

Prevention of Corruption in the Procurement Process of Government Goods and Services in The Digital Era

Parningotan Malau

Faculty of Law, Universitas Riau Kepulauan

Correspondence Email: pmalau0707@gmail.com

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Abstract: *The purpose of this research is to undertake a legal analysis of the anti-corruption procurement process for government goods and services through the use of good governance. The research approach employed in this study is a normative juridical one, which involves studying legislative rules and examining corrupt activities that occur in the sphere of procurement of goods and services. The sources of law in this study are material law sources and traditional legal sources. Based on the analysis of legal authorities, it can be concluded that the criminal act of corruption in the procurement of government goods and services has violated the regulations in Article 2 paragraph (1) of Law No. 31 of 1999 and Law No. 20 of 2001 on Corruption. The implementation of good governance in preventing corruption in the procurement of goods and services is seen from two aspects, namely internal and external aspects. Internal elements include improving the quality of internal resources in government organizations and increasing accountability and transparency. In contrast, external elements increase community participation, legitimacy, and anti-corruption socialization through various media.*

Keywords: *Analysis, Prevention, Crime, Corruption, Good Governance.*

Introduction

Corruption is a common problem and significant to consider in the study of public and government policies (Ridwan et al., 2020; Kurniawan & Pujiyono, 2018). In recent decades, corruption has had a worse impact on Indonesia's economic development. With these various facts, the government has considered the financial losses that have been caused by corruption (Syamsyudin, 2020; Simangungsong & Siregar, 2021). The topic that is widely studied next is the relationship between the economy and corrupt behaviour that is widespread and difficult to stop, including in procuring goods and services.

The act of corruption is included in the criminal law policy, which is part of the criminal policy that has the aim of making the criminal law operate, work, and be effective in a tangible form. Furthermore, the functionality of criminal law can be realized in three stages, namely the formulation, application stage, and execution stage (Malau, 2019).

The amount of corruption will undoubtedly interfere with realizing the ideals of the Indonesian nation in the national development sector (Astafurova et al., 2020; Mutungi et al., 2019). Physical facilities and infrastructure, which are also referred to as infrastructure, are a vital aspect of the community service system.

Numerous physical infrastructures are required to support the government, economic, industrial, and social activities in society, as well as the government itself (Mangiu & Heywood, 2020; Li et al., 2021). The construction of quality infrastructures such as roads, buildings, bridges, energy, electricity, and telecommunications will create prosperity and public welfare (Merhi & Ahluwalia, 2018).

This can be seen from international transparency, namely Indonesia's corruption perception index, which ranks 96 out of 180 countries. Indonesia scored 38, one level better than the previous year but still below the global average of 43. Transparency International is an

international non-governmental organization whose mission is to combat corruption in government (Nayabarani, 2018; Widoyoko, 2018).

The assessment was carried out through a survey method on public perception of public and political positions. The range of numbers used is 0 to 100, so the higher the perceived value of corruption in a country, the lower the deterioration (Brennan et al., 2019; Jappesen, 2019; Alfada, 2019). In this case, Indonesia is on the same level as several countries, such as Argentina, Turkey, Brazil, Serbia, and Lesotho. The Indonesian Perception Index for 2012 to 2021 is presented in the following figure:

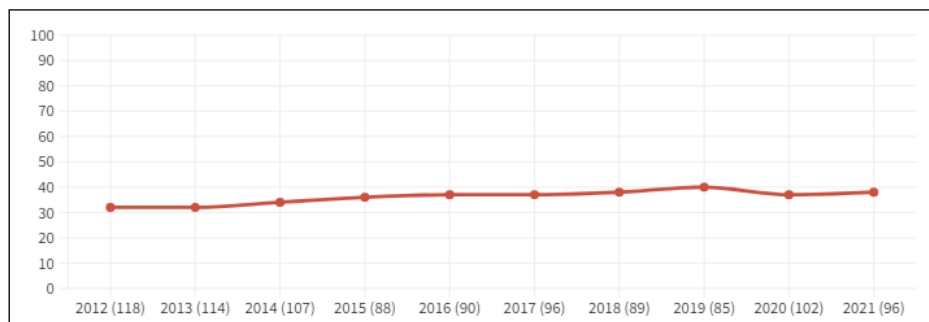


Figure 1. Indonesia Corruption Perception Index Score for 2012-2021
Source: Transparency International

Improvements influenced the increase in Indonesia's state score in economic indicators, such as the reduction in risks faced by financial sector actors, including cases of bribery in the export-import area; payment of taxes; supporting equipment; contracts and permits (Ferdinand et al., 2020; Kusumaastuti & Mahmud, 2022). The two other very influential and very large corruption cases are the corruption cases of the former Minister of Social Affairs and the former Minister of Maritime Affairs and Fisheries in early 2021, which contributed significantly to Indonesia's corruption index score. Among the significant cases in the

procurement of goods and services sector is the case of electronic ID cards, which resulted in the state suffering a loss of IDR 2.3 trillion due to cooperation between bureaucrats, people's representatives, state-owned enterprises officials, and entrepreneurs involved in the implementation of the project (Mahardika, 2021).

Procurement of good governance is one method of distributing and distributing the state funds. Procurement of government products and services is a critical component of effective governance (Wijaya, 2019; Alfianto, 2019). The government's procurement of products and services

aims to achieve a number of objectives, including procuring goods and services at an affordable price, in an adequate quantity and quality, and on schedule. To regulate the performance of procurements funded by the National Revenue and Expenditure Budget/Regional Revenue and Expenditure Budget, it is important to do so on a formal and material level (Rengganis et al., 2021). Considering that the acquisition of government products and services is a government expenditure that utilizes state funds that are derived, among other things, from the taxes paid by every Indonesian person. This approach is meant to ensure that the process of buying products and services is accountable without impairing its efficacy (Prakoso, 2020).

In its implementation, the state must accelerate development on a national scale based on constitutional democracy. According to Article 3 paragraph (1) of the Republic of Indonesia's Law No. 17 of 2003 on State Finance, "State finances are managed in

an orderly manner, in accordance with applicable laws and regulations, and in an efficient, economical, effective, transparent, and accountable manner, while taking into account a sense of justice and decency."

The government stated that in 2021, the government set a target for infrastructure spending to be allocated at IDR 423 trillion. The education budget was IDR 508 trillion. For the health sector at IDR 132 trillion, the government declared that the allocation had to be carried out as effectively as possible even though the authority was within the territory of the ministry. The President emphasized that the Government Goods/Services Procurement Policy Institute (*Lembaga Kebijakan Pengadaan Barang/Jasa*) could be more proactive in accelerating the budget expenditure process to stimulate the economy. However, in the procurement of government goods and services, there are still obstacles, many of which are corruption cases that occur in various sectors.

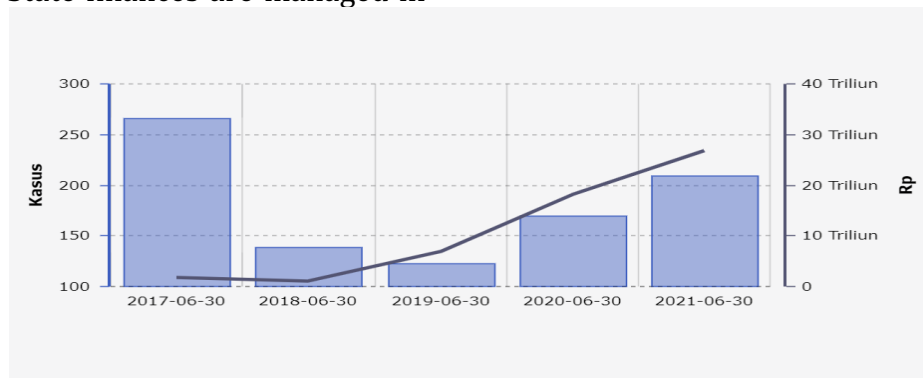


Figure 2. State losses due to corruption in the last five years
Source: Indonesia Corruption Watch (ICW), 2021

Corruption, in particular, is said to be at the top of the eighteen factors that hinder the ease of doing business in Indonesia. This shows that corruption is still high and has something to do with a decrease in competitiveness and a decrease in the comfort of doing business in Indonesia. This is in stark

contrast to government programs that promote high economic growth (Sikka & Lehman, 2015).

According to the mandate of the Republic of Indonesia's 1945 Constitution, the state is obligated to serve every person in order to fulfill their rights and requirements within the

context of sound public services. To provide better public services for all citizens, the government must play an active role in delivering and facilitating general needs that are beneficial to the broader community, which all members of the community can access through transparent and accountable procurement of goods/services as an effort to fulfill rights and obligations. The need for good public services requires a solid legal basis in procuring goods/services (Neu et al., 2015; Adegbite, 2015).

Based on previous research conducted by Muhammad Reza Kurniawan and Lombardi et al. (2019), the modus operandi of corruption in the procurement of goods and services is mainly carried out by civil servants, which occurs in various stages of procurement, such as preparation, procurement, and implementation.

Method

The type of research used in this study is a normative juridical method by reviewing the provisions of the legislation and looking at corrupt practices that occur in the field in the procurement of goods and services sector. The sources of law in this study

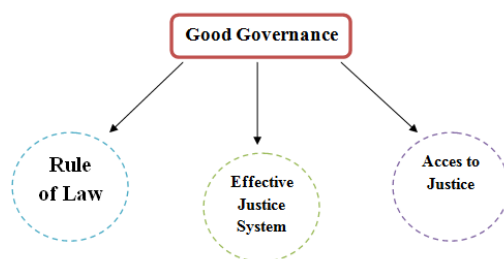
are material law sources and traditional legal sources. Meanwhile, this research included both primary and secondary legal documents. The data and discussion in this research are presented in a qualitative-descriptive manner. The legal method is used to examine the procurement process for government products and services in line with the principles of good governance.

Result And Discussion

Good Governance Concept in Supervising Budget Realization

The concept of Good Governance is an analytical, philosophical and theoretical framework that is very useful for fixing culture and governance management. This concept is not limited only to internal organizational orientation but also to external aspects that include outputs, outcomes, and impacts aimed at realizing justice and prosperity for the people as parameters for the effectiveness of government performance (Arwati & Latif, 2019; Adam & Fazekas, 2021). In the legal realm, there are three indicators to measure Good Governance, which are described in the following figure:

Figure 3. The concept of Good Governance in the legal realm



In the preparation of the draft Provincial Revenue and Expenditure Budget, the Executive Budget Drafting Team has an attachment to the Regional Development Planning Board of the Riau Islands Province to calculate the number of opinions and expenditures

from the work unit proposing the budget and calculate the total number of direct and indirect budget recapitulations that were assisted by the Development Section and the Finance Section of the City Government Regional Secretariat. The following table

illustrates the concept of good governance in budget implementation:

Table 1. The concept of good governance in monitoring budget realization

Stage	Explanation
Supervision	The supervisory function carried out by the Regional People's Representative Council is the supervision of the implementation of various public policies in the regions carried out by the executive agency, including management of the Regional Revenue and Expenditure Budget policies.
Socialization	The government is tasked with minimizing public misunderstandings; the government must play an active role in socializing because there is a budget with various special requirements to be realized.
People's Budget and Oversight	The government has the responsibility to optimize the relationship between inputs and outputs. Control is focused on maximizing information to produce targeted outcomes at the desired time and quantity.

The concept of governance refers to the decision-making process and its implementation. Governance is applicable and occurs at all levels, national and local. Meanwhile, good governance entails accountability, involvement, consensus-building, openness, efficiency and effectiveness, responsiveness, equality and inclusion, and adherence to the rule of law (Davi & Fazekas, 2020; Uyar et al., 2021). Therefore, the realization of good governance is significant because of its impact that can encourage the completion of regional economic development. This means that increasing regional economic growth is possible with this concept.

The high level of corruption carried out by the city/district government is inseparable from the decentralization of fiscal policy that creates power in the regions. Officials who are given this autonomous authority tend to exploit the results of wealth in the areas they control and increase tax revenues due to reduced revenue-sharing funds from the central government. Another influential factor is the desire to return the local government's campaign capital. There were many deviations during the budget preparation process, and during program implementation, local governments tended to be

unsupervised. The budget issued was ineffective in reaching the previously conceptualized goals (Mackey & Cuomo, 2020).

Elements in the Crime of Government Procurement of Goods and Services

The occurrence of legal deviations carried out by the implementers of government procurement of goods and services, whether carried out individually or jointly. The process of procurement of government goods and services is carried out through a system that starts from planning until the completion of all activities,

The procurement of government goods and services is essentially an effort represented by the commitment making officer to obtain the desired goods according to their designation. It is the primary goal of the process. For the essence of the procurement of goods and services to be carried out as well as possible, both parties, namely the Commitment Making Officer and the provider of goods and services, must be guided by the legal rules for the procurement of goods and services. They must not make agreements that are contrary to the law and regulations that apply. Observing the stages of the procurement of goods and services, there are three legal aspects to the

procurement of goods and services, namely: (a) administrative and legal aspects; (b) aspects of criminal law; and (c) aspects of civil law.

Good Governance Preventing Concept Corruption in the Procurement of Goods and Services

Corruption has harmed economic progress by considerably impairing the quality of government services. Corruption distorts the public sector by directing public investment to community initiatives with more readily available bribes and compensation. Officials may complicate community initiatives in order to conceal corrupt activities, resulting in increased turmoil. Additionally, this move decreases compliance with building safety, environmental, and other rules. Additionally, corruption degrades the quality of government services and infrastructure and places additional strain on the government budget.

In implementing the principles of good governance, several factors can be taken into account to prevent corruption, namely the roles of accountability, transparency, participation, and legitimacy theory, which are presented as follows:

Accountability Aspect

Accountability may be defined as the responsibility to account for the success or failure of a government mission to meet the aims established through a periodic medium of accountability. This aspect becomes a means to gain support from the wider community or implement performance using the regional government budget. Public trust needs to be maintained by increasing financial accountability. Local governments need to start this stage by digitizing all financial documents with a complete migration of the regional financial system to digital. This is

intended so that the process of presenting reports is faster, orderly, more accessible, avoids damage, and can be carried out in real-time to support carrying out financial audits.

In addition to this, local governments also need to implement a Financial Management Information System (MIS) by accommodating new models that can regularly describe government organizations' financial health conditions. Furthermore, to make regulations in financial management more accountable, the Standard Operating Procedures in Finance need to be revised, mainly to ensure the law and management of the interests in the procurement of goods and services, to provide certainty over the retention period of financial documents, and to clarify transaction and accountability mechanisms.

Transparency Aspect

Transparency is defined as a concept that ensures that all citizens have access to information about government administration, namely information about the policy-making process, its execution, and the outcomes obtained. If the government has applied this theory, it can be proven by the existence of a website that provides a new view for the community towards the government, which aims to increase support for the community that also has a role as a supervisor of government performance.

With the implementation of this aspect, it will significantly influence the government because information asymmetry in the implementation of budget performance will be possible to avoid the implementation of performance on regional budgets coupled with transparency. In this aspect, the public will be able to know and provide solid moral support, which

will add to the increase in the performance of the budget itself.

Participation Aspect

Aspects of participation can be understood as the mental and emotional involvement of the community in group situations that encourage them to contribute to the goals to be achieved and are accompanied by responsibility for achieving those goals. The participation aspect also involves the role of collaboration between the community and the government to achieve prosperity by seeing how the part is carried out by the government so that mistakes can be avoided.

This aspect provides a new perspective to the community that there is equality between the community and the government to create a better region. In addition to the community, this participation must also be carried out within the internal scope of government organizations between superiors and subordinates, where both know what to do so that asymmetrical information can be avoided and better cooperation can be realized.

Legitimacy Aspect

This aspect can be understood to ensure that an organization remains within the limits and norms prevailing in society. From this point of view, the government reports on all its activities as expected by the community for the sustainability of an organization. Local

governments are increasingly facilitated in carrying out this aspect because of the clarity about the state of the organization and the local community by taking action to suit the prevailing conditions in a community.

A strong organization is an initial modality to achieving common goals. The importance of this credible institution is necessary from the start, namely an institution that has transparency and the ability to create ideas and strategies to fight corruption sustainably. Government organizations need to continue to build better internal mechanisms, ensure effective management of organizational resources, and improve various applicable procedures that are allegedly going to reduce directional decisions and strengthen capacity in the anti-corruption field. In supporting the organization, several steps can be taken, namely as follows:

a. Improving the Quality of Human Resources

The quality of qualified human resources is beneficial for organizational development. Therefore, regional leaders must adapt to the specific needs of each individual. At least, regional leaders must conduct training that divides their subordinate staff into three levels, namely novice staff, middle staff, and field leaders, which is presented in the following figure:

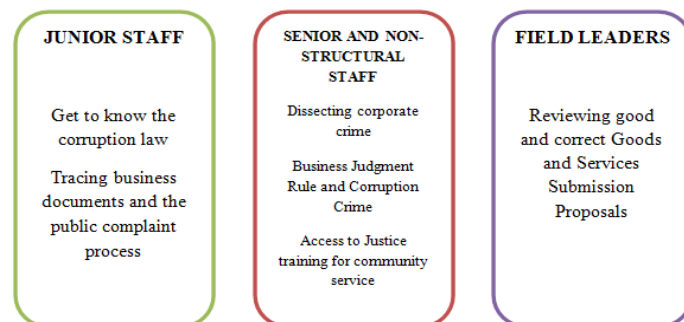


Figure 4. Steps that local governments can take to improve the quality of human resources

The question then becomes how much space positive law provides for the community to participate in law enforcement, prevention, and eradication of corruption. A clear and precise understanding of the concept of participation will undoubtedly make it easier to understand and know how the fundamental role of the community is needed in efforts to prevent and eradicate corruption, which is rampant and very difficult to eradicate.

Conclusion

Based on an examination of legal sources, it is possible to conclude that the criminal act of corruption in the implementation of Good Governance in preventing corruption in the procurement of goods and services is viewed from two perspectives, namely internal and external. Internal elements include improving the quality of internal resources in government organizations by conducting training that divides the level of training for subordinate staff into three levels: novice staff, middle staff, and field leaders; increasing accountability and transparency aspects by building a full-digital financial system; while external elements are enhanced by increasing aspects of community participation and aspects of legitimacy coupled with anti-corruption socialization through various media.

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