



The Dilemma of Wiretapping in Corruption Crimes in Indonesia: A Legal Reform Perspective Based on Human Rights

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ABSTRACT

Wiretapping in corruption cases serves as a vital instrument to uncover concealed and systemic crimes; however, its application raises constitutional and ethical concerns, particularly regarding the protection of privacy and human dignity. This study aims to examine the legal and political framework of wiretapping in Indonesia and to propose a human rights-based legal reform. This study offers a reformulation model of wiretapping regulation grounded in a constitutional and human rights analytical framework, integrating the principles of legality, necessity, and proportionality. This research employs a normative-juridical method using statutory, conceptual, and comparative approaches, supported by the analysis of judicial decisions and legal doctrines. The findings reveal that wiretapping regulations in Indonesia remain fragmented across sectoral laws, leading to legal uncertainty and potential abuse of authority. This study proposes the establishment of a comprehensive Wiretapping Act regulating authorization procedures, limits surveillance powers, data governance, and independent mechanisms. Judicial authorization and strict limitations on the scope and duration of interception are essential to ensure accountability. By incorporating constitutional principles and international human rights standards, this reformulation positions wiretapping as a legitimate investigative tool while safeguarding fundamental rights within a democratic rule of law.

INTRODUCTION

The legal sphere in Indonesia was stirred by the statement of the Corruption Eradication Commission (KPK), which declared that it would not follow the new regulations on wiretapping proposed in the Draft Criminal Procedure Code (RKUHAP). The KPK insists on applying its own provisions as stipulated in Law No. 19 of 2019 concerning the KPK. However, the lack of synchronization between the RKUHAP and the KPK Law could lead to negative implications, such as differing interpretations among state institutions in implementing legal mandates, which in turn reduces the effectiveness and efficiency of law enforcement and creates legal uncertainty. The debate over wiretapping has long existed, concerning institutional authority, conflicting regulations, and human rights issues.¹

¹ Hwian Christianto, "Tafsir Konstitusionalitas Terhadap Batas Usia Pidana Anak," *Jurnal Konstitusi* 8, no. 5 (2016): 733, <https://doi.org/10.31078/jk855>.

The most crucial and controversial aspect of wiretapping, particularly in public opinion, lies in the potential abuse of power by law enforcement officers during its implementation.² Furthermore, concerns have also been raised regarding the possibility that surveillance powers may be misused by authorities if adequate legal safeguards are not in place.³ Such a condition must be minimized to prevent human rights violations under the guise of law enforcement. Therefore, the wiretapping process should be governed by a single, consistent legal framework applicable to all law enforcement agencies.⁴

Currently, the authority to conduct wiretapping in Indonesia is regulated through various sectoral laws, including the Law on the Attorney General's Office, the Judicial Commission Law, the KPK Law, the Law on Electronic Information and Transactions (ITE), the Anti-Corruption Law, the Anti-Terrorism Law, the Narcotics Law, and others.⁵ Consequently, each law enforcement agency follows its own procedures, with no unified regulation concerning methods, technical mechanisms, or rehabilitation for individuals harmed by wiretapping.⁶

A draft law on wiretapping has been proposed but has not yet been enacted by the House of Representatives (DPR). However, the draft has faced criticism, particularly regarding the requirement for the KPK to obtain court approval before conducting wiretapping. This provision is feared to hinder the KPK's authority in combating corruption, especially cases involving judges. Several judges have been arrested for corruption through wiretapping evidence:⁷ including Tripeni Irianto Putro (Head of the Medan Administrative Court), Akil Mochtar (Chief Justice of the Constitutional Court), and Setyabudi Tejocahyono (Deputy Chief Judge of the Bandung District Court), among others.

Although there is no specific law governing wiretapping, it remains a crucial tool in law enforcement, particularly in corruption cases.⁸ Numerous corruption cases involving massive state losses have been uncovered through wiretapping.⁹ Such as the case of prosecutor Urip Tri Gunawan, who received IDR 6 billion from Artalyta Suryani related to the suspension of the investigation into the Bank Indonesia Liquidity Assistance case involving Sjamsul Nursalim.¹⁰ Corruption in Indonesia has become endemic, with devastating financial losses and the public as the ultimate victims.¹¹

² Ahmad Al Yuhri, "The Legality of Wiretapping in The Legality of Wiretapping in Exposing Corruption Crimes in Indonesia," *Ratio Legis Journal (RLJ)* 2, no. 1 (2023): 327–35.

³ Thania Christy Corne, "Legal Protection of Privacy Data Through Encryption Technology," *Lampung Journal of International Law* 1, no. 2 (2020): 63–70, <https://doi.org/10.25041/lajil.v1i2.2027>.

⁴ A Munandar, S Nawi, and A Razak, "Analisis tentang Penyadapan oleh Kejaksaan dalam Penegakan Hukum Tindak Pidana Korupsi," *Innovative: Journal Of Social Science Research Volume* 3, no. 2 (2023): 8774–89.

⁵ Mohammad Fadhil, "The Harmonization of Wiretapping Regulations in Indonesia: Law Enforcement Perspective," *Substantive Justice International Journal of Law* 3, no. 2 (2020): 125–46, <https://doi.org/10.33096/substantivejustice.v3i2.75>.

⁶ Tutik Nurul Ramdhan, Ambang Sugiri, and Yuliati, "Dinamika Regulasi Penyadapan dalam Undang-Undang dan Putusan Mahkamah Konstitusi," *Media Juris* 5, no. 3 (2022): 529–56, <https://doi.org/10.20473/mi.v5i3.34204>.

⁷ Puteri Hikmawati, "Pengaturan Izin Penyadapan oleh KPK Pasca Putusan Mahkamah Konstitusi No. 70:PUU-XVII:2019," *NEGARA HUKUM* 13, no. 1 (2022): 83–102.

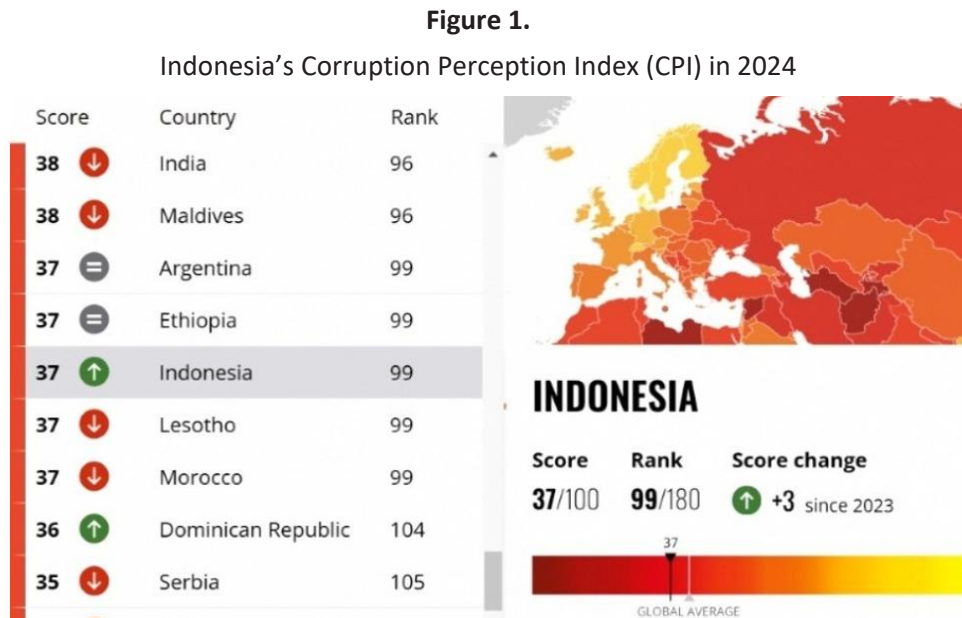
⁸ Artha Febriansyah et al., "Reversal Burden of Proof in Process of Proving Money Laundering Cases in Indonesia," *Indonesia Law Review* 13, no. 1 (2023): 393, <https://doi.org/10.20473/mi.v2i3.17375>.

⁹ Denzel Andersson Cahyono and Gunardi Lie, "The Validity of Wiretapping as Evidence in Corruption Cases," *International Journal of Science and Society* 6, no. 2 (2024): 649–58.

¹⁰ "Penyadapan Terbukti Membongkar Korupsi | Mahkamah Konstitusi Republik Indonesia," n.d.

¹¹ "Polri Mengusut 1.280 Kasus Korupsi Pada 2024, 830 Orang Jadi Tersangka,"

According to data from the Indonesian National Police (POLRI), in 2024 there were 1,280 recorded corruption cases. Furthermore, Indonesia's 2024 Corruption Perception Index (CPI) scored 37/100, ranking 99th out of 180 countries. This can be seen in the following Figure 1.¹²



Source/s: KPK Id (<https://kpk.go.id/id/>)

Thus, extraordinary measures are needed in the fight against corruption.¹³ Since wiretapping has proven effective in uncovering corruption cases, its use should be continued. Nevertheless, when debates arise, stakeholders must seek a middle ground through criminal law reform, particularly the establishment of a specific regulation based on theories of justice, legal systems, and human rights. The Constitutional Court has also suggested forming a special regulation on wiretapping through its Decision No. 006/PUU-2003 dated March 29, 2003.¹⁴

The purpose of developing a theoretical concept of wiretapping in corruption cases is to strengthen the legal and scientific foundations of its practice, ensuring effectiveness, validity, and fairness in law enforcement.¹⁵ Furthermore, the development of this concept is expected to provide a systematic and coherent legal framework that supports consistency and sustainability in the handling of corruption cases. In the context of increasingly sophisticated corruption crimes and rapid technological advancement, the regulation and implementation of wiretapping must be continuously adapted to evolving crime patterns while maintaining adherence to fundamental legal principles. Therefore, the formulation of a clear conceptual basis for wiretapping is essential to ensure that anti-

¹² "Skor IPK 2024 Meningkatkan, KPK Dorong Penguatan Pemberantasan Korupsi,"

¹³ Henny Yuningsih et al., "Disclaimer of Political Rights as an Effort to Eradicate Corruption," *Corruptio* 5, no. 1 (2024): 31–38, <https://doi.org/10.25041/corruptio.v5i1.3263>.

¹⁴ Irene Angelita Rugian, "Proportional Principles in the Constitutional Court Decision (Comparative Study in Indonesia and Germany)," *Jurnal Konstitusi* 18, no. 2 (2021): 461–79, <https://doi.org/10.31078/jk1829>.

¹⁵ Dedy Parta Kusuma, Erikson Sihotang, and Komang Edy Dharma Saputra, "Juridical Review of Wiretapping Based on Law Number 1 of 2024 Amending Law Number 11 of 2008 on Electronic Information and Transactions Related to Criminal Acts at Bali Regional Police," *Journal of Social Science (JoSS)* 4, no. 1 (2025): 35–42, <https://doi.org/10.57185/joss.v4i1.413>.

corruption efforts remain effective without undermining the protection of individual rights and civil liberties.

Ultimately, strengthening the conceptual and regulatory framework of wiretapping is intended to reinforce corruption eradication efforts in a manner that is both legally sound and ethically justified. At the same time, it must guarantee the protection of human rights, particularly the right to privacy and due process of law, as well as provide legal certainty for all parties involved. Based on this background, this study addresses the following research questions: (1) How is the political dynamic of wiretapping regulation in Indonesia? and (2) How can wiretapping reform in corruption cases be formulated based on human rights principles?.

Previous studies have examined the issue of wiretapping in relation to human rights from various perspectives. For instance, the 2022 study titled *“Wiretapping in Corruption Crimes from a Human Rights Perspective”* by Vivi Octaviani et al. discusses the practice of wiretapping primarily in terms of legal controversies and its implications for the protection of fundamental rights. The study contributes to the academic discourse by highlighting the tension between effective law enforcement and the protection of privacy and civil liberties in corruption investigations. Similarly, research entitled *“The Urgency of the Public Prosecutor’s Intelligence Wiretapping Authority on Disclosure of Corruption Crimes in the Perspective of Human Rights”* emphasizes the importance of granting intelligence-based wiretapping authority to public prosecutors as a strategic instrument in uncovering corruption cases, while at the same time stressing that such authority must remain within the boundaries of human rights principles. Another relevant study, *“Supervision of Wiretapping Authority by the Corruption Eradication Commission (KPK) from a Human Rights Perspective”* by Gunawan Widjaja and Adrian Bima Putra, analyzes the oversight mechanism of wiretapping conducted by the Corruption Eradication Commission (KPK).

Their research finds that the current supervision mechanism through the KPK Supervisory Board still contains several weaknesses, including potential conflicts of interest, risks of information leakage, and the absence of clear procedural standards, thereby highlighting the need for stronger external and independent oversight. While these studies have significantly contributed to understanding the relationship between wiretapping authority, institutional oversight, and human rights protection, they tend to focus mainly on normative debates or institutional supervision. In contrast, the present research not only examines the legal controversies surrounding wiretapping but also proposes a reformulation of wiretapping regulation in corruption cases through a comparative legal approach by analyzing regulatory models from several countries. The results of this study are expected to contribute to the development of a more balanced regulatory framework that strengthens corruption law enforcement while ensuring the protection of human rights, as well as to offer a conceptual model for legal reform in the governance of wiretapping practices.

This study addresses the identified gap by employing a clearly defined analytical framework that integrates constitutional law, human rights theory, and comparative legal analysis. Specifically, the study examines wiretapping regulation through the principles of legality, necessity, and proportionality as the core standards for assessing the legitimacy of state surveillance. The scope of

analysis is limited to corruption-related wiretapping practices, focusing on the regulatory framework governing the authority, procedures, and oversight mechanisms of law enforcement institutions in Indonesia, while selectively comparing them with regulatory models from other jurisdictions to identify best practices. By situating the analysis within this framework, the study moves beyond general normative debates and institutional critiques, offering a more structured and solution-oriented reformulation of wiretapping regulation that balances effective law enforcement with the protection of fundamental rights.

METHODS

This study employs a normative legal research method, complemented by limited empirical data, to examine the regulation and practice of wiretapping in corruption cases. The normative component focuses on analyzing legal principles, doctrines, and statutory frameworks governing wiretapping within Indonesian law, particularly in relation to constitutional guarantees and human rights protection. The empirical support is derived from a qualitative case study of selected judicial decisions, as well as insights from academic literature and expert opinions of legal practitioners, which are used to contextualize the implementation of wiretapping in practice.

The analysis is conducted using three main approaches: statutory, case, and comparative. The statutory approach examines relevant legislation regulating wiretapping and corruption eradication to identify normative inconsistencies and regulatory fragmentation. The case approach analyzes selected court decisions to assess how wiretapping evidence is interpreted and applied in judicial practice. Meanwhile, the comparative approach is operationalized by selecting several jurisdictions that have established comprehensive wiretapping regulations, and systematically comparing their legal frameworks in terms of authorization procedures, scope and limitations of surveillance powers, data governance, and oversight mechanisms.

This study adopts a constitutional and human rights–based analytical framework, using the principles of legality, necessity, and proportionality as benchmarks to evaluate the legitimacy of wiretapping practices. Through this framework, the research assesses the extent to which existing regulations align with fundamental rights standards and identifies key elements for formulating a coherent and accountable model of wiretapping regulation in corruption cases.

DISCUSSION

Legal Policy on Wiretapping from the Perspective of the Rule of Law and Human Rights

This discussion is structured using a constitutional and human rights–based analytical framework, focusing on the principles of legality, necessity, and proportionality as benchmarks for evaluating the legitimacy of wiretapping policies in corruption law enforcement. Accordingly, the analysis is limited to three core dimensions: (i) the legality of authority, which examines whether wiretapping powers are clearly regulated and institutionally synchronized; (ii) the necessity of application, which assesses whether wiretapping is used as a last resort in addressing complex corruption cases; and (iii) the proportionality of measures, which evaluates the balance between law

enforcement objectives and the protection of individual rights, particularly the right to privacy. Through this structure, the discussion moves beyond descriptive accounts of regulatory frameworks and instead critically analyzes inconsistencies, overlaps, and gaps in Indonesia's current legal regime, while positioning comparative practices as analytical references rather than merely illustrative examples. This approach ensures that all arguments remain directly connected to the central issue of reformulating wiretapping policy in a manner that is both effective in combating corruption and compliant with constitutional and human rights standards.

In applying this framework, the analysis identifies that the central problem of wiretapping policy in Indonesia does not lie in the absence of legal recognition, but in the lack of coherence, limitation, and accountability within its regulatory structure. Fragmented arrangements across sectoral laws indicate weaknesses in fulfilling the principle of legality, while the absence of clear thresholds for application raises concerns regarding the principle of necessity. At the same time, insufficient safeguards relating to authorization, duration, and oversight demonstrate a gap in ensuring proportionality in practice. These structural deficiencies highlight that existing regulations have not fully aligned with constitutional guarantees and international human rights standards, thereby justifying the need for a comprehensive reformulation of wiretapping policy.

The legal policy of wiretapping in Indonesia emerged from the historical necessity of strengthening law enforcement in addressing extraordinary crimes, particularly corruption. Corruption in Indonesia is widely recognized as systemic and organized, making conventional evidentiary mechanisms often insufficient to uncover complex criminal networks. Since the reform era, the orientation of national legal policy has gradually shifted from a predominantly repressive model of law enforcement toward a more adaptive and technology-oriented framework. In this context, wiretapping has been recognized as a strategic instrument of the state to detect and uncover criminal activities that are difficult to reveal through traditional investigative methods.¹⁶

Within the framework of a constitutional state (*rechtsstaat*), any act of wiretapping must be grounded in clear legal provisions and cannot be conducted arbitrarily. Article 28G paragraph (1) of the 1945 Constitution guarantees every person's right to security and protection from abuse of power by the state. Therefore, every wiretapping policy must be regulated by legislation that ensures legal certainty, transparency, and accountability for authorized institutions.

The legal policy of wiretapping arise as a reflection of the state's response to increasingly complex crimes. The advancement of information and communication technology has transformed the landscape of modern crime, from corruption and terrorism to narcotics and cybercrime. In this regard, wiretapping serves as a vital tool for detecting, preventing, and prosecuting criminal acts before their impact spreads to society. However, a central dilemma persists: balancing law enforcement effectiveness with the protection of citizens' privacy rights. On one hand, wiretapping is essential as an evidentiary and preventive measure; on the other, the potential for abuse of

¹⁶ Nofanda Prayudha, "Politik Hukum Kewenangan Penyadapan oleh Komisi Pemberantasan Korupsi," *Belom Bahadat* 14, no. 1 (2024): 65–82, <https://doi.org/10.33363/bb.v14i1.1178>.

authority threatens civil liberties and undermines the principle of *due process of law*.¹⁷

Theoretically, wiretapping may be viewed as both a preventive and repressive measure in penal policy. Preventively, it functions to deter crime by monitoring suspicious communications; repressively, it is used to dismantle criminal networks and gather evidence during investigations. Indonesia's wiretapping policy must rest on the principle that such authority can only be exercised by institutions explicitly authorized by law. This prevents overlapping jurisdictions among agencies such as the Police, KPK, BIN, and the Attorney General's Office. Ambiguity in authority boundaries can lead to institutional conflict and erode public trust in law enforcement integrity.¹⁸

From a human rights perspective, wiretapping may potentially interfere with several fundamental rights, particularly the right to privacy and the protection of correspondence and communication as recognized in Article 17 of the International Covenant on Civil and Political Rights. Because surveillance directly affects these rights, its implementation must comply with the principles of legality, necessity, and proportionality as reflected in the Siracusa Principles on the Limitation and Derogation Provisions of the ICCPR. These principles require that any limitation on privacy rights be clearly prescribed by law, pursued for a legitimate aim such as the prevention of serious crimes, and applied only when no less intrusive measures are available. Accordingly, wiretapping in corruption investigations must be subject to strict legal safeguards and judicial oversight to ensure that restrictions on individual rights remain justified, proportionate, and consistent with international human rights standards. In Indonesia, wiretapping regulations can be found in several sectoral laws, including Law No. 19 of 2016 on Electronic Information and Transactions (ITE Law), Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 on the Eradication of Corruption, and Law No. 17 of 2011 on State Intelligence. However, there is still no comprehensive regulation governing procedures, mechanisms, and oversight of wiretapping in a unified framework.

Indonesia's pluralistic legal structure causes wiretapping provisions to be dispersed across various sectoral laws. Each institution such as the Police, the Attorney General's Office, and the KPK, has its own internal procedures, leading to potential disharmony and uncertainty in implementation. Thus, a reformulation of wiretapping policy is required, aimed at harmonizing cross-regulatory standards so that all law enforcement agencies operate under consistent and accountable procedures.¹⁹ In modern criminal law, wiretapping serves both preventive and repressive roles. Through wiretapping, law enforcement can monitor potential crimes before they inflict broader harm. Jimly Asshiddiqie argues that wiretapping reflects the state's political will to strengthen law enforcement effectiveness, particularly against crimes with power dimensions. Hence, wiretapping should not be viewed merely as a coercive instrument but as a strategic legal measure to deter

¹⁷ Alvieta Alice Reyhanif and Faiza Nisrina, "Legalitas Alat Bukti Elektronik dari Hasil Penyadapan dalam Proses Peradilan: Ditinjau dari Perspektif Hukum Pidana," *Birokrasi: Jurnal Ilmu Hukum Dan Tata Negara* 2, no. 2 (2024): 353–63, <https://doi.org/10.55606/birokrasi.v2i2.1232>.

¹⁸ Andi Nur Rachman and Mujar Ibnu Syarif, "Problematika Izin Komisi Pemberantasan Korupsi terhadap Upaya Penyadapan Tersangka Korupsi," *Mavisha: Law and Society Journal* 1, no. 1 (2024): 1–13, <https://doi.org/10.15408/10mvr48>.

¹⁹ Ayu Widia Pertiwi Ahmad Faiz Alamsyah, "Analisis Kewenangan Komisi Pemberantasan Korupsi dalam Melakukan Operasi Tangkap Tangan," *Jurnal Cendekia Ilmiah* 4, no. 2 (2025): 2938–48.

corruption and reinforce national legal integrity.²⁰

Wiretapping policy in Indonesia also has a deep philosophical dimension, grounded in the moral principle *salus populi suprema lex esto* the welfare of the people is the highest law. In the context of eradicating corruption, limited intervention into privacy rights may be justified when serving public interest and protecting the state from financial loss. According to Barda Nawawi Arief, criminal law policy must balance justice, utility, and legal certainty. Thus, wiretapping can be seen as a middle ground between protecting individual rights and upholding public justice.

In practice, wiretapping often raises ethical dilemmas, particularly regarding the protection of the right to privacy as a fundamental component of human rights. Public criticism of the KPK following the 2019 amendment of Law No. 19 reflects concern over potential abuse of authority. However, the establishment of the Supervisory Council was intended as an ethical and political control mechanism to prevent misuse. Laica Marzuki described the Supervisory Council's authorization process as a political safeguard to maintain integrity in law enforcement.

From a legal-political standpoint, the establishment of a national wiretapping law should aim to From a legal policy perspective, the establishment of a national wiretapping law should aim to create a balanced legal framework that protects both national security interests and the fundamental rights of citizens. Legal policy functions as a guiding framework for legislative development to ensure that law enforcement measures remain consistent with the principles of a democratic rule of law. Therefore, the regulation of wiretapping must clearly define legal authority, procedural safeguards, and accountability mechanisms in order to prevent potential abuse of surveillance powers.

The urgency of regulating wiretapping can also be understood by examining comparative practices in several democratic countries. In the United States, wiretapping is regulated under the Foreign Intelligence Surveillance Act (FISA) and the USA PATRIOT Act, which require judicial authorization through a specialized court known as the Foreign Intelligence Surveillance Court before surveillance activities can be conducted. Similarly, the United Kingdom regulates interception of communications through the Investigatory Powers Act 2016, which establishes a system of "double-lock authorization," requiring approval from both the executive authority and an independent judicial commissioner. Meanwhile, in Germany, surveillance practices are governed by the G10 Act, which limits interception activities and provides parliamentary oversight through specialized supervisory bodies to ensure compliance with constitutional protections of privacy.

These comparative models demonstrate that effective wiretapping regulation must be accompanied by clear legal procedures, independent judicial authorization, and robust oversight mechanisms. Such elements are essential to ensure that surveillance measures remain proportionate, accountable, and consistent with human rights principles. For Indonesia, these experiences provide valuable references for formulating a comprehensive wiretapping framework that balances the effectiveness of corruption eradication with the protection of individual rights and democratic legal principles.

²⁰ Zainuddin Kasim, "Kebijakan Hukum Pidana untuk Penanggulangan *Cyber Crime* di Indonesia," *Indragiri Law Review* 2, no. 1 (2024): 18–24, <https://ejournalpasca.unisi.ac.id/index.php/ilr/article/view/22/23>.

The normative framework of wiretapping has evolved alongside advances in information technology. The recognition of electronic evidence within the criminal justice system, as provided in the ITE Law, reinforces the legal legitimacy of wiretapping. Bagir Manan emphasizes that the legal policy of wiretapping represent the state’s effort to balance legal certainty with the protection of citizens’ rights. Thus, the legality of wiretapping gains constitutional recognition as long as it follows lawful and proportional procedures.²¹

Social realities show that Indonesians still perceive wiretapping as a symbol of effective law enforcement. Major cases, such as the KPK’s Operation Catch Handed (OTT), have strengthened public confidence in this mechanism. Yet academic debate arises due to the absence of standardized legal frameworks, highlighting the urgent need for a national and cross-institutional Wiretapping Law, as recommended by the Constitutional Court in Decision No. 006/PUU-2003.

Wiretapping, within Indonesia’s legal-political context, cannot be separated from the dynamics among the executive, legislative, and judicial branches. The ongoing debate between the KPK and legislators regarding the Draft Criminal Procedure Code (RKUHAP) illustrates a tug-of-war between the effectiveness of law enforcement and human rights protection. Jimly Asshiddiqie views this dynamic as a healthy form of checks and balances as long as it aims for systemic improvement rather than institutional weakening.

Table 1.

The Rationality of Wiretapping Legal policy in Law Enforcement in Indonesia

Aspect	Explanation	Normative Basis and Practical Implementation
Historical Aspect	Wiretapping emerged as a modern state necessity to address systemic crimes that are difficult to prove through conventional methods. In Indonesia, its urgency grew after the reformation and the national call for corruption eradication.	Originated through Law No. 30 of 2002 on the KPK (now Law No. 19 of 2019), which legally established wiretapping as a key anti-corruption instrument.
Juridical Aspect	Wiretapping forms part of law enforcement tools regulated under sectoral laws such as the ITE Law, Narcotics Law, and State Intelligence Law, ensuring the legal validity of electronic evidence.	The Constitution guarantees privacy rights but allows legal limitations for law enforcement purposes (Article 28J, 1945 Constitution). Wiretapping must be conducted with proper authorization and legal grounds.
Sociological Aspect	The rise of organized crime, corruption, and cybercrime has driven public demand for effective law enforcement. Wiretapping is viewed as a means to uncover concealed criminal activity.	The public perceives wiretapping as a protection of public interest, provided it is conducted lawfully and without violating individual rights.
Philosophical Aspect	The legal policy of wiretapping are rooted in substantive justice, aiming not to restrict rights but to protect broader legal interests.	The principle <i>salus populi suprema lex esto</i> serves as the moral and philosophical foundation for wiretapping in a democratic rule-of-law state.
Ethical and	The use of wiretapping authority must be	Ideally implemented through court or

²¹ Artha Febriansyah et al., “Reversal Burden of Proof in Process of Proving Money Laundering Cases in Indonesia,” *Indonesia Law Review* 13, no. 1 (2023): 393, <https://doi.org/10.20473/mi.v2i3.17375>.

Institutional Aspect	accompanied by moral and institutional responsibility to prevent abuse. A transparent authorization and accountability system is required	independent institutional approval, with periodic reporting to ensure public accountability.
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Source/s: Author's Analysis

Based on this table, the political dimensions of wiretapping can be systematically understood as a strategic legal instrument in Indonesia's law enforcement. Wiretapping should not be seen merely as a technical tool but as a policy construct rooted in historical, normative, and social necessity. Historically, it emerged in response to the complexity of modern crimes requiring evidentiary mechanisms beyond traditional methods. In Indonesia, its legitimacy was strengthened post-reformation when corruption eradication became a national agenda.

Thus, the legal policy of wiretapping should be understood as the state's strategic response to systemic corruption threatening the national economy. Wiretapping is not merely a technical evidentiary method but a legal policy imbued with philosophical and moral dimensions to uphold government integrity. When conducted within legal boundaries and under strict supervision, it guarantees substantive justice rather than violating human rights.²² Reformulating the legal policy of wiretapping is therefore essential to ensure that technological advancement does not exceed ethical and legal boundaries. The development of artificial intelligence and digital forensics demands a paradigm shift toward a technologically adaptive yet human-rights-oriented wiretapping policy. Hence, the integration of human rights principles, legal effectiveness, and technological innovation should form the foundation for the future direction of Indonesia's wiretapping legal policy.

Reformulation of Wiretapping in Corruption Crimes Based on Human Rights

This section applies a structured analytical framework based on the principles of legality, necessity, and proportionality to critically assess the reformulation of wiretapping in corruption cases. Rather than merely describing regulatory provisions or theoretical concepts, the discussion is directed at evaluating three core issues: (i) whether the existing legal framework provides clear and unified authority for wiretapping (legality), (ii) whether the use of wiretapping is limited to situations where less intrusive measures are insufficient in addressing complex corruption crimes (necessity), and (iii) whether the scope, duration, and implementation of wiretapping remain proportionate to the objectives of law enforcement and the protection of public interest (proportionality). Each argument in this section is therefore positioned to identify gaps, inconsistencies, and risks of rights violations within the current system, while simultaneously formulating a coherent human rights-based regulatory model. Through this approach, the reformulation of wiretapping is analyzed not as an abstract legal ideal, but as a concrete response to the tension between effective corruption eradication and the protection of fundamental rights within Indonesia's constitutional framework.

Wiretapping in the context of corruption law enforcement occupies a dilemma between the

²² Ahmad Al Yuhri, "The Legality of Wiretapping in Exposing Corruption Crimes in Indonesia," *Ratio Legis Journal (RLJ)* 2, no. 1 (2023): 327–35.

need for legal effectiveness and the protection of human rights. In practice, wiretapping often serves as the primary means of evidence that uncovers complex and systemic corruption crimes. However, this action also has the potential to violate individual privacy rights guaranteed by the Constitution and international instruments. Therefore, the need for reformulating wiretapping policy is urgent to ensure that this instrument remains effective while aligning with the principles of the rule of law. Reformulation is required to strengthen legal legitimacy and to maintain the balance between public interest and individual rights protection.²³

The right to privacy is an essential part of human rights guaranteed under Article 28G paragraph (1) of the 1945 Constitution of the Republic of Indonesia, as well as Article 17 of the International Covenant on Civil and Political Rights (ICCPR). In the context of wiretapping, the protection of this right is not absolute, but any limitation must comply with the principles of necessity, legality, and proportionality. The state may restrict the right to privacy if such action is genuinely necessary to maintain public security, public order, or to prevent serious crimes such as corruption. However, any limitation must be clearly regulated by law to ensure accountability and prevent abuse of power. This principle forms the philosophical basis for the reformulation of wiretapping law.

The need for legal reformulation also arises from the disharmony of existing laws and regulations governing wiretapping in Indonesia. At present, wiretapping authority is dispersed across several sectoral laws, including the KPK Law, the ITE Law, the Narcotics Law, and the Terrorism Law, without a unified and comprehensive legal framework. This fragmentation creates legal uncertainty and allows differing interpretations among law enforcement agencies. Jimly Asshiddiqie describes this condition as a form of “dispersed legality” that undermines legal certainty in the implementation of wiretapping practices.²⁴ From a human rights perspective, such legal uncertainty raises serious concerns because any limitation on the right to privacy must be “prescribed by law,” meaning that the legal basis must be clear, accessible, and foreseeable. When wiretapping regulations are fragmented and inconsistent, the quality of law becomes questionable, as individuals cannot clearly foresee the circumstances under which their communications may be intercepted. Consequently, dispersed legality may lead to arbitrary or uncontrolled surveillance practices, which risk rendering wiretapping incompatible with international human rights standards on the protection of privacy. Therefore, legal reformulation is necessary to establish a coherent legal framework that unifies norms, clarifies procedures, and ensures that limitations on privacy rights are conducted in a lawful, predictable, and accountable manner.

The effectiveness of wiretapping in combating corruption is widely acknowledged, as many major cases have been uncovered through interception of communications, including bribery cases involving high-ranking officials, judges, and law enforcement officers. Nevertheless, the effectiveness

²³ Devi Putri Thesia Panjaitan et al., “Tinjauan Politik Hukum Oposisi dalam Pembentukan Undang-Undang Pemberantasan Korupsi,” *ALADALAH: Jurnal Politik, Sosial, Hukum Dan Humaniora* 2, no. 1 (2023): 88–98, <https://doi.org/10.59246/aladalah.v2i1.624>.

²⁴ Ayu Widia Pertiwi Ahmad Faiz Alamsyah, “Analisis Kewenangan Komisi Pemberantasan Korupsi dalam Melakukan Operasi Tangkap Tangan,” *Jurnal Cendekia Ilmiah* 4, no. 2 (2025): 2938–48.

of this investigative method must still be evaluated within the framework of human rights protection, particularly the right to privacy. From a criminal law policy perspective, Barda Nawawi Arief emphasizes that criminal law must be grounded in three fundamental principles: justice, utility, and legal certainty. In the context of wiretapping, these principles require that surveillance practices be carefully regulated to ensure that law enforcement effectiveness does not undermine fundamental rights. Therefore, it becomes necessary to examine whether the existing regulatory framework adequately fulfills the standards for limiting privacy rights, particularly the principles of legality, necessity, and proportionality within a modern system of law enforcement.

The philosophical foundation of wiretapping reformulation can be understood in light of the principle *salus populi suprema lex esto*, the welfare of the people is the supreme law—which reflects the responsibility of the state to protect public interests, including the prevention of serious crimes such as corruption. Nevertheless, within a democratic rule-of-law framework, any restriction on individual rights must be justified by clear legal standards. Under the International Covenant on Civil and Political Rights, particularly Article 17, individuals are protected from arbitrary or unlawful interference with their privacy, meaning that surveillance measures such as wiretapping must be regulated by law and must meet the requirements of legality, necessity, and proportionality as further elaborated in the Siracusa Principles on the Limitation and Derogation Provisions of the ICCPR. In addition, constitutional guarantees of due process require that any limitation on privacy be carried out through lawful procedures, including independent authorization and effective oversight mechanisms. Therefore, the reformulation of wiretapping regulation must clearly define the boundaries between the state's interest in protecting society and its obligation to safeguard fundamental rights, ensuring that law enforcement powers do not evolve into arbitrary or authoritarian practices.

The principle of due process of law plays a vital role in the reformulation of wiretapping regulation. Wiretapping procedures should be subject to transparent and independent judicial authorization in order to ensure legality and prevent the abuse of surveillance powers. Such mechanisms are essential to guarantee accountability of law enforcement institutions and to ensure that investigative measures remain consistent with constitutional protections. Therefore, wiretapping must be placed within a legal framework that upholds due process and safeguards fundamental rights.

The social dimension of wiretapping reformulation is also crucial. Indonesian society generally supports wiretapping as long as it is used to combat corruption that harms the public. However, this social support depends on public trust in the integrity of law enforcement institutions. When data leaks or indications of misuse occur, public trust tends to decline drastically. Therefore, wiretapping reformulation must also strengthen transparency and public oversight mechanisms without compromising the confidentiality of legal processes.

The application of checks and balances constitutes another essential foundation in the reformulation of wiretapping regulation. Because wiretapping directly interferes with the right to privacy, safeguards are required to prevent arbitrary or excessive surveillance by state authorities.

The broad authority to conduct wiretapping must therefore be balanced by independent supervisory mechanisms, such as the Supervisory Council of the Corruption Eradication Commission (KPK), which should possess effective authority to review, approve, and monitor interception practices. In this context, oversight is not merely an administrative formality but a legal safeguard designed to ensure that limitations on privacy rights are applied strictly within the principles of legality, necessity, and proportionality. Consequently, a robust oversight mechanism becomes a central element in designing a wiretapping framework that respects human rights while maintaining the effectiveness of corruption law enforcement.²⁵

Wiretapping reformulation must also consider technological developments. Modern wiretapping extends beyond telephone surveillance to include digital communications such as instant messaging, email, and social media. This requires legal updates that align with technological dynamics. The principle of technological neutrality should apply, meaning that the law must adapt without losing its essence of justice. In this context, artificial intelligence can be used to verify the forensic validity of wiretapping data.²⁶

The resulting legal framework must aim to balance effective law enforcement with the protection of the right to privacy. Within the human rights framework, any limitation on privacy must comply with the principles of legality, legitimate aim, necessity, and proportionality as recognized under the International Covenant on Civil and Political Rights and further elaborated in the Siracusa Principles on the Limitation and Derogation Provisions of the ICCPR. From the perspective of criminal law policy, Barda Nawawi Arief emphasizes that modern penal policy should also consider broader social justice objectives in maintaining public order and fairness in law enforcement. Accordingly, the reformulation of wiretapping regulation should ensure that surveillance measures remain strictly controlled by law while supporting effective anti-corruption enforcement. A transparent and human-rights-based regulatory framework will strengthen the legitimacy of law enforcement institutions and enhance public trust in the rule of law.

The principles of *lex certa* and *lex scripta* are essential in wiretapping reformulation. These ensure that every legal action, including wiretapping, must have a clear and written legal basis. Unclear norms may lead to multiple interpretations and potential abuse. Thus, revising and harmonizing existing laws is a concrete step toward achieving legal certainty. Reformulation should integrate all wiretapping provisions into a single, universally applicable law for all law enforcement institutions.²⁷

The application of the proportionality principle is crucial in the reformulation of wiretapping regulation. Because wiretapping directly interferes with the right to privacy, any limitation of this right must comply with the standards set out in the International Covenant on Civil and Political

²⁵ Abdul Madjid Rahmani and Prija Djatmika, "Implikasi Yuridis Kekaburan Norma Tindak Pidana Penghinaan Presiden dan/atau Wakil Presiden" *Hukum Tata Negara Administrasi Dan Pidana* 1, no. 1 (2022): 14–29.

²⁶ Dio Poliando Panggabean and Jelly Leviza, "Legal Political Analysis of Failure Factors of Extradition Treaty Ratification between Indonesia and Singapore," *Icoleg*, 2021, <https://doi.org/10.4108/eai.29-6-2021.2312607>.

²⁷ Ni Luh Made Dwi Pusparini, A. A. Sagung Laksmi Dewi, and I Made Minggu Widyantara, "Urgensi Saksi Pelaku yang Bekerjasama (*Justice Collaborator*) dalam Tindak Pidana Korupsi," *Jurnal Interpretasi Hukum* 1, no. 1 (2020): 179–85, <https://doi.org/10.22225/juinhum.1.1.2207.179-185>.

Rights, particularly Article 17, which protects individuals from arbitrary or unlawful interference with privacy. These standards are further elaborated in the Siracusa Principles on the Limitation and Derogation Provisions of the ICCPR, which require that any restriction on rights must fulfill the principles of legality, necessity, and proportionality. In this context, wiretapping should only be conducted when it is strictly necessary for the investigation of serious crimes such as corruption and when the measure is proportionate to the legitimate aim pursued. By grounding wiretapping regulation in these human rights standards, Indonesia can ensure that surveillance practices remain lawful, accountable, and consistent with its international legal obligations.

The institutional aspect of reformulation requires stronger coordination among agencies. The KPK, Police, and Attorney General's Office must operate under a unified standard for wiretapping procedures to avoid overlapping authority. Furthermore, the judiciary should play a more active role through authorization and periodic evaluation mechanisms. This system will create a balance between institutional independence and democratic legal control, ensuring that wiretapping functions as a tool of justice rather than a political instrument.²⁸

Within the framework of legal policy, wiretapping reformulation should be seen as an effort to strengthen the supremacy of law. Human-rights-oriented wiretapping policy will create a legal system that is not only formally valid but also morally just. Such reformulation reinforces the state's role as a protector not violator of citizens' rights. As Mahfud MD emphasizes, Indonesia's legal policy must aim to build a dignified, just, and people-oriented legal system.

Wiretapping reformulation also has implications for Indonesia's international legitimacy. As a state party to the International Covenant on Civil and Political Rights (ICCPR), Indonesia is legally obligated to ensure that all law enforcement measures respect and protect fundamental rights, including the right to privacy as guaranteed under Article 17 of the Covenant. Under the ICCPR framework, any limitation on privacy must be clearly regulated by law and must fulfill the principles of legality, necessity, and proportionality. Therefore, the reformulation of wiretapping regulation in Indonesia should be grounded in these international human rights standards to ensure that surveillance practices remain lawful, accountable, and consistent with Indonesia's obligations under international law. Wiretapping that violates privacy without legal basis could damage Indonesia's reputation in the global arena. Hence, reformulation is not merely a domestic necessity but also part of the state's responsibility to the international community.²⁹

From a sociological perspective, clearly and transparently regulated wiretapping can strengthen public trust and reinforce the sense of justice within society. When implemented within a clear legal framework, wiretapping is more likely to be perceived not as a threat to individual freedom but as a protective mechanism aimed at combating corruption that harms the public interest. Furthermore, limited and accountable transparency regarding the outcomes of wiretapping may enhance public oversight and institutional accountability of law enforcement agencies. In this

²⁸ Rinaldy Amrullah et al., "The Corruption in Indonesia: The Importance of Asset Recovery in Restoring State Finances," *Journal of Legal, Ethical and Regulatory Issues* 24, no. 7 (2021): 1-11.

²⁹ Hisar Sitohang, Martono Anggusti, and Uton Utomo, "Analisis Hukum terhadap Tindak Pidana Korupsi dengan Penyalahgunaan Jabatan dalam Bentuk Penyuapan Aktif," *Jurnal Hukum* 07, no. 02 (2018): 75-88.

context, the reformulation of wiretapping regulations that incorporates public participation is essential to strengthen its legal legitimacy within a modern democratic legal order.

Ultimately, the direction of wiretapping reformulation must guarantee a balance between the state’s right to enforce the law and the individual’s right to protection from abuse of power. The resulting legal model should be integrated and human-centered, prioritizing human values within the modern criminal justice system. Thus, wiretapping can remain an effective weapon against corruption without sacrificing fundamental human rights principles.

Table 2.
Concept of Wiretapping Reformulation Based on Human Rights Principles

Dimension	Focus of Reformulation	Implication
Legality and Legal Certainty	Clarification of institutional authority and licensing procedures.	Reformulation is necessary to prevent arbitrary wiretapping and ensure a clear legal basis, including judicial oversight mechanisms to guarantee compliance with due process of law.
Proportionality	Limitation on scope and duration of wiretapping	Wiretapping must be conducted proportionally to the crime’s threat level and public interest, applying the principle of minimal invasion of privacy.
Accountability and Transparency	Strengthening external oversight and public reporting mechanisms	Reformulation should allow auditing of wiretapping results and establish accountability to independent supervisory bodies or ethics councils.
Necessity	Ensuring wiretapping is used only in exceptional circumstances	Reformulation must guarantee that wiretapping is used only when no less intrusive alternative exists to uncover corruption crimes, preventing overcriminalization and misuse of power.
Protection of Privacy and Human Dignity	Safeguarding personal data and private communications.	Reformulation should include encryption mechanisms, secure storage, and data destruction after case completion to protect privacy and human dignity.

Source/s: Author’s Analysis

As summarized in Table 2, the reformulation model is structured around key dimensions, including legality and legal certainty, necessity, proportionality, accountability and transparency, and the protection of privacy and human dignity. These dimensions collectively provide a comprehensive framework for ensuring that wiretapping is conducted in a manner that is lawful, accountable, and aligned with human rights standards.

CLOSING

Wiretapping in corruption cases in Indonesia reflects a dynamic legal-political landscape marked by tension between the need for effective law enforcement and the obligation to protect fundamental human rights. The study finds that the current regulatory framework is characterized by fragmented and sectoral arrangements, leading to inconsistencies in authority, procedures, and oversight among law enforcement institutions. This condition weakens legal certainty and creates potential risks of abuse of power, thereby failing to fully satisfy the human rights standards of legality, necessity, and proportionality.

In response to these challenges, this study proposes a reformulation of wiretapping regulation based on a constitutional and human rights-oriented framework. The reformulation emphasizes the establishment of a comprehensive National Wiretapping Law that unifies legal norms, clarifies institutional authority, and mandates judicial authorization as a prerequisite for surveillance activities. In addition, it highlights the importance of proportional limitations on the scope and duration of wiretapping, as well as the development of independent and accountable oversight mechanisms.

The contribution of this study lies in offering a structured analytical model for assessing and redesigning wiretapping regulation in corruption law enforcement, grounded in the principles of legality, necessity, and proportionality. Practically, this model provides guidance for policymakers in formulating coherent and rights-based legislation, while theoretically, it enriches the discourse on balancing state surveillance powers with the protection of individual rights. Ultimately, this reformulation supports the development of a more accountable, effective, and human rights-compliant anti-corruption framework within Indonesia's democratic rule-of-law system.

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