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COMMERCIALISING PUBLIC OFFICE IN INDONESIA: Patronage, Evidentiary Gaps, Trading in Influence, and A Maqāṣid-Oriented Islamic Legal Response

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Abstract

The commercialisation of public office—commonly described in Indonesia as jual-beli jabatan—converts bureaucratic appointment, promotion, and transfer into exchangeable political-economic assets. This article develops an interdisciplinary socio-legal account of the practice by integrating anti-corruption law, public-administration scholarship, political patronage, evidentiary doctrine, and Islamic criminal jurisprudence. It argues that office-selling is not adequately understood as an episodic bribery offence. Rather, it is a governance mechanism through which electoral costs, patron-client networks, discretionary personnel authority, and rent extraction become mutually reinforcing. The analysis revisits prominent Indonesian cases at ministerial and local-government levels and identifies three recurrent enforcement problems: symbiotic secrecy between giver and recipient, reliance on intermediaries and informal payments, and the incomplete domestication of the United Nations Convention against Corruption concept of trading in influence. It then reads Qurʾān 4:58 and 2:188 through a maqāṣid-oriented framework, particularly the ideas of public trust, justice, protection of wealth, and institutional welfare. The article concludes that a credible response requires simultaneous criminal-law reform, independent merit-system oversight, digital traceability of senior appointments, stronger whistle-blower protection, and a public-ethics framework that treats appointment power as a fiduciary trust rather than a distributable political reward.

Keywords: public office commercialisation; corruption; patronage; merit system; trading in influence; fiqh jināyah; maqāṣid al-sharīʿah; Indonesia

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INTRODUCTION

A professional and politically impartial civil service is a constitutive institution of modern constitutional government. Public authority is delegated for public purposes; appointment powers therefore carry a fiduciary character and cannot legitimately be converted into private, partisan, or pecuniary benefits. Yet Indonesian anti-corruption enforcement has repeatedly exposed transactions in which promotion, transfer, or access to senior bureaucratic posts is conditioned on payments, political loyalty, or brokerage. The source manuscript correctly identifies this practice as more than an internal personnel violation: it is a structural form of corruption capable of degrading service quality, distorting procurement, and displacing competent officials.[1]

Recent scholarship strengthens this diagnosis. Studies of Indonesian bureaucracy continue to document tensions between meritocratic recruitment and political intervention, while comparative public-administration research shows that politicisation can operate through appointments, recruitment, behaviour, and organisational structure. The resulting institutional hybrid is especially vulnerable where political executives possess wide personnel discretion and where career incentives depend on proximity to patrons rather than professional performance.[2]

The central analytical problem is therefore not simply why an individual pays a bribe for a position. It is how a market for office becomes institutionally reproducible. Patronage provides political protection and access; the purchased office provides opportunities for recouping the initial payment; and the resulting rents finance future political or personal networks. In this cycle, appointment corruption is both an outcome of clientelism and an input into subsequent corruption. Recent work on hybrid top-civil-service appointments similarly demonstrates that formal merit rules may coexist with informal demands for political loyalty.[3]

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[1] Original manuscript, "Tinjauan Sosio-Legal dan Tafsir Maqashidi terhadap Komersialisasi Jabatan Publik di Indonesia," especially its framing of office-selling as structural corruption affecting merit and public service.

[2] Hamka Hendra Noer, "Portrait of the Politicization of Indonesian Bureaucracy in the 2024 Election," International Journal of Social Service and Research 4, no. 3 (2024), https://doi.org/10.46799/ijssr.v4i03.735; Katarina Staronova and Colin Knox, "Politicisation of the Civil Service: Contestation and Context," NISPAcee Journal of Public Administration and Policy 17, no. 2 (2024), https://doi.org/10.2478/nispa-2024-0019.

[3] Ari Mamshae, "Between Merit and Patronage: Hybrid Appointments of Top Civil Service," Governance 38 (2025): e12914, https://doi.org/10.1111/gove.12914.

This article advances three contributions. First, it reframes jual-beli jabatan as a form of institutionalised public-office commercialisation located at the intersection of bribery, patronage, and influence trading. Second, it clarifies the evidentiary and doctrinal gap created when politically powerful brokers influence appointments without holding the formal authority to issue the relevant administrative decision. Indonesian scholarship has repeatedly identified the absence of an autonomous trading-in-influence offence despite Indonesia's ratification of the United Nations Convention against Corruption (UNCAC). Third, it develops an Islamic legal response grounded not in rhetorical moral condemnation but in a maqāṣid-oriented account of public trust (amānah), justice (ʿadl), unlawful appropriation of wealth, and institutional welfare.[4]

The research question is: how should Indonesian law conceptualise and respond to the commercialisation of public office when the practice is sustained by patronage networks, difficult evidentiary conditions, and extra-structural influence? A subsidiary question asks whether maqāṣid-oriented Islamic legal reasoning can supply a normatively coherent public-law framework that complements, rather than substitutes for, constitutional and anti-corruption law.

DATA AND METHODS

This study uses normative legal research enriched by socio-legal and institutional analysis. The primary legal materials comprise Indonesia's anti-corruption legislation, criminal-procedure rules, civil-service legislation, UNCAC, and publicly available judicial and enforcement materials concerning appointment-related bribery. The doctrinal inquiry focuses on the legal characterisation of bribery, gratification, abuse of office, evidentiary requirements, and trading in influence. The socio-legal component examines how formal personnel rules interact with political patronage, electoral incentives, and bureaucratic dependence.

The case analysis is purposive rather than statistical. It uses the Ministry of Religious Affairs appointment scandal and selected local-government cases

[4] Erdianto Effendi et al., "Trading in Influence (Indonesia): A Critical Study," Cogent Social Sciences 9, no. 1 (2023): 2231621, https://doi.org/10.1080/23311886.2023.2231621; Mulyono Dwi Purwanto and Tuti Widyaningrum, "Pentingnya Pengaturan Delik Perdagangan Pengaruh," Jurnal Kajian Ilmiah 23, no. 2 (2024): 125–134, https://doi.org/10.31599/j9adz546.

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discussed in the source manuscript as institutional illustrations of two distinct mechanisms: extra-structural brokerage and direct hierarchical monetisation of personnel authority. The article does not treat media reports as substitutes for judicial findings; where public reporting is used, it functions only to contextualise institutional patterns. The original manuscript's reliance on heterogeneous web materials has therefore been substantially tightened, with recent peer-reviewed literature prioritised and older works retained only where they are foundational or primary authorities.[5]

For the Islamic-law component, the study employs thematic and maqāṣid-oriented interpretation. Qurʾān 4:58 is read as a norm of entrusting public responsibility to those entitled and capable of bearing it, while Qurʾān 2:188 is read as a prohibition on deploying wealth to corrupt authoritative decision-making. Classical political-jurisprudential materials are used as historical-normative authorities, while contemporary maqāṣid scholarship is used to translate those principles into the institutional language of merit, public wealth, accountability, and prevention of systemic harm. This method avoids anachronistically claiming that classical jurists regulated modern civil-service systems in their present form.

RESULTS AND DISCUSSION

From Patronage to a Market for Public Office

Patronage is analytically distinct from bribery but can create the infrastructure within which bribery becomes routine. A patron controls access to scarce public resources or career opportunities; clients exchange loyalty, money, mobilisation capacity, or future services for that access. When personnel authority is embedded in such a network, bureaucratic posts cease to be allocated solely through competence-based criteria and acquire an informal exchange value. Recent Indonesian research on political patronage and bureaucratic politicisation confirms that formal neutrality remains vulnerable to electoral and partisan pressures.[6]

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[5] The revision replaces the source manuscript's heterogeneous "Works cited" list—containing news sites, repositories, ResearchGate, Scribd, and other non-journal sources—with a research bibliography centred on peer-reviewed scholarship, primary legislation, UNCAC, and foundational Islamic legal authorities.

[6] Eze Elekwachi and Henry Ufomba, "Political Patronage and Bureaucracy: Studies in Nigeria and Indonesia," Jurnal Mengkaji Indonesia 3, no. 1 (2024): 1–26, https://doi.org/10.59066/jmi.v3i1.564

The commercialisation of office has a recursive logic. A candidate who pays for a post has an incentive to recover the expenditure. Positions associated with procurement, licensing, education, health, taxation, or local administration can provide opportunities for informal extraction. The transaction therefore alters the office-holder's incentive structure before the official begins to exercise authority. This is why the social harm exceeds the amount of the initial bribe: the payment may function as an entry cost into a subsequent rent-extraction chain.

High-cost electoral competition can intensify the problem, although it should not be treated as a monocausal explanation. Contemporary studies of money politics and clientelism in Indonesia show the continuing salience of material exchange in electoral mobilisation. Where local executives are simultaneously political competitors and personnel authorities, bureaucratic appointments may become resources for coalition maintenance, campaign finance, or reward distribution. The crucial institutional variable is discretion without sufficiently independent review.[7]

A Q1-level analysis must, however, avoid the overstatement found in parts of the original manuscript. It is not empirically defensible to infer that every appointment influenced by politics is purchased, nor that every local executive uses personnel powers corruptly. The stronger proposition is conditional: where opaque discretion, patronage dependence, weak oversight, and monetised electoral networks converge, the risk that appointments become transactional increases substantially.

B. Two Modalities: Extra-Structural Brokerage and Hierarchical Monetisation

The Ministry of Religious Affairs scandal illustrates extra-structural brokerage. A politically influential actor need not possess formal appointment authority to shape an appointment if the actor can credibly promise access to, or pressure upon, the authorised decision-maker. This configuration exposes the conceptual limits of a bribery framework focused narrowly on the formal

[7] Moch. Noor, Mohammad Hidayaturrahman, and Anak Agung Putu Sugiantiningsih, "Political Clientelism in Presidential Elections: Voting Behaviour and Social Assistance," Jurnal Ilmu Sosial dan Ilmu Politik 29, no. 2 (2025), https://doi.org/10.22146/jsp.94625; Hertanto and Handi Mulyaningsih, "Knowledge and Attitudes of the Younger Generation towards Money Politics in the 2024 General Election," Politika 16, no. 1 (2025): 1–14, https://doi.org/10.14710/politika.16.1.2025.1-14.

office-holder. The corrupt asset being sold is influence itself. Indonesian legal scholarship has consequently argued for clearer criminalisation of trading in influence, drawing directly on UNCAC Article 18.[8]

Local-government cases present a different configuration. Here, the relevant political executive may also possess or dominate formal personnel authority. The transaction can therefore be vertically organised: payments are collected directly or through aides, personnel officials, or trusted intermediaries, while appointments and transfers supply the quid pro quo. The original manuscript's discussion of Klaten, Nganjuk, Pemalang, and Bangkalan usefully demonstrates variation in labels and collection mechanisms, but the revised analysis avoids treating reported "tariffs" as nationally generalisable price data. Their evidentiary value is case-specific, not a basis for estimating a national market price.

These two modalities have different legal implications. Direct hierarchical monetisation is more readily mapped onto conventional bribery and abuse-of-office offences. Extra-structural brokerage is harder because the broker's power is relational rather than statutory. Recent comparative Indonesian work on trading in influence shows why gratification and bribery provisions may only partially capture this conduct. A reform strategy should therefore distinguish the purchase of an official act from the purchase of access or improper influence over another official.[9]

C. Evidentiary Architecture and the Problem of Symbiotic Secrecy

Appointment bribery is difficult to prove because both principal parties often benefit from concealment. Unlike offences with an immediate complainant, the payer may obtain the desired promotion and the recipient obtains money or political support. This mutuality reduces spontaneous reporting and increases dependence on surveillance, financial intelligence, cooperating witnesses, digital communications, or contemporaneous seizure of assets.

Indonesian criminal procedure requires lawful evidence sufficient to support judicial conviction. The challenge is not that the evidentiary standard

[8] Effendi et al., "Trading in Influence"; Athika Salsabilla Harahap, Ilham Azhari, and Irhamni, "Urgensi Pengaturan Perdagangan Pengaruh," Riau Law Journal (2025), https://doi.org/10.30652/chn5tm57.

[9] Gebi Vani Habeahan, Herlina Manullang, and July Esther, "A Comparative Study of Trading in Influence in Indonesian and Spanish Corruption Laws," Journal of Law, Politic and Humanities 5, no. 3 (2025): 1414–1424, https://doi.org/10.38035/jlph.v5i3.1274.

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is inherently inappropriate; lowering criminal-proof standards would create serious rule-of-law risks. The policy question is instead how investigative institutions can lawfully generate reliable evidence before the transaction disappears into cash, intermediaries, euphemistic gifts, or post hoc explanations. This distinction is important: evidentiary difficulty should motivate better investigative design, not weaker due process.

Three reforms follow. First, appointment processes for high-risk posts should produce auditable digital trails, including selection scores, conflict-of-interest declarations, reasons for deviation from ranking, and records of communications by authorised committees. Second, whistle-blower and witness protection must be credible for civil servants whose careers depend on the officials they report. Third, unexplained-wealth and asset-disclosure mechanisms should be used as intelligence and risk-screening tools in accordance with applicable law, rather than treated as automatic substitutes for proof of a specific bribery offence.

D. Trading in Influence and the UNCAC Implementation Gap

UNCAC Article 18 addresses the intentional promise, offering, giving, solicitation, or acceptance of an undue advantage so that a person abuses real or supposed influence with a public authority for an undue advantage. Indonesia ratified UNCAC through Law No. 7 of 2006, but ratification did not itself create a directly enforceable domestic offence with all elements of Article 18. Recent Indonesian scholarship consistently identifies this gap.[10]

The gap matters for office commercialisation because appointment brokers can be party leaders, relatives, advisers, financiers, or other actors whose leverage derives from political proximity rather than formal competence. Stretching conventional bribery provisions to cover every such case risks inconsistency and legality concerns. A carefully drafted trading-in-influence offence would instead identify the protected legal interest, the prohibited exchange, the meaning of improper influence, the required mens rea, and defences or exclusions for legitimate advocacy.

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[10] I Wayan Satria Pratama Bayu Negara and Annisa Virgi Azzahra, "Ius Constituendum of Regulating Trading in Influence as a Form of Corruption Offense in Indonesia," Jurnal Hukum Prasada 13, no. 1 (2026): 1–8, https://doi.org/10.22225/jhp.13.1.2026.1-8; Dewic Sri Ratnaning Dhumillah and Setya Budi Dias Oktavianto, "Konsep Relevansi Kejahatan Trading Influence dan Gratifikasi," IBLAM Law Review 5, no. 1 (2025), https://doi.org/10.52249/ilr.v5i1.526.

Criminalisation should be accompanied by safeguards. Influence is ubiquitous in democratic politics; lobbying, recommendation, coalition negotiation, and political communication cannot be criminal merely because they affect government. The offence must therefore target the corrupt exchange of an undue advantage for an abuse of real or supposed influence, not influence simpliciter. Comparative legal drafting and prosecutorial guidance are essential to prevent overbreadth.

E. Merit-System Oversight after the 2023 Civil-Service Reform

The source manuscript is strongest when it connects office-selling to the institutional design of civil-service oversight, but its language concerning the post-2023 framework requires greater precision. Law No. 20 of 2023 reorganised the architecture of civil-service governance and removed the former KASN model. The normative question is not whether one institution must be preserved in exactly its previous form, but whether the replacement architecture provides functionally independent, technically capable, and enforceable merit oversight.

Recent public-administration scholarship highlights precisely this tension between meritocracy and political influence in regional recruitment. Independent review matters because formal open selection can become ceremonial if final decision-makers may disregard professional rankings without transparent reasons. Effective merit governance therefore requires ex ante prevention, not only ex post criminal prosecution. Criminal law intervenes after corruption has matured; personnel oversight can interrupt the opportunity structure earlier.[11]

A robust model would combine transparent competency criteria, external participation in selection for sensitive posts, publication of reasoned appointment decisions, automated anomaly detection, cooling-off rules for selection-committee conflicts, and accessible administrative review. These mechanisms reduce both corruption opportunities and the evidentiary burden on criminal enforcement.

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[11] "Navigating Meritocracy and Political Influence in Regional Bureaucratic Recruitment: Insights from Indonesia," Journal of Public Policy and Administration 9, no. 4 (2025), https://doi.org/10.11648/j.jppa.20250904.11; Karningsih and Ari Satrio Wibowo, "Bureaucratic Reform and the Enhancement of Civil Service Performance," International Journal of Social Welfare and Family Law 1, no. 2 (2024): 69–81, https://doi.org/10.62951/ijsw.v1i2.479.

F. Fiqh Jināyah: Bribery, Public Trust, and Discretionary Sanctions

Islamic legal analysis adds value only if it is doctrinally disciplined. The relevant category is not a free-standing classical offence called "sale of office" in the modern bureaucratic sense. Rather, the conduct intersects with rishwah (bribery), ghulūl or unlawful appropriation connected with public responsibility, betrayal of trust, and abuse of delegated authority. Contemporary Islamic criminal-law scholarship continues to treat corruption as a serious public wrong because it combines unlawful enrichment with damage to governance and collective welfare.[12]

The prophetic condemnation of bribery establishes a strong normative baseline, but modern legal policy still requires specification of offence elements, procedure, proof, and proportionate sanctions. In classical fiqh, many corruption-related acts fall within taʿzīr, allowing public authority to design discretionary penalties in light of harm, culpability, deterrence, and institutional need. This flexibility should not be misread as permission for arbitrary punishment. In a constitutional state, any criminal sanction must remain subject to legality, due process, proportionality, and human-rights guarantees.

Accordingly, the revised article rejects the source manuscript's suggestion that capital punishment can be inferred as a general response to office-selling. Such a claim is both doctrinally contestable and unnecessary to the article's central argument. The stronger maqāṣid-consistent position is that sanctions should be effective and proportionate, including imprisonment where legislatively authorised, dismissal, disqualification from public office, confiscation of proven criminal proceeds, restitution, and institutional remediation.

G. Qurʾān 4:58: Amānah as a Merit and Fiduciary Principle

Qurʾān 4:58 commands that trusts be rendered to those entitled to them and that judgment among people be conducted with justice. In the context of public administration, the verse can support a fiduciary conception of appointment power: authority over public positions is itself an amānah, and the office to be filled is not the private property of the appointing official. The interpretive move is institutional rather than literalistic. The verse does not prescribe a modern civil-service examination; it supplies a normative

[12] Taroman Pasyah et al., "Aspects of Islamic Criminal Law in Realizing a Corruption-Free Indonesia," Ta'zir: Jurnal Hukum Pidana 9, no. 2 (2025), https://doi.org/10.19109/tazir.v9i2.31249.

grammar in which competence, entitlement, and justice constrain discretionary power.

A maqāṣid-oriented reading reinforces this interpretation. Ibn ʿĀshūr's emphasis on the social purposes of the Sharīʿah permits legal reasoning to examine how institutional arrangements protect order, justice, wealth, and public welfare. Selling a post frustrates these purposes because it substitutes ability to pay or political connection for suitability to exercise delegated authority. The harm is therefore not confined to the disappointed candidate. It extends to every citizen dependent on the competence and impartiality of the office-holder.

H. Qurʾān 2:188: Wealth, Authority, and Corrupt Decision-Making

Qurʾān 2:188 prohibits wrongful consumption of wealth and specifically condemns using wealth in relation to authorities in order to consume the property of others wrongfully. The verse provides a particularly powerful normative analogue for modern bribery because it links private wealth, authoritative decision-making, and unjust acquisition. In the office-selling context, the initial payment is not an isolated transfer: it can be the gateway through which public decision-making is redirected toward private recoupment.

The maqāṣid dimension is clearest in the protection of wealth (ḥifẓ al-māl) and the preservation of just public order. If a purchased office creates incentives for procurement manipulation, extortion, or diversion of service budgets, the corruption threatens both public assets and distributive justice. This reading converges with contemporary anti-corruption law without collapsing religious normativity into positive law. The two systems reach overlapping concerns through different sources of authority.

I. An Integrated Reform Model

The analysis supports a five-part reform model. First, Indonesia should formulate a narrowly defined trading-in-influence offence consistent with legality and UNCAC, while preserving a clear boundary between corrupt exchange and legitimate political advocacy. Second, merit-system oversight must be institutionally independent in function, adequately resourced, and capable of reviewing deviations from competitive selection. Third, high-risk appointment procedures should be digitally traceable and accompanied by conflict-of-interest controls. Fourth, whistle-blower protection should include career safeguards against retaliatory transfer, demotion, or exclusion. Fifth,

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ethics education should frame appointment authority as a public trust and connect integrity rules to concrete organisational incentives rather than relying on moral exhortation alone.

The Islamic legal framework can strengthen the legitimacy of these reforms in a Muslim-majority society by articulating why merit, justice, and protection of public wealth are not merely managerial preferences. Yet religious language should never become a substitute for institutional design. The central lesson of maqāṣid reasoning is precisely that public norms must be translated into arrangements capable of securing welfare and preventing harm.

CONCLUSION

The commercialisation of public office in Indonesia is best conceptualised as a systemic corruption risk generated by the interaction of patronage, discretionary appointment power, monetised political networks, and evidentiary opacity. Its legal form varies. Some cases are conventional bribery by officials with direct appointment authority; others involve brokers who sell access or influence without possessing formal competence. The latter category exposes the continuing importance of a carefully drafted trading-in-influence offence.

The article also demonstrates that criminal enforcement alone is insufficient. The market for office must be disrupted upstream through credible merit oversight, transparent selection, digital auditability, conflict-of-interest controls, and protection for insiders who report coercive or transactional appointments. These reforms preserve due process while improving the state's capacity to detect and prove corruption.

From the perspective of fiqh jināyah and maqāṣid al-sharīʿah, public office is an amānah rather than a commodity. Qurʾān 4:58 supports a fiduciary and merit-oriented conception of delegated authority, while Qurʾān 2:188 condemns the use of wealth to corrupt authoritative decision-making. Read together, these norms justify a public-ethics framework centred on justice, competence, protection of public wealth, and prevention of systemic harm. Their contemporary significance lies not in reproducing premodern institutions, but in supplying principled reasons for modern anti-corruption institutions that are lawful, proportionate, and effective.

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