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Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

Procurement Policy as a Manifestation of State Responsibility in Preventing Forced Labor

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Abstract. *Government public procurement constitutes a massive portion of national expenditure, possessing significant potential to drive market behavior. However, government supply chains are increasingly vulnerable to human rights abuses, particularly forced labor practices. This study aims to analyze the urgency and the conceptual framework for implementing Human Rights Public Procurement (HRPP) as a manifestation of the state's responsibility to prevent forced labor. This study employs a normative legal research method using statutory and conceptual approaches. The findings reveal that the state holds a dual role as both a market actor and a human rights duty bearer. Integrating human rights clauses into procurement stages from planning and vendor selection to contract management is a crucial instrument to ensure that public funds do not contribute to modern slavery. Currently, public procurement regulations in Indonesia do not explicitly mandate Human Rights Due Diligence (HRDD) for vendors. Therefore, this study concludes that implementing HRPP policies is not merely an administrative option but a legal and moral obligation of the state, aligning with the United Nations Guiding Principles on Business and Human Rights (UNGPs). This research recommends national procurement policy reform to integrate strict human rights compliance standards as a core qualification requirement for goods and services providers.*

Keywords: *Forced Labor; Human Rights; Public Procurement; State Responsibility; Supply Chain.*

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1. Introduction

Government procurement of goods and services is a strategic instrument for driving the national economy. In Indonesia, the budget allocation for public procurement absorbs a significant portion of the State Budget (APBN) each year. Given this substantial purchasing power, the government essentially holds sway as the largest consumer, possessing significant intervention capabilities to direct market behavior and demand compliance standards from the private sector.

Ideally, these trillions in public funds should be a driving force for sustainable development and social welfare. However, the reality on the ground reveals a worrying gap between ideal conditions and empirical reality. Demands for budget efficiency and accelerated fund absorption often override humanitarian considerations. As a result, the government procurement supply chain is vulnerable to numerous human rights violations, with state funds indirectly at risk of funding exploitative practices by third parties.

As the highest entity, the state has a dual, overlapping role: as an economic market actor and as a duty bearer of human rights obligations. This responsibility has been affirmed globally through the United Nations Guiding Principles on Business and Human Rights (UNGPs). The first pillar of the UNGPs places an absolute obligation on the state to protect the public from human rights violations committed by business entities, particularly in commercial activities involving public funds.

One of the most pressing forms of human rights violations to be addressed in the supply chain is the practice of forced labor and modern slavery. This phenomenon is often systematically hidden within the deepest layers of subcontractors, from outsourcing and infrastructure to manufacturing. A procurement culture that prioritizes lowest-price bidders often forces vendors to drastically cut operational costs, ultimately sacrificing basic rights and a living wage for workers.

In Indonesia, key public procurement regulations, such as Presidential Regulation No. 16 of 2018 and its amendments, have indeed attempted to achieve transparent and accountable governance. However, these regulations still have fundamental legal loopholes because they do not explicitly mandate a Human Rights Due Diligence mechanism as a supplier qualification requirement. This lack of a legal mandate has slowed the internalization of human rights protection values into the procurement system, complicating efforts to prevent the entry of goods or services produced by forced labor into state projects.

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Based on the identification of problems and regulatory gaps above, the author argues that it is crucial for legal science to formulate a foundation for policy reform that can integrate human rights principles into public procurement law. The state's silent involvement without concrete action on exploitation in its supply chain constitutes a neglect of moral responsibility. Therefore, this study aims to analyze the urgency and conceptual framework for implementing Human Rights Public Procurement (HRPP) as a manifestation of the state's responsibility to prevent forced labor.

2. Research Methods

This study uses a normative legal research method that analyzes law conceptualized as norms or rules applicable in society. The approach used is a statute approach to examine public procurement regulations and human rights instruments, and a conceptual approach to develop arguments regarding state responsibility. Data were collected through a literature review of primary legal materials, such as relevant laws and regulations, as well as secondary legal materials in the form of scientific journals, UN documents, and relevant literature. The collected data were analyzed using descriptive qualitative analysis methods.

3. Results and Discussion

3.1. The Urgency of Implementing Human Rights Public Procurement (HRPP)

The state does not merely act as a consumer in the procurement market for goods and services, but carries a constitutional mandate to advance the general welfare and protect all citizens. In the context of Business and Human Rights, the first pillar of the UNGPs explicitly states the state's obligation to protect human rights from violations by third parties (State duty to protect). The urgency of implementing the HRPP is based on the significant economic impact of public procurement. When the government requires standards of respect for human rights, particularly the prohibition of forced labor, in tender documents, the entire business ecosystem will be forced to adapt to participate in projects worth trillions of rupiah.

Furthermore, the absence of clauses protecting workers from exploitation and forced labor reflects the state's weak bargaining position vis-à-vis corporate capital. The HRPP urges the state to abandon the use of lowest price as the sole determinant of tender success and instead shift to the concept of value for money, taking into account social impacts and human rights protections.

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3.2. Modern Slavery Practices in the Government Outsourcing System

One of the biggest gaps in public procurement in Indonesia is evident in the outsourcing of services, such as cleaning services or security services, in both central and regional government agencies. The current procurement system still relies heavily on the principle of the lowest-price bidder. Consequently, to win competitive tenders with very limited budgets, many service providers (vendors) resort to shortcuts by reducing operational costs, which directly stem from the reduction of basic workers' rights.

The reality on the ground shows that outsourced workers in government agencies often face working conditions that meet the International Labor Organization's (ILO) criteria for forced labor. Frequent violations include payment below the Regional Minimum Wage (UMR), lack of social security (BPJS Ketenagakerjaan), forced work hours without overtime pay, and the practice of vendors withholding original diplomas to prevent workers from resigning.

Forced Labor Indicators (ILO)	The Reality of Violations by Service Procurement Vendors
Restrictions on Freedom of Movement	Retention of original diplomas or worker identity documents.
Fraud and Poor Working Conditions	Actual wages paid are below the promised UMR.
Excess Working Hours	Forced overtime work without financial compensation.
Lack of Protection	Failure to register workers in social security programs.

Source: Researcher Analysis, 2026.

By not having a procurement instrument that requires Human Rights Due Diligence (HRDD), the state has indirectly sponsored forced labor practices. The government, as the primary employer, loses control and visibility over wage

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structures and working conditions at the lower levels of its supply chain. Therefore, the implementation of Human Rights Public Procurement (HRPP) is crucial to ensuring that labor protection standards become a non-negotiable requirement in government procurement tenders.

3.3. Conceptual Framework for the Implementation of HRPP to Prevent Forced Labor

To implement the HRPP in Indonesia, human rights clauses must be integrated into the entire procurement cycle. This mechanism begins with the planning process and continues through post-contract evaluation, with an emphasis on preventing forced labor practices.

Procurement Stages	Potential Risks of Forced Labor	Human Rights Clauses/Mitigations Applied
Planning	Preparation of Own Estimated Price (HPS) which suppresses reasonable labor costs below the minimum wage.	Standardization and rationalization of labor component costs in a transparent manner and in accordance with local minimum wages.
Provider Selection	Vendors with a track record of human rights violations and exploitation passed the tender qualification stage.	The qualification requirements include a Human Rights Compliance Declaration and a Human Rights Due Diligence (HRDD) report.
Contract Execution	The provider uses lower-tier subcontractors who employ workers without legal contracts.	Spot-check clauses, supply chain transparency, and fines up to contract termination.

Source: Researcher Analysis, 2026.

At the provider selection stage, the primary instrument the state must possess is a blacklist integrated with relevant ministries, such as the Ministry of Manpower and the National Commission on Human Rights. This aligns with the theory of legal effectiveness, which states that regulations will only be effective if accompanied



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by multi-layered oversight and strict enforcement of sanctions for violating corporations.

4. Conclusion

Implementing a Human Rights Public Procurement (HRPP) policy is not merely an administrative choice, but rather a legal and moral obligation of the state, which plays a dual role as both a market actor and a duty bearer of human rights obligations. Integrating human rights due diligence into every procurement stage is essential to prevent the use of public funds that contribute to modern slavery. Therefore, comprehensive reform of national procurement policies is needed to ensure that human rights compliance standards become a mandatory qualification requirement for all government goods and services providers.

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Regulation:

Presidential Regulation Number 46 of 2025 concerning the Second Amendment to Presidential Regulation Number 16 of 2018 concerning Government Procurement of Goods/Services.