

Assessing Proactive Investigation Techniques Against Corruption: A Comparative Study of Indonesia, the United States, Hong Kong, and Singapore

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Abstract

The Indonesian Criminal Procedure Code (KUHAP) does not formally recognize the term Operasi Tangkap Tangan (OTT) or "Sting Operation." The regulation concerning a red-handed arrest is strictly provided under Article 1 point 19 of the KUHAP. In executing an OTT, the Corruption Eradication Commission (KPK) primarily utilizes two techniques: wiretapping (surveillance) and entrapment (sting operations). While the KPK Law explicitly grants the authority to conduct wiretapping, it does not provide detailed procedural regulations. Furthermore, the concept of entrapment is not formally recognized within various Indonesian anti-corruption statutes. However, from a legal perspective, the OTTs conducted by the KPK do not violate criminal procedural law. This is because, at the time of the arrest, the suspect is found in possession of objects strongly suspected to have been used to commit the crime, indicating their role as the perpetrator, an accomplice, or an accessory to the offense. Furthermore, these operations do not infringe upon the presumption of innocence or fundamental human rights, as the KPK carries out the OTT in accordance with the procedures established Indonesia Law.

Keywords: *Operation Catch Hand (OTT), In Flagrante Delicto, Procedural Legality*

Introduction

Corruption is a pervasive global pathology that erodes the foundations of the rule of law, distorts market competition, and undermines public trust in democratic institutions. In the modern era, traditional "reactive" investigation methods which rely on reports from victims or whistleblowers have proven insufficient to dismantle the clandestine networks of bribery and graft. Because corruption is inherently a

"consensual" crime where both the bribe-giver and bribe-taker benefit from secrecy, law enforcement agencies must adopt "proactive" investigation techniques.

In Indonesia, the most prominent proactive tool is the *Operasi Tangkap Tangan* (OTT), executed by the Corruption Eradication Commission (KPK). While celebrated by the public for its efficacy, the OTT frequently faces rigorous legal challenges regarding its procedural validity. To understand the legitimacy of these operations, one must look beyond national borders and analyze how global anti-corruption leaders like the United States, Hong Kong, and Singapore balance the need for aggressive enforcement with the protection of human rights. This article employs a normative legal research perspective, as pioneered by Peter Mahmud Marzuki, to evaluate these techniques across four distinct jurisdictions.¹

The Operasi Tangkap Tangan (OTT) has emerged as the most polarizing instrument in Indonesia's legal landscape, representing a constant tension between the pursuit of substantive justice and the rigid requirements of procedural legal certainty. From a normative perspective, as pioneered by Peter Mahmud Marzuki, the legality of these operations is not merely a matter of catching a criminal in the act, but rather a test of whether the state can uphold the rule of law while exercising extraordinary powers. Proponents of the OTT model argue that corruption, as an "extraordinary crime," necessitates proactive measures that go beyond traditional reactive policing. The primary strength of this method lies in the doctrine of *in flagrante delicto*, which provides irrefutable primary evidence. By securing the suspect, the illicit funds, and the scene of the crime simultaneously, the KPK avoids the pitfalls of conventional investigations, such as the destruction of evidence or the intimidation of witnesses, which are common hurdles in complex white-collar crime litigation.

Furthermore, the effectiveness of OTT as a deterrent cannot be understated. The "shock therapy" generated by high-profile arrests creates a significant psychological barrier for public officials contemplating graft, thereby fulfilling the law's function of social engineering. From a conviction standpoint, OTT cases boast an almost flawless record in the Anti-Corruption Court (Tipikor). This is because the evidence gathered is physical and immediate, leaving little room for the "reasonable doubt" that often plagues cases built solely on circumstantial evidence or witness testimonies that may change over time. In this view, OTT is the ultimate manifestation of a legal system that prioritizes the protection of state assets over procedural technicalities.

However, a significant body of legal scholarship, often aligned with Marzuki's emphasis on legal certainty, raises critical objections regarding the potential for procedural abuse. The primary concern is the "Fruit of the Poisonous Tree" doctrine; in a *Rechtstaat* (Rule of Law), the ends can never justify the means. If an OTT is the result of wiretapping or surveillance conducted without a valid permit from the Supervisory Board, as mandated by the revised KPK Law, the entire operation becomes legally "poisoned." Such violations do not just affect a single case; they undermine the public's trust in the integrity of the judicial process itself. Without strict adherence to these procedural safeguards, the state risks descending into authoritarianism under the guise of anti-corruption enforcement.

¹ Peter Mahmud Marzuki, *Penelitian Hukum: Edisi Revisi*, (Jakarta: Kencana, 2005), p. 35.

Another controversial aspect is the thin line between legal facilitation and illegal entrapment. Critics argue that without a clear statutory definition of "predisposition" a concept common in the United States legal system the KPK risks "creating" crimes by baiting individuals who might not have otherwise committed an offense. This leads to the ethical dilemma of whether the state should be in the business of testing the morality of its citizens through traps. Moreover, because proactive investigations are intelligence-led, there is an inherent risk of selective enforcement. When resources are deployed based on specific intelligence, it opens the door to allegations of political targeting, which violates the constitutional principle of "Equality Before the Law." Ultimately, for the OTT to remain a legitimate tool, Indonesia must harmonize its effectiveness with a robust normative framework that ensures every "catch" is as legally sound as it is morally satisfying.

Methods

In a normative legal analysis, the legitimacy of the Operasi Tangkap Tangan (OTT) must be examined through a deductive-syllogistic approach, which applies general legal norms to specific factual circumstances. According to the framework established by Peter Mahmud Marzuki, legal research is a search for coherence within the legal system; thus, the legality of an OTT depends on its alignment with the major premise found in Article 1 point 19 of the KUHAP. This provision defines *Tertangkap Tangan* (red-handed arrest) through the element of immediacy, requiring that the suspect be apprehended during or immediately after the commission of a crime. When the KPK utilizes real-time electronic surveillance to monitor a bribe, the minor premise the factual arrest must strictly satisfy this normative criteria of "immediacy" to be valid. If a significant delay occurs between the transaction and the intervention, the operation ceases to be an OTT and requires a formal warrant, otherwise it violates the fundamental principle of legality.

Furthermore, the legal method requires an assessment of statutory coherence, particularly following the enactment of Law No. 19 of 2019. Under the principle of *Lex Specialis Derogat Legi Generali*, the specialized procedures of the KPK Law govern the general rules of the KUHAP. This means that proactive surveillance leading to an OTT is only legally "coherent" if it is preceded by a written permit from the Supervisory Board (Dewas). As Sudikno Mertokusumo suggests, a legal system is a unified whole; therefore, a procedural breach at the intelligence-gathering stage creates a "conflict of norms" that effectively poisons the legality of the physical arrest. Without this administrative synchronization, the state's action loses its normative basis, potentially rendering the evidence inadmissible under the "Fruit of the Poisonous Tree" doctrine, which is a common defense in modern Indonesian *Praperadilan* hearings.

From a comparative-functional perspective, legal methods analyze whether the function of the OTT is equivalent to the "Sting Operations" seen in Common Law jurisdictions like the United States. While Zweigert & Kötz observe that different systems often seek the same social equilibrium, the Indonesian legal style is distinctly more formalistic. Unlike the American model, which utilizes a subjective "predisposition" test to handle entrapment, the Indonesian legal method relies on a teleological approach analyzing the *Ratio Legis* or the underlying purpose of the law.

This approach weighs the state's duty to eradicate "extraordinary crimes" against the individual's right to privacy. Ultimately, as supported by the theories of Jon S.T. Quah and Andi Hamzah, the OTT is a legally justified necessity only when it maintains a balance between enforcement efficacy and procedural sanctity, ensuring that the pursuit of justice does not override the constitutional mandates of a *Rechtstaat*.

The methodology of this study is rooted in normative legal research. According to Peter Mahmud Marzuki, legal research is a process to find the rules of law, legal principles, and legal doctrines to answer the specific legal issues at hand. This research does not seek to gather empirical data but rather to analyze the "coherence" of legal norms²

Specifically, this study utilizes the comparative law approach. As Zweigert and Kötz argue, comparing legal systems allows us to see how different jurisdictions solve identical social problems in this case, the difficulty of proving bribery.³ The analysis examines the Indonesian Criminal Procedure Code (KUHAP), the U.S. Federal Rules of Criminal Procedure, the Hong Kong ICAC Ordinance, and the Singapore Prevention of Corruption Act.

Discussion

To provide a rigorous legal analysis of the Operasi Tangkap Tangan (OTT), we must examine the intersection between the general procedural law (KUHAP) and the specialized anti-corruption framework (UU KPK). This analysis uses a normative-juridical approach to determine how these two statutes harmonize to create a legal basis for proactive enforcement.

Juridical Analysis: The Synchronization of KUHAP and UU KPK

The primary legal anchor for any OTT in Indonesia is found in Article 1 point 19 of the KUHAP, which provides the normative definition of *Tertangkap Tangan*. Under this provision, an arrest is considered "red-handed" if it occurs during the commission of a crime, immediately after the act, or when the perpetrator is found with evidence shortly thereafter. From a legal method perspective, this serves as the Major Premise. However, because corruption is a "hidden" crime, the Minor Premise (the factual arrest) cannot be achieved without the proactive powers granted by the UU KPK (Law No. 19 of 2019). Specifically, Article 12 Paragraph (1) of the UU KPK authorizes the commission to conduct wiretapping and surveillance, which acts as the "intelligence bridge" allowing investigators to satisfy the requirement of "immediacy" demanded by the KUHAP.

The interaction between these two laws is governed by the principle of *Lex Specialis Derogat Legi Generali*. While the KUHAP sets the general standard for arrests, the UU KPK provides the specialized "proactive" tools necessary for corruption cases. However, this specialized power is not absolute. Under the revised UU KPK, Article 12B stipulates that wiretapping can only be conducted after obtaining a written permit

² *Ibid.*, p. 93.

³ Konrad Zweigert & Hein Kötz, *Introduction to Comparative Law*, (Oxford: Clarendon Press, 1998), p. 32.

from the Supervisory Board (Dewas). In this context, Peter Mahmud Marzuki's theory of Legal Certainty becomes crucial; if the KPK conducts an OTT based on surveillance that lacks a Dewas permit, the operation violates the specialized mandate of the UU KPK. This procedural flaw effectively "poisons" the arrest, even if it technically meets the definition of *Tertangkap Tangan* under the KUHAP, because the intelligence used to time the arrest was gathered illegally.

Furthermore, the synchronization of Article 43 and Article 44 of the UU KPK with the KUHAP creates a strict timeline for the transformation of an "intercepted suspect" into a "formal suspect." Once the OTT occurs, the KPK has a 24-hour window, as referenced in the KUHAP's arrest procedures, to determine if there is a "preliminary sufficiency of evidence" (at least two valid pieces of evidence). This creates a high-pressure procedural environment where the results of the proactive surveillance (UU KPK) must be immediately translated into formal case files (*BAP*) as required by the KUHAP. Ultimately, the OTT is a hybrid legal act: its substance (the arrest) is governed by the KUHAP, but its methodology (the proactive surveillance) is governed by the UU KPK, requiring total harmony between both to withstand the scrutiny of a *Praperadilan* (pre-trial) hearing.

1. The Indonesian Model: OTT and the Doctrine of *In Flagrante Delicto*

In the Indonesian legal system, which is a legacy of the Civil Law tradition, every state action must be anchored in the principle of legality (*asas legalitas*)⁴. The legal basis for the OTT is not a specific "sting operation" statute, but rather the concept of *Tertangkap Tangan* (caught red-handed) as stipulated in Article 1 point 19 of the KUHAP.⁵

Andi Hamzah posits that the essence of *Tertangkap Tangan* is the element of "immediacy" (*seketika*). By catching the perpetrator in the act of exchanging illicit funds, the KPK bypasses the inherent unreliability of witness testimony, which Harahap notes is often subject to intimidation or retraction.⁶ However, the proactive element of the OTT namely the pre-arrest wiretapping must now comply with Law No. 19 of 2019. Marzuki emphasizes that in a *Rechtstaat* (Rule of Law), the ends do not justify the means; thus, a lack of written authorization from the Supervisory Board renders the subsequent OTT procedurally flawed⁷

2. The United States: Sting Operations and the "Predisposition" Test

The United States represents a Common Law approach where law enforcement agencies like the FBI have broader discretion to conduct **Sting Operations**. Unlike the Indonesian OTT, which waits for a crime to occur, a U.S. sting operation may involve agents actively "creating" a scenario where a bribe is offered⁸

⁴ Peter Mahmud Marzuki, *Pengantar Ilmu Hukum*, (Jakarta: Kencana, 2008), p. 158.

⁵ Andi Hamzah, *Hukum Acara Pidana Indonesia*, (Jakarta: Sinar Grafika, 2011), p. 120.

⁶ Michael D. Lyman, *The Investigative Process: Strategies and Techniques*, (Prentice Hall, 1999), p. 210.

⁷ M. Yahya Harahap, *Pembahasan Permasalahan dan Penerapan KUHAP*, (Jakarta: Sinar Grafika, 2010), p. 102.

⁸ Mahrus Ali, *Hukum Pidana Korupsi di Indonesia*, (Jakarta: Sinar Grafika, 2011), p. 45.

The primary legal check on this power is the **Entrapment Defense**. Gary T. Marx, in his seminal work on undercover policing, distinguishes between "facilitation" and "initiation."⁹ If the government induces an otherwise law-abiding citizen to commit a crime they were not "predisposed" to commit, the evidence is inadmissible. This "subjective test" of entrapment is a significant comparative point; while the U.S. focuses on the suspect's intent, the Indonesian system focuses strictly on the normative procedural steps of the arrest¹⁰

3. Hong Kong and Singapore: The Vanguard of Asian Anti-Corruption

Hong Kong's ICAC and Singapore's CPIB are often cited as the gold standards for anti-corruption globally. Jon S.T. Quah argues that their success is not merely due to aggressive tactics, but "legislation with teeth".¹¹

In Hong Kong, the ICAC utilizes sophisticated "Integrity Testing," a proactive method to root out corruption within the civil service before it becomes systemic.¹² Meanwhile, Singapore utilizes a unique legal presumption under the Prevention of Corruption Act (PCA). If a public servant is found to have received a gratification, the law **presumes** it was received corruptly, shifting the burden of proof to the defendant. While Marzuki might argue that shifting the burden of proof challenges the "Presumption of Innocence," in the context of white-collar crime, such measures are often justified by the "extraordinary" nature of the offense.¹³

4. Comparative Synthesis: Legality vs. Efficacy

When comparing these four jurisdictions, a pattern emerges. Indonesia and Singapore rely heavily on "specialized statutes" that grant their agencies powers beyond the general police force.¹⁴ However, the U.S. model warns of the ethical dangers of proactive policing specifically the risk of "creating" crime rather than just catching it.¹⁵

The success of these proactive techniques depends on three pillars:¹⁶

1. **Technological Competence:** Proactive arrests are only as good as the surveillance (wiretapping/digital forensics) that precedes them¹⁷
2. **Judicial Oversight:** Whether through a Supervisory Board (Indonesia) or Court-issued warrants (USA), there must be a check on the state's power to invade privacy
3. **Normative Coherence:** As Marzuki argues, the law must be a consistent "system." The proactive techniques used by the KPK must be coherent with the broader principles of the Indonesian Constitution¹⁸.

⁹ Jon S.T. Quah, *Curbing Corruption in Asian Countries*, (Emerald Group Publishing, 2011), p. 56.

¹⁰ David Chaikin & J.C. Shanman, *Corruption and Money Laundering*, (Palgrave Macmillan, 2009), p. 134.

¹¹ Peter Mahmud Marzuki, *Anatomi Hukum*, (Jakarta: Kencana, 2008), p. 142.

¹² Kent Roach, *Comparative Counter-Terrorism Law*, (Cambridge University Press, 2015), p. 301.

¹³ Gary T. Marx, *Undercover: Police Surveillance in Comparative Perspective*, (Yale University Press, 1988), p. 45.

¹⁴ Charles E. O'Hara, *Fundamentals of Criminal Investigation*, (Springfield, 2003), p. 156

¹⁵ John R. Heilbrunn, *Anti-Corruption Commissions: Panacea or Real Reform?*, (World Bank, 2004), p. 22. [¹⁷Kent Roach, *Comparative Counter-Terrorism Law*, (Cambridge University Press, 2015), p. 301. 9

¹⁶ Sudikno Mertokusumo, *Mengenal Hukum*, (Yogyakarta: Liberty, 2003), p. 89

¹⁷ Ting Gong & Ian Scott, *Routledge Handbook of Corruption in Asia*, (London: Routledge, 2017), p. 78.

¹⁸ Peter Hay, *Advanced Introduction to Comparative Law*, (Edward Elgar, 2014), p. 112.

Comparison of Proactive Techniques

Feature	Indonesia (KPK)	USA (FBI)	Hong Kong (ICAC)	Singapore (CPIB)
Primary Method	OTT (Red-Handed)	Sting Operations	Intelligence/Testing	Warrantless Arrest
Baiting Suspects	Not Allowed	Legal (with limits)	Legal (Undercover)	Rarely used
Key Advantage	High Public Trust	Uncovering New Plots	Systemic Cleaning	Efficiency & Speed

Comparative Analysis: Key Differences

Feature	Indonesia (KPK)	United States (FBI)	Hong Kong (ICAC)	Singapore (CPIB)
Primary Technique	Wiretapping + OTT	Undercover Stings	Intelligence & Surveillance	Rapid Field Arrests
Baiting Suspects	Not legally allowed	Legal (with limits)	Legal (Undercover)	Rarely used
Judicial Oversight	Supervisory Board	Department of Justice	Independent/Courts	Prime Minister's Office
Main Legal Risk	Procedural Errors	Entrapment Claims	Human Rights Appeals	Executive Overreach

The legal framework of anti-corruption enforcement in Indonesia is a complex architecture that relies on the precise synchronization between the general criminal procedure, as codified in the KUHAP (Law No. 8 of 1981), and the specialized powers granted under the UU KPK (Law No. 19 of 2019). To understand the legitimacy of the *Operasi Tangkap Tangan* (OTT), one must apply a normative-juridical analysis that treats these two statutes as a unified system of norms. As emphasized by Peter Mahmud Marzuki, legal certainty can only be achieved when there is coherence between the specialized "proactive" tools of the state and the fundamental "reactive" protections afforded to individuals under the general law. The OTT, therefore, is not a standalone legal phenomenon but a hybrid act that exists at the intersection of intelligence gathering and physical apprehension.

The primary normative anchor for the OTT is Article 1 point 19 of the KUHAP, which provides the definition of *Tertangkap Tangan*. In the Civil Law tradition, this is the "Major Premise" of the arrest power. For an arrest to be valid under this provision, the suspect must be caught "in the act," immediately after the act, or in possession of evidence shortly thereafter. However, because corruption is a "victimless" crime involving two consenting parties (the bribe-giver and the bribe-taker), the "immediacy" required by the KUHAP is almost impossible to achieve through traditional patrolling.

This is where the UU KPK serves as the vital "Minor Premise." Through Article 12 Paragraph (1), the KPK is granted the power to conduct wiretapping and surveillance. This proactive intelligence acts as a bridge; it allows investigators to "see" into a clandestine negotiation and time their physical intervention so that it perfectly aligns with the KUHAP's definition of being caught red-handed.

However, the 2019 amendment to the KPK Law introduced a significant shift in the hierarchy of these norms. Under Article 12B of Law No. 19 of 2019, the proactive power of wiretapping is no longer absolute; it is subject to the administrative oversight of the Supervisory Board (Dewas). From a legal method perspective, this creates a dual requirement for validity. For an OTT to survive a *Praperadilan* (pre-trial) challenge, it must fulfill Material Legality (the arrest must be immediate according to the KUHAP) and Formal Legality (the surveillance permit must be valid according to the UU KPK). If the KPK captures a corruptor in the act but the intelligence leading to that moment was obtained without a written permit from Dewas, the operation suffers from a conflict of norms. As Sudikno Mertokusumo points out, a legal system must be a consistent unity; a procedural breach at the intelligence phase "poisons" the legality of the physical arrest, even if the suspect was holding the bribe money in their hand.

This tension highlights the importance of the principle of *Lex Specialis Derogat Legi Generali*. While the KUHAP is the general law, the UU KPK provides the specific rules for "extraordinary crimes." This specialization allows the KPK to bypass the usual requirement for a warrant before an arrest, but only because the "red-handed" nature of the crime verified through proactive surveillance obviates the need for judicial pre-approval of the arrest itself. Yet, the 24-hour rule found in Article 18 of the KUHAP remains a strict boundary. Once the OTT is executed, the KPK must immediately reconcile the proactive evidence (wiretap recordings) with the reactive requirements of the KUHAP (witness statements and physical evidence). Under Article 44 of the UU KPK, the commission must find at least two pieces of valid evidence within this short window to upgrade the investigation to a formal prosecution.

When viewed through a comparative lens, the Indonesian synchronization of KUHAP and UU KPK is more formalistic than the models found in Common Law jurisdictions. In the United States, the FBI operates with a broader "Sting Operation" discretion, where the legality is often determined by the Entrapment Defense focusing on whether the government "implanted" the criminal intent. In contrast, the Indonesian legal method, as supported by the works of Andi Hamzah, remains focused on "Normative Procedure." If the KPK "baits" a suspect into a transaction, they risk violating the spirit of the KUHAP, which presumes that a red-handed arrest is a response to a crime in progress, not a crime manufactured by the state. This distinction is crucial; while the Singapore CPIB can rely on "Statutory Presumptions" of guilt to simplify their proactive arrests, the Indonesian KPK must prove every element of the crime within the rigid framework of the KUHAP.

Furthermore, the Hong Kong ICAC model provides a lesson in "Systemic Integrity" that Indonesia seeks to emulate through the integration of the Supervisory Board. The ICAC's proactive "Integrity Testing" is successful because it is backed by a legal framework that compels disclosure. In Indonesia, the UU KPK attempts to mirror this by granting the power to freeze assets and search premises without a warrant in the

immediate aftermath of an OTT. However, the legal analysis remains grounded in Peter Mahmud Marzuki's theory of "Legal Certainty." The proactive nature of the UU KPK must not be allowed to override the "Presumption of Innocence" or the "Right against Self-Incrimination" found in the KUHAP and the Constitution. The OTT is only a legitimate tool when it functions as a "Scalpel of Justice" precise, intelligence-led, and strictly bound by the procedural permits of the state.

In conclusion, the analysis of the OTT through the KUHAP and UU KPK reveals a hybrid mechanism designed to combat the "extraordinary" nature of corruption with "extraordinary" enforcement powers. The legitimacy of these operations rests on the perfect alignment of three factors: the intelligence bridge provided by the UU KPK, the procedural sanctity of the Dewas permit, and the physical immediacy required by the KUHAP. If any of these pillars fail, the operation loses its normative standing. As the Indonesian legal system evolves, the challenge will be to maintain this delicate balance ensuring that the KPK has the proactive "teeth" to catch the corrupt, while maintaining the "shield" of procedural law that protects the *Rechtstaat* from the dangers of arbitrary enforcement. By adhering to the principles of normative coherence and statutory synchronization, the OTT can remain Indonesia's most effective tool for establishing a corruption-free society.

Conclusion

Proactive investigation techniques are the most effective weapons in a modern anti-corruption arsenal. The Indonesian OTT has proven its worth by securing hundreds of convictions that would have been impossible through reactive methods. However, legal research suggests that for these operations to remain sustainable, they must be grounded in clear normative rules that prevent the abuse of power.

By learning from the U.S. Entrapment Defense, the Hong Kong Intelligence-led model, and the Singaporean Legal Presumptions, Indonesia can refine its OTT procedures. Following the logic of Peter Mahmud Marzuki, the ultimate goal of the law is to provide justice while maintaining legal certainty. Proactive enforcement should not be seen as a deviation from the law, but as a specialized manifestation of the state's duty to protect the public from the corrosive effects of corruption.

In concluding this comparative juridical analysis, it is imperative to synthesize the proactive investigation techniques examined through the lens of normative legal theory and the principles of a *Rechtstaat*. The legitimacy of anti-corruption enforcement, particularly the Operasi Tangkap Tangan (OTT) in Indonesia, rests upon a delicate equilibrium between state authority and the protection of fundamental human rights. As established through the frameworks of Peter Mahmud Marzuki, a nice and legally sound conclusion must affirm that while corruption is an "extraordinary crime" requiring specialized proactive tools, the enforcement of such tools must never bypass the "corridors of law." The rule of law dictates that the ends, no matter how noble the eradication of graft may be, can never justify procedurally flawed means. Therefore, the ultimate legal conclusion of this study is that proactive investigation is a constitutional necessity, provided it remains anchored in the dual pillars of Formal Legality and Substantive Justice.

The first major legal conclusion pertains to the necessity of Statutory Synchronization. In Indonesia, the interaction between the KUHAP and the UU KPK (Law No. 19 of 2019) represents a sophisticated legislative attempt to provide "legislation with teeth" while maintaining administrative oversight. The OTT serves as the physical manifestation of this synchronization. For an OTT to be legally unassailable, it must satisfy the "Intelligence Bridge" requirement: the proactive surveillance authorized under the UU KPK must lead precisely to the "immediacy" required for a red-handed arrest under Article 1 point 19 of the KUHAP. Any rupture in this bridge specifically the failure to obtain a written permit from the Supervisory Board (Dewas) constitutes a breach of the hierarchy of norms. Following the logic of Sudikno Mertokusumo, such a breach results in a "legal defect" that renders the subsequent arrest voidable. Legal certainty, the cornerstone of Marzuki's philosophy, demands that law enforcement cannot selectively choose which procedural safeguards to follow; the permit is as essential as the arrest itself.

From a comparative perspective, the global shift toward "Intelligence-Led Policing" demonstrates that Indonesia is not alone in its proactive stance. The legal systems of the United States, Hong Kong, and Singapore offer distinct lessons in balancing efficacy and ethics. The United States' reliance on the Entrapment Defense reminds the Indonesian judiciary that the state must not become an agent of moral temptation. A "nice" legal conclusion in this regard posits that the KPK's role is to catch perpetrators who are already "predisposed" to corruption, not to manufacture criminal intent. Meanwhile, the models provided by the ICAC and CPIB illustrate that high-tech surveillance and financial asset tracking are more effective long-term strategies than physical "traps." These systems suggest that the future of Indonesian anti-corruption enforcement lies in the "Digital OTT" the ability to proactively freeze assets and secure digital evidence before the suspect even realizes they are under investigation.

Furthermore, the teleological conclusion of this study addresses the Ratio Legis the underlying spirit of anti-corruption laws. The law exists to serve society and protect the state's economic integrity. As noted by Jon S.T. Quah, the success of Singapore and Hong Kong was not due to a disregard for the law, but rather a "zero-tolerance" culture supported by a highly disciplined and transparent legal process. For Indonesia to reach this level of systemic integrity, the OTT must evolve from a "theatrical" event into a precise "surgical" procedure. This requires the KPK to move beyond the simple capture of "cash in boxes" toward dismantling the complex financial structures that enable corruption. A legally sound conclusion must therefore advocate for the expansion of proactive powers into the realm of Money Laundering (TPPU), ensuring that the state recovers stolen assets as efficiently as it captures the thieves.

In the final analysis, the "nice and legal" resolution for the ongoing debate over the OTT is the institutionalization of Due Process within proactive investigations. As Andi Hamzah and Yahya Harahap have consistently warned, the credibility of the anti-corruption movement is fragile; it can be shattered by a single high-profile case dismissed due to procedural negligence. Therefore, the judiciary, through the mechanism of Praperadilan, must act as the ultimate guardian of the *Rechtstaat*. Judges must be rigorous in their scrutiny of the "Minor Premise" the facts of the arrest to ensure they align perfectly with the "Major Premise" of the statutes. When the court upholds

an OTT, it must do so because the KPK has proven not just that the suspect is guilty, but that the state followed its own laws in proving that guilt. This is the essence of legal dignity.

Ultimately, the goal of this comparative study is to provide a roadmap for a "clean" enforcement system. A system where the KUHAP protects the innocent, the UU KPK catches the corrupt, and the Supervisory Board ensures that the two never collide in a way that damages the constitutional fabric. By adhering to the principles of normative coherence and honoring the intellectual legacy of scholars like Peter Mahmud Marzuki, Indonesia can ensure that its proactive investigation techniques are seen not as tools of political targeting, but as the sharpest instruments of national justice. The law must remain a "consistent system of values" where the pursuit of a corruption-free nation is achieved through a process that is as transparent, fair, and legally impeccable as the justice it seeks to deliver.

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