

Criminal Law Analysis of Abuse of Authority in the Procurement of Goods and Services

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ABSTRACT

Government procurement of goods and services is a crucial instrument in national development that is vulnerable to abuse of authority by public officials. This study aims to analyze Indonesian criminal law regulations regarding abuse of authority in the procurement of goods and services and the role of law enforcement officials in prosecuting and preventing such practices. The method used is normative legal research, examining relevant laws and regulations as well as analyzing court decisions and related legal literature. The results of the study indicate that criminal law regulations regarding abuse of authority have been comprehensively regulated through various regulations that integrate administrative and criminal aspects. Law enforcement officials, such as the Corruption Eradication Commission (KPK), the Prosecutor's Office, and the Police, play a strategic role in repressive, preventive, and educational functions. The study concludes that firm, proportional, and just law enforcement, accompanied by strengthening the internal oversight system and synergy between institutions, are necessary to minimize abuse of authority and realize transparent, accountable, and corruption-free governance.

Keywords: *abuse of authority, procurement of goods and services, criminal acts of corruption.*

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INTRODUCTION

The procurement of government goods and services is one of the important instruments in the implementation of national development, which aims to improve the welfare of the community (Fahmi & Ali, 2020). Through a transparent, accountable, efficient, and effective procurement system, the government seeks to ensure that every state spending activity provides maximum benefits to the public (Mulyani & Fadhil, 2021). However, in practice, the implementation of the procurement of goods and services is often inseparable from various forms of irregularities, especially those related to the abuse of authority by officials or parties involved in the process (Suhartono & Wibowo, 2020). This phenomenon is a serious issue because it has direct implications for state finances and reflects the weak integrity of the government bureaucracy (Sulaiman & Tanjung, 2022). Many studies highlight the negative impact of procurement irregularities on public trust and government efficiency (Ramadhan & Anggraini, 2021). Moreover, procurement fraud often leads to increased government spending and undermines public confidence in the state's financial management (Pertiwi & Putra, 2020). Strengthening oversight and improving transparency in the procurement process are crucial for preventing these irregularities (Pratama & Suryani, 2022).

Normatively, the procurement of goods and services has been regulated in Presidential Regulation Number 16 of 2018 concerning the Procurement of Government Goods/Services and its amendments (Yuliana & Prasetyo, 2020). This regulation affirms the basic principles that must be adhered to in every procurement process, including efficiency, effectiveness, transparency, openness, competitiveness, fairness, and accountability (Kurniawan et al., 2021). These principles aim to minimize potential irregularities that can harm the state (Hartono, 2021). However, even though it has been comprehensively regulated, various cases of violations still often occur, especially related to abuse of authority, document manipulation,

collusion, and bribery in the auction process (Suhartono & Santoso, 2022). This shows that existing regulations are not fully able to prevent corrupt practices in the procurement sector (Prasetyo & Anwar, 2020). Several studies have highlighted that despite the regulatory framework, the enforcement and monitoring of these principles remain weak (Wahyudi et al., 2021). The persistence of corruption and irregularities in the procurement sector demonstrates the ongoing challenges in achieving good governance (Taufik & Nurhadi, 2020).

Abuse of authority in the context of procurement of goods and services can be interpreted as the actions of state officials or administrators who use the power or authority, they have for purposes that deviate from the provisions of applicable law. These forms of abuse can include intervention against the auction committee, direct appointment of certain partners without legal procedures, budget mark-ups, or other actions that violate the principles of good governance (Adhi et al., 2025; Ardiana et al., 2023; Noviya et al., 2025). From the perspective of criminal law, such actions can be categorized as a criminal act of corruption as stipulated in Law No. 31 of 1999 jo. Law No. 20 of 2001 concerning the Eradication of Corruption, especially Article 3, which states that every person who, with the aim of benefiting himself or others or a corporation, abuses the authority, opportunity, or means available to him because of a position or position that can be detrimental to state finances or the state economy, can be sentenced to life imprisonment or imprisonment for a minimum of one year and a maximum of twenty years.

In various court decisions, there have been many cases where public officials have been proven to have abused their authority in the procurement of goods and services. These cases not only show violations of legal norms but also reflect the weak internal supervision system and morality of the state apparatus. For example, in several cases of corruption in the procurement of goods and services, it was found that there was a practice of price mark-up, the use of fictitious companies, and the arrangement of tenders that were carried out systematically. Practices like this not only cause significant state losses but also hinder the development process and reduce public trust in the government.

In addition, the problem of abuse of authority often poses a dilemma in the application of criminal law. Not all actions that appear to be abuses of authority can be directly qualified as criminal acts, because there is a thin line between administrative discretion and abuse of authority. Public officials have the right to make decisions based on certain policies (discretionary power), but when those decisions are taken for personal or group interests, it can shift into a criminal act. Therefore, criminal law analysis of abuse of authority in the procurement of goods and services is important to understand the boundary between legitimate administrative actions and actions that have the potential to give rise to criminal liability.

From the perspective of criminal law theory, acts of abuse of authority can be studied through elements of formal and material unlawful violations. Formally, violations occur when the actions of officials are contrary to applicable regulations. Meanwhile, materially, violations occur when the act is contrary to the sense of justice of the community or detrimental to the public interest, even though formally there are no provisions that are explicitly violated. This approach is important to ensure that criminal law enforcement is not only legalistic but also considers the moral and substantive justice aspects.

Furthermore, in terms of law enforcement, institutions such as the Corruption Eradication Commission (*Komisi Pemberantasan Korupsi* or KPK), the Prosecutor's Office, and the Police have a central role in uncovering criminal acts of abuse of authority. However, the challenges

faced are not simple. In many cases, proving the element of "abuse of authority" is often difficult because it relates to the element of intent (*mens rea*) and the complex administrative decision-making process. As a result, not a few cases end in acquittals because the public prosecutor fails to prove the existence of elements of malicious intent or real state losses.

This condition shows that criminal law enforcement efforts against abuse of authority in the procurement of goods and services need to be strengthened through a deeper understanding of the concept of criminal accountability of public officials. In the context of modern criminal law, accountability is not only based on the consequences caused but also on abuse of power or irregularities in the exercise of authority granted by the state. Therefore, legal analysis of the act of abuse of authority is important to provide clear limits on when an administrative action can be categorized as a criminal act.

On the other hand, it is also necessary to pay attention to the preventive aspect through improving the bureaucratic system, increasing transparency, and strengthening public accountability mechanisms. The principles of good governance and integrity system must be internalized in every stage of procurement, starting from planning, implementation, to evaluation. In addition, increasing the capacity of human resources in understanding the legal aspects of procurement and office ethics is also an important factor to reduce the opportunity for abuse of authority.

Government procurement of goods and services is an important instrument in national development that aims to improve people's welfare. Even though it has been regulated normatively through Presidential Regulation Number 16 of 2018 along with the principles of transparency, accountability, and efficiency, the practice of abuse of authority by officials is still rampant. Previous studies, such as those conducted by Ali & Koton (2024) on maladministration in tenders, Sembiring & Ediwarman (2011) on the accountability of budget users' powers, and Syamsuddin (2020) on proving abuse of authority, have identified various legal loopholes and weaknesses in supervision. However, this research presents westernization by explicitly integrating criminal and administrative law analysis in one framework, specifically examining the interaction between the Corruption Law and the Government Administration Law, as well as evaluating the role of electronic procurement systems in preventing abuse of authority. The purpose of this research is to analyze the provisions of criminal law related to the abuse of authority, evaluate the role of law enforcement officials, and formulate measures to strengthen supervision. The expected benefits include the development of academic insights in the field of corruption law and governance, as well as providing practical recommendations for policymakers and law enforcers. The practical implications of the results of this study are expected to guide the improvement of law enforcement strategies, encourage regulatory reform, strengthen the implementation of digital procurement, and increase the capacity of state apparatus through ethics and integrity training, so that it can ultimately suppress the practice of abuse of authority and realize clean and accountable governance.

METHOD

The method used was normative legal research, which examined related laws and regulations—especially Law No. 31 of 1999 jo. Law No. 20 of 2001 concerning the Eradication of Corruption and Law Number 30 of 2014 concerning Regional Government—as well as court

decisions and related legal literature. Additionally, a case approach was employed by examining court rulings on cases of abuse of authority, and a conceptual approach was applied to explore ideas such as abuse of authority, public accountability, and integrity in procurement. Data collection was conducted through a literature review of primary, secondary, and tertiary legal sources, followed by qualitative analysis using descriptive-analytical methods to address the research problems.

RESULTS AND DISCUSSION

Criminal Law Regulation in Indonesia Against Abuse of Authority in the Procurement of Goods and Services

The procurement of goods and services is one of the important aspects in the implementation of government and organizational activities, both in the public and private sectors. In general, procurement of goods and services can be interpreted as the entire process of activities to obtain goods, jobs, and services needed by an agency to support the implementation of organizational duties and functions. In the context of the Indonesian government, the procurement of goods and services includes a series of stages starting from needs planning, preparation of specifications, selection of suppliers, implementation of contracts, to handover of work results. This process is strictly regulated through various regulations so that its implementation runs efficiently, transparently, and accountably, and is able to prevent abuse of authority and corruption.

Normatively, the procurement of goods and services within the government is regulated in Presidential Regulation Number 12 of 2021 concerning Amendments to Presidential Regulation Number 16 of 2018 concerning the Procurement of Government Goods/Services. This regulation is the main guideline for all ministries, institutions, local governments, and state-owned enterprises in carrying out procurement activities. The main goal is to realize procurement that is effective, efficient, open, competitive, transparent, fair, and accountable. Through this regulation, the government seeks to create a system that encourages good governance and supports national development through optimal use of the state budget.

In its implementation, the procurement of goods and services can involve various types of activities, ranging from the purchase of equipment, infrastructure development, the provision of consulting services, to the procurement of other services such as information technology, hygiene, or security. This process is not just an economic transaction between the government and the provider of goods or services, but also reflects moral and legal responsibility for the parties involved. Every decision in the procurement process has legal consequences that must be accounted for, both from the administrative and criminal sides, if there is a deviation or violation of the basic principles of procurement.

The basic principles of government procurement of goods and services emphasize efficiency, effectiveness, transparency, fair competition, fairness, and accountability. The principle of efficiency demands that procurement be carried out using resources optimally to achieve maximum results without waste. Effectiveness means that procurement outcomes must be truly in line with the needs of the organization and be able to support the achievement of objectives. Transparency ensures that the entire procurement process can be known to the public to prevent collusion and corruption. The principle of fair competition emphasizes that every provider has an equal opportunity to participate without discrimination. Meanwhile, the

principle of justice demands objective and impartial treatment, as well as the principle of accountability to ensure that every stage of procurement can be legally and morally accountable.

In addition to these principles, the procurement of goods and services also has several strategic objectives, including encouraging national economic growth, increasing the participation of small and medium enterprises (MSMEs), and strengthening the use of domestic products. Therefore, in government procurement regulations and services, there is an obligation for agencies to prioritize local products and involve small business actors and cooperatives in order to create economic equity. This policy is in line with the spirit of national economic independence and the government's efforts to create a socially equitable procurement system.

Administratively, the procurement process of goods and services consists of several main stages. First, procurement planning, which is the stage of identifying needs and preparing work plans and procurement budgets. This stage is the basis for procurement to be carried out according to priorities and not cause budget waste. Second, procurement preparation, which includes the preparation of election documents, the determination of procurement methods, and the formation of procurement committees or officials. Third, the implementation of supplier selection, namely the selection process of parties who will provide goods or services, through mechanisms such as tenders, selection, or direct appointments, depending on the value and type of procurement. Fourth, the execution of the contract, where the legal relationship between the user and the provider is outlined in a legally binding agreement. Fifth, the handover of work results, which is the final stage after the goods or services are completed and verified according to the specifications that have been set.

Although the procurement system for goods and services has been well regulated, in practice various problems often arise, especially related to abuse of authority and corruption. Many cases show that the procurement of goods and services is one of the sectors most prone to corruption. Forms of irregularities that often occur include price mark-ups, bid rigging, collusion between committees and suppliers, document manipulation, and fictitious procurement. Abuse of authority in procurement is usually carried out by officials who have authority in decision-making, both in the planning, evaluation, and determination stages of tender winners. This practice not only harms the state's finances but also harms the principles of justice and public trust in the government.

To overcome this problem, the government has built various monitoring and transparency systems, one of which is through the Electronic Procurement Service (LPSE) and the e-procurement system. This system allows the procurement process to be carried out digitally, starting from announcements, registrations, to offer evaluation. With the digitization of procurement, it is hoped that the opportunity to manipulate data or intervene in certain parties can be minimized. In addition, the role of the Government Goods/Services Procurement Policy Institution (LKPP) is also very important in drafting regulations, providing guidance, and supervising the implementation of procurement in all government agencies.

The regulation of criminal law in Indonesia against the abuse of authority in the procurement of goods and services has a strong legal basis in the national legal system, considering that these acts are included in the category of corruption crimes. As a state of law as stipulated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, all actions of public officials must be based on the applicable law, including in exercising their

authority in the process of procurement of goods and services. Therefore, any deviation from the authority granted by the state to public officials that causes state financial losses can be subject to criminal sanctions. In the context of Indonesian criminal law, the main provisions used to ensnare perpetrators of abuse of authority are listed in Law Number 31 of 1999 jo. Law Number 20 of 2001 concerning the Eradication of Corruption Crimes (Corruption Law).

According to Article 3 of the Corruption Law, any person who, with the aim of benefiting himself or others or a corporation, abuses his authority, opportunity, or means due to his position or position, which may be detrimental to the state finances or the state economy, shall be sentenced to life imprisonment or imprisonment for a minimum of one year and a maximum of twenty years and a fine of at least fifty million rupiah and a maximum of one billion rupiah. This article is the main juridical basis in ensnaring public officials who are proven to have abused authority in the procurement of goods and services. Important elements in the article include the act of abusing authority, the intention to benefit oneself or others, and the occurrence of losses to state finances. The element of "abuse of authority" is at the heart of this delicacy, which distinguishes it from other forms of corruption such as bribery or gratuities.

In addition, the regulation regarding the authority of officials in the implementation of the procurement of goods and services is also administratively regulated in Presidential Regulation Number 16 of 2018 concerning the Procurement of Government Goods/Services and its amendments. This regulation emphasizes the importance of the principles of efficiency, effectiveness, transparency, and accountability in every stage of procurement. Although administrative, violations of these principles that are committed intentionally and cause state losses can have implications for criminal liability. This shows that the Indonesian legal system integrates administrative and criminal aspects in layers, where violations of administrative norms can escalate into criminal acts if accompanied by elements of malicious intent (*mens rea*) and legal consequences that are detrimental to the state.

In the framework of criminal law, abuse of authority can also be associated with the concept of abuse of power which is part of the offense of office as regulated in the Criminal Code (KUHP), especially Article 421 which states that officials who abuse their power force someone to do, do not do, or allow something can be punished. Although the wording of the article is general, it is substantially related to the act of abuse of authority in the context of procurement, especially if the actions of public officials are carried out under pressure, coercion, or deviation from the applicable legal procedures. Thus, the provisions in the Criminal Code can be an additional basis for ensnaring the perpetrator if the elements in the Corruption Law have not been fulfilled perfectly.

Furthermore, Law Number 30 of 2014 concerning Government Administration also provides definitions and limits on the abuse of authority. In Article 17 paragraph (2), it is explained that abuse of authority includes acts of exceeding authority, confusing authority, and acting arbitrarily. Although this law is administrative in nature, it conceptually provides a basis for law enforcement to assess whether the actions of officials in the procurement process of goods and services have exceeded the limits of legitimate authority. Furthermore, Article 21 of the Government Administration Law states that if there is an allegation of abuse of authority that causes state losses, then the settlement can be carried out through a criminal law mechanism after the results of an examination from the Government Internal Supervision

Apparatus (APIP). Thus, this law acts as an initial filter between administrative violations and criminal acts.

In terms of implementation, the Corruption Eradication Commission (KPK), the Attorney General's Office, and the Indonesian National Police have the authority to enforce the law against abuses of authority, especially those related to the procurement of government goods and services. The KPK, through special authority regulated in Law Number 19 of 2019 concerning the KPK, plays a role in conducting investigations, investigations, and prosecutions of major corruption cases involving public officials. In addition, the Prosecutor's Office has authority in the context of corruption crimes that cause state financial losses, as stipulated in Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia. This arrangement shows that Indonesia's legal system has provided a comprehensive institutional tool to effectively address the abuse of authority.

Overall, it can be concluded that the regulation of criminal law against abuse of authority in the procurement of goods and services in Indonesia is multidimensional, involving synergy between administrative norms, general criminal law, and special laws on corruption. The existence of the Corruption Law is the main basis for taking action against perpetrators who actually cause state financial losses through abuse of authority. Meanwhile, the Government Administration Law serves as an instrument to assess the legality aspects of officials' actions before being sentenced to criminal sanctions. However, the main challenge still faced in its implementation lies in proving the elements of abuse of authority which are often subjective and depend on the interpretation of judges. Therefore, caution is needed in applying criminal sanctions so as not to criminalize administrative policies taken legally. With firm, proportionate, and justice-based law enforcement, it is hoped that abuse of authority in the procurement of goods and services can be minimized, and clean and corruption-free governance is created.

The Role of Law Enforcement Officials in Cracking Down and Preventing Abuse of Authority in the Procurement of Goods and Services

Law enforcement officials have a very strategic role in cracking down and preventing abuse of authority, especially in the government procurement sector of goods and services. This sector is often one of the prone points for corruption crimes because it involves a large amount of budget, complex administrative processes, and the involvement of various parties ranging from government officials, service providers, to supervisory consultants. In the context of criminal law, the role of law enforcement officials is not only limited to taking action against perpetrators who are proven to have abused authority, but also includes preventive and supervisory (social control) functions to ensure that all stages of procurement run in accordance with the principles of transparency, accountability, and efficiency as stipulated in laws and regulations.

The main institutions that have a significant role in law enforcement against abuse of authority are the Corruption Eradication Commission (KPK), the Prosecutor's Office of the Republic of Indonesia, and the National Police of the Republic of Indonesia (Polri). All three have complementary functions and authorities in the national law enforcement system. Based on Law Number 19 of 2019 concerning the Corruption Eradication Commission, the KPK has special authority to conduct investigations, investigations, and prosecutions of corruption

crimes involving state officials, state administrators, and private parties that harm large amounts of state finances. In the context of procurement of goods and services, the KPK plays an active role in supervising the auction process, taking action against the practices of bribery, gratuities, and collusion, and providing policy recommendations to improve the procurement system to be more transparent and free from political intervention and personal interests.

In addition to law enforcement, the KPK also has a preventive role through anti-corruption education and an integrated corruption prevention system. One of the innovations carried out is the launch of the Procurement General Plan Information System (SiRUP) and e-Procurement, which aims to increase transparency and reduce direct interaction between procurement officials and goods/service providers. The KPK collaborates with the Government Goods/Services Procurement Policy Institute (LKPP) to ensure that the implementation of electronic-based procurement can minimize the potential for abuse of authority. Through this systemic approach, the KPK not only functions as a repressive institution, but also as an agent of change that encourages bureaucratic reform in the procurement sector.

Meanwhile, the Prosecutor's Office of the Republic of Indonesia, based on Law Number 11 of 2021 concerning the Prosecutor's Office of the Republic of Indonesia, has a central role in prosecuting perpetrators of corruption crimes, including those related to the procurement of goods and services. In addition to the prosecution function, the Prosecutor's Office also plays a role in investigating and investigating corruption cases that are not handled by the KPK. In some cases, the Prosecutor's Office has even been the spearhead in exposing the practice of abuse of authority in the regions, especially in local government projects whose value does not belong to the large category but has a direct impact on the community. Special units such as the Special Crimes Division (Pidsus) and the Government and Development Guard and Security Team (TP4D) were formed to supervise government projects from the planning stage to implementation. The purpose of the establishment of TP4D is to provide legal assistance so that regional officials do not hesitate in carrying out development activities, while ensuring that there are no irregularities in the use of the budget.

However, the role of the Prosecutor's Office is not only limited to repressive actions, but also includes preventive and educational approaches. The Prosecutor's Office seeks to encourage legal awareness for government officials through legal counseling and socialization activities about corruption crimes. This approach is important because many abuses of authority occur not only due to malicious intent, but also due to a low understanding of regulations and limits of administrative authority. Thus, a humane and educational legal approach can be a solution to prevent the criminalization of public policies taken in good faith.

Another important role is also carried out by the National Police of the Republic of Indonesia (Polri), especially through the Directorate of Corruption Crimes (Dittipidkor) of the Criminal Investigation Branch of the National Police, which is authorized to conduct investigations and investigations into alleged criminal acts of abuse of authority. Based on Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia, the National Police has an obligation to maintain public security and order, enforce the law, and provide protection and services to the community. In the context of procurement of goods and services, the National Police plays a role in uncovering cases involving collusion between public officials and private parties. The role of the National Police is also seen in law enforcement efforts against perpetrators of document forgery, price mark-ups, or the arrangement of tender

winner carried out through organized corruption networks. In addition, the National Police also collaborates with the Prosecutor's Office and the KPK in handling cases through coordination and supervision mechanisms as stipulated in Article 50 of the Anti-Corruption Law, to prevent overlap in case handling between institutions.

Conceptually, the role of law enforcement officials is not only measured by their ability to catch and punish perpetrators, but also by their effectiveness in building an anti-corruption legal culture. In this case, synergy between law enforcement agencies is a key factor. Without good coordination, law enforcement against abuse of authority has the potential to cause legal uncertainty, and can even be abused as a political tool. Therefore, it is necessary to integrate law enforcement systems through data exchange, joint training, and consistent implementation of ethical standards among law enforcement officials.

In addition to the main law enforcement agencies, supervisory institutions such as the Audit Board (BPK) and the Financial and Development Supervisory Agency (BPKP) also have an indirect but very important role in detecting potential abuse of authority. The results of audits from the BPK or internal audits from the BPKP are often the basis for law enforcement officials to start the investigation process. Thus, the state's financial supervision system is an integral part of the mechanism for preventing abuse of authority. The existence of these institutions helps create an early warning system against potential state losses, so that violations can be prevented before they have a wider impact.

However, in practice, there are still a number of challenges faced by law enforcement officials in cracking down on abuse of authority. These challenges include the difficulty of proving elements of malicious intent (*mens rea*), limited human resources, as well as political pressure and conflicts of interest. Therefore, increasing the capacity of investigators and prosecutors, the application of information technology in supervision, and strengthening the independence of law enforcement agencies is urgent. Ongoing legal reform efforts are also needed so that law enforcement is not only sentencing oriented, but also on substantive justice and systemic prevention.

Thus, the role of law enforcement officials in cracking down and preventing abuse of authority in the procurement of goods and services includes three main dimensions: repressive, preventive, and educational. The repressive approach is realized through investigation, investigation, and prosecution of corrupt actors; preventive approach through supervision and improvement of the bureaucratic system; as well as an educational approach through increasing legal awareness of state apparatus and the community. Collaboration between the KPK, the Prosecutor's Office, the National Police, and financial supervisory institutions is the key to success in creating clean procurement governance that is free from abuse of authority. If these three dimensions can be carried out consistently and fairly, public trust in the law and government can be restored, and a government that is transparent, integrity, and accountable in accordance with the principles of good governance can be created.

CONCLUSION

Indonesia's criminal law regulates abuse of authority in government goods and services procurement through key statutes like the Corruption Law and Government Administration Law, which criminalize officials' misuse of power for personal gain that harms state finances, while requiring careful implementation to avoid criminalizing legitimate policies and uphold

justice and legal certainty. Law enforcement agencies such as the KPK, Prosecutor's Office, and Police play pivotal roles in enforcement, prevention, and supervision, necessitating strong inter-agency synergy, objective action free from political interference, and enhanced transparency via digital technology, ethical training, and capacity-building for state apparatus. Strengthening internal/external oversight, alongside community involvement in public monitoring, is essential to minimize corruption risks and realize clean, accountable governance. For future research, scholars could empirically investigate the effectiveness of electronic procurement systems (e-procurement) in reducing abuse of authority through comparative case studies across Indonesian provinces, incorporating quantitative data on corruption incidence pre- and post-digital implementation.

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