

**CORRUPTION ARREST HAND OPERATION BASED ON WIRETAPPING PROCESS  
CONDUCTED BY THE CORRUPTION ERADICATION COMMISSION FROM THE  
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[Mj122@ums.ac.id](mailto:Mj122@ums.ac.id)**ABSTRACT**

The Corruption Eradication Commission is an independent institution responsible for handling cases related to corruption, the Corruption Eradication Commission itself has the freedom to conduct investigations to bring into the realm of law against a person or a corporation suspected of being a perpetrator of corruption. Within the Corruption Eradication Commission itself, there is a Trident that it uses in enforcing the law against corruption. One of the Trident, there is the freedom given to the Corruption Eradication Commission to carry out wiretapping actions to prevent a crime of corruption which can then be claimed as one of the most successful efforts in stopping the crime of corruption. This then raises unrest and very brutal questions about the freedom possessed by the Corruption Eradication Commission to access personal data or personal property belonging to a person on the grounds of preventing corruption. This is a violation of a person's privacy data, and can be said to violate human rights which are deliberately protected by law. Islam then comes to provide some answers to the actions taken by the Corruption Eradication Commission, Islam does not only look from the angle of the aggrieved or from the narrow angle of the solution offered. However, this is part of Fiqh, which in a broad sense has many different meanings and understandings. This research will provide an overview of how Islamic law and the criminal context regarding wiretapping actions taken by the Corruption Eradication Commission to prevent corruption. This research uses Normative research methods and descriptively will provide a broad and concise description and provide examples of examples or actions that can be a way out.

**Keywords:** Arrest Hand Operation, Corruption Eradication Commission, Wiretapping, Islamic Criminal Law

## INTRODUCTION

A human being who lives in a country or in a certain area will certainly follow the rules or laws that apply in an area<sup>1</sup>. As a human being who was later created by God who lives on God's earth, he must obey and obey the laws of God that apply on this earth, namely the Qur'an and Sunnah which came from the prophet Muhammad Sallallahu alaihi wasallam. Laws or regulations exist to limit and to regulate every human life so that later there is no chaos between one human being and another human being who both live on earth.<sup>2</sup>

In addition to the laws of God that apply between human relations with God, there are laws that apply between humans and humans created by humans to maintain the balance of human life in a small scope such as family or personal to a very large scope such as in the context of state or between countries.<sup>3</sup> We are familiar with international law which provides regulations regarding the relationship between one country and another, so that later something that can harm one party or the other, and this authority is at the international level under the auspices of the United Nations.<sup>4</sup>

There are many things that are discussed in international law, including human rights. We recognize human rights as a very important instrument in the life of a human being who has his own human rights and cannot be disturbed by others or taken away by others, such as the right to life, the right to legal certainty or rights concerning privacy.<sup>5</sup> Although in its implementation, we see a lot of behavior from some nations or countries or even groups or even individuals who commit Ham violations such as what is happening in Palestine today due to Israeli barbarism.

Indonesia is a country based on and relying on the law. As written in the 1945 Constitution in Article 1 paragraph (3) which reads "Indonesia is a state of law". This means that the unitary

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<sup>1</sup> Is, Muhamad Sadi, MH SHI, and Fakultas Syariah Dan Hukum UIN Raden. "Norma Dan Konsep Hukum." *Pengantar Ilmu Hukum* (2023): 43.

<sup>2</sup> Orlando, Galih. "Efektivitas Hukum dan Fungsi Hukum di Indonesia." *Tarbiyah bil Qalam: Jurnal Pendidikan Agama dan Sains* 6.1 (2022).

<sup>3</sup> Hadi, Taufiqurrahman. *Konsep Negara Hukum Menurut Pandangan Fajlurrahman Jurdi Dalam Perspektif Fiqh Siyasah Dusturiyah*. Diss. UIN Raden Intan Lampung, 2018.

<sup>4</sup> Kusumaatmadja, Mochtar, and ETTY R. Agoes. *Pengantar hukum internasional*. Penerbit Alumni, 2021.

<sup>5</sup> Nasution, Leoly Ahadiathul Akhiriah, and Fatrah Yunus Harahap. "Hak Asasi Manusia." (2019).

state of the republic of Indonesia is a state based on law and makes law as the basic constitution in running the government system. It is therefore imperative that a person living in the Unitary State of the Republic of Indonesia feels safe and secure under the protection of the law.<sup>6</sup> Everything that is then implemented and run in the country of Indonesia must be in accordance with existing rules and regulations. One of them is about legal protection of privacy data.<sup>7</sup>

It is not a new thing anymore when we hear the term corruption in this country of Indonesia, from small institutions to the largest institutions, this is often and has happened.<sup>8</sup> Corruption itself is a serious criminal offense and often ensnares officials, both high-level officials and even the lowest-level officials. Law Number 20 of 2001 amending Law Number 31 of 1999 concerning the Eradication of the Crime of Corruption in Article 21 states that every person who is against the law commits an act that leads to enriching himself or herself or other people or institutions that he or she owns or does not own and can harm state finances or even the country's economy can be punished in the form of life imprisonment or the shortest is four years and the longest is 20 years with a fine of at least IDR 200,000,000 or a maximum of IDR 1,000,000,000.<sup>9</sup>

As time goes by, corruption in Indonesia is getting longer and more years instead of decreasing but increasing every year. From 2019 to 2022 corruption cases have almost doubled, even though we know that from 2019 to 2021 we are still in COVID-19 pandemic status. And in 2023, the Corruption Eradication Commission received 2,707 reports of alleged corruption. Circumstances like this then make the state even more worried about the additions that will occur in the coming years and result in the state experiencing huge losses.<sup>10</sup> In addition, the trust between the public and the government will then decrease if this cannot be fixed immediately and the government does not find a solution to this problem, because once again, corruption is not a minor crime because it harms the country's economy.

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<sup>6</sup> Siallagan, Haposan. "Penerapan prinsip negara hukum di Indonesia." *Sosiohumaniora* 18.2 (2016): 122-128.

<sup>7</sup> Dewi, sinta. "Konsep Perlindungan Hukum Atas Privasi Dan Data Pribadi Dikaitkan Dengan Penggunaan Cloud Computing Di Indonesia." *Yustisia* 5.1 (2016): 26-27.

<sup>8</sup> Setiadi, Wicipto. "Korupsi Di Indonesia." *Jurnal Legislasi Indonesia* 15.3 (2018).

<sup>9</sup> Undang-Undang Nomor 20 Tahun 2001

<sup>10</sup> Badjuri, Achmad. "Peranan Komisi Pemberantasan Korupsi (KPK) sebagai lembaga anti korupsi di indonesia." *Jurnal Bisnis dan Ekonomi* 18.1 (2011).

We know that the Corruption Eradication Commission is an institution that has a major role in preventing and cracking down on all criminal acts related to corruption. The Corruption Eradication Commission is also a state institution that stands independently and is not influenced by other institutions and has its own functions and authorities<sup>11</sup>. The Corruption Eradication Commission not only has a function to eradicate corruption, collusion and nepotism, but also to motivate other government institutions to avoid corruption and help the performance of the Corruption Eradication Commission so that corruption in Indonesia decreases.<sup>12</sup>

In eradicating corruption, there is a main strategy called the Trident of corruption eradication, which is through education, prevention, and prosecution.<sup>13</sup> *Sula* in education is useful for generalizing the public's view of the crime of corruption, which is not focused on one party or on a particular position. Prevention *Sula* is to minimize the occurrence of corruption crimes with a strategy to improve the system that could be a loophole for corruption crimes. Meanwhile, the last *Sula*, namely the prosecution *Sula*, is a strategy of the Corruption Eradication Commission to bring parties suspected of or who have committed corruption crimes to justice.<sup>14</sup> And one of the efforts made by the Corruption Eradication Commission and included in the prosecution hall is through the operation of arresting hands or we know as Arrest Hand Operation.

Arrest Hand Operation itself is one of the efforts made by the Corruption Eradication Commission in eradicating corruption which has contradictions and destroys the meaning of law. The Arrest Hand Operation carried out by the Corruption Eradication Commission is a pre-planned action to find out what the target will do whether to commit an act of corruption or not. And if several elements of the crime of corruption have then been fulfilled, it can be used as

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<sup>11</sup> Parama, Falah. J & Al-Fatih, S. "KAJIAN YURIDIS AMBIVALENSI PERGESERAN INDEPENDENSI KOMISI PEMBERANTASAN KORUPSI (KPK) KE DALAM RUMPUN LEMBAGA EKSEKUTIF." *Journal Komunitas Yustisia Universitas Pendidikan Ganesha Program Studi Ilmu Hukum* 4.1 (2021).

<sup>12</sup> Sugiarto, Totok. "Peranan komisi pemberantasan korupsi (KPK) dalam pemberantasan tindak pidana korupsi di Indonesia." *Jurnal Cakrawala Hukum* 18.2 (2013).

<sup>13</sup> Linda, A. D., Winoto, J. & Suprehatin. "Strategi Pencegahan Korupsi Untuk Menurunkan Tingkat Korupsi Daerah" *Jurnal Aplikasi Manajemen dan Bisnis* 10.11 (2024).

<sup>14</sup> *Ibid*

sufficient preliminary evidence for an act of corruption.<sup>15</sup> As defined in Article 1, paragraph 19, the term “caught red-handed” refers to the act of apprehending a person at the time of or while they are committing a criminal act, or immediately after the act has been committed, or before the act has come to the attention of the public.

In the course of its activities, the Corruption Eradication Commission employs a range of techniques in carrying out the Hand Capture Operation, including the use of wiretapping. The wiretapping conducted by the Corruption Eradication Commission is enumerated in Law Number 19 of 2019, concerning the second amendment to Law Number 30 of 2002, concerning the Commission for the Eradication of Criminal Acts of Corruption. It has been codified in the Law on Information and Electronic Transactions, thus ensuring that the wiretapping actions carried out by the Corruption Eradication Commission are legal and do not contravene the law. Moreover, the results of these wiretaps frequently yield positive outcomes.

## **RESEARCH METHOD**

The method in this research uses normative legal research or doctrinal law with a juridical approach and concept approach.<sup>16</sup> This research in the juridical approach examines and analyzes the concept of wiretapping in positive law and most importantly in Islamic law which is included in the criminal realm. This type of research is descriptive research with and and explains the phenomenon of events that occur at this time. This research uses secondary data derived from literature studies in the form of data derived from books, journals, literacy, and legal expert opinions as well as several other sources that can support the success of this research. Problem Statements: (1) What is the view of Islamic criminal law regarding sting operations? (2) What is the view of Islamic criminal law regarding sting operations accompanied by wiretapping carried out by the corruption eradication commission?

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<sup>15</sup> Oktavianto, Rizky, and Norin Mustika Rahadiri Abheseka. “Evaluasi Operasi Tangkap Tangan KPK.” *INTEGRITAS: jurnal Antikorupsi* 5.2 (2019): 117-131

<sup>16</sup> Dimiyati, Khudzaifah, and Kelik Wardiono. “Metodologi Penelitian Hukum.” *Fakultas Hukum UMS, Surakarta*, 2004.

## DISCUSSION

### 1. Arrest Hand Operation According to Islamic Criminal Law

The Corruption Eradication Commission as an independent organization that is at the forefront in eradicating corruption crimes has very broad authority so that it can wiretap and even trap a person or group suspected of committing corruption crimes.<sup>17</sup>

In Islamic law, the Arrest Hand Operation conducted by the Corruption Eradication Commission is an act that can be classified as espionage or, more accurately, as *Jasus*. In Islam, the prevention of evil is a duty that must be fulfilled when such a situation arises. Like the hadith narrated by Imam Muslim, from Abu Sa'id he narrated that the Messenger of Allah (peace and blessings of Allah be upon him) once said that we are commanded to prevent an evil that we see with our hands if we are unable then with our tongues if we are unable then with our hearts.

However, the matter of this arrest hand operation has several differences of opinion among the scholars. Some argue that this arrest hand operation is a behavior that is prohibited by Islam because it contains elements that are not justified in Islamic law such as spying on one's own brother. However, there are some scholars who argue that this arrest hand operation can be carried out or may be carried out as long as it is within a certain limit or level, and if the Maslahat or benefits arising from this arrest hand operation are more than the evil then it is okay to do.<sup>18</sup>

This difference arises, because related to this is a fiqh in which each has a different view. Scholars who reject, are those who interpret that this arrest hand operation is an act in which the party doing it has bad intentions towards his own brother. Meanwhile, the scholars who support this, because they see how this arrest hand operation has succeeded in bringing some benefits such as the arrest of corruptors.

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<sup>17</sup> Hikmawati, Puteri. "Operasi Tangkap Tangan Dalam Penanganan Kasus Korupsi Hand Arrest Operation In Handling Corruption Case." *Negara Hukum* 9.1 (2018)

<sup>18</sup> Uzzad, Ahmad Shafaa. "Pandangan Fikih Terhadap Praktik Penyadapan dan Penjebakan Kepada Koruptor Oleh Komisi Pemberantasan Korupsi (KPK)." *Wasathiyah* 4.1 (2022): 110-122.

## 2. Wiretapping in Arrest Hand Operation According to Islamic Criminal Law

The corruption eradication commission when carrying out the task of handling corruption crimes is often accompanied by an operation commonly referred to as an arrest hand operation, which of course in the operation there is a trap scheme and a wiretapping scheme.<sup>19</sup>

When conducting wiretapping, the corruption eradication commission often sends people who can be trusted to be spies or informants. The activity aims to dig up certain information on a person or a certain group secretly for the benefit of the enemy. Espionage is often used in states that are important and urgent, so that in carrying out the process or action the person assigned to be a spy must be a person who is very trusted and can maintain secrets and is an expert in espionage.<sup>20</sup>

In Islam the act of espionage can be known as *jasus* or in our Indonesian language known as spies.<sup>21</sup> *Jasus* himself was often used by the Prophet when in the arena of warfare such as the Badr war, the Uhud war and the biggest one was in the Khandaq war. Someone who was chosen to be a *jasus* was someone who had intelligence above the average of the companions at that time, one example is a friend named Hudzaifah bin Yaman who was famous for his action when he infiltrated the enemy camp in the Uhud war. This kind of activity at the time of the Prophet and then continued at the time of the Khulafaur Rasyidin was a strategy in the state system in order to maintain domestic interests so that the enemy could not attack or bring down the strength of the Muslims.<sup>22</sup>

From the above, it can be concluded that *tajasus* is an activity that is carried out against the enemy, and not against fellow Muslims. *Jasus* activities are strictly prohibited because they will lead to division among Muslims, because this activity is an attempt to dig up personal information about a person.

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<sup>19</sup> Muhammad Alfin Saputra. Implementasi Operasi Tangkap Tangan Yang Dilakukan Komisi Pemberantasan Korupsi. *Lex Renaissance*, 2020.

<sup>20</sup> LUTFIASANDH, KRISTIYA. *Konsep Operasi Tangkap Tangan Tindak Pidana Korupsi Oleh Komisi Pemberantasan Korupsi*. Diss. Universitas Airlangga, 2019.

<sup>21</sup> Maraghi, Ahmad Mustafa. *Terjemahan Tafsir Al-Maraghi*. Pustaka al-Azhar, 1986.

<sup>22</sup> Al-Mubarakfuri, Shafiyurrahman. *Sirah nabawiyah*. Gema Insani, 2020.

Allah forbids the act of *jasus* implicitly in the Qur'an in surah al-hujurat verse 12 where Allah commands Muslims to stay away from anything that is prejudice or suspicion, because the act of prejudice leads to many bad things. In the verse, Allah also explains the analogy of people who like to look for and talk about the badness of others or fellow Muslims is like someone who likes to eat the flesh of his brother who has become carrion. And at the end of the verse, Allah reiterates that he is the most repentant and the most merciful. This indicates to us that the actions mentioned above are often done by humans, so Allah opens the door to repentance as much as possible.<sup>23</sup>

Whereas in a narration, it is mentioned that one day there was a spy from the polytheists, came to the Prophet and sat among the companions of the prophet until the spy left. The Prophet then ordered someone to look for the person and ordered to kill him, so one of the companions was then eager to find the spy and kill him and take the goods or property on his body.

From the two arguments above, it can be concluded that *jasus* is an act that is strictly prohibited in Islam because it enters into the realm of a private person without prior permission. And a *jasus*, when he is caught then for him is the usual takzir punishment is the death penalty. From the Maliki and Hambali madhhabs, the death penalty is given to the *jasus* because he has committed an act that makes damage on this earth.

In Islamic crimes, In Islamic crimes, *jasus* will definitely get a very severe punishment because it has made someone with the soul of public security and order disturbed. Therefore, the scholars are more inclined to give punishment to the death penalty, because *jasus* behavior is behavior that is very disturbing to the community will definitely get a very severe punishment because it has made someone with the soul of public security and order disturbed. Therefore, the scholars are more inclined to give punishment to the death penalty, because *tajassus* behavior is behavior that is very disturbing to the community.<sup>24</sup>

If we then draw a straight line between the wiretapping system in the modern era, it will be the same as the law that applies to a suit, because basically wiretapping is an act of *tajassus*,

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<sup>23</sup> Parid, Mohammad Nor Izzuddin Bin Mohd. *Konsep Tajassus Dalam Pelaksanaan Amar Makruf Nahi Munkar Berdasarkan Penafsiran Surah Al-Hujurat Ayat 12*. Diss. UIN Ar-Raniry, 2021.

<sup>24</sup> Nisa, Ihda Shofiyatun. "Penyadapan Telepon dalam Pandangan Ahlussunah Wal Jemaah." *Jurnal Sosial Teknologi* 1.9 (2021): 987-994.

namely entering into the private sphere of a person without permission so as to disturb the comfort of security and public order.

However, *tajassus* activities can or may still be carried out when there is more utilization in it, so in this case using the rules of *istihsan* is allowed. This happens because the Corruption Eradication Commission uses the wiretapping system for the sake of togetherness and preventing corruption crimes that can cause more harm. And in wiretapping, the purpose can be found so that a defendant can not avoid evidence that has become evidence of his corruption. So, when then questioning the validity or permissibility of *tajassus* carried out by the Corruption Eradication Commission for the sake of preventing corruption, it is permissible to do so on the condition that it is not excessive and does not take what does not belong to it or is unjust.<sup>25</sup>

Some of these scholars' opinions do not make us as believers stop acting properly. The opinions of these scholars should be an encouragement to us as Muslims and as civilized human beings to be more assertive and bolder in dealing with corruption, because the presence of Arrest Hand Operation is one of several efforts to deal with corruption that occurs in Indonesia and sometimes does not produce good results.

## CONCLUSION

The Corruption Eradication Commission is an independent institution that is at the forefront and has very broad authority in eradicating corruption. Along with the development of the times, the crime of corruption has not been eliminated from the earth, thus the Corruption Eradication Commission as the top position holder in eradicating corruption must have other ways to prevent corruption.

One of the efforts made by the Corruption Eradication Commission is to carry out an arrest hand operation, which can prevent corruption by making an arrest either directly or shortly after obtaining evidence during a corruption crime. In this operation, there are elements of wiretapping that make some people disagree because there are no specific rules governing it.

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<sup>25</sup> Fadillah, Syarif. "Penegakan Hukum Terhadap Pelaku Tindak Pidana Korupsi (Tinjauan Hukum Pidana Dan Dalam Perspektif Pidana Islam)." *VERITAS* 9.1 (2023): 36-53.

While in Islam itself, the act of wiretapping or what is known as spying or espionage or in Arabic is better known as *tajassus*, is an act that is prohibited by the Qur'an and hadith because it violates a person's privacy. In the Qur'an, Allah threatens someone who commits *tajassus* or is more directed towards finding the badness of his brother, will be given a term like someone who eats his own brother's carcass. Meanwhile, according to the hadith from the Prophet, the act of *tajassus* results in a person getting the death penalty. So, in Islam, the act of *tajassus* is an act that is strictly prohibited and gets the death penalty because it disturbs the community, enters into someone's privacy area without permission, and divides Muslims.

In light of the aforementioned explanation, the author posits that when an institution such as the Corruption Eradication Commission, which wields greater authority and enjoys more benefits in exercising its authority, employs a system or method of *tajassus* and has demonstrated its efficacy in combating corruption, then *tajassus* activities may be conducted as long as they do not exceed the limits set by religion and state law.

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## LEGISLATION

1945 Constitution

Criminal Code

Criminal Procedure Code

Law Number 20 Year 2001