

THE EFFECTIVENESS OF JUDICIAL OVERSIGHT OF WIRETAPPING IN THE LAW ENFORCEMENT PROCESS

Gunawan Widjaja

Faculty of Law Universitas 17 Agustus 1945 Jakarta, Indonesia
widjaja_gunawan@yahoo.com

Adrian Bima Putra

Faculty of Law Universitas 17 Agustus 1945 Jakarta, Indonesia

Abstract

Judicial oversight of wiretapping in the law enforcement process is an important aspect to maintain the integrity and credibility of the judiciary. This research aims to analyse the effectiveness of the Judicial Commission (KY) in carrying out its supervisory function through wiretapping actions against judges suspected of violating the code of ethics and conduct. The research method used is normative juridical with a qualitative approach, examining legislation, legal doctrine, and the results of previous research. The results showed that the effectiveness of judicial oversight of wiretapping is still not optimal, mainly due to KY's dependence on other law enforcement officials, the resistance of the Supreme Court, and limited regulations and resources. In addition, overlapping authorities and lack of synergy between institutions also hinder the effective implementation of wiretapping. This research recommends the need to strengthen KY's authority, revise regulations, and increase inter-agency collaboration to strengthen judicial oversight and maintain judicial integrity.

Keywords: Effectiveness, Judicial Oversight, Wiretapping, Law Enforcement, Judicial Commission.

Abstrak

Pengawasan yudisial terhadap tindakan penyadapan dalam proses penegakan hukum merupakan aspek penting untuk menjaga integritas dan kredibilitas lembaga peradilan. Penelitian ini bertujuan menganalisis efektivitas Komisi Yudisial (KY) dalam melaksanakan fungsi pengawasan melalui tindakan penyadapan terhadap hakim yang diduga melakukan pelanggaran kode etik dan perilaku. Metode penelitian yang digunakan adalah yuridis normatif dengan pendekatan kualitatif, mengkaji peraturan perundang-undangan, doktrin hukum, serta hasil penelitian terdahulu. Hasil penelitian menunjukkan bahwa efektivitas pengawasan yudisial terhadap penyadapan masih belum optimal, terutama akibat ketergantungan KY pada aparat penegak hukum lain, resistensi Mahkamah Agung, serta keterbatasan regulasi dan sumber daya. Selain itu, tumpang tindih kewenangan dan kurangnya sinergi antarlembaga turut menghambat pelaksanaan penyadapan secara efektif. Penelitian ini merekomendasikan perlunya penguatan kewenangan KY, revisi regulasi, dan peningkatan kolaborasi antarlembaga untuk memperkuat pengawasan yudisial dan menjaga integritas peradilan.

Kata kunci: Efektivitas, Pengawasan Yudisial, Penyadapan, Penegakan Hukum, Komisi Yudisial

Introduction

Indonesia as a state of law has a judicial system that plays an important role in upholding justice and protecting the rights of citizens. However, in its journey, the judiciary is often faced with various challenges, including rampant violations of the code of ethics and corruption cases within the judiciary. This has led to public unrest over the integrity and independence of judges, so an effective supervisory mechanism is needed to maintain public trust in the judiciary (Prasetya ., 2023)

The Judicial Commission (KY) is a state institution established based on the constitutional mandate to supervise the behaviour of judges. The establishment of KY was motivated by deep concern about the condition of the judiciary which is considered unhealthy and unable to provide true justice to the community. The existence of KY is expected to strengthen the accountability and transparency of the judiciary, as well as become the guardian of the code of ethics and code of conduct for judges (Santosa, 2022) .

One of KY's main tasks is to supervise judges, both in the context of prevention and prosecution of violations of the code of ethics. In practice, this supervision is not only carried out through administrative monitoring, but also requires investigative efforts to reveal violations that are confidential or difficult to access in the usual way. This is where the importance of wiretapping as one of the instruments of supervision (Putri, 2023) .

Wiretapping, in the context of law enforcement, is the act of secretly retrieving information through communication devices for investigative or surveillance purposes. This action is very important in the law enforcement process, especially in cases of corruption and violations of the code of ethics, because it can reveal evidence that is difficult to obtain through conventional methods. However, wiretapping is also a very sensitive act because it has the potential to violate individual privacy rights (Jayanti, 2022) .

In the context of judicial supervision, KY is given the authority to request the assistance of law enforcement officials in conducting wiretaps on judges suspected of violating the code of ethics. This authority is regulated in Law No. 18/2011 on the Judicial Commission, which states that KY can request assistance from law enforcement officials to conduct wiretapping if needed in the supervision process. This is a preventive and repressive measure to maintain judicial integrity (D. Sari, 2020) . However, the granting of wiretapping authority to KY is not free from controversy. Some parties argue that KY should not have this authority because it can raise concerns about violations of human rights and judges' privacy. On the other hand, many parties support the wiretapping authority as an effort to strengthen KY's supervisory function in overseeing the behaviour of judges who have the potential to damage the image of the judiciary (Hartono, 2022) .

The effectiveness of judicial oversight of wiretapping is an important issue that needs to be studied in depth. Effective supervision will ensure that wiretapping is carried out proportionally, transparently and accountably, so that there is no abuse of authority. In addition, good supervision will also strengthen KY's position as an independent and trusted institution in maintaining judicial integrity (Nabila, 2023).

In practice, the tapping process by KY is not necessarily carried out in every case of alleged violation of the code of ethics. Before conducting wiretapping, KY must go through an initial investigation stage and will only seek the assistance of law enforcement officials if the alleged violation is strong enough and requires further proof. This procedure aims to avoid abuse of authority and maintain the privacy rights of judges (D. Sari, 2020). In addition, the implementation of wiretapping by KY must pay attention to aspects of protecting human rights and the principle of proportionality. KY must ensure that wiretapping actions are only carried out for the purposes of supervision and enforcement of the code of ethics, not for other irrelevant purposes. This is important so that public trust in judicial institutions is maintained (I. Sari, 2023).

Wiretapping carried out by KY must also be legally and administratively accountable. Every wiretapping action must be documented and reported in accordance with the provisions of the applicable laws and regulations. This process is important to ensure that wiretapping is truly carried out in the interests of law enforcement and supervision, not for the benefit of certain individuals or groups (Siregar, 2022).

From the above, it can be seen that judicial oversight of wiretapping is an important effort in maintaining the integrity and independence of the judiciary. However, the effectiveness of this oversight is highly dependent on procedural appropriateness, accountability and protection of human rights. Therefore, a comprehensive study is needed to assess the extent to which judicial oversight of wiretapping can be carried out effectively and proportionally.

Based on this background, this study aims to analyse the effectiveness of judicial oversight of wiretapping in the law enforcement process. This research is expected to contribute ideas for strengthening the function of KY as a supervisory institution, as well as providing recommendations for improving the judicial supervision system in Indonesia.

Research Methods

The research method used in this study is a normative juridical research method that focuses on qualitative analysis of laws and regulations, legal doctrines, previous research results, and court decisions related to judicial supervision and wiretapping in the law enforcement process, so that this research is library research with data collection techniques in the form of literature studies and legal document analysis, and data analysis techniques using descriptive-analytical methods to describe the

effectiveness of judicial supervision of wiretapping in a systematic and comprehensive manner (Baumeister & Leary, 2020) .

Results and Discussion

The Effectiveness of Judicial Supervision of the Implementation of Wiretapping in Law Enforcement

The effectiveness of judicial oversight of the implementation of wiretapping in law enforcement is an important issue that continues to surface in legal discourse in Indonesia. The Judicial Commission as a supervisory institution for judges is given the authority to maintain the integrity and behaviour of judges through various instruments, one of which is wiretapping. This wiretapping is expressly regulated in Article 20 paragraph (3) of Law Number 18/2011 on the Judicial Commission, which states that KY can request the assistance of law enforcement officials to conduct wiretapping of judges suspected of violating the Code of Ethics and Code of Conduct for Judges (Wijayanti ., 2022)

However, the exercise of this authority does not necessarily run smoothly in practice. KY still depends on law enforcement officials such as the National Police, the Attorney General's Office, or the KPK to be able to carry out wiretapping, because KY itself does not have the technical authority to conduct wiretapping independently. This poses its own challenges, especially when law enforcement officials have different priorities and internal rules regarding the implementation of wiretapping (Santosa, 2022) . In some cases, KY requests to conduct wiretaps are often not immediately fulfilled by law enforcement officials. Law enforcement officials tend to only conduct wiretaps for certain cases, such as corruption, narcotics, or terrorism, not for cases of ethical violations which are the domain of KY. As a result, the process of monitoring judges suspected of committing ethical violations is hampered and ineffective (Santoso, 2020) .

Another obstacle faced by KY is resistance from the Supreme Court as the holder of judicial authority. The Supreme Court often does not follow up on recommendations for sanctions from KY, both in relation to ethical violations and wiretapping results, so the deterrent effect on problematic judges is low. This dynamic shows that there is a tug-of-war of authority between KY and the Supreme Court in supervising judges (Sutiyoso ., 2021)

In addition, existing regulations do not provide a clear distinction between the realm of technical judicial supervision and the realm of judge behaviour. This has led to overlapping authority and uncertainty in the implementation of supervision, including in terms of wiretapping. Unclear regulations also complicate the coordination process between KY and law enforcement officials, so that the effectiveness of supervision becomes less than optimal (Prasetya ., 2023)

KY's limited human resource capacity and budget also affect the effectiveness of wiretapping implementation. KY needs investigators who are competent in managing wiretapping technology and analysing recordings, but limited resources often become an obstacle in the investigation process. This causes KY to not be able to fully utilise the authority of wiretapping to uncover ethical violations to the fullest (Hidayat, 2025) .

Nevertheless, wiretapping remains an important instrument in judicial oversight, especially to uncover ethical violations that are confidential and difficult to prove by conventional methods. Wiretapping can be key evidence in the supervision process, as happened in a bribery case involving a judge in Jakarta in 2021. In this case, the results of the wiretapping successfully revealed ethical violations and formed the basis for the recommendation to dismiss the judge concerned. However, the implementation of wiretapping by KY must still pay attention to aspects of protecting the human rights and privacy of judges (Ramadhan, 2023) . KY must ensure that wiretapping is only carried out for the purposes of supervision and enforcement of the code of ethics, not for other irrelevant purposes. Clear and transparent wiretapping procedures are essential to prevent abuse of authority and maintain public trust in the judiciary (Putra, 2023) .

On the other hand, an overly bureaucratic and convoluted wiretapping process can hamper the effectiveness of supervision. This has been a problem in the implementation of wiretapping by the KPK, where initially the KPK had to obtain permission from the Supervisory Board before conducting wiretapping, thus slowing down the investigation process. However, after a Constitutional Court decision, the permit mechanism was changed to simply notify the Supervisory Board after the wiretapping was completed (Rahman, 2021) .

Lessons from KPK's experience can be taken into consideration for KY in strengthening its wiretapping authority. KY needs to fight for a revision of the law so that it can conduct wiretapping independently, without relying on other law enforcement officials, so that the supervision process becomes faster and more effective. In addition, a clear division of the supervisory domain between KY and the Supreme Court is needed to avoid overlapping authority and strengthen the accountability of judicial supervision (Setiawan, 2022) .

Collaboration and synergy between KY, the Supreme Court, and law enforcement officials are also very important to ensure that wiretapping is in accordance with the law and does not violate human rights. Joint training on supervisory techniques and ethical standards can increase the capacity of human resources in both institutions, so that the supervisory process becomes more professional and reliable. The impact of effective judicial oversight on the conduct of wiretapping is critical to the credibility of the judiciary. Transparent and accountable wiretapping can restore public confidence in the judiciary, as well as provide a deterrent effect against problematic judges. However, if wiretapping is carried out arbitrarily or

without a clear legal basis, it can create a negative perception of the independence of judges and the judiciary (Kadafi, 2023).

Thus, the effectiveness of judicial oversight of the implementation of wiretapping in law enforcement is highly dependent on regulatory alignment, institutional capacity, and collaborative commitment among policy makers. Without strong structural and cultural support, efforts to monitor wiretapping risk stagnating and failing to address the challenges of the judicial mafia.

Therefore, joint efforts are needed to strengthen KY's authority to conduct wiretapping, clarify regulations, and strengthen inter-agency synergies in order to maintain the integrity and credibility of judicial institutions in Indonesia.

Obstacles and Challenges in the Implementation of Wiretapping by Judicial Supervisory Institutions

The implementation of wiretapping by judicial oversight institutions, especially the Judicial Commission (KY), faces various obstacles and challenges that are structural, regulative, and practical in nature. One of the main obstacles is KY's dependence on other law enforcement officials such as the Police, the Attorney General's Office, or the KPK in conducting wiretapping. KY does not have the technical authority to conduct wiretapping independently, so every request for wiretapping must go through coordination with other institutions that do have this authority (Yuliana, 2025).

In practice, law enforcement officials tend to only conduct wiretapping for certain cases such as corruption, narcotics, or terrorism, not for cases of ethical violations which are the domain of KY. This causes KY requests to often not be immediately fulfilled or even rejected, because law enforcement officials feel they have no direct interest in handling ethical violations of judges. As a result, the process of supervising judges suspected of committing ethical violations is hampered and ineffective (Sulaiman, 2024).

Another challenge comes from the internal resistance of judicial institutions, especially the Supreme Court (MA), which often does not follow up on recommendations for sanctions from KY, both related to ethical violations and wiretapping results. This dynamic reflects the tug-of-war of authority between KY and MA in supervising judges, so that the effectiveness of supervision is low and the deterrent effect on problematic judges is minimal (Nugroho, 2021). In addition, existing regulations have not provided a clear distinction between the realm of technical judicial supervision and the realm of judge behaviour. As a result, there is overlapping authority and uncertainty in the implementation of supervision, including in terms of wiretapping. Unclear regulations also complicate the coordination process between KY and law enforcement officials, so that the effectiveness of supervision becomes less than optimal (Lestari, 2024).

KY's limited human resource capacity and budget are also an obstacle in the implementation of wiretapping. KY needs investigators who are competent in managing wiretapping technology and analysing recordings, but limited resources often become an obstacle in the investigation process. This causes KY to not be able to fully utilise the authority of wiretapping to uncover ethical violations to the fullest (Widodo, 2023).

Another obstacle is the misalignment of wiretapping regulations spread across various laws and regulations, so that there is no standardised procedure for the implementation of wiretapping outside the interests of criminal law enforcement. This has led law enforcement officials to insist that wiretapping should only be carried out for the purposes of criminal law enforcement, not for the purposes of ethical supervision of judges (Prasetya, 2023). Criticism has also come from judges and legal practitioners who argue that KY should not conduct its own wiretapping because it is not a pro-justice institution and does not have the authority to enforce criminal law. Wiretapping, according to them, should only be carried out by law enforcement officials who do have pro-justice authority, so the granting of wiretapping authority to KY is considered excessive and has the potential to cause abuse of authority (Suryani, 2021).

In addition, there are concerns that the granting of wiretapping authority to KY could lead to violations of human rights, especially the right to privacy of judges. Wiretapping is a very sensitive act because it has the potential to violate the constitutional rights of citizens to communicate freely and confidentially. Therefore, every wiretapping action must be based on strong interests and carried out with clear and accountable procedures (Pramudito ., 2022)

The overly bureaucratic and convoluted wiretapping process is also a challenge. KY must go through various stages of coordination and permission requests before it can conduct wiretapping, resulting in a slow investigation process and unresponsiveness to urgent supervisory needs. This has been a problem in the implementation of wiretapping by the KPK, where initially the KPK had to obtain permission from the Supervisory Board before conducting wiretapping, thus slowing down the investigation process (Masripattunnisa ., 2021)

The dynamism of the number of public complaints that continues to increase and vary is also a challenge for KY in determining the priority of supervision and implementation of wiretapping. KY must be able to manage public reports effectively, but limited resources and a disproportionate organisational structure between the number of supervisors and those supervised make handling reports not optimal. Another challenge is the lack of synergy and collaboration between KY, MA, and law enforcement officials in the implementation of wiretapping. Poor coordination can cause the wiretapping process to be hampered and the results of wiretapping to be ignored by the Supreme Court, so that it has no impact on upholding the ethics of judges (Febrian ., 2022)

The vast territory of Indonesia and the large number of judges scattered across the archipelago are also a challenge for KY in supervising and implementing wiretapping. KY has not been able to monitor judges thoroughly, so potential ethical violations in remote areas are difficult to detect and monitor (Prasetya ., 2023)

Efforts to strengthen KY's authority to conduct wiretapping independently also face political and legislative challenges. The revision of the law proposed by KY to strengthen its wiretapping authority still faces resistance from various parties, including judges and legislators who are worried about abuse of authority (Santoso, 2020).

Thus, the implementation of wiretapping by judicial oversight institutions such as KY faces multidimensional obstacles and challenges, ranging from limited authority, dependence on law enforcement officials, internal resistance of judicial institutions, limited resources, regulatory misalignment, to concerns about human rights violations. For this reason, joint efforts are needed to strengthen KY's authority, clarify regulations, strengthen synergies between institutions, and increase the capacity of KY's human resources in order to maintain the integrity and credibility of judicial institutions in Indonesia.

Conclusion

The effectiveness of judicial oversight of wiretapping in the law enforcement process is still not optimal, although the Judicial Commission (KY) has been given the authority to request the assistance of law enforcement officials in conducting wiretaps on judges suspected of violating the code of ethics. The main obstacle faced is KY's dependence on other law enforcement officials, such as the Police or the KPK, who often do not immediately fulfil wiretap requests, thus hampering the investigation process and making it ineffective. In addition, resistance from the Supreme Court as the holder of judicial authority also weakens the effectiveness of supervision, as recommendations for sanctions from KY are often not followed up by the Supreme Court.

The existing regulations do not provide a clear distinction between the realm of judicial technical supervision and the realm of judge behaviour, resulting in overlapping authority and uncertainty in the implementation of wiretapping. Limited human resource capacity and budget are also obstacles for KY in optimising wiretapping authority to uncover ethical violations to the fullest. In addition, the coordination and cooperation mechanism between KY, the Supreme Court, and law enforcement officials has not been running optimally, so the synergy needed to strengthen supervision has not been maximally realised.

Therefore, the effectiveness of judicial oversight of wiretapping is highly dependent on regulatory alignment, strengthening KY's authority, and better inter-agency synergy. Without strong structural and cultural support, efforts to supervise through wiretapping risk stagnating and failing to address the challenges of the judicial

mafia. For this reason, a revision of regulations is needed to clarify KY's authority to conduct wiretapping independently, as well as to strengthen inter-agency collaboration in order to maintain the integrity and credibility of judicial institutions in Indonesia.

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