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Criminal Protection of the Principle of Freedom of Access to Public Services Through the Criminalization of Favoritism: An Analytical Study in Light of Law No. 06-01 Relating to The Prevention and Combating of Corruption

Amrouni Djilali[1], Khalid Bouchta[2]
[1]Faculty of Law and Political Science, Taheri Mohamed Bechar University, Algeria. Email: amrdjilali64@gmail.com
[2]Faculty of Law and Political Science, Taheri Mohamed Bechar University, Algeria. Email: bouchta.khalid@univ-bechar.dz

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Abstract:
This research aims to study the criminal protection of the principle of free access to public procurement through the criminalization of favoritism, in light of the provisions of Law No. 06-01 concerning the prevention and combating of corruption, as amended and supplemented. The analysis focuses on the legal framework of the crime of favoritism in the field of public procurement, by outlining its elements, the conditions for its establishment, and the most significant legal and practical issues it raises, given its connection to a field characterized by continuous development and a multitude of legislative and regulatory texts.
The research concludes with a set of findings and recommendations, most notably the need to strengthen corruption prevention mechanisms by activating codes of conduct and ethics for public service, and obligating all public employees to review and adhere to their provisions, while establishing effective mechanisms to monitor their implementation and evaluate compliance. It also recommends including explicit provisions in municipal and provincial laws that require elected local officials to undergo prior training in public procurement and professional ethics before their appointment, thereby contributing to the consolidation of the principles of transparency, equality, and free access to public procurement, and reducing favoritism practices.
Keywords: Favoritism, Public Procurement, Public Official, Administrative Corruption**.**

Introduction
For a considerable period, corruption has posed a formidable challenge to various legal systems. It is virtually inconceivable for any society to be entirely insulated from criminal phenomena that induce corruption. While crime remains deeply entrenched in human history, its modalities of perpetration continuously evolve. In antiquity, crimes were committed through rudimentary and conventional means; in contemporary times, however, they are executed via highly sophisticated, precise, and technical methods, as malevolent actors harness scientific advancements to serve criminal enterprises.

Most economists observe that activities and practices ranging from petty abuses of public authority by lower level civil servants to the exploitation and misappropriation of national economic resources by political leaders for personal enrichment and profiteering all converge into the overarching stream of what is termed "corruption" notwithstanding the profound conceptual difficulties encountered in defining it. [1]

Since its inception, the State has consistently strived to achieve comprehensive economic development, utilizing all instruments rendered available by its legal framework, particularly since this entails the allocation and deployment of public funds. Consequently, administrative contracts most notably public procurement (*les marchés publics*) have emerged as one of the most critical instruments. Public procurement environments are considered highly susceptible to corrupt practices due to their proximity to the commodification of public office (*la traite des fonctions*). This ultimately results in a direct assault on the fundamental principles governing public procurement, namely: the equal treatment of bidders, free access to public procurement, and procedural transparency. Ordinarily, public procurement must be anchored upon the tenets of transparency and fair competition, given the massive financial allocations and appropriations involved, which stem from the diversity and multiplicity of investment plans and projects that the State actively seeks to execute.

Accordingly, the Algerian legislature has diligently sought to broaden the scope of criminalization regarding acts capable of yielding detrimental impacts on public expenditure and the national economy at large, aiming to encompass all acts of corruption within this domain. This objective was materialized by incorporating all potential abuses and violations occurring within the sphere of public procurement under the purview of Law No. 06-01 of February 20, 2006, as amended and supplemented, concerning the Prevention and Combating of Corruption. This intervention reflects the legislature's intent to guarantee heightened efficacy in public procurement and the optimal utilization of public funds within a framework of integrity, accountability, and managerial transparency. [2]

Significance of the Research

The significance of this topic lies in its academic and practical merit. The crime of favoritism (l'octroi d'avantages injustifiés) in securing legally unjustified advantages within public procurement represents a manifest expression of the broader offense of granting unjustified advantages to third parties. Furthermore, its significance is underscored by analyzing the legal capacity of the perpetrators of this crime, who are initially presumed to possess integrity, diligence, and fidelity in the discharge of their public duties.

[1] Pursuant to the 2001 United Nations Report on Global Trends in Corruption, corruption is defined as the abuse of public power for personal gain to the detriment of the public interest

[2] See Article 1 of Law No. 06-01 dated February 20, 2006, as amended and supplemented, relating to the Prevention and Combating of Corruption, Official Gazette (Journal Officiel) No. 14, 2006.

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Literature Review

Scholarly research examining the core principles underlying public procurement specifically the principle of free access to public contracts remains scarce relative to the economic, social, and financial magnitude of public procurement. Extant literature predominantly focuses on public procurement litigation or the procedural and regulatory dimensions of the subject. Regarding judicial precedents, case law does not explicitly or unequivocally delineate the definition of public procurement principles or conclusively determine their legal ramifications.

Objective of the Study

This study aims to elucidate the statutory structure of the crime of favoritism in public procurement as regulated by the Anti-Corruption Law. This is particularly crucial given that this offense is intertwined with an activity characterized by continuous evolution and a multiplicity of governing legislative texts, which introduces a layer of complexity that impacts the precise characterization of the criminal act. Additionally, the study seeks to evaluate the efficacy of the statutory texts regulating this crime in combating or at least mitigating its occurrence.

Research Methodology

An investigation of this nature necessitates the deployment of the descriptive methodology to systematically characterize the criminal phenomenon (the crime of favoritism), supplemented by the analytical methodology to deconstruct the relevant legislative texts and evaluate their responsiveness to the imperatives of national economic development.

Research Problematic

Premised upon the foregoing, this study addresses the following central problematic:

What is the requisite legal capacity of the perpetrator in the crime of public procurement favoritism?

What are the material and mental elements (elements of the crime) of this offense, and what are the deterrent sanctions prescribed by the Algerian legislature?

Research Structure

To resolve the aforementioned problematic, this study adopts a structure grounded in the theoretical underpinning of the criminalized conduct (favoritism). The legal capacity of the perpetrator is examined in the First Section, followed by an analysis of the statutory framework enacted by the Algerian legislature to suppress this behavior in the Second Section.

Section I: The Capacity of the Perpetrator in the Crime of Favoritism Within Public Procurement (The Public Official)

The granting of unjustified advantages in public procurement materializes in two forms consolidated by the Algerian legislature within the text of Article 26 of Law No. 06-01 of February 20, 2006, as amended and supplemented, concerning the Prevention and Combating of Corruption. Accordingly, this study examines this criminalized conduct in its manifestation designated as favoritism (la favoritisme), which constitutes a misdemeanor (délit) under Article 26, Paragraph 1 of the aforementioned Law, superseding Article 128 bis of the Penal Code.

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This offense strictly requires that the perpetrator possess the status of a "public official," a concept whose jurisprudential, judicial, and statutory definitions are analyzed below.

Subsection I: Jurisprudential and Judicial Definitions of a Public Official

The conceptual boundaries of a "public official" diverge between administrative law jurisprudence and judicial precedents. Which paradigm has the Algerian legislature embraced?

Paragraph 1: Definition of a Public Official in Administrative Jurisprudence

Administrative law scholars have established a definition of a public official predicated upon the doctrine formulated by the Supreme Administrative Court of Egypt, identifying the official as: "Any person appointed on a permanent, non-transitory basis to contribute to a continuous service within a public utility managed directly by the State, the central government, or decentralized authorities." [3] This definition positions the public official as an agent or representative of the State, acting on its behalf to administer public utilities and deliver public services such as education, healthcare, maintenance of public order, crime suppression, and the defense of internal and external state security and representing the State in its multifaceted relations with foreign nations, the judiciary, parliament, and the executive government. Consequently, the official acts as an intermediary between the State, as the sovereign authority, and the citizen, as a member thereof. On this basis, the official plays an active role in realizing the public interest, which constitutes the ultimate objective behind the assumption of public office. [4]

Paragraph 2: Judicial Interpretation of a Public Official

In judicial adjudication, the French Council of State (Conseil d'État) defined a public official as any person entrusted with permanent employment in the service of a public utility managed by the State or another public legal person. It has also been judicially defined as: "The individual who participates on a permanent basis in the service of a public utility managed directly by the State or other administrative units." [5] Other jurists add that it is: "The person who contributes to a continuous task in the service of a public utility managed by the State or one of the other public law entities." [6]

An analysis of French judicial history reveals that the Conseil d'État initially restricted the definition of a public official to high-ranking administrative executives who wielded a portion of public authority (puissance publique). However, it swiftly abandoned this restrictive stance, broadening the scope to define a public official as: "Anyone operating within the administrative hierarchy, spanning from the lowest functional echelons to the highest, irrespective of whether they are tenured or non-tenured, and regardless of whether they receive a regular salary or mere

[3] Bilal Amin Zain al-Din, The Phenomenon of Administrative Corruption in Arab Countries and Comparative Legislation vs. Islamic Sharia, 1st edn, Dar al-Fikr al-Jame'i, Alexandria, 2009, p. 17.

[4] Ibid., p. 17.

[5] Kamil al-Sa'id, Explanation of the Penal Code: Crimes Detrimental to the Public Interest, 1st edn, Dar al-Thaqafa for Publishing and Distribution, Amman, Jordan, 2008, p. 420.

[6] Yasser Kamal al-Din, Bribery and Influence Peddling Crimes, Monsha'at al-Ma'aref, Alexandria, Egypt, 2008, p. 28.

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honoraria." [7] This expansive definition encompasses every individual within the administrative ladder; hence, whenever such an official commits a criminal infraction, they are subject to criminal prosecution regardless of their rank, and whether their employment status is permanent or temporary. The French Council of State subsequently consolidated this by defining the official as "any individual entrusted with a permanent duty integrated into the organization of a public service." [8]

In summary, the judicial definition of a public official can be synthesized as: "The individual to whom a permanent function within the framework of public utility positions is confided," [9] in accordance with the traditions of the French judiciary, being the cradle of global administrative law. [10]

Note:

The Algerian legislature defined the public official in Article 4 of Ordinance No. 06-03 of July 15, 2006, as amended and supplemented, containing the General Civil Service Statute, as follows: "Any agent appointed to a permanent public position and tenured in a rank within the administrative hierarchy is deemed a civil servant." [11]

Subsection II: The Conceptualization of a Public Official in Criminal Legislation

Criminal law adopts a far more expansive definition of a public official than the narrow administrative concept outlined in Article 4 of Ordinance No. 06-03. It encompasses individuals operating within public facilities owned by the State or other public legal entities, whether on a continuous and regular basis or a temporary and casual basis, seeking to mitigate the perils of corruption by broadening the definition to cover several categories.

Paragraph 1: The Definition of a Public Official under the Penal Code

The Penal Code does not provide a standalone, autonomous definition of a public official; rather, it merely enumerates specific categories deemed part of the public official collective, approximating the administrative concept. However, judicial application dictates that the phrase "public official" must be construed in its broadest sense, while confining it to citizens invested with a degree of public authority namely, those who manage and administer public entities through election or via a delegation conferred upon them by the executive authority, thereby participating in managing the affairs of the State or its territorial collectivities (the *Wilaya* and the *Commune*). [12]

Since these types of crimes typically target funds vested in public institutions and facilities administered or supervised by state apparatuses (such as public banks and economic enterprises), and because they are structurally committed by state functionaries, the Algerian

[7] Hamdi Rajabi Attia, Criminal Protection of the Public Official: Studies in Egyptian and Libyan Legislation, Menoufia University Press, Egypt, 2010, p. 6.

[8] Kamil al-Sa'id, op. cit., p. 429.

[9] Bilal Ahmed Zain al-Din, op. cit., pp. 19-20

[10] André de Laubadère, Droit Administratif, 14th Edition, LGDJ, Paris, France, 2002, pp. 336-337.

[11] Official Gazette, Issue No. 46, 2006.

[12] Ahcene Boussaquia, Al-Wajiz in Special Penal Law: Economic Crimes and Certain Special Crimes, Part II, 2nd edn, Dar Houma for Printing, Publishing, and Distribution, Algiers, 2006, pp. 13-14.

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legislature sought to curb this phenomenon by expanding the definition of a public official to include multiple categories, mirroring the legislative approaches of Egypt and France. [13]
Consequently, the Algerian Penal Code did not establish an independent, strict definition for the public official, but rather implicitly referred to the broad definition adopted in the Anti-Corruption Law. This aligns legal concepts and ensures the efficacy of criminal prosecution in offenses tied to public office. Under this characterization, the status of a public official in the criminal realm is not contingent upon a permanent statutory relationship with the administration; it extends to encompass any individual entrusted with a mission of a public nature, even if temporary, casual, or non-remunerated.

Paragraph 2: The Definition of a Public Official under the Anti-Corruption Law

Pursuant to Article 2 of the Anti-Corruption Law, and in alignment with the definition set forth in Article 2 [14] of the United Nations Convention against Corruption of October 31, 2003, [15] a public official is defined as:
Any person holding a legislative, executive, administrative, or judicial office, or a position within an elected local popular assembly, whether appointed or elected, permanent or temporary, regardless of their rank or seniority.
Any other person who performs, even temporarily, a function (whether remunerated or non-remunerated) in the service of a public body, public institution, or any other enterprise in which the State owns the entirety or a portion of the capital, or any enterprise rendering a public service.
Any other person defined as a public official or treated as such under the legislation and regulations in force.
Accordingly, these positions can be consolidated into the following distinct functional categories:
The Executive Category: Encompasses the President of the Republic, the Prime Minister, and members of the Government (Ministers and Ministers Delegate). [16]
The Administrative Category: Includes all individuals employed within a public administration, whether on a permanent [17] or temporary contractual basis, [18] working within:
Central state administrations.

[13] Abdelaziz Sa'd, Crimes of Aggression against Public and Private Property, 4th edn, Dar Houma for Publishing and Distribution, Algiers, p. 139.
[14] See Official Gazette, Issue No. 14, 2006.
[15] Algeria ratified the aforementioned Convention with reservations via Presidential Decree No. 04-128 dated April 19, 2004, Official Gazette Issue No. 26, 2004.
[16] See Article 103 of Presidential Decree No. 20-442 dated December 30, 2020, relating to the promulgation of the Constitutional Amendment ratified by the November 1, 2020 referendum, Official Gazette Issue No. 82, 2020.
[17] sunset See Article 4 of Ordinance No. 06-03 of July 15, 2006, containing the General Civil Service Statute, Official Gazette Issue No. 46, 2006.
[18] See Presidential Decree No. 07-308 dated September 29, 2007, as amended and supplemented, concerning contractual agents, Official Gazette Issue No. 61, 2007.

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Decentralized directorates subordinate to central administrations.
Territorial collectivities (Wilayas and Communes).
Public administrative institutions (EPA) across their various legal configurations.
The Judicial Category: Specifically refers to members of the judiciary as defined by the Organic Law governing the Judiciary, divided into the ordinary judicial order and the administrative judicial order. [19]
The Legislative and Elected Category: Encompasses any individual holding a legislative seat in either chamber of Parliament, or an elected member of a local assembly (Municipal Popular Assembly APC or Provincial Popular Assembly APW). [20]
Officials and Equivalent Status: This category extends to military and civilian personnel of National Defense, as well as public officers who discharge duties via a delegation of public authority, including notaries (notaires), judicial bailiffs (huissiers de justice), and official translators.

Section II: The Statutory Framework of the Crime of Favoritism in Public Procurement and its Economic Impacts

The commission of favoritism in public procurement fundamentally manifests through acts of a material nature. Pursuant to Article 26 of Law No. 06-01 concerning the Prevention and Combating of Corruption, the perpetrator willfully grants a third party an unjustified advantage during the procurement process, execution, or modification of a contract, agreement, public procurement contract, contractual addendum (avenant), or administrative visa. This behavior is legally characterized as a violation of statutory and regulatory provisions safeguarding the freedom of bidding, equality among bidders, and procedural transparency. Favoritism is thus conceptualized as the preferential treatment of one party over another in service delivery for the purpose of obtaining specific interests. [21] Premised upon the foregoing, what are the material and mental elements of favoritism? And what are the statutory sanctions prescribed by the Algerian legislature?

Subsection I: Elements of the Crime of Favoritism and Prescribed Statutory Sanctions

The criminalization of this conduct is imperatively dictated by the necessity of safeguarding the public interest. We shall examine the elements constituting this criminal act, followed by an overview of its statutory penalties.

Paragraph 1: Elements of the Crime of Favoritism

1. The Material Element (Actus Reus)

The material element of favoritism is established when the perpetrator willfully grants an unjustified advantage to a third party during the conclusion, modification, or review of a

[19] See Organic Law No. 26-03 dated March 23, 2026, containing the Statute of the Judiciary, Official Gazette Issue No. 23, 2026.
[20] Ahcene Boussaquia, op. cit., p. 14.
[21] Mohamed Ali Ibrahim Al-Khasbah, Financial and Administrative Corruption and Means of Combating It, working paper presented at the Third Arab Forum: Mechanisms for Protecting Public Funds and Reducing Administrative Corruption, Amman, Jordan, May 2003, p. 198.

contract, agreement, public contract, addendum, or visa, in total disregard of the statutory and regulatory provisions governing free competition, equal treatment, and transparency. In public procurement, this misdemeanor materializes through several structural forms:

- **Violations Prior to Tendering/Consultation:** This occurs through the unjustified recourse to direct invoicing, thereby artificially splitting the public procurement contract (*fractionnement du marché*) to circumvent competitive bidding procedures and mandatory advertising requirements (e.g., failing to publish the tender notice in the official public procurement bulletin (*BOMOP*) and at least two national daily newspapers). Furthermore, resorting to direct negotiation (*gré à gré*) outside statutory exceptions violates the mandatory evaluation procedures. The Algerian legislature's commitment to competitive transparency strictly prohibits post-tender negotiations with bidders after the opening of bids. The offense is fully consummated if the administration negotiates with select bidders to alter their pricing structures to simulate the "best offer" or artificially revises contract prices to grant an unjustified advantage to one bidder at the expense of another. [22]
- **Violations Post-Award:** This involves organizing post-facto corrective measures through the execution of unlawful contractual addenda (*avenants*) that circumvent mandatory competitive rules, subsequently processing them to create an illusion of legality. Crucially, the offense stands if the committed regulatory violations had a decisive impact on the award allocation and the underlying administrative decision.
- **Violations of Administrative Visas:** This occurs when the contracting authority intentionally refuses or bypasses the mandatory submission of public procurement projects to competent oversight bodies, such as the relevant Public Procurement Commission, the Budgetary Controller (*Contrôleur Budgétaire*), and the competent Public Accountant.

2. The Mental Element (Mens Rea)

Criminal conduct, whether consisting of an act or an omission, is insufficient to establish criminal liability absent the psychological component, designated as the mental element (mens rea). This represents the internal psychological state that drives an individual to commit the material act.

The crime of favoritism is an offense of specific intent requiring general criminal intent (le dol général). This is manifested when the perpetrator's will is directed toward violating the statutory and regulatory provisions governing public procurement, with full knowledge that the underlying conduct is criminalized. The mens rea materializes through the official's awareness and deliberate intent to infringe upon public procurement legislation for the purpose of

[22] Faisal Nassifa, The Legal Regime of Public Procurement and Mechanisms of its Protection, Journal of Judicial Jurisprudence, Issue 5, Faculty of Law and Political Science, Mohamed Khider University, Biskra, September 2009, p. 117.

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conferring an unjustified advantage upon a third party, [23] provided the official possesses the requisite capacity for criminal responsibility (i.e., being of sound mind, memory, and understanding), which facilitates the inference of criminal intent.

Paragraph 2: Prescribed Statutory Sanctions for the Crime of Favoritism

The Anti-Corruption Law details the penal sanctions applicable to perpetrators of favoritism, abandoning criminal-scale penalties (peines criminelles) in favor of misdemeanor-scale penalties (peines délictuelles). It additionally governs the rules of attempt, complicity, statutes of limitation, aggravating and mitigating circumstances, and statutory exemptions. [24]

1. Principal Penalties

- For Natural Persons: Pursuant to Article 26, favoritism is punishable by imprisonment for a term of two (2) to ten (10) years, and a criminal fine ranging from two hundred thousand Algerian Dinars (200,000 DZD) to one million Algerian Dinars (1,000,000 DZD).
- For Legal Persons: The legislature has calibrated the principal financial fine for legal entities to be equal to one (1) to five (5) times the maximum fine prescribed for natural persons under the Penal Code. [25]
- Legal Interdiction (*L'interdiction légale*): Depriving the convicted individual of exercising their financial rights during the execution of the principal custodial sentence. [26]
- Deprivation of Civil and Family Rights: Such as the right to vote, run for office, testify before courts of law, or exercise guardianship rights. [27]
- Local Confinement: Restricting residency within parameters defined by the judicial ruling for a period not exceeding five (5) years. [28]
- Residency Bans: Prohibiting presence in specific areas for a period not exceeding five (5) years. [29]

[23] Jabbari Abdelhamid, *A Reading into the Law on the Prevention and Combating of Corruption*, Parliamentary Thought Journal, Issue 15, February 2007, p. 106.

[24] Article 26 of Law No. 06-01 was amended by Law No. 11-15 of August 2, 2011, *Official Gazette* Issue No. 44, 2011.

[25] See Article 51 *bis* of Ordinance No. 66-156 of June 8, 1966, as amended and supplemented, containing the Penal Code.

[26] See Article 9 bis of Ordinance No. 66-156, supplemented by Article 4 of Law No. 06-23 of December 30, 2006, containing the Penal Code.

[27] See Article 11, Paragraph 4 of Ordinance No. 66-156, as amended and supplemented by Article 5 of Law No. 06-23 of December 30, 2006.

[28] See Article 12, Paragraph 2 of Ordinance No. 66-156, as amended and supplemented by Article 5 of Law No. 06-23 of December 30, 2006.

[29] See Article 13 of Ordinance No. 66-156, as amended and supplemented by Article 6 of Law No. 06-23 of December 30, 2006.

- Professional Debarment: Temporarily banning the individual from practicing a specific profession or activity for a period not exceeding five (5) years. [30]
- Confiscation: The permanent forfeiture of illicit assets or their equivalent value to the State. [31]
- Exclusion from Public Procurement: Barring the individual from participating in future public contracts. [32]
- Banking Restrictions: Prohibiting the use of checks or electronic payment cards. [33]
- Publication of the Judgment: Displaying and publishing the judicial verdict at the expense of the convicted individual. [34]
- Asset Forfeiture: Confiscating the direct yields and unlawful funds generated from the commission of favoritism. [35]

  For legal persons, the ancillary penalties encompass:
- Judicial Dissolution: Applicable particularly when the crime of favoritism is coupled with:
  - The entity deviating from the corporate purpose for which it was established.
  - The entity being created solely for the purpose of committing such offenses. [36]
- Closure of the Enterprise: Closing the institution or one of its branches for a duration not exceeding five (5) years, by revoking its operational license, provided the property cannot be sold or disposed of during the closure period. [33]
- Judicial Guardianship: Placing the entity under judicial supervision through the appointment of a court receiver who submits periodic reports to the judge executing the sanctions.

Subsection II: Economic Impacts of Favoritism in Public Procurement

The crime of favoritism in public procurement yields extensive economic and political consequences that transcend any single domain. It alters the quality of economic and social life within society, wherein the criteria governing contract execution distort shifting from cost-efficiency and quality metrics toward arbitrary preferences. This subsection addresses how favoritism distorts the macro-investment climate and compromises structural political and economic reforms.

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[30] See Article 15 of Ordinance No. 66-156, as amended and supplemented by Article 6 of Law No. 06-23 of December 30, 2006.
[31] See Article 16 *bis* 2 of Ordinance No. 66-156, as amended and supplemented by Article 8 of Law No. 06-23 of December 30, 2006.
[32] See Article 16 *bis* 3 of Ordinance No. 66-156, as amended and supplemented by Article 8 of Law No. 06-23 of December 30, 2006.
[33] See Article 18 of Ordinance No. 66-156, as amended and supplemented by Article 9 of Law No. 06-23 of December 30, 2006.
[34] See Article 51, Paragraph 2 of Law No. 06-01 relating to the Prevention and Combating of Corruption.
[35] Mohamed Abu El-Ela Aqida, Modern Trends in the New French Penal Code, Dar al-Nahda al-Arabiya, Cairo, 2004, p. 78.
[36] Mohamed Abu El-Ela Aqida, *op. cit.*, p. 54.

Paragraph 1: Distortion of the Investment Climate

Favoritism exerts a profoundly negative impact on both domestic investment and Foreign Direct Investment (FDI). Where favoritism proliferates, domestic capital formation contracts and foreign investors become risk-averse. Serious entrepreneurs seek stable ecosystems that offer transactional facilities enabling them to execute projects at minimum cost to generate returns; conversely, they retreat from corrupt environments that impose illicit transaction costs, administrative hurdles in land acquisition, and arbitrary licensing bottlenecks. Consequently, favoritism triggers capital flight and renders the economic landscape non-competitive.

When an investor evaluates entering a specific market, they conduct a country-risk assessment spanning all institutional domains, reviewing reports compiled by credible international organizations. Global multinational corporations utilize precise parameters prior to deploying capital or engaging in public contracts. This process relies on international risk-assessment agencies that evaluate the political, economic, and social infrastructure of host nations, assessing the efficiency of the administrative apparatus, judicial independence, and legislative stability. These indicators include:

Socio-Political Indicators: Democratic governance, index of favoritism, civil service efficiency, Corruption Perceptions Index (CPI), and judicial independence.

Economic Indicators: GDP growth rates, inflation stability, ease of doing business, investor rights protection, and capital convertibility. [37]

Favoritism constitutes a systemic distortion that impedes investment flows, as verified by the inverse correlation between corruption indices and aggregate investment and economic growth. Economists widely characterize favoritism as an arbitrary "tax" on commercial operations that introduces substantial operational risk. [38]

Crucially, the World Bank's economic assessment for Algeria published in March 2025 noted that the Algerian economy maintained stable macroeconomic performance in 2014, supported by robust public investment and solid consumption patterns, coupled with accelerating structural transformations and sector-wide digitization measures designed to achieve sustainable growth. [39]

Paragraph 2: Compromising the Efficacy of Political and Economic Reforms

Institutional reform represents a structural ensemble of designed interventions engineered to effect fundamental shifts in a given sector such as the economic sector to enhance performance and realize national development. The axes of reform generally revolve around appointing meritorious leadership, training human resources, advancing administrative and financial oversight mechanisms, and institutionalizing swift accountability protocols for officials implicated in corruption.

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[37] Jean Cartier-Bresson, *Économie politique de la corruption et de la gouvernance*, p. 49/50.

[38] Daoud Khairallah, *Corruption and Good Governance in the Arab World*, Intellectual Seminar of the Center for Arab World Studies in cooperation with the Swedish Institute, Alexandria, 2004, p. 225.

[39] World Bank Group, *Algeria Economic Monitor*, March 2025—retrieved from: www.albankaldawli.org (Accessed: April 6, 2026).

However, the existence of favoritism impedes these outcomes. Vested bureaucratic networks invent pretexts to obstruct administrative and financial transparency reforms initiated by competent authorities, seeking to preserve illicit privileges accumulated via tainted contracts and treating public funds as an instrument for illicit enrichment. By sabotaging structural reforms, corrupt actors attempt to secure institutional impunity. These barriers inevitably derail the State's capacity to elevate socioeconomic standards and achieve sustainable development, particularly since public procurement directly intersects with infrastructural projects and utilities that fulfill the fundamental needs of citizens.

Furthermore, governmental economic decisions must be premised upon verified data to remain effective. The generation of distorted metrics by incompetent or corrupt administrators misleads policy-makers into prescribing erroneous macroeconomic remedies due to flawed structural diagnoses. These structural failures weaken the State's political posture within international financial institutions such as the International Monetary Fund (IMF) and the International Bank for Reconstruction and Development (IBRD) resulting in downgraded international transparency rankings and eroding sovereign credibility.

Conclusion

Through this statutory and structural evaluation of the principle of free access to public procurement via the suppression of favoritism under Law No. 06-01, as amended and supplemented, this study deduces the following conclusions:

1. Corruption is a globally pervasive phenomenon; however, its intensity varies across nations, and the critical variable resides in the efficacy of institutional suppression mechanisms.
2. Political will is the paramount catalyst in suppressing favoritism within public contracting, particularly within the public sector, through structural political and economic reforms.
3. Moral and ethical values remain indispensable as internal self-regulatory mechanisms that deter individuals from engaging in such offenses.
4. The Algerian legislature is actively aligning domestic statutory texts with international anti-corruption conventions, exemplified by establishing specialized enforcement bodies (such as the High Authority for Transparency, Prevention, and Combating of Corruption).
5. The Algerian legislature has not provided an exhaustive statutory definition of the principle of "free access to public procurement," contenting itself with referencing it as a foundational principle of public contracts.
6. The underlying ratio legis for criminalizing favoritism is to guarantee absolute equality among bidders and eradicate discriminatory practices, an objective attainable exclusively through the institutionalization of transparent tendering and award procedures.

7. Despite the legislative intent to implement an effective penal regime against perpetrators, structural gaps persist, necessitating the adoption of the following recommendations to reinforce the national legal framework.

Recommendations

1. **Promoting Participatory Democracy:** Cultivating civil engagement to restore civic trust in public state institutions.
2. **Enforcing Codes of Conduct:** Activating mandatory codes of professional conduct for public servants, ensuring institutional compliance and monitoring.
3. **Institutionalizing Digital Procurement:** Accelerating the comprehensive digital transformation of the national public procurement framework to facilitate decentralized access to contracting data.
4. **Deploying E-Government Solutions:** Eliminating direct administrative discretion by minimizing physical contact between citizens and public procurement officials.
5. **Strengthening Asset Declarations:** Auditing and validating asset disclosures submitted by public officials by enhancing the operational capacity of the Economic Police.
6. **Mandatory Local Government Training:** Enacting explicit statutory clauses within the Municipal and Provincial Codes requiring mandatory training in public procurement mechanics and professional ethics for local elected officials prior to their formal inauguration.
7. **Continuous Capacity Building:** Standardizing periodic training for civil servants directly engaged in procurement, while fostering institutional twinning and inter-administrative data sharing nationwide.
8. **Whistleblower Incentives and Protection:** Allocating substantial financial rewards for reporting favoritism, reinforced by absolute legal, physical, and judicial protection frameworks for whistleblowers.

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