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Criminal Liability for Influence Traffickers in Corruption Crimes Indonesia Criminal Law Perspective

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Abstract: This research examines trading in influence in corruption offenses committed by public officials from the perspective of Indonesian criminal law. The research aims to analyze the patterns of trading in influence arising from the discretion of public officials and the regulation of criminal liability under Indonesian law. This study employs normative legal research using statutory, conceptual, and comparative approaches. The results show five patterns of trading in influence, namely direct influence, influence through intermediaries, family or political networks, access to procurement, and influence over administrative decisions. Indonesian law has not yet regulated trading in influence as an independent criminal offense; therefore, its prosecution still relies on existing corruption provisions, such as bribery, gratification, extortion, abuse of authority, and participation in criminal offenses. A comparison with Spanish law shows that trading in influence has been specifically regulated under Articles 428 to 430 of the Spanish Penal Code. Therefore, stronger criminal law regulation is needed in Indonesia so that trading in influence can be regulated more clearly as a criminal offense while ensuring legal certainty and distinguishing it from legitimate forms of influence.

Keywords: Trading in influence, Corruption Offenses, State Officials, Criminal Liability, Indonesian Criminal Law.

INTRODUCTION

In the Preamble to the Constitution of the Republic of Indonesia in 1945, the fourth paragraph is emphasized that the noble ideals of the establishment of the State of the Republic of Indonesia are to protect the entire Indonesian nation and all Indonesian bloodshed, promote public welfare, educate the nation's life, and participate in implementing world order based on independence, lasting peace, and social justice (1945 Constitution of the Republic of Indonesia: Preface). In order to achieve these national goals, the state organizes national development in a sustainable manner through the allocation and management of state finances in the State Revenue and Expenditure Budget (APBN) and the Regional Revenue and Expenditure Budget (APBD).

The basic principles of Indonesian governance protect the principle of the rule of law as contained in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia

(1945 Constitution of the Republic of Indonesia: Article 1 paragraph 3). As a rechtsstaat, all government administration must be based on the rule of law, legal certainty, justice, and the general principles of good governance. However, the sustainability of national development and the principle of the rule of law continue to face serious threats from the practice of corruption crimes targeting state finances (Putra, 2026).

Corruption is no longer only categorized as an ordinary crime but has been recognized as an extraordinary crime. This is because the impact of corruption does not solely undermine the country's economic and financial potential, but also damages the democratic system, lowers the level of public trust in state authority, damages the investment climate, and takes away people's socio-economic rights to obtain a decent standard of living (Huda, 2020).

Along with the rapid development of social, political, and technological dynamics, the modus operandi of corruption has undergone a significant paradigm shift. In the past, corruption was dominated by conventional modes that were linear and explicit, such as direct bribery, embezzlement, extortion, and conventional gratuities (Chazawi, 2012).

Currently, corruption is transformed into non-conventional forms that are sophisticated, covert, and involve power transactions based on family, political, and business relationships. One of the non-conventional corruption phenomena that is a major concern in the study of international criminal law is Trading in Influence (Fariz, 2014).

Influence trading is the act of abusing a person's position, strategic position, political relations, family relationships, and social influence to influence the policies or decisions of public officials to obtain undue advantage (Hiariej, 2020). The fundamental characteristic of this delicacy is that the main actor is not always an official who has the formal authority to make decisions, but an actor who sells or trades his influence (presumed or real influence) to policymakers (Putra, 2026).

The practice of influence trading in Indonesia can be reviewed through the empirical reality of law enforcement of corruption crimes at the local government level. The concrete case reflected in this study is the Hand Capture Operation (OTT) which was carried out by the Corruption Eradication Commission (KPK) on December 9-10, 2025, in Central Lampung Regency (Oktavia, 2026).

In this case, the KPK named the Regent of Central Lampung (Ardito Wijaya) along with four other suspects, including members of the DPRD, the regent's family, official officials, and private parties (KPK, 2025). The construction of the case shows that the Regent allegedly abused his position of power by setting fees between 15% to 20% for a number of projects for the procurement of goods and services and the procurement of medical devices within the Central Lampung Regency Government (KPK, 2025; Putra, 2026: 4). The total flow of fee funds collected through intermediaries reached around IDR 5.75 billion, which was allocated, among others, to fulfill personal operations and the repayment of financing obligations for the Regional Elections campaign (KPK, 2025).

Substantially, this case reflects the characteristics of Trading in Influence. The influence inherent in the position of regional leaders is transacted as a political commodity to intervene in the procurement committee and win over certain partners who are willing to provide fees through informal channels. This case also shows a recurrent pattern of corruption based on regional power relations in Central Lampung which previously also involved the previous regent (Mustafa) in the mode of giving commitments and abuse of influence (Oktavia, 2026).

Although the phenomenon of influence trading is rampant in the political and bureaucratic realm in Indonesia, Indonesia's positive criminal law system is faced with a vacuum of norms (Adhari et al., 2023). Law Number 31 of 1999 jo. Law Number 20 of 2001 concerning the Eradication of Corruption Crimes (Corruption Law) has not formulated Trading in Influence as an independent criminal offense (Saputra, 2017).

At the international level, the provisions on influence trading have been comprehensively codified in Article 18 of the United Nations Convention Against Corruption (UNCAC) 2003

in Merida, Mexico (UNODC, 2004: Art. 18). The Indonesian government has ratified UNCAC 2003 through Law No. 7 of 2006 concerning the Ratification of UNCAC 2003 (Law No. 7/2006). However, because the formulation of Article 18 of the UNCAC uses the phrase "shall consider adopting", the criminalization of this offense is non-mandatory (Irza & Jaya, 2020).

The absence of explicit adoption into the Corruption Law or the National Criminal Code (Law No. 1 of 2023) causes law enforcement officials to be forced to ensnare influence trading behavior using bribery, gratuities, or abuse of conventional authority articles (Kolono & Widjajanti, 2024). This triggers legal uncertainty and difficulty in proving if the act is carried out by informal intermediaries or political party administrators who do not have the status of State Administrators (Mahmud et al., 2024)

The novelty of this research lies in the integrative analysis of the "pattern of discretion" of state administrators in smoothing the mode of influence trading, as well as the reconstruction of the application of the criminal theory of corruption in ensnaring this offense in the absence of a special article in the Indonesian Corruption Law, by making it a direct comparison with the implementation of Article 18 of the UNCAC and the provisions in the Spanish Penal Code (Putra, 2026: 7).

Based on the background, the problems that will be discussed in this study include, among others, how is the regulation of trading in influence in corruption by state administrators according to Indonesian criminal law and how is the formulation of the construction of criminal liability against perpetrators of trade in influence (Trading in influence) in corruption by state administrators according to Indonesian criminal law.

METHODS

This study uses a normative legal method (normative juridical research) through library research to examine the issue of criminal liability trading in influence. The approaches used include a statute approach, conceptual approach, and comparative approach by analyzing norms in the Anti-Corruption Law, the National Criminal Code, the UNCAC instrument, and Spanish criminal law. The data sources are sourced from primary, secondary, and tertiary legal materials collected through document studies. The data obtained are then analyzed qualitatively normatively using deductive reasoning to formulate legal reconstruction and clarity of criminal liability of traders in influence.

RESULTS AND DISCUSSION

Regulation of Trading in Influence in Corruption by State Administrators According to Indonesian Criminal Law.

Trading in influence is a *modus operandi* of corruption in which a person uses his influence, both actual *influence* and *asserted/supposed influence* due to certain positions, political positions, or relationships to influence the policies of public officials to gain *undue advantage*.

Internationally, *trading in influence* has been explicitly regulated in Article 18 of the *United Nations Convention Against Corruption* (UNCAC 2003, Article 18 letters a and b), which divides it into active form (offering/giving reward for influence) and passive form (soliciting/receiving reward for influence). Indonesia has ratified this convention through a national law (Law No. 7 of 2006).

However, in the framework of Indonesia's positive criminal law (*ius constitutum*), especially the Law on the Eradication of Corruption (Law No. 31 of 1999 *jo.* Law No. 20 of 2001), *trading in influence* has not been explicitly regulated as an independent criminal offense. The PTPK Law currently only contains conventional offenses such as:

- a. Bribery (Article 5, Article 6, Article 11, Article 12, Article 13).
- b. Gratification (Article 12B and Article 12C).
- c. Abuse of Authority That Harms State Finances (Article 2 and Article 3).

Legal Problems and Law Enforcement Dilemmas

The absence of *trading in influence* norms in the PTPK Law creates a legal *vacuum* and problems with its application in the field (Fariz et al., 2014,):

1. Based on the principle of legality (*nullum delictum sine lege*) as stipulated in the national criminal law (Law No. 1 of 2023, Article 1 paragraph (1)), a person can only be convicted based on the provisions of the pre-existing criminal law. Because the ratification of the UNCAC is *non-self-executing*, Article 18 of the UNCAC cannot be directly used as the basis for indictment by the prosecutor or the imposition of a criminal sentence by a judge without an adjustment (*incorporation*) into the national law (Atmasasmita, 2010).
2. In law enforcement practices, such as in the corruption case of beef import quota (Supreme Court Decision of the Republic of Indonesia No. 40 K/Pid.Sus/2014) or the case of buying and selling positions, Law Enforcement Officers (KPK/Prosecutor's Office) often force the use of bribery or participation articles (Article 55 of the Criminal Code). In fact, there are fundamental differences:
 - a. Conventional Bribery: Requires the recipient of the reward to have formal authority (*gezag*) directly over the decision being transacted.
 - b. Trading in Influence: The recipient of the reward (the owner of influence) does not have formal authority over the decision, but only sells "access/influence" to the actual authority official (Adji, 2009)

This results in the fragility of legal arguments during evidence in court and triggers legal *uncertainty* in eradicating political corruption and relational corruption involving state administrators.

Construction of Criminal Liability of State Administrators and Related Parties

The enforcement of corruption criminal law in Indonesia is currently faced with normative limitations in reaching modern corrupt practices that are increasingly sophisticated and covert (Radjab, 2020) One of the most rampant forms of corruption that is difficult to prosecute is *Trading in Influence* (Fariz et al., 2014) In Indonesia's positive law, namely Law Number 31 of 1999 *jo.* Law Number 20 of 2001 concerning the Eradication of Corruption (PTPK Law), there is no explicit article that criminalizes *trading in influence* as an independent crime (*delictum sui generis*) (Atmasasmita, 2010)

The absence of this rule creates a legal *vacuum* that is often exploited by corrupt perpetrators (Fariz et al., 2014) Law enforcement practices so far tend to force the application of conventional bribery articles (such as Article 5, Article 11, or Article 12 of the PTPK Law) or participation articles (Seno Adji, 2009) This construction coercion contains serious juridical methodological defects:

1. Elements of Formal Authority (*Gezag*): The conventional bribery articles in the PTPK Law always require that officials who receive bribes have formal direct *authority* over the decisions or obligations of the positions that are transacted (Hiariej, 2016)
2. Characteristics of Influence Trading: In *influence trading*, influence *brokers*, whether they are state administrators or private parties/political elites, often do not have formal authority directly over the desired decisions (Fariz et al., 2014). Perpetrators only sell or use their political influence, family relations, or strategic positions to influence other public officials who have official authority (Radjab, 2020).

As a result, the criminal entrapment of intermediary actors is vulnerable to debate in court because it is considered to violate the principle of formal legality (*nullum delictum sine lege*) as stated in Article 1 paragraph (1) of the Criminal Code and Article 1 paragraph (1) of Law No. 1 of 2023 (National Criminal Code) (Atmasasmita, 2010). Therefore, the need for criminal

law reform (*ius constituendum*) by explicitly including *trading in influence* in the revision of the PTPK Law is a very urgent legal need (Arief, 2006)

Indonesia has ratified the *United Nations Convention Against Corruption* (UNCAC) 2003 through Law No. 7 of 2006 (Law No. 7 of 2006). Article 18 of the UNCAC 2003 provides a comprehensive mandate to participating countries to consider the establishment of a criminal offense of influence on trafficking, which covers two sides (UNCAC 2003, Article 18 letters a and b):

- a. Trading in Active Influence: The act of promising, offering, or giving *undue advantages* to public officials or other people, directly or indirectly, so that the official or person abuses his actual or perceived influence (*supposed/asserted*) to obtain favorable decisions from public authorities.
- b. Passive Influence Trading The act of soliciting or receiving by a public official or other person, directly or indirectly, in the form of undue benefits for himself or others, for him to abuse his real or perceived influence to obtain a decision from a public authority.

However, because the principles of international law in Indonesia adhere to the doctrine that the ratification of international agreements is not *self-executing*, the provisions of Article 18 of the UNCAC 2003 cannot necessarily be applied directly by law enforcement without official adoption (*incorporation*) into the national law product (Atmasasmita, 2010). The reformulation of norms into the PTPK Law in the future occupies a central role to bridge these international obligations with positive legal certainty in Indonesia (Fariz et al., 2014)

In order to construct *trading in influence as a criminal act of corruption* that is solutive and legally certain, the new norm in the revision of the PTPK Law must be systematically prepared to include three main pillars of criminal offenses: the subject of the law, material acts (*actus reus*), and evil attitudes (*mens rea*) (Hiariej, 2016).

Legal Subject (*Subjectum Litis*)

One of the biggest weaknesses of conventional corruption law is the restriction of the legal subject of the recipient who is rigidly bound to the status of public officials (Seno Adj, 2009) In the formulation of *ius constituendum*, the subject of the law of influence trading must be expanded into two categories (Fariz et al., 2014).

State Administrators / Public Officials:

State administrators who trade the influence of their position or position—not their technical authority—on other public officials, for example, are legislators who do not have executive authority but use their political position to pressure ministers or official officials.

Non-Public Officials:

Private parties, political party administrators or elites, businessmen, and family members/close relations of public officials (Fariz et al., 2014) This group is often untouched by ordinary corruption articles because they are not state administrators, even though they trade the "access" or "special relationship" they have with authorized officials for personal or group profits (Radjab, 2020).

Elements of Material Deeds (*Actus Reus*)

Criminal acts (*actus reus*) in *trading in influence* must be formulated in detail to avoid ambiguity of interpretation (Hiariej, 2016), These acts include:

Transactional Physical Action is in the form of offering, promising, giving, requesting, or receiving rewards in any form, both material (money, goods, shares) and non-material (facilities, job security, political promotion, indirect financial gains) (UNCAC 2003, Article 18 letters a and b).

Object of Advantage (*Undue Advantage*) is in the form of improper benefits, namely any form of benefit that has no legal basis or is contrary to the ethical standards of state administration.

Abuse of Influence: The act of exploiting position, relationships, political power, or actual influence or perceived influence to influence decision-making, issuance of permits, procurement of goods/services, or other legal actions from authorized authority officials (Fariz et al., 2014).

Elements of Evil Inner Attitude (*Mens Rea*)

Criminal liability cannot be imposed without fault (*geen straf zonder schuld*). The inner element (*mens rea*) in *trading in influence* requires the intentionality (*dolus*) of the perpetrator (Hiariej, 2016)

The perpetrator consciously understands that he has influence (or is perceived to have influence) over the authorized official (Radjab, 2020)

The perpetrator deliberately directs the transaction of *undue advantage* to move or deflect the objectivity of the intended public official's decision for the benefit of the rewarder. Criminal liability in the *trading in influence mechanism* involves a pattern of trilateral relationships (three parties) (Fariz et al., 2014) Therefore, the construction of criminal liability must be separated based on the juridical role of each involved (Hiariej, 2016)

State administrators who act as intermediaries of influence are the main target of this formulation of the delicacy. Its criminal liability is constructed as follows:

The Main Actor (*Dader*) is a state organizer who asks for or receives profits for his promise to influence other officials who are fully responsible as the main perpetrators of the crime of passive influence trafficking (Radjab, 2020)

Formal *Offense* Criminal liability for intermediaries occurs perfectly (*voltooid*) at the time the transaction or agreement regarding the reward/influence occurs. Proof does not require whether the affected authority official ultimately obeys or rejects the influence The attitude of the authority official does not eliminate the act of trading influence that has been completed by the intermediary (Arief, 2006).

Authority officials who have official authority (*gezag*) to issue decisions or policies targeted by intermediaries can be charged through two separate qualifications: Independent of Influence Broker: If an authority official issues a decision solely because he is deceived or hierarchically pressured without receiving a share of the *undue advantage*, then the official can be exempt from criminal prosecution of corruption, while the criminal liability for corruption remains fully charged to the intermediary (*influence broker*)

Participation Qualification (*Deelneming*): If the authority official is aware of the transaction, agrees, and participates in receiving a share of the improper profits to smooth the requested decision, then the official is held criminally liable separately as a passive bribery perpetrator or together with an intermediary through the construction of participation (*medeplegen* ex Article 55 of the Criminal Code) actors outside the official circle of the government can no longer escape by scapegoating the absence of the status of "state administrator" (Fariz et al., 2014)

Private Intermediary / Political Elite: Political party administrators or private intermediaries who abuse their political relationship with authority officials to receive profits illegally are prosecuted as *standalone offenders* for the offense of *passive trading in influence* (Fariz et al., 2014). Active *Influence Trader*: Private parties or applicants who give/promise profits to intermediaries are charged with active *trading in influence* (UNCAC 2003).

With the adoption of *the construction of trading in influence* into Indonesia's positive law in the future, the corruption criminal justice system will gain several strategic advantages (Fariz et al., 2014):

1. Eliminating Legal Vacuum: Making the prosecution of political *corruption* and relational nepotism have a legal basis and in accordance with the principles of legality
2. Simplifying Evidence at Trial: The public prosecutor is no longer burdened with proving the existence of a "direct relationship of authority" between the intermediary and the resulting public decision, but instead focuses on proving the existence of influence and the receipt of *undue advantage*
3. Preventing Covert Corruption in the Public-Private Sector: Reaching out to *shadow actors* such as license brokers, political party administrators, and cronies of officials' families who have been enjoying the proceeds of corruption crimes without being touched by criminal law

CONCLUSIONS AND RECOMMENDATIONS

Conclusion

1. The practice of trading in influence can take place through various patterns, such as direct influence, the use of intermediaries, the use of family relationships or political networks, the manipulation of access in the procurement of goods and services, and the influence on administrative decision-making. This practice has the potential to become a criminal act of corruption if the use of influence involves giving or receiving benefits related to the position and authority of state administrators. In its implementation, the flexibility or discretion possessed by state administrators often becomes a space for the development of influence trading if it is not balanced with adequate supervision mechanisms and accountability principles.
2. The regulation of trading in influence in Indonesia's criminal law currently does not place it as a stand-alone criminal act. Although Indonesia has ratified the United Nations Convention Against Corruption (UNCAC) through Law Number 7 of 2006, the provisions of Article 18 of the UNCAC have not been specifically accommodated into the national criminal law. Due to the absence of this special article, law enforcement against the act of trading in influence still relies on existing corruption articles, such as bribery, gratuities, extortion, abuse of authority, and participation (*deelneming*), if the elements are met. This condition emphasizes the need to reform and strengthen trading in influence regulations to create legal certainty while increasing the effectiveness of corruption eradication in Indonesia.

Recommendations

1. It is necessary to update and strengthen the corruption criminal law by regulating Trading in influence more strictly and comprehensively as a separate criminal act, while still paying attention to the principles of legality and legal certainty and distinguishing between the use of legitimate influence and influence trading carried out to obtain profits illegally.
2. For Lawmakers (DPR and Government) and Law Enforcement Officials, it is recommended to reconstruct criminal liability for the practice of trading in influence by fully adopting the provisions of Article 18 of the UNCAC into the revision of the Corruption Law, both in the form of active and passive offenses. This is important so that the scope of criminal law is not only limited to the formal authority of officials, but also able to reach informal intermediaries such as political actors and families. While new regulations have not yet been formed, Law Enforcement Officials should apply a material-functional approach and optimization of the inclusion doctrine (Article 55 of the Criminal Code), namely assessing criminal liability based on factual functions and evidence of intentionality (*mens rea*) of improper reward transactions.

REFERENCES

- Arief, B. N. (2006). *Tindak Pidana Mayantara: Perkembangan Lolosnya Kejahatan Di Indonesia*. Semarang: Badan Penerbit Universitas Diponegoro.
- Atmasasmita, R. (2010). *Hukum Pidana Internasional dan Prospek Pembaruannya di Indonesia*. Bandung: Refika Aditama.
- Chazawi, Adami. (2012). *Pelajaran Hukum Pidana 1: Stelsel Pidana, Tindak Pidana, Teori Pemidanaan*. Jakarta: PT Rajagrafindo Persada.
- Fariz, Donal. (2014). *Kajian Implementasi Aturan Trading in Influence Dalam Hukum Nasional*. Jakarta: Indonesia Corruption Watch (ICW).
- E.O.S. Hiariej, Memahami 'Trading in influence' dalam Kerangka UNCAC, *Jurnal Hukum Internasional*, Vol. 8 No. 3, 2020
- Fariz, D., dkk. (2014). *Kajian Implementasi Aturan Trading in Influence dalam Hukum Nasional*. Jakarta: Indonesia Corruption Watch.
- Fariz, D., dkk. (2014). *Kajian Implementasi Aturan Trading in Influence dalam Hukum Nasional*. Jakarta: Indonesia Corruption Watch.
- Hiariej, E. O. S. (2016). *Prinsip-Prinsip Hukum Pidana*. Yogyakarta: Cahaya Atma Pustaka.
- Hiariej, Eddy O.S. (2020). "Memahami 'Trading in Influence' dalam Kerangka UNCAC." *Jurnal Hukum Internasional*, 8(3)
- Hiariej, Eddy O.S. (2023). *Prinsip-Prinsip Hukum Pidana (Edisi Revisi)*. Yogyakarta: Cahaya Atma Pustaka.
- Huda, Chairul. (2022). *Dari Tiada Pidana Tanpa Kesalahan Menuju Kepada Tiada Pertanggungjawaban Pidana Tanpa Kesalahan*. Jakarta: Kencana.
- Huda, Ni'matul. (2020). *Korupsi di Indonesia: Studi Tentang Sistem dan Budaya*. Yogyakarta: Pustaka Pelajar.
- Irza, Muhammad Yusron dan Nyoman Serikat Putra Jaya. (2020). "Urgensi Pengaturan Trading in Influence sebagai Tindak Pidana Korupsi dalam Tatahan Hukum Pidana Indonesia." *Halu Oleo Law Review*, 4(2),
- Mahkamah Agung Republik Indonesia. Putusan Nomor 40 K/Pid.Sus/2014 (Kasus Impor Daging Sapi).
- Ni'matul Huda, *Korupsi di Indonesia: Studi Tentang Sistem dan Budaya*, Pustaka Pelajar, Yogyakarta, 2020.
- Radjab, S. (2020). *Konstruksi Hukum Pertanggungjawaban Korupsi Politik*. Jakarta: Rajawali Pers.
- Republik Indonesia. Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana (KUHP Nasional).
- Republik Indonesia. Undang-Undang Nomor 31 Tahun 1999 jo. Undang-Undang Nomor 20 Tahun 2001 tentang Pemberantasan Tindak Pidana Korupsi.
- Republik Indonesia. Undang-Undang Nomor 31 Tahun 1999 jo. Undang-Undang Nomor 20 Tahun 2001 tentang Pemberantasan Tindak Pidana Korupsi.
- Republik Indonesia. Undang-Undang Nomor 7 Tahun 2006 tentang Pengesahan United Nations Convention Against Corruption, 2003.
- Saleh, R. (2013). *Pikiran-pikiran tentang pertanggungjawaban pidana*. Ghalia Indonesia.
- United Nations. (2003). *United Nations Convention Against Corruption (UNCAC)*.