



## **From Administrative Correction to Criminal Prosecution: An Escalation Model for JKN Claim Fraud in Indonesia**

**Risqilah<sup>1\*</sup>, Iin Karita Sakharina<sup>2</sup>, Abdul Razak<sup>3</sup>, Anggreany Arief<sup>†</sup>, Anton Smirnov<sup>5</sup>**

<sup>1,2,3</sup>Hasanuddin University Makassar, Indonesia

<sup>4</sup>Universitas Muslim Indonesia, Indonesia

<sup>5</sup>University of Medicine and Social Sciences, Ukraine

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\*Corresponding Author: [risqilahamrann@gmail.com](mailto:risqilahamrann@gmail.com)

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**Abstract:** Indonesia's National Health Insurance (JKN) reflects the constitutional commitment of the Indonesian welfare state to guarantee the right to health. Nevertheless, the program's sustainability faces growing fiscal pressures, particularly due to healthcare fraud and abuses of authority in hospital-level fund management. This study aims to examine the available legal enforcement mechanisms for addressing abuses of authority in JKN governance and to formulate an ideal regulatory and enforcement design capable of strengthening accountability while safeguarding the sustainability of the health insurance system. This research employs a normative–empirical legal method. Normative analysis is conducted through a systematic and purposive interpretation of statutory regulations, judicial decisions, and relevant legal doctrines concerning health financing, administrative law, and anti-corruption law. Empirical data are obtained from a hospital-level case study and institutional observations to identify patterns of deviation, institutional roles, and coordination gaps among enforcement agencies. The findings reveal that enforcement currently operates through three principal pathways: administrative enforcement, criminal enforcement, and preventive governance mechanisms. Administrative enforcement includes sanctions by BPJS Kesehatan, audits by the Financial and Development Supervisory Agency (BPKP), and litigation before the Administrative Court (PTUN). Criminal enforcement is pursued through corruption proceedings before the Corruption Court (Tipikor) by the Prosecutor's Office or the Corruption Eradication Commission (KPK), while preventive enforcement focuses on governance strengthening, digital monitoring, and compliance education. However, overlapping institutional mandates, weak inter-agency coordination, and the blurred distinction between administrative misconduct and criminal corruption significantly hinder effective enforcement. This study proposes an integrated, risk-based enforcement ladder that combines preventive, corrective, and repressive measures in proportion to risk. The article contributes theoretically by offering a clearer demarcation framework for administrative and criminal liability in healthcare fund governance, and practically by

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providing a tiered enforcement model to improve healthcare fraud control and preserve the long-term sustainability of JKN.

**Keywords:** Administrative Liability; Corruption; Healthcare Fraud; National Health Insurance (JKN); Risk-Based Enforcement Model.

## Introduction

Indonesia, as a constitutional state (*rechtsstaat*) and a *welfare state*, has a constitutional responsibility to achieve social justice for all its people.<sup>1</sup> This mandate is explicitly stated in the fourth paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia (UUD 1945), which aims to "promote general welfare." One of the main pillars in realizing this welfare is the guarantee of the right to health, as provided in Article 28H, paragraph (1), of the 1945 Constitution, which states that everyone has the right to health services. The concept of a modern constitutional state is not only oriented towards the protection of civil and political rights, but also towards the fulfillment of economic, social, and cultural rights. Indonesia is striving to integrate its economy into the global economy. In this context, governance must always be based on the principles of legality, the rule of law, the protection of human rights, and the General Principles of Good Governance (AAUPB) to ensure that every public policy, including in the health sector, can be felt fairly and evenly by the community.<sup>2</sup>

As a concrete manifestation of the welfare-state approach to health<sup>3</sup>, the Indonesian government launched the National Health Insurance Program (JKN) on January 1, 2014. This program, organized by the Social Security Administration Agency (BPJS) for Health, is the largest social health insurance system in the world that aims to achieve *universal health coverage*.<sup>4</sup> By 2022, the program had covered more than 82% of Indonesia's population, providing broader access to health services.<sup>5</sup> With a capitation payment system for Primary Health Facilities (FKTP) and *Indonesia Case-Based Groups* (INA-CBG) for

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<sup>1</sup>Disiplin F. Manao, "Penyelesaian Penyalahgunaan Wewenang Oleh Aparatur Pemerintah Dari Segi Hukum Administrasi Dihubungkan Dengan Tindak Pidana Korupsi," *Jurnal Wawasan Yuridika* 2, no. 1 (2018): 1–23.

<sup>2</sup>Manao.

<sup>3</sup> Iwan Setiajie Anugrah et al., "Legal Pluralism and Rural Welfare: Harmonizing Customary Law and Islamic Principles in Indonesia's Village Fund Allocation," *El-Mashlahah* 15, no. 2 (December 2025): 303–324, <https://doi.org/10.23971/el-mashlahah.v15i2.10429>.

<sup>4</sup>Pusat Pemantauan Pelaksanaan Undang-Undang 2008, *Kajian Akademik Pelaksanaan Undang-Undang Nomor 40 Tahun 2004 Tentang Sistem Jaminan Sosial Nasional*, Jakarta. (2004).

<sup>5</sup>Dwi Siska Susanti et al., "Tackling Fraud and Corruption in Indonesia's Health Insurance System," *U4 Issue*, 2022.

Advanced Referral Health Facilities (FKRTL), such as hospitals, JKN fundamentally changed the landscape of health financing. JKN funds collected from participant contributions and government assistance are *fiduciary funds* that must be managed transparently, accountably, and professionally in accordance with the mandate of Law Number 24 of 2011 concerning the Social Security Administration Agency.<sup>6</sup>

However, despite its success in expanding access, the JKN program faces serious fiscal sustainability challenges. Since its inception, BPJS Kesehatan has consistently experienced deficits, which in 2020 reached 5.69 trillion rupiah or the equivalent of USD 392 million.<sup>7</sup> One significant factor contributing to this deficit is the rampant practice of fraud and corruption.<sup>8</sup> A 2013 study by the Corruption Eradication Commission (KPK) identified various forms of corruption in the JKN era, ranging from bribery and fictitious medical equipment procurement to abuse of authority. Fraud in the context of JKN can be committed by various actors, including participants, health facilities, BPJS officers, and even drug and medical equipment providers, using various methods such as phantom billing, upcoding, *unnecessary services*, and kickbacks.<sup>9</sup> These practices not only harm state finances but also reduce service quality and threaten patient safety.

The focus of this study is *the abuse of power* in the management of JKN funds at the hospital level. Abuse of power is a central concept in administrative law and criminal law. In the realm of administrative law, abuse of power, or *détournement de pouvoir*, is regulated by Law Number 30 of 2014 concerning Government Administration (UUAP), which prohibits government officials from using their authority for purposes other than those specified, exceeding the limits of their authority, or mixing their authority with that of others.<sup>10</sup> Violations of this prohibition can result in administrative sanctions. On the other hand, if the abuse of authority is carried out for the purpose of benefiting oneself or others and causing financial loss to the state, the act falls under the realm of criminal corruption as regulated in Article 3 of Law Number 31 of 1999 jo. Law No. 20 of 2001 on the Eradication of Corruption Crimes (Anti-Corruption Law).<sup>11</sup> The overlap between the administrative and criminal domains often

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<sup>6</sup>Pasal 1 Ayat (3) Undang-Undang Nomor 24 Tahun 2011 Tentang Badan Penyelenggara Jaminan Sosial (n.d.).

<sup>7</sup>Susanti et al., "Tackling Fraud and Corruption in Indonesia's Health Insurance System."

<sup>8</sup>Susanti et al.

<sup>9</sup>Ice Nurlianti et al., "Analysis of Fraud in National Health Insurance in Indonesia: A Literature Review," *International Journal of Health and Pharmaceutical (IJHP)* 5, no. 3 (2025): 476–84.

<sup>10</sup>"Pasal 17 Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan, n.d.

<sup>11</sup>Pasal 3 Undang-Undang Nomor 20 Tahun 2001 Tentang Perubahan Atas Undang-Undang Nomor 31 Tahun 1999 Tentang Pemberantasan Tindak Pidana Korupsi.

creates dilemmas in law enforcement: when is an act considered *an administrative violation* and when does it become *a criminal offense*?<sup>12</sup>

A relevant case study related to this issue is the alleged corruption in the management of JKN funds at the Syech Yusuf Regional General Hospital (RSUD) in Gowa Regency. In 2023, the Gowa District Attorney's Office conducted a search and named three hospital officials as suspects in the alleged Rp 3.3 billion loss to the state.<sup>13</sup> This issue was triggered by the issuance of a Director's Decree (SK) that allegedly contradicted Regent Regulation Number 45 of 2019 concerning the Distribution of JKN Services, thereby directly violating the principle of legality as stipulated in Article 9, paragraph (1), of the UUAP. This case is a clear example of how the abuse of authority, in the form of issuing decisions beyond authority (excess of power), can result in state financial losses and lead to criminal proceedings. This phenomenon calls for an in-depth analysis of the most effective law enforcement measures to combat the abuse of authority in the management of JKN funds, thereby maintaining accountability, safeguarding state finances, and ensuring the sustainability of health programs for all Indonesian citizens.

The novelty of this study lies in its development of an integrated escalation model for JKN claim fraud enforcement. Unlike previous studies that examine administrative sanctions and criminal prosecution as separate mechanisms, this research conceptualizes them as parts of a single risk-based enforcement continuum. The proposed model introduces a tiered framework that begins with preventive governance and administrative correction, progresses to enhanced supervisory intervention, and culminates in criminal prosecution only when specific thresholds of intent, abuse of authority, and financial harm are established. By providing a clearer demarcation between administrative misconduct and corruption offenses, the study offers a more proportional and legally coherent approach to healthcare fraud enforcement.

Based on the foregoing discussion, this study addresses the following research question: How should a risk-based escalation model be designed to determine the transition from administrative correction to criminal prosecution in cases of JKN claim fraud in Indonesia? The significance of this study lies in both its theoretical and practical aspects. Theoretically, it contributes to the literature on administrative law, anti-corruption law, and healthcare governance by clarifying the relationship between administrative liability and criminal responsibility in public healthcare financing. In practice, it provides policymakers, BPJS Kesehatan, auditors, prosecutors, and hospital administrators with a structured enforcement framework that improves accountability

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<sup>12</sup>Zulkarnaen Zulkarnaen, Zainal Asikin, and Amiruddin Amiruddin, "Penyalahgunaan Wewenang Dalam Tindak Pidana Korupsi Setelah Berlakunya UU No. 30 Tahun 2014 Tentang Administrasi Pemerintahan," *JESS (Journal of Education on Social Science)* 4, no. 1 (2020): 53–66.

<sup>13</sup>Sahru Alim, "Dana Korupsi JKN RSUD Syekh Yusuf Gowa Rp 3,3 M Dipakai Bayar THR.," Detik.Com.

while avoiding unnecessary criminalization of administrative errors. Ultimately, the proposed escalation model seeks to strengthen the integrity of JKN governance, protect public finances, and support the long-term sustainability of Indonesia's universal health coverage system.

## **Method**

This study employs a normative legal research design to examine the legal framework governing JKN claim fraud and the escalation of enforcement measures from administrative correction to criminal prosecution. The research focuses on the analysis of legal norms, principles, doctrines, and regulatory instruments concerning healthcare governance, abuse of authority, administrative liability, and anti-corruption law. To achieve this objective, the study adopts three complementary approaches. First, the statute approach is used to examine relevant legal instruments, including the 1945 Constitution of the Republic of Indonesia, Law No. 30 of 2014 on Government Administration, Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 on the Eradication of Corruption Crimes, Law No. 24 of 2011 on the Social Security Administration Agency, and various technical regulations governing the National Health Insurance (JKN) system. Second, a conceptual approach is employed to clarify legal doctrines on authority, abuse of authority, healthcare fraud, administrative accountability, and criminal liability. Third, a limited comparative approach is used to compare Indonesia's healthcare fraud enforcement framework with selected international practices to enrich the formulation of a proportional enforcement model. Data were collected through library research and document analysis, including legislation, court decisions, government reports, academic publications, and policy documents relevant to healthcare fraud governance.

The collected legal materials were analyzed qualitatively using a combination of deductive and inductive reasoning. The analysis began with the identification and classification of primary, secondary, and tertiary legal materials, followed by an examination of their normative consistency, legal hierarchy, and practical implications for healthcare fraud enforcement. Subsequently, legal provisions and judicial interpretations were systematically interpreted to identify the boundaries between administrative violations and criminal misconduct within JKN fund management. Comparative findings and doctrinal analyses were then synthesized to construct a risk-based escalation model that integrates preventive, corrective, and repressive enforcement mechanisms. To ensure the validity and reliability of the findings, the study applied legal triangulation by cross-checking statutory provisions, judicial decisions, legal doctrines, and scholarly opinions. In addition, source triangulation was employed by comparing multiple legal and policy documents to ensure consistent interpretation and strengthen the credibility of the proposed enforcement framework.

## **Results and Discussion**

## The Nature and Limits of Authority in the Management of JKN Funds in Hospitals

Authority is a core concept in administrative law that underpins every action taken by government agencies or officials. Philipus M. Hadjon makes a clear distinction between authority and power (*bevoegdheid*). Authority is formal power derived from legislation, while power is the technical ability to act. In the context of JKN fund management, the authority of hospital officials, such as directors, derives from legislation (attributive authority), delegation from higher officials, or assignment (mandate). The primary authority for hospitals to provide health services and manage their finances is Law Number 44 of 2009 concerning Hospitals. Meanwhile, BPJS Kesehatan derives its attributive authority from Law Number 24 of 2011 to manage and disburse JKN funds to health facilities. The hospital director, as the leader, can then mandate subordinates, such as the treasurer, to carry out technical tasks related to fund management.<sup>14</sup>

Three main corridors limit the use of authority. First, material limits, which means that authority cannot be used outside the scope of predetermined matters. Second, territorial limits restrict the authority's geographical jurisdiction. Third, time limits, which determine the period of validity of an authority. In addition to these limitations, every action taken by officials must be in accordance with the General Principles of Good Governance (AAUPB) as stipulated in Article 10 of the UUAP, which includes the principles of legal certainty, benefit, impartiality, accuracy, non-abuse of authority, openness, public interest, and good service.<sup>15</sup> The AAUPB serves as a *safety valve* to prevent arbitrary actions, even if they are formally in accordance with written regulations.

Abuse of authority in the management of JKN funds can manifest itself in three forms as stipulated in the UUAP. The first form is exceeding authority (*ultra vires*), which occurs when an official makes a decision or takes action beyond the scope of the authority granted to them.<sup>16</sup> The case of Syech Yusuf Gowa Regional General Hospital, where the director issued a decree on the distribution of services that was allegedly contrary to the Regent's Regulation, is a classic example of an action that could potentially be categorized as *ultra vires*. The second form is mixing authority, which occurs when an official uses their authority for purposes not in accordance with the intent for which it was granted.<sup>17</sup> An example of this is using JKN claim funds to pay holiday allowances (THR) that are not regulated in the fund allocation, as revealed in the case of Syech Yusuf Regional General Hospital. The third form is acting

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<sup>14</sup>Rafly Rilandi Puasa, Johny Lumolos, and Neni Kumayas, "Kewenangan Pemerintah Desa Dalam Peningkatan Perekonomian Di Desa Mahangiang Kecamatan Tagulandang Kabupaten Kepulauan Sitaro," *Jurnal Eksekutif* 1, no. 1 (2018).

<sup>15</sup>Pasal 17 Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan.

<sup>16</sup>Pasal 17 Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan.

<sup>17</sup>Pasal 17 Undang-Undang Nomor 30 Tahun 2014 Tentang Administrasi Pemerintahan.

arbitrarily (*détournement de pouvoir*), which occurs when an official decides without objective, rational consideration, often driven by personal or group interests.<sup>18</sup> Actions such as claim data manipulation (*upcoding*), fictitious claims, or unnecessary procurement of medical equipment (*unnecessary services*) can be categorized as arbitrary actions. If these acts cause financial loss to the state and enrich themselves or others, they will be transformed from mere administrative violations into criminal acts of corruption in accordance with Article 3 of the Anti-Corruption Law.<sup>19</sup>

### Forms of Law Enforcement Against Abuse of Authority

An analysis of the Indonesian legal system shows that there are three main forms of law enforcement against the abuse of authority in the management of JKN funds, which align with Friedman's legal system theory: administrative, criminal, and preventive law enforcement.

#### 1. Administrative Law Enforcement

Administrative law enforcement is at the forefront of supervision and enforcement. This instrument is internal in nature and focuses on restoring compliance. BPJS Kesehatan, as the administrator, has the authority to verify claims and conduct audits. Based on Minister of Health Regulation (Permenkes) Number 16 of 2019, if indications of *fraud* are found, BPJS can impose administrative sanctions, including written warnings, fines, and even termination of cooperation contracts with health facilities.<sup>20</sup> The fraud detection system developed by BPJS includes *data mining*, claim audits, and field verification. In addition to BPJS, external supervisory agencies, such as the Financial and Development Supervisory Agency (BPKP), play a strategic role in conducting investigative audits to calculate state losses.<sup>21</sup> In the judicial sphere, the State Administrative Court (PTUN) adjudicates disputes related to State Administrative Decisions (KTUN). For example, a hospital director's decree that is considered detrimental can be challenged and overturned by the PTUN if it is proven to be contrary to laws and regulations or AAUPB.<sup>22</sup>

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<sup>18</sup>Jojo Juhaeni, "Penyalahgunaan Wewenang Oleh Pejabat Publik Dalam Perspektif Sosiologi Hukum," *Jurnal Konstituen*, 2021, 41–48.

<sup>19</sup> Article 3 Undang-Undang Nomor 31 Tahun 1999 jo. Undang-Undang Nomor 20 Tahun 2001, *Tentang Pemberantasan Tindak Pidana Korupsi* (n.d.).

<sup>20</sup>Peraturan Menteri Kesehatan Nomor 16 Tahun 2019, *Tentang Pencegahan Dan Penanganan Kecurangan (Fraud)*. (n.d.).

<sup>21</sup>Azkie Nurul Mufti Nur Hanafiah, Dea S. Rizka, and Pupung Purnamasari, "Akuntansi Forensik Dalam Tindak Pidana Korupsi," *Jurnal Akuntansi* 1, no. 2 (2023): 105–113, <https://doi.org/10.37058/jak.v1i2.6719>.

<sup>22</sup>Putu Gede Arya Sumerta Yasa, Wita Setyaningrum, and Kadek Agus Sudiarawan, "Unlawful Administrative Act: Indonesian Administrative Law Perspective," *Varia Justicia* 17, no. 2 (2021): 160–170.

In the context of JKN fund management, *good corporate governance* in hospitals is crucial. Good corporate governance in the hospital sector is a system of relationships within a hospital organization that includes elements of control, direction, accountability, and liability between owners, managers, and directors, as well as operational management, as a unified force to achieve the organization's vision, mission, and values. Good, sound governance, grounded in corporate governance principles, will ensure the sustainability and development of hospitals. The principles of corporate governance include transparency, accountability, responsibility to the employer, integrity, and fairness. Fairness, as the first aspect of the principle of proportionality in punishment, must be commensurate with the severity of the crime committed. This principle emphasizes that the criminal penalty imposed must be commensurate with the severity of the offense and the impact of the criminal act.<sup>23</sup>

## 2. Enforcement of Criminal Law

Criminal law enforcement serves as a last resort (*ultimum remedium*) when abuse of authority has fulfilled the elements of a corruption offense. Here, three main institutions (legal structures) play a role: the Attorney General's Office, the Police, and the Corruption Eradication Commission (KPK). The Attorney General's Office and the Police have the authority to investigate and examine alleged corruption crimes.<sup>24</sup> The cases involving the Syech Yusuf Gowa Regional General Hospital, the Babakan Community Health Center, and the Masohi Community Health Center demonstrate the Attorney General's Office's active role in prosecuting JKN fund corruption at the regional level. The KPK, despite its slightly reduced authority following the revision of Law No. 19 of 2019, continues to play a central role in supervising, coordinating, and prosecuting corruption cases that attract public attention or involve significant state losses.<sup>25</sup>

However, the KPK's authority has limitations as stated in Article 11 of Law Number 30 of 2002 concerning the KPK, namely that the KPK can only investigate, examine, and prosecute corruption crimes that: (a) involve law enforcement officials, state officials, and other persons related to corruption crimes committed by law enforcement officials or state officials; (b) attract public concern; and/or (c) involve

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<sup>23</sup>M. Rizaldi Ashar and Amir Ilyas, "Legal Analysis of The Provisions of The Crime of Corruption in The Criminal Code in Terms of The Principle of Proportionality.," *Pakistan Journal of Life & Social Sciences* 22, no. 2 (2024).

<sup>24</sup>Muhammad G. A. Putra, Dahlan Ali, and Mahfud Mahfud, "Kendala Yang Dihadapi Oleh Kejaksaan Tinggi Aceh Dalam Pemberantasan Tindak Pidana Korupsi," *Syah Kuala Law Journal* 2, no. 2 (2018): 170–185, <https://doi.org/10.24815/sklj.v2i2.11627>.

<sup>25</sup>Dony Endrassanto, "Studi Analisis Hukum Kewenangan Dan Tugas Komisi Pemberantasan Korupsi Dalam Mencegah Tindak Pidana Korupsi Berdasarkan Ketentuan Undang-Undang Nomor 19 Tahun 2019," *Jurnal Indonesia Sosial Teknologi* 2, no. 10 (2021): 1769–1787, <https://doi.org/10.36418/jist.v2i10.253>.

state losses of at least Rp 1,000,000,000.00 (one billion rupiah).<sup>26</sup> Therefore, not all corruption cases fall under the KPK's authority; only those that meet the above criteria are within its purview.

The judicial process then proceeded in the Corruption Court, where proving elements such as malicious intent (*mens rea*) and state losses became key. An analysis of 14 court decisions from 2017 to 2021 by Susanti et al. (2022) shows that perpetrators of JKN fraud found guilty may face criminal sanctions.<sup>27</sup> However, enforcing criminal law faces various obstacles, including difficulties proving the case, overlapping authority among institutions, and lengthy processes.<sup>28</sup> In the effort to eradicate corruption, the law plays an important role as a regulatory and social control tool. Strong legal regulations are needed to close loopholes that enable corruption. In addition, consistent and transparent implementation of the law is a key element in creating a deterrent effect for perpetrators. The law not only functions as a repressive tool through the imposition of sanctions, but also as a preventive instrument through the establishment of an accountable and transparent system.

### 3. Preventive Law Enforcement

Preventive law enforcement aims to close loopholes and opportunities for *fraud*, in line with the *Fraud Triangle Theory*. This approach encompasses three pillars. First, strengthening hospital governance by implementing robust internal control systems, whistleblower protection, and *anti-fraud* compliance programs.<sup>29</sup> Second, utilizing information technology for early detection. The use of *big data analytics* and artificial intelligence can help BPJS Kesehatan identify patterns of unusual claims (*anomaly detection*) in *real time*, enabling earlier investigations.<sup>30</sup>

The use of information technology, such as case management systems and digital databases, can improve efficiency and transparency in law enforcement.<sup>31</sup> Good technology enables fast, accurate data processing and facilitates public access to information. For example, JKN participants can now report complaints not only by

<sup>26</sup> Article 11 Undang-Undang Nomor 31 Tahun 1999 jo. Undang-Undang Nomor 20 Tahun 2001, *Tentang Pemberantasan Tindak Pidana Korupsi*.

<sup>27</sup>Susanti et al., "Tackling Fraud and Corruption in Indonesia's Health Insurance System."

<sup>28</sup>Dominikus Jawa, Parningotan Malau, and Ciptono Ciptono, "Tantangan Dalam Penegakan Hukum Tindak Pidana Korupsi Di Indonesia," *Jurnal Usm Law Review* 7, no. 2 (2024): 1006–1017, <https://doi.org/10.26623/julr.v7i2.9507>.

<sup>29</sup>Taryn Vian, "Anti-Corruption, Transparency and Accountability in Health: Concepts, Frameworks, and Approaches," *Global Health Action* 13, no. sup1 (2020): 1694744.

<sup>30</sup>Nishamathi Kumaraswamy et al., "Healthcare Fraud Data Mining Methods: A Look Back and Look Ahead," *Perspectives in Health Information Management* 19, no. 1 (2022): 11.

<sup>31</sup> Mia Amiati, Taufik Rachman, and R. B. Muhammad Zainal Abidin, "Urgency of Falsum in Indonesian Criminal Justice System as Basis for Revision; An Islamic Perspective," *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 19, no. 2 (October 2024): 303–328, <https://doi.org/10.19105/al-lhkam.v19i2.13141>.

visiting the nearest BPJS Kesehatan office or BPJS Satu officer in person<sup>32</sup>, but also online via the 165 call center, the WA PANDAWA 08118165165 service, the BPJS Kesehatan website, BPJS Kesehatan social media (Instagram, Twitter, Facebook, and TikTok), and the BPJS Kesehatan website through the SIPP (Complaint Handling Information Channel) page.<sup>33</sup> As technology advances, it becomes easier to submit complaints, enabling more cases of fraud to be addressed.

Third, continuous education and outreach to all stakeholders, including health workers and the community, to build an *anti-fraud legal culture* and raise awareness of the damaging effects of corruption in the health sector.<sup>34</sup> Community participation in law enforcement is very important. The level of legal awareness of the community determines how they understand their rights and obligations. A community with good legal knowledge tends to be more active in demanding justice and reporting crimes.

#### 4. Restorative Justice Approach: Pros and Cons

Amidst this spectrum of law enforcement, there has been discussion of applying Restorative *Justice* to corruption cases. This approach focuses on restoring losses and reconciliation between perpetrators, victims, and the community. Pro-restorative arguments hold that this approach can accelerate the recovery from state losses, especially in cases with small losses.<sup>35</sup> This places the value of restoring social balance at the heart of punishment, so that customary punishment can be effective if it is truly restorative and locally legitimate.<sup>36</sup> However, strong counterarguments maintain that corruption is an extraordinary crime that undermines the foundations of the state, so that applying restorative justice would undermine public confidence in justice and weaken deterrence. Many argue that this approach contradicts the spirit of the Anti-

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<sup>32</sup> Hadi Purnomo, Widhi Handoko, and Murad Altwaiqat, "Reframing Medical Malpractice Resolution: Restorative Justice between Indonesian Criminal Law and *Islāh* in Contemporary Islamic Law," *MILRev: Metro Islamic Law Review* 5, no. 1 (March 2026): 299–327, <https://doi.org/10.32332/milrev.v5i1.13100>.

<sup>33</sup> Endro Haksara et al., "Reconstruction of Legal Protection for Nurses in the Provision of Hospital Nursing Care Based on Restorative Justice," *Nusantara: Journal of Law Studies* 4, no. 2 (December 2025): 157–175, <https://doi.org/10.5281/zenodo.18357611>.

<sup>34</sup> Marten Bunga et al., "Urgensi Peran Serta Masyarakat Dalam Upaya Pencegahan Dan Pemberantasan Tindak Pidana Korupsi," *Law Reform* 15, no. 1 (2019): 85, <https://doi.org/10.14710/lr.v15i1.23356>.

<sup>35</sup> Aminuddin Kasim, Abdul Muthalib Rimi, and Andi Intan Purnamasari, "Restorative Justice to Prevent Village Fund Corruption Crimes: A Constitutional Law and Indonesian Criminal Law Perspective," *International Journal of Criminal Justice Sciences* 18, no. 1 (2023): 97–112.

<sup>36</sup> M. Aris Munandar et al., "Menilik Sanksi Pidana Tambahan Pemenuhan Kewajiban Adat Setempat Dalam KUHP Nasional," *Proceedings Series on Social Sciences & Humanities* 27, no. SE-Articles (October 2025): 194–202.

Corruption Law.<sup>37</sup> Therefore, even if applied, restorative justice can be considered only for minor administrative violations under very strict, transparent criteria, not for cases of systemic or deliberate abuse of authority.<sup>38</sup>

### Ideal Concept of Law Enforcement

Based on an analysis of the weaknesses of the existing system, it is necessary to formulate an ideal concept for integrated, effective, and fair law enforcement. This concept is built on three pillars: regulatory strengthening (substance), institutional restructuring (structure), and operational innovation (culture and process).

#### 1. Strengthening the Regulatory Framework

The fundamental step is harmonizing and clarifying laws and regulations. There needs to be clearer demarcation between administrative violations under the UUAP and criminal acts of corruption under the Tipikor Law, particularly with respect to abuse of authority. A joint guideline between law enforcement agencies (Attorney General's Office, National Police, KPK) could be a short-term solution to align perceptions. In the long term, revisions to the Corruption Eradication Law should consider incorporating a more precise definition of abuse of authority that is punishable by law.<sup>39</sup> In addition, Minister of Health Regulation No. 16 of 2019 needs to be strengthened by adding an obligation for hospitals to have a *fraud risk assessment framework* and clarifying a more proportional gradation of administrative sanctions that would have a deterrent effect.

To combat the rampant corruption and abuse of authority, the government established a policy through Law No. 30 of 2014 on Government Administration. This policy serves as the legal framework or substantive law for the implementation of government administration. With the enactment of Law No. 30 of 2014 on Government Administration, the jurisdiction of the State Administrative Court is to review whether there has been an abuse of authority in the issuance of State Administrative Decisions. This is a response to practices that have been in place, in which law enforcement officials tend to be very positivistic in carrying out their supervisory and law enforcement functions, so that allegations of abuse of authority often lead directly to criminal proceedings. This situation creates legal uncertainty in

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<sup>37</sup>Orin Gusta Andini, Nilasari Nilasari, and Andreas Avelino Eurian, "Restorative Justice in Indonesia Corruption Crime: A Utopia," *Legality: Jurnal Ilmiah Hukum* 31, no. 1 (2023): 72–90.

<sup>38</sup>Vivi Ariyanti and Supani, "Examining Muslims' Aspirations in Drafting the New Criminal Code: Analyzing Criminal Law Policy in Indonesia from a Maslaha Perspective," *Al-Manahij: Jurnal Kajian Hukum Islam* 18, no. 1 (2024): 37–58, <https://doi.org/10.24090/mnh.v18i1.8280>.

<sup>39</sup>Zulkarnaen, Asikin, and Amiruddin, "Penyalahgunaan Wewenang Dalam Tindak Pidana Korupsi Setelah Berlakunya UU No. 30 Tahun 2014 Tentang Administrasi Pemerintahan."

state administrative actions, which can disrupt the performance of state administrative officials.

## 2. Institutional Architecture Restructuring

Weak coordination is a chronic problem in Indonesian law enforcement. Overcoming this requires an institutional breakthrough. The ideal concept is the establishment of a permanent JKN Anti-Fraud Task Force with a strong legal basis (e.g., a Presidential Regulation). This task force should consist of representatives from BPJS Kesehatan, BPKP, the Attorney General's Office, KPK, the Ministry of Health, and the National Police. Its function should not be limited to coordination, but also include conducting joint investigations into strategic cases, sharing intelligence data, and providing policy recommendations to the government. Internally, the anti-fraud unit at BPJS Kesehatan must be massively strengthened in terms of human resources, budget, and technology. This unit must become a *data analytics center* capable of providing *early warnings* to law enforcement agencies.<sup>40</sup>

Based on the Minister of Health Regulation on the Prevention and Handling of Fraud and the Imposition of Administrative Sanctions for Fraud in the Implementation of the Health Insurance Program, a National Health Insurance Fraud Prevention and Handling Team (PK-JKN) has been formed at the national, provincial, and district/city levels. The anti-fraud ecosystem in the JKN Program is also being developed as a joint effort to create a JKN Program free of fraud. The PK-JKN Team consists of several elements: the Ministry of Health, the Financial and Development Supervisory Agency (BPKP), the Corruption Eradication Commission (KPK), and BPJS Kesehatan. The duties of the PK-JKN Team are to disseminate regulations, foster a culture of quality and cost control, improve fraud-prevention culture, encourage the implementation of good organizational and/or clinical governance, conduct fraud detection and resolution efforts, and monitor, evaluate, and report.

## 3. Operational Framework Innovation

Modern law enforcement must shift from a reactive to a proactive, predictive approach.<sup>41</sup> This can be achieved through standardized case-handling protocols. The handling process must be clear: (1) Detection of anomalies and initial verification by the BPJS *anti-fraud* team; (2) If initial indications are found, the case is referred to the Financial and Development Supervisory Agency (BPKP) for an investigative audit and calculation of state losses; (3) The audit results form the basis for the Integrated Task Force to determine the enforcement path ( ): if purely administrative, it is resolved

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<sup>40</sup>Mohamad H. Muhtar, "Model Politik Hukum Pemberantasan Korupsi Di Indonesia Dalam Rangka Harmonisasi Lembaga Penegak Hukum," *Jambura Law Review* 1, no. 1 (2019): 68–93, <https://doi.org/10.33756/jalrev.v1i1.1988>.

<sup>41</sup> Marli Candra, "The Penology of Islamic Criminal Law: Reintroduction of Islamic Penology," *Al-'Adalah* 15, no. 2 (2018): 345–366, <https://doi.org/10.24042/adalah.v15i2.2783>.

through sanctions by BPJS and the Ministry of Health; if sufficient preliminary evidence of a criminal offense is found, it is referred to the Attorney General's Office or the Corruption Eradication Commission (KPK) for prosecution. In addition, strengthening a secure and reliable *whistleblower protection system* is crucial to encourage public participation in exposing *fraudulent* practices.<sup>42</sup> The integration of these three pillars—clear regulations, solid institutions, and innovative operations—will create a holistic law enforcement ecosystem capable not only of taking action but, more importantly, of preventing the abuse of authority in the sustainable management of JKN funds.

## Conclusion

The essence of authority in managing JKN funds in hospitals stems from legislation (attribution), the implementation of which is limited by legal corridors and AAUPB. Abuse of authority manifests itself in three forms: exceeding authority, the current form of law enforcement is fragmented into three channels: (1) administrative (sanctions by BPJS, BPKP audits, lawsuits in the State Administrative Court), (2) criminal (investigations by the Attorney General's Office/National Police/Corruption Eradication Commission and trials in the Corruption Court), and (3) preventive (efforts to strengthen governance and early detection). However, their effectiveness is hampered by fundamental weaknesses in all three components. The ideal concept of law enforcement requires an integrated, holistic, and proactive model. This model must be based on the principles of legal certainty, justice, and effectiveness, which are realized through three pillars: (1) clear regulations with a clear demarcation between administrative and criminal sanctions, (2) solid institutions through the establishment of an integrated JKN Anti-Fraud Task Force, and (3) innovative operations with risk-based case handling protocols and the use of technology for early detection.

To realize this ideal, the government and the House of Representatives need to harmonize the Anti-Corruption Law and the Administrative Law to provide legal certainty in the handling of abuse of authority. In addition, the Ministry of Health needs to revise Minister of Health Regulation No. 16 of 2019 to require hospitals to have a *fraud* risk management framework and to strengthen administrative sanctions. Operationally, the Health Social Security Agency (BPJS Kesehatan) and hospitals must invest in *big data analytics* and AI to develop sophisticated systems for detecting claim anomalies. Furthermore, an effective and reliable whistleblower protection system needs to be established to encourage active participation from internal health facilities and the community in combating *fraud*. Comprehensive implementation of these recommendations is expected to strengthen accountability, save state finances, and

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<sup>42</sup>Bunga et al., "Urgensi Peran Serta Masyarakat Dalam Upaya Pencegahan Dan Pemberantasan Tindak Pidana Korupsi."

ultimately ensure the sustainability of the JKN Program as a key pillar of the national health system.

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### **Author Contributions Statement**

Risqilah contributed to the conceptualization of the study, research design, data collection, formal analysis, investigation, and preparation of the original manuscript draft. Iin Karita Sakharina contributed to the development of the research framework, methodological design, supervision, validation of findings, critical review, and substantive revision of the manuscript. Abdul Razak participated in legal analysis, interpretation of regulatory and judicial materials, validation of results, and manuscript review and refinement. Anggreany Arief contributed to data curation, investigation, resource management, validation, and manuscript review. Anton Smirnov contributed to the comparative legal analysis, methodological refinement, validation process, development of the theoretical framework, and critical review of the manuscript. All authors contributed substantially to the research, reviewed and approved the final version of the manuscript, and agreed to be accountable for all aspects of the work.

### **AI Usage Statement**

The authors used artificial intelligence (AI) tools, including ChatGPT developed by OpenAI, solely to assist with language refinement, grammar checking, and improving the clarity of the manuscript. AI tools were not used to generate, analyze, interpret, or validate research data, nor were they used to draw the study's conclusions. All intellectual content, research design, data analysis, interpretation of findings, and final manuscript preparation remain the sole responsibility of the authors. The authors carefully reviewed and verified all AI-assisted outputs to ensure their accuracy, originality, and compliance with academic and ethical standards.

### **Conflict of Interest**

The authors declare that there are no financial, professional, institutional, or personal conflicts of interest that could have influenced the research, analysis, interpretation of data, or the publication of this manuscript. The authors affirm that the study was conducted independently and objectively, and that no external party influenced the research outcomes or conclusions presented in this article.

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