclusion

Regarding the relationship between judicial gifts and bribery, the jurists hold two major views: some maintain that the two categories are essentially identical, while others distinguish between them. The evidence suggests that one must differentiate among the various types of property given to a judge under the label of a gift. If such property is offered for a lawful purpose such as cultivating goodwill or simple affection even if offered by litigants, it cannot automatically be classified as bribery nor subjected to its prohibition. However, when a gift is given with the intention of influencing the judge to rule in favor of the giver, it must be deemed forbidden and unlawful. If the giver truly intends bribery, and the judge is aware of this intention, then

the transfer no longer qualifies as a gift; it is, in essence, bribery. If property is given as a “gift” while the giver secretly expects a favorable judgment, this becomes a means of illicit influence over the judge. Hence, some forms of judicial gifts are clearly not bribes such as those given merely to foster goodwill while others are unmistakably bribes, such as those given to obtain a judgment or violate the rights of others. In these latter cases, there is no meaningful distinction between a gift and a bribe apart from terminology.

Disclosure Statement

No potential conflict of interest reported by the authors.

Funding

This research did not receive any specific grant from funding agencies in the public, commercial, or not-for-profit sectors.

Authors' Contributions

All authors contributed to data analysis, drafting, and revising of the paper and agreed to be responsible for all the aspects of this work.

References

- [1] Fayrūzābādī, M., *Al-Qāmūs al-Muḥīt*, Dār Ihyā' al-Turāth al-'Arabī, Beirut, Lebanon, 1412 AH.
- [2] Ṭurayḥī, F., *Majma' al-Bahrayn*, Morteza'i Bookstore Publications, 1986.
- [3] Sanglajī, M., *Judiciary in Islam*, University of Tehran, Tehran, 1959.
- [4] Moḥammadī Gilānī, M., *Judiciary and Judging in Islam*, Al-Mahdī Publications, 1983.
- [5] Fayūmī, A., *Al-Miṣbāḥ al-Munīr fī Gharīb al-Sharḥ al-Kabīr lil-Rāfi'ī*, Dār al-Raḍī, Qom, n.d.
- [6] 'Āmilī (al-Shahīd al-Thānī), Z., *Al-Rawḍah al-Bahiyyah fī Sharḥ al-Luma'ah al-Dimashqiyyah*, Islamic Propagation Office, Qom, 1418 AH.
- [7] Mūsavī Ardabīlī, A., *Fiqh al-Qaḍā'*, Amīr al-Mu'minīn Library Publications, Islamic Propagation Office, n.d.
- [8] 'Āmilī, S. J., *Miftāḥ al-Karāmah fī Sharḥ Qawā'id al-'Allāmah*, Āl al-Bayt Institute, Qom, n.d.
- [9] Fāḍil Muqaddad, *Kanz al-'Irfān fī Fiqh al-Qur'ān*, Al-Maktabah al-Murtaḍawīyyah, Tehran, 1358 AH.
- [10] Sha'rānī, A., *Tabṣirat al-Muta'allimīn with Persian Fiqh*, Islamiyyah Bookstore Publications, n.d.
- [11] Āshtiyānī, M., *Kitāb al-Qaḍā'*, Zohayr, Qom, 1425 AH.
- [12] Muḥaqqiq Ḥillī, N., *Sharā'i' al-Islām*, Isma'iliyyān, Qom, 1408 AH.
- [13] Al-Shahīd al-Awwal, M., *Al-Luma'ah al-Dimashqiyyah*, Islamic Publishing Institution, 1414 AH.
- [14] 'Allāmah Ḥillī, H., *Irshād al-Adhhān ilā Aḥkām al-Īmān*, ed. Shaykh Fāris al-Ḥasūn, Islamic Publishing Institution, Qom, 1410 AH.
- [15] Golpāygānī, M., *Kitāb al-Qaḍā'*, Dār al-Qur'ān al-Karīm, Qom, 1413 AH.
- [16] Fayḍ Kāshānī, M. M., *Mafātīḥ al-Sharā'i'*, ed. Sayyid Mahdī Rajā'i, *Majma' al-Dhakhā'ir al-Islāmiyyah*, Qom, n.d.
- [17] Khū'i, S. A., *Miṣbāḥ al-Fiqhah (Fi al-Mu'āmalāt)*, n.p., n.d.
- [18] Narāqī, A., *Mustanad al-Shī'ah fī Aḥkām al-Sharī'ah*, Āl al-Bayt Institute, Qom, 1415 AH.
- [19] Ḥurr 'Āmilī, M., *Tafsīl Wasā'il al-Shī'ah ilā Taḥṣīl Masā'il al-Sharī'ah*, Āl al-Bayt Institute, Qom, 1409 AH.
- [20] Bahūtī, M., *Kashshāf al-Qinā' 'an Matn al-Iqnā'*, Maktabat al-Naṣr al-Ḥadīthah, Riyadh, n.d.
- [21] Ibn 'Ābidīn, M., *Radd al-Muḥtār 'alā al-Durr al-Mukhtār*, Dār al-Fikr, Beirut, 1415 AH.
- [22] Ibn Athīr, M., *Al-Nihāyah fī Gharīb al-Ḥadīth wa al-Athar*, Isma'iliyyān, Qom, n.d.
- [23] Ṭabātabā'i Yazdī, S. M., *Al-'Urwat al-Wuthqā*, Dāwarī, Qom, n.d.
- [24] Al-Shahīd al-Awwal, M., *Al-Durūs al-Shar'iyyah fī Fiqh al-Imāmiyyah*, Islamic Publications Office, Qom, 1417 AH.
- [25] Muḥaqqiq Karakī, A., *Jāmi' al-Maqāṣid fī Sharḥ al-Qawā'id*, Āl al-Bayt Institute, Qom, 1414 AH.
- [26] Ḥurr 'Āmilī, M., *Wasā'il al-Shī'ah ilā Taḥṣīl Masā'il al-Sharī'ah*, Dār Ihyā' al-Turāth al-'Arabī, Beirut, n.d.
- [27] Ṭūsī, M., *Al-Mabsūt fī al-Fiqh al-Imāmiyyah*, Al-Maktabah al-Murtaḍawīyyah, Tehran, 1387 AH.
- [28] Al-Zuhaylī, W., *Al-Fiqh al-Islāmī wa Adillatuhu*, Dār al-Fikr, Damascus, 1409 AH.
- [29] Najafī, M., *Jawāhir al-Kalām fī Sharḥ Sharā'i' al-Islām*, Dār Ihyā' al-Turāth al-'Arabī, Beirut, 1404 AH.
- [30] Nawawī, Y., *Al-Majmū'*, Dār al-Fikr, Beirut, n.d.
- [31] Samarqandī, M., *Tuḥfat al-Fuqahā'*, Dār al-Kutub al-'Ilmiyyah, Beirut, 1414 AH.
- [32] Ibn Qudāmah, A., *Al-Mughnī*, Dār al-Fikr, Lebanon, 1405 AH.
- [33] Fāḍil Lankarānī, M., *Tafsīl al-Sharī'ah (al-Qaḍā' wa al-Shahādāt)*, A'immah Aṭhār Fiqh Center, Qom, 1420 AH.
- [34] Montazerī, H., *Dirāsāt fī al-Makāsib al-Muḥarramah*, Tafakkur, Qom, 1415 AH.
- [35] Ṭabātabā'i, S. A., *Riyāḍ al-Masā'il fī Taḥqīq al-Aḥkām*, Āl al-Bayt Institute, Qom, 1418 AH.
- [36] Anṣārī, M., *Kitāb al-Makāsib*, Shaykh al-A'zam Anniversary Congress, Qom, 1415 AH.

- [37] Kāshif al-Ghiṭā', H., *Anwār al-Fiqāhah* (Kitāb al-Qaḍā'), Kashif al-Ghiṭā' Library, Najaf, 1422 AH.
- [38] Ibn Najīm al-Miṣrī, Z., *Al-Baḥr al-Rā'iq*, Dār al-Kutub al-'Ilmiyyah, Beirut, 1418 AH.
- [39] Sharbinī, M., *Mughnī al-Muḥtāj ilā Ma'rifat Ma'ānī Alfāz al-Minhāj*, Muṣṭafā al-Bābī al-Ḥalabī Press, Cairo, 1958.
- [40] Sarkhasī, M., *Al-Mabsūt*, Dār al-Ma'rifah, Beirut, 1406 AH.
- [41] Anṣārī, Z., *Fath al-Wahhāb bi-Sharḥ Minhāj al-Ṭullāb*, Dār al-Kutub al-'Ilmiyyah, Beirut, 1418 AH.
- [42] Al-Shahīd al-Awwal, M., *Al-Qawā'id wa al-Fawā'id*, Ḥakīm, Qom, 1400 AH.
- [43] Mūsavī Bajnawrdī, S. M. H., *Al-Qawā'id al-Fiqhiyyah*, Al-Hādī, Qom, 1419 AH