

Combating Corruption in the Procurement By The Press

Zainal Arifin¹, Emi Puasa Handayani¹, Saivol Virdaus¹

¹Universitas Islam Kadiri, Department of Law, 38 Sersan Suharmadji Road, Kediri, East Java, Indonesia
Email: zainal.fh@uniska-kediri.ac.id

¹Universitas Islam Kadiri, Department of Law, 38 Sersan Suharmadji Road, Kediri, East Java, Indonesia
Email: emipuasa.fh@uniska-kediri.ac.id (correspondence author)

¹Universitas Islam Kadiri, Department of Law, 38 Sersan Suharmadji Road, Kediri, East Java, Indonesia
Email: saivol@uniska-kediri.ac.id (correspondence author)

Abstract: According to KPK data, until 2015, there were 12,693 complaints from the public related to corruption in the field of procurement. Of these cases, 142 cases have been updated by the KPK, with almost 1 Billion of state losses. KPK classifies the causes of corruption in the procurement, the procurement that have not or can not be utilized, the use of the budget is not right on target or not in accordance with the allocation and tools of goods and services that are not in accordance with the established plans. Considering the above phenomenon, there appears to be limited ability of criminal law to overcome and eradicate corruption crime. Therefore it is necessary another way (non-penal) in addition to criminal ways (penal) in the prevention and eradication of corruption. To the authors want to know How the effort of the press in the procurement of goods and services by the government? This article is intended to know the press effort in conducting government procurement of goods and services. The plan of corruption in the procurement of goods and services can be minimized or prevented.

Keywords: Procurement, Pers Effort, Corruption.

1. Introductions

Corruption is a calculated crime by those who are literate men. Corruption may also be possible in situations where a person holds a position involving the sharing of resources and has the opportunity to misuse it for personal gain. Actually the notion of corruption varies greatly. However, in general, corruption is related to acts that harm the interests of the public or the wider community for personal or group interests. Actually there are three understandings of corruption, first master or get money from the state in various ways illegally and used for its own sake, secondly, abuse of authority, abuse of power. The authority is misused to provide other facilities and benefits. The third is illegal levies. This levy is an interaction between two people, usually an official with a local resident, who means the officer-officer provides a facility and so on, and the individual citizen gives a reward for what is done by the officer in question. While the definition of corruption according to Law no. 20 year 2001 On Eradication of criminal acts Corruption is "Every person who unlawfully commits enrichment of himself or others or a corporation that can harm the state finance or state economy."

The spirit of corruption eradication that begins with changes and legal renewal of corruption is that with the enactment of Law no. 28 Year 1999 on the Implementation of a Clean and Free Country from Corruption Nepotism Collusion, Law no. 31 of 1999 which amended again Law no. 20 of 2001 on the Eradication of Corruption. In addition to legal instruments, the government has also established a Corruption Eradication Commission (KPK) as stipulated in Law no. 30 of 2002, Law no. 46 Year



2009 on the Corruption Court. This spirit aims to create a clean and transparent government. However, if you look at the many cases of corruption that continue to alternate and occur indicates that the legal effort has not reached the desired target. According to KPK data, until 2015, there were 12,693 complaints from the public related to corruption in the field of procurement of goods and services. Of these cases, 142 cases have been handled by the KPK, with state losses of almost 1 T. The KPK classifies the causes of corruption in the procurement of goods and services, namely the procurement of goods that have not or can not be utilized, the use of the budget is not on target or not in accordance with the allocation and utilization of goods and services that are not in accordance with the established plan.

The case of corruption in the implementation of Electronic ID card project is one example of corruption cases in the procurement sector of goods and services in Indonesia. State losses due to corruption KTP Electronics is a very large bewit of Rp. 2.3 trillion of total budgeted project funds of Rp. 5.9 trillion. This means that almost 50% of Electronic ID card project funds have been corrupted. As with many cases of corruption Procurement has been happening so far, the corruption case of Electronic Identity Card also involves many parties, both from the winner and the winner of the tender, and the government who then make a conspiracy with the project tender holder. Demanded data released by *kompas.com* 80% of corruption cases handled by the Corruption Eradication Commission (KPK) comes from the procurement sector of goods and services. according to KPK Deputy Chairman, Basaria Panjaitan, in the 2016 KPK Annual Report states that the procurement sector of goods and services is a critical point of corruption, in addition to sectors or areas of planning and management of APBD (Government Budget and Expenditure), and licensing services.

Seeing the above phenomenon appears to be a limitation of the ability of criminal law for the prevention and eradication of corruption. Therefore, other means (non-penal) other than criminal facilities (penal) in the eradication and eradication of criminal corruption. The need to intensify and deploy non-penal means for crime prevention (including corruption) according to Barda Nawawi Arief, partly because of the reason that it is still doubtful or disputed the effectiveness of penal means in achieving criminal political objectives.

To compensate for the shortcomings and limitations of such penal facilities, one of the important non-penalties to be used in criminal law enforcement is through the use of press media or mass media. This is as stated by Barda Nawawi Arief, that in addition to non-penal efforts can be pursued by nourishing the community through social policy and by exploring the potentials that exist within the community itself, it can also be non-penal effort was extracted from various sources others that also have a preventive effect. Other sources such as press media or mass media, utilization of technological advances (which is known as techno-prevention). and utilization of potential preventive effects of law enforcement officers.[4] From the statement Barda Nawawi Arief is clear that one of the non-penal efforts which have the potential for preventive effects in the prevention of crime is the mass media or Perss. To the authors want to know How the role of the press in the procurement of goods and services by the government? This article aims to know the press effort in conducting supervision of procurement of goods and services by the government. So that the criminal act of corruption in the procurement of goods and services can be minimized or prevented.

2. Methodology

This research uses normative research type with approach used is Statute Approach, Conceptual Approach and Case Approach. The legal substances used are primary, secondary and tertiary legal materials that are legislation related to this research. While the collection of legal materials conducted with literature studies on legal materials and legal material analysis carried out in stages with deductive methods.

3. Result and Discussion

Based on the results of KPK study on corruption prevention efforts on the procurement of government goods and services it is found that PBJ corruption occurs at most in 5 (five) stages or process. Among other things: (1) budget planning stage; (2) the preparation stage of procurement of Government goods and services; (3) the implementation stage of procurement of Government goods and services; (4) the stage of handover and payment; and (5) supervision and accountability stages.[3] There are several modus operandi involvement of public officials and private companies in the corruption of Procurement of Goods and Services. Commonly used modes include: (1) bribery of private parties to public officials; (2) public officials use certain doll companies / companies to be cooperated in for corruption; and (3) collusion among bidders, pricing, cartels, and uncompetitive practices.

Antasari Azhar, a former KPK commissioner identified several modes of corruption in the procurement of goods and services:

- a) Entrepreneurs use the influence of central officials to "persuade" regional heads / local officials to interfere with the procurement process in order to win certain businessmen / partners and raise the price or value of contracts and the employers / suppliers provide a sum of money to central and regional officials;
- b) Entrepreneurs influence regional heads / local officials to intervene in the procurement process for certain partners to be won in a tender or directly appointed and the price of goods / services raised (mark-up), then the difference is distributed;
- c) The procurement committee shall make the specification of the goods leading to a particular brand or product in order to win a particular partner and to mark-up the price or value of the contract;
- d) The regional head / regional official shall instruct his subordinates to disburse and use funds / budgets that are inconsistent with their allocation and then account for such expenses by using false or fictitious evidence;
- e) Heads of regions / regional officials shall order their subordinates to use local funds / funds for the private interests of their colleagues, or for the personal interests of the concerned local or regional heads or groups, then be accountable for such expenses by using fictitious evidence;
- f) Heads of regions requested prepaid service payments to the winning bidder prior to undertaking the project;
- g) The regional head receives a sum of money from the partners by promising a procurement project;

Marwan Effendy, SH stated that the mode and indication of the occurrence of irregularities in the use of budget in the sector of procurement of goods / services leading to criminal actions of corruption. Among others:

1. Establishment of the Auction Committee;
2. Company Prequalification;
3. Direct Appointment Mechanism;
4. Self-Estimating Price Estimate (HPS);
5. Mark-Up and Cheating Indications in Tender Processes;
6. Participation In Chartering.

Seeing from the many cases of corruption in the procurement sector in addition to legal efforts are also needed extra-legal efforts to become a solution of supervision and eradication of corruption in the procurement sector. One effort beyond the law is the role of Perss that need to be maximized in the effort of supervision and social control. The role of Perss is especially important in publicly related news. In conducting news activities, facts and data factors become very important. Some basic things or principles that should be known to media workers in writing news that is 1) Honesty: what is contained in the news must be a fact that really happened. Journalists should not put fiction into the news, 2) Meticulousness: the news must really be as it is and written. appropriately. All statements concerning facts and opinions should be mentioned, 3) Balance: for balanced news to be taken into account the fact view of the underlying problem, do not contain irrelevant information. Do not mislead or deceive audiences, do not put emotions or opinions into the news but are written as if facts, show all relevant perspectives of the issues being reported, do not use editorial opinions, 4) Completeness and clarity: complete news is news contains answers to the who, what, why, when, where, and how questions, and 5) Summary: the writing should be concise but it remains clear that it contains all the important information.

In general, the mass media has a function as a medium of information, education, entertainment and social control. This is as defined in Article 3 paragraph 1 and paragraph 2 of Law no. 40 of 1999 on the Press, namely the National Press Function is as a medium of information, education, entertainment and social control, and can serve as an economic institution. The social control function of the press is further described in the General Elucidation of Press Law no. 40 of 1999 on the Press, which among other things is stated, which press also exercises social control is also very important to prevent corruption in the procurement sector. One of the most important functions of the press today is the control function. Operationalization of the implementation of this control function is the press as much as possible to take the role to supervise, maintain, and conduct investigations on various activities carried out by government agencies or other institutions that carry out public service activities. This control or "watchdog" function must be performed more actively by the press than by other community groups. It is this function that puts the press as one of the fourth pillars / forces in the democratic system. The purpose of the fourth power of the press is able to emulate the executive, legislative, and judicial power. Therefore, the existence of print media spread in Ambon City can play a role in carrying out the function of control over various activities / policies undertaken by government or private institutions in performing services for the benefit of the wider community. It is hoped that by maximizing the role of the control function, the print media in Ambon City can generate news that can reveal various forms of violation or irregularities, whether committed by executive, legislative, and judicial officials, as well as related institutions.

Function as a social control by the media perss in the case of prevention of corruption procurement is the perss involved in telling all the auction stages undertaken by the government. In this era of public information disclosure, openness in the implementation of auction is an obligation and perss salah one of the representatives of the community to participate in opening and making transparent of the auction process. In addition, the function of perss can be a party that guards law enforcer both KPK and other stakeholders in conducting investigation, investigation and court proceedings. When the press is present in every stages of law enforcement it will reduce the chance of legal misconduct both formally and materially. Perss institutions with millions of Perss workers must be involved and continue to proclaim all cases of corruption and legal process objectively and not selectively. This besides bia escort the legal process can also create a deterrent effect for the perpetrators and education for the community so as not to imitate acts that can harm the country's finances. The function of perss in conveying information to the public about the handling of law enforcement of corruption, so that can be known quickly by society, do not need to do with face to face communication. In this case law enforcement officers (Police, Attorney, Court, Penal Institution) enough to do a press release to the media or invite journalists for a press conference, so that in a short time the information will be widespread to the middle of society. Judging from the dimension of mass

media, the information submitted by the criminal justice system apparatus about material handling corruption cases received by the public is expected to have a positive effect in the prevention of corruption.

From the above reviews it can be concluded that the function of Perss in the prevention and penanguulangan criminal Corruption in the procurement sector is very pentings once, in addition to legal channels, Perss is a non-penal laur that has a strategic role in the supervision of the auction process in the procurement of goods and services. In addition, the role of perss dangat important in guarding the legal process of the perpetrators of corruption in the sector of procurement of goods and services. From all stages of legal process conducted by KPK starting from Investigation and so on, Perss through its strategic role can nmengawal through pemitanya in order to ensure legal process both formal and its material run in accordance with the rule of law so that perpetrators of corruption in the procurement sector can be completed thoroughly and fairly.

4. Conclusion

Through the above discussion and study it can be concluded as follows:

- a) Eradication of corruption in Indonesia, especially in the sector of Procurement is not only done through legal channels and law enforcement, will ejalur outside law or Non Penal also needs to be done that is by utilizing the role of Perss who memilikinperan social control.
- b) The role of social control by media perss in terms of prevention of corruption procurement is the perss involved in telling all the stages of auction conducted by the government. In this era of public information disclosure, openness in the implementation of auction is an obligation and perss dalah one of the representatives of the public to participate in opening and making transparent of the auction process.
- c) The role of Perss in the prevention and combating of crime Corruption in the procurement sector is very important, besides legal channels, Perss is a non-penal laure which has a strategic role in supervising the auction process in the procurement of goods and services. In addition, the role of perss dangat important in guarding the legal process of the perpetrators of corruption in the sector of procurement of goods and services. From all stages of legal process conducted by KPK starting from Investigation and so on, Perss through its strategic role can nmengawal through pemitanya in order to ensure legal process both formal and its material run in accordance with the rule of law so that the perpetrators of corruption in the procurement sector can be resolved thoroughly and fairly.

5. References

- [1] BPKP, *National Corruption Eradication Strategy*, BPKP Education and Supervisory Center, Jakarta, 1999, page 257Research team Kediri Information Society, *Influence of Media on Society in Kediri*, MIP Publishing Kediri, 2010, page.10
- [2] Act no. 20 of 2001 on eradication of corruption
- [3] KPK Annual Report 2016
- [4] Barda Nawawi Arief, *Cidmic Criminal Law Policy*, Bandung: Citra Aditya Bakti.1996 page: 58
- [5] Aida Ratna Zulaiha, acch.kpk.go.id, 5/12/17
- [6] Yakobus Tefa, *Corruption In The Electronic Government Procurement*, Jurnal 2015
- [7] Materials Public Lecture Tanjungpura University Pontianak, - *Corruption In Procurement Of Goods And Services Government*, March 8, 2012
- [8] Said Lestaluhu, *The Role Of Mass Media In Leading Public Policy In Ambon*, 2 April 2015
- [9] Budiyo, *Mass Media Utilization By Law Enforcement In Countering Corruption, Perspective*, Volume XVIII No. 1 Year 2013 January Edition.