

Embezzlement in Corruption Crimes: A Case Study of Government Procurement of Goods and Services

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ABSTRACT – Embezzlement in public procurement corruption is a significant problem in Indonesia. This study aims to analyze the frequent modus operandi of embezzlement in this sector and evaluate its law enforcement efforts. The findings show that budget inflation, manipulation of tender documents, and fictitious procurement are common modes. The main enabling factors for embezzlement are weaknesses in the oversight system and lack of transparency in the procurement process. Law enforcement efforts still face major challenges, including a lack of coordination between government agencies and law enforcement. The study suggests bureaucratic reform, strengthening regulations, and implementing technology as important steps to improve integrity in public procurement.

Keywords: Embezzlement, Corruption Crime, Procurement of Goods and Services, Law Enforcement, Transparency, Bureaucratic Reform, Technology.

INTRODUCTION

Corruption in public procurement has become a very troubling issue in Indonesia. Various reports show that embezzlement is one of the main modes often used in this corruption case. According to Adrian (2008), legal loopholes in the procurement process are often exploited by certain individuals to embezzle funds, resulting in significant state losses. In practice, this embezzlement involves document manipulation and tender arrangements that are not in accordance with statutory provisions.

Amiruddin (2010) revealed that the weak internal government supervision system is the main factor that facilitates the practice of embezzlement in the procurement of goods and services. In addition, Rose-Ackerman (2006) states that non-transparent bureaucracy also provides space for systematic corrupt practices. This is exacerbated by the lack of strict law enforcement against perpetrators of corruption, giving the impression that corruption is a crime that is difficult to eradicate.

According to Kurniawan and Pujiyono (2018), the modus operandi of embezzlement in corruption of goods and services procurement involves collusion between the goods provider and government officials. Kasiyanto (2018) added that this mode includes price mark-ups, procurement of fictitious goods, and manipulation of the auction process. Lubis and Marlina (2010) explain that the lack of transparency in the tender process is the root of the problem that triggers these practices.

Yasmirah et al. (2021) argued that the electronic procurement system (LPSE) implemented by local governments still faces challenges in its implementation. Several cases show that this system is unable to fully prevent embezzlement due to weak supervision and unsynchronized central and local regulations. Mahardhika (2021) emphasized that the lack of responsibility of commitment-making officials is one of the main causes of corruption in the procurement of goods and services.

Riggs (1964) states that societies with prismatic administrative systems tend to have high levels of corruption due to weak social control over bureaucratic activities. This is in line with Fantaye's (2004) view, which considers that developing countries often face major challenges in combating corruption due to an immature legal system. Montgomery (1988) adds that public participation in public oversight is an important element that is often overlooked in procurement policy.

Black (1990) defines embezzlement as a form of law violation that occurs when a person intentionally uses funds or assets that do not belong to him for personal gain. This definition is relevant to cases of corruption in public procurement that involve abuse of authority by those who have access to public funds. Kusdarini (2011) adds that embezzlement is often difficult to uncover because the perpetrators are in strategic positions in the government.

According to Mulyadi (2007), law enforcement against embezzlement in corruption is often constrained by the complexity of the evidentiary process. Mahmud (2008) added that weak regulations governing the procurement of goods and services further complicate efforts to eradicate corruption. Adami (2016) emphasizes that corruption law reform is needed to narrow the space for corruption offenders, especially in terms of embezzlement.

There are many studies that discuss corruption in public procurement, but specific studies that focus on embezzlement as the main mode of corruption are still limited. Prevention efforts through procurement system reform and law enforcement have not been fully integrated.

This research offers an in-depth analysis of the modus operandi of embezzlement in procurement corruption and evaluates the effectiveness of existing regulations. It also proposes a more targeted and technology-based law enforcement strategy to reduce opportunities for embezzlement.

This research aims to thoroughly analyze the modus operandi of embezzlement in corruption in government procurement of goods and services and evaluate the effectiveness of law enforcement. The results of the research are expected to contribute to the formulation of policies that are more effective in preventing and cracking down on corruption in the public procurement sector.

A. METHOD

This research uses a normative juridical method, which aims to analyze embezzlement in corruption crimes in the procurement of government goods and services based on applicable laws and regulations. This method allows researchers to explore the legal aspects of the issues discussed in depth through a literature approach.

The data source in this research consists of secondary data which includes primary, secondary, and tertiary legal materials. Primary legal materials include laws and regulations related to public procurement, such as Law Number 31 of 1999 on the Eradication of Corruption as amended by Law Number 20 of 2001, and Presidential Regulation Number 16 of 2018 on Public Procurement. Secondary legal materials include books, journal articles, and previous research results relevant to this topic. Tertiary legal materials include legal dictionaries and legal encyclopedias.

Data collection techniques are carried out through literature studies by reviewing legal documents and related literature. This research also involves juridical analysis of corruption cases that occur in the procurement of government goods and services to identify embezzlement patterns that are often used.

The data analysis technique used is qualitative analysis by interpreting data based on legal theory and relevant regulations. The results of the analysis are then used to comprehensively answer the research questions.

B. RESULTS AND DISCUSSION

The Modus Operandi of Embezzlement in Corruption Crimes in Government Procurement of Goods and Services

Embezzlement in the procurement of government goods and services is one of the most complex forms of crime. According to Kurniawan and Pujiyono (2018), this embezzlement usually starts from the budget planning process, where the project value is deliberately marked up by the perpetrator. This mode often involves cooperation between government officials and contractors. Kasiyanto (2018) added that price inflation is done by disguising items of expenditure that are difficult to verify.

Another practice that is often found is the manipulation of auction documents. Yasmirah et al. (2021) revealed that fake documents are often used to favor certain contractors. This is exacerbated by the practice of "borrowing flags," where small companies are used as fronts while large companies become the main actors. Adami (2016) asserts that this technique allows perpetrators to hide their illegal profits behind different legal entities.

According to Amiruddin (2010), the e-tender system is also not completely safe from manipulation. In some cases, the system has been manipulated by internal operators to steer projects to certain parties. Rose-Ackerman (2006) explains that the lack of transparency in the management of this system provides a great opportunity for perpetrators to take advantage of technical weaknesses.

Fantaye (2004) notes that in some cases, procurement of fictitious goods and services is also used as a method to hide embezzlement. The goods or services never existed, but funds were still disbursed based on false reports. This is supported by Lubis and Marlina (2010), who

point out that this mode often involves manipulation of physical evidence, such as photographs or receipt documents.

The use of bailout funds without adequate supervision is also another mode that is quite often used. Black (1990) explains that in this practice, project funds are often temporarily diverted for other needs, with the hope that they can be reimbursed after the project is completed. However, in many cases, the funds are never returned.

In addition, Kusdarini (2011) has pointed out fundamental weaknesses in the internal control systems of many government agencies. The absence of strong and independent audit mechanisms creates loopholes that allow for embezzlement in the procurement of goods and services. In developing countries, such as Indonesia, complex and inefficient bureaucratic structures often exacerbate this problem. As a result, corrupt practices can go undetected for long periods of time.

Montgomery (1988) points out that public participation in public procurement oversight is minimal, reducing the likelihood of early detection of embezzlement. Adami (2016) adds that this pattern of embezzlement is often supported by non-transparent policies, which makes public oversight difficult.

The importance of bureaucratic reform is also highlighted by Mahmud (2008). He states that rigid bureaucratic structures are often a barrier to the implementation of effective supervision. This reform, according to Mulyadi (2007), should include simplifying the procurement process to reduce the potential for manipulation.

Law Enforcement Efforts against Embezzlement in Goods and Services Procurement Corruption

Law enforcement in cases of embezzlement in public procurement requires a more comprehensive approach. As Rose-Ackerman (2006) emphasizes, transparency should be at the heart of any procurement process. The implementation of e-procurement systems, if rigorously implemented and monitored, has the potential to significantly reduce opportunities for corruption. With high transparency, every step in the procurement process can be monitored by the public, minimizing the room for data manipulation or budget misappropriation.

Mahardhika (2021) revealed that intensive training for relevant officials, especially commitment-making officials, is needed to improve their integrity. Yasmirah et al. (2021) added that law enforcement must include strict administrative and criminal sanctions against perpetrators, both individuals and corporations.

Kasiyanto (2018) suggests the establishment of an independent oversight body that focuses on public procurement. This body is not only tasked with monitoring the procurement process, but also auditing the results. Fantaye (2004) states that audits should be conducted randomly to avoid data manipulation by actors.

According to Black (1990), technology-based monitoring systems need to be integrated with public reporting systems to create a more effective control mechanism. Adami (2016) adds that technology can also be used to track suspicious fund flows, which is often an early indicator of embezzlement.

Amiruddin (2010) emphasizes the importance of collaboration between law enforcement officials and government agencies in dealing with procurement corruption cases. This cooperation should include data and information sharing to speed up the investigation process. Lubis and Marlina (2010) point out that many embezzlement cases fail to be processed due to a lack of coordination between relevant agencies. In addition, the importance of public education is also highlighted by Montgomery (1988). He states that the public should be given access to oversee procurement projects financed by their taxes. In this way, early detection of potential corruption can be made.

Mahmud (2008) states the need for legal reforms to strengthen the regulations governing public procurement. This includes stricter regulation of tendering mechanisms and more severe sanctions for perpetrators of corruption. Riggs (1964) adds that these regulations should be designed to close any loopholes that can be exploited by corrupt actors.

Rose-Ackerman (2006) suggests that prevention strategies should include increased transparency, accountability and community participation. Prevention strategies that prioritize transparency, accountability, and community participation can be strengthened by implementing an anonymous reporting system so that reporters are protected from

potential threats. Yasmirah et al. (2021) assert that this participation can be realized through an anonymous reporting system, which protects the reporter from threats or intimidation. Increasing public participation through anonymous reporting mechanisms not only strengthens prevention efforts, but also creates trust in a system that protects whistleblowers from intimidation. Integrating transparency, accountability and anonymous reporting systems in prevention strategies can encourage the public to actively contribute without fear of personal risk.

Kasiyanto (2018) firmly states that effective law enforcement, especially in the eradication of corruption in the public procurement sector, is highly dependent on strong political commitment. Without the full support of political stakeholders, corruption eradication efforts will face various obstacles. Strong political pressure is often needed to overcome resistance from parties who have an interest in maintaining corrupt practices.

CONCLUSIONS

The results of this study indicate that embezzlement in corruption in the procurement of government goods and services involves a very complex and systematic modus operandi. Commonly used modes include budget inflation, manipulation of tender documents, fictitious procurement, and diversion of funds without supervision. The main factors supporting this embezzlement are weak internal controls, low transparency in the procurement process, and inefficient bureaucratic structures. In addition, low public participation and the lack of a strong audit mechanism exacerbate the situation.

In terms of law enforcement, efforts still face various obstacles, including poor coordination between relevant agencies and weak sanctions against perpetrators. Technology-based surveillance, although implemented, is often ineffective due to the lack of follow-up supervision. A more integrated and strategic approach is needed to ensure justice for victims of corruption and the effectiveness of the law in preventing embezzlement.

As a preventive measure, bureaucratic reforms need to be carried out to create a more transparent and accountable oversight mechanism in public procurement. The e-procurement system should be optimized with the integration of technology-based monitoring, which allows early detection of indications of

embezzlement. Intensive training for relevant officials, especially commitment-making officials, should be conducted to improve their integrity and competence.

In addition, public participation in the oversight of procurement projects should be expanded through an anonymous and protected reporting system. This will encourage early detection and reduce loopholes for perpetrators to commit corruption. Independent audits should be conducted regularly and cover all stages of procurement, from planning to implementation.

Law enforcement should also be strengthened through better coordination between government agencies and law enforcement officials. Regulations related to the procurement of goods and services need to be updated to close legal loopholes that are often exploited by perpetrators. Finally, more severe sanctions should be applied to provide a deterrent effect and increase compliance with the rule of law.

REFERENCES

- Adrian, S. (2008). *Aspek hukum pengadaan barang dan jasa dan berbagai permasalahannya*. Jakarta: Sinar Grafika.
- Adami, C. (2016). *Hukum pidana korupsi di Indonesia*. Jakarta: Raja Grafindo Persada.
- Amiruddin. (2010). *Korupsi dalam pengadaan barang dan jasa*. Yogyakarta: Genta Publishing.
- Black, H. C. (1990). *Black's law dictionary*. St. Paul: West Publishing.
- Fantaye, D. K. (2004). Fighting corruption and embezzlement in third world countries. *The Journal of Criminal Law*, 68(2), 170-176.
- Kasiyanto, H. A. (2018). *Tindak pidana korupsi: Pada proses pengadaan barang dan jasa*. Jakarta Timur: Prenada Media.
- Kusdarini, E. (2011). *Dasar-dasar hukum administrasi negara dan asas-asas umum pemerintahan yang baik*. Yogyakarta: UNY Press.
- Kurniawan, M. R., & Pujiyono, P. (2018). Modus operandi korupsi pengadaan barang dan jasa pemerintah oleh PNS. *Law Reform*, 14(1), 115-131.
- Lili, R. (2001). *Dasar-dasar filsafat dan teori hukum*. Bandung: Citra Aditya Bakti.
- Lubis, F. H., & Marlina, M. (2010). Penegakan hukum dalam tindak pidana korupsi pengadaan barang dan jasa (studi pada Pengadilan Negeri Kuala Simpang). *Jurnal Mercatoria*, 3(2), 88-101.

Mahardhika, V. (2021). Pertanggungjawaban pidana pejabat pembuat komitmen sebagai upaya pencegahan korupsi pengadaan barang/jasa pemerintah. *Jurnal Hukum Samudra Keadilan*, 16(1), 140-155.

Mahmud, M. P. (2008). Penelitian hukum. Jakarta: Kencana.

Montgomery, J. D. (1988). *Bureaucrats and people: Grassroot participation in third world development*. Baltimore: The John Hopkins University Press.

Mulyadi, L. (2007). Putusan hakim dalam hukum acara pidana. Bandung: Citra Aditya Bakti.

Riggs, F. W. (1964). *Administration in developing countries: The theory of prismatic society*. Boston: Houghton Mifflin Company.

Rose-Ackerman, S. (2006). *Korupsi pemerintahan: Sebab, akibat, dan reformasi*. Jakarta: Pustaka Sinar Harapan.

Sjamsi, N. & D. Darmawan. (2004). Peran Strategis Layanan pada Penyelenggaraan Pelayanan Publik, *Jurnal Administrasi Publik*, 1(1), 83-95.

Yasmirah, Y., Halawa, F., Tandiono, S., & Zarzani, T. R. (2021). Criminal acts of corruption procurement of goods and services of local governments through electronic procurement services (LPSE). *Budapest International Research and Critics Institute (BIRCI-Journal): Humanities and Social Sciences*, 4(3), 4678-4684.