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A Comparative Analysis of the Regulation of Concurrent Criminal Offenses (Samenloop) under the Old and New Indonesian Criminal Codes

Engelina Dwi kartika[1], Emmilia Rusdiana[2]
[1,2]Law Study Program, Faculty of Law, State University of Surabaya
Email: engelina.22119@mhs.unesa.ac.id[1], emmiliarusdiana@unesa.ac.id[2]
*Corresponding author: * engelina.22119@mhs.unesa.ac.id*

ABSTRACT

This study examines the regulation of concurrent criminal offenses (*samenloop*) under the old and new Indonesian Criminal Codes and assesses whether the new Criminal Code provides greater legal certainty. The study employs a normative juridical method with a descriptive-analytical approach. The data are obtained from legal literature and other relevant sources related to the research topic. The findings indicate that the new Criminal Code, established under Law No. 1 of 2023, does not fundamentally change the basic concept of concurrent criminal offenses recognized in the old Criminal Code. Both codes recognize *concursus idealis*, continuing offenses (*voortgezette handeling*), and *concursus realis*. The main changes concern the systematic arrangement of legal provisions, the formulation of legal norms, the clarification of maximum sentencing limits, and the integration of concurrent offenses into a more comprehensive national sentencing system. These improvements are expected to provide clearer guidance for law enforcement officials, particularly judges, when determining appropriate criminal sanctions. However, legal uncertainty remains, especially regarding the distinction between a single act and multiple acts in judicial practice. Therefore, consistent judicial interpretation, the development of jurisprudence, and clearer implementation guidelines are needed to ensure legal certainty and consistency in applying the provisions on concurrent criminal offenses in Indonesia.

Keywords: concurrent criminal offenses, legal certainty, new Criminal Code, old Criminal Code, *samenloop*

INTRODUCTION

Criminal law generally refers to the body of legal rules governing criminal offenses and their corresponding penalties. Criminal law also functions as a means of social control to establish and maintain public order (Wahyuni, 2021). The criminal law provisions previously applicable in Indonesia were largely inherited from the Dutch colonial government and were known as the Old Criminal Code (*Kitab Undang-Undang Hukum Pidana* or KUHP) (Pradityo, 2018). Criminal law reflects values based on principles and norms that have developed and are recognized within Indonesian society. This situation provides the foundation for the urgent need to reform criminal law in Indonesia, particularly through the establishment of a new

Criminal Code. Penal policy is an essential component of modern criminal science that examines how criminal law should be formulated and implemented as an instrument to regulate or control human behavior. In particular, penal policy addresses efforts to prevent and combat criminal offenses in order to protect the public and promote social welfare (Arief, 2021). Within the Indonesian legal system, situations may arise in which a person commits several criminal offenses simultaneously or within a series of related events. In legal terminology, this situation is known as *samenloop*, derived from the Dutch expression *samenloop van strafbaar feit*, or *concursus*. In Indonesian, the term is translated as concurrent criminal offenses or the concurrence of criminal acts (Rahayu, 2018). Accordingly, this article uses the term concurrent criminal offenses to refer to situations involving two or more criminal offenses for which one person may be held responsible, including circumstances involving the participation of several individuals. The combination of criminal offenses is commonly referred to as *concursus* or *samenloop* (Rahayu, 2018).

Concursus idealis refers to a situation in which a single act simultaneously fulfills the elements of several criminal provisions. A continuing offense (*voortgezette handeling*) involves several acts that are closely connected and continuous, whereas *concursus realis* occurs when the same offender commits several independent criminal offenses within a series of events. These situations require specific rules to determine criminal liability and the appropriate sentencing mechanism (Akune et al., 2023). Under the Old Criminal Code, various doctrinal studies, including those discussed by Haris A. P. Balanda, explain that the forms of concurrent criminal offenses include the concurrence of criminal provisions, continuing offenses, and the concurrence of separate criminal acts. These forms are accompanied by different sentencing mechanisms, including pure absorption, aggravated absorption, limited accumulation, and full accumulation. Such mechanisms represent the criminal law's normative response to situations involving more than one criminal offense (Balanda, 2019). Following the enactment of the new Criminal Code through Law No. 1 of 2023, which became effective on January 2, 2026, replacing the Old Criminal Code, the structure and terminology of criminal law provisions were reorganized. These changes affect various areas of criminal law, including the regulation of concurrent criminal offenses. The new Criminal Code introduces a normative orientation that emphasizes corrective justice, diversification of criminal sanctions, and broader recognition of the social dimensions of law. This shift is also reflected in the recognition of living law within society and the restructuring of criminal offense provisions and the national sentencing system as a whole (Dhyaksa et al., 2025).

Although the regulation of concurrent criminal offenses under the Old Criminal Code has been widely discussed in classical criminal law literature, comprehensive studies comparing the regulation and application of *samenloop* under the old and new Criminal Codes remain relatively limited (Marnija & Zainal, 2025). This limitation is particularly evident in the lack of discussion concerning substantive changes to sentencing mechanisms, changes in the terminology and arrangement of statutory provisions, and the implications of these changes for judicial practice. Relatively few mainstream scientific articles explicitly compare the concept of *samenloop* under both Criminal Codes. Therefore, this study has significant academic relevance and offers an opportunity to examine whether the new Criminal Code retains the three forms of concurrent criminal offenses recognized under the Old Criminal Code or introduces a different normative approach to addressing multiple offenses committed within a single series of events.

The restructuring of the new Criminal Code has implications for the mechanisms used to determine sentences for offenders who commit more than one criminal offense. These changes may involve sentencing methods and terminology that differ from the absorption and accumulation systems recognized under the Old Criminal Code. Such changes are closely related to the strengthening of substantive justice, the objectives of sentencing, and the development of sentencing guidelines intended to ensure the accuracy and proportionality of criminal punishment in cases involving multiple offenses (Fahrurrozi & Paris, 2018). The regulation of *samenloop* under the National Criminal Code, established by Law No. 1 of 2023, is addressed in Articles 129 to 133. Regarding *concursus idealis*, Article 129 of the National Criminal Code stipulates that when a single act fulfills the elements of several criminal offenses, only one punishment is imposed by taking into account the provision carrying the most severe criminal penalty. This provision essentially continues the approach established under Article 63 of the Old Criminal Code, which also adopts the absorption principle (*stelsel absorptie*), whereby only one criminal provision is applied when a single act violates several criminal law provisions. Nevertheless, a fundamental issue that remains unresolved in the National Criminal Code is the absence of a clear definition of the term “single act.” In legal doctrine, the meaning of this expression has developed through at least three perspectives: the physical approach, which emphasizes a single concrete action; the psychological approach, which focuses on the unity of the offender's intention; and the normative approach, which considers the unity of the legal interests violated (Lubis et al., 2026). The uncertainty surrounding these criteria may result in legal ambiguity or vague norms, as judges are required

to independently determine whether a series of actions producing various legal consequences can still be classified as a single act or must instead be regarded as several independent acts. This issue has also been highlighted in academic studies of the doctrine of concurrent criminal offenses under both the Old Criminal Code and the National Criminal Code, which indicate that the reform has not yet established sufficiently clear conceptual boundaries between the different forms of *samenloop* (Kusumo, 2020).

Article 131 of the National Criminal Code regulates *concursus realis*, which refers to situations in which several acts, each fulfilling the elements of a criminal offense, are committed before a court decision becomes legally final and binding. While Article 129 focuses on a single act that constitutes several criminal offenses, Article 131 emphasizes the existence of multiple acts and the sentencing mechanisms applicable to actual concurrence. Nevertheless, similar to Article 129, this provision does not explicitly establish clear criteria for determining what constitutes "several acts." There are no sufficiently explicit normative guidelines for distinguishing between a single act and multiple acts, particularly when the actions occur within a short period or are motivated by the same intention. This problem becomes more complex when considered alongside Article 130 of the National Criminal Code, which regulates continuing offenses (*voortgezette handeling*), a concept that lies between *concursus idealis* and *concursus realis*. The absence of adequate normative indicators concerning temporal boundaries, unity of intention, and continuity of actions creates broad room for interpretation by law enforcement officials and may lead to disparities in judicial decisions. Several academic studies on the application of the doctrine of concurrent criminal offenses in criminal proceedings, including studies published in *Lex Crimen*, emphasize that the classification of concurrent offenses frequently depends on the judge's legal reasoning rather than on explicit normative criteria established by legislation (Keintjem et al., 2021).

When compared with the Old Criminal Code, the provisions concerning *concursus idealis* under Article 63, continuing offenses under Article 64, and *concursus realis* under Articles 65–71 demonstrate a legal structure that is broadly consistent with the provisions of the National Criminal Code. The apparent differences primarily concern the systematic organization of the provisions, the reformulation of legal norms, and adjustments to the maximum sentencing limits applicable to concurrent criminal offenses within the new codification. Nevertheless, in substantive terms, the National Criminal Code has not introduced a fundamental conceptual reform, particularly in establishing more precise boundaries between a "single act" and

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"multiple acts." Consequently, the problem of legal ambiguity that has long been debated in classical criminal law doctrine continues to exist. From the perspective of the principle of legality, particularly the principle of *lex certa*, which requires criminal law provisions to be formulated clearly and precisely, this situation indicates that criminal law reform has not yet fully guaranteed legal certainty in the application of *samenloop*. Therefore, stronger interpretative measures are required through the development of legal doctrine, the establishment of consistent jurisprudence, and the preparation of technical guidelines by the Supreme Court. These measures are necessary to minimize inconsistencies in the application of Articles 129 and 131 of the National Criminal Code in judicial practice (Kusumo, 2020).

Accordingly, this study is relevant not only from a conceptual perspective but also in practical terms because of its implications for legal certainty and consistency in judicial decisions. The application of the provisions governing concurrent criminal offenses under the new Criminal Code creates opportunities for interpretations that differ from those applied under the Old Criminal Code. These developments directly affect the achievement of fair and proportionate sentencing in accordance with the principles of criminal law incorporated into the new Criminal Code. Based on this background, the study addresses two main questions: how is the concept of concurrent criminal offenses (*samenloop*) regulated under the Old Criminal Code compared with its regulation under the new Criminal Code? Furthermore, has the regulation of *samenloop* under the new Criminal Code provided greater legal certainty, or has it instead reconstructed or perpetuated the legal ambiguities previously present under the Old Criminal Code?

METHODS

This study employed a normative juridical research method with a descriptive-analytical approach to examine and compare the regulation of concurrent criminal offenses (samenloop) under the Old and New Indonesian Criminal Codes. The normative juridical method was selected because the study focuses on analyzing legal rules, principles, and doctrines contained in legislation and legal literature. The descriptive-analytical approach was used to describe the legal framework governing concurrent criminal offenses and analyze the similarities, differences, and legal implications of the provisions under both Criminal Codes. The primary legal materials consisted of relevant statutory provisions, particularly Law No. 1 of 2023 concerning the Criminal Code, while secondary legal materials included legal books, scientific journals, academic articles, and other relevant literature discussing samenloop and criminal

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sentencing. These materials were collected through a literature study and examined to identify the legal framework applicable to concurrent criminal offenses in Indonesia.

The collected legal materials were analyzed qualitatively through the identification, classification, interpretation, and comparison of relevant legal provisions and legal doctrines. The analysis focused on the three forms of concurrent criminal offenses, namely concursus idealis, continuing offenses (voortgezette handeling), and concursus realis, as well as the sentencing mechanisms and legal certainty associated with their application. The comparison was conducted by examining the relevant provisions of the Old Criminal Code and the New Criminal Code to determine whether the new regulations provide clearer legal guidance or retain ambiguities concerning the distinction between a single act and multiple acts. This methodological approach follows the principle that a methods section should explain the research procedures and justify the methods used, while providing sufficient information for readers to evaluate the appropriateness and reliability of the findings (Budirohmi et al., 2026)

RESULTS AND DISCUSSION

The concept of concurrent criminal offenses (*samenloop*) essentially refers to a situation in which a perpetrator commits one act that simultaneously violates several existing criminal provisions, or commits several acts, each of which constitutes an independent criminal offense. All of these acts may be examined in a single judicial proceeding, provided that no final and legally binding court decision has been rendered concerning any of the acts. Thus, the concept of concurrent criminal offenses allows the examination of several criminal offenses to be combined in a single trial, with the aim of maintaining consistency in sentencing while increasing the efficiency of judicial proceedings (Rahmad et al., 2026). Concurrent criminal offenses, as regulated in Articles 63 to 71 of the Criminal Code (KUHP), which were subsequently reformulated in Articles 125 to 128 of Law Number 1 of 2023 concerning the Criminal Code (hereinafter referred to as the New Criminal Code), constitute an important foundation of the Indonesian criminal law system. These provisions serve as guidelines for determining how several interrelated criminal offenses should be handled so that they can be examined and resolved in a single judicial proceeding. This concept may be applied when, at the time another criminal offense occurs, no court decision has yet been rendered concerning

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one of the acts committed by the perpetrator. Thus, all of these acts may be examined and processed simultaneously in a single case while still taking into account the principle of justice and efficiency in the administration of judicial proceedings. Nevertheless, the concept of concurrent criminal offenses must be distinguished from the concept of participation (*deelneming*), as regulated in Articles 55 to 62 of the Criminal Code. In participation, more than one person is involved in committing the same criminal offense. Furthermore, concurrent criminal offenses must also be distinguished from the concept of recidivism (*recidive*), which refers to a situation in which a person who has been sentenced based on a final and legally binding court decision commits another criminal offense. In such a situation, the status of a recidivist may serve as a consideration for increasing the severity of the sentence imposed (Wati & Fatah, 2021).

Several studies published in law journals indicate that the regulation of concurrent criminal offenses plays a significant role in maintaining consistency in sentencing and preventing disparities in court decisions. These studies also explain that the concept of *concursus* is applied as a basis for regulating how several criminal offenses committed by one perpetrator may be examined simultaneously in a single judicial proceeding without causing injustice in the imposition of criminal sanctions. In addition, various studies emphasize that the regulation of concurrent criminal offenses in the New Criminal Code forms part of the national criminal law reform process, which is directed toward strengthening legal certainty and providing clearer guidelines for judges in determining and imposing criminal sanctions (Hakim, 2020). Thus, conceptually, there are no fundamental changes to the regulation of concurrent criminal offenses. The New Criminal Code introduces improvements in the systematic arrangement of provisions, the formulation of legal norms, and the clarification of sentencing limits, with the expectation of providing a greater degree of legal certainty in criminal justice practice in Indonesia.

Table 1. Comparison of the Regulation of Concurrent Criminal Offenses under the Old Criminal Code and the New Criminal Code

No.	Substance	Old Criminal Code	New Criminal Code
1.	Systematic arrangement of the regulation of	The provisions are spread across Articles 63–71 of the Criminal Code without a clear systematic division between	The provisions are arranged more systematically in one section concerning concurrent criminal offenses, making

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	concurrent criminal offenses	the types of concurrent criminal offenses.	them easier to understand and apply in judicial practice.
2.	Maximum sentencing limits for concurrent criminal offenses	The maximum sentencing limits in *concursus realis* are regulated but often lead to differences in interpretation in practice.	The Criminal Code provides clearer formulations regarding the maximum sentencing limits when several criminal offenses are committed simultaneously, thereby providing judges with more definite guidelines.
3.	Integration with the new sentencing system	The Old Criminal Code recognizes only the principal and additional penalties to a limited extent.	The New Criminal Code integrates the regulation of concurrent criminal offenses into a new, more comprehensive sentencing system, including alternative penalties and more varied additional penalties.
4.	Clarification of the principle of double punishment	This principle is implied in Article 63 of the Criminal Code concerning *concursus idealis*, but it is not explained systematically.	The New Criminal Code clarifies the principle that a single act that fulfills the elements of several criminal provisions is subject to only one criminal provision carrying the most severe penalty.
5.	Criteria for the Commencement of Execution (Attempted Criminal Offenses)	Under the Old Criminal Code, attempted criminal offenses are regulated in Article 53 of the Criminal Code. The commencement of execution is understood as an act that directly leads toward the	Under the New Criminal Code, attempted criminal offenses are regulated in Articles 16–18 of the National Criminal Code. The commencement of execution is formulated more clearly as an act that has

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		commission of a criminal offense but is not completed due to circumstances beyond the perpetrator's control. In the context of concurrent criminal offenses, an attempt may form part of several acts related to one another.	concretely moved toward the commission of a criminal offense. This regulation provides clarity in determining whether an act has reached the stage of an attempt that may be related to concurrent criminal offenses.
7.	Additional Penalties in Concurrent Criminal Offenses	The Old Criminal Code recognizes additional penalties as regulated in Article 10 of the Criminal Code, such as the deprivation of certain rights, confiscation of property, and publication of court decisions. In cases involving concurrent criminal offenses, additional penalties may be imposed insofar as they relate to the criminal offenses committed.	The New Criminal Code also regulates additional penalties within the national sentencing system, but with a broader scope and a more modern system. Additional penalties may be imposed alongside principal penalties in cases involving concurrent criminal offenses, provided that they comply with the provisions of the National Criminal Code.

Based on research conducted by Sri Jihan Akune and colleagues, concurrent criminal offenses in criminal law generally occur when a perpetrator commits several acts, each of which fulfills the elements of a criminal offense, thereby creating issues in determining the appropriate sentencing system. In practice, sentencing for concurrent criminal offenses may use several systems, including the *absorption system* (*stelsel absorpsi*), the *cumulative system* (*stelsel kumulasi*), and the *limited cumulative system* (*stelsel kumulasi terbatas*). These three systems serve as the basis for determining the most proportional form of punishment for perpetrators who commit more than one criminal act (Akune et al., 2023). In the practice of criminal law enforcement, sanctions for concurrent criminal offenses may be imposed through several sentencing systems, namely the *absorption system* (*stelsel absorpsi*), the *cumulative system* (*stelsel kumulasi*), and the *limited cumulative system* (*stelsel kumulasi terbatas*).

The application of these various systems is intended to determine the most appropriate and proportional punishment for perpetrators who commit more than one criminal offense. Nevertheless, the regulation of concurrent criminal offenses in the Criminal Code frequently raises issues concerning legal certainty. This is due to the lack of clear boundaries between several forms of concurrent criminal offenses, particularly between the concept of continuing offenses and *concursus realis*. In practice, there are several cases in which the series of acts committed by perpetrators exhibit nearly similar characteristics, making it difficult to determine whether the acts constitute a single series of continuing acts or several independent criminal offenses. This situation ultimately makes the application of the concept of *samenloop* highly dependent on the judge's interpretation when assessing the legal facts revealed during the trial (Balanda, 2019).

Nevertheless, several academics argue that these reforms have not fully eliminated the potential for ambiguity in legal norms. This situation is particularly related to the possibility of differing interpretations of the elements that distinguish the various forms of *samenloop*. In judicial practice, judges are still required to interpret the relationship between several criminal acts committed by a perpetrator, meaning that the possibility of differing interpretations remains. Therefore, the realization of legal certainty in the regulation of *samenloop* is determined not only by the formulation of the provisions in Law Number 1 of 2023 concerning the Criminal Code but also by the consistency of their application by law enforcement officials in criminal justice practice. Thus, it can be understood that the regulation of concurrent criminal offenses under Law Number 1 of 2023 concerning the Criminal Code essentially represents an improvement upon the provisions previously regulated in the Criminal Code. The New Criminal Code seeks to establish a more organized and systematic regulatory framework with the aim of increasing legal certainty. Nevertheless, because the fundamental concept of *samenloop* remains unchanged, the potential for ambiguity in legal norms that was recognized under the previous Criminal Code has not been entirely eliminated and therefore still requires careful interpretation in criminal justice practice.

CONCLUSION

The research findings regarding the Comparison of the Application of Concurrent Criminal Offense (*Samenloop*) Proceedings between the Old Criminal Code and the New Criminal Code

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lead to several conclusions as follows. First, the regulation of the concept of concurrent criminal offenses (*samenloop*) in the Criminal Code and in Law Number 1 of 2023 concerning the Criminal Code basically demonstrates a regulatory structure that is not significantly different. Both legal regimes regulate the mechanism for determining criminal liability when one act or several related acts result in more than one criminal offense. In the Criminal Code (Old Criminal Code), the regulation of the concept of *samenloop* is contained in Articles 63 to 71, which classify several forms of concurrent criminal offenses, namely *concursus idealis*, continuing offenses (*voortgezette handeling*), and *concursus realis*. *Concursus idealis* describes a situation in which a single act committed by a perpetrator fulfills the elements of more than one criminal provision. Meanwhile, continuing offenses refer to a situation in which several acts committed are closely related, so that, from a legal perspective, they are regarded as one continuous series of actions. Meanwhile, *concursus realis* occurs when a person commits several acts, each of which constitutes an independent criminal offense.

Second, regarding the question of whether the regulation of *samenloop* in Law Number 1 of 2023 concerning the Criminal Code has been able to provide greater legal certainty or instead still creates ambiguity in legal norms, it can be understood that the New Criminal Code has essentially made several improvements to the weaknesses found in the previous Criminal Code. These improvements are particularly evident in the systematic arrangement of the regulations and the clarification of limits on the imposition of criminal penalties. Through the formulation of norms that are structured more systematically, Law Number 1 of 2023 concerning the Criminal Code is expected to provide clearer direction and guidance for judges in imposing criminal sanctions on perpetrators who commit more than one criminal act.

Thus, it can be understood that Law Number 1 of 2023 concerning the Criminal Code essentially does not fundamentally change the concept of concurrent criminal offenses that was already recognized in the previous Criminal Code. The reforms undertaken are more directed toward organizing the systematic structure and improving the formulation of the regulations. Nevertheless, the possibility of ambiguity in legal norms remains a challenge, so further efforts are needed to ensure that the provisions concerning *samenloop* can be applied consistently in criminal justice practice in Indonesia.

In the future, it is advisable that lawmakers take steps to improve the regulation of concurrent criminal offenses in Law Number 1 of 2023 concerning the Criminal Code, particularly by providing a more comprehensive explanation of the boundaries between the various forms of

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samenloop. A clearer and more precise formulation of legal norms is expected to minimize the possibility of differing interpretations in their application by the courts. For law enforcement officials, particularly judges and prosecutors, a deeper understanding of the concept of concurrent criminal offenses as regulated in Law Number 1 of 2023 concerning the Criminal Code is necessary. This understanding can be enhanced through various efforts, such as organizing training sessions and seminars, as well as developing interpretative guidelines by judicial institutions, thereby encouraging greater uniformity in the application of the law. For legal education institutions, studies on national criminal law reform, particularly those related to the concept of concurrent criminal offenses, should receive greater attention in legal education curricula. This is important to ensure that prospective legal practitioners develop a comprehensive understanding of the dynamics and development of criminal law in Indonesia, particularly following the entry into force of Law Number 1 of 2023 concerning the Criminal Code.

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