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Discretion leads to corruption in Indonesian Public Service Agency Hospitals: Governance challenges and control mechanisms

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ABSTRACT

This study examines the relationship between the abuse of discretion and corruption in regional public service agency (PSA) hospitals in Indonesia, focusing on five specific cases. The objective is to raise awareness among stakeholders about how discretion can facilitate corruption, which can have serious legal consequences. The study uses qualitative secondary data analysis, including statutory regulations, court decisions, and academic literature, to explore the effects of the reinventing government concept on hospital management. This concept grants PSA hospitals autonomy in managing their revenues and expenditures, bypassing traditional bureaucratic procedures to improve healthcare quality. However, this financial management flexibility has also increased opportunities for corruption, including fund misappropriation, procurement collusion, and unauthorized resource allocation. Using Klitgaard's corruption equation, the study reveals that while increased discretion offers benefits, existing oversight mechanisms are insufficient. The study concludes that to reduce corruption risks, it is crucial to enhance accountability through more robust internal controls, local government oversight, and external auditing. These measures align discretion with good governance principles and legal frameworks. This study provides novel insights into the link between administrative discretion and corruption in the public health sector, highlighting the need for comprehensive control systems in PSA hospitals to balance autonomy with accountability.

KEYWORDS:
Corruption; discretion; PSA hospitals; Klitgaard's equation; reinventing government

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INTRODUCTION

The concept of reinventing government, introduced by New Public Management (NPM), encourages government innovation by adopting an entrepreneurial approach within the bureaucracy to improve the quality of public services (Ika, 2022). This concept is implemented through Public Service Agencies (PSAs). In Indonesia, PSAs or Badan Layanan Umum (BLU) are established based on Law Number 1 of 2004 concerning the State Treasury. They operate under a principal-agent relationship model, where the PSA leader acts as the agent, and the minister, head of an institution, or regional leader functions as the principal. Regional PSAs follow a distinct financial management pattern compared to other regional work units. They are permitted to directly receive and utilize their income without depositing it into the Regional Treasury. Additionally, they have the flexibility to exceed budget limits or select different types of goods than those initially planned within certain thresholds.

The Ministry of Home Affairs prioritizes and encourages local government-managed hospitals to adopt the Regional PSA model to enhance public health services. This initiative is supported by the Minister of Home Affairs Regulation Number 79 of 2018 (Permendagri 79/2018) concerning Regional PSAs, specifically in Article 31, paragraph (1), and the directive to Governors, Regents, and Mayors across Indonesia, outlined in Letter Number 981/4092/KEUDA dated October 2, 2020, regarding Guidelines for Regional PSA Financial Management. Other regulations have also granted autonomy to regional hospitals even before they become PSAs. According to Government Regulation Number 72 of 2019, which amends Government Regulation Number 18 of 2016 concerning Regional Apparatus, Article 21, paragraph (3), and Article 43, paragraph (2), provincial, district, and city regional hospitals have autonomy in managing personnel, finances, and regional property affairs. To avoid legal uncertainty, the regional hospital association has interpreted these provisions as aligning with the requirement for regional hospitals to become PSAs (Basabih, 2017).

In the most recent legislation, the new Health Law no longer mandates the implementation of the PSA model. Article 185, paragraph (2) of Law Number 17 of 2023 concerning Health uses the term “may,” a change from the previous Law Number 44 of 2009 concerning Hospitals, which used the term “must.” A webinar on hospital governance, hosted by the Faculty of Medicine, Universitas Gadjah Mada, on August 28, 2023, discussed this shift and concluded that other regulations, such as those issued by the Ministry of Home Affairs, remain in effect because the article also mandates compliance with statutory regulations. Consequently, the effort to transform regional hospitals into PSAs remains relevant and necessary.

As of September 22, 2022, 71% of the 810 regional hospitals in Indonesia, or 577 hospitals, had adopted the Regional PSA model (Santosa, n.d.). By May 2024, the number of regional hospitals had increased to 920, with approximately 610, or 66%, implementing the PSA model (Sinambela, 2024). This substantial growth in PSA hospitals highlights the urgent need for research into how the increased discretion associated with this model may contribute to corruption. As more hospitals adopt this model, understanding and mitigating the risks related to discretion becomes increasingly critical.

The benefit of being a PSA is that regional hospitals can manage their finances more effectively, enabling the quick and efficient procurement of vital resources necessary for patient care, such as medicines and medical equipment. However, this flexibility also has negative consequences, as certain forms of discretion can lead to corruption, as illustrated by the cases discussed in this study. According to Jimly Asshiddiqie’s hierarchy of legal norms theory, the fundamental norms of the Indonesian state are grounded in the values of Pancasila and the state's goals outlined in the Preamble to the 1945 Constitution (Asshiddiqie, 2021). Additionally, Article 1, Number 2 of Permendagri 79/2018 specifies that the flexibility in regional PSA financial management should be consistent with the state's objectives of improving public welfare and educating the nation. Therefore, policies, including the exercise of discretion, must adhere to these fundamental norms.

Previous studies have addressed discretion and corruption in the public sector, emphasizing that the guiding principles for discretion are the General Principles of Good Government (Ansori, 2015). Understanding the fundamentals of good governance is intended to ensure that public officials' discretionary decisions and actions comply with the law (Susilo, 2015). Discretion should not contradict statutory regulations (Syawawi, 2021). This limitation underscores that not all actions can be considered discretionary. Discretion must align with positive legal norms and serve the public interest (Arbani, 2019). Discretion, defined in Law Number 30 of 2014 concerning Government Administration (UU 30/2014), is exercised when statutory regulations are silent or unclear. However, this does not imply that discretionary actions can be arbitrary. Even without specific statutory references, such as detailed provisions in particular laws or regulations, discretion must conform to broader positive legal norms, including principles of fairness, justice, and public interest. For instance, if statutory regulation does not provide clear guidelines for a specific situation, the broader norm of upholding justice and serving the public good should guide decision-making. This ensures that discretion is exercised responsibly, even without explicit regulatory guidance.

There are two types of authority in the context of abuse of power leading to financial losses in corruption cases: bounded authority (*kewenangan terikat*) and free authority (*kewenangan bebas*). Bounded authority refers to situations where the exercise of power is strictly defined by statutory regulations, meaning the underlying rules specify when and under what conditions the authority can be used or dictate the content of the decisions that must be made. The parameters of bounded authority are set by statutory regulations, which determine whether actions taken by government officials constitute an abuse of authority in criminal acts of corruption. In contrast, free authority, or discretion, is guided by broader principles such as the general principles of good administration (*Asas Umum Pemerintahan yang Baik*), and other overarching legal norms (Gakur & Hufron, 2022).

Law Number 30 of 2014 regulates the scope, requirements, methods of application, legal consequences, and responsibilities associated with discretion (Endang, 2018). Discretion can be considered an abuse of authority if it contravenes this law. The nature of unlawfulness restricts public officials' authority to exercise discretion without relying on statutory regulations (Kumalaningdyah, 2019). Following Constitutional Court Decision Number 25/PUU-XIV/2016, discretionary accountability must align with the general principles of good governance, Law Number 30 of 2014, and Law Number 17 of 2003. The limit for government officials in exercising discretion must comply with statutory regulations (Ulya, 2017). Law Number 30 of 2014 should serve as a reference for law enforcement officials, ensuring that no investigations are conducted against defendants before the State Administrative Court makes a decision with permanent legal force (Rini, 2018). However, current legislation on corruption eradication does not provide a detailed definition of what constitutes an abuse of authority, leading judges to often rely on the concept of abuse of authority from administrative law. Therefore, it is necessary to establish a joint agreement and set down a regulation with clear boundaries without eliminating the authority to examine cases of abuse of discretion in the State Administrative Court (Suhariyanto, 2018).

Previous research has concluded that the abuse of discretionary authority is often directly absorbed into criminal law in practice (Zaelani et al., 2019). The parameters used to distinguish between administrative violations and corruption include the intent behind the action, the presence of personal gain (Vic & Perdana, 2023), and whether the act violates broader public trust principles (Mitchell, 1999; Muir, 2022). In this context, public trust pertains to the impact of administrative violations that qualify as acts of corruption. Previous studies primarily employed conceptual and/or statutory approaches. In addition to these, this study introduces a case-based approach to complement existing research.

This study analyzes corruption cases adjudicated by the courts, all of which stemmed from discretionary actions by leaders in regional PSA hospitals. These cases have not been previously examined in the literature. By evaluating them, the study aims to clarify when discretion crosses the line into corruption, offering a comprehensive understanding of the associated legal and ethical boundaries. The case study aims to raise stakeholders' awareness that, despite the positive intentions behind implementing the PSA model as part of the reinventing government concept, there are inherent legal risks associated with discretion that must be monitored to prevent criminal corruption. This approach reinforces precautionary measures to ensure that health service quality remains uncompromised.

RESEARCH METHOD

This normative juridical study examines secondary data, including written regulations, court decisions, also both legal and non-legal materials related to discretion and corruption in regional PSA hospitals. The study employs a statutory approach to identify and review relevant regulations, a case-based approach to analyze how these regulations are applied in practice (Soekanto, 2007), and a conceptual approach to explore theories on reinventing government, discretion, and corruption.

The secondary data used in this study includes court decisions from 2015 to 2023, focusing on corruption cases involving top management in regional hospital PSAs in Indonesia. The identification of these cases began with findings from the Audit Board of the Republic of Indonesia (Badan Pemeriksa Keuangan, BPK), highlighting the potential abuse of discretion. This was followed by additional searches in the Supreme Court decision directory using the keyword "BLUD" to identify similar cases aligned with the BPK's findings, reinforcing the study's conclusions. The cases were selected to illustrate how discretion could lead to corruption, particularly within monopolistic public service sectors. Five cases were chosen for detailed analysis, representing a cross-section of scenarios where discretion was potentially abused.

The study applies Klitgaard's equation as an analytical tool to understand the relationship between increased discretion and corruption risks. This equation frames the hypothesis that greater discretion can lead to corruption when inadequately monitored, especially in monopolistic sectors like public healthcare. The qualitative analysis aims to reveal and understand the underlying dynamics (Soekanto, 2007) of how the misuse of discretion can potentially lead to corruption.

RESULT AND DISCUSSION

Reinventing Government

The concept of reinventing government introduces an entrepreneurial system within the government bureaucracy, designed to make agencies more streamlined, fast, and responsive. Osborne (1993) outlines ten principles for this model, six of which are commonly found in entrepreneurial organizations: (1) catalytic government, which prioritizes problem-solving over merely increasing taxes or services, thereby steering rather than rowing; (2) competitive government, which enhances productivity; (3) mission-driven government, focused on achieving objectives; (4) results-oriented government, which measures the impact of spending; (5) customer-driven government, responsive to public needs; and (6) enterprising government, which seeks revenue generation. The remaining principles include decentralization, community ownership, anticipatory governance, and market-driven approaches.

In Indonesia, the concept of reinventing government has been recognized since the 1990s, notably through self-financing institutions (Unit Swadana) that directly utilized part of their revenues. Before the introduction of Law Number 1 of 2004, state financial management operated under the Indische Comptabiliteitswet (ICW), a legacy of Dutch colonial rule. However, the ICW's principle of universality, intended to ensure financial order, often hindered service delivery, making it unsuitable for modern needs (Ika, 2022). The PSA model, officially regulated through Law Number 1 of 2004 and subsequent regulations like Government Regulation Number 23 of 2005 (PP 23/2005) and Minister of Home Affairs Regulation Number 61 of 2007 (Permendagri 61/2007), represents Indonesia's effort to implement this concept by offering financial flexibility to government work units. These regulations were later updated by Government Regulation Number 74 of 2012 and Permendagri 79/2018.

The PSA model replaces the principle of universality with financial flexibility, allowing regional PSAs to directly manage their revenues without adhering to rigid budget allocations. However, this flexibility requires sound business practices to ensure quality and sustainable public services, aligning closely with Osborne's entrepreneurial government concept. PSA heads with significant budget discretion must demonstrate strong leadership to drive efficiency and innovation (Surya & Iskandar, 2022). However, poorly crafted policies or misuse of discretion can negatively impact public services, especially in critical sectors like healthcare, and potentially lead to corruption if such policies result in state losses.

Corruption

Following Indonesia's reform, corruption offenses are regulated under Law Number 31 of 1999 on the Eradication of Corruption (UU 31/1999), which was later amended by Law Number 20 of 2001 (UU 20/2001). Approximately 88% of corruption suspects are charged under Article 2, paragraph (1), and Article 3 of this law, which penalizes the abuse of authority for personal or corporate gain that harms state finances or the economy (Sembiring, 2023). The Constitutional Court Decision Number 25/PUU-XIV/2016 mandates that state losses must be proven before corruption cases can be investigated. This requirement is incorporated into the 2023 Criminal Code, with Articles 603 and 604 reflecting the Constitutional Court's ruling on Articles 2 and 3 of the Corruption Eradication Law, along with adjusted penalties.

The 2023 Criminal Code also includes provisions for inclusion, additional criminal penalties, continued actions, and money laundering. It emphasizes harsher penalties for officials who commit crimes by abusing their authority. Despite these updates, the four core elements of corruption remain unchanged: (1) a subject, such as a hospital director; (2) benefiting oneself or others at the expense of the organization; (3) abusing authority related to the leader's position; and (4) causing harm to state finances or the economy. While the BPK should typically conduct loss calculations, they are often carried out by individuals from internal government supervisory agencies.

Corruption is classified as a form of fraud, along with asset misappropriation and financial statement fraud, according to the Association of Certified Fraud Examiners (ACFE). It includes conflict of interest, bribery, illegal gratuities, and economic extortion (ACFE, 2022). Edwin Sutherland's concept of white-collar crime (Sutherland, 1940) and Donald Cressey's fraud triangle theory (Cressey, 1950) explain how leaders in regional PSA hospitals might rationalize corrupt acts. Non-shareable problems, coupled with opportunities to exploit their positions, enable such individuals to commit fraud under the guise of policy-making.

Klitgaard's Equation

Government activities in the public sector often have a monopolistic nature, such as tax assessment, police protection, export permits, and similar functions. Therefore, officials with discretion in these activities have the opportunity to charge "fees" from existing monopolies (monopoly rents). This also opens up opportunities for other prohibited acts such as bribery, extortion, speed money, kickbacks, collusion, and other forms of fraud (Klitgaard, 1991).

Klitgaard (1991), in his influential work Controlling Corruption, proposed that corruption can occur in a principal-agent-client model when agents possess monopoly power and significant discretion. In contrast, accountability between agents and principals is weak. This concept is expressed in the equation: Corruption = Monopoly + Discretion – Accountability (Klitgaard, 1991). Klitgaard initially used "Accountability" in his equation, emphasizing the importance of oversight and internal checks to prevent agents from engaging in corrupt activities. However, later interpretations and adaptations by various scholars have sometimes replaced "Accountability" with "Transparency" or used both terms interchangeably (as discussed in (Acuna-Alfaro & Mordt, 2022; Klitgaard, 1998)). Transparency focuses on the openness of processes and the availability of information to the public, which also plays a crucial role in reducing corruption by exposing it to scrutiny. In this study, Klitgaard's original formula, "Accountability," is adopted because the study specifically examines how hierarchical oversight and internal mechanisms influence corruption within regional PSAs. While transparency is undeniably important, the focus here is on the internal dynamics of accountability that either deter or fail to prevent corrupt practices.

The equation demonstrates that corruption is directly proportional to monopoly and discretion but inversely proportional to accountability. In these cases, monopoly power arises from the hospital's business environment, which operates in the health sector, a vital function in the lives of citizens. In reality, Indonesia continues to face a shortage of health workers, particularly in the regions (Suryanto et al., 2017). Medical personnel, such as doctors in these regions, are typically civil servants. Therefore, the public has limited choices, as regional government-run hospitals will likely have more doctors than health facilities managed by other entities (Revo M, 2024; Ilyas, 2006). This creates an environment where hospital directors, particularly those in regional PSA hospitals, have immense authority over hospital operations, as evidenced by the cases discussed in this paper. Consequently, accountability, anti-corruption, and transparency (ACTA) are the best measures to ensure that the health sector's goals are not compromised by corruption. Institutions held accountable must justify their decisions to stakeholders and internal also external monitors, explain their outcomes, and take corrective action if subpar performance occurs or corruption is discovered (Kohler & Dimancesco, 2020).

Discretion, as defined by Law Number 30 of 2014, refers to decisions and/or actions determined and/or carried out by government officials to resolve concrete problems encountered in the administration of government when laws and regulations provide choices, are not regulated, are incomplete or unclear, and/or when there is government stagnation. Discretionary power, or *freies ermessen*, allows officials to act beyond strict legal constraints (Hadjon et al., 2022; Ridwan HR, 2022) to serve societal interests optimally, particularly in a welfare state context. This power involves both the right to interpret the extent of authority and the choice of when and how to exercise it. While this flexibility is necessary for effective governance, it also carries the risk of misuse, potentially leading to corruption if not properly understood and regulated (Dewi, 2016).

Cases on Discretion as a Means of Corruption

Indonesia is a state of law, meaning state administration must be based on the law (Ridwan HR, 2022). At first glance, policy decisions appear to provide a legal basis legitimizing certain activities consistent with the rule of law. However, several instances of discretionary lapses, particularly by the leaders of regional PSA hospitals, have been demonstrated in court rulings, as shown in Table 1.

Table 1. Summary of Corruption Cases Involving the Discretion of Regional PSA Hospital Leaders

Court Decisions	Cases	Status in SIPP*
Banjarmasin High Court Decision Number 18/Pid.TPK/2021/PT BJM	The head of a regional PSA hospital was found guilty of misusing hospital development funds.	Notification of appeal (Banding) decision on December 31, 2021
Supreme Court Decision Number 1828 K/ Pid.Sus/2017, Judicial review decision Number 104 PK/Pid.Sus/2021**	The head of a regional PSA hospital was found guilty of manipulating medical equipment procurement, which resulted in unfair practices.	Notification of Judicial Review (Peninjauan Kembali) decision on September 14, 2021
Palembang High Court Decision Number 1/ Pid.SUS/TPK/2019/PT.PLG	The head of a regional PSA hospital was found guilty of planning, falsifying data and signatures in agreements, and doctor attendance records.	Notification of appeal (Banding) decision on March 4, 2019
Surabaya High Court Decision Number 23/ Pid.SUS/TPK/2015/PT.SBY	The head of a regional PSA hospital was found guilty of accepting discounts or donations from medicine and medical equipment providers and using the money for other purposes.	Sending Appeal Files on June 9, 2015
Bengkulu High Court Decision Number 1/ Pid.SUS.TPK/2015/PT.BGL	The head of a regional PSA hospital was found guilty of paying team honorariums that did not comply with the provisions.	Notification of appeal (Banding) decision on February 24, 2015

Note:
**Status displayed on the district court's Case Tracking Information System (Sistem Informasi Penelusuran Perkara, SIPP) regarding each case, accessed on August 12, 2024.
** This judicial review decision was not published, but based on the prosecutor's press release dated May 17, 2023, the convict paid a fine related to this case (Kejari Kabupaten Pekalongan, 2023).

The analysis of each case in Table 1 is detailed in the following points.

a. Discretion to cut employee incentives under the pretext of providing hospital development funds

Banjarmasin High Court Decision Number 18/Pid.TPK/2021/PT BJM (Putusan Pengadilan Tinggi Banjarmasin Nomor 18/Pid.Sus-TPK/2021/PT BJM, 2021) involves the misuse of development funds by a regional PSA hospital director from 2014 to 2018. These funds were misappropriated for purposes not aligned with their intended use, and the disbursement process did not follow proper budgetary mechanisms. The hospital's financial sub-division head released the funds based solely on verbal or handwritten requests from the defendant, who was the hospital director. Additionally, no accountability reports were filed for the use of these funds. The prosecutor emphasized that the defendant, by abusing his authority, personally benefited from these funds.

The defendant admitted during the trial to using the development funds for purposes other than those intended. He acknowledged that receipts or accountability reports could not be provided for the funds he used or distributed to others, demonstrating an awareness of his misconduct. The judge emphasized the defendant's significant role in the corruption case, noting his high degree of culpability and describing him as the instigator of the corrupt activities. The financial loss to the state was determined to be IDR 2,142,789,000, from which the defendant personally benefited without providing any accountability. As a result, the financial gain was classified as high. The offense was categorized as moderately severe, with its impact classified as low since it was limited to the regional level. The court found the defendant guilty under Article 3 in conjunction with Article 18 of UU 31/1999, as amended by UU 20/2001, and Article 55 Paragraph (1) in conjunction with Article 64 Paragraph (1) of the Criminal Code.

Within the framework of Klitgaard's equation, monopoly power is evident as the director held significant control over the management and disbursement of hospital funds. This monopoly over financial decisions meant limited checks and balances on fund allocation and spending. The director exercised considerable discretion in financial decisions, including the authority to request and disburse funds without proper oversight or adherence to established procedures. The case highlights how the director's unchecked authority to manage financial activities led to the misuse of funds. The absence of formal mechanisms to monitor this discretion further exacerbated the situation. A lack of accountability facilitated the misuse of funds, as the director failed to provide receipts or justifications for the spending, and no effective oversight mechanism was in place to monitor the use of funds. This lack of accountability allowed the director to divert funds for personal gain without facing immediate consequences.

b. Discretion to determine the winner of the auction for the procurement of medical equipment

Supreme Court Decision Number 1828 K/Pid.Sus/2017 (Putusan Mahkamah Agung Nomor 1828 K/Pid.Sus/2017, 2017) involves manipulating the procurement process for medical equipment by a regional PSA hospital director in 2012. The prosecutor argued that the Director engaged with third parties to manage the administrative requirements for budget allocation and contacted suppliers to select the medical equipment brands. The Director asked doctors to sign forms listing the proposed brands, but some refused, citing inappropriate suggestions. The tender process was rigged, with the winning bidder predetermined through collusion. Despite none of the bidders meeting the administrative requirements, the predetermined winner was still announced. As the Director and authorized budget user, the defendant claimed that he consistently warned all parties against corrupt practices, as evidenced by the integrity pacts he initiated. He denied any intent to enrich the winning supplier or to accept money or gifts. He intended to improve patient care by procuring modern medical equipment suited to specialists' expertise. The Director also claimed ignorance of any administrative or ethical violations during the tender process.

On appeal, the Supreme Court found the Director guilty under Article 2 (1) of the Anti-Corruption Law, given the substantial financial loss of IDR 4,515,107,524. This ruling revised the district and appellate courts' findings on the applicable legal provisions. The Supreme Court emphasized that the distinction between Article 2(1) and Article 3 lies in personal gain and the scale of financial loss. Larger financial losses qualify under Article 2(1), while smaller losses fall under Article 3. Judicial Review Decision Number 104 PK/Pid.Sus/2021 followed this Supreme Court. Although the judicial review decision was not published, a press release from the Pekalongan District Attorney's Office dated May 17, 2023, indicated that the convict paid a fine related to the case (Kejari Kabupaten Pekalongan, 2023).

Applying Klitgaard's equation, the analysis shows that the Director held a monopolistic control over the procurement process, enabling him to act with significant discretion. The Director exercised wide-ranging discretion, from contacting suppliers to determining the brands of medical equipment to purchase. This discretion was exercised without adherence to standard procedures or ethical guidelines, as evidenced by the pre-determined tender outcomes and the lack of compliance with administrative requirements. Despite being responsible for the procurement process, the Director ignored ethical procurement standards, and there was no effective oversight to check these actions. The accountability mechanisms that should have regulated the Director's actions were either weak or non-existent.

c. Discretion to arrange the assignment of medical personnel

Palembang High Court Decision Number 1/Pid.Sus/TPK/2019/PT.PLG (Putusan Pengadilan Tinggi Palembang Nomor 1/Pid.Sus-TPK/2019/PT.PLG, 2019) involves the manipulation of medical personnel honorariums by the acting director of a regional PSA hospital from 2014 to 2015. Before serving as the acting director, the defendant issued an assignment letter for a specialist doctor in 2014 and later made agreements with other specialist doctors. These doctors did not have proper authorization to practice at this hospital, and there had been no prior analysis of staffing needs or official requests from the hospital for these three doctors' services. When the defendant requested the disbursement of the honorariums, the treasurer pointed out incomplete administrative requirements, such as the doctors' absence and unsigned cooperation agreements. Despite this, the defendant signed the agreements without the doctors' consent and still ordered the payments. She also falsified attendance records to facilitate the honorarium disbursements and took a portion of the honorariums for herself, storing the money in her office desk drawer. When the regional budget rejected the payments, the defendant instructed to be paid from the hospital's PSA funds.

The defendant's actions resulted in the personal enrichment of IDR 273,211,668 and benefited others by IDR 267,340,630, leading to a total financial loss of IDR 540,562,923 for the regional government. The court viewed the defendant's actions as a serious breach of the trust placed in her by the government. Instead of managing the hospital to provide the best services to the community, she exploited her authority to gain unauthorized financial benefits. Her corrupt acts—including forging doctors' signatures on work contracts and attendance sheets, manipulating attendance records, and unlawfully taking state funds—demonstrated an apparent lack of integrity as a civil servant. The appellate court upheld the lower court's guilty verdict under Article 3 and increased her sentence.

Analyzing this case through Klitgaard's equation, the defendant, in her role as acting director, had significant control over the hospital's financial and administrative decisions. Her unchecked authority allowed her to unilaterally issue assignment letters, sign agreements, and authorize payments without proper oversight. Her discretion extended to forging documents and attendance records, directly impacting the disbursement of funds. Even when the treasurer flagged irregularities, the defendant circumvented the established processes by instructing another treasurer to disburse funds from a different budget source. The absence of effective oversight allowed the defendant to misuse funds and enrich herself and others without facing immediate consequences.

d. Discretion to select providers of goods and/or services, enabling the request of benefits from them

Surabaya High Court Decision Number 23/Pid.Sus/TPK/2015/PT.SBY (Putusan Pengadilan Tinggi Surabaya Nomor 23/Pid.Sus/TPK/2015/PT.SBY, 2015) involves the procurement of drugs and medical equipment through direct appointment and direct purchase mechanisms. The hospital director asked suppliers to provide discounts or donations to the hospital. The treasurer and staff, fearing to handle this money, were then instructed by the director to open a bank account to deposit the funds received from the suppliers. These donations were not reported as income. Instead, the director used the money for purposes other than the hospital’s needs, and these activities were not included in the hospital’s business plan and budget. The director’s actions resulted in a financial loss to the regional government of approximately IDR 98,041,519. The high court upheld the lower court’s decision, finding the director guilty under Article 3 of the anti-corruption law.

According to Klitgaard’s equation, in this case, the director held monopolistic control over procurement processes. The director’s decisions to request supplier donations, instruct the opening of a bank account for these funds and use them for purposes outside the hospital’s planned budget—all without reporting or accountability—clearly illustrate how unregulated discretion, when combined with a lack of accountability, leads to corruption. This situation reflects the abuse of entrusted power for unauthorized gain, highlighting the critical role of accountability mechanisms in preventing corruption.

e. Discretion to pay honorarium without prior determination by the regional head

Bengkulu High Court Decision Number 1/Pid.Sus.TPK/2015/PT.BGL (Putusan Pengadilan Tinggi Bengkulu Nomor 1/Pid.Sus.TPK/2015.PT.BGL, 2015) involves a hospital director who also served as the head of the regional PSA. The director misused hospital funds by paying honorariums to a team that never performed the assigned tasks and never produced any work related to their roles. Additionally, the director authorized payments to management officials, PSA officials, supervisory board members, and the secretary of the supervisory board, all in violation of relevant regulations. These actions resulted in financial losses to the state totaling IDR 2,069,189,836 or IDR 2,157,642,829.

The appellate court upheld the lower court’s decision, confirming the director’s guilt under Article 3. The court noted that the director had engaged in a series of actions, including drafting the Governor’s Decree on the hospital management supervisory team and the hospital director’s decree on the honorariums for PSA officials, the supervisory board, and the board secretary. These administrative actions were carried out multiple times between January 2010 and June 2011, with each act connected to the others, demonstrating a pattern of corrupt behavior. Of the total financial loss, IDR 174,618,336 was directly received by the defendant in his capacity as a team member and a PSA official, which became the amount to be returned as compensation money.

Klitgaard's equation shows that the hospital director abused his position by misusing hospital funds to pay honorariums to a team that did not perform actual work. This included drafting administrative decrees without proper authorization, which falls under corruption, as it led to financial losses for the regional government and breached ethical standards.

The five cases illustrate how the misuse of discretion by public officials, particularly hospital directors, leads to corruption. These officials, leveraging their authoritative positions and the absence of effective oversight, engaged in various corrupt practices, such as manipulating procurement processes, unauthorized disbursement of funds, and fraudulent payment of honorariums. According to Klitgaard's equation (Corruption = Monopoly + Discretion – Accountability), these instances show that significant discretion, combined with a lack of accountability and monopolistic control over resources, fosters corruption. Without transparency or accountability, the unchecked discretion given to these officials enables corrupt behavior, resulting in financial losses and a betrayal of public trust.

Furthermore, the application of Reinventing Government principles and the management of PSAs within regional hospitals aimed to create a more efficient and responsive public service. However, without robust mechanisms to enforce accountability and transparency, these reforms inadvertently provided additional avenues for corruption. The Reinventing Government approach, which emphasizes autonomy and entrepreneurial management in public institutions, coupled with PSA management that grants financial and administrative discretion, requires strong oversight to prevent the abuse of power. These cases underscore the critical need for more stringent oversight and regulatory frameworks to ensure that the increased discretion and autonomy in regional hospital management are not misused but rather enhance public service delivery.

The Control Strategies

The control strategy proposed by Osborne and Plastrik (1997), along with the regulatory framework for regional PSAs in Indonesia, offers a viable solution to addressing the issues of discretion and corruption. Although Indonesia already has a similar control strategy framework, the examined cases demonstrate its ineffectiveness. However, if this framework were properly implemented and reinforced with Osborne and Plastrik's strategy, which emphasized organizational mission clarity, clear outcome setting, empowered decision-making, results verification, and accountability enforcement, it could significantly strengthen oversight and effectively curb corruption.

The strategy begins by aligning the organization's mission and values with employee support, ensuring that public service objectives are guided by a clear vision. In Indonesia, this alignment is supported by Permendagri 79 of 2018, which mandates performance-based budgeting and the development of a strategic plan. Performance-based budgeting aims to achieve outputs efficiently by using resources wisely, with these outputs guiding the organization's operations. The outputs are determined by the strategic plan and updated every five years.

The strategy also includes setting clear expectations for outcomes, which are essential for effective performance monitoring. This is supported by Indonesian regulations that require detailed performance reports and financial accountability. Another key element is empowering officials with decision-making authority, but well-defined guidelines and thorough oversight must accompany this empowerment. This is reflected in regulations granting regional PSA management officials the flexibility to implement public service policies while holding them accountable for the outcomes. Verification of results is critical to maintaining accountability, and Indonesian regulations mandate performance reviews and financial audits by both internal and external bodies to ensure that hospital management acts within legal boundaries. The final and crucial step is holding individuals accountable for their actions, with a system of internal oversight by the Hospital Supervisory Board and external audits working together to ensure that discretion is exercised responsibly and within legal limits.

By implementing these strategies within the regulatory framework of regional PSAs in Indonesia, the misuse of discretion leading to corruption, as seen in the cases, can be curtailed. This approach balances the discretion granted to public officials with mechanisms that ensure transparency and accountability, which are essential to preventing corruption while promoting effective and innovative public service delivery. These control strategies do not stifle innovation or the flexibility inherent in the Reinventing Government approach. Instead, they create a "loose-tight" system, allowing operational flexibility while maintaining strict oversight to ensure alignment with the organization's mission and values. Streamlining bureaucracy does not mean eliminating all forms of control; the government must still conduct audits and financial investigations to uncover fraud (Osborne & Plastrik, 1997). Klitgaard also argues that a control system is essential for managing discretion, ensuring that policies are clearly defined, rules are easily monitored, and decisions are subject to tiered review (Klitgaard, 1991).

While tiered review and monitoring of Regional PSA policies may seem like a return to a Weberian model, hierarchy is essential for good coordination and clear accountability (Dwiyanto, 2022). This internal and external oversight forms a robust system that independently yet collaboratively ensures accountability (Taylor, 2018). This control mechanism addresses criticism of the reinventing government concept, which, while focused on service output, risks undermining effective and accountable public administration (Kearney & Hays, 1998). Critics argue that addressing issues like corruption and inefficiency should precede implementing such reforms. However, without a change in bureaucratic mindset, even the best concepts remain empty slogans (Mardiasmo, 2004). In Indonesia, reinventing government is part of a broader reform and corruption eradication effort. Improving public services, especially in healthcare, cannot wait until corruption is fully eradicated. Therefore, Klitgaard's equation emphasizes the need for a consistent control system to enforce accountability and achieve state goals.

CONCLUSION

The five cases discussed—ranging from the misappropriation of employee incentives in the first case, collusion in medical equipment procurement in the second, falsification of honorarium payments in the third, misuse of procurement discretion in the fourth, to the formation of unauthorized teams with improper honorariums in the fifth—illustrate a consistent pattern of directors exploiting their discretion for personal or other gain, often at the expense of ethical and legal standards. These cases demonstrate how discretion can lead to corruption when combined with inadequate accountability. According to Klitgaard's equation, these cases exemplify that increased discretion has potential benefits but also heightens the risk of corruption if not properly monitored. When decision-making power is not adequately overseen, it can be misused to benefit specific individuals rather than the organization or the public.

A collaborative effort involving lawmakers, auditors, hospital management, regional government officials, and other stakeholders is crucial to address the misuse of discretion and corruption effectively. The control strategy proposed by Osborne and Plastrik, when combined with Indonesia's existing regulatory framework for regional PSAs and properly implemented, could offer a viable solution to these challenges. Strengthening these controls through enhanced accountability, rigorous financial audits and transparency in decision-making processes is vital for curbing corruption. By balancing the discretion granted to public officials with mechanisms that ensure transparency and accountability, the misuse of discretion can be effectively mitigated, aligning hospital management with legal and ethical standards.

The insights from this study have significant implications for public administration and governance, offering a theoretical framework to understand the relationship between administrative discretion and corruption. Additionally, these findings could inform the development of regulatory measures to enhance accountability and reduce corrupt practices. Scientifically, this study contributes to the growing body of literature on the dynamics of corruption within public institutions, particularly in the healthcare sector. Theoretically, it expands on Klitgaard's corruption equation by providing empirical evidence from the Indonesian context and emphasizing the critical role of accountability and oversight in preventing the abuse of discretion. The study's findings highlight the need for comprehensive control systems and robust governance frameworks, which can serve as practical guides for policymakers, auditors, and public administrators to enhance the integrity of public service delivery. Implementing these strategies can lead to more transparent, efficient, and accountable healthcare services, benefiting both the public and the broader governance structure. Future research could further examine the impact of specific oversight mechanisms on reducing corruption in different public service sectors.

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