



Public Procurement Contract As Reflection of Social Accountability

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Abstract. Public procurement contracts occupy a unique position at the intersection of law, governance, and society. Far beyond their economic and administrative functions, these contracts serve as normative instruments that reflect and reproduce the values of accountability, transparency, and legitimacy in public decision-making. This paper advances the argument that procurement contracts operate as reflections of social responsibility, insofar as they embody the state's commitment to procedural fairness and distributive justice. Drawing on governance theory and principles of public accountability, the study conceptualizes procurement as a relational framework in which legal norms, institutional practices, and societal expectations converge. By examining procurement regimes through the lens of accountability theory, the paper contends that contracts are not only mechanisms of resource allocation but also sites where power, trust, and legitimacy are negotiated. The analysis underscores that the true significance of procurement lies less in technical compliance with formal rules than in its capacity to institutionalize accountability as both a legal and governance practice.

Keywords: Contract, Public Procurement, Social Accountability, Transparency

1 Introduction

Public procurement represents a vital intersection between law, governance, and social ethics, where contractual arrangements become not only economic tools but also moral and institutional expressions of accountability. As Transparency International notes, procurement is a strategic state function that absorbs nearly one-third of national expenditure and thus determines the quality of public service delivery and public trust in government institutions [1]. The legal and procedural integrity of procurement processes reflects the state's ability to institutionalize transparency, fairness, and legitimacy in its administrative actions.

However, empirical evidence from various jurisdictions indicates persistent gaps in accountability mechanisms within procurement systems. In Tanzania, for example, Omary and Ondiek (2021) found that although accountability frameworks exist, bureaucratic rigidity and limited citizen participation still impede effective oversight in procurement[2]. Similarly, in Ethiopia, weak accountability mechanisms

and poor control of efficiency have undermined value for money in procurement outcomes [3]. In the UK, despite comprehensive legal frameworks, dependence on key suppliers and inconsistent monitoring continue to obscure transparency [4].

In Indonesia, governance-based procurement reforms are directly linked to the anti-corruption agenda, yet corruption in procurement remains a major contributor to national financial loss [5]. A study by Hardianta et al. revealed that, despite regulatory updates such as Presidential Regulation No. 17/2023 and the implementation of e-procurement, corruption persists due to human resource limitations, technological disparities, and weak supervisory mechanisms [6]. Meanwhile, Amalia et al. emphasize that Indonesia's legal framework for sustainable public procurement remains inadequate and fragmented, lacking comprehensive guidance for implementation and institutional collaboration [7].

The integration of technology and data-based systems further illustrates the changing landscape of accountability. Uwimpeta and Akims demonstrated that e-informing and e-sourcing significantly enhance contract management by improving communication, transparency, and compliance [8]. Similarly, Khorana et al. [9] constructed a Public Procurement Transparency Index, showing that digital systems strengthen institutional integrity and social accountability. However, Vluggen et al. argue that sustainable procurement still faces weak external enforcement, as most accountability remains inward-looking rather than responsive to citizens or stakeholders [10].

Jawade et al. proposed integrating the principles of justice ('adalah), trust (amanah), and social oversight (hisbah) as moral foundations for procurement reform [11]. This aligns with the argument of Diggs and Roman (2012) that accountability in procurement transcends administrative reporting; it represents a relational process of responsibility, performance evaluation, and legitimacy building within public institutions [12].

At the global level, the United Nations Development Programme (UNDP) advocates for a systems-based approach to procurement reform that embeds transparency, citizen participation, collaboration with oversight institutions, and fair competition as enablers of accountability [13]. The initiative highlights successful models such as Korea's KONEPS, the Philippines' PhilGEPS, and Indonesia's CoST West Lombok, demonstrating how digital openness and citizen monitoring mechanisms can prevent corruption and restore public confidence in procurement.

Hence, this paper portrays public procurement contracts as reflections of social accountability. Their essence lies not merely in formal compliance but in the broader social contract between the state and its citizens. When designed and executed transparently, procurement contracts can institutionalize accountability, foster public trust, and promote sustainable governance.

2 Problem Statement

Although public procurement accounts for a significant share of national budgets and is normatively expected to reflect values of transparency, participation, and fairness, mounting evidence shows that procurement systems still face substantial barriers to realising social accountability. For example, in Tanzania, accountability frameworks exist but are hindered by bureaucratic rigidity and limited citizen participation [2].

In Ethiopia, weak accountability mechanisms and inefficient control processes undermine value for money. In the UK, even with comprehensive regulatory frameworks, inconsistent monitoring and supplier dependency continue to obscure transparency [3],[4]. In Indonesia, despite governance-based reforms and e-procurement initiatives, procurement corruption remains a major contributor to state financial losses [5],[6],[7]. Meanwhile, advances in digital systems and institutional frameworks (e.g., transparency indexes) show promise, yet challenges such as weak external enforcement persist [9],[10].

Given these issues, the research problem is: How do public procurement contracts function as instruments that reflect social accountability within public procurement systems? More specifically:

- To what extent do public procurement contracts incorporate elements of social accountability such as transparency, public participation, and distributive fairness?
- What institutional, normative factors influence the effectiveness of procurement contracts in reflecting social accountability?

3 Research Questions

Despite the normative ideal that public procurement contracts should reflect social accountability through transparency, public participation, fairness, and institutional legitimacy, in practice, there is significant divergence. Legal frameworks often provide for accountability norms, yet contract design and implementation often lack explicit provisions to operationalize them. With growing scholarship recognizing procurement as both a governance and normative instrument, this study therefore asks the following focused questions[1],[12],[2]:

- To what extent do current legal provisions governing public procurement contracts reflect normative principles of social accountability, such as transparency, public participation, and distributive justice?
- How can principles of contract law and governance theory be integrated to conceptualize public procurement contracts as legal instruments that embed accountability, legitimacy, and trust in state–society relations?

4 Purpose of Study

The purpose of this study is to examine how public procurement contracts function as normative instruments of social accountability within public procurement systems. Specifically, the study aims to:

- Examine the extent to which current public procurement contract provisions embed normative principles of social accountability, including transparency, public participation, and distributive fairness
- Employing principles of contract law and governance theory, conceptualize public procurement contracts as legal instruments that embed accountability, legitimacy, and trust in state–society relations.

By doing so, the study seeks not only to contribute to the academic understanding of procurement as a governance tool, but also to provide actionable normative guidance for policy-makers, public agencies, and contract drafters who wish to embed accountability values into procurement practice.

5 Research Methods

This research employed qualitative methods and used a descriptive research design. This is considered appropriate because the study describes public procurement contracts as a reflection of social accountability. In this context, the study reviews legislation, regulation, policy documents, and academic literature to understand how procurement contracts function as instruments of social responsibility.

6 Findings

6.1 The Extent to Which Current Public Procurement Contract Provisions Embed Normative Principles of Social Accountability, Including Transparency, Public Participation, and Distributive Fairness

Transparency As A Foundational Norm. Transparency constitutes the core normative principle underpinning integrity and accountability in procurement. According to the Economic Co-operation and Development (OECD), governments are required to “provide an adequate degree of transparency in the entire procurement cycle to promote fair and equitable treatment for potential suppliers [14].” Transparency alone is insufficient to achieve accountability unless it is coupled with collective action and institutional responsiveness. This means that while legal provisions may mandate the publication of procurement information, social accountability requires that such transparency be actionable, that is, enabling citizens and oversight bodies to use the information to influence outcomes [15].

In this context, the procurement of goods and services is normatively grounded in the principles of accountability, efficiency, effectiveness, transparency,

and compliance with positive law, which together serve as the foundational standards ensuring that procurement processes operate within both ethical and legal boundaries [16].

This implies that contract provisions should ensure accessibility of information not only during tendering but also throughout the pre-tendering and post-award stages. Such measures enable public scrutiny and institutional monitoring, preventing secrecy that often fosters corruption [14].

For Mabillard & Zumofen, transparency in public procurement is a major instrument for enhancing accountability and integrity in public administration. They continue, transparency remains bounded by legal exceptions and bureaucratic secrecy justified under confidentiality or efficiency arguments [17].

Furthermore, transparency aligns with the social accountability framework by empowering citizens and oversight institutions to examine the procurement process. When tender information, award decisions, and performance reports are publicly available, the procurement system promotes both procedural fairness and trust in governance.

Public Participation As A Mechanism Of Social Oversight. The OECD explicitly identifies public participation and civil society empowerment as critical components of accountability in procurement, recommending that “civil society organisations, media and the wider public [be] empowered to scrutinise public procurement.[14].” This inclusion transforms procurement from a purely administrative process into a relational governance practice, where multiple actors (citizens, CSOs, media) co-produce accountability outcomes.

Such participatory mechanisms reflect the principle of answerability in social accountability theory, ensuring that state institutions are responsive to societal demands for integrity and justice in the use of public funds[15]. Hence, the normative basis for participation is not merely procedural but moral, reinforcing the legitimacy of procurement decisions.

However, in practice, external oversight from civil society remains very limited, as limited access to public information prevents the public from actively participating in the procurement process [16]. Civil society and the media play only a marginal role in scrutinizing public procurement processes. Their participation is often restricted to formal consultation mechanisms or limited appeal procedures, rather than being meaningfully integrated into the decision-making or monitoring stages [17].

As Christin Samangun further emphasizes, “The top-down legal system needs to be transformed into a more inclusive, bottom-up approach ... involving local stakeholders, traditional leaders, and civil society organizations [16].” This observation highlights the need for structural reform in procurement governance, where inclusivity and participatory engagement are embedded not as optional practices but as normative obligations of public accountability. This marginal involvement weakens the broader framework of social responsibility, as public oversight remains procedural mainly rather than substantive.

Distributive Fairness and Equity in Access. The OECD further stresses fair and equitable treatment for potential suppliers as a condition of integrity in procurement [14]. This principle aligns with the concept of distributive fairness, which ensures that dominant actors do not monopolize opportunities and benefits from public contracts, but that they are fairly distributed among qualified participants.

Distributive fairness reflects the justice dimension of social accountability, requiring that contract provisions prevent discriminatory practices and foster equitable access, especially for small and medium enterprises (SMEs). However, procedural complexity, linguistic barriers, and litigation costs limit equal access to justice for suppliers, thereby undermining the practical realization of fairness in procurement processes [17].

As noted in the literature, the main weakness lies not in regulations but in understanding and enforcement. Accountability within a positive legal framework should encompass both substance and process; however, its implementation remains predominantly administrative and procedural [16].

As Amayi and Ngugi argue, fairness in procurement enhances “value for money” and social legitimacy by broadening participation in public spending [18].

Integrative Perspective.

Social Accountability within Governance-Based Contracting. Taken together, these provisions suggest that public procurement contracts serve as normative instruments of governance, embedding accountability through institutionalized transparency, participatory oversight, and distributive justice. The OECD framework thus operationalizes social responsibility not only as an ethical imperative but as a structural feature of procurement design.

However, the actual degree of implementation varies across jurisdictions. As Suardi et al found in the Indonesian context. At the same time, governance-based procurement reforms are closely linked to the anti-corruption agenda, corruption in procurement remains a significant contributor to national financial losses indicating a

gap between normative principles and practical enforcement [5]. In line with this, Mabillard and Zumofen observe that procedural complexity, linguistic barriers, and costs of litigation limit equal access to justice for suppliers, demonstrating how legal provisions may embed fairness in form but not in practice [17].

Principles Of Contract Law and Governance Theory Be Integrated To Conceptualize Public Procurement Contracts As Legal Instruments That Embed Accountability, Legitimacy, and Trust in State–Society Relations. The legal principles governing public procurement contracts aim to balance freedom of contract with the principle of fair competition. Under Indonesian law, Article 1338 of the Civil Code grants parties contractual autonomy to determine the content of their agreements. However, in public procurement, this freedom is not absolute, as public funds are involved and must be managed in accordance with the principles of efficiency, transparency, and accountability [19].

The legal principles governing public procurement contracts aim to balance freedom of contract with the principle of fair competition. Under Indonesian law, Article 1338 of the Civil Code grants parties contractual autonomy to determine the content of their agreements. However, in public procurement, this freedom is not absolute, as public funds are involved and must be managed in accordance with the principles of efficiency, transparency, and accountability [19].

The exercise of contractual freedom in public procurement must be restricted by legal norms that uphold fair competition and prevent collusion or market monopolization [19].

Furthermore, transparency and public accountability are essential to prevent corruption and the abuse of authority. Hence, public procurement contracts should not be seen merely as economic instruments but as legal tools that institutionalize accountability, legitimacy, and fairness within state–society relations through transparent and competitive contractual governance [19].

Governance theory has evolved from a rule-based administrative paradigm to a multidimensional, relational framework that emphasizes accountability, legitimacy, and trust between the state and society. De Boer conceptualizes modern governance as a polycentric, interactive system in which accountability is no longer confined to legal or hierarchical controls but increasingly voluntary and reputational [20]. In his view, public institutions maintain legitimacy by voluntarily disclosing information and engaging with stakeholders beyond formal requirements, thereby transforming transparency into a mechanism of social trust rather than mere compliance.

Complementing this perspective, some of the scholars interpret governance through the lenses of agency and legitimacy theories. They argue that accountability and transparency function as core mechanisms through which governments, acting as agents, maintain the confidence of citizens as principals. Governance is thus defined as a normative framework that institutionalizes openness, participation, and fairness in the management of public resources. Effective governance requires a continuous

exchange of information and justification that transforms administrative compliance into socially recognized legitimacy.

Extending these ideas, Ludovico et al. propose an integrated governance model emphasizing adaptive, collaborative, and trust-based accountability, particularly under crisis conditions such as the COVID-19 pandemic [21]. Their model combines vertical, horizontal, and diagonal accountability channels to reinforce transparency and responsiveness. Governance is understood as an ecosystem of ethical coordination among state actors, institutions, and citizens, where accountability becomes proactive and dialogical.

By integrating these perspectives, contract law provides the normative structure of clarity, enforceability, and procedural fairness, while governance theory supplies the ethical and institutional dimensions of accountability, legitimacy, and trust. When combined, they reconceptualize public procurement contracts not merely as administrative or economic arrangements, but as legal instruments of democratic governance. Such contracts embody both legal certainty and moral legitimacy, embedding accountability, transparency, and trust as the connective tissue between the state and society.

This integration resonates with Johnston's conception of good governance, in which the rule of law, transparency, and accountability are not merely administrative tools but interactive principles that produce a legitimate, effective, and publicly supported government. Johnston argues that effective governance requires "embedded autonomy," a balance between institutional authority and citizen participation that ensures state power is exercised through rules that reflect social values and mutual trust [22]. Public procurement contracts, when governed transparently and enforced under fair competition, operationalize this principle by creating legitimate institutional relationships between the state and society.

In parallel, Martin-Ortega demonstrates how procurement can extend beyond its economic function to become a mechanism of ethical governance. Through collaboration, due diligence, and leverage, procurement contracts can promote human rights and social responsibility within global supply chains [23]. This perspective situates public procurement within the broader framework of governance ethics where the state's purchasing power embodies its moral duty to protect human dignity and ensure equitable practices.

Accordingly, by aligning contract law's legal rationality with governance theory's moral legitimacy, public procurement becomes a normative bridge between law and ethics, embedding accountability, transparency, and trust as the connective tissue of state–society relations.

According to Flynn and Davis, contract theory explains public procurement as a rule-bound transaction between economic parties designed to ensure predictability, efficiency, and accountability in exchange relations [24]. Within this perspective, public procurement contracts are not merely administrative instruments

but legal frameworks that formalize obligations, rights, and responsibilities between the state and private suppliers. The emphasis on rules and predictability reflects the classical notion of contract law, in which accountability arises from enforceable terms and transparent procedures that minimize discretion and corruption. This approach assumes that well-defined legal arrangements can safeguard the public interest by ensuring that contractual relations operate within a system of fairness and reciprocity. Thus, contract theory situates procurement within a normative legal order, one that promotes efficiency and accountability through the binding force of law, while providing the foundation upon which governance mechanisms and social legitimacy can be later integrated.

7 Conclusion

The findings reveal that public procurement contracts operate at the intersection of law, governance, and ethics, serving not only as legal and economic instruments but also as normative mechanisms of accountability and legitimacy in state–society relations.

First, from the normative perspective of social accountability, current procurement frameworks, guided by the OECD Principles for Integrity in Public Procurement, embed three interrelated principles: transparency, public participation, and distributive fairness. Transparency remains the foundational pillar of integrity, ensuring that procurement processes are open to scrutiny and resistant to corruption. Yet, transparency alone is insufficient without participatory engagement that transforms disclosure into actionable accountability. Public participation, as a mechanism of social oversight, strengthens the moral legitimacy of procurement decisions. However, in practice, its implementation is still marginal due to limited access to information and institutional openness. Similarly, distributive fairness, which promotes equitable access and justice in procurement opportunities, often faces barriers from procedural complexity and weak enforcement. Thus, while normative principles are well-articulated, their implementation remains procedural rather than substantive, creating a persistent gap between law and practice.

Second, integrating contract law and governance theory provides a comprehensive conceptual framework for understanding procurement as an instrument of democratic governance. Contract law contributes to the legal rationality, clarity, enforceability, and procedural fairness while governance theory adds the ethical and institutional dimensions of accountability, legitimacy, and trust. The synthesis of both disciplines transforms procurement from a mere administrative function into a relational governance mechanism, where transparency, fairness, and participation are embedded as conditions of legitimacy.

Ultimately, public procurement contracts, when designed and implemented in accordance with the principles of legal certainty, openness, and social accountability, embody the state's commitment to ethical governance. They institutionalize the values of accountability, legitimacy, and trust, transforming public spending into a normative bridge between state authority and citizen confidence. However, realizing this vision

requires not only regulatory reform but also a cultural and institutional shift toward participatory and integrity-based governance.

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