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## **Criminalization of Trading in Influence in Indonesian Criminal Law: A Juridical and Legal Policy Analysis Based on the United Nations Convention Against Corruption (UNCAC) 2003**

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**Abstract:** The practice of trading in influence constitutes a form of abuse of power that potentially undermines the integrity of the legal system and governance. Such practice generates legal injustice and erodes public trust in state institutions due to personal interests and the misuse of power relations. The United Nations Convention Against Corruption (UNCAC) 2003 is an international legal instrument that explicitly defines trading in influence as a criminal act under Article 18. Indonesia ratified the UNCAC through Law No. 7 of 2006; however, national criminal law particularly Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 on the Eradication of Corruption Crimes has yet to explicitly regulate this offense. This study aims to analyze the juridical foundation and the direction of legal policy regarding the criminalization of trading in influence to align with international commitments under the UNCAC 2003. The research employs a normative legal method using statutory, conceptual, and comparative approaches. The legal materials consist of the UNCAC 2003, Law No. 7 of 2006, the Indonesian Anti-Corruption Law, and the Legislative Guide for the Implementation of the United Nations Convention against Corruption (UNODC). Data were collected through literature study and analyzed qualitatively using systematic and teleological interpretation methods. The findings reveal that Indonesian national law has not yet explicitly accommodated the offense of trading in influence as stipulated in the UNCAC 2003, resulting in a normative gap and weak law enforcement against influence-peddling practices in political and bureaucratic spheres. Therefore, reform in criminal legal policy is required through the specific criminalization of trading in influence to ensure harmony with international anti-corruption standards and strengthen the integrity of state officials.

**Keyword:** Trading in Influence, United Nations Convention Against Corruption (UNCAC) 2003, Legal Policy, Corruption Offense, Criminalization.

## INTRODUCTION

Trading in Influence represents a practice of abusing personal relations and positions of authority to obtain private or group benefits through the exertion of influence over public decision-making. This conduct not only reflects an administrative defect but also inflicts fundamental harm upon the principles of legality, fairness, and accountability that underpin a modern legal system. When public decisions can be “purchased” or mediated by informal actors, the integrity of state institutions deteriorates, and public confidence in law and governance is consequently eroded (Slingerland, 2010). In practice, trading in influence leads to unequal access to public services, distorted resource allocation, and systemic conflicts of interest. These consequences undermine governmental legitimacy and the effectiveness of public administration (Transparency International, 2018; UNODC, 2012). Indonesia ratified the United Nations Convention against Corruption (UNCAC) of 2003 through Law No. 7 of 2006, wherein Article 18 recommends that State Parties consider criminalizing trading in influence. However, despite Indonesia’s formal commitment, its national criminal legislation particularly the Corruption Eradication Law (Law No. 31/1999 in conjunction with Law No. 20/2001) has yet to explicitly regulate this offense. Numerous cases involving the abuse of influence have instead been prosecuted under the categories of bribery, gratification, or abuse of authority, creating evidentiary challenges and normative limitations (UNODC, 2018; Effendi et al., 2023). This normative gap has enabled influence brokers to operate in the legally gray area, thereby weakening the overall effectiveness of the national anti-corruption framework.

From the perspective of legal politics, trading in influence is not merely a matter of codification technique but reflects a deeper structural issue concerning the distribution of power and the trajectory of legal reform. Several jurisdictions, such as France, have criminalized both active and passive influence-peddling, providing valuable comparative insight (Slingerland, 2010). Comparative studies indicate that variations in legislative drafting, evidentiary elements, and enforcement mechanisms directly affect the success of criminalization policies (Clifford Chance, 2019). In Indonesia, recent scholarship (Effendi, 2023; Timoty, 2020; Jupriyadi, 2023) has identified inconsistencies between Indonesia’s international commitments under the UNCAC and its domestic legal framework. However, systematic studies that integrate juridical-textual analysis with policy-making dynamics remain scarce.

The UNODC Legislative Guide (2006) provides detailed normative constructions for trading in influence, outlining both active and passive elements and offering model legislative language for national lawmakers. Nonetheless, empirical research examining how Indonesian law enforcement interprets politically influenced cases, as well as analyses of the political consequences of criminalization such as political resistance, institutional impacts, and bureaucratic implications remains limited. Accordingly, two main research gaps can be identified:

1. Normative gap: the absence of a specific provision within the Corruption Eradication Law explicitly addressing trading in influence.
2. Policy-implementation gap: the lack of empirical research exploring the political and institutional implications of criminalizing this offense.

This research seeks to bridge both gaps by integrating textual legal analysis (UNCAC, Law No. 7/2006, and the Corruption Eradication Law), comparative legislative study, and legal-political analysis oriented towards public policy formation. Primary sources include the UNODC Legislative Guide (2006), Implementation Review Mechanism reports for Indonesia (UNODC, 2012, 2018), and national empirical studies conducted between 2020–2023.

The study’s contribution and novelty are twofold. First, from a juridical perspective, it formulates a model legislative clause on trading in influence consistent with the principles of

Indonesian criminal law, emphasizing realistic and applicable evidentiary standards. Second, from a legal-political perspective, it analyzes the policy implications of criminalization on law enforcement structures, political interests, and state institutional capacity in prevention of corruption. The novelty lies in the integration of normative-textual analysis of the UNCAC with the domestic legal-political dynamics an approach seldom explored in Indonesian legal scholarship. Consequently, this research aspires to contribute theoretically to the development of anti-corruption criminal law and to provide practical recommendations for national legal reform aligned with international anti-corruption standards.

## **METHOD**

This study employs a normative legal (doctrinal) research approach, focusing on the analysis of legal norms, doctrines, and principles related to the offense of trading in influence as stipulated under the United Nations Convention against Corruption (UNCAC) 2003 and its relation to the Indonesian criminal law system. The choice of this approach is based on the research objective to examine the consistency, normative gap, and legislative necessity for criminalizing trading in influence within national regulations in accordance with international anti-corruption standards.

The research population encompasses all relevant legal instruments, international conventions, and scholarly literature concerning corruption and the politics of law in Indonesia. The primary legal materials include:

- 1) UNCAC 2003.
- 2) Law No. 7 of 2006 on the Ratification of UNCAC.
- 3) Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 on the Eradication of Corruption Crimes.

The secondary legal materials consist of the UNODC Legislative Guide for the Implementation of UNCAC (2006), the UNCAC Implementation Review Mechanism Reports (UNODC, 2012 & 2018), peer-reviewed international journal articles, and national academic works (Effendi, 2023; Timoty, 2020; Jupriyadi, 2023). Tertiary sources such as legal dictionaries, encyclopedias, and anti-corruption policy reports are utilized to support conceptual and terminological analyses.

Data collection is conducted through library research, involving extensive review of legal documents, institutional reports, and prior research. Data are analyzed qualitatively using two principal interpretative methods:

- 1) Systematic interpretation, to examine legal norms in the context of their interrelation within the national and international legal framework.
- 2) Teleological interpretation, to interpret legal norms based on the social and moral objectives underlying the criminalization of trading in influence, particularly in strengthening public integrity and combating corruption.

Complementary approaches include:

- 1) the statute approach, to analyze vertical and horizontal synchronization among legislative instruments.
- 2) the conceptual approach, to trace the doctrinal meaning and evolution of influence peddling.
- 3) the comparative approach, to assess criminalization models adopted in other jurisdictions (e.g., France and South Korea) that have integrated trading in influence into their domestic laws.

To ensure validity and reliability, this study applies legal source triangulation, comparing normative provisions, international legislative guides (UNODC), and empirical findings from prior research. Conceptual validity is reinforced through a critical review of academic literature and official UN legislative guidance.

The research is conducted throughout 2024–2025 in Jakarta and Depok, utilizing academic libraries, national legal databases (JDIH, Hukum Online), and international repositories (UNODC Legal Library, Taylor & Francis Online). The study is limited to normative and policies of criminalization, excluding field data or public perception analysis. Such limitation is counterbalanced by in-depth doctrinal and comparative legal analysis, ensuring that the findings remain verifiable and replicable within Indonesia's anti-corruption criminal law context.

## **RESULTS AND DISCUSSION**

### **Legal Basis for the Criminalization of Trading in Influence in the Perspective of UNCAC 2003**

The criminalization of trading in influence has a strong legal foundation within the framework of international law, particularly following the adoption of the United Nations Convention against Corruption (UNCAC) 2003. The Convention emphasizes the importance of States Parties establishing offenses related to the abuse of influence by public officials or other individuals with proximity to state power (United Nations, 2003). Article 18 of UNCAC provides that each State Party “shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences” acts of promising, offering, or giving undue advantage to any person with the intent that such person abuses his or her real or supposed influence over a public official to obtain an undue advantage (United Nations Office on Drugs and Crime [UNODC], 2004). Although framed as a non-mandatory clause merely requiring States to consider criminalization the provision carries moral and political force, as it embodies universally recognized standards of ethics and public integrity (Boister, 2012).

From a juridical standpoint, Article 18 of UNCAC serves as the normative foundation for developing domestic criminal law provisions that penalize intermediaries or third parties who exploit their influence over public officials. Within the context of international criminal law, this provision functions to fill the legal gap not covered by conventional bribery provisions (Delaney, 2017). Trading in influence does not always involve a direct exchange between a bribe-giver and a public official; rather, it may occur through third parties who have access or close relations with particular officials. Therefore, the criminalization of this conduct aims to broaden the scope of anti-corruption law to include more subtle and complex forms of corruption (Carr, 2006).

#### **1. Juridical Elements of Article 18 UNCAC**

Article 18 of UNCAC conceptually distinguishes two main forms of trading in influence:

- a) Active trading in influence: the act of promising, offering, or giving an undue advantage to another person so that they misuse their influence over a public official; and
- b) Passive trading in influence: the act of requesting or receiving an undue advantage in return for using one's influence to affect the decision-making of a public official (UNODC, 2004).

From the perspective of criminal law, the *actus reus* of this offense includes acts of promising, offering, giving, requesting, or receiving an undue advantage. Meanwhile, the *mens rea* lies in the deliberate intention to exploit influence whether real or perceived for personal gain or for the benefit of another (Larmour & Wolanin, 2013). Accordingly, the criminalization of trading in influence requires intentionality, rather than merely the incidental outcomes of ordinary social interactions.

UNCAC 2003 (Article 18) explicitly recognizes trading in influence as a form of corruption that merits criminalization. The provision provides a normative directive for States Parties to consider adopting legislative and other measures to establish it as a criminal offense

when committed intentionally. This means UNCAC promotes the harmonization of domestic law with international standards, while allowing flexibility in legislative implementation. Nevertheless, from both a political and ethical perspective, ratification of UNCAC creates a moral obligation and international commitment for States to close this gap in corruption law.

The purpose of criminalization, as outlined in UNCAC, is to prevent the misuse of influence that undermines the integrity of public decision-making processes, to fill legal loopholes not addressed by existing bribery or abuse-of-authority provisions, and to extend enforcement reach to intermediary actors (influence brokers). From a teleological perspective, this norm safeguards the public interest, reinforces trust in institutions, and upholds the principle of equal access to administrative and legislative decision-making processes.

## **2. Rationality and Purpose of Criminalization**

The purpose of criminalization, as outlined in the travaux préparatoires of UNCAC, is to protect the integrity of public offices from indirect forms of influence abuse that significantly undermine justice and public trust (Bantekas, 2006). By expanding the scope of corruption offenses to include trading in influence, UNCAC recognizes that modern corruption does not only manifest as direct bribery but also through the brokerage of influence, where non-state actors play a central role. The criminalization of trading in influence thus serves as a preventive mechanism against systemic corruption, as this practice often acts as a gateway for more severe offenses such as bribery or abuse of authority (Rose-Ackerman & Palifka, 2016). By targeting influence brokers, international law seeks to disrupt the transactional chain between private interests and public power.

However, the formulation and implementation of this provision present challenges for Indonesian law. One of the major difficulties in adopting Article 18 of UNCAC at the national level lies in proving the element of “real or supposed influence.” This element is inherently subjective and difficult to establish empirically, as there may be no direct evidence of the influence exercised or the promise made (De Speville, 2010). Consequently, countries that have incorporated this provision such as France, Slovenia, and Spain tend to use an intent-based proof approach rather than a result-based proof approach (OECD, 2019). Furthermore, distinguishing trading in influence from legitimate lobbying activities is a crucial issue. In legal systems that recognize political lobbying, there must be a clear juridical boundary between the lawful use of influence and corrupt influence trading. Principles such as transparency, lobbyist registration, and financial disclosure serve as the primary differentiating criteria (Miller & Rose, 2014).

## **3. Normative Implications for National Law**

From a normative perspective, the existence of Article 18 UNCAC underscores the necessity for Indonesia to harmonize its anti-corruption legislation with international standards. Although Indonesia has ratified UNCAC through Law No. 7 of 2006, there remains no explicit provision addressing trading in influence within national legislation (Indonesia, 2006). As a result, the practice of influence brokerage or power mediation remains difficult to prosecute using existing legal instruments, since such acts do not fully meet the elements of bribery or gratification offenses as stipulated under Law No. 31 of 1999 jo. Law No. 20 of 2001 on the Eradication of Corruption Crimes.

By incorporating a provision similar to Article 18 of UNCAC into domestic law, Indonesia would be able to strengthen the integrity of public officials and close the legal loophole surrounding non-conventional forms of corruption. Moreover, such reform would signal a national legal-political commitment to expanding the substantive definition of corruption, aligning with the international paradigm that defines corruption as the abuse of entrusted power for private gain (Transparency International, 2022).

In the Indonesian context, doctrinal analysis of Law No. 31 of 1999 jo. Law No. 20 of 2001 reveals that the current provisions do not expressly regulate trading in influence. The most analogous offenses are bribery and gratification, both of which require a direct relationship between the giver and receiver of the benefit. In contrast, trading in influence typically involves third-party intermediaries, meaning the elements of bribery under Articles 5 and 11 of the Anti-Corruption Law are not met.

This absence of explicit regulation creates a significant normative gap. Prior studies such as those conducted by Effendi et al. (2023) and Jupriyadi (2023)—confirm that Indonesia has yet to align its domestic provisions with Article 18 of UNCAC. The UNODC Review Mechanism Report (2018) further highlights that Indonesia's implementation of Article 18 remains conceptual only, with no concrete legislative measures undertaken. These findings indicate a mismatch between Indonesia's international commitments and its national legal implementation, potentially undermining the credibility of its anti-corruption regime in the global context.

From the standpoint of criminal law theory, the absence of a specific legal norm raises problems of *lex certa* and *lex scripta*, as conduct that is morally and socially corruptive cannot yet be legally qualified as a criminal act. Therefore, the legal basis for the criminalization of trading in influence in Indonesia derives from the need to fill the legal vacuum and to fulfill the principle of harmonization with international legal instruments, as mandated by Article 7 paragraph (2) of Law No. 7 of 2006 concerning the Ratification of UNCAC.

## **The Direction of Indonesia's Criminal Law Policy on the Criminalization of Trading in Influence**

### **1. Formal Position and International Commitment**

Formally, Indonesia ratified the United Nations Convention against Corruption (UNCAC) 2003 through Law No. 7 of 2006 (Indonesia, 2006), thereby creating a political and legal obligation for the State to align its domestic regulations with UNCAC provisions, including Article 18 on trading in influence (United Nations, 2003). However, the ratification serves primarily as a legal-political framework: Article 18 of UNCAC requires States Parties to “consider adopting” criminalization, rather than mandating uniform technical implementation across legal systems (UNODC, 2006). Consequently, the direction of Indonesia's national legal policy depends on how policymakers interpret this international obligation and integrate it into the country's domestic legislative priorities (United Nations Office on Drugs and Crime [UNODC], 2006).

### **2. Empirical Evidence of Delayed Regulatory Harmonization**

Studies and implementation reviews indicate that, despite progress in strengthening anti-corruption norms, Indonesia has not yet explicitly incorporated trading in influence as an offence under its anti-corruption legislation (Effendi et al., 2023; Timoty, 2020). The UNCAC Country Review Report for Indonesia also highlights the need to adjust domestic legal materials to fully implement certain provisions of the Convention (UNODC, 2018). Indonesian normative studies further identify a normative gap, whereby cases substantively involving influence-peddling are prosecuted under bribery or abuse of power provisions due to the absence of a specific offence (Effendi et al., 2023; Sulaeman, 2023).

### **3. Political Factors Influencing or Hindering Criminalization**

A political–legal analysis reveals several key factors shaping Indonesia's criminal policy direction on this issue:

#### **a) Political Will**

The criminalization of new forms of conduct under criminal law requires strong political support, particularly from both the executive and legislative branches. In Indonesia,

some policymakers have shown caution due to concerns that expanding criminal offences might inadvertently criminalize normal political activities such as lobbying or advocacy, thus requiring extremely careful drafting (Effendi et al., 2023; ICW, 2013).

b) Institutional Capacity for Law Enforcement Agencies

Proving trading in influence demands complex investigative methods, such as communication pattern analysis, intermediary transaction tracing, and financial intelligence utilization. Limited forensic and procedural capacity has restrained criminalization initiatives until law enforcement agencies are adequately prepared (UNODC, 2018; Widiyana & Sihombing, 2019).

c) Risk of Politicization in Enforcement

Since trading in influence often involves politically influential actors, there is a risk that law enforcement actions could be perceived as partisan political tools in the absence of sufficient safeguards for prosecutorial and judicial independence (Brill Editorial on Amendments, 2021).

d) Balancing Legal Certainty and Preventive Goals

Legislators must balance the principle of legality with the need for prevention; overly broad formulations risk overcriminalization, while overly narrow ones fail to close substantive loopholes (OECD/UNODC literature; Effendi et al., 2023).

#### **4. The Role of Other Legal Instruments and the National Legislative Process**

The ongoing reform of Indonesia's Criminal Code (with the enactment of the new KUHP in late 2022) provides an opportunity to incorporate corruption-related offences not yet accommodated in existing laws. However, analyses of the draft and its academic texts indicate that not all UNCAC recommendations were adopted, as legislative attention was often diverted by competing political agendas (Edelman Analysis, 2022; Brill, 2021). Legal scholars and practitioners argue that the inclusion of trading in influence in either the new KUHP or the Anti-Corruption Law revision requires precise formulation and interpretative guidelines to ensure that legitimate lobbying practices are not criminalized (Timoty, 2020; Effendi et al., 2023).

#### **5. Policy Models Available for Adoption (Legal–Political Options)**

Based on comparative and international practice, several policy alternatives are available to Indonesian lawmakers:

a) Direct Criminalization within the Anti-Corruption Law or Criminal Code

This model adopts distinct definitions of active and passive trading in influence, includes intent and “undue advantage” elements, and broadens the scope to cover intermediaries — consistent with the UNODC Legislative Guide. While this approach provides the clearest repressive response, it requires high enforcement capacity to prevent misuse (UNODC, 2006; OECD Comparative Notes).

b) Hybrid Regulation (Administrative + Civil + Misdemeanor Criminal)

This approach regulates intermediary conduct through administrative sanctions (e.g., lobbyist registration, transparency requirements), coupled with criminal penalties only where intent and undue advantage are proven. It emphasizes prevention and transparency, reducing risks of overcriminalization (Miller & Rose, 2014).

c) Strengthening Evidentiary Mechanisms and Enforcement Procedures

Without drastically amending substantive criminal law, the State can enhance investigative tools (e.g., asset tracing, court-authorized wiretaps, international cooperation) and evidentiary guidelines that allow inference from transaction patterns as proof of intent. This incremental model tends to be more politically acceptable (UNODC, 2018).

An ideal policy choice should account for Indonesia's institutional capacity (KPK, police, prosecution), political culture, and the protection of human rights and freedom of expression (ICW; Brill, 2021).

## **6. Practical Implications of the Chosen Legal–Political Direction**

If Indonesia opts for explicit criminalization, the positive implication would be closing existing legal gaps and expanding the repressive tools of enforcement. However, practical consequences include the need for investigator training, evidentiary guidelines, and safeguards against misuse. Conversely, a hybrid approach requires inter-policy integration (e.g., lobbying transparency regulations, codes of ethics, administrative sanctions), demanding cross-sectoral coordination (OECD/UNODC comparative literature). The gradual approach, while politically feasible, delays the realization of stronger preventive mechanisms (UNODC, 2018; Effendi et al., 2023).

## **7. Policy Recommendations Based on a Realistic Legal–Political Framework**

Drawing on legal political analysis and international experience, the following recommendations are both politically and technically viable:

- a) Careful legislative drafting that clearly distinguishes between legitimate and corrupt influence (defining “undue advantage” and intent).
- b) Strengthening enforcement capacity (financial forensics, complex investigations) before imposing severe criminal sanctions.
- c) Implementing complementary preventive mechanisms (lobbyist registration, meeting transparency, codes of conduct) to reduce risk-prone practices.
- d) Conducting multi-stakeholder dialogues (among policymakers, KPK, academia, and civil society) to design an implementation model that balances legal certainty with corruption prevention (UNODC, 2006; Effendi et al., 2023).

Overall, Indonesia's current criminal law policy direction regarding the criminalization of trading in influence remains cautious. While there is formal commitment to UNCAC, the normative adoption of Article 18 has yet to be realized due to political, technical, and institutional constraints. To ensure that such criminalization is both effective and legitimate, Indonesia must adopt a multi-tiered strategy that integrates clear statutory drafting, enhanced enforcement capacity, and non-criminal preventive mechanisms that promote transparency (UNODC, 2006; Effendi et al., 2023). In terms of balancing legal certainty, prevention, and the capacity of law enforcement, according to Arief, in formulating criminal policy, legislators must consider the principles of legality, legal certainty, and the effectiveness of crime prevention (Arief, 2017; 2020).

## **Academic Implications**

### **1. Transformation of the Conceptual Framework of Corruption**

This study enriches the conceptual framework of corruption by emphasizing that modern corruption goes beyond material exchanges (bribery) and includes networked influence trading (brokerage of influence). These findings are consistent with studies on systemic corruption that highlight the relational and structural dimensions of corruption (Klitgaard, 2015; Rose-Ackerman & Palifka, 2016). Accordingly, the research expands the normative definition of corruption, which can serve as a reference for contemporary criminal law theory studies, in line with Hadjon's view that the criminal law system must place the protection of citizens at the center of consideration when formulating norms (Hadjon, 2017).

### **2. Methodological Contribution to Normative Legal Studies**

The integration of doctrinal analysis of UNCAC, including the interpretation of Article 18 with a legal-political (policy analysis) approach demonstrates an interdisciplinary method that can be replicated by other researchers. This approach bridges the methodological



gap between doctrinal legal studies and policy implementation studies, serving as a model for similar research in other countries that have ratified UNCAC (UNODC, 2006; 2018).

### **3. Analytical Space for Criminal Law Evidence**

This research highlights the need to develop evidentiary tools emphasizing intent-based inference and non-traditional patterns of proof (e.g., communication trails, financial forensics) a contribution relevant to the literature on legal forensics and evidentiary jurisprudence (De Speville, 2010; OECD, 2019).

### **Practical / Public Policy Implications**

The findings support the recommendation to incorporate the offense of trading in influence into the Anti-Corruption Law (UU Tipikor) or the Penal Code (KUHP) with formulations distinguishing active and passive forms, clearly defining “undue advantage” and mens rea, and providing alternative evidentiary provisions (UNODC, 2006). This would close the normative gap that hinders prosecution of influence brokers (Effendi et al., 2023).

Implementation of such criminalization requires strengthening the capacities of the KPK, police, and prosecution: improving financial forensics, communication analysis technology, and complex investigative procedures. Without these capacity investments, legal expansion risks becoming merely symbolic (UNODC, 2018).

Beyond criminalization, preventive policies such as lobbyist registration, transparency in official-third-party meetings, and ethical codes distinguishing legitimate lobbying from influence trading are needed. A combination of administrative and criminal sanctions (a mixed regulatory approach) enhances prevention effectiveness while reducing the risk of overcriminalization (Miller & Rose, 2014). Legislative formulations must include safeguards against politically motivated law enforcement (e.g., guarantees of investigator independence and legislative oversight) to preserve enforcement legitimacy (Brill, 2021).

The findings are normative-comparative in nature and not strongly supported by field-based empirical data (such as perceptions of officials or offenders). Therefore, generalization to the implementation context requires additional socio-legal research. International comparisons are limited to continental European law traditions; exploration of Southeast Asian models should be expanded in future studies. This aligns with the evidentiary mechanism following Arief’s approach, which emphasizes the need for specific criminal norm wording and interpretative guidelines to prevent the misuse of law (Arief, 2020). Regarding the preventive mechanisms and lobbyist registration, Hadjon underscores the necessity of integrating preventive policies with law enforcement to maintain the legitimacy of the legal system (Hadjon, 2017).

## **Discussion Synthesis**

### **1. Main Findings**

UNCAC (Article 18) provides a strong normative basis for criminalizing trading in influence, although its international formulation allows implementation flexibility for state parties (United Nations, 2003; UNODC, 2006). Indonesian criminal law has not explicitly accommodated this offense; the normative gap makes influence brokerage practices difficult to prosecute as corruption offenses (Effendi et al., 2023; UNODC, 2018). The current criminal law policy direction is cautious: political obstacles, concerns over overcriminalization, and limited enforcement capacity hinder the adoption of firm normative provisions. To analyze political obstacles and political will, the author cites Mulyana's view that legal politics within the national legal system determines the success or failure of criminal policy implementation, and that criminal legal politics is a strategic instrument that must align norms, practices, and institutional capacity (Mulyana, 2019).

## 2. Critical Interpretation

The study reveals that criminalizing trading in influence must be viewed as part of a broader anti-corruption strategy not merely as adding a new offense, but as reforming preventive mechanisms, evidentiary standards, and governance structures. Effective criminal provisions must be accompanied by institutional reform to ensure a tangible deterrent effect (Klitgaard, 2015; Rose-Ackerman & Palifka, 2016).

## 3. Alternative Explanations & Validity of Findings

It is possible that some policymakers have delayed criminalization not purely for political reasons but due to legislative priority considerations such as the lengthy Penal Code revision agenda and the need for harmonization with other regulations. However, UNCAC implementation reports and academic studies support the interpretation that a normative gap exists requiring specific legal action (UNODC, 2018; Effendi et al., 2023).

## 4. Synthetic Recommendations

- a) Stage I (Prevention & Regulation): Implement lobbyist registration, disclosure obligations, and administrative sanctions for high-risk activities as an initial step.
- b) Stage II (Progressive Enforcement): Develop evidentiary guidelines and forensic capacities to support fair and transparent prosecution.
- c) Stage III (Normative Criminalization): Once institutional capacity and preventive frameworks are adequate, adopt explicit criminal provisions in the Anti-Corruption Law or Penal Code to cover both active and passive actors.

As part of anti-corruption efforts, according to Mulyana, criminal law policy is a strategic instrument that must align norms, practices, and institutional capacity (Mulyana, 2019).

## 5. Contributions to Legal Science and Policy Development

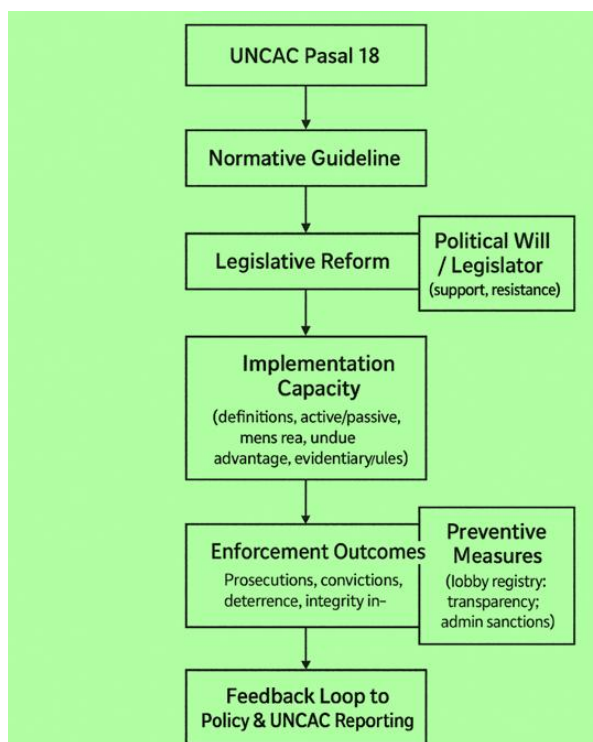
This study presents a conceptual framework and technical recommendations that can serve as the basis for drafting legislation and enforcement guidelines. Scientifically, it facilitates a dialogue between modern corruption theory, criminal law studies, and policy studies on adaptive legislation in response to evolving forms of corruption, as Hiariej emphasizes that the reform of legal mechanisms requires the formulation of criminal provisions to align with the principle of legality to ensure legal certainty (Hiariej, 2020).

## 6. Limitations and Future Research Agenda

Future research should incorporate empirical studies (investigator interviews, case law analysis, public perception surveys) and expand comparative studies to Southeast Asian countries to develop a more contextually relevant model for Indonesia.

## Framework of Legal–Political Correlation in the Criminalization of Trading in Influence in Indonesia

The following diagram serves as a conceptual map illustrating the functional relationship between international instruments (UNCAC), national law (Anti-Corruption Law/Penal Code), enforcement capacity, and preventive policy measures. This framework demonstrates how Indonesia's legal-political direction toward criminalizing trading in influence is influenced by both international obligations and domestic political-legal realities.



**Figure 1. Framework of Legal–Political Correlation in the Criminalization of Trading in Influence in Indonesia**

Brief Explanation of Figure 1: Legal–Political Framework of Trading in Influence Criminalization in Indonesia

- a) Article 18 of UNCAC provides a normative guideline for State Parties to consider legislative reform aimed at criminalizing trading in influence.
- b) Legislative reform at the national level depends heavily on political will; the result of legal drafting directly affects the implementation and enforcement capacity of law enforcement institutions.
- c) Preventive measures such as lobbyist registration, transparency of official–third party meetings, and codes of ethics operate in parallel to reduce the risks of trading in influence practices, either prior to or concurrently with criminal enforcement.
- d) Enforcement outcomes determine the effectiveness of criminalization and provide a feedback loop to national policymakers and the UNCAC review mechanism, helping to refine legal design and strengthen future preventive strategies.

**CONCLUSION**

The criminalization of trading in influence is an urgent necessity within Indonesia’s criminal law system, as this practice not only causes moral and legal degradation but also undermines the legitimacy of the state and the integrity of government governance. Based on a juridical analysis of the United Nations Convention against Corruption (UNCAC) 2003, particularly Article 18, Indonesia has a strong legal foundation to adopt the offense of trading in influence into its national legal system through the Law on the Eradication of Corruption Crimes. However, to date, there is no explicit provision regulating this act, creating a normative gap that potentially weakens the effectiveness of the national anti-corruption regime.

From the perspective of legal politics, the direction of criminalizing trading in influence aligns with the spirit of legal reform, which emphasizes transparency, accountability, and substantive justice. This criminalization is not merely a formal adjustment

to international commitments but a strategic step to close the grey area between bribery, gratuities, and abuse of authority that has long been inadequately addressed by positive law. The implementation of this policy will strengthen the national law enforcement system and demonstrate Indonesia's seriousness in internalizing globally recognized anti-corruption values.

This research makes a significant academic contribution by offering a conceptual model that integrates juridical and legal-political approaches into a coherent analytical framework. The novelty of this study lies in its synthesis between the normative analysis of UNCAC and the domestic legal-political reality, thereby producing concrete recommendations for reformulating a specific article on trading in influence within the Corruption Eradication Law. Thus, this study not only bridges normative and policy gaps but also provides new direction for the development of Indonesia's criminal law that is responsive to contemporary corruption challenges and international anti-corruption standards.

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