

Legal and Institutional Reconstruction of Special Procurement Practices in the Indonesian National Police

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Abstract. *The procurement of special goods and services within the Indonesian National Police (POLRI) encompassing tactical equipment, weaponry, intelligence tools, and other classified operational needs operates under a distinct legal and institutional regime that differs from general public procurement governed by Presidential Regulation Number 16 of 2018 and its amendments. This distinction arises from considerations of state security, confidentiality, and operational urgency, yet it has also created legal ambiguity, weak institutional oversight, and inconsistent management practices across POLRI's procurement units. This study aims to analyze the existing legal framework and institutional arrangements governing special procurement within POLRI, identify the structural and normative weaknesses that hinder accountability and efficiency, and formulate a reconstructive model for a more coherent legal basis, governance structure, and management system. Employing a normative-empirical legal research method, this study examines statutory regulations, internal POLRI policies, and institutional practices, complemented by a review of comparative procurement models in other security and defense institutions. The findings indicate that the absence of a unified legal instrument specifically regulating special procurement has resulted in overlapping authority, limited transparency, and vulnerability to maladministration. The proposed reconstruction integrates principles of good governance transparency, accountability, and proportionality into a special procurement framework that remains sensitive to security confidentiality requirements. This study contributes to the development of procurement law within security sector institutions and offers policy recommendations for strengthening POLRI's institutional governance in managing special goods and services procurement.*

Keywords: *Governance; Institutional; Management; Reconstruction.*

1. Introduction

Procurement of goods and services constitutes one of the most vulnerable sectors in public administration, particularly within institutions entrusted with state security functions such as the Indonesian National Police (*Kepolisian Negara Republik Indonesia/POLRI*).¹ Unlike general government procurement, which is comprehensively regulated under Presidential Regulation Number 16 of 2018 concerning Government Procurement of Goods/Services as amended by Presidential Regulation Number 12 of 2021,² procurement classified as "special" (*pengadaan khusus*) covering tactical equipment, firearms, intelligence apparatus, and other confidential operational necessities operates under a separate and less transparent regulatory regime.³ This distinction is justified on grounds of state secrecy and operational urgency; however, it simultaneously creates a normative vacuum that potentially undermines the principles of transparency, accountability, and legal certainty.⁴

The legal ambiguity surrounding special procurement within POLRI is compounded by fragmented institutional arrangements. Authority over planning, budgeting, and execution is often distributed across multiple internal units without a unified oversight mechanism, increasing the risk of overlapping jurisdiction and weak accountability.⁵ Several audit findings by the Supreme Audit Agency (*Badan Pemeriksa Keuangan/BPK*) have indicated recurring irregularities in POLRI's procurement of special equipment, ranging from inadequate documentation to price mark-ups shielded by confidentiality classifications.⁶ Such conditions raise a fundamental legal question: to what extent does the current legal and institutional framework adequately govern special procurement practices within POLRI, and how might this framework be reconstructed to balance security confidentiality with good governance principles.

This study is premised on the argument that reconstruction is necessary not merely at the level of technical regulation, but at the foundational level of legal basis and institutional design. Good governance theory emphasizes that even

¹ Indonesia, Law Number 2 of 2002 concerning the Indonesian National Police, State Gazette of the Republic of Indonesia Year 2002 Number 2.

² Indonesia, Presidential Regulation Number 16 of 2018 concerning Government Procurement of Goods/Services, as amended by Presidential Regulation Number 12 of 2021.

³ Indonesia, Head of Indonesian National Police Regulation concerning Procurement of Goods/Services within POLRI (internal regulation), as referenced in POLRI's internal procurement guidelines.

⁴ See generally discussions on the tension between state confidentiality and public accountability in security sector procurement literature.

⁵ Institutional fragmentation in POLRI's internal logistics and procurement bureaus, as commonly noted in public administration studies on Indonesian security institutions.

⁶ Badan Pemeriksa Keuangan Republik Indonesia (BPK), *Ikhtisar Hasil Pemeriksaan Semester*, various years (audit summary reports on POLRI's asset and procurement management).

security-sensitive administrative functions must remain subject to proportional accountability mechanisms.⁷ Drawing on normative-empirical legal research, this study seeks to examine the existing legal architecture governing POLRI's special procurement, identify its structural and normative deficiencies, and formulate a reconstructive model that integrates transparency and accountability without compromising legitimate security interests. The urgency of this study is underscored by POLRI's substantial procurement budget allocation and its direct implications for institutional integrity and public trust in law enforcement.⁸

1) Identify the Problem

The management of special goods and services procurement within the Indonesian National Police reveals a number of interrelated legal and institutional problems. First, there exists a legal vacuum and normative ambiguity surrounding the regulation of special procurement, as no unified statutory instrument comprehensively governs this category. The exclusion of special procurement from Presidential Regulation Number 16 of 2018 concerning Government Procurement of Goods/Services, as amended by Presidential Regulation Number 12 of 2021, has left this domain to be regulated only partially through internal, non-public POLRI regulations. This condition generates considerable legal uncertainty regarding the procedures, standards, and accountability mechanisms that ought to apply.

This normative gap is further compounded by weak institutional oversight and fragmented lines of authority. Responsibility for the planning, budgeting, execution, and evaluation of special procurement is distributed across multiple internal units within POLRI without a clearly defined, centralized supervisory mechanism. Such fragmentation increases the likelihood of overlapping jurisdiction, diminishes accountability, and makes it difficult to trace institutional responsibility whenever irregularities arise.

A further complication lies in the persistent tension between confidentiality and transparency. The justification of state security and operational secrecy is frequently invoked to exempt special procurement from standard transparency requirements that apply to general government procurement. This raises a fundamental question as to where the legitimate boundary should be drawn between necessary confidentiality and the good governance principles of transparency and public accountability, particularly given that special procurement involves the allocation of substantial state funds.

Compounding these structural weaknesses are recurring findings of administrative irregularities. Periodic audit reports, including those issued by the Supreme Audit Agency (*Badan Pemeriksa Keuangan/BPK*), have pointed to indications of inadequate documentation, procedural inconsistencies, and potential inefficiencies in the management of special procurement. These findings suggest

that existing internal control mechanisms within POLRI have not functioned optimally in preventing or detecting maladministration.

Taken together, these problems point to the absence of a comprehensive reconstructive legal model capable of reconciling the operational and security-based needs of POLRI's special procurement with the principles of good governance namely transparency, accountability, and proportionality. No adequate framework has yet been formulated to bridge the gap between these normative ideals and actual institutional practice, leaving special procurement governance within POLRI both legally uncertain and institutionally vulnerable.

From this identification of problems, the following research questions may be formulated: first, how does the current legal and institutional framework govern the management of special goods and services procurement within the Indonesian National Police; second, what structural and normative weaknesses exist within this framework that hinder effective governance and accountability; and third, what legal and institutional reconstruction model can be formulated to strengthen the governance and management of special procurement within POLRI while maintaining the security confidentiality that such procurement legitimately requires.

2) Research Objectives

Based on the formulation of the problems above, the purpose of this study is to examine and analyze the form and scope of legal protection afforded to good-faith buyers of housing units agreed through a Sale and Purchase Binding Agreement (PPJB) when the object of the agreement is included in the bankruptcy estate by the curator, particularly in situations where the buyer has fulfilled payment obligations and exercised physical control over the object prior to the declaration of bankruptcy. This study aims to assess whether such legal protection has been implemented consistently and substantively in practice, or whether it remains constrained by a formalistic interpretation of legal requirements, especially in relation to the formal validity of PPJB and the transfer of rights. Furthermore, this study aims to analyze the extent to which the principles of separation of assets and good faith are applied by the Supreme Court in resolving conflicts of legal norms between the certainty of bankruptcy law and consumer protection, as reflected in Supreme Court Decision Number 24 K/Pdt.Sus-Pailit/2025. This research seeks to evaluate whether the application of these principles demonstrates a shift toward substantive justice and effective consumer protection, and to assess the consistency of the Court's reasoning with statutory regulations, doctrinal theories, and established legal principles. Through this analysis, the study is expected to provide a scientific and conceptual understanding of the limits of the universality principle of bankruptcy and to formulate an ideal framework for preventive legal protection for property buyers under PPJB in the context of developer bankruptcy.

2. Research Methods

This study employs a normative-empirical legal research method (*penelitian hukum normatif-empiris*), combining doctrinal legal analysis with an examination of institutional practices to obtain a comprehensive understanding of both the legal framework and its implementation.⁷ The normative dimension is used to analyze statutory regulations, government regulations, and internal institutional policies governing procurement of goods and services, particularly those applicable to special procurement within the Indonesian National Police. The empirical dimension complements this analysis by examining institutional practices, oversight patterns, and documented cases of irregularity within POLRI's procurement management, thereby bridging the gap between legal norms as written (*das sollen*) and their implementation in practice (*das sein*).⁸

The research adopts a qualitative approach, given that the object of study concerns the interpretation of legal norms, institutional structures, and governance patterns rather than quantifiable variables.⁹ Three principal legal research approaches are utilized: first, the statute approach (*pendekatan perundang-undangan*), used to examine relevant laws and regulations, including Law Number 2 of 2002 concerning the Indonesian National Police, Presidential Regulation Number 16 of 2018 as amended by Presidential Regulation Number 12 of 2021, and internal POLRI regulations concerning special procurement; second, the conceptual approach (*pendekatan konseptual*), employed to examine legal doctrines and governance theories relevant to procurement, transparency, and accountability; and third, the comparative approach (*pendekatan perbandingan*), used to draw insights from procurement governance models in other security and defense-related institutions, both domestic and international, as a basis for formulating the proposed reconstruction model.¹⁰

Data for this study are drawn from both primary and secondary legal sources. Primary legal materials include the Constitution of the Republic of Indonesia 1945, relevant statutes, government and presidential regulations, and internal POLRI regulations pertaining to procurement. Secondary legal materials consist of legal scholarship, academic journal articles, institutional reports, and audit findings issued by the Supreme Audit Agency (*Badan Pemeriksa Keuangan/BPK*), which are used to illustrate patterns of irregularity in practice.¹¹ Non-legal materials,

⁷ Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Jakarta: Rajawali Pers, 2013).

⁸ Ronny Hanitijo Soemitro, *Metodologi Penelitian Hukum dan Jurimetri* (Jakarta: Ghalia Indonesia, 1990).

⁹ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada Media Group, 2016).

¹⁰ Ibid., discussing statute, conceptual, and comparative approaches in normative legal research.

¹¹ Badan Pemeriksa Keuangan Republik Indonesia (BPK), *Ikhtisar Hasil Pemeriksaan Semester*, various years.

including governance theory literature and comparative institutional studies, are also utilized to enrich the analytical framework.

Data collection is conducted through library-based research (*studi kepustakaan*), involving the systematic identification, compilation, and review of relevant legal instruments, scholarly literature, and institutional documents. Where relevant and accessible, this may be supplemented by document analysis of publicly available audit summaries and institutional reports concerning POLRI's procurement practices, without requiring access to classified or restricted internal data.¹²

The collected data are analyzed using qualitative descriptive-analytical techniques.⁷ This involves systematically describing the existing legal and institutional framework, critically analyzing its structural and normative weaknesses, and synthesizing findings from the statutory, conceptual, and comparative approaches to formulate a reconstructive model for the legal governance and management of special procurement within POLRI. The analysis is guided by good governance principles transparency, accountability, and proportionality as the normative benchmark against which the current framework is evaluated and reconstructed.

3. Result and Discussion

3.1. The Legal and Institutional Framework Governing Special Procurement within POLRI

The findings of this study indicate that special goods and services procurement within the Indonesian National Police occupies an ambiguous position within Indonesia's broader public procurement law regime. Presidential Regulation Number 16 of 2018 concerning Government Procurement of Goods/Services, as amended by Presidential Regulation Number 12 of 2021, functions as the general legal umbrella for public procurement; however, it explicitly permits deviation for procurement categorized as secret or security-sensitive, without providing a detailed substitute mechanism.¹³ This has resulted in special procurement being governed primarily through internal POLRI regulations including Head of Police Regulations (*Peraturan Kapolri*) and internal technical directives which are neither uniformly codified nor consistently made available for public or academic scrutiny.¹⁴

¹² Zainuddin Ali, *Metode Penelitian Hukum* (Jakarta: Sinar Grafika, 2021).

¹³ Indonesia, Presidential Regulation Number 16 of 2018 concerning Government Procurement of Goods/Services, as amended by Presidential Regulation Number 12 of 2021, provisions concerning exceptions for secret/security-classified procurement.

¹⁴ Internal Head of Indonesian National Police Regulations concerning procurement of goods/services within POLRI (non-public internal regulatory instruments).

This regulatory arrangement reflects what may be termed a "shadow legal regime": a parallel body of rules operating alongside, rather than integrated within, the general procurement framework. While such an arrangement may be defensible on security grounds, the absence of a clear normative hierarchy between general procurement law and POLRI's internal special-procurement regulations creates uncertainty as to which principles—competitive fairness, value-for-money, transparency—remain applicable, and which may be legitimately set aside for security reasons.¹⁵ Institutionally, authority over special procurement is distributed among several internal directorates, including logistics, planning, and finance functions, without a single unit bearing end-to-end accountability for the procurement lifecycle. This fragmented structure is consistent with broader patterns observed in other security-sector institutions, where operational secrecy is often used as a rationale for decentralizing—rather than strengthening internal oversight.¹⁶

3.2. Structural and Normative Weaknesses in the Current Framework

The analysis reveals at least three interrelated weaknesses. First, at the normative level, the absence of a specific statute or government regulation dedicated to special procurement means that key procedural safeguards such as independent verification, competitive assessment where feasible, and post-procurement audit obligations are not uniformly mandated. Internal regulations, being administrative in nature and subordinate in the legal hierarchy, cannot substitute for the legal certainty that a formal statutory instrument would provide.¹⁷

Second, at the institutional level, the fragmentation of authority described above weakens the chain of accountability. Where planning, execution, and evaluation functions are dispersed across different internal units without a centralized coordinating or supervisory body, responsibility for irregularities becomes difficult to attribute, and corrective action is correspondingly delayed or diluted.¹⁸ This condition is compounded by the limited role of external oversight bodies, whose access to special procurement data is often constrained by confidentiality classifications, thereby narrowing the effective scope of independent audit.¹⁹

¹⁵ See generally discussions on normative hierarchy and legal certainty in Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada Media Group, 2016).

¹⁶ Comparative institutional literature on security-sector procurement governance and decentralization of oversight.

¹⁷ Maria Farida Indrati S., *Ilmu Perundang-undangan: Jenis, Fungsi, dan Materi Muatan* (Yogyakarta: Kanisius, 2007), on the hierarchy and binding force of statutory versus administrative regulations.

¹⁸ See discussion on institutional fragmentation and accountability gaps in public administration literature on Indonesian security institutions.

¹⁹ Badan Pemeriksa Keuangan Republik Indonesia (BPK), *Ikhtisar Hasil Pemeriksaan Semester*, various years (general findings on POLRI asset and procurement management).

Third, at the level of practice, periodic findings by the Supreme Audit Agency (BPK) concerning asset and procurement management within POLRI although not always specific to special procurement—suggest broader patterns of documentation weaknesses and internal control gaps that plausibly extend to this category as well.⁸ These findings should be read with appropriate caution, as detailed case-specific data on special procurement irregularities are generally classified; nonetheless, the recurring nature of general procurement findings within POLRI is indicative of systemic, rather than isolated, institutional weaknesses.

Taken together, these findings support the argument that the current approach treating special procurement primarily as an exception to be managed through internal discretion is structurally insufficient. The tension between confidentiality and accountability is not adequately resolved by simply exempting special procurement from general rules; rather, it requires an affirmative, tailored framework that defines the boundaries of permissible confidentiality while embedding minimum standards of oversight.²⁰

3.3. Toward a Reconstructed Legal and Institutional Model

Based on the weaknesses identified, this study proposes a reconstruction model built on three pillars. The first pillar concerns legal reform, namely the enactment of a specific legal instrument—ideally at the level of a Government Regulation or, at minimum, a substantially revised and harmonized set of Head of Police Regulations that explicitly defines the scope of "special procurement," the categories of goods and services covered, and the minimum procedural standards applicable regardless of confidentiality classification.¹⁰ Such an instrument should incorporate a tiered confidentiality framework, distinguishing between information that must remain classified for security reasons and administrative or financial information that can be subject to restricted, rather than absolute, disclosure.

The second pillar concerns institutional consolidation, namely the establishment or strengthening of a centralized special-procurement oversight unit within POLRI, vested with end-to-end responsibility for planning, execution monitoring, and post-procurement evaluation. This unit should operate under a dual-reporting mechanism internally to POLRI leadership and, within appropriate security limitations, to external oversight bodies such as the BPK and relevant parliamentary commissions so as to reduce fragmentation while preserving legitimate security boundaries.²¹

²⁰ See UNDP governance frameworks on transparency, accountability, and participation as applied to security-sector institutions.

²¹ Discussion of the proportionality principle in administrative law and good governance theory.

The third pillar concerns the integration of good governance principles into special procurement management, specifically transparency, accountability, and proportionality. Proportionality here functions as the operative principle reconciling security confidentiality with public accountability: the degree of disclosure and oversight should be calibrated to the actual sensitivity of each procurement item, rather than applying blanket confidentiality to the entire special procurement category.¹² This approach is consistent with governance models increasingly adopted in defense and security procurement in other jurisdictions, where classified procurement remains subject to independent audit through restricted-access mechanisms rather than being excluded from oversight altogether.¹³

Collectively, these three pillars form an integrated reconstruction model in which legal reform provides normative certainty, institutional consolidation provides structural accountability, and the proportionality principle provides the operative mechanism for balancing confidentiality with good governance. This model does not seek to eliminate the legitimate need for confidentiality in POLRI's special procurement, but rather to ensure that such confidentiality operates within, rather than outside, a framework of lawful and accountable governance.

4. Conclusion

Based on the analysis presented in the preceding chapters, several conclusions can be drawn. First, the legal and institutional framework currently governing special goods and services procurement within the Indonesian National Police remains fragmented and normatively uncertain. Presidential Regulation Number 16 of 2018, as amended by Presidential Regulation Number 12 of 2021, permits deviation from general procurement rules for security-classified procurement without providing an adequate substitute mechanism, leaving this domain to be regulated primarily through internal, non-public POLRI regulations. This condition places special procurement in a position of legal ambiguity, where the applicable procedural standards, oversight mechanisms, and accountability requirements are neither clearly defined nor consistently enforced. Second, this study finds that the current framework suffers from interrelated structural and normative weaknesses. At the normative level, the absence of a dedicated statutory instrument for special procurement undermines legal certainty and weakens the binding force of procedural safeguards. At the institutional level, authority over planning, execution, and evaluation is fragmented across multiple internal units without centralized coordination or clear end-to-end accountability, which increases the risk of overlapping jurisdiction and delayed corrective action. These structural weaknesses are compounded by the limited reach of external oversight bodies, whose access to special procurement information is constrained by confidentiality classifications, and are further reflected in recurring general audit findings concerning POLRI's asset and procurement management, which point to

broader, systemic gaps in internal control rather than isolated administrative lapses. Third, this study concludes that resolving these weaknesses requires more than incremental administrative adjustment; it requires a fundamental legal and institutional reconstruction. The proposed reconstruction model integrates three pillars: legal reform through the enactment of a specific and harmonized legal instrument that defines the scope and minimum standards of special procurement; institutional consolidation through the establishment of a centralized oversight unit bearing end-to-end responsibility for the procurement lifecycle; and the operationalization of good governance principles transparency, accountability, and proportionality as the normative foundation for reconciling security confidentiality with public accountability. Proportionality, in particular, serves as the key mechanism for calibrating the degree of disclosure and oversight to the actual sensitivity of each procurement item, rather than applying blanket confidentiality across the entire category. In conclusion, the reconstruction of law, governance, and management of special procurement within the Indonesian National Police is both necessary and achievable without compromising legitimate security interests. A framework that embeds accountability within, rather than excludes it from, the domain of confidentiality will not only reduce the institutional vulnerabilities identified in this study but also strengthen public trust in POLRI as a law enforcement institution that is both operationally effective and administratively accountable. This study thus affirms that legal certainty and security confidentiality are not inherently contradictory, but can be reconciled through a deliberately designed governance architecture grounded in proportional and accountable procurement practices.

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