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Synergy of Administrative and Criminal Law Enforcement as an Effort to Prevent and Eradicate Corruption in Procurement of Goods and Services in Government Environment

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ABSTRACT

Corruption in government procurement of goods and services remains a critical issue in Indonesia, undermining national development and public trust. This research examines the synergy between *administrative* and criminal law enforcement as a strategy to prevent and eradicate corruption in this sector. The study highlights the vulnerabilities in procurement processes, such as regulatory gaps, weak oversight, and the misuse of discretionary authority, which often lead to corrupt practices like bid rigging and fictitious procurement. The objective is to analyze the effectiveness of integrating *administrative* and criminal law mechanisms to create a more transparent and accountable procurement system. Using a normative juridical method, the research reviews legal frameworks, including Law No. 31 of 1999, Law No. 20 of 2001, and Presidential Regulation No. 16 of 2018, alongside secondary legal materials. The findings reveal that while Indonesia has a comprehensive legal foundation, inconsistencies in enforcement and overlapping institutional authorities hinder effectiveness. The study emphasizes the need for clear distinctions between *administrative* violations and criminal acts, as well as improved coordination among supervisory bodies like *APIP*, *LKPP*, and the *KPK*. The research concludes that a synergistic approach, combining *administrative* oversight as a preventive measure and criminal law as a last resort, is essential. Recommendations include harmonizing regulations, establishing joint *SOPs*, and enhancing training for procurement officials. These measures aim to reduce legal uncertainty and foster a corruption-free procurement environment.

INTRODUCTION

Until now, corruption has been a serious problem that has hindered the realization of clean and accountable governance (Amiruddin, 2010). Every facet of government, including bureaucracy, the service industry, and even the government's procurement of products and services, has been corrupt. Currently, the procurement of goods and services sector is one of the sectors most vulnerable to corruption. This is because the budget managed has a high value, many technical stages involving various parties, and there are loopholes in regulations and weaknesses in supervision (Sutedi, 2012). Manipulative practices such as price mark-ups, tender winner arrangements, fictitious procurement, and gratification to decision-making officials have become a mode that is often encountered.

This phenomenon not only tarnishes the integrity of the government but also damages public trust in state institutions and creates inequality in public services (Amiruddin, 2012).

The impact of rampant corruption, especially in the procurement of goods and services, is very detrimental to state finances on a large scale. The losses are not only financial but also have a systemic impact on the efficiency and effectiveness of development. Infrastructure projects that are carried out with low quality delays in implementation, and wasteful budgets are concrete examples of the consequences of corruption in procurement (Wibowo, 2015). Additionally, the public's perception of the goods and services procurement sector as a "wet ground" for corruption is further strengthened by the many cases involving government officials, from regional heads to technical officials such as Commitment Making Officers (PPK). (Tiranda, 2019) This reality creates a negative stigma that is difficult to eliminate and demands fundamental reforms and more structured, systematic, and comprehensive preventive measures in the governance of government goods and services procurement.

The government goods and services procurement sector are known as one of the most vulnerable points to corruption practices because it has complex characteristics and involves many stages and actors (Haryati, 2011). The procurement process involves everything from planning needs, preparing budgets, preparing technical specifications, selecting providers, to monitoring and handing over work results. In each of these stages, there is considerable discretion for decision-makers, especially for the Commitment Making Officer (PPK), auction committee, and activity supervisors (Handayani, 2013). This gap is often exploited to manipulate data, arrange tender winners, and prepare documents deliberately made to benefit certain parties. In addition, overlapping regulations and weak internal and external supervision increase the risk of legal irregularities in the implementation of procurement (Ramadhan, 2024). Lack of understanding of applicable regulations by implementing officials also often becomes a loophole for irregularities, both intentional and due to negligence.

The reality in the field shows that many corruption cases uncovered by law enforcement officers are rooted in irregularities in the procurement process of goods and services. Cases such as procurement of medical devices that do not meet specifications, fictitious procurement, use of budgets unfollowing their designation, and bribery between goods providers and government officials are often found by the Corruption Eradication Commission (KPK), the Prosecutor's Office, and the Police. Modes such as "conditioning" tender winners, splitting procurement packages so that they do not go through an open auction process, and collusion between internal parties and service providers are real examples of corrupt practices that are difficult to eradicate if there is no strict supervision system (Yuda Pranata, 2024).

Administrative law enforcement in the context of governance is an initial effort to prevent violations of the law through mechanisms of supervision, control, and guidance for implementers of public policies. In the procurement of goods and services, administrative law enforcement acts as the first layer of control which aims to ensure that each stage is carried out following the principles of transparency, accountability, and efficiency as stipulated in laws and regulations (Eny, 2011). Administrative supervision is conducted internally by the Government Internal Supervisory Apparatus (APIP) and externally by institutions such as the Audit Board of Indonesia (BPK) and the Ombudsman. In this case, the administrative approach can provide non-criminal sanctions such as reprimands, dismissal, or disciplinary sanctions to officials who are proven to be negligent or abusing their authority, so that the potential for greater violations can be prevented early without having to wait for greater state losses.

Meanwhile, criminal law functions as an *ultimum remedium* or last resort in dealing with corruption. This approach is used when administrative violations have exceeded the limits of tolerance and have caused significant impacts in the form of state financial losses or systemic damage to the government system (Kadri Husin & Budi Rizki Husin, 2022). By applying severe criminal penalties to corrupt individuals, as outlined in Law Number 31 of 1999 and Law Number 20 of 2001 concerning the Eradication of Corruption, criminal law enforcement seeks to have a deterrent effect. Therefore, it is important to have an assertive synergy between administrative law enforcement and criminal law. Without strengthening the administrative side, criminal action tends to only be a momentary response to certain cases, not a long-term solution (Harkrisnowo, 2003/2004). On the other hand, if administrative enforcement is not supported by strict criminal enforcement, then the potential for violations will continue to recur due to the absence of severe legal consequences. The synergy of both is the key to effectiveness in preventing and eradicating corruption comprehensively, sustainably, and with systemic impact.

The ineffectiveness of internal and external oversight is one of the primary issues with preventing corruption in government procurement of products and services. The Internal Supervisory Apparatus (APIP) of the Government is responsible for conducting internal supervision. It is often ineffective due to limited human resources, high workload, and ongoing intervention from superiors or political interests. Meanwhile, external supervision such as that carried out by the Audit Board of Indonesia (BPK) and other institutions is often retrospective, that is, carried out after the activity is completed, so it is less able to prevent corruption from occurring early on. As a result, many deviations escape early detection and are only revealed after state losses occur. The lack of coordination between supervisory institutions also worsens the situation, because gaps in the procurement process are not identified comprehensively and sustainably.

In addition to weak supervision, another problem that also triggers corruption is the lack of understanding of implementing officials, especially the Commitment Making Officer (PPK), regarding the regulations governing the procurement process. PPK has a strategic role in all stages of procurement, from planning and selecting providers to implementation and payment. Many cases of irregularities occur not only because of malicious intent but also due to negligence or ignorance of the PPK regarding applicable legal provisions. It shows that there is still a gap in comprehensive guidance and training for procurement officials, especially those related to technical and procedural understanding, and the basic principles of good governance in procurement. The lack of legal and technical assistance during the procurement process further increases the potential for administrative violations that lead to criminal violations.

Equally important, the integrity and competence of procurement officials is a crucial challenge that hinders the effectiveness of corruption prevention. Officials who do not have high moral standards or have loyalty to personal and group interests tend to be easily tempted to abuse their authority. In many cases, collusion between officials and service providers occurs because of transaction commitments from the beginning of the procurement process, involving bribes, gratuities, or sharing of project profits. On the other hand, low technical competence makes it difficult for procurement officials to assess technical specifications, draw up fair contracts, and conduct objective evaluations of bids. The combination of low integrity and competence creates a fertile environment for corrupt practices, as well as being a major challenge in efforts to reform government procurement of goods and services.

The urgency of synergy between administrative law enforcement and criminal law in efforts to prevent and eradicate corruption in government procurement of goods and

services lies in the need to create a system that is not only reactive but proactive and sustainable. So far, criminal action has often been taken after a large state loss has occurred, while prevention through administrative mechanisms has not been utilized optimally. Effective administrative supervision can be the first line of defense to detect and stop potential deviations before they develop into criminal acts. On the other hand, criminal law is still required a deterrent effect for perpetrators and emphasizes that corruption is a serious crime that cannot be tolerated. By synergizing the two approaches, the government is not only able to close the gap for abuse of authority from the start but also ensure that violations that occur are dealt with firmly and fairly. This synergy allows coordination between law enforcement agencies to be more efficient, encourages policy harmonization, and forms a procurement system that is more transparent, accountable, and oriented towards clean and corruption-free public services.

Corruption in government procurement of goods and services is a pervasive issue in Indonesia, with significant implications for state finances and public trust. Previous studies, such as those by Amiruddin (2010) and Sutedi (2012), have highlighted the vulnerabilities in procurement processes, including regulatory loopholes, weak oversight, and the misuse of discretionary authority. Research by Wibowo (2015) further underscores the systemic impact of corruption, such as inefficient budget absorption and low-quality infrastructure projects. Internationally, the United Nations Convention against Corruption (UNCAC) emphasizes preventive measures, yet Indonesia's implementation remains inconsistent. These studies collectively identify corruption in procurement as a critical problem but often focus narrowly on legal or institutional aspects without exploring the synergy between administrative and criminal law enforcement.

Despite existing research, a significant gap remains in understanding how administrative and criminal law can work synergistically to address corruption in procurement. Studies like Harkrisnowo (2003/2004) and Kadri Husin & Budi Rizki Husin, (2022) discuss the roles of these legal frameworks separately but fail to integrate them into a cohesive strategy. For instance, administrative law is often viewed as a preventive tool, while criminal law is seen as punitive, yet their interplay is rarely examined. Additionally, recent works by Ramadhan (2024) and Yuda Pranata (2024) highlight the challenges of overlapping authority and legal uncertainty but do not propose concrete solutions for harmonizing enforcement mechanisms. This gap underscores the need for research that bridges administrative and criminal law to create a more effective anti-corruption framework.

The novelty of this research lies in its holistic approach to analyzing the synergy between administrative and criminal law in combating procurement-related corruption. Unlike previous studies, which often isolate these legal domains, this study integrates them through a normative juridical analysis, examining laws such as Law No. 31 of 1999 and Presidential Regulation No. 16 of 2018. It also introduces the concept of *ultimum remedium* (last resort) in criminal law, arguing that administrative mechanisms should be prioritized to resolve procedural violations before escalating to criminal prosecution. By focusing on coordination among institutions like APIP, LKPP, and the KPK, this research offers a systemic perspective that is largely absent in the literature (Susanto, 2016).

The purpose of this study is to evaluate the effectiveness of synergistic law enforcement in preventing and eradicating corruption in government procurement. Specifically, it aims to: (1) analyze the legal frameworks governing administrative and criminal law in procurement, (2) identify gaps and inconsistencies in their implementation, and (3) propose strategies for harmonizing enforcement mechanisms. The research employs a normative juridical method, combining statutory and conceptual approaches to

examine primary and secondary legal materials. By addressing these objectives, the study seeks to provide actionable insights for policymakers and practitioners.

This research contributes to both academic and practical realms by offering a comprehensive model for integrating administrative and criminal law in anti-corruption efforts. Academically, it enriches literature on legal synergy and its role in governance reform. Practically, it provides recommendations for regulatory harmonization, joint standard operating procedures (SOPs), and institutional coordination, which can enhance transparency and accountability in procurement. Ultimately, the study aims to foster a procurement system that minimizes corruption risks while ensuring efficient public service delivery.

METHOD RESEARCH

This research adopts a *normative legal approach*, focusing on the analysis of laws and legal norms through literature studies. The study employs both a *legislative approach*, which involves reviewing key regulations such as *Law Number 31 of 1999* in conjunction with *Law Number 20 of 2001* on the Eradication of Criminal Acts of Corruption, *Law Number 17 of 2003* concerning State Finances, and various presidential and institutional regulations related to government procurement. Additionally, a *conceptual approach* is used to understand relevant legal doctrines, expert opinions, and theories, emphasizing the importance of synergy between *administrative* and *criminal law enforcement* in preventing corruption.

Data for this research are sourced from primary legal materials (laws and regulations), secondary legal materials (legal literature, journals, prior research, and expert opinions), and tertiary legal materials (legal dictionaries and encyclopedias). Data collection is carried out through document analysis, involving the identification, review, and examination of relevant legal sources. The findings are then analyzed qualitatively to interpret and describe the data according to applicable legal norms and theories, with the aim of formulating a comprehensive understanding of the need for synergy in law enforcement to prevent and eradicate corruption in government procurement.

RESULTS AND DISCUSSION

Legal Regulations Governing the Prevention and Eradication of Criminal Acts of Corruption in Government Procurement of Goods and Services in Indonesia

Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, as revised by Law Number 20 of 2001, is the fundamental legislative framework that establishes regulations for the prevention and eradication of criminal acts of corruption in Indonesia (Lilik, 2020). It is a significant turning point in the state's attempts to combat corruption in a methodical and oppressive manner. The law broadens the definition of corruption to include acts of enriching others that cause financial or economic damages to the state, as well as abuse of office and gratification, in addition to unjustly profiting oneself. Article 2 paragraph (1) states that "Any person who unlawfully commits an act of enriching himself or another person or a corporation that can harm state finances or the state economy, shall be punished with imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and a fine of at least IDR 200,000,000.00 and a maximum of IDR 1,000,000,000.00." Meanwhile, Article 3 adds an aspect of abuse of authority, which states that "Any person who, to benefit

himself or another person or a corporation, abuses the authority, opportunity, or means available to him because of his position or position that can harm state finances or the state economy..." with similar criminal threats (Rihantoro, 2019).

In the framework of eradicating corruption, there are also basic principles that are the main foundations in formulating policies and regulations, namely transparency, accountability, and public participation. The principle of transparency requires that the process of making decisions and carrying out laws, notably when buying products and services, be carried out openly and can be monitored by the public. Accountability refers to the obligation for every public official to be responsible for his actions, both administratively and legally, especially if there are deviations that are detrimental to the state. Meanwhile, the principle of participation provides space for the public, media, and non-governmental organizations to participate in supervising and input in organizing the state (Musahib, 2015). These principles are in line with the United Nations Convention against Corruption (UNCAC) which has been ratified by Indonesia through Law Number 7 of 2006, which emphasizes the need for preventive measures in governance to minimize the opportunity for corruption (Ade, 2020).

Furthermore, in the context of government procurement of goods and services, the application of the articles in the Corruption Law is relevant, especially to the practice of deviations carried out by officials who have authority in the procurement process. For example, a Commitment Making Officer (PPK) who abuses his position to win certain partners, or cuts project funds for personal gain, can be charged with Article 3 of the Corruption Law because it meets the element of "abusing the authority that can harm state finances". In addition, if there is evidence that the action was carried out together or in a structured network, Article 55 of the Criminal Code (KUHP) concerning involvement in criminal acts can be applied (Syamsuddin, 2020).

One of the primary regulations that specifically regulates the procedures and procedures for government procurement of goods/services is Presidential Regulation Number 16 of 2018 concerning Government Procurement of Goods/Services, which has undergone several changes, including Presidential Regulation Number 12 of 2021. This Presidential Regulation serves as a general, national guideline for ministries, institutes, and regional governments when it comes to the acquisition of goods and services. In Presidential Regulation 16/2018, Article 1 Number 1, it is stated that "Government Procurement of Goods/Services is an activity to obtain Goods/Services by Ministries/Institutions/Regional Apparatuses whose process starts from planning needs until all activities to obtain Goods/Services are completed." This Presidential Regulation emphasizes the basic procurement concepts including effectiveness, efficiency, openness, transparency, competition, and fairness/nondiscrimination, and accountability as stated in Article 6. Changes through Presidential Regulation 12/2021 reinforce the aspects of inclusive, electronic-based procurement, and open up wider space for Micro, Small, and Cooperative Enterprises (UMKK) to participate in the government procurement process (Kurniawan, 2018).

The Government Goods/Services Procurement Policy Agency (LKPP) produces a number of rules and guidelines that govern the technical aspects of procurement as a technical implementing regulation of the Presidential Regulation. These include LKPP Regulation

Number 9 of 2018 regarding Guidelines for Government Goods/Services Procurement Planning and LKPP Regulation Number 12 of 2021 concerning Guidelines for the Implementation of Government Goods/Services Procurement via Providers. These regulations explain in detail the stages of procurement starting from general planning, preparation of selection documents, evaluation of bids, and determination of winners, to contract implementation. LKPP also sets procurement document standards, provider qualification requirements, and technical criteria in appointing suppliers of products and services. To improve accountability, efficiency, and openness in procurement, LKPP also created the General Procurement Plan Information System (SIRUP) and the Electronic Procurement System (SPSE). The purpose of this approach is to reduce the number of in-person meetings between procurement officials and suppliers, which have so far been a loophole for corruption.

The Presidential Regulation and technical regulations from LKPP also regulate various procurement methods according to conditions and needs, such as public auctions, limited auctions, direct appointments, and direct procurement. Article 38 paragraph (5) of Presidential Regulation 16/2018 states that the method of selecting providers is carried out through: a) tender/selection; b) fast tender; c) e-purchasing; d) direct procurement; or e) direct appointment. Direct procurement and direct appointment are in the spotlight because they are often used as loopholes for deviation if not carried out based on legitimate criteria. For example, direct appointment is only permitted under certain conditions as stipulated in Article 50, such as for emergencies, special goods, or when there is only one provider capable of meeting the needs. On the other hand, for procurement in an emergency, these provisions are regulated in more detail in Regulation Number 13 of 2018 of the LKPP pertaining to the Procurement of Goods and Services for Emergency Management which includes post-disaster procurement, national emergencies, or other situations that require a rapid response.

One of the main instruments for preventing Implementing an electronic procurement system, also known as an e-procurement system, is one way to combat corruption in government procurement of goods and services. This practice is governed by Presidential Regulation Number 16 of 2018 concerning Government Procurement of Goods/Services and reinforced by Presidential Regulation Number 12 of 2021. E-procurement is operated through the Electronic Procurement System (SPSE) developed and managed by the Government Procurement Policy Agency (LKPP). Article 69 paragraph (1) of Presidential Regulation 16/2018 emphasizes that "Electronic Procurement of Goods/Services is carried out through the Electronic Procurement System (SPSE)." SPSE aims to create transparency, efficiency, and accountability by minimizing physical interaction between providers and procurement officials. With this system, the entire process from auction announcements, and submission of tender documents, to evaluation and determination of winners is carried out online, thereby reducing the potential for intervention and collusion. SPSE is integrated with e-Catalog to support direct and fast purchasing mechanisms through a list of providers and goods/services that have been verified.

As a complement, procurement reporting systems, such as the General Procurement Plan Information System (SIRUP) and Electronic Procurement Services (LPSE) are influential elements in public control of procurement. SIRUP must be used by every

ministry/institution/region to publish its procurement plan as a form of transparency, as stipulated in LKPP Guidelines for Government Procurement of Goods/Services Planning, Regulation Number 11 of 2018. In the meantime, each agency's technical and operational implementation of SPSE is supported by the LPSE work unit. However, as the first line of defense to make sure that procurement follows the rules, the Government's Internal Supervisory Apparatus (APIP) plays a crucial role. Government Regulation Number 60 of 2008 pertaining to the Government Internal Control System (SPIP) governs the strengthening of the APIP's role in this instance. Article 11 paragraph (1) states that "APIP is responsible for carrying out internal supervision of the implementation of the duties and functions of government agencies." APIP plays a role in preventing, detecting, and prosecuting administrative violations before they lead to criminal violations.

Furthermore, the active participation of numerous law enforcement agencies and other oversight organizations, including the Prosecutor's Office, the LKPP, and the Corruption Eradication Commission (KPK), is essential to the effectiveness of the corruption prevention system. The KPK, in accordance with Law Number 19 of 2019 pertaining to the KPK Law's Second Amendment, not only acts repressively but also has a mandate in prevention and coordination of supervision. Through the Korsupgah (Coordination and Supervision of Prevention) unit, the KPK actively oversees the strategic procurement process in various regions. Meanwhile, the Prosecutor's Office through the State Attorney also has a Law Number 16 of 2004 regulating the Prosecutor's Office of the Republic of Indonesia in conjunction with Law No. 11 of 2021 states that the office has a preventive role in offering legal help to government agencies in carrying out procurement projects. The LKPP as a technical institution is responsible for drafting regulations, developing systems, and providing training and competency certification for procurement actors, as mandated in Presidential Regulation Number 106 of 2007 concerning the LKPP.

Presidential Directive No. 7 of 2015 on Preventing and Eliminating Corruption is the initial milestone for cross-sector coordination in systematic efforts to combat corruption, including in the government procurement of goods/services sector. This instruction is addressed to the Ministers of the Working Cabinet, the Attorney General, the Chief of Police, the Head of BPKP, the Governors, Regents, and Mayors, to implement the Action to Prevent and Eradicate Corruption in 2015–2016. One of the important points of this Presidential Instruction is the effort to improve the electronic procurement system, improve the quality of the Government Internal Supervisory Apparatus (APIP), and optimize the role of LKPP. In the Third Dictum letter c, it is expressly stated that every agency is required to “increase transparency and accountability in government procurement of goods/services and accelerate the implementation of the electronic procurement system (e-procurement).” This instruction emphasizes a preventive approach through system improvement so that corruption can be prevented early on through a transparent and integrated mechanism.

As a follow-up and strengthening of the Presidential Instruction, the government has formed Presidential Regulation Number 54 of 2018 about the National Corruption Prevention Strategy established the National Corruption Prevention Strategy (Stranas PK). The direction of comprehensive and inter-institutional corruption prevention policies is contained in Stranas PK. The KPK, the Ministry of National Development Planning/Bappenas, the Ministry of

PAN-RB, and the Presidential Staff Office are all involved in the National Corruption Prevention Team (Timnas PK), which is responsible for putting this policy into action. The three primary areas of attention for Stranas PK are 1) State Finance, 2) Licensing and Trade, and 3) Law Enforcement and Bureaucratic Reform. The emphasis on open and responsible state financial management is highly noticeable when it comes to the acquisition of products and services, including reinforcing procurement reporting mechanisms, integrating e-procurement, and improving the integrity of procurement actors. Article 3 paragraph (1) of Presidential Regulation 54/2018 states that "Stranas PK intends to create a national, systematic, and coordinated corruption prevention system." It indicates that procurement of goods/services is not only a technical administrative issue but an essential part of the national corruption eradication agenda.

Furthermore, cross-sectoral policies have been developed to support clean and professional procurement of goods/services. For example, the KPK collaborates with LKPP, the Attorney General's Office, and BPKP to supervise and assist strategic projects, both at the central and regional levels. Programs such as the KPK's Monitoring Center for Prevention (MCP) require local governments to carry out eight interventions, one of which is related to the procurement system. The KPK encourages risk-based procurement, as well as strengthening reporting systems that allow the public to access procurement information. In addition, the BPKP carries out the procurement audit function, as part of internal supervision. Policies such as the Goods/Services Procurement Competency Certification through the LKPP also encourage the professionalism and integrity of procurement officials.

Although Indonesia already has a fairly comprehensive legal framework for preventing and eradicating corruption—both through Law Number 31 of 1999 in connection with Law Number 20 of 2001, Presidential Regulation Number 16 of 2018 in conjunction with Presidential Regulation Number 12 of 2021, and Presidential Regulation Number 54 of 2018 respecting the National Strategy for PK—in practice, there are still gaps and imbalances in norms that can be exploited by perpetrators to commit irregularities. One example is Article 3 of the Corruption Law, which reads: "Any person who, to benefit himself or another person or a corporation, abuses the authority, opportunity or means available to him because of his position or position that can harm state finances or the state economy..." This article is very broad and opens up room for multiple interpretations, especially regarding the element of "abuse of authority" which is not explicitly explained in concrete forms. As a result, in the procurement of goods/services, many officials such as Commitment Making Officers (PPK) or procurement committees feel trapped in a dilemma - on the one hand, they have to make quick operational decisions. But on the other hand, they are at risk of being accused of abusing their authority if an administrative error occurs that results in state losses.

On the other hand, there is also a gap in the technical implementation instruments originating from Presidential Regulation Number 16 of 2018 and its derivative regulations from LKPP. Although Article 38 and Article 39 of Presidential Regulation 16/2018 have regulated provider selection methods such as tenders, direct appointment, direct procurement, and e-purchasing, there is still a gray area in determining the selection method that is not explained rigidly. For example, in emergency conditions or immediate needs, a direct appointment can be used, but there is no quantitative indicator that objectively assesses

whether a situation is worthy of being categorized as "emergency" or "urgent". This opens up opportunities for administrative abuse of authority which can then be qualified as a criminal act. In addition, Presidential Instruction No. 7 of 2015 is only an administrative order without direct legal coercive power (non-justiciable), so even though it contains strategic actions, many agencies do not implement them optimally. Likewise, Stranas PK in Presidential Regulation No. 54 of 2018, is only coordinative and is not accompanied by a sanction mechanism for non-compliance by ministries/agencies. The vacuum makes synergy between institutions less than optimal and prone to misuse by individuals under the pretext of regulatory confusion or institutional autonomy.

Dilemmas Faced in the Implementation of Administrative Law Enforcement and Criminal Law in Government Procurement of Goods and Services

In government procurement of goods and services, administrative law enforcement and criminal law should run proportionally and complement each other. Administrative law functions as a preventive internal supervision system, while criminal law is present as a form of repressive control when violations are serious and detrimental to state finances. However, in practice, there are real dilemmas faced by procurement actors and supervisory and law enforcement officers. The unclear boundaries between administrative violations and criminal acts, overlapping authority, and inconsistent interpretations between agencies often cause confusion and excessive fear in decision-making. These dilemmas not only create legal uncertainty, but also have a negative impact on the effectiveness of state spending, efficient governance, and the success of national development.

One of the fundamental problems in efforts to eradicate The government's internal supervisory apparatus (APIP) and law enforcement agencies including the Prosecutor's Office, Police, and Corruption Eradication Commission (KPK) share jurisdiction when it comes to corruption in the procurement of goods and services. As outlined in Government Regulation Number 60 of 2008 governing the Government Internal Control System, the administrative monitoring method through APIP is ideal., functions as the first layer in detecting and following up on alleged violations in the procurement process. However, in practice, this mechanism is often ignored or not optimized. Criminal law enforcement often enters directly without first providing space for administrative correction mechanisms, even though not all deviations in procurement are criminal acts. It creates an imbalance in law enforcement and creates fear among state officials. Administrative violations that are not accompanied by elements of mens rea (malicious intent) and real losses to state finances should be handled first administratively before developing into the criminal realm.

The unclear boundaries between administrative violations and criminal acts of corruption also cause inconsistencies in the law enforcement process. Many cases occur where procurement officials such as Commitment Making Officers (PPK) are charged with Article 2 or Article 3 of Law Number 31 of 1999 in conjunction with Law No. 20 of 2001 concerning the Eradication of Corruption, only because of errors in administrative procedures or non-compliance with technical specifications, even though there was no malicious intent or personal gain. For example, in several cases of infrastructure procurement in the regions, projects that had gone through internal audits and were even declared reasonable by APIP were still dragged into criminal proceedings by law enforcement because they were

considered to have caused potential state losses. This shows the absence of a standard mechanism to distinguish between administrative violations and those that have entered the realm of corruption. As a result, trust in the supervision system has decreased, and public officials have become reluctant to make decisions because they are worried about being criminalized even though they have done the procedures as well as possible.

Legal uncertainty caused by overlapping regulations and the lack of clarity between the realms of administrative and criminal violations has given rise to a culture of "just playing it safe" among procurement officials, especially Commitment Officers (PPK). In many cases, officials prefer not to make decisions or postpone project implementation because they are afraid of being considered to have abused their authority, even though the decisions that must be taken are part of legitimate administrative duties and responsibilities. Fear of being prosecuted, especially with the application of articles such as Article 3 of the Corruption Law which is open to multiple interpretations, makes officials feel legally unprotected even when there is no malicious intent or personal gain. This moral and technical dilemma ultimately has a direct impact on bureaucratic performance and development effectiveness, where many strategic programs are hampered or stagnant simply because officials are afraid to take risks that may end up in legal proceedings. This is certainly contrary to the spirit of bureaucratic reform which encourages fast, accurate, and accountable decision-making for optimal public service.

One of the fundamental problems in the implementation of law enforcement on government procurement of goods and services is the absence of objective and uniform assessment standards regarding legal elements such as "abuse of authority", "unlawful acts", and "state financial losses". Although these provisions are regulated in Article 2 and Article 3 of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001, the interpretation of This term is very subjective and often depends on the perception of law enforcement officers or auditors. Abuse of authority, for example, is often constructed only based on procedural deviations or technical errors, without considering the context, good faith, or situation encounter by officials when making decisions. It triggers injustice for procurement officials who carry out their duties administratively, but are then subject to criminal articles only because there is potential for state losses or there is an administrative audit finding.

Furthermore, the absence of clear distinguishing parameters between maladministration and criminal acts of corruption increases the room for multiple interpretations, especially from internal and external auditors. In many cases, administrative findings that should be corrected through procedural guidance and improvement mechanisms become the basis for criminal reports to law enforcement officers. Auditors, both from BPKP and APIP, often provide opinions that are multi-interpretable and open up room for interpretations that are burdensome for procurement officials. In fact, in the context of administrative law, maladministration is a violation of the general principles of good governance (AUPB) and should be resolved through administrative channels. Without standard and objective guidelines, these differences in interpretation can create legal uncertainty and disclose opportunities for criminalization of administrative decisions taken with good intentions but conducted in limited and fast conditions, such as in emergency procurement or national strategic projects.

The Government Goods/Services Procurement Policy Institute (LKPP), the Financial and Development Supervisory Agency (BPKP), the Government Internal Supervisory Apparatus (APIP), and law enforcement agencies like the Prosecutor's Office and the Police are among the organizations that handle government procurement of goods and services inconsistently, which increases legal uncertainty and reduces the efficacy of the supervision system often have different interpretations of a procurement case. LKPP as a technical procurement policy institution emphasizes more on procedural guidance and understanding, while APIP acts as an internal supervisor who should be the first line of detection and correction. However, when the results of an internal audit state that there are no serious violations or actual state losses, law enforcement officers can still process the case as a criminal act based on the potential loss or interpretation of certain administrative violations. These differences in perspective are often not based on the same assessment standards, but rather on the free interpretation of each institution according to its authority.

The lack of coordination and synergy between these institutions not only causes inconsistency in handling cases but also confuses procurement actors who should be working within legal and procedural certainty. Many procurement officials end up in a vulnerable position because they have to deal with conflicting opinions between auditors, internal supervisors, and law enforcement officers. This situation hinders the spirit of problem-solving in a preventive and non-litigation manner because agencies that should collaborate in resolving procurement problems actually work in silos and often take unilateral steps. A concrete example of this is when the APIP states that a project has no substantial deviations and is in accordance with the principles of efficiency and effectiveness, but there is still a criminal summons from law enforcement officers who adhere to the interpretation that the existence of price differences or technical deviations can be qualified as state losses. The disharmony indicates the importance of strengthening cross-sector coordination mechanisms so that corruption eradication is not carried out in a way that is counterproductive and detrimental to the government process itself.

Disproportionate law enforcement in the context of government procurement of goods and services has created an unhealthy deterrent effect among public officials, especially ASN who have a strategic role in the procurement process. Fear of criminalization makes many officials very careful, even tending to be passive, in making decisions. They prefer to "play it safe" rather than take risks that are administratively legitimate and needed for the smooth running of the project. In the long term, this attitude erodes the courage to innovate and create efficient solutions, especially in emergency or strategic procurement. Instead of encouraging better governance, this condition creates a stagnant bureaucracy that is not adaptive to the dynamics of national development needs. It is contrary to the spirit of reform democracy and good governance that demand courage, accountability, and speed in decision-making.

Furthermore, the systemic impact of a disproportionate legal approach is also felt in the implementation of national strategic projects that are often delayed or even canceled due to prolonged legal processes. When vital projects are entangled in legal problems that can be resolved through administrative channels, the project goals - whether infrastructure development, public services, or economic strengthening - fail to be achieved. In addition, the phenomenon of criminalization of procurement officials has reduced the interest of ASN to

occupy positions as PPK or other strategic officials in the procurement process. They view these positions as high-risk "traps", even though the existence of competent and integrity-based officials is very much needed to realize clean and efficient procurement. If this condition is allowed to continue, a vacuum of technical leadership may be created in procurement and weaken the absorption of the state budget as a whole.

Disproportionate law enforcement in government procurement of goods and services has a deterrent effect that is counterproductive to the spirit of public service. When the legal process is carried out repressively without considering the administrative context and without any malicious intent, public officials—especially Commitment Officers (PPK)—become afraid to make decisions. The work culture that should be based on the courage to be responsible and innovative is replaced by a passive "just to be safe" attitude. In many cases, official postponement of the procurement process or are even reluctant to continue the project because they are worried about the potential for criminal penalties. This fear arises because the legal approach often does not clearly distinguish between administrative errors, procedural violations, and actual corruption. As a result, the bureaucratic climate becomes rigid and unresponsive and tends to avoid risks even though they are in the greater public interest.

The broader impact is felt in the implementation of national strategic projects that are delayed or even fail because they are overshadowed by long and uncertain legal processes. Many projects that were initially planned to encourage development and public welfare have stalled due to the fear of the implementers. Infrastructure projects, public services, and social assistance have not run as they should because of the fear that every small deviation from the procedure can be interpreted as a criminal act. On the other hand, ASNs are starting to move away from strategic positions in procurement because they consider these positions to have high legal risks, even though the work is very important and crucial. If this trend continues, there will be a crisis of trust in the legal system and the loss of quality ASN regeneration in procurement, which will ultimately weaken the state's function in providing transparent, efficient, and corruption-free public services.

Urgency and Forms of Synergy Between Administrative Law Enforcement and Criminal Law in Efforts to Realize Government Procurement of Goods and Services Free from Corruption

Since many issues arise because the two legal systems are not integrated, it is imperative that administrative and criminal law enforcement work together in government procurement of goods and services. So far, the approach to law enforcement tends to be partial, where law enforcement officers often immediately impose criminal mechanisms without providing sufficient space in administrative mechanisms to resolve procedural violations proportionally. This gives rise to the phenomenon of criminalization of administrative acts that could be resolved through coaching and improving governance. Many procurement cases that were initially only administrative errors such as errors in technical interpretation or procedural deviations without any malicious intent have resulted in repressive legal processes, even to the point of going to criminal court. This situation can give rise to legal uncertainty and excessive concern among procurement implementers, which in the end brings obstacles or disruptions to the running of government.

Administrative law has a strategic role as the initial layer in the supervision system for the implementation of government procurement of goods and services. As the first layer of control, administrative law allows the state to assess and filter violations that occur within the framework of bureaucratic procedures, whether they are administrative negligence or have the potential for malicious intent. Internal monitoring mechanisms by the Government Internal Supervisory Apparatus (APIP), compliance testing by auditors, to the enforcement of administrative sanctions such as reprimands, coaching, or revocation of authority are part of this instrument. In many cases, administrative actions have proven effective in correcting errors caused by the ignorance or carelessness of procurement officials. Therefore, administrative law should be the main reference before further legal processes because the goal is to maintain the continuity of a clean bureaucracy without causing excessive fear for budget managers.

On the other hand, criminal law is present as the ultimum remedium, namely the last step that is only used when there is sufficient evidence that there has been a serious, deliberate, and malicious deviation (mens rea). The use of criminal law that is too early or without an in-depth study of the administrative context risks harming the principle of justice, and can weaken the spirit of ASN dedication. Therefore, it is important to emphasize that criminal law enforcement should not replace the role of administrative mechanisms, especially in cases that do not meet the elements of a crime substantively. The principles of proportionality and accountability in law enforcement are the basis so that substantive justice is not sacrificed by the spirit of repressive corruption eradication. When these two legal instruments are implemented in harmony, public trust in the procurement process will increase, and procurement officials can work with the belief that the law is there to guide, not merely to punish.

One example of a good synergy implementation between APIP and law enforcement officers can be seen in the implementation of an early warning system in the procurement of goods and services by the Central Java Provincial Government. In practice, the regional government works together with the Inspectorate, the High Prosecutor's Office, and the Regional Police to form a coordination forum for the supervision and handling of procurement problems. Through this forum, all findings and potential violations in the procurement process are analyzed first from an administrative perspective. If the violation is considered a procedural error without an element of intent, it is recommended that guidance and improvements be carried out. However, if there is an indication of malicious intent or significant state losses, then the criminal law process will be continued. This synergy not only reduces the number of criminalization but even increases ASN compliance with procurement regulations because there is a clear path for handling problems.

Furthermore, the Attorney General's Office, the Corruption Eradication Commission (KPK), and the Government Goods/Services Procurement Policy Institute (LKPP) have also formulated a joint strategy to encourage early prevention of corruption through education, mentoring, and systemic intervention. One concrete initiative is the active involvement of APIP in the strategic procurement review process and the integration of the Electronic Procurement System (SPSE) with monitoring systems such as SIRUP and e-monitoring. The KPK even launched the "JAGA Pengadaan" program as part of a technology-based

transparency system that encourages public participation in procurement supervision. The Attorney General's Office in several regions has also initiated a humanist law enforcement approach, where mentoring is carried out intensively before the procurement process and when there are findings the beginning of administrative violations, then determine the direction of the settlement—whether administrative or criminal. These initiatives show that synergy is not only ideal in concept but also very possible to implement with constructive results.

The ideal synergy model between institutions in law enforcement against government procurement of goods and services requires systematic work integration between APIP, LKPP, BPKP, the Prosecutor's Office, the Corruption Eradication Commission, and the Police. This synergy can be realized through the formation of a joint work protocol or Standard Operating Procedure (SOP) across institutions that regulates the stages of handling procurement cases—from early detection, and administrative evaluation, to, if necessary, criminal steps. The SOP must be designed with the principle of subsidiarity, where violations are resolved at the lightest and closest level first, before moving on to more severe processes such as criminal. In addition, a Memorandum of Understanding (MoU) between institutions is needed as a basis for a joint commitment not to overlap in taking authority. For example, APIP is given time and space to resolve administrative problems before law enforcement officers intervene, except in cases where there are elements of corruption.

Regular coordination forums also need to be revived and expanded, for example in the form of regional and national procurement supervision forums, which bring together all actors in supervision and enforcement. This forum is a place to share information, align perceptions, and avoid misunderstandings between administrative findings and criminal indications. LKPP as the procurement regulatory authority can be a facilitator for this forum with the KPK. Furthermore, the results of audits or administrative reviews by APIP and BPKP must be a prerequisite before a case is handled by law enforcement officers. This is to ensure that the actions taken by procurement officials truly meet the elements of a crime, not just administrative violations or differences in interpretation.

Communication and documentation between agencies must be built on the principle of openness and shared responsibility to prevent criminalization or disproportionate legal action. On the regulatory side, strengthening is needed in the form of rules that clearly distinguish between administrative, ethical, and criminal violations. This normative framework is important so that the implementation of procurement does not get caught up in legal uncertainty. For example, Presidential Regulation No. 16 of 2018 concerning Government Procurement of Goods/Services needs to be supplemented with implementing regulations or technical instructions that regulate the limits and indicators of administrative deviations and clarification mechanisms before an act is considered potentially criminal. In addition, the Corruption Law needs to be revised so that there are articles that emphasize the relationship with the administrative law mechanism as the initial layer, including strengthening the role of APIP audit results as a legitimate legal consideration in the criminal process.

Policymakers, in this case, the central government and the DPR, play a key role in encouraging the presence of a grand design for synergistic and proportional procurement law enforcement. The need for a national framework is urgent so that all instruments—

administrative, ethical, and criminal law—do not run alone. The government needs to formulate cross-sector policies that integrate monitoring, reporting, coaching, and enforcement systems. For example, the formation of a National Procurement Integrity Framework that contains a clear flow of who does what and when accompanied by transparent indicators to assess whether a violation is administrative or criminal. With this model, every actor in procurement will have definite guidance and will not hesitate in their duties, while the public will see that the state is serious about creating clean and fair procurement.

CONCLUSION

Corruption in Indonesia's government procurement of goods and services significantly undermines state budgets, public service quality, and public trust in institutions, largely due to complicated procedures, regulatory loopholes, and insufficient oversight that expose the sector to both administrative and criminal violations. Ambiguities in distinguishing administrative errors from criminal acts, along with overlapping institutional authorities, create uncertainty and reluctance among procurement officials, ultimately impeding effective development. Rapid criminal law enforcement without first exhausting administrative remedies fosters fear and disengagement among state officials, highlighting the need for a more balanced approach where administrative law serves as the primary mechanism for supervision and dispute resolution, and criminal law is reserved for cases involving clear malicious intent and proven state losses. To address these challenges, formalizing inter-agency collaboration through joint SOPs, cross-agency MoUs, and regular coordination forums among bodies such as APIP, LKPP, BPKP, the Attorney General's Office, the Corruption Eradication Commission, and the Police is essential, alongside regulatory reforms to eliminate harmful multiple interpretations. For future research, it is recommended to empirically evaluate the effectiveness of integrated administrative and criminal law enforcement models in reducing corruption risks and to explore best practices for institutional synergy that can be replicated in other vulnerable sectors.

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