

The Status of Hand Arrest Operations in the View of Legal Practitioners

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ABSTRACT

This article intends to know the status of the Hand Arrest Operation (OTT) carried out by the Corruption Eradication Commission (KPK) according to the views of legal practitioners. With a normative approach, this study examines the problems legal practitioners face more deeply. There is a difference between Hand-Arrest and Arrested Operations. It means that Hand Arrest Operations (OTT) and Being Arrested (TT) are the same if the procedure follows the rules set, namely Article 18 of the Criminal Code. It is in line with the views of practitioners of law.

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1. INTRODUCTION

The Hand Arrest Operation carried out by the KPK is often associated with Article 18 of the Criminal Code, which regulates being caught hand Arrest (Simanjuntak, 2019). However, in its implementation, the article that regulates hand Arrest has a different procedure from the Hand Arrest operation carried out by the KPK (Ramadhani et al., 2018). However, a significant difference exists between Hand Arrest and being Arrested.

Being Hand Arrest in Article 1, paragraph 19 of the Criminal Code is the Arrest of a person at the time of committing a crime, or immediately after a while the crime committed, or a moment later being called out by the general public as the person who committed it, or if a moment later objects suspected of being found in him violence has been used to commit the crime which shows that he is the perpetrator or participated in or helped commit the crime (Ramadhani et al., 2018; Wattie, 2015). It happened accidentally discovered by investigators without planning to arrest the perpetrators of corruption, while the Hand Arrest Operation (OTT) is one of the efforts to handle corruption cases (Hikmawati, 2018). When the KPK planned this operation, the KPK already knew perpetrators of corruption would commit criminal acts. If it is true that the crime was committed, the KPK will immediately carry out OTT.

OTT (Hand Arrest Operation) is the KPK's term for "Hand Arrest" thieves in this country. An operation that is confidential, measurable, and whose victims rarely survive accusations based on a lengthy process when the KPK detects the scent of corruption (Asyari, 2017). Seeing the implementation of this OTT is often equated with being caught in the act concerning Article 18 of the Criminal Code. Of course, OTT and being caught hand Arrest are two different things. OTT does not yet have a permanent legal umbrella, but the KPK has implemented it. It can lead to polemic, especially among legal practitioners who understand these two things are different.

The Hand Arrest Operation (OTT) is a law enforcement operation used in Indonesia to arrest people suspected of committing a crime. According to Saputra (2020), the OTT carried out by the KPK has no legal basis in applicable legislation and cannot equate with the concept of being caught in the act as stipulated in the Criminal Procedure Code (KUHAP) (Marbun, 2022).

So far, previous studies have only discussed the status of OTT-hand Arrest Operations, including (1) Research conducted by Immanuel Simanjuntak (2019). This study only discussed the relationship between the procedure for being caught hand Arrest in Article 18 of the Criminal Code and the Criminal Code but not analyzes the difference between OTT explicitly and being caught hand Arrest; (2) Research conducted by Putri Hikmawati (2018) which explains in detail the juridical review of OTT and Saber Extortion carried out by the Police and the Attorney General's Office; (3) Furthermore, Oktavianto & Abheseka (2019), in their research evaluated Hand Arrest Operations both at the Center and in the regions.

There are several studies by other researchers. Marbun (2022) argues that OTT is often associated with the phenomenon of corruption and is part of criminal law enforcement. Hikmawati (2018) in Marbun (2022) also argues that the OTT conducted by the KPK has no legal basis, both based on the Criminal Procedure Code and Law no. 20 of 2001. Siregar et al., (2022) explains that it aims to examine the KPK's authority in conducting OTT and whether it follows the term caught hand Arrest in criminal procedural law. Siregar concluded that the hand Arrest arrest operation by the KPK followed hand Arrest Arrest as stipulated in the Criminal Procedure Code (Krisnawati & Soeskandi, 2022).

Fauzi's study (2020) aims to determine how the KPK carries out OTT by enacting Law No. 19 of 2019. The study concludes that OTT is legal, but additional requirements and KPK supervision carry out. Implications for reducing the effectiveness of OTT (Faris & Ginting, 2020). Other studies, such as Sari (2021), aim to find out whether superior judges who are not guilty in OTT can be convicted and whether administrative sanctions can impose on the Director of General Supervision of the Manado High Court after the OTT Chief Justice of the Manado High Court. The study concludes that superiors of judges who do not make mistakes regarding OTT may be subject to administrative sanctions, and administrative sanctions may be imposed on the Director of General Supervision of the Manado High Court after the presence of the OTT Head of the Manado High Court (Febrina et al., 2020).

There are differing opinions regarding the legality of OTT according to the law. While some studies argue that OTT has no legal basis, others argue that it is a legal action. KPK still debated the legality of OTT. While some studies argue that OTT has no legal basis, others argue that it is a legal action. Saputra (2020) found that the OTT carried out by the KPK has no legal basis in the current law and cannot be equated with the concept of being caught in the act as regulated in the Criminal Procedure Code (KUHAP). However, Kaligis's study (2022) concluded that the hand Arrest operation by the KPK followed caught hand Arrest as stipulated in the Criminal Procedure Code. Another study by Fauzi (2020) found that OTT is a legal action, but there are additional requirements and KPK supervision, which has implications for reducing the effectiveness of OTT (Dirnanda, 2020; Frans & Haryanto, 2020; Hermanto et al., 2021; Suari et al., 2019; Widagdo, 2019).

The studies above focused on procedures, juridical review, and evaluation of the Hand Arrest Operation carried out by the KPK. In contrast, according to legal practitioners in Manado, this research focuses on the status of the Hand Arrest Operation carried out by the KPK.

2. METHODS

This research uses a normative approach (Ali, 2021). The data analysis method is collecting data through a review of library materials or secondary data, including primary legal materials, secondary legal materials, and tertiary legal materials, both in the form of documents and applicable laws and regulations relating to the normative juridical analysis of OTT and TT.

3. RESULTS AND DISCUSSION

3.1. Arrested and Hand Arrest Operations

The Criminal Procedure Code, as found in the general elucidation section, recognizes at least ten principles that serve as a reference for the truth or teachings of its principles. One of these principles is the principle of legality in coercive measures (Pangaribuan, 2006).

Arrest, detention, search, and confiscation are only carried out based on a written order by an official authorized by law and only in matters and in a manner regulated by law. This principle is also used by the KPK in carrying out coercive measures (Makagansa, 2016).

The problem occurs when an arrest made by the Corruption Eradication Commission does not use an assignment letter or an arrest warrant. It was done because the Arrest was in the event of being caught hand Arrest, even though the Arrest was carried out with investigators who were working on the case so that the Arrest in the case

of being caught hand Arrest was not an accidental arrest but a plan. Another problem that can arise is if the KPK arrests without using an assignment letter or an arrest warrant under the pretext of the Arrest being Arrested in the act. The Arrest is preceded by wiretapping or conditioning (Makagansa, 2016).

Even though the definition of being caught hand Arrest has been regulated in the Criminal Procedure Code, there is still confusion so that it is possible to find irregularities committed by law enforcement officials (Makagansa, 2016).

The authority to arrest by investigators is referred to in Article 6, paragraph (1) of the Criminal Procedure Code because of their obligations to have the authority regulated in Article 7, paragraph (1) of the Criminal Procedure Code Article 7. An investigator must uphold the applicable law (Article 7, paragraph (3) of the Criminal Procedure Code). The granting of authority to investigators is not solely based on power but based on the approach to the obligations and responsibilities they carry. Thus the authority given is adjusted to the position, level of rank, knowledge, and severity of the obligations and responsibilities of the investigator (Makagansa, 2016).

Apart from the above, the investigator also has the authority to stop the investigation according to Article 109 paragraph (2) of the Criminal Procedure Code, which states: If the investigator stops the investigation because there is not enough evidence or the event turns out to be not a crime, or the investigation stop for the sake of law, the investigator will notify the matter it to the public prosecutor, the suspect or his family (Makagansa, 2016).

In addition to the powers above, National Police investigators authorize to wiretap. Although this is not detailed or clearly stated in the Criminal Procedure Code and Law Number 2 of 2002 concerning the Indonesian National Police, in Law Number 31 of 1999 concerning the Eradication of Criminal Acts. Corruption, namely in the explanation of Article 26: The investigator's authority in this article includes the authority to carry out wiretapping (Makagansa, 2016).

The law powers investigators broadly, including the authority to reduce a person's freedom and human rights. This authority must remain based on laws and principles that uphold human dignity and ensure a balance between protecting the interests of the suspect on the one hand, and the interests of the wider community, the public interest on the other party (Makagansa, 2016).

One of the powers the law gives investigators that limit a person's freedom and human rights can be an arrest (Firmansyah & Farid, 2022). The definition of Arrest according to Article 1 number 20 of the Criminal Procedure Code is: An arrest is an act of an investigator in the form of temporarily restraining the freedom of a suspect or defendant if there is sufficient evidence for investigation or prosecution and or trial in matters and according to the methods regulated in this law (Berutu, 2017).

Often caught hand Arrest, equated with Hand Arrest operations carried out by the KPK. The hand Arrest operation by the KPK carries out because of allegations of corruption by someone. Corruption has become a severe disease in this country and is difficult to cure. Almost every day, stories of corruption are watched and heard through news coverage in the mass media by the public. Maybe that is how bored and tired people feel when they see and hear news about corruption. However, that is the reality. The perpetrators of alleged corruption have come and gone. The court decided unfinished one case, and the next perpetrator of alleged corruption was arrested. Even among them are state officials caught in a hand Arrest operation by the Corruption Eradication Commission (KPK) (Kuncoro, 2012; Yanto, 2017).

Until now, corruption is still a crucial problem for our country. Criminal acts of corruption spread across all levels, professions, and gender, carried out by civil-military groups, officials and business people, law enforcers and ordinary people, educators and community leaders, and even scholars and clergy (Gautama, 2017).

It is no longer necessary to emphasize that corruption is a significant problem for the nation. Of course, there are many other prey problems. However, corruption is the root of various national problems. Acts of corruption take away the rights of people's independence. This country has become independent, but many people have not felt the effects of development due to rampant corruption. Education and health are corrupted, and not a single field is free from this corruption disease (Indrayana, 2017).

OTT (Operasi Hand Catch) is the KPK's term for "catching hand Arrest" thieves in this country. A secret operation, measured, and rarely victims can be safe from accusations because it is based on a long process when the KPK smells the scent of corruption. In the criminal law context, bribery (read corruption) is simple but challenging to prove. Usually, the bribe giver is *causa proxima*, and the bribe recipient always operates silently to realize the crime. As much as possible, negate the evidence that the crime has been committed (Asyari, 2017).

The Corruption Eradication Commission (KPK) has the authority contained in Law Number 30 of 2002 concerning Corruption Eradication. The KPK has the authority to supervise, share, coordinate, and conduct investigations into alleged corruption cases (Siahaan, 2014). Suppose this is the absolute authority of the Corruption Eradication Commission. In that case, the Hand Arrest Operation (OTT), carried out to investigate corruption allegations, has not been contradictory. However, it is necessary to review the OTT procedure so that it does not conflict with existing regulations (Asyari, 2017)

The KPK's duties were considered attractive because prior to the formation of the KPK, in general, the police and prosecutorial institutions were the dominant institutions that handled corruption-related cases but only made choices of enforcement strategies. In contrast, the KPK create to take action on corruption issues and prevent corruption (Febari, 2015). Because one of the duties of the KPK is to prevent corruption, it is appropriate that OTT be implemented so there is no loss for the state.

Supposedly, corruption can be caught and eradicated. Prevented with honesty, eradicated by effective law enforcement. However, our honesty education is already corrosive; lying, cheating, and cheating is part of the behavior we still hear about in many news (Indrayana, 2017). So particular institutions are needed to prevent and eradicate corruption.

It is also necessary to discuss actions that can be categorized as corruption. It is essential to know the actions that can categorize as corruption, namely: actions that are detrimental to the finances of the state/other parties, acts of bribery, embezzlement in office, acts of extortion, and committing fraud (Napitupulu, 2010).

Actions categorized as acts of corruption are criminal acts by enriching oneself, another person, or a corporation formulated in Article 2 of Law Number 31 of 1999 (Siahaan, 2019). In a survey conducted by Transparency International, Indonesia is ranked 96th out of 180 countries in the world on the 2017 Corruption Perception Index. The score obtained by Indonesia on the index list is 37 (Wulandari & Rachmaria, 2019).

When investigating by Corruption Eradication Commission (KPK) investigators and receiving reports from various elements, validating the findings and reports. Reports from various elements of society, both internal and external reporters, are still considered "garbage," which must be processed first by Corruption Eradication Commission (KPK)

investigators. Many reports are not based on solid evidence; such reports are ignored and not processed. At this stage, the Corruption Eradication Commission (KPK) investigators are tasked with sorting out information based on available evidence. After the information from the various elements is sorted, several reports that have obtained sufficient evidence are collected to be re-processed to carry out the Hand Arrest Operation.

After the data obtained by the investigator from the investigator is complete and has been based on solid evidence, the investigator can then carry out the Hand Catch Operation Activity. In carrying out the Hand Arrest Operation, investigators have limitations that they are not allowed to make arrests. These limitations are contained in Article 35 of the Criminal Procedure Code, which states that: Except in the case of being caught hand Arrest, investigators are not allowed to enter: a) the room where the People's Consultative Assembly, the People's Representative Council or the Regional People's Representative Council are currently taking place; b) a place where worship and or religious ceremonies are taking place; c) the room where the trial is being held.

In addition to what is stated in Article 35 of the Criminal Procedure Code, KPK investigators, according to their humanity, did not make arrests when the target of the operation was still in their private domain. It avoids any violation of human rights owned by the suspect. In carrying out the Corruption Eradication Commission's (KPK) Hand Arrest Operation, only investigators are authorized to carry out these activities. If during the implementation of the Hand Arrest Operation by the Corruption Eradication Commission (KPK), a Prosecutor or KPK Investigator is found involved in the Hand Arrest Operation, the Prosecutor and Investigator will act as Investigators. After all the things required in the Arrest element have been fulfilled, the Corruption Eradication Commission (KPK) Investigators can carry out the Hand Arrest Operation following the procedures that have been fulfilled.

The OTT case by the KPK against Sri Hartini is one of many cases that has become the concern and concern of many people. Previously, the general public also understood several regional head corruption modes. According to the KPK, several Governors and Regents from 2013 to 2016 also committed dirty acts of corruption between others: Governor of Riau Rusli Zainal (2013), Governor of Banten Ratu Atut Chosiyah (2013), Governor of Riau Anas Maemun (2014), Mayor of Palembang Roni Hertan (2014), Regent of Bogor Rachmat Yasin (2014), Regent of Karawang Ade Swara (2014), West Lombok Regent Zaini Arony (2015), North Sumatra Governor Gatot Pujo Nugroho (2015), Banyuasin Regent Yan Anton Ferdian (2016), Subang Regent Ojang Sohandi (2016), and Cimahi Mayor Atty Suharti T (2016) (Darto, 2016).

During June – September 2017, five regional heads were caught in a sting operation (OTT) on suspicion of corruption. They are now KPK suspects. The five regional heads who were entangled in corruption cases from June to September 2017 were Ridwan Mukti (Bengkulu Governor), Achmad Syafii (Regent of Pamekasan), Siti Masitha (Mayor of Tegal City), OK Arya Zulkarnaen (Regent of Coal) and Eddy Rumpoko (Regent of Coal). Coal City) (Wulandari & Rachmaria, 2019).

The modes of corruption for regional heads include: bribing and accepting bribes for discussion of regional regulations, bribing for handling election disputes, corruption in the procurement of goods and services, accepting bribes related to proposed changes in assets, accepting bribes to obtain recommendations for permits to manage specific areas, accepting bribes for area development, extorting companies that apply for permits, corruption in grant funds, bribing judges and clerks, bribing DPRD leaders and members, promising projects in technical services, corruption in the BPJS budget, and accepting bribes to smooth projects (Darto, 2016).

Suppose this mode is used as an excuse for committing corruption. In that case, the intention to become Governor or Regent/Mayor becomes dishonorable: enriching oneself, one's family, and groups or not fighting for the welfare of the people, returning election capital. The instinct for power when compared to being a public servant with better public services, cleaner bureaucracy, and increasing community satisfaction (Darto, 2016).

Short-term thinking is still understood as the most appropriate way to buy public trust. Such a mindset tends to indicate that a regional leader's creative power (the ability to encourage and generate new ideas) is fragile. Therefore the easiest way is to commit corruption with the various modes above. Think in shortcuts. The mental revolution is seen as an imaginary program, not to call it a formal program of 'tricking' the people. Even the mental revolution is a revolution in the nation's character as part of how our founding fathers position Indonesia as a great nation capable of competing in the global competitive arena. It should encourage regional leaders to become transformational and visionary leaders who are always adaptive to changes in the strategic environment (Darto, 2016).

Entering a political year, contestants with close ties to power or the bureaucracy will use the available power to win the election. All means or justify all means then become shortcuts that can be taken. Bribes or financing the needs of favored candidates are commonplace, the proof of which is tricky. The Corruption Eradication Commission finally arrested several officials, bureaucrats, politicians, law enforcers, and business people who suspect of committing bribery, transactional activities accompanied by promises, or arrested the perpetrators directly in the Hand Arrest Operation (OTT) as experienced by ADP and Asrun. The arrests of the two were related to receiving money for the costs of winning the Asrun Pilkada (Thahir, 2018).

3.2. Arrest Operation by the Corruption Eradication Commission.

Implementing the Hand Arrest Operation (OTT) as one of the strategies used by the Corruption Eradication Commission (KPK) to act on corruption cases in Indonesia raises pros and cons. The opposing side believes that the OTT KPK has not significantly eradicated corruption in Indonesia, is illegal, and threatens privacy. Meanwhile, the pro side believes that the OTT KPK can uncover corruption cases quickly and produce concrete evidence. The anti-corruption policy using the OTT method, which was intensively carried out by the KPK during the 2015-2018 period, effectively and efficiently apprehended corruptors and increased public involvement in eradicating corruption in Indonesia. It is just that the massive Hand Arrest operations carried out at the national to regional levels have not significantly impacted reducing the corruption rate in Indonesia. Therefore, efforts to eradicate corruption cannot only be carried out in terms of prosecution but also need to be strengthened in terms of prevention (Oktavianto & Abheseke, 2019).

The hand Arrest operation is only to concretize a series of wiretapping actions that have been carried out previously so that the initial evidence that has been obtained will be sufficient initial evidence (Safira, 2019). Throughout 2015-2019, the hand Arrest operation by the Corruption Eradication Commission directly arrested 72 regional heads, 173 legislatures, and 116 cross-agency bureaucrats. Through this red-hand operation, the KPK has succeeded in uncovering significant cases, including the cattle import case involving Prosperous Justice Party (PKS) legislator Luthfi Hasan Ishaq, the bribery case of the Special Task Force for Upstream Oil and Gas Business Activities (SKK Migas) which dragged Rudi Rubiandini, who was chairman at that time, as well as the bribery case for a

position at the ministry of religion that led Romahurmuziy to become a KPK prisoner (Oktavianto & Abheseke, 2019).

The success stories of the sting operation in cracking down on corruptors have further strengthened the credibility of the KPK as a progressive corruption eradication agency in Indonesia. Unsurprisingly, the KPK's performance has received high public appreciation, exposure, and legitimacy. However, implementing the hand Arrest operation policy to prosecute corruption cases raises 2 (two) camps: pros and cons (Oktavianto & Abheseke, 2019).

The pro camp believes that the KPK's hand Arrest operation is the right way to catch corruptors because it does not require a long, unpredictable bureaucratic process and produces concrete evidence. On the other hand, the opposing side considers that the operation of catching hands violates the provisions of the Criminal Code because the term written in the Criminal Code is "arrested hand Arrest," not "Hand Arrest operations," as has been carried out by the KPK so far. Moreover, trapping, often used as a series of Hand Arrest operations, has no clear legal basis for eradicating corruption (Oktavianto & Abheseke, 2019).

So far, the Indonesian people have supported the KPK in eradicating corruption. The Indonesian people support the existence of the KPK because it is the hope for eradicating corruption in Indonesia. Corruption is considered one of the causes of the Indonesian nation not progressing. The development budget was corrupted a lot. Indonesian people are furious about rampant corruption in Indonesia. Therefore, when the KPK Inquiry Committee was formed, it received much opposition from the Indonesian people (Kusno & Bety, 2017).

Kunu cons, in this case, some of Fahri Hamzah's (FH) views regarding the KPK Inquiry Committee. The FH believes the public has been treated to the KPK's lies. The KPK has always been considered to be correct and always clean. So far, the actions and images built in society are like that. This assumption must be corrected—an irony of the KPK, which he said was clean. The KPK has kept many lies (Kusno & Bety, 2017).

Many facts show lies within the KPK. The lies include allegations that the KPK commissioners received bribes. Based on the confession of one of the key KPK witnesses whom the KPK Inquiry Committee summoned. In addition, there are allegations that one of the KPK leaders was involved in the E-KTP case, which the KPK itself is handling. It indicates a conflict of interest. The KPK seems to be a means of protecting someone. If it is true that he is involved in the E-KTP case, this leader is no longer fit to lead the KPK (Kusno & Bety, 2017).

In terms of prosecuting corruption cases, the KPK seems to be selective. Handling corruption cases targets many public officials who are also political figures. The risk of a conflict of interest is enormous. KPK members have the opportunity to make suspects the coffers of crimes. The KPK's efforts to dismantle existing cases are nothing but an attempt to make profits by extortion. FH said there is evidence, such as a debt collector for those who want to pay (bribe) guaranteed to be safe and inviolable. On the other hand, the KPK seems to protect certain parties, such as in handling the Sumber Waras case (Kusno & Bety, 2017).

The KPK's game in handling cases has been going on for a long time. Old cases, such as Century Gate, are one of the scandals that the KPK has covered up. The FH also questioned the existence of the KPK's statement regarding the massive corruption of E-KTP by members of the DPR. The KPK must be able to prove these allegations (Kusno & Bety, 2017).

The KPK has acted evilly and unjustly. In uncovering various corruption cases, the KPK has succeeded in imprisoning and confiscating assets related to corruption and bribery cases. However, from the perpetrator's point of view, the KPK is unjust and evil, as in handling the Anas Urbaningrum case (Kusno & Bety, 2017). The KPK has also abused its powers and procedures. As an anti-corruption agency, the KPK has various powers in uncovering and acting on corruption cases. However, the KPK has repeatedly made mistakes by abusing its repressive powers, such as the KPK's handling of the Sumber Waras Hospital case. The KPK has so far attacked the BPK for disclosing findings of state losses resulting from the Sumber Waras case. Apart from that, the KPK has made mistakes, such as the absence of a mechanism that allows other law enforcers of the KPK has handled them. The KPK should officially delegate and supervise it (Indrayana, 2017; Napitupulu, 2010).

It seems that the KPK is not confident in handling corruption cases. For example, in July, the KPK carried out a hand Arrest operation which was unclear which case. FH accused the various acts of hand Arrestness carried out by the KPK as showing that the KPK was not confident. FH believes that the Arrest of new suspects is an attempt by the Corruption Eradication Committee to entertain the Indonesian people. The KPK often conducts Hand Arrest operations (OTT) against perpetrators of corruption and bribery. FH accused the KPK of having certain motives in determining new suspects, which were nothing but entertaining the public and taking extraordinary actions. This statement is a satire of the KPK in its performance, namely eradicating corruption more to gain public sympathy (Kusno & Bety, 2017),

The Hand Arrest Operation was not intended as a legal term, let alone the implementation of a norm, but as a name for the type of operation carried out by the KPK. There is also no obligation for the KPK to provide the name of a type of operation or its enforcement strategy. Even if the KPK calls it by another term, for example, Operation *Kuda Lumpung* or Operation Delta Force, that is fine. Judging whether OTT is wrong from whether the term exists or not in the Criminal Procedure Code is a big mistake. The recent rise in arrests carried out by the KPK, known as Operation Catching Hands or OTT, has raised a polemic as to whether it is legal or illegal. This discourse arose from the intensity of DPR member Fahri Hamzah taking issue with the OTT KPK on his Twitter (Ramadhani et al., 2018).

One argument regarding the Hand Arrest Operation is related to the definition of Caught-in-Hand in the Criminal Procedure Code. Parties who think that OTT is illegal based on the argument that there is no term Operation Catching Hands in the Criminal Procedure Code; there is only being caught hand Arrest. The difference is then concluded that OTT is illegal (Ramadhani et al., 2018).

3.3. Arrest Operation of the Corruption Eradication Commission

3.3.1. According to Judge

The term OTT that law enforcement officials and TT often use in the Criminal Procedure Code differs. OTT is an activity planned, while TT is an ongoing situation where a person is caught committing a crime or sometime after the person has committed a crime. Indeed, if we read and understand Article 1, number 19, we will understand the difference between TT and OTT. TT has rules regulated in the Criminal Code, while OTT does not yet have clear rules.

In order for a legal action to be said to be legal if there is a rule of law that covers it. Outside that means illegal, and if there is action by any apparatus that takes legal action

outside the rules or outside what has been regulated, it means taking illegal action. OTT has been well implemented but requires a clear legal basis and must also be carried out professionally regardless of who will be targeted.

3.3.2. According to Prosecutor

OTT is the Arrest of the perpetrators of a crime that has been planned, while Hand Arrest: is spontaneous activities carried out against the perpetrators of the crime. An arrest warrant from the leadership must accompany OTT because they already know the target. However, getting caught hand Arrest is an act that does not require an arrest warrant.

OTT must have a legal umbrella as a basis for taking action so that it does not conflict with the law. OTT KPK is legal when carrying out OTT. They have arrest warrants, KPK is an independent institution with its legal basis with the legal umbrella of the KPK Law in carrying out all legal actions, but the process still refers to the Criminal Procedure Code. In particular, OTT does not yet have clear rules is better that the Criminal Procedure Code must in revised. The Hand Arrest operation needs to be made a legal umbrella. The aim is to protect law enforcement in carrying out an activity and objects that will be carried out by OTT so that there are no wrongful arrests and violations of a person's human rights.

In Law Number 16 of 2004 concerning the Prosecutor's Office, article 35 letter (c) explains that the Attorney General has the authority to set aside cases in the public interest. Then in the elucidation in Article 53 letter (c), it is emphasized that what is meant by public interest is the interests of the nation and state or the interests of the wider community. Further explained, setting aside cases is an implementation of the opportunity principle that Attorney Agusng can only do after paying attention to suggestions, opinions, and state power agencies that have a relationship with the problem (Isra, 2009).

Based on this provision, criminal proceedings can be waived if it concerns the public interest or the wider community. Punishment is the most effective way to reduce corrupt practices in the eradication agenda. The general interest is to provide a deterrence effect (deterrence effect) so that everyone does not take criminal actions that can harm the state's finances. (Isra, 2009).

3.3.3. According to Lawyers

Operation Hands Arrest Operation(OTT) and Arrested Hands (TT) are substantially the same terms. OTT is just a term used by the KPK. In terminology, OTT is a technical operation carried out following the KPK SOP, while Arrested, in terminology, is a juridical technical authentication as stipulated in the Criminal Procedure Code Article 1 number 19, namely the Arrest of a person or several persons at the time of committing a crime, or immediately after or shortly called for by the general public.

Legal and SOP from OTT refer to Law Number 19 of 2019 amendment to Law Number 30 of 2002 concerning the Corruption Eradication Commission (UU KPK) in conjunction with Law Number 31 of 1999 concerning the Eradication of Corruption Crimes (UU PTPK) JUNTO the Criminal Procedure Code (KUHAP). OTT already has a legal umbrella, namely the three laws.

4. CONCLUSION

Hand Arrest Operations (OTT) and Hand Arrest (TT) are the same if the procedure follows the rules set, namely the Criminal Procedure Code. However, legal practitioners recommend that a clear legal umbrella be created for the OTT by the Corruption

Eradication Committee so that officials who carry out the OTT do not hamper administratively.

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REFERENCES

- Ali, Z. (2021). *Metode penelitian hukum*. Sinar Grafika.
- Asyari, F. (2017). Operasi Tangkap Tangan (OTT) Di Pusat Dan Daerah Untuk Meraih Wtp Terkait Masalah Pelanggaran Hukum. *LEGALITAS: Jurnal Ilmiah Ilmu Hukum*, 2(1), 57–66.
- Berutu, E. S. (2017). Penangkapan Dan Penahanan Tersangka Menurut KuhaP Dalam Hubungannya Dengan Hak Asasi Manusia. *Lex Crimen*, 6(6).
- Darto, M. (2016). Transformasi Mind-Set Pemimpin Daerah. *Jurnal Borneo Administrator*, 12(3), 211–216.
- Dirnanda. (2020). *Komunikasi Politik Uang Dalam Peristiwa Operasi Tangkap Tangan Oleh Kpk (Studi Kasus Bupati Indramayu)*.
- Faris, A. N., & Ginting, R. (2020). Legalitas Dan Efektivitas Operasi Tangkap Tangan Pasca Berlakunya Undang-Undang Nomor 19 Tahun 2019. *Recidive*, 9(1), 67–78.
- Fauzi, A. (2020). Implementasi Pembatasan Sosial Berskala Besar, Sebuah Kebijakan Publik Dalam Penanganan Pandemi COVID-19. *Jurnal Ilmu Administrasi Negara*, 16(1), 174–178.
- Febari, R. (2015). *Politik pemberantasan korupsi*. Yayasan Pustaka Obor Indonesia.
- Febrina, I., Iskandar, I., & Jonny, S. (2020). *Pertanggungjawaban Hukum Atasan Hakim Yang Terkena Operasi Tangkap Tangan Oleh Komisi Pemberantas Korupsi Republik Indonesia*.
- Firmansyah, S. H., & Farid, A. M. (2022). Politik Hukum Praperadilan sebagai Lembaga Perlindungan Hak Tersangka Ditinjau dari Putusan Mahkamah Konstitusi Nomor 21/PUU-XII/2014 mengenai Penetapan Tersangka. *Jurnal Penegakan Hukum Dan Keadilan*, 3(2), 90–103.
- Frans, M. P., & Haryanto, M. (2020). Legalitas Operasi Tangkap Tangan Oleh Komisi Pemberantasan Tindak Pidana Korupsi. *Jurnal Ilmu Hukum: Alethea*, 3(2), 117–134.
- Gautama, M. I. (2017). Analisis Framing Pemberitaan Operasi Tangkap Tangan Patrialis Akbar Di Media Daring Lokal Dan Nasional. *Jurnal Socius: Journal of Sociology Research and Education*, 4(1), 41–49.
- Hermanto, H., Busroh, F. F., & Fikri, H. (2021). Operasi Tangkap Tangan (OTT) Komisi Pemberantasan Korupsi (Kpk) Terhadap anggota Dprd Kabupaten Musi Banyuasin. *Disiplin: Majalah Civitas Akademika Sekolah Tinggi Ilmu Hukum Sumpah Pemuda*, 54–63.
- Hikmawati, P. (2018). Operasi Tangkap Tangan Dalam Penanganan Kasus Korupsi (Arrest Hand Operation In Handling Corruption Case). *Negara Hukum: Membangun Hukum Untuk Keadilan Dan Kesejahteraan*, 9(1).
- Indrayana, D. (2017). *Jangan Bunuh KPK*. Adamssein Media.
- Isra, S. (2009). *Kekuasaan dan perilaku korupsi: Catatan hukum*. Penerbit Buku Kompas.
- Kaligis, O. C. (2022). *Peradilan sesat*. Penerbit Alumni.

- Krisnawati, W., & Soeskandi, H. (2022). Peristilahan Operasi Tangkap Tangan Ditinjau Dari Prespektif Kitab Undang-Undang Hukum Acara Pidana. *Journal Evidence Of Law*, 1(2), 112–129.
- Kuncoro, N. M. W. (2012). *69 Kasus Hukum Mengguncang Indonesia*. Raih Asa Sukses.
- Kusno, A., & Bety, N. (2017). Analisis wacana kritis cuitan Fahri Hamzah (FH) terkait hak angket Komisi Pemberantasan Korupsi (KPK). *Ranah: Jurnal Kajian Bahasa*, 6(2), 137–159.
- Makagansa, R. I. (2016). Tertangkap Tangan Sebagai Pengecualian Terhadap Penangkapan Menurut KUHAP. *Lex Privatum*, 4(2).
- Marbun, R. (2022). Konferensi Pers Dan Operasi Tangkap Tangan Sebagai Dominasi Simbolik: Membongkar Kesesatan Berpikir Dalam Penegakan Hukum Pidana. *Jurnal Ius Constituendum*, 7(1), 1–18.
- Napitupulu, D. R. W. (2010). *KPK in Action*. PT Niaga Swadaya.
- Oktavianto, R., & Abheseka, N. M. R. (2019). Evaluasi Operasi Tangkap Tangan KPK. *INTEGRITAS: Jurnal Antikorupsi*, 5(2), 117–131.
- Pangaribuan, L. M. P. (2006). *Hukum Acara Pidana: Suratsurat Resmi di Pengadilan oleh Advokat*. Djambatan.
- Ramadhani, W., Iskandar, S., & Radhali, R. (2018). Legalitas Operasi Tangkap Tangan (OTT) Komisi Pemberantasan Korupsi Terhadap Gubernur Aceh. *Syiah Kuala Law Journal*, 2(3), 455–470.
- Safira, A. N. (2019). Pertanggung jawaban pidana pelaku yang terjaring operasi tangkap tangan dalam tindak pidana korupsi berdasarkan putusan perkara no 22/PID. SUS-TPK/2018/PN. PLK (Pengadilan Negeri Palangkaraya). *Language*, 7.
- Saputra, M. A. (2020). Implementasi Operasi Tangkap Tangan Yang Dilakukan Komisi Pemberantasan Korupsi. *Lex Renaissance*, 5(4), 806–818.
- Sari, I. (2021). Perbuatan Melawan Hukum (PMH) Dalam Hukum Pidana Dan Hukum Perdata. *Jurnal Ilmiah Hukum Dirgantara*, 11(1).
- Siahaan, M. (2014). *Perjalanan Komisi Pemberantasan Korupsi (KPK)*. Elex Media Komputindo.
- Siahaan, M. (2019). *Pembuktian terbalik dalam memberantas tindak pidana korupsi*. Uwais Inspirasi Indonesia.
- Simanjuntak, I. S. (2019). Kedudukan Oerasi Tangkap Tangan (Ott) Pegawai Negeri Sipil (Pns) Dalam Tindak Pidana Korupsi. *Ilmu Hukum Prima (IHP)*, 2(2), 33–51.
- Siregar, F. A., Yulika, F., Nofialdi, N., Harahap, I., Ridwan, B., & Syahputra, I. (2022). Merantau in The Ethnic Tradition of Minangkabau: Local Custom Without Sharia Basis? *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam*, 6(1), 115–138.
- Suari, P. D., Rifai, E., & Husin, B. R. (2019). *Peran Kpk Dalam Melakukan Operasi Tangkap Tangan Terhadap Pejabat Publik (Studi Wilayah Hukum Lampung Tengah)*.
- Thahir, S. (2018). Analisis Isi Objektivitas Berita Operasi Tangkap Tangan Walikota Kendari dan Asrun di Harian Kendari Pos, Rakyat Sultra dan Berita Kota Kendari. *AL-MUNZIR*, 11(1), 1–17.
- Wattie, A. J. (2015). Sifat Eksepsional Tertangkap Tangan Dalam Penangkapan Pelaku Tindak Pidana. *Lex Crimen*, 4(5).
- Widagdo, A. D. (2019). *Pelaksanaan Operasi Tangkap Tangan Oleh Komisi Pemberantasan Korupsi (KPK) Dalam Rangka Pemberantasan Korupsi Di Indonesia*. Unika Soegijapranata Semarang.
- Wulandari, S., & Rachmaria, L. (2019). Operasi tangkap tangan KPK lima kepala daerah dalam bingkai Beritasatu TV 2017. *PANTAREI*, 3(02).
- Yanto, O. (2017). Penjatuhan Pidana Mati Pelaku Tindak Pidanakorupsi Dalam Keadaan

Tertentu (Death Penalty To Corruptors In A Certain Condition). *Jurnal Legislasi Indonesia*, 14(0), 49-56.