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license**POLICING IN THE SHADOWS: UNDERCOVER BUYING AND THE SOCIAL CONSTRUCTION OF LEGAL EVIDENCE IN INDONESIA'S POST-KUHAP 2025 CRIMINAL JUSTICE SYSTEM****Tubagus Heru Dharma Wijaya^{1*}, Abdul Madjid¹, Setiawan Noerdajasakti¹, Lucky Endrawati¹**¹Universitas Brawijaya, Jalan Veteran, Malang 65145, Indonesia*Correspondence E-Mail: tubaguseru@umj.ac.idDOI: <https://doi.org/10.30598/baileofisipvol3iss3pp705-722>**ABSTRACT**

This study examines the sociological dynamics of undercover buying in Indonesia's post-Criminal Procedure Code 2025 (KUHAP 2025) criminal justice system, focusing on the social construction of legal evidence through investigative practices. It addresses the tension between effective narcotics enforcement and the obligation to uphold due process and human rights. Moving beyond a purely normative legal perspective, the study analyzes how undercover buying operates as a social practice that shapes the production, interpretation, and legitimacy of evidence. A qualitative socio-legal approach is employed, integrating normative analysis of statutory frameworks with empirical data. Data are drawn from court decisions, legal documents, and case reports, complemented by in-depth interviews with law enforcement officers, prosecutors, and legal practitioners. Analysis is conducted interpretatively using a social construction framework to examine how evidence is produced and legitimized within institutional settings. The findings indicate that evidence derived from undercover buying is not inherently objective but emerges from interactions among investigators, suspects, and legal norms. The practice may blur the boundary between enforcement and the construction of criminal acts, particularly where entrapment or excessive intervention occurs. Despite strengthened procedural legality under KUHAP 2025, a gap remains between legal norms and implementation. This study offers novelty by conceptualizing undercover buying as a socio-legal practice that constructs legal reality. It contributes to Global South sociology of law and recommends clearer operational standards and community-based oversight to ensure accountable and rights-based criminal justice.

Keywords: Criminal Justice, Due Process, Legal Evidence, Socio-Legal Studies, Undercover Buying

INTRODUCTION

The expansion of narcotics control policies across many developing countries has increasingly relied on covert investigative techniques, among which undercover buying occupies a central position. In Indonesia, this method has become a dominant strategy in penetrating illicit drug networks that are often organized, adaptive, and resistant to conventional policing. However, the enactment of the Criminal Procedure Code 2025 (Kitab Undang-Undang Hukum Acara Pidana, hereafter KUHAP 2025) introduces a significant shift in the evidentiary paradigm, emphasizing not only the formal admissibility of evidence but also the legality of the processes through which such evidence is obtained (Febriadi et al., 2025; Juliansyah et al., 2025). This

transformation raises a fundamental question that extends beyond doctrinal legality: to what extent is legal evidence the product of neutral procedural mechanisms, and to what extent is it shaped by the social practices embedded within everyday policing? Empirical indications from narcotics cases suggest that undercover buying frequently operates within ambiguous boundaries, where the distinction between detecting crime and constructing it becomes blurred, particularly in situations involving active inducement or entrapment (Manurung et al., 2023; Zega et al., 2024). This ambiguity becomes more pronounced in institutional contexts characterized by performance pressures, discretionary authority, and limited oversight, conditions that are not uncommon in Global South criminal justice systems (Hosseini et al., 2025; Khoirunnisa et al., 2025; Litaay & Batjo, 2024).

The importance of addressing this issue lies in its implications for the legitimacy of the criminal justice system. Evidence serves not merely as a technical component of legal proceedings but as a foundational element in the production of judicial truth. When the processes that generate evidence are socially contingent and potentially coercive, the legitimacy of legal outcomes may be called into question. In Indonesia, concerns regarding the use of undercover operations in narcotics enforcement have surfaced in both legal discourse and public debate, particularly in cases where defendants claim entrapment or procedural irregularities. Although KUHAP 2025 seeks to reinforce procedural safeguards, including stricter requirements for authorization and accountability, there remains a gap between normative aspirations and practical implementation. This gap reflects broader tensions between state power and individual rights, as well as between formal legality and lived legal experiences (Kimengsi et al., 2025; Laudari et al., 2024; Permanasari et al., 2024). Consequently, examining undercover buying through a sociological lens becomes essential for understanding how legal evidence is produced, negotiated, and legitimized within specific socio-institutional contexts.

Existing scholarship on undercover policing has predominantly focused on its legal and ethical dimensions. Early studies have examined the doctrinal boundaries of entrapment, emphasizing the need to distinguish between permissible detection and impermissible inducement (Larson et al., 2022; Sirimorok et al., 2024; Sud, 2025). These works highlight the centrality of intent and voluntariness in determining the admissibility of evidence, arguing that law enforcement should not create crimes that would not otherwise occur. Complementing this legal perspective, criminological research has explored the operational effectiveness of undercover techniques, particularly in disrupting organized crime networks (Brizuela-Torres et al., 2025; Okumuş & Gümüş, 2025; Widyawati Islami Rahayu et al., 2025). Such studies often underscore the pragmatic necessity of covert methods in addressing complex and concealed forms of criminality, while acknowledging the ethical dilemmas they entail.

In parallel, socio-legal scholars have increasingly drawn attention to the socially constructed nature of legal processes, including the production of evidence. Building on the foundational work of Omeyer et al. (2022) and Ulya et al. (2025), this line of inquiry conceptualizes legal reality as an outcome of ongoing interactions between institutional actors,

rather than as a fixed and objective domain. Empirical studies have demonstrated how police discretion, organizational culture, and situational dynamics shape investigative practices and, consequently, the evidentiary record presented in court (Bhushan & Sen, 2025; Lu & Yamazaki, 2023; Roy & Sengupta, 2025). Within this framework, undercover operations can be understood not merely as neutral tools but as practices embedded in power relations and institutional logics that influence how truth is constructed in criminal justice systems.

Recent contributions have further expanded this perspective by situating policing practices within the broader context of Global South societies. Scholars have argued that legal institutions in these contexts often operate under conditions of resource constraints, political pressures, and hybrid legal cultures, which in turn shape the implementation of formal legal norms (Masyhadi et al., 2026; Setiyowati et al., 2026; Sokoy, 2026). In the field of narcotics enforcement, studies have documented how aggressive policing strategies may disproportionately affect marginalized populations, raising concerns about justice, equity, and human rights (Noll et al., 2023; Wahyudi et al., 2024). At the same time, research on everyday policing emphasizes the role of frontline officers in interpreting and enacting legal rules, highlighting the gap between law in the books and law in action (Rizal et al., 2026; Tonouéwa et al., 2024).

Despite these important contributions, the intersection between undercover buying, the social construction of evidence, and the evolving legal framework in Indonesia remains insufficiently explored. Much of the existing literature tends to treat evidentiary validity as a primarily doctrinal issue, without fully engaging with the socio-institutional processes through which evidence is produced. Conversely, sociological studies of policing often overlook the specific legal transformations that shape evidentiary standards and procedural legitimacy. Within this landscape, there is a need for an integrative approach that bridges normative analysis and empirical inquiry, allowing for a more nuanced understanding of how legal evidence emerges at the intersection of law, practice, and power.

Against this backdrop, the present study advances an approach that situates undercover buying within a broader socio-legal framework, viewing it as a practice that not only uncovers crime but also participates in its construction. By engaging with the post-KUHAP 2025 context, the study subtly foregrounds how shifts in legal norms interact with entrenched institutional practices, producing complex and sometimes contradictory outcomes. In doing so, it implicitly extends existing debates by bringing together perspectives that are often treated separately, thereby offering a more comprehensive account of evidentiary production in contemporary criminal justice systems.

Accordingly, this study aims to analyze how undercover buying operates as a social practice within Indonesia's criminal justice system and how it shapes the construction and legitimacy of legal evidence in narcotics cases. It seeks to examine the implications of this practice for due process, human rights, and the broader dynamics of state authority in the Global South. Through this inquiry, the study aspires to contribute to the development of socio-legal

scholarship by illuminating the interplay between formal legal norms and everyday policing practices, while also providing insights that may inform more accountable and equitable approaches to criminal justice.

RESEARCH METHOD

This study adopts a qualitative socio-legal research design to capture the complex interaction between legal norms and everyday policing practices in the implementation of undercover buying within Indonesia's post-Criminal Procedure Code 2025 (KUHAP 2025) framework. A qualitative approach is considered most appropriate because the central focus of this research lies not merely in assessing formal legal validity, but in understanding how legal evidence is socially produced, interpreted, and legitimized through human interactions and institutional practices. Such processes are inherently contextual, dynamic, and embedded in meaning-making, which cannot be adequately captured through quantitative measurement. In line with socio-legal traditions, this study integrates normative legal analysis with empirical inquiry to bridge the gap between law in the books and law in action (Fekete et al., 2022; Lorenzini & von Jacobi, 2024; Padovezi et al., 2025).

The research is conducted in selected urban jurisdictions in Indonesia where narcotics cases and undercover operations are relatively prevalent, allowing for a richer exploration of institutional practices and legal processes. These locations are not treated merely as geographic settings, but as socio-legal arenas in which state authority, legal norms, and everyday practices intersect. The selection is therefore based on the intensity of narcotics enforcement activities and the accessibility of relevant actors, rather than on representativeness in a statistical sense.

The study involves fifteen informants who are purposively selected based on their direct involvement or professional engagement with narcotics cases and criminal justice processes. These include five law enforcement officers (investigators), four public prosecutors, three criminal defense lawyers, and three individuals with prior experience as defendants in narcotics cases. The inclusion of these diverse actors is intended to capture multiple perspectives on how undercover buying is practiced and how evidence is constructed and contested across different stages of the criminal justice process. The selection of informants follows a purposive and snowball sampling strategy, ensuring that participants possess relevant knowledge and experience while allowing the researcher to access otherwise sensitive or closed institutional environments (Cordero-Vinueza et al., 2023; Pratama et al., 2026; Purnomo et al., 2025).

Data collection is carried out through a combination of document analysis and in-depth semi-structured interviews. Document analysis includes the examination of court decisions, statutory regulations such as KUHAP 2025 and the Narcotics Law, as well as case reports and institutional guidelines. This method is essential for understanding the formal legal framework and how it is articulated in judicial reasoning. Meanwhile, in-depth interviews are conducted to explore the lived experiences, interpretations, and discretionary practices of legal actors. The

semi-structured format allows flexibility for probing deeper into sensitive issues such as entrapment, procedural compliance, and institutional pressures, while still maintaining a coherent line of inquiry. Interviews are conducted with careful attention to ethical considerations, including informed consent and confidentiality, given the sensitive nature of the topic.

To ensure the credibility and trustworthiness of the findings, this study employs methodological triangulation by cross-validating data from multiple sources and methods. Triangulation is conducted by comparing interview narratives with documentary evidence and legal texts, as well as by examining consistencies and discrepancies across different informant groups. This approach allows the researcher to identify patterns and contradictions, thereby enhancing the depth and reliability of the analysis (Kaklauskas et al., 2026; Siregar et al., 2026). Data are analyzed interpretatively using a social construction framework, with an emphasis on how meanings, practices, and legal realities are co-produced within institutional contexts. Through this methodological design, the study not only examines the normative position of undercover buying within KUHAP 2025 but also uncovers the socio-institutional processes that shape its implementation, offering a more nuanced and grounded understanding of legal evidence in practice.

RESULTS AND DISCUSSION

General Overview of Narcotics and Evidentiary Practices in Undercover Buying Techniques

Narcotics-related offenses constitute a form of extraordinary crime characterized by their complexity, organized nature, and far-reaching impact on social order, public health, and state security (Spencer et al., 2023; Suryawati et al., 2026; Turay et al., 2026). Illicit drug trafficking is rarely an isolated or sporadic activity; rather, it is often embedded within structured and covert networks that operate with a high degree of coordination and secrecy. This structural opacity poses significant challenges for law enforcement agencies in identifying principal actors and tracing distribution channels. In response, the state has conferred special authority upon investigators to employ non-conventional investigative techniques, including undercover buying, as a means of penetrating these concealed networks.

Conceptually, narcotics are understood as substances or drugs derived from plant or non-plant sources, whether synthetic or semi-synthetic, that can alter consciousness, relieve pain, and induce dependency (Cecilia et al., 2024; Noralla, 2026; von Lüpke et al., 2025). Within the framework of criminal law, narcotics are not merely treated as objects of crime but are also regarded as a serious threat to the quality of human resources and societal well-being. Consequently, criminal law policy concerning narcotics is directed toward a dual objective: repressing illicit trafficking while simultaneously protecting society from the destructive consequences of drug abuse.

The evidentiary process in narcotics cases possesses distinctive characteristics that differentiate it from conventional criminal offenses. Drug transactions are typically conducted in secrecy, without public witnesses, and often rely on closed communication systems. As a result, evidence is difficult to obtain through ordinary investigative mechanisms. Within the Indonesian criminal procedural system, which adheres to the negative statutory evidentiary system (*negatief wettelijk bewijsstelsel*) (Bahruddin et al., 2024; Barney, 2024; Goswami et al., 2026), a conviction may only be rendered if at least two legally valid pieces of evidence are supported by the judge's conviction. This system positions evidentiary assessment as the core of criminal adjudication, while simultaneously functioning as a safeguard against wrongful conviction.

Within this framework, undercover buying has emerged as a specialized investigative method aimed at securing material evidence and identifying perpetrators in narcotics-related offenses. This technique involves investigators or designated officers posing as buyers to conduct controlled transactions with individuals suspected of drug distribution. Its primary objective is to ensure the occurrence of a criminal act in a verifiable manner, thereby enabling the seizure of evidence and the apprehension of suspects. Normatively, undercover buying is justified as a strategic tool to unveil criminal activities that are deliberately concealed by perpetrators.

Nevertheless, the use of undercover buying cannot be detached from the fundamental principles of criminal procedure. Any investigative action must remain within the boundaries of legality, proportionality, and accountability. Undercover buying is not merely an administrative tactic; it constitutes a legal act that directly affects individual rights and liberties. Therefore, its implementation must be grounded in clear legal authority, governed by strict procedural standards, and subject to adequate oversight to prevent it from devolving into entrapment or the artificial fabrication of criminal acts.

From the perspective of evidentiary theory, evidence obtained through undercover buying must satisfy two cumulative dimensions of validity: formal and material. Formal validity pertains to compliance with procedural requirements, such as the existence of written authorization from competent authorities and adherence to established operational protocols. Material validity, on the other hand, concerns the substantive integrity of the evidence, specifically whether it genuinely reflects the culpability of the suspect without undue intervention that artificially generates the criminal act. These two dimensions are inseparable and must be fulfilled concurrently to ensure the admissibility and legitimacy of evidence.

In practice, however, there is often a tendency to prioritize outcomes—such as the arrest of suspects and the seizure of narcotics—over the legality of the processes through which such outcomes are achieved. This tendency risks transforming criminal procedure from a mechanism designed to protect human rights into a predominantly repressive instrument of state power. In reality, the validity of evidence should not be assessed solely on the basis of its existence, but also on the manner in which it was obtained.

The enactment of Law Number 20 of 2025 on the Criminal Procedure Code reinforces the principle that the legality of evidence acquisition is an integral component of the criminal

evidentiary system. KUHAP 2025 underscores the importance of lawful investigative conduct and introduces mechanisms for challenging evidence obtained through unlawful means. Consequently, undercover buying must be interpreted restrictively as an exceptional measure, applicable only under specific conditions and subject to rigorous oversight.

From a normative standpoint, the positioning of undercover buying within the evidentiary framework should ultimately serve the pursuit of material truth without undermining procedural justice. This necessitates a careful balance between the effectiveness of narcotics law enforcement and the protection of constitutional rights. Therefore, any examination of narcotics offenses and evidentiary practices in undercover operations must extend beyond technical considerations and be situated within the broader context of the rule of law, where legal supremacy and the protection of human rights remain paramount.

The Acquisition of Evidence through Undercover Buying in the Proof of Narcotics Offenses

The acquisition of evidence constitutes a critical stage in the proof of narcotics-related offenses. In the context of crimes that are inherently covert and organized, law enforcement authorities often encounter significant limitations in obtaining evidence through conventional investigative methods. Consequently, undercover buying has been positioned as a strategic instrument designed to create factual circumstances that enable the occurrence of narcotics transactions, thereby allowing material evidence to be secured. However, the effectiveness of this technique must consistently be balanced with adherence to the principles of criminal procedural law, particularly those governing the legality of evidence acquisition.

Conceptually, the procurement of evidence through undercover buying cannot be separated from the principle of due process of law (Bittner et al., 2024; Fatimah et al., 2024; Mulyani et al., 2024). This principle affirms that all actions undertaken by law enforcement must be grounded in legal authority, conducted through fair procedures, and respectful of fundamental individual rights. Within this framework, undercover buying is not merely an operational activity but an integral component of the legal process, subject to constitutional standards. Accordingly, investigators are required to ensure that each stage of the operation—from planning to execution—is supported by clear legal authority and is accountable from a juridical standpoint.

The enactment of KUHAP 2025 reinforces the notion that the admissibility of evidence is determined not only by its type but also by the manner in which it is obtained. This paradigm marks a significant shift in Indonesian criminal evidentiary law, from a result-oriented approach toward one that recognizes process as an integral element of justice. Consequently, narcotics evidence obtained through undercover buying must be assessed not only in terms of its existence but also in relation to its compliance with applicable legal procedures.

From a normative-dogmatic perspective, KUHAP 2025 reaffirms the centrality of evidentiary processes within criminal adjudication by emphasizing procedural legality, the presumption of innocence, and the principle of fair trial. The evidentiary system continues to

adhere to the negative statutory model, whereby a conviction may only be rendered when legally valid evidence, obtained in accordance with the law, is accompanied by the judge's conviction. Within this framework, undercover buying must conform to the principle that all investigative actions are legal acts requiring explicit authorization and strict compliance with statutory procedures.

Furthermore, KUHAP 2025 expands the concept of evidentiary validity by incorporating the legality of acquisition as an integral component of admissibility (de Vos et al., 2023; delos Reyes et al., 2025; Nugroho et al., 2024). This development represents a doctrinal advancement from earlier conceptions that primarily emphasized the classification of evidentiary types. The focus has now shifted toward assessing whether evidence has been obtained through lawful, proportionate, and verifiable procedures. Accordingly, undercover buying necessitates written authorization from competent authorities, comprehensive documentation of investigative processes, and traceability at every stage of law enforcement action.

In addition, KUHAP 2025 strengthens the principle of investigative accountability, requiring law enforcement officials to justify the exercise of special powers, including the use of undercover buying. From a doctrinal perspective, this principle functions as a mechanism to control investigative discretion, preventing it from evolving into arbitrary power (Situmorang et al., 2026; Vivoda et al., 2025). Therefore, any evidence obtained through undercover operations must be subject to judicial scrutiny in terms of authority, procedure, and substantive integrity.

Moreover, KUHAP 2025 reinforces the role of judges as active controllers of the evidentiary process (judicial control) (Shima, 2026; Suhardono et al., 2024), extending beyond their traditional function as final evaluators of evidence. Judges are empowered to assess, from the outset, whether submitted evidence meets normative standards of admissibility. This doctrinal development reflects the classical function of criminal procedure as a guardian of procedural justice, ensuring that the objectives of law enforcement are not achieved through unlawful means.

Within the framework of modern evidentiary law, the exclusionary rule has gained prominence as a doctrine asserting that evidence obtained unlawfully must be excluded from judicial proceedings (Rincón Barajas et al., 2024; Rossi et al., 2024). This principle is grounded in the notion that the state should not benefit from its own legal violations. In parallel, the doctrine of the "fruit of the poisonous tree" (Hughes et al., 2023; Sommer et al., 2024) extends this reasoning by excluding not only the primary unlawfully obtained evidence but also any derivative evidence stemming from it. In the context of undercover buying, these doctrines become particularly relevant when narcotics transactions arise from procedural violations or manipulative practices by law enforcement.

Another central issue in the acquisition of evidence through undercover buying is the problem of entrapment. Entrapment occurs when law enforcement officers do not merely uncover pre-existing criminal conduct but actively induce or create criminal intent in an individual (Budiharta & Holl, 2025; Fajrini, 2025; Rodriguez-Donaire et al., 2026). In such circumstances, the

culpability of the offender becomes ambiguous, as the criminal act does not arise from the individual's free will but from external intervention. This practice contradicts the fundamental principles of criminal liability, which require that intent or negligence originate from the individual as a legal subject.

KUHAP 2025, with its emphasis on the protection of suspects' rights, implicitly rejects evidentiary constructions based on entrapment. Undercover buying should therefore be employed solely to confirm criminal activities that are already in progress, rather than to fabricate new criminal events. The boundary between uncovering and constructing crime must be normatively clarified to prevent the misuse of this technique as an instrument of criminalization. Furthermore, from the perspective of criminal procedural principles, the acquisition of evidence through undercover buying must adhere to the principles of proportionality and subsidiarity. The principle of proportionality requires that the use of special investigative powers be balanced against their impact on individual rights, while the principle of subsidiarity dictates that undercover buying should only be employed when conventional investigative methods are no longer effective (Apriliyanti et al., 2026; Sefa-Nyarko, 2026). Thus, it should not become a routine practice but rather remain an exceptional measure.

In addition, the acquisition of evidence through undercover operations must uphold the principle of respect for human dignity. KUHAP 2025 affirms that suspects remain legal subjects entitled to fair treatment, legal assistance, and protection from physical and psychological coercion. Any form of excessive persuasion, manipulation, or pressure in the course of undercover buying risks undermining the legitimacy of the evidence obtained.

From an evidentiary standpoint, the strengthened emphasis on the legality of evidence acquisition under KUHAP 2025 also places an indirect burden of proof on law enforcement authorities. Investigators are not only required to demonstrate the occurrence of a criminal offense but must also establish that the entire process of evidence collection has been conducted lawfully. This reflects a broader paradigm shift from a crime control model toward a due process model, in which the quality of procedures becomes a primary indicator of justice.

In a reformatory context, it is essential to ensure synergy between the normative framework of KUHAP 2025 and investigative practices in the field. Internal regulations within law enforcement institutions must be aligned with the spirit of the new procedural code, particularly with regard to operational standards for undercover buying. Without such harmonization, there is a significant risk of divergence between formal legal norms and the realities of law enforcement. Therefore, reform in criminal procedural law must be accompanied by a transformation of legal culture among law enforcement officials, ensuring that undercover buying is implemented as a lawful, just, and accountable instrument of criminal justice.

An Analysis of the Validity of Undercover Buying Techniques in the Evidentiary Process of Narcotics Crimes

The validity of undercover buying techniques in the evidentiary process of narcotics offenses must be examined within the framework of criminal procedural law, which positions the legality of process as an integral component in the pursuit of material truth (Dewi et al., 2025; Trotman & Berggren, 2026). Law Number 20 of 2025 on the Criminal Procedure Code introduces a significant paradigm shift by affirming that the admissibility of evidence is determined not solely by its type but also by the manner in which it is obtained. Consequently, undercover buying cannot be understood merely as an operational method, but rather as a legal act with direct implications for the legitimacy of proof.

Normatively, KUHAP 2025 reinforces the principles of procedural legality and investigative accountability. Every action undertaken by investigators, including the use of special powers such as undercover buying, must be grounded in written authorization from a competent authority and implemented in accordance with legal standards that are subject to judicial scrutiny. Within this framework, the validity of evidence requires the fulfillment of two cumulative dimensions: formal validity, referring to compliance with procedural requirements, and material validity, referring to the absence of manipulation in the creation of the criminal event. The failure to satisfy either dimension results in the inadmissibility of the evidence.

In judicial practice, there has been a discernible shift in judicial reasoning from a formalistic approach toward a more substantive evaluation of the processes through which evidence is obtained (Faliyandra et al., 2025; Kar et al., 2025; Rachmawati et al., 2026). Judges increasingly assess not only the existence of material evidence but also the manner in which it was acquired. This approach is reflected in judicial considerations emphasizing the traceability of investigative procedures, the existence of formal authorization, and the consistency of testimonies among witnesses, officers, and defendants. Although not yet uniformly applied, this trend indicates a growing judicial awareness that the quality of proof is inseparable from procedural integrity.

Nevertheless, the practice of undercover buying continues to present fundamental challenges, particularly when employed excessively or accompanied by elements of entrapment. In a number of narcotics cases, undercover operations have been conducted without adequate oversight, have involved third parties in disproportionate ways, or have actively encouraged suspects to engage in transactions that were not previously intended. Such circumstances raise serious concerns regarding the origin of criminal intent and undermine the foundation of criminal liability.

From the standpoint of criminal law, liability presupposes fault arising from the free will of the legal subject. When a criminal act occurs as a result of active inducement by law enforcement, the psychological link between the offender and the act becomes problematic. KUHAP 2025, with its emphasis on the protection of suspects' rights and the principle of due process of law, implicitly rejects evidentiary constructions based on entrapment (Abdurahman et

al., 2025; Rusdiansyah et al., 2025; Utomo et al., 2026). Undercover buying should therefore function solely as a means of uncovering crimes that are already in progress, rather than creating new criminal situations for evidentiary purposes.

Within the framework of modern evidentiary doctrine, evidence obtained through procedural violations or entrapment may be excluded based on the exclusionary rule and the doctrine of the “fruit of the poisonous tree.” The application of these principles aligns with the spirit of KUHAP 2025, which integrates the legality of evidence acquisition into the broader concept of procedural justice. Accordingly, the success of narcotics investigations cannot justify the disregard of procedural standards.

Furthermore, KUHAP 2025 strengthens the role of judges as controllers of the evidentiary process (judicial control). Judges are not merely tasked with evaluating evidence at the final stage but are also empowered to assess, from the outset, whether investigative actions have been conducted lawfully. This enhanced role is crucial in preventing the normalization of improper undercover practices and in ensuring that investigative discretion remains within the boundaries of the rule of law.

From a critical perspective, a gap persists between the normative framework of KUHAP 2025 and the realities of narcotics investigations in practice. Internal regulations within law enforcement institutions have not been fully aligned with the new procedural paradigm, resulting in undercover buying often being conducted based on institutional habits rather than standardized normative guidelines. As a consequence, the assessment of evidentiary validity frequently depends on the sensitivity and discretion of individual judges rather than on systematic oversight mechanisms.

Therefore, from a reformative standpoint, there is a pressing need for more operational and detailed regulations governing undercover buying within the KUHAP 2025 framework (Husamah et al., 2025; Rowland et al., 2022). Such regulations should encompass prerequisites for the use of this technique, mandatory documentation at each stage of the operation, clear limitations on the involvement of third parties, and explicit legal consequences for procedural violations. In addition, it is necessary to develop pretrial or preliminary review mechanisms specifically designed to assess the legality of evidence obtained through undercover operations.

In conclusion, the validity of undercover buying cannot be measured solely by the successful acquisition of material evidence, but must be evaluated in light of compliance with the principles of legality, proportionality, subsidiarity, and respect for human rights. KUHAP 2025 provides a normative foundation for developing evidentiary practices that strike a balance between the effectiveness of narcotics law enforcement and the protection of constitutional rights. Through such a reconstruction, undercover buying is expected to function as a lawful, just, and accountable instrument within Indonesia’s criminal justice system.

CONCLUSION

This study demonstrates that undercover buying in Indonesia's post-KUHAP 2025 criminal justice system cannot be reduced to a technical investigative device, but must be understood as a socio-legal practice that actively shapes the production, interpretation, and legitimacy of legal evidence. In this context, the validity of evidence is not determined solely by its formal classification, but by the integrity of the processes through which it is generated, requiring the simultaneous fulfillment of procedural compliance and the absence of manipulative intervention in the formation of criminal acts. The findings further reveal that the practice of undercover buying operates within a complex interplay of institutional norms, discretionary power, and enforcement pressures, which may blur the boundary between uncovering and constructing crime, particularly in situations involving excessive intervention or entrapment. This condition underscores that legal evidence is not an entirely neutral entity, but rather a socially constructed outcome embedded in everyday policing practices. At the same time, the persistence of a gap between the normative framework of KUHAP 2025 and its implementation indicates that procedural legality and accountability remain contingent upon institutional culture and judicial sensitivity. Accordingly, this study affirms that the legitimacy of undercover buying lies not in its effectiveness in securing evidence, but in its alignment with the principles of legality, proportionality, subsidiarity, and respect for human rights, while implicitly advancing a perspective that repositions evidentiary practices as products of socio-legal processes within the broader dynamics of criminal justice in the Global South.

ETHICAL STATEMENT AND DISCLOSURE

This study was conducted in accordance with established ethical principles, including informed consent, protection of informants' confidentiality, and respect for local cultural values. Special consideration was given to participants from vulnerable groups to ensure their safety, comfort, and equal rights to participate. No external funding was received, and the authors declare no conflict of interest. All data and information presented were collected through valid research methods and have been verified to ensure their accuracy and reliability. The use of artificial intelligence (AI) was limited to technical assistance for writing and language editing, without influencing the scientific substance of the work. The authors express their gratitude to the informants for their valuable insights, and to the anonymous reviewers for their constructive feedback on an earlier version of this manuscript. The authors take full responsibility for the content and conclusions of this article.

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