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Legal Aspects of Procurement Accountability in West Papua, Indonesia

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ABSTRACT

Government procurement of goods and services strategically supports national development, including in regions with special characteristics such as West Papua Province. Even though the legal framework for procurement has been regulated normatively through Presidential Regulation Number 12 of 2021, implementing accountability principles in West Papua still faces various challenges. This study aims to analyze the implementation of the principle of accountability in the procurement of goods and services in West Papua from the perspective of Indonesian positive law, as well as assess the effectiveness of its application in a complex geographical and social context. The theoretical approaches used include public accountability theory, sound governance principles, and John Rawls's theory of legal justice. The study results show a gap between legal norms and practice in the field, which is characterized by weak supervision, low human resource capacity, and minimal community participation. This condition indicates the need to strengthen the legal supervision system and policy reformulation that is adaptive to regional specificities.

Keywords: Accountability, Procurement of Goods and Services, Positive Law, West Papua, Good Governance, Legal Justice.

I. Introduction

Government procurement of goods and services is crucial for achieving national and regional development goals. This mechanism is closely linked to state financial management, which demands clean, efficient, and responsible governance. From a legal perspective, procurement of goods and services is a state administrative activity based on accountability, efficiency, effectiveness, transparency, and compliance with positive law (Bovens, M., 2007). Normatively, the legal framework for procurement is regulated by various regulations, including Presidential Regulation Number 12 of 2021 concerning Government Procurement of Goods/Services. This regulation emphasizes the importance of accountability through sound planning mechanisms, competitive and fair tender processes, and strict internal and external oversight (Mardiasmo, 2009). Ideally, all stages of procurement must be carried out in accordance with legal provisions to prevent abuse of authority and corrupt practices.

However, procurement practices in regions with unique characteristics, such as West Papua Province, often deviate from these legal principles. Reports from the Supreme Audit Agency (BPK) and the Corruption Eradication Commission (KPK) indicate various violations such as tender document manipulation, fictitious procurement, and weak oversight by the Government Internal Supervisory Apparatus (APIP). In addition to challenging geographic factors and limited local human resource capacity, minimal civil society participation contributes to the weak implementation of legal principles in procurement in this region.



In analyzing this issue, several relevant legal theories are used as a conceptual framework, including Public Accountability Theory, which emphasizes the responsibility of public institutions to the public and oversight bodies, not only towards formal law but also towards social norms and integrity values. Furthermore, the principle of Good Governance emphasizes integrating transparency, public participation, and effective oversight to create accountable governance. Meanwhile, John Rawls' Theory of Legal Justice is relevant in assessing the fair distribution of burdens and benefits, particularly in underdeveloped regions such as West Papua. Reality shows a gap between legal norms and their implementation in the field. Although the legal system is normatively established, implementing the principle of accountability in procuring goods and services in West Papua is still far from ideal. This raises the following legal questions: (1) How is implementing the principle of accountability in procuring goods and services in West Papua Province viewed from the perspective of positive law in Indonesia? (2) To what extent is legal accountability implemented in procuring goods and services in West Papua Province?

II. Literature Review and Hypothesis Development

Accountability in goods and services procurement is a key focus, given that this sector is often a breeding ground for corruption in West Papua. Frequently emerging issues include a lack of transparency, weak public oversight, incomplete tender documents, the failure to determine and deposit late fines into the regional treasury, insufficient work volume, and changes to activity implementation without contract addenda. All of this is exacerbated by low human resource capacity and weak governance of the Goods/Services Procurement Work Unit (UKPBJ) at the regional level. Law enforcement against procurement violations in West Papua is quite intense, with corruption cases in this sector dominating the prosecutions by law enforcement officials. Therefore, efforts to improve the system and strengthen accountability are a key agenda, including through coaching and capacity building for local businesses and collaboration between the central and regional governments in procurement oversight and implementation.

III. Research Method

This research uses an empirical normative legal method, which combines the study of written legal norms (doctrinal) with empirical reality in the field. This approach allows for exploring gaps between normative provisions and their implementation in procuring goods and services in West Papua Province. Data were collected through two main techniques: (1) Document study, which includes analysis of related laws and regulations, such as Laws, Presidential Regulations, Ministerial Regulations, and Regional Regulations governing the procurement of goods and services. (2) In-depth interviews with key informants, including procurement officials in local government agencies, internal auditors, and legal practitioners in the West Papua region. All data were analyzed qualitatively and descriptively, aiming to describe the factual conditions in the field, identify obstacles to implementing the principle of legal accountability, and formulate normative and practical recommendations.

IV. Results and Discussion

4.1. Implementation of the Principle of Accountability in the Procurement of Goods and Services in West Papua from the Perspective of Indonesian Positive Law

Under Indonesian positive law, the principle of accountability for government procurement of goods and services is part of the constitutional and legal-administrative mandate. Article 23 of the 1945 Constitution stipulates that state expenditures must be accounted for openly and accountably to the public. This principle is further elaborated in several laws, including:

1. Law No. 17 of 2003 concerning State Finance

This law is a key pillar in state financial management, emphasizing that every rupiah spent from the APBN/APBD must meet the following principles: 1) Efficiency: Minimal budget utilization for maximum results. 2). Effectiveness: Every expenditure must follow its purpose and provide benefits. 3). Accountability: Every transaction must be legally and administratively accountable. Example of Application/Irregularities in West Papua: In the Community Health Center construction project in Manokwari Regency (2021), a budget of IDR 7 billion was allocated, but in the BPK LHP, it was found that only 63% was realized in physical form; the rest was in the form of fictitious payments and overpayments. This indicates a violation of the principles of effectiveness and accountability because the funds did not produce outputs according to plan.

2. Law No. 30 of 2014 concerning Government Administration

This law regulates the General Principles of Good Governance (AUPB), including: 1) Accountability. 2) Legal certainty. 3). Transparency. 4) Proportionality. This law requires every government official, in making decisions, including procurement, to demonstrate a legal basis, process, and results that can be accounted for transparently and objectively. Example of Improper Application in West Papua: The 2022 procurement of COVID-19 medical equipment in Fakfak Regency showed that the decision to purchase antigen test kits was made without justification for real needs and did not go through a documented technical evaluation process. As a result, the purchased kits were not used and expired, violating the principles of accountability and legal certainty in the AUPB.

3. Presidential Regulation No. 12 of 2021 concerning Government Procurement of Goods/Services

This Presidential Decree is a technical basis that establishes six main principles of procurement: Efficient, Effective, Transparent, Open, Competitive

4. Table and fair accounts

Every procurement process, from planning and supplier selection to bid evaluation, contract execution, and reporting, must follow this system, including e-Procurement and e-Catalog, to ensure transparency and prevent manipulation—examples of applications/deviations in West Papua. In a village road project in Teluk Bintuni Regency in 2020, it was discovered that the tender process was conducted without being announced through the LPSE, and the winning bidder was a contractor with a family relationship with a local PUPR Agency official. This violates the principles of transparency and fair competition and creates a conflict of interest that undermines procurement fairness. These three regulations align with the Public Accountability Theory, which states that every government action must be measurable, evaluable, and accountable to the public. In the procurement context, accountability is a legal, moral, and social responsibility to the people.

Based on these regulations, every stage of procurement, from planning, supplier selection, contracts, to reporting, must be carried out in an accountable manner to: the Direct superior, the Government Internal Supervisory Apparatus (APIP), the Audit Board of Indonesia (BPK), the General public and media In reality, these normative principles have deviated in West Papua. Based on audit findings and field studies, several key issues include:

Legally, accountability has become a fundamental norm in the goods and services procurement system, as stipulated in various regulations, particularly Presidential Regulation No. 12 of 2021 concerning Government Procurement of Goods/Services. This principle is also legitimized by Law No. 17 of 2003 concerning State Finance and Law No. 31 of 1999 concerning the Eradication of Corruption. In this context, accountability demands openness, responsibility, and compliance with formal legal procedures throughout the procurement process. However, research results show that implementing this principle has not been optimal in West Papua Province. The Head of the Goods and Services Procurement Bureau stated that although the Presidential Regulation and derivative regulations have been used as references, there are many administrative and technical obstacles, such as discrepancies between the RUP and implementation due to sudden budget revisions. This disrupts the consistency of procedural accountability implementation.

Furthermore, Anwar Ahoren added that delays in data input into the General Procurement Plan Information System (SIRUP) and inconsistencies in tender documents are common problems. This indicates weak integration between planning and implementation documents, opening up opportunities for deviations.

From an internal oversight perspective, Nana Rosina Kabiay, S.Sos., Kaleb Yohan Karubaba, an auditor for the Inspectorate, stated that although Home Affairs Ministerial Regulation No. 8 of 2009 and Presidential Regulation 12/2021 are the primary references in audits, many procurement activities have not yet prepared comprehensive accountability reports; thus, the potential for regional losses remains high. A similar issue was raised by Lois Sautai, SH, who identified the low follow-up on audit recommendations as a manifestation of weak legal accountability controls. Normatively, legal practitioner Dr. Henrikus Renjaan believes that the main weakness lies not in regulations, but in understanding and enforcement. Many procurement implementers do not understand their responsibilities' administrative and criminal legal standing. This is reinforced by legal practitioner Dr. Hendra W. Balubun, who emphasized that accountability within a positive legal framework should encompass substance and process. However, its implementation remains predominantly administrative and procedural, rather than based on legal awareness.

4.2. Implementation of Legal Accountability for Procurement of Goods and Services in West Papua Province

West Papua Province has several unique characteristics that directly impact the implementation of accountability principles in procuring goods and services. Difficult geographic access, limited communication infrastructure, and low human resource capacity are key challenges to implementing a transparent and accountable procurement system. This creates a gap between national legal norms and the reality of implementation at the regional level. Nana Rosina Kabiay, Head of the Procurement Division, stated that supplier verification is often suboptimal due to a lack of certified technical personnel. Furthermore, limited internet access and the difficulty of distributing documents in remote areas result in minimal public participation and oversight.

4.3. Weaknesses in Human Resources and Institutional Capacity

Although the implementation of Presidential Regulation No. 12 of 2021 requires competent and certified procurement personnel, many regional government agencies (OPD) still lack qualified procurement service units (ULP) or working groups in West Papua. As a result, procurement procedures are often simplified and do not comply with administrative law principles. Dr. Hendra William Balubun emphasized that officials' understanding of legal principles is often merely administrative, without internalizing the substantive value of accountability. This results in the procurement process becoming a mere formality, without addressing deeper ethical and legal aspects.

4.4. Weak Internal Supervision (APIP)

Internal oversight institutions also face structural challenges. Many regional inspectorates lack sufficient independence due to being under the influence of regional heads, who are also responsible for the procurement process. This creates conflicts of interest and hinders the objectivity of oversight. Herna Ataruri, an auditor at the Manokwari Regency Inspectorate, stated that the relevant regional government agencies (OPD) did not follow many audit recommendations. The hierarchical bureaucratic structure weakens the effectiveness of the APIP's function in ensuring procurement accountability.

4.5. Low Public Participation

External oversight from civil society remains very limited in West Papua. Low legal literacy, limited digital infrastructure, and limited access to public information prevent the public from actively participating

in the procurement process. Dr. Christin Samangun stated that the top-down legal system needs to be transformed into a more inclusive, bottom-up approach. She believes strengthening accountability must involve local stakeholders, including academics, traditional leaders, and civil society organizations.

4.6. Audit Findings and Indications of Violations

The 2022 Indonesian Supreme Audit Agency (BPK RI) report noted several violations in the procurement of goods and services in West Papua, including fictitious procurement, non-conforming specifications, and budget waste. A concrete example occurred in Fakfak Regency, where the procurement of COVID-19 test kits was carried out without justification of need and without following documented technical procedures. In Teluk Bintuni Regency, nepotism was also found in a village road construction project, with the winning bidder having family ties to local officials.

4.7. Juridical and Sociological Analysis

Conceptually, the application of accountability in procurement aligns with the Public Accountability Theory (Romzek & Dubnick, 1987), which emphasizes the importance of evaluation and accountability to the public legally, morally, and socially. However, there is a juridical gap between *das sollen* (what should be according to law) and *das sein* (the reality of implementation on the ground). Therefore, a regulatory approach alone is not enough. Local strengthening efforts are needed, including: Increasing competence through training and technical certification; Active involvement of civil society in supervision; Special assistance from the Corruption Eradication Commission (KPK), the Supreme Audit Agency (BPK), and the Financial and Development Supervisory Agency (LKPP) on an ongoing basis in the 3T (underdeveloped, outermost, and frontier) regions.

V. Conclusion

The legal framework governing accountability in procuring goods and services is in place, as reflected in Article 23 of the 1945 Constitution, the State Finance Law, the State Administration Law, and Presidential Regulation No. 12 of 2021. However, implementing these principles in West Papua has not been fully effective. Poor understanding of substantive law, simplified procedures, and the dominance of administrative approaches have resulted in accountability being implemented only symbolically and neglecting the substance of public ethics and legal accountability. Implementation of legal accountability for procurement of goods and services in regions with special characteristics, such as West Papua Province: Limited certified human resources, minimal public participation, weak independence of APIP, and low legal literacy are the main obstacles to the implementation of legal accountability. In addition, a centralized legal approach has not been able to accommodate local complexities. Strengthening Human Resources and Technical Certification: Through coordination with LKPP, the regional government needs to increase the number and quality of certified procurement personnel through technical training that is adaptive to the geographical conditions of West Papua. It is necessary to reposition the APIP institution to be more independent from the regional head, including improving the structure of the supervisory bureaucracy to be more functional and objective in detecting and taking action against procurement violations. Also, the regional government needs to open access to procurement information maximally through LPSE, and involve local NGOs, community leaders, and academics in community-based oversight mechanisms (citizen audits). The LKPP, the BPK, and the KPK need to establish a special task force or an affirmative action program to assist 3T regions like West Papua in implementing contextual, law-based procurement reform. Furthermore, law must exist not only as a written norm but also as a social mechanism. Therefore, a bottom-up approach based on local culture must be developed through stakeholder collaboration to strengthen the procurement system's integrity.

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