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## Synergy of Administrative Law and Criminal Law as a Strategy for Harmonizing Law Enforcement Against Corruption in Government Procurement of Goods and Services

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**Abstract:** Corruption in the government procurement of goods and services (PBJ) sector is one of the most significant sources of state financial leakage in Indonesia. Although there are comprehensive administrative and criminal legal instruments, overlapping authorities and unclear boundaries of their application often create problems in law enforcement practices. This study aims to analyze the application of administrative and criminal law in PBJ, identify the factors causing disharmony, and formulate an ideal legal harmonization model to prevent and eradicate corruption effectively. Using normative juridical methods and conceptual and comparative approaches, this study examines various provisions such as Law Number 1 of 2004 concerning State Treasury, Law Number 30 of 2014 concerning Government Administration, Presidential Regulation Number 16 of 2018 in conjunction with Presidential Regulation Number 12 of 2021 concerning Procurement of Goods/Services, and Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption. The research results show that the dualism of administrative and criminal legal regimes leads to the criminalization of procedural violations and creates legal uncertainty. Therefore, a harmonization model based on the principles of *ultimum remedium*, proportionality, and institutional integration between the Corruption Eradication Commission (KPK), the Public Prosecutor's Apparatus (APIP), the Public Prosecutor's Office (LKPP), and the Supreme Audit Agency (BPK) is needed to ensure fair, effective, and accountable law enforcement.

**Keyword:** Legal Harmonization, Corruption, Procurement of Goods and Services.

### INTRODUCTION

Government procurement of goods and services is a fundamental activity in governance because it is directly related to meeting public needs and implementing national development (Valentina, 2024). Every stage of procurement carries significant potential for irregularities, from planning and implementation to contract evaluation (Safitri, Zain, & Nugroho, 2025). The complexity of the process, involving multiple agencies, technical

regulations, and high economic value, makes this sector highly vulnerable to corruption (Nasution & Calvin, 2025). This situation often leads to procurement of goods and services being viewed as a fertile ground for abuse of authority, which harms state finances and undermines public trust in governance.

Corruption in the procurement sector not only impacts the financial aspect but also implicates the quality of public services and the credibility of state institutions (Afrilian, Saepudin, Ramadhani, Aqila, & Nurhasna, 2025). Many strategic projects fail to deliver optimal benefits to the public due to systematic collusion, nepotism, and tender manipulation. This phenomenon indicates that internal government oversight is not yet fully effective, while law enforcement is often reactive and partial (Krisnawati & Prakasa, 2025). This situation reinforces the urgency of strengthening legal mechanisms that not only provide enforcement but also systematic prevention.

Law enforcement against procurement corruption involves two major regimes: administrative law and criminal law, both of which have distinct characteristics and functions (Amiruddin, 2012). Administrative law focuses on regulation, supervision, and guidance to ensure orderly and efficient governance (Agustina, Oktari, Silalahi, & Purnama, 2022). Criminal law, on the other hand, focuses on imposing sanctions for violations involving deliberate or malicious intent (Ar et al., 2024). While these differing characteristics should ideally complement each other, in practice, they often create tension and overlapping authority between institutions.

This overlapping issue arises because the line between administrative violations and criminal acts of corruption is often blurred. Law enforcement officials often criminalize administrative errors as corruption without considering established administrative guidance and correction mechanisms (Aritonang, 2021). This situation creates legal uncertainty and a sense of injustice for procurement actors who act without malice but are dragged into criminal proceedings. Such situations hinder a climate of professionalism within the bureaucracy and diminish the courage of public officials to make swift and effective decisions.

Legal system theory positions law as a system consisting of interrelated elements of substance, structure, and legal culture. Legal harmonization becomes crucial when there are inconsistencies between norms or their implementation, leading to conflict between components of the system (Al Kautsar & Muhammad, 2022). In the context of public law, harmonization means not only aligning regulatory texts but also aligning the objectives and mechanisms of law enforcement. This integration ensures the law's effective implementation without sacrificing justice and certainty for its subjects.

The principle of *ultimum remedium* is a fundamental concept in the harmonization of public law, particularly when criminal law potentially overlaps with other legal regimes. This principle emphasizes that criminal sanctions should be a last resort after administrative efforts have failed or when there is an element of deliberate action that harms the public interest (Sitanggang, Komachi, Irawan, & Novellya, 2024). The application of this principle allows for a proportional hierarchy of legal actions between administrative guidance and criminal action. This alignment is crucial to ensure that the law is not merely repressive but also educational and corrective.

The principle of proportionality emphasizes the balance between violations and the sanctions imposed, taking into account the social impact and the severity of the perpetrator's culpability (Setiawan et al., 2024). In the context of law enforcement against procurement corruption, this principle requires law enforcement officials to distinguish between administrative procedural errors and corrupt acts with malicious intent. This balance plays a crucial role in avoiding excessive criminalization and maintaining the effectiveness of the

government's internal oversight system. The implementation of this principle also reflects the substantive justice expected of a modern legal system.

The principle of *ne bis in idem* complements the legal harmonization framework by emphasizing the prohibition of imposing two sanctions for the same act (Sihombing, 2025). This principle ensures that violations that have been dealt with administratively are not subject to further criminal sanctions unless new evidence demonstrates a more serious element of corruption (Hidayat, Aritonang, & Lavea, 2024). The application of this principle is crucial for maintaining legal legitimacy and avoiding uncertainty for perpetrators who have undergone administrative law enforcement processes. Consistent application of this principle will promote an efficient and just legal system.

Administrative law has a normative character that regulates governance, relations between officials and the public, and the implementation of public functions. Its primary objective is to ensure that all government actions comply with general principles of good governance, such as accountability, legal certainty, and proportionality (Ibad, 2021). In the procurement of goods and services, administrative law serves as an oversight instrument to ensure the transparent and efficient use of state funds (Aflah, Junaidi, Arifin, & Sukarna, 2021). Administrative violations are generally resolved through corrective mechanisms such as contract cancellation, reprimands, or the imposition of administrative fines.

Criminal law focuses on protecting broader legal interests by imposing sanctions for actions deemed to violate public justice (Adinda et al., 2024). A key characteristic of criminal law is the element of fault, or *mens rea*, which forms the basis for the perpetrator's accountability. Criminal sanctions are ultimate because they involve state coercion in the form of imprisonment or heavy fines (Mallarangeng & Ali, 2023). In the realm of procurement (PBJ), criminal law is applied when administrative violations develop into acts that cause real and deliberate losses to state finances. This difference in orientation demonstrates that the two legal regimes have complementary positions and objectives, not mutually exclusive ones.

The interaction between administrative and criminal law often creates dilemmas when violations occur in the procurement (PBJ) process. Some cases show that law enforcement officials directly apply a criminal approach without first going through administrative resolution mechanisms. This approach has the potential to disregard the principle of *ultimum remedium* and confuse the boundaries of responsibility between procedural errors and criminal intent (Putra, Hamdani, Fauzia, & Kusumawarni, 2024). Misinterpretation of the nature of violations leads many public officials to hesitate to make decisions for fear of criminalization, ultimately reducing bureaucratic efficiency. This situation highlights the need to clarify the boundaries of authority in the application of both legal regimes.

Law enforcement synergy is an effort to unite various legal instruments and institutions to work in an integrated manner to achieve the same goal: upholding justice and legal certainty. In modern governance, synergy goes beyond formal coordination, but also involves shared perceptions, standards, and working mechanisms across institutions with differing authorities (Mpios, Faisal, & Yusuf, 2023). This integrative approach requires a clear division of roles, open communication, and an effective data exchange system to prevent overlapping legal actions. Good synergy will create an efficient, transparent, and equitable law enforcement ecosystem.

Law enforcement integration also encompasses a normative dimension that demands alignment between laws and regulations, implementing policies, and enforcement practices in the field. This alignment will prevent contradictions between preventive administrative law and repressive criminal law (Husnayain, 2025). Successful integration allows the legal system to operate in a gradual and proportionate manner, allowing administrative violations to be corrected without immediately resorting to criminal prosecution. This approach not only

increases the effectiveness of the law but also strengthens the moral and social legitimacy of law enforcement officials' actions.

## **METHOD**

The research method used in this study is normative legal research with a statutory and conceptual approach. The statutory approach is used to examine various regulations governing government procurement of goods and services and law enforcement related to corruption, such as Presidential Regulation Number 16 of 2018 in conjunction with Presidential Regulation Number 12 of 2021, Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, Law Number 30 of 2014 concerning Government Administration, and Law Number 1 of 2004 concerning State Treasury. The analysis was conducted to identify overlapping authorities between administrative and criminal legal regimes in law enforcement against PBJ corruption cases. Meanwhile, a conceptual approach is used to examine relevant legal theories, such as legal system theory, law enforcement theory, and the principles of harmonization between public legal regimes, including the principles of *ultimum remedium*, proportionality, and *ne bis in idem*. This approach aims to build a strong theoretical foundation for formulating an ideal model of synergy and harmonization of law enforcement. Primary and secondary legal materials are examined in depth through qualitative descriptive analysis to generate a comprehensive understanding of the relationship between administrative and criminal legal norms, and to offer applicable legal policy recommendations to create a more effective, integrated, and equitable PBJ law enforcement system.

## **RESULTS AND DISCUSSION**

### **Legal Framework for Administrative and Criminal Law Enforcement in Government Procurement of Goods and Services**

The Indonesian government procurement system has a comprehensive legal framework to ensure efficiency, transparency, and accountability in state administration. Presidential Regulation Number 16 of 2018 concerning Government Procurement of Goods/Services, along with amendments to Presidential Regulation Number 12 of 2021, serves as the main basis for PBJ regulations, with regulations for stages ranging from planning and supplier selection to objection and complaint mechanisms. This regulation establishes basic principles in Article 6, namely efficiency, effectiveness, transparency, openness, competition, fairness, and accountability. The procurement planning stages are regulated in Articles 18–23. The implementation of supplier selection is regulated in detail, including the bid evaluation method in Article 39 and the objection/objection mechanism in Article 77. For aspects of contract payment in procurement through suppliers, there are also provisions in Article 53, paragraph (4) that regulate the form of payment. This regulation is also supplemented by derivative regulations from the LKPP as technical guidelines, so that PBJ implementation is in accordance with the principles of good governance. With such a regulatory structure, it is hoped that opportunities for irregularities in the procurement process—from the planning stage to contract implementation—can be minimized.

The procurement regulatory framework also reflects the government's efforts to build an integrated procurement system based on the principles of digitalization and public transparency. Through e-procurement, the procurement process is made more open and easily monitored by the public and oversight bodies. The implementation of this system aims not only to increase bureaucratic efficiency but also to reduce the potential for intervention and abuse of authority by public officials. Although these regulations have been formulated comprehensively, the implementation of procurement often faces various structural and administrative obstacles that open up room for irregularities. This position indicates that the

existence of sound regulations does not fully guarantee integrity in the government procurement system.

Administrative law plays a fundamental role in maintaining orderly procurement implementation in accordance with the principles of clean governance and public service. Law Number 1 of 2004 concerning the State Treasury provides a foundation for state financial management, emphasizing the responsibility and accountability of every official using the budget. Meanwhile, Law Number 30 of 2014 concerning State Administration provides clarity regarding the actions of state administrative officials in exercising discretionary authority. Both regulations emphasize that any administrative irregularities must first be handled through internal guidance and oversight mechanisms before entering the realm of criminal law enforcement. This principle is intended to maintain a balance between oversight and protection for public officials working within the administrative policy sphere.

Internal oversight institutions play a strategic role in preventing administrative violations before they result in more serious legal consequences. The Government Internal Oversight Apparatus (APIP) plays a role in auditing, reviewing, and evaluating the implementation of procurement (PBJ) in various agencies. The LKPP serves as the institution that formulates policies and technical guidelines, while the Supreme Audit Agency (BPK) plays a role in conducting external audits to ensure that all procurement (PBJ) activities do not result in state financial losses. The involvement of these three institutions should complement each other in building a preventive and responsive oversight system. However, in many cases, BPK audit results often serve as the basis for criminal law enforcement officials to initiate investigations, without first considering the appropriate administrative resolution mechanisms.

The application of criminal law in the realm of PBJ becomes relevant when an act occurs that fulfills the elements of a criminal act of corruption as stipulated in Law Number 31 of 1999 in conjunction with Law Number 20 of 2001. This regulation emphasizes that any abuse of authority that results in state financial losses can be categorized as a criminal act of corruption. Article 3 of the Corruption Law, for example, explicitly states that officials who intentionally abuse the authority, opportunities, or facilities available to them due to their position can be punished. The formulation of this article often sparks debate because the line between administrative errors and criminal acts is not always clear, especially when the administrative decisions taken do not have malicious intent but have an impact on state financial losses. This difference in interpretation is often a source of tension between the administrative and criminal legal regimes.

The criminal law framework in procurement (PBJ) essentially functions as an instrument of *ultimum remedium*, used as a last resort when administrative mechanisms are no longer able to resolve the problem. However, in practice, criminal law is often used as the primary means of prosecuting public officials, even in procedural cases. This situation demonstrates a tendency to criminalize administrative errors that should be resolved through internal development mechanisms. This situation not only creates legal uncertainty for procurement officials but also creates a fear-mongering effect that can hamper innovation and decision-making in the public sector. The domino effect of this situation is a slow procurement process, which contradicts the goal of bureaucratic reform, which calls for swift and responsive governance.

The confusion between administrative violations and corruption becomes increasingly apparent when law enforcement agencies have differing interpretations of the boundaries of authority. Several cases show criminal investigators immediately taking over the handling of procurement violations without waiting for the results of administrative audits by the Public Procurement Apparatus (APIP). This disharmony reveals weak coordination between institutions and the absence of shared guidelines governing the proportional division of roles.

As a result, decisions that should be within the administrative domain can lead to criminal proceedings, while internal development and evaluation mechanisms are suboptimal. This situation emphasizes the urgency of establishing a synergistic system capable of clearly distinguishing between the types of violations, the stages of their resolution, and the roles of each institution.

Determining state losses is a crucial point in assessing whether an act in a procurement contract (PBJ) is classified as an administrative violation or a criminal offense. The Supreme Audit Agency (BPK) has the authority to calculate state losses, but its audit results are often considered preliminary evidence in the corruption investigation process. Problems arise when these audit results have not yet gone through the objection or clarification mechanism from the relevant parties, creating the potential for unfairness. This situation illustrates the need for synchronization between administrative audit results and criminal law follow-up to avoid overlap. Accurate determinations of state losses should consider the elements of intent, malicious intent, and violations of applicable laws and regulations.

Weak coordination between supervisory and law enforcement agencies is also caused by the lack of a standard mechanism for determining the stage of case escalation. The APIP, the BPK, the KPK, and the prosecutor's office often work in parallel without an effective communication system. Actions taken by one agency often overlap with those of another, blurring the lines between administrative and criminal authority. This lack of synchronization not only creates inefficiency but also increases the risk of violating the principles of good governance. Harmonization of regulations and institutional governance is an urgent need to ensure that law enforcement processes do not undermine each other's functions.

The tension between administrative and criminal law is fundamentally rooted in the differing fundamental philosophies of these two legal regimes. Administrative law is designed to maintain order and promote effective governance through development mechanisms. Conversely, criminal law aims to provide a deterrent effect against acts that violate the public interest. When these two systems operate without proper coordination, the effectiveness of law enforcement is compromised. Excessive use of criminal law risks eroding the spirit of bureaucratic reform and diminishing public officials' trust in the national legal system. Awareness of these differing orientations is a crucial foundation for developing a balanced and equitable strategy for harmonizing law enforcement.

Empirical evidence shows that the unclear boundaries between administrative and criminal law remain a major obstacle to the effective prevention and eradication of corruption in procurement. Many officials are reluctant to make decisions for fear of criminal prosecution, even though their actions are based on legitimate administrative considerations. This situation slows the development process and hinders the implementation of government programs that depend on the effectiveness of goods and services procurement. Such conditions suggest that the reformulation of policies and working mechanisms between institutions needs to be directed towards synergy that balances legal certainty, protection for public officials, and the effectiveness of corruption eradication.

### **Analysis of Synergy Strategy and Harmonization Model of Law Enforcement in PBJ Corruption Cases**

Law enforcement practices against corruption in government procurement of goods and services (PBJ) in Indonesia demonstrate a complex dynamic between the application of administrative and criminal law. Many PBJ cases begin with administrative errors, such as non-compliance with tender procedures, delays in contract implementation, or errors in product specifications, but then escalate into criminal corruption cases. This phenomenon demonstrates the still-blurred line between administrative violations and criminal acts,

creating the risk of criminalization for procurement officials acting on their own discretion. For example, in the case of the BAKTI 4G BTS tower construction project for the Ministry of Communication and Information, the abuse of administrative authority resulted in corruption charges because it was deemed to have caused state losses. This situation demonstrates the lack of a clear mechanism to distinguish between administrative errors and acts with malicious intent.

The disharmony between administrative and criminal law directly impacts the effectiveness of law enforcement and the sense of justice. When administrative violations are immediately prosecuted criminally, internal oversight systems such as the Government Internal Oversight Apparatus (APIP) are marginalized, even though this institution's role should be the first line of defense in detecting and correcting administrative errors. Many officials are reluctant to make decisions for fear of criminalization, leading to bureaucratic stagnation and slow public budget realization. A further impact is a decline in business confidence in the government procurement system, due to the lack of certainty about how administrative violations will be handled. This situation highlights the urgent need to build synergy between administrative and criminal law enforcement to ensure the procurement system remains transparent but not overly restrictive.

A synergistic approach requires a clear division of authority between law enforcement agencies and internal oversight bodies. The Corruption Eradication Commission (KPK), the Supreme Audit Agency (BPK), the Public Prosecutor's Office (LKPP), and the Public Prosecutor's Apparatus (APIP) have distinct but complementary roles. The APIP functions as an internal supervisory body focused on compliance audits and administrative corrections, while the BPK has a constitutional mandate to assess and calculate state financial losses. The LKPP serves as the institution overseeing procurement policies, ensuring efficient and transparent technical procurement regulations. The KPK, on the other hand, plays a role in repressive law enforcement when strong indications of corruption with elements of intent and actual state losses are found. Synergy between these four institutions is key to avoiding overlapping and ensuring proportionality at every stage of law enforcement.

The synergy strategy between institutions must be based on the principle of *ultimum remedium*, which states that criminal law is used as a last resort when administrative and corrective mechanisms are unable to resolve violations. This principle is crucial to prevent criminal law from being misused to intimidate public officials acting without malice. Furthermore, the principle of proportionality must be upheld to ensure that sanctions are commensurate with the severity of the offense and its impact on state finances. If the violation is merely technical or due to negligence, administrative mechanisms, rather than criminal, are sufficient. The principle of *ne bis in idem* is also relevant to prevent individuals from being subjected to double sanctions for the same act under different legal regimes. Synergy based on these principles creates a fair and rational system for handling procurement (PBJ) violations.

Implementing the synergy strategy also requires a systematic and data-driven inter-institutional coordination mechanism. Each institution must have access to audit results, investigative findings, and supervisory reports from other institutions to ensure that decisions are aligned and avoid overlapping. For example, before the Corruption Eradication Commission (KPK) begins an investigation into a procurement (PBJ) case, it is advisable to clarify the audit results of the Public Accountant Agency (APIP) or the audit report of the Supreme Audit Agency (BPK) to ensure that the violations are indeed criminal. This integrated system will prevent duplication of legal processes and ensure that every enforcement action is based on objective evidence. Such information-based collaboration will strengthen coordination and increase public trust in law enforcement agencies.

The success of a synergy strategy also depends on a shared understanding between institutions regarding the boundaries between administrative violations and criminal acts. Integrated training and technical guidelines developed jointly between institutions can be a means of building a unified understanding. For example, KPK investigators and BPK auditors need to have a common understanding of indicators of state losses, while APIP officials must understand the standards of proof used in criminal law. This unified understanding will minimize differences in interpretation and ensure that each procurement of goods and services (PBJ) case is handled proportionally. This synergy will occur not only at the institutional level but also at the level of understanding of the legal substance among law enforcement officials.

The ideal legal harmonization model places administrative law as the primary mechanism for handling procurement of goods and services (PBJ) violations. This stage serves as a corrective and development system so that administrative errors can be corrected without immediately resorting to criminal prosecution. Criminal law is applied only when the violation contains elements of malicious intent or results in actual state losses. This tiered approach will foster a balance between effective law enforcement and protection for public officials acting within their authority. This scheme also reinforces the principle of substantive justice by distinguishing between technical errors and deliberate crimes.

Implementing an integrative legal harmonization model requires clear regulatory support and a binding coordination mechanism. Revisions to several laws and regulations, such as the Corruption Eradication Law, the State Administration Law, and the Presidential Regulation on Public Procurement (PBJ), are needed to clarify jurisdictional boundaries between legal regimes. This regulatory harmonization should ensure that all administrative violations are resolved first through the APIP (Authorized Personnel Supervisory Agency) and the LKPP (Government Procurement Agency) mechanisms before becoming criminal. Strengthening the legal basis in this way will prevent abuse of authority and increase consistency in the application of sanctions. Synchronized regulations also provide legal certainty for all parties involved in the PBJ process.

Institutional support is also a crucial element in an integrative legal harmonization model. An integrated coordination system is needed that brings together the Corruption Eradication Commission (KPK), the Supreme Audit Agency (BPK), the LKPP, and the APIP in a PBJ law enforcement coordination forum. This forum serves to discuss and determine the initial classification of each violation, whether administrative or criminal. This mechanism can be complemented by an integrated information system that records the entire audit process, investigation, and case resolution. Such institutional synergy will ensure transparency in the legal process while accelerating accurate and proportional decision-making. A legal harmonization model designed with the principle of administrative and criminal synergy is expected to create a balance between effective law enforcement and protection for public officials. A multi-layered and tiered system will strengthen procedural fairness while encouraging a higher culture of compliance in the management of procurement (PBJ). Coordinated law enforcement between institutions will also reduce overlapping authority and clarify the accountability of each institution. Clarity of roles and jurisdictional boundaries between administrative and criminal law forms the foundation for law enforcement that is fair, rational, and oriented toward the public interest.

## **CONCLUSION**

The dualism between administrative and criminal law regimes in government procurement of goods and services has given rise to a number of serious problems in law enforcement practices. The unclear boundaries of authority between administrative violations and criminal offenses have led to overlapping legal processes, even leading to the



criminalization of procedural errors that should be resolved administratively. This situation weakens the effectiveness of the oversight system and obscures the primary objective of procurement (PBJ) as an instrument of efficient, transparent, and accountable governance. This disharmony also creates legal uncertainty for procurement actors, hinders bureaucratic efficiency, and undermines public trust in the integrity of the legal system. Synergy and harmonization between law enforcement agencies such as the Corruption Eradication Commission (KPK), the Public Procurement Agency (APIP), the Supreme Audit Agency (BPK), and the Public Procurement Agency (LKPP) are fundamental elements in building a proportional law enforcement model, where administrative mechanisms must be positioned as an initial filter before a violation is pursued criminally.

Efforts to improve the procurement (PBJ) system need to be directed at regulatory reform and increased coordination between agencies. The boundaries of authority between administrative and criminal law must be clarified through revised legislation to prevent duplication in case handling. The application of the *ultimum remedium* principle must be used as a guideline to ensure that criminal law is used only as a last resort against violations that cause real estate losses and contain elements of malicious intent (*mens rea*). Strengthening the government's internal oversight capacity through the Public Procurement Agency (APIP) and increasing public transparency based on information technology must be accelerated to prevent corrupt practices from the planning and implementation stages of procurement (PBJ). Collaboration between institutions and the implementation of an integrated digital oversight system will create law enforcement that balances justice, certainty, and legal benefits for the implementation of clean and integrated governance.

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