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Regulating the Construction Services Supervisory Board Based on the Principle of Legal Certainty

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Abstract: Corruption in Indonesia's construction sector results in material losses and damaged public trust, and slows economic growth. To address this problem, systemic reforms focusing on tender transparency, strict law enforcement, and strengthening oversight institutions are needed. Law No. 2/2017 on Construction Services provides a comprehensive legal framework, but its implementation is often hampered by a lack of inter-agency coordination and weaknesses in supervision and enforcement. This research uses a normative method to analyze regulations related to construction supervision and design a conceptual framework and policy recommendations to improve the effectiveness of supervision. The results show that legal certainty and transparency are key to building public trust and ensuring accountability. The implementation of regulations such as Government Regulation No. 22/2020 and Minister of Public Works and Housing Regulation No. 7/PRT/M/2019, accompanied by consistent sanctions, strengthens trust in the legal and supervisory systems. Systematic supervision and transparent reporting are essential elements to maintain the integrity and effectiveness of construction projects.

Keyword: Construction Indonesia, Supervision, Project.

INTRODUCTION

The construction services industry is very important for economic development and the welfare of the people in Indonesia. However, the high economic value of this sector often invites corrupt practices such as bribery and tender manipulation. As a result, contractor selection and project implementation focus not on quality and competence, but on the ability to commit unethical practices. This causes injustice, lowers the quality of construction, and undermines public and investor confidence in the legal system (Budianto, 2019).

Corruption in construction results in state losses and poor quality buildings, which can jeopardize public safety and drain budgets that could have been allocated for other development

(Gunawan, 2022). Corruption in the construction sector not only causes material losses but also undermines public and investor confidence in the legal system and government. Legal uncertainty and corrupt practices discourage investment, reduce public support, and slow economic growth (Surya, 2018). To address these issues, systemic reforms are needed with a focus on tender transparency, strict law enforcement, and strengthening oversight institutions

(Fahmi, 2018). Construction development must be based on the principles of justice, expediency, and legal certainty to improve the quality of life and support economic equity through efficient and fair infrastructure (Ardani, 2020).

In practice, there are frequent deviations from the principles of fairness and expediency in construction projects, such as bribery and nepotism that are detrimental to the quality of projects and benefits to society. Many projects also ignore long-term environmental and social impacts. To address these issues, deep reforms in the management and supervision of construction services are needed by strengthening regulation, law enforcement, and transparency. Education of industry players on these basic principles is also essential to ensure effective contribution to sustainable development and equitable distribution of wealth (Hartono, 2023).

Law No. 2 Year 2017 on Construction Services in Indonesia has provided a comprehensive legal framework, covering technical standards, business actor requirements, and dispute resolution mechanisms (Mardiana, 2024). However, regulatory implementation is often hampered by a lack of coordination between supervisory agencies, weak oversight, and limited resources (Kurniawan, 2020). In addition, the vagueness and uncertainty of sanctions and the absence of norms on certain aspects, such as new technologies and waste management, also complicate law enforcement. Efforts are needed to strengthen coordination, supervision, as well as to clarify and emphasize sanctions and regulatory norms so that the construction sector can function more effectively and according to standards (Pramono, 2018).

The construction sector involves various parties with different interests, such as the government, contractors, consultants, workers, and the community, which often leads to conflicts and tensions (Wijaya, 2021). The lack of transparency in the tendering process, as well as the lack of community involvement, exacerbates this problem and undermines public trust (Rahardjo, 2019). To improve the situation, there is a need to increase transparency, participation and communication in construction projects (Suhendra, 2018). Existing regulations are often inconsistent and ineffective in law enforcement, with normative gaps in monitoring and handling violations (Safitri, 2020). The establishment of an independent oversight institution with strong preventive and repressive functions is expected to address the normative vacuum, improve supervision, and ensure effective law enforcement, so that the construction sector can operate with more transparency and integrity (Suhendra, 2018).

Legal purpose theory argues that law is not only a set of rules, but also a tool to achieve broader social, economic and political goals, such as order and justice. In the context of this research, the theory underlies the establishment of a construction services supervisory board, which aims to ensure infrastructure development is carried out in a fair, transparent and responsible manner (Arifin, 2019). Technical aspects in the construction sector involve design, technical specifications, and implementation methods that must comply with standards and regulations, such as Law No. 2/2017 and Government Regulation No. 22/2020. The design must comply with standards to prevent structural defects, the technical specifications regulate materials and quality, and the implementation methods must follow the safety and quality guidelines of the Minister of Public Works and Housing Regulation No. 24/PRT/M/2018. The Supervisory Board is tasked with ensuring that all technical aspects of the project comply with the regulations, through regular inspections and corrective actions to maintain construction safety and quality (Firdaus, 2023).

The supervisory board is expected to increase transparency and accountability in construction projects, thereby preventing corruption and abuse of power and ensuring better and standardized governance (Kartika, 2021). The establishment of a construction services supervisory board aims to ensure fairness, transparency and accountability in infrastructure development. Based on legal purpose theory, the board serves to ensure that all parties involved are treated fairly and their rights are respected, as well as to resolve disputes proportionally (Saputra, 2022). The supervisory board also prevents legal violations such as non-compliance with standards and corrupt practices, ensures that construction projects comply with regulations and improves the quality and sustainability of infrastructure development (Kurniawan, 2022).

Based on the background described above, the researcher will analyze how the importance of the construction service supervisory board based on the principle of legal certainty.

METHOD

This research uses normative research methods to analyze and design conceptual frameworks and policy recommendations related to the regulation of construction services supervisory boards (Santoso, 2018). This method includes a literature study to collect data from laws, regulations, and other relevant sources, which will serve as the theoretical basis for the research (Iskandar, 2019). Furthermore, the normative analysis will evaluate the legal provisions and principles related to the establishment and regulation of supervisory boards (Priyono, 2019). Based on this analysis, a conceptual framework will be developed that includes the necessary principles and mechanisms (Marzuki, 2010). Finally, policy recommendations will be formulated to improve the effectiveness of construction sector supervision (Safitri, 2020), adapted to the Indonesian legal context (Fahmi, 2018).

RESULTS AND DISCUSSION

The Importance of Legal Certainty

Legal certainty ensures rules are applied consistently and predictably, which is crucial in the construction sector. Law No. 2/2017 and related regulations such as Government Regulation No. 22/2020 define the authority of the Supervisory Board, reduce ambiguity, and minimize disputes. Legal certainty provides security to all parties by clearly regulating rights, obligations and responsibilities. It supports public and investor confidence and facilitates law enforcement and dispute resolution. With this principle, construction project management becomes more transparent, accountable, and in accordance with regulations.

Determination of the Supervisory Board's Authority

The authority of the Supervisory Board is regulated by various regulations to ensure effective supervision in construction. Law No. 2/2017 stipulates the duties of the Supervisory Board in ensuring compliance with regulations, while Government Regulation No. 22/2020 regulates supervision mechanisms and procedures. Minister of Public Works and Housing Regulation No. 7/PRT/M/2019 provides specific guidelines on supervision and reporting procedures. In addition, the Supervisory Board is also responsible for enforcing work safety regulations in accordance with Law No. 1/1970. The establishment of this authority aims to ensure transparent, accountable, and effective project supervision.

Arrangement and Implementation of Authority

The principle of legal certainty in regulating the authority of the Supervisory Board is implemented through detailed regulations such as Government Regulation No. 22/2020 and Minister of Public Works and Housing Regulation No. 7/PRT/M/2019. These regulations establish systematic procedures for supervision, including standard operating procedures

(SOPs), risk evaluation, and reporting, ensuring the Supervisory Board's authority is applied consistently and effectively. Law No. 2/2017 also supports legal certainty by providing a legal framework for regulatory enforcement and dispute resolution. These arrangements ensure compliance, transparency, and integrity in the management of construction projects.

Legal Consequences and Actions

Violation of the Supervisory Board's authority in the construction sector, there are various legal consequences stipulated in the Law and related regulations. Sanctions may include fines, cancellation of permits, or revocation of licenses. Government regulations provide guidance on corrective actions such as remedial orders or project halts. If the violation involves criminal aspects, such as corruption, the Corruption Eradication Law may be applied. The aim is to enforce the law, correct violations, and maintain the integrity of construction projects.

Impact of Legal Certainty on Public Trust

Legal certainty in the regulation of authority is very important to build public confidence in the construction sector. Legal certainty ensures clear rights and obligations for all relevant parties, as well as a fair dispute resolution mechanism. Law No. 2/2017 on Construction Services provides the legal basis for this arrangement, increasing trust by ensuring that projects are managed according to applicable laws and standards.

Transparency also plays a key role, as stipulated in Government Regulation No. 22/2020, which requires the Supervisory Board to make project reports publicly available. This allows the public to monitor and evaluate the project, increasing trust in the oversight process. Accountability, affirmed in Minister of Public Works and Housing Regulation No. 7/PRT/M/2019, ensures that all actions and decisions can be accounted for. This adds to the community's confidence that the project is being handled responsibly. Legal certainty also ensures that sanctions are applied consistently, as stipulated in Law No. 31/1999 on the Eradication of Corruption, which deals firmly with serious violations. This strengthens public confidence in the legal and oversight systems.

Supervisory Board Authority Structure

The authority structure of the Supervisory Board in construction projects includes a clear division of tasks to ensure systematic management. Law No. 2/2017 stipulates detailed authority in overseeing compliance and project evaluation. Government Regulation No. 22 of 2020 and Minister of Public Works and Housing Regulation No. 7/PRT/M/2019 detail these authorities with operational standards and supervision procedures that must be followed to ensure legal compliance and effective management.

The division of duties and powers of the Supervisory Board is essential for effective management of construction projects. Law No. 2 of 2017 sets out clear authority for the functions of the Supervisory Board. Government Regulation No. 22/2020 outlines the division of duties in technical, administrative, and financial aspects, while Minister of Public Works and Housing Regulation No. 7/PRT/M/2019 provides guidelines for the implementation of duties and standard operating procedures. A clear division of duties helps avoid overlap and ensures focus on each area of expertise for optimal oversight.

Supervision and evaluation procedures by the Supervisory Board are key to ensuring construction projects comply with applicable plans and standards. Minister of Public Works and Housing Regulation No. 7/PRT/M/2019 and Government Regulation No. 22/2020 set out detailed guidelines for the implementation of routine inspection, performance evaluation, and risk assessment. Law No. 2 of 2017 emphasizes the importance of systematic and continuous

supervision, with the aim of detecting problems early, reducing the risk of delays, and ensuring project quality according to set standards.

Enforcement mechanisms in construction projects involve administrative sanctions, corrective actions, and remedial measures to ensure compliance. Law No. 2 Year 2017 and Government Regulation No. 22 Year 2020 establish the legal basis and procedures for sanctions, while Minister of Public Works and Housing Regulation No. 7/PRT/M/2019 regulates corrective actions. These mechanisms ensure the enforcement of rules is done fairly and effectively, maintaining the integrity of the project.

The authority of the Supervisory Board in construction projects includes effective coordination with government agencies, contractors, and consultants to ensure compliance with regulations and standards. Government Regulation No. 22 of 2020 and Law No. 2 of 2017 regulate communication and reporting procedures, while Minister of Public Works and Housing Regulation No. 7/PRT/M/2019 provides coordination guidance. This coordination is essential for transparency, efficiency, and compliance in project implementation.

Supervision and Law Enforcement

Supervision and enforcement in construction ensure projects comply with regulations and standards. Supervision involves systematic monitoring from planning to implementation, including routine inspections and audits, as stipulated in Government Regulation No. 22/2020. Enforcement includes administrative sanctions and corrective actions under Law No. 2 Year 2017. Supervision also involves risk assessments to prevent major problems, with guidance from Minister of Public Works and Housing Regulation No. 7/PRT/M/2019. Transparency through reporting of supervision results, as per Government Regulation No. 22/2020, is important for project accountability and integrity.

Construction project supervision mechanisms include routine inspections, audits, and performance evaluations to ensure compliance with regulations and standards. Based on Government Regulation No. 22/2020 and Minister of Public Works and Housing Regulation No. 7/PRT/M/2019, the Supervisory Board must follow strict supervision procedures, including inspection schedules and audit methods, and report the results in detail. Performance indicators and transparent reporting systems are used to measure project success, identify problems, and maintain accountability, ensuring that projects are on track.

Enforcement procedures in construction projects address regulatory violations with appropriate and fair actions. Under Law No. 2 of 2017, the Supervisory Board has the authority to apply administrative sanctions and corrective actions. Government Regulation No. 22 of 2020 provides for a transparent enforcement mechanism, including a thorough investigation and right of defense. Corrective actions ensure technical improvements and document revisions so that projects comply with applicable regulations and standards.

Quality and safety supervision in construction projects ensures standards are met and risks are minimized. The Supervisory Board is responsible for periodic inspections, evaluation of work methods, and ensuring compliance with Law No. 1 Year 1970 on Work Safety as well as Minister of Public Works and Housing Regulation No. 7/PRT/M/2019. Supervision includes the use of quality materials, process monitoring, and safety risk assessment. Cooperation with contractors and consultants is important to identify and address issues early.

Follow-up and reporting of construction project supervision results involves the preparation of a comprehensive report by the Supervisory Board, which includes findings, analysis, and recommendations for corrective actions. Based on Government Regulation 22/2020, the report must assess compliance with safety standards and procedures, and be transparent in identifying violations. The report is submitted to relevant parties for corrective action and may involve legal institutions if necessary. Transparency and accountability are key to building public trust and ensuring effective oversight.

Dispute Settlement

Dispute resolution methods in construction projects consist of mediation, arbitration, and litigation.

Mediation is a non-formal process in which an independent mediator helps the disputing parties reach an agreement, in accordance with PERMA No. 1 Year 2016. This method is flexible and tends to maintain good relations between parties.

Arbitration is governed by Law No. 30 of 1999, involves arbitrators who render binding awards and is often chosen if there is a prior arbitration agreement, offering quick and confidential solutions.

Litigation is the resolution of disputes through the courts, which is regulated under Law No. 2 of 2017. While it provides a final judgment and has the power of execution, it tends to be a longer and more expensive process. Typically, mediation or arbitration is chosen as the first step to resolving disputes, with litigation as the last option if other methods are unsuccessful.

Supervisory Boards play a key role in construction dispute resolution by ensuring the project continues to run smoothly and within regulations. They not only supervise but also serve as facilitators in the mediation or arbitration process, helping the disputing parties reach an agreement. As a liaison, the Supervisory Board provides an objective assessment of the causes of disputes and offers solutions based on regulations such as the Minister of Public Works and Housing Regulation No. 7/PRT/M/2019. They also recommend dispute resolution methods, such as mediation or arbitration, in accordance with Government Regulation 22/2020. During this process, the Supervisory Board ensures fairness and transparency to maintain public trust and project integrity, as stipulated in Law Number 2 Year 2017 on Construction Services.

In Indonesia, construction dispute resolution is governed by a legal framework that includes Law Number 2 Year 2017 on Construction Services, Government Regulation Number 22 Year 2020, and Minister of Public Works and Housing Regulation Number 7/PRT/M/2019. Law No. 2/2017 establishes the principles of fairness and transparency in dispute resolution. Government Regulation No. 22/2020 regulates the authority of the Supervisory Board and dispute resolution procedures, while Minister of Public Works and Housing Regulation No. 7/PRT/M/2019 provides guidelines on project governance and dispute handling mechanisms. Adherence to these legal frameworks is important to ensure fair, efficient dispute resolution and avoid negative impacts on construction projects.

The dispute resolution process in construction projects goes through several important stages. First, problem identification is conducted by the disputing parties to document the problem. Next, informal negotiations between the parties attempt to reach an agreement without a third party. If unsuccessful, the mediation stage involves a neutral mediator to help reach an agreement, in accordance with the Minister of PUPR Regulation No. 4 Year 2011. If mediation fails, the dispute may proceed to arbitration, which is governed by Law No. 30 of 1999, where an arbitrator provides a binding decision. If arbitration is also inadequate, litigation in court becomes the last option, following the Civil Code (KUHPPerdata) and related regulations. The Construction Supervisory Board plays an important role in ensuring each stage is conducted in accordance with legal procedures, maintaining transparency and integrity of the dispute resolution process.

Effective and fair dispute resolution increases public confidence in the construction sector by demonstrating that projects are well-managed and adhere to applicable standards. A transparent and legally compliant process, as stipulated in Government Regulation No. 29/2000 and Minister of Public Works Regulation No. 15/PRT/M/2010, reinforces confidence that the rights of relevant parties are protected, attracting investors and partners. Conversely, failure in

dispute resolution can damage the reputation of the construction sector, creating doubts about integrity and professionalism. Therefore, the Supervisory Board, in accordance with Law No. 2 of 2017 and Government Regulation No. 50 of 2012, must ensure that the dispute resolution process is conducted fairly and in accordance with legal provisions.

CONCLUSION

The existence of a Supervisory Board in construction services is key to ensuring integrity, transparency, and legal certainty in construction projects. The authority of the Supervisory Board should be regulated with clear legal certainty principles, covering quality supervision, dispute resolution, and discipline enforcement. With firm and comprehensive authority, the Supervisory Board can reduce disputes and increase public confidence, creating a more stable and conducive environment for the construction industry in Indonesia.

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