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Legality and Legal Consequences of Unilateral Termination of a Construction Work Contract: A Case Study of the Long-Segment Kabuena–Turu Road Project Contract No. 600.1.9/V.25.4/SP/DPUPR-KY/2023

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Abstract

This study aims to analysis the legality and legal consequences of the unilateral termination of the Long Segment Road Works Contract for the Kabuena–Turu section No. 600.1.9/V.25.4/SP/DPUPR-KY/2023 by the Commitment Making Official (PPK) under Indonesian positive law and relevant legal principles. The research employs a normative legal method supported by a limited qualitative empirical approach, using statutory, case, and conceptual approaches. Research materials consist of legislation, the contract and its implementation documents, complemented by scholarly literature and, where necessary, interviews with relevant parties. Data are analyzed using descriptive qualitative analysis combined with normative legal reasoning. The findings show that the contract was terminated when the physical works had in fact reached 100% completion and had been jointly measured, without clear evidence of default and without the prior stages of warnings and adequate opportunities for correction, so that the termination does not fully satisfy the material and procedural requirements for contract termination under government procurement rules. The termination also does not extinguish the Government's obligation to pay for all completed works and to regularize the administrative consequences, while the service provider remains entitled to payment, to file objections, and to pursue legal remedies for the restoration of its rights. It is concluded that the unilateral termination in this case is weak in terms of legality, does not provide sufficient legal protection and legal certainty for the service provider, and risks undermining business confidence in government procurement, thereby indicating the need to strengthen both the regulatory framework and practice of contract termination as well as dispute resolution mechanisms in construction services procurement.

Keywords: Contract Termination; Government Procurement; Construction Services; Legal Protection; Legal Certainty.

INTRODUCTION

Road infrastructure development is one of the main pillars of accelerating national development because it directly contributes to reducing regional isolation, lowering logistics costs, and increasing economic activity and equitable growth between regions. In the Indonesian context, especially in eastern regions such as Papua and West Papua, the construction and improvement of road networks has strategic value as an instrument for strengthening connectivity, accessibility of public services, and integration of regional markets that have been hampered by geographical conditions and limited transportation networks (World Bank, 2015). The government, through the Ministry of Public Works and Public Housing (PUPR), is encouraging the construction of new sections and the improvement of existing sections through various procurement and contractual schemes, one of which is the long-segment-based contract, which is promoted as a more technically and financially efficient scheme because it integrates construction, maintenance, and quality improvement work in one continuous section package (Directorate General of Highways, 2019; Ministry of Public Works and Public Housing, 2019; World Road Association (PIARC), 2012). Empirically, the implementation of road projects in Papua, including in island regions such as the Yapen Islands Regency, faces relatively more complex challenges than other regions. These constraints include limited access to transportation of materials and heavy equipment, dependence on sea and weather modes, high mobilization costs, and limitations in the local workforce and supply chain. Challenging geographic and topographical conditions also impact quality management, scheduling, and the need for more intensive maintenance. In this context, the long-segment scheme is considered policy-relevant because it combines construction/preservation and maintenance work in a single, continuous package, which is expected to reduce work fragmentation, improve quality consistency, and reduce road lifecycle costs. However, the complexity of implementation in the field also has the potential to increase the scope for administrative discretion in contract management, including in performance assessments, inspections of work results, and decision-making regarding work changes or contract termination. Therefore, the issue of the legality of unilateral contract termination in the long-segment project in Papua cannot be viewed solely as a technical contractual issue, but also relates to the quality of governance, accountability of decision-making by authorized officials, and protection of the legal interests of providers who have performed their duties.

The Long Segment Road Preservation/Improvement Contract on the Kabuena-Turu section in Yapen Islands Regency is part of this policy. Under this scheme, service providers are required to complete a comprehensive work package on a specific length of section, from construction/preservation to maintenance, within a single implementation period. Normatively, the legal relationship between the parties in a government procurement contract is subject to the provisions of the Civil Code, the Construction Services Law, and the government procurement regime, which strictly regulates the selection, implementation, and termination processes. However, in procurement practice, the contractual relationship is not entirely symmetrical because the government acts not only as the contracting party but also as the holder of public authority. This condition makes the government's bargaining position as a service user relatively stronger than that of the service provider, thus increasing the potential for legal issues when the government uses its authority to unilaterally terminate the contract (Panjaitan, 2019; Saragi, 2022). The problem becomes even more critical when the contract termination is carried out unilaterally at the final stage of implementation, even when the physical work has reached substantial completion or 100% according to the contract scope. In the case of the Kabuena Turu Long Segment, the progress report indicated that physical progress had reached 100% according to the agreed scope of work. However, the Commitment Making Officer (PPK) issued a unilateral contract termination decision before the contract expired. This action raises fundamental questions regarding the legal basis, urgency, and termination procedures, especially in the absence of clear indications of default by the provider. Normatively, contract termination should be based on valid reasons, supported by objective evidence, and carried out through prescribed procedures, including warning mechanisms and the opportunity to be heard as regulated, among others, in PUPR Ministerial Regulation No. 14 of 2020. If these steps are ignored, the termination action has the potential to conflict with the principles of legality, legal protection, and legal certainty (Hadjon, 1987c; Mertokusumo, 2010; Saragi, 2022).

From a practical perspective, unilateral contract termination in government construction procurement can result in economic losses for service providers, including delayed or non-payment of due payments, dispute resolution costs, and reputational and administrative impacts on the provider's performance information system. A further impact is a decline in business confidence in the government procurement system, which can ultimately disrupt the investment climate and the effectiveness of infrastructure acceleration policies (Panjaitan, 2019; Ramadhani & others, 2024; Rika, 2023). On the other hand, the government continues to fully benefit from the completed infrastructure. This imbalance between performance and rights raised issues of contractual fairness, accountability for administrative actions, and the potential for abuse of authority in public contract management.

Several previous studies have discussed construction contract termination and the problems of government procurement, including aspects of default, dispute resolution, and the administrative impact on providers. Panjaitan (2019), for example, highlighted the unequal position of the parties and the vulnerability of providers to unilateral actions by procurement officials. Saragi (2022) emphasizes the importance of procedural certainty and the principle of legality in government contract termination. Other studies, such as those by Ramadhani & others (2024) and Rika (2023), describe factors leading to contract termination and their consequences in various regions, including economic implications and reputational risks for providers. However, these studies are generally general in nature (across contract types or regions), and few specifically examine unilateral contract termination in long-segment schemes in Papua, particularly in situations where the work is declared 100% complete. Furthermore, a crucial but relatively understudied normative issue is the practice of including contract clauses that "override" the mechanism for contract termination through the courts, as permitted by Articles 1266 and 1267 of the Civil Code (Badrulzaman, 2001; Subekti, 2005). This practice of derogation has a direct impact on judicial oversight mechanisms, providers' access to legal protection, and the design of checks and balances in public contracts. This is where the research gap in this study lies: the need for a comprehensive normative analysis regarding the legality of unilateral contract termination by the PPK in long segment contracts that have in fact reached completion of work, as well as the legal consequences attached to the parties after the termination.

Theoretically, this research is based on Kusumaatmadja's Theory of Law and Development (2006, 2012), which views law not only as a guardian of order but also as an instrument of social engineering. From this perspective, procurement law and public contract law should support the acceleration of infrastructure development while ensuring fairness, certainty, and trust in business actors. The policy of unilateral contract termination by the PPK is tested to see whether it aligns with development goals or is counterproductive by eroding private sector trust in procurement governance. This research also utilizes the Theory of Legal Protection (Hadjon, 1987; Rahardjo, 2009), which emphasizes the importance of preventive and repressive protection for the weaker party in legal relations. In government procurement contracts, service providers are often in a less balanced position than the government, which holds the authority. Therefore, contract termination must be carried out transparently and accountably, and provide a real opportunity for providers to present their defense (Rahardjo, 2014; Rawls, 1971). Using this theory, the study examines whether the termination of the Kabuena Turu long-segment contract meets adequate legal protection standards. Furthermore, the Legal Certainty Theory (Mertokusumo, 2010; Radbruch, 1950) is used to assess the consistency of the application of procurement norms and public contracting regulations. Legal certainty requires clear, predictable, and consistently applied norms to allow parties to reasonably plan their actions. Suppliers have the right to expect that if contract performance has been met according to provisions, payment will be made in full and the contract will not be terminated without a valid basis and without proper procedures. Termination without proof of default and without adequate procedures will trigger a legal certainty crisis that ultimately reduces business confidence in the procurement system (Saragi, 2022; Saragi & Panjaitan, 2025).

Based on the description, the formulation of the research problem is: (1) how is the legality of unilateral contract termination by the PPK in the Kabuena-Turu Long Segment Scheme Road Work Contract No. 600.1.9/V.25.4/SP/DPUPR-KY/2023 reviewed from Indonesian positive law and relevant legal theories; and (2) what rights and obligations must be fulfilled and obtained by the government and the provider as a legal consequence of the unilateral termination. This formulation emphasizes that the research not only examines the formal-procedural aspects, but also the substantive aspects in the form of a balance of achievements and counter-achievements after the termination. In line with that, this research aims to: (1) analyze and explain the legality of unilateral contract termination between the government and the provider in the Kabuena Turu Long Segment Contract based on the Civil Code, regulations on procurement of goods/services, the Construction Services Law, and the General Principles of Good Governance; and (2) describe and analyze the rights and obligations of the parties as a result of unilateral termination, including its implications for legal protection and legal certainty for providers.

Thus, this introduction positions the research at the intersection of the need to accelerate infrastructure development, the government's authority in managing public contracts, and the demand to guarantee protection and legal certainty for service providers. The research findings are expected to contribute to the development of procurement law and public contract law studies, while also providing practical recommendations for improving contract termination governance in government construction procurement.

RESEARCH METHODS

This study employs a normative legal research method combined with a limited empirical qualitative approach, as commonly used in legal and socio-legal research (Moleong, 2017; Soekanto, 1986; Sugiyono, 2019). The subjects/materials examined consist of primary legal materials in the form of the Long Segment Road Works Contract for the Kabuena–Turu section No. 600.1.9/V.25.4/SP/DPUPR-KY/2023, the Indonesian Civil Code, the Law on Construction Services, the Presidential Regulation on Government Procurement of Goods/Services and its amendments, as well as the relevant Minister of PUPR Regulations on construction services procurement, complemented by secondary legal materials such as books, journal articles, and research reports on contract termination, legal protection, and legal certainty, and, where necessary, empirical information from the Commitment Making Official (PPK), procurement officials, and representatives of the service provider. The tools used include a documentary review guide to trace and examine key clauses in the contract and regulations, a semi-structured interview guide to explore the experiences and views of informants, and supporting devices such as a computer/laptop, word-processing and spreadsheet software, and a reference manager to organize data and citations. Sampling is carried out using purposive sampling, both for legal materials (selected because of their relevance to unilateral contract termination issues) and for informants (selected because of their position and direct involvement in the implementation and termination of the contract). The variables examined more appropriately referred to as the focus of inquiry in qualitative research cover (1) the legality of the unilateral contract termination by the PPK, viewed from the legal basis, material requirements, and procedures followed; and (2) the legal consequences of the termination for the rights and obligations of the Government and the service provider, including the extent of legal protection and legal certainty afforded to the provider. Data collection techniques comprise literature study, documentary study of the contract and implementation documents, and in-depth interviews with key informants. The data are analyzed using descriptive qualitative analysis and normative legal reasoning through stages of data reduction, classification and categorization, legal interpretation (grammatical, systematic, and teleological), and the drawing of normative conclusions aligned with the law and development theory, the theory of legal protection, and the theory of legal certainty. This research does not employ inferential statistical models; statistics, where used, are limited to simple descriptive statistics for example, describing the percentage of physical work completion or comparing the contract value and payments made without excessive statistical formulas, serving only to support the legal arguments developed.

RESULT AND DISCUSSION

The findings of this study on the Long Segment Road Works Contract for the Kabuena-Turu section show that the unilateral termination of the contract by the Commitment Making Official (PPK) on 20 December 2023 was carried out when, in fact, the physical works had already reached 100% completion in accordance with the agreed scope and had been jointly measured. This condition fundamentally weakens the material basis for alleging default (wanprestasi) on the part of the service provider, because in contract law default is generally understood to occur only when the obligated party fails to perform, performs improperly, performs late, or does something prohibited by the agreement (Badrulzaman, 2001; Subekti, 2005). The absence of convincing evidence of material delay, significant defects in quality, or refusal to correct deficiencies renders the termination legally problematic from the standpoint of material legality. From the formal aspect, the study finds that the termination procedure as stipulated in the government procurement regulations and the Minister of PUPR Regulation on construction service procurement was not fully implemented. There is no evidence of a series of written warnings, of any adequate opportunity given to the service provider to make corrections, or of documented performance evaluations that could serve as an objective basis for termination. In fact, normatively, before termination is carried out, the contracting authority is required to undertake staged guidance and warnings as a form of preventive legal protection for the provider (Hadjon, 1987a). Non-compliance with these administrative procedures is not merely a technical issue, but touches on the principles of legality and legal certainty in governmental actions (Mertokusumo, 2010). In other words, both materially and formally, the findings indicate that the decision to terminate the contract in the Long Segment Kabuena-Turu case stands on weak legal ground when tested against the applicable positive law.

Another important finding is the shift in the legal positions of the parties after termination. Prior to termination, the Government as the user of services formally occupied the position of the party entitled to demand performance and to control contract implementation. After unilateral termination in a situation where the works had been completed, however, the Government actually becomes the party bearing the primary obligation to settle the provider’s entitlements, especially payment for the works that have been completed and jointly measured. The Government cannot use contract termination as a pretext to delay or evade its payment obligations for performance that has already been delivered and acknowledged in measurement minutes. Conversely, the service provider, who previously stood as the “debtor” under the contract, moves into a position of having strong claims to payment, the right to challenge detrimental administrative actions, and the right to seek legal remedies for the restoration of its rights. More specifically, the main obligations of the Government after contract termination are: (1) to fully pay for the works that have been completed and jointly measured, in line with the principles of no work, no pay but also no pay without lawful reason; (2) to regularize the termination documentation properly, including the Minutes of Termination, work completion reports, and financial documents; and (3) to ensure that the completed works are responsibly utilized, including their operation and maintenance. Alongside these obligations, the Government still retains certain rights, such as the right to use the completed works, the right to demand rectification or maintenance of defects that remain within the contractor’s responsibility period, and the right to claim damages if clear default is later proven. However, these rights must be exercised proportionally, transparently, and in accordance with the general principles of good governance, particularly the principles of legal certainty, due care, and accountability.

On the other side, the principal right of the service provider after termination is to receive payment for all works that have been lawfully handed over and accepted. The provider also has the right to submit clarifications and objections to the termination decision, the right to seek rehabilitation of its reputation if the termination affects its track record (for instance, in the

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provider performance information system), and the right to claim compensation through litigation or non-litigation mechanisms if it can be shown that the provider has suffered losses as a result of an unlawful termination. In addition, if the contract is terminated, specific post-termination rules can be added or activated to regulate the transition from performance to closure, for example rules on final measurement and verification of completed quantities, the timetable and documentation requirements for final payment, settlement of remaining claims (including price adjustment, variation orders, and delay claims if any), the status of retention money and performance security, and the allocation of risk and responsibility for any remaining works or defects. At the same time, the provider remains bound by certain obligations even after termination, such as handing over all technical documents (including as-built drawings, quality test reports, and progress reports), maintaining confidentiality of information, and bearing professional responsibility for the quality of work during the contractual defect liability period. Post-termination rules may further specify practical obligations, including demobilization procedures, access restrictions to the site after termination, inventory and safeguarding of materials/equipment, and cooperation duties during audits or inspections, so that termination does not create an administrative vacuum that can later be used to dispute acceptance, payment, or responsibility. Thus, termination of the contract does not automatically extinguish all of the provider's obligations; rather, it transforms them into post-handover responsibilities.

Viewed through the lens of the Theory of Legal Protection (Hadjon, 1987c; Rahardjo, 2009), these findings show that preventive legal protection for the service provider in the Long Segment Kabuena–Turu case did not operate effectively. The provider was not given sufficient opportunity to defend itself before the termination decision was made, and there was no effective internal mechanism to review the PPK's decision prior to the emergence of detrimental legal consequences. If termination is allowed, a key "rule" that can and should be added is a structured pre-termination and post-termination governance mechanism, for instance mandatory written warnings, a clear cure period, a documented hearing/clarification session, and an internal review layer (or independent reviewer) before the decision becomes final, followed by a transparent close-out protocol that ensures acceptance and payment are not arbitrarily suspended. Repressive legal protection is in fact available through mechanisms such as administrative objections, lawsuits to the Administrative Court (Peradilan Tata Usaha Negara) against the termination decision, civil claims based on breach of contract or tort, and alternative dispute resolution (negotiation, mediation, conciliation, or arbitration). However, these repressive channels generally require cost, time, and litigation capacity that may not be proportionate to the provider's resources, and thus do not automatically guarantee swift and effective restoration of rights in practice.

From the perspective of the Theory of Legal Certainty (Mertokusumo, 2010; Radbruch, 1950), the termination practice in this case sends a negative signal to construction service providers. When a provider that has completed the works in accordance with the contract still faces the risk of unilateral termination without a clear legal basis, its ability to predict the legal consequences of its lawful actions becomes impaired. This uncertainty affects not only the relationship between the Government and the provider in a single contract, but also the wider investment climate and the willingness of providers to participate in future procurement packages. To restore certainty, post-termination rules can be designed as predictable and standardized clauses such as a fixed set of close-out steps, objective acceptance criteria, and a definite timeline for final payment and dispute escalation so that both parties can anticipate the legal and financial consequences of termination with reasonable clarity. Legal certainty requires consistency between written norms and actual practice; repeated deviations will eventually erode confidence in the procurement legal system itself. Within the framework of the Law and Development Theory (Aulia, 2018; Kusumaatmadja, 2006, 2012), the findings reveal a tension between the goal of accelerating infrastructure development and the need to uphold justice and legal certainty. Formally, the Government employs long segment contracts as an instrument to increase efficiency in road development and accelerate regional connectivity. However, when termination powers are exercised disproportionately and without adequate protection for private actors, law no longer functions as a tool of social engineering that supports development, but instead risks becoming a source of uncertainty that hampers it. Accordingly, adding termination rules that balance efficiency with accountability such as proportional remedies, staged sanctions before termination, and rapid, low-cost dispute resolution pathways can help ensure that termination powers serve development objectives rather than undermining them. Sustainable development can only be achieved if there is a balance between the Government's interest in managing public funds and the State's obligation to provide legal protection and certainty to private partners who contribute to infrastructure development.

Overall, the results and discussion of this study underscore three key points. First, in terms of legality, the unilateral contract termination in the Long Segment Kabuena-Turu case does not fully meet the material and formal requirements prescribed by the applicable law, so its validity is open to serious question. Second, in terms of legal consequences, termination does not extinguish the Government's obligation to fulfil the provider's payment rights; instead, it reinforces the provider's right to seek protection and redress through administrative and judicial avenues. Third, from a theoretical perspective, termination practices such as those in the present case are inconsistent with the aims of legal protection, undermine legal certainty, and do not align with the Law and Development orientation that views law as a driver rather than an obstacle of infrastructure development. In addition, these findings imply that a clearer set of termination rules covering pre-termination safeguards, close-out procedures, payment timelines, and simplified dispute settlement should be institutionalized in public construction contracts to prevent arbitrary outcomes and to protect the sustainability of infrastructure delivery. These findings point to an urgent need to improve governance of contract termination in government construction procurement, strengthen oversight and accountability of PPKs, and develop dispute resolution mechanisms that are faster, fairer, and more accessible to service providers.

CONCLUSION

Based on the analysis of the unilateral termination of the Long Segment Road Works Contract for the Kabuena-Turu section No. 600.1.9/V.25.4/SP/DPUPR-KY/2023, it can be concluded that the termination carried out by the Commitment Making Official (PPK) does not fully satisfy the material and procedural requirements set out in the Indonesian Civil Code, government procurement regulations, and the Minister of PUPR Regulation on construction services procurement. The termination was executed when the works had in fact reached 100% completion and had been jointly measured, without convincing evidence of actual default and without prior stages of written warnings and adequate opportunities for corrective action. This situation reveals the weak legal basis for the termination and indicates that the principles of legality, legal protection, and legal certainty have not been optimally implemented in the management of government contracts.

From a legal standpoint, contract termination does not extinguish the Government's obligations as the user of services to fulfil the provider's entitlements, particularly payment for works that have been completed and formally acknowledged. On the contrary, after termination the Government bears a primary obligation to settle all payment rights, regularize administrative and financial documentation, and ensure the responsible utilization of the completed works. The service provider, in turn, is entitled to claim payment, to lodge administrative objections, and to pursue legal remedies both litigation and alternative dispute resolution to obtain protection and restoration of its rights. These findings are consistent with the Theory of Legal Protection, the

Theory of Legal Certainty, and the Law and Development Theory, all of which emphasize the need to balance governmental authority with adequate protection for private actors as partners in development.

In light of these conclusions, this study recommends strengthening the governance of contract termination in government construction procurement. This includes clarifying and tightening detailed procedures for termination, enhancing the accountability and oversight of PPK decisions, and developing dispute resolution mechanisms that are faster, more effective, and more accessible to service providers. In this way, government procurement contracts can operate in a fairer and more predictable manner while still supporting the overarching objective of accelerating infrastructure development as the core orientation of law and development in Indonesia

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