



Authority of the Corruption Eradication Commission After the Promulgation of Law Number 19 of 2019 About the Eradication Commission Corruption Crime

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ABSTRACT

A clean government is one that operates free from collusion, corruption, and nepotism. The Corruption Eradication Commission (KPK) has long been established to combat corruption in Indonesia. However, the amendment to the KPK Law through Law Number 19 of 2019 has sparked controversy. This amendment has reduced the KPK's authority, and the introduction of a Supervisory Board with stronger authority than the KPK commissioners has raised concerns about weakening the commission's ability to perform its duties. The objective of this research is to analyze the impact of changes in the KPK's authority following the issuance of Law Number 19 of 2019. This research uses a normative legal approach, applying both the statute and conceptual approaches. The legal materials are processed using descriptive legal analysis to examine the implications of the legal changes. The findings reveal significant changes in the KPK's authority between Law Number 30 of 2002 and Law Number 19 of 2019. The study concludes that the enhanced authority of the Supervisory Board has negatively impacted the effectiveness of the KPK in fulfilling its responsibilities, raising concerns about its ability to optimally combat corruption. The implications of this research suggest that the reduction in the KPK's authority and the increased role of the Supervisory Board may hinder efforts to eradicate corruption, thus affecting the overall integrity of governance in Indonesia.

Keywords: Corruption Eradication Commission, Authority, Supervisory Board.

INTRODUCTION

Indonesia is a country of law, according to Article 1 paragraph 3 of the 1945 Constitution, which requires all people to obey the rules. Law is essential to life, serving as a guideline for behavior in human interaction (Isra et al., 2017). Indonesia upholds the rule of law, which means that the law is in the highest position and is the basis for all organizers and society. In addition, Indonesia is moving towards a clean government, free from corruption, collusion, and nepotism

(KKN, *Korupsi Kolusi Nepotisme*), by improving performance to provide quality services and reduce abuse of authority in the government apparatus (Firmansyah Arifin et al., 2005).

Indonesia is currently a developing country with many government programs. However, corruption cases by officials who take advantage of government programs still occur frequently. (Badjuri, 2011) states that corruption can occur anywhere regardless of race, geography, or economy. The current state of corruption in Indonesia is very concerning, and corruption is referred to as an extraordinary crime that requires extraordinary action (Asyikin & Setiawan, 2020). A growing society demands that the state have a responsive organizational structure, and to meet this demand, the Corruption Eradication Commission was formed in the reform era (Asshiddiqie, 2006).

The Corruption Eradication Commission (KPK) has a mandate to eradicate corruption involving public officials, law enforcement, and related parties (Muttaqin & Susanto, 2018). In 2019, public concerns increased due to changes in the corruption eradication system by the House of Representatives (DPR, *Dewan Perwakilan Rakyat*) and the government. This change affects the authority of the KPK, resulting in a decrease in effectiveness in carrying out its duties. The system implemented by the KPK from 2002 to 2019 is considered very effective, but it changed after the enactment of Law No. 19 of 2019 which revised Law No. 30 of 2002 concerning the KPK. Plenty of evidence shows that the House of Representatives and the Government are in a hurry to revise the KPK law. The discussion process took only 13 days with five sessions, although the government actually had 60 days to draft and decide on the law. In addition, this revision is not included in the priority list of national legislation programs, but it is still approved.

The House of Representatives interprets that the KPK Law has been included in the five-year national legislation that has been discussed previously due to being postponed for certain reasons and finally resumed (Wicaksono, 2019). Before the Law was revised, the Corruption Eradication Commission was an independent institution that did not fall into any group of powers (legislative, executive and judicial), but after the issuance of Law Number 19 of 2019, the format of the KPK's position changed to an institution of executive power that carried out the task of preventing and eradicating corruption crimes. This is stated in Article 3 which states that the Corruption Eradication Commission is a state institution in the group of executive powers which in carrying out its duties and authorities is independent and free from the influence of any power.

The presence of the Supervisory Board, which is included in the KPK element, is a new discourse so that it has received criticism from several parties. In Article 21 paragraph (1) that the Corruption Eradication Commission consists of:

1. The supervisory board consists of 5 people.
2. The Chairman of the Corruption Eradication Commission consists of 5 members of the Corruption Eradication Commission; and

3. Employees of the Corruption Eradication Commission.

The duties of the Board of Supervisors are listed in Article 37B Paragraph (1), as follows:

1. Supervising the implementation of the duties and authorities of the Corruption Eradication Commission.
2. Granting or not granting permission for wiretapping, searching, or seizure.
3. Compile and establish a code of ethics for the leadership of employees of the Corruption Eradication Commission.
4. Receive and follow up on reports from the public regarding reports regarding alleged violations of the code of ethics committed by the Chairman of the Corruption Eradication Commission.
5. Hold a hearing to examine alleged violations of the code of ethics by the leadership of the Corruption Eradication Commission.
6. Evaluate the performance of leaders and employees of the Corruption Eradication Commission periodically 1 (one) time in 1 (one) year.

The Supervisory Board was formed to prevent the abuse of power in every institution, including the KPK, which previously did not have a supervisor (Ansori, 2017). However, the existence of the Supervisory Board reaped cons because it was considered to hinder the eradication of corruption by prolonging the bureaucracy. The Supervisory Board has the authority to grant wiretapping, search, and seizure permits, which may lead to the loss of evidence. The authority of KPK investigators is relative because they have to get permission from the Supervisory Board, so that control over the investigation is in the hands of the Supervisory Board (Yusuf, 2020). Monitoring by civil society organizations shows that the Supervisory Board has not been effective in supervising the KPK leadership. At the beginning of Law Number 19 of 2019 was passed, investigations into alleged corruption by the KPK continued to decline. The decline in the KPK's performance can be seen in the following table:

Table 1. Investigation of alleged corruption by the KPK

No.	Number of Cases	Year
1	164 cases	2018
2	142 cases	2019
3	111 cases	2020

Source: (Annur, 2021)

Concern after concern that occurs in various elements of civil society is more concerning, because the KPK is the institution with the highest level of public trust compared to other state institutions. The presence of the Supervisory Board, which is a renewal of the KPK Law, will certainly be a special concern from various circles of society (Annur, 2021). Based on these concerns, this study aims to explore several key issues related to the changes in the KPK's authority and performance following the enactment of Law Number 19 of 2019. This research

focuses on examining the scope of the KPK's authority after the issuance of Law Number 19 of 2019 and how this regulation has impacted the position and independence of the KPK within the executive power system. Additionally, it analyzes the legal implications of the KPK's performance following the introduction of the Supervisory Board as stipulated in Article 37B paragraph (1) of Law Number 19 of 2019. Furthermore, this study delves into the decline in the KPK's performance since the implementation of Law Number 19 of 2019 and the effects of the limitations on its independence in combating corruption.

Based on the above background, this research aims to provide a comprehensive understanding of legal and institutional changes and their broader implications for corruption eradication efforts in Indonesia. Thus, the benefits of this research can provide useful input for policy makers, legal practitioners, and civil society in evaluating and improving the effectiveness of corruption eradication efforts, ensuring the independence of the KPK, and strengthening the legal framework in combating corruption.

RESEARCH METHOD

The research method used is normative law research, which is a law that is conceptualized as a norm or rule that applies in society and becomes a reference for everyone's behavior. Thus, normative legal research focuses on positive legal inventory, legal principles and doctrines, legal discoveries in concreto cases, legal systematics, synchronization levels, legal comparisons and legal history. Using secondary legal materials, namely legal materials obtained from literature (Ashshofa, 1996). The approaches used in this legal research are the statute approach and the conceptual approach. The legislation-legislation approach is an approach that is carried out by analyzing rules and regulations related to these legal issues (Nababan et al., 2024). After the legal material is processed, it is then continued with the technique of analyzing legal material using descriptive juridical analysis, which is to discuss the legal material that has been obtained by referring to the existing theoretical basis (Mukti Fajar & Achmad, 2010).

RESULT AND DISCUSSION

Authority of the Corruption Eradication Commission after the issuance of Law Number 19 of 2019

Corruption cases in Indonesia have been going on for a long time even from the colonial period, where the main cause of people committing corruption is because of very low salaries. Because of receiving very low salaries, people working for Netherlands companies are very easy to receive additional rewards from weak indigenous organizations (Syuraida, 2015). Various forms of corruption tend to become more widespread after the change of power, as a result of which there is a change in the payment method to the indigenous aristocrats which the company

does by paying tribute and then by the governor general of the Netherlands is replaced by giving salaries, as a result of which the indigenous aristocrats are forced to use illegal methods if they want to maintain the standard of living that has become their habit.

The lesson that can be learned from the history of corruption in Indonesia is that corruption is basically closely related to individual behavior, power and the development of critical attitudes of society. The more critical attitudes of society develop, the more corruption will tend to be seen as an increasingly widespread phenomenon (Baswir, 2002). The concept of rules that vary greatly in a contrasting society leads to social rules that vary from culture to culture, behaviors that are considered corrupt such as bribery when influenced by views and moral values can become a normal behavior in society, therefore, the perception of corruption is not a reflection of an absolute situation but a social phenomenon.

The increasing number of corruption cases in Indonesia, in 2002 during the era of Mega Soekarnoputri's leadership reform, an institution was formed that focused on prosecuting corruption cases, namely the Corruption Eradication Commission through Law Number 30 of 2002 and began to run functionally and effectively since 2003 (Daya, 2019). The birth of the Corruption Eradication Commission from the perspective of institutional design, the KPK is included in the framework of the "proportional model" which is an institutional design based on the principle of decentralization of power (Nabilah et al., 2023), because it is in accordance with one of the reasons for the consideration of the establishment of the Corruption Eradication Commission because it is considered ineffective by existing conventional enforcement institutions, namely the Police and the Prosecutor's Office. The existence of the conventional law enforcement institution is experiencing a crisis of legitimacy, therefore the existence of the Corruption Eradication Commission in the legal system in Indonesia can be seen as a form of control from the public over the Police, Prosecutor's Office and Courts, in carrying out its duties and authorities the KPK is based on several principles listed in Article 5 of Law Number 19 of 2019.

This principle aims to create effective and efficient law enforcers in carrying out their duties and authorities. According to (Solechan, 2019), these principles are:

- a. Principle of Legal Certainty: the principle in the state of law that prioritizes the basis of laws and regulations, propriety and justice in every policy of state administrators, for example in carrying out its duties and authorities, the Corruption Eradication Commission provides legal guarantees for the community to obtain their rights that have been deprived by corruptors.
- b. Principle of Openness: a principle that is open to the public's right to obtain true, honest and non-discriminatory information, for example, all activities starting from investigations, investigations and prosecutions are no longer carried out in a dark room where the mechanism for stopping investigations and prosecutions must be reported to the Supervisory

Board within 1 (one) week to be announced to the public and the termination can only be revoked when new evidence is found.

- c. Principle of Accountability: a principle that determines that every activity and final result of state administration activities must be accountable, for example an effort or result found by the Corruption Eradication Commission must be accountable by the KPK.
- d. Principle of Public Interest: principles that prioritize public welfare in an aspirational, accommodating and selective way, for example, the Corruption Eradication Commission prioritizes the welfare of the community.
- e. Principle of Proportionality: a principle that prioritizes the balance between rights and obligations, for example, the Corruption Eradication Commission provides periodic reports to the House of Representatives as a form of its responsibility.
- f. Principle of respect for human rights: principles aimed at consistently fulfilling the human rights of citizens, for example still providing rehabilitation for corruptors to protect human rights.

In 2019, the House of Representatives (DPR) together with the government changed the corruption eradication system which caused pros and cons in various circles of society. The pros said that the revision of the KPK Law was carried out to strengthen the KPK, while the opponents said the opposite that the revision of the KPK Law could weaken the KPK itself, thus having implications for the authority owned by the KPK institutionally. Before discussing authority, to obtain authority, an institution must have a position or position where an institution is placed so that it has a function and purpose.

In Article 3 of Law Number 19 of 2019, the second amendment to Law Number 30 of 2002 explains that the position of the KPK is a state institution that is clustered with executive power which in carrying out its duties and authorities is independent and free from any power. The addition of the phrase explicitly places the KPK as an institution in the executive environment. The placement of the KPK in the power cluster of executive institutions is considered to be difficult to implement enforcement and prevention authority because KPK employees will find it difficult to be critical and act independently in carrying out their duties, if they have to deal with the government, the KPK Institution will be very easy to use and will no longer have the courage to take action against state administrators who come from the ruling party or the sphere of power (Yulianto, 2020).

This makes the position of the KPK the same as the Prosecutor's Office and the Police, which have been considered by the public to be not optimal in handling corruption cases. The KPK will always be in contact with the organizers in the realm of executive, legislative and judicial power. In Article 6 of Law Number 19 of 2019, the Corruption Eradication Commission has the following duties, namely:

- a. Preventive measures so that corruption crimes do not occur;
- b. Coordination with agencies authorized to carry out the eradication of corruption and agencies tasked with carrying out public services;
- c. Monitor the implementation of state government;
- d. Supervision of agencies authorized to carry out the eradication of corruption;
- e. Investigation, investigation, and prosecution of criminal acts and
- f. Actions to implement the determination of judges and court decisions that obtain more permanent legal force.

Regarding the previous article, Article 7 of Law Number 19 of 2019 reads as follows:

"The Corruption Eradication Commission carries out preventive duties as referred to in Article 6 letter a, the Corruption Eradication Commission" is authorized to:

- 1) Conducting registration and inspection as intended for the assets of state administrators;
- 2) Receive reports and assign gratuity sites;
- 3) Organizing anti-corruption education programs in each educational network; planning and implementing socialization programs for the eradication of corruption;
- 4) Conducting anti-corruption campaigns to the community; and
- 5) Conducting bilateral or multilateral cooperation in the eradication of corruption".

The Corruption Eradication Commission carries out its duties as referred to in Article 6 letter e, the Corruption Eradication Commission is authorized to investigate, investigate and prosecute corruption crimes that:

- a. Involving law enforcement officials, state administrators and other persons related to corruption crimes committed by law enforcement officials or state administrators; and/or
- b. Regarding state losses of at least Rp. 1,000,000,000.00 (one billion rupiah).
- c. In the event that the corruption crime does not meet the provisions as intended in paragraph (1), the Corruption Eradication Commission is obliged to submit the investigation, investigation and prosecution to the police and/or the prosecutor's office.
- d. The Corruption Eradication Commission supervises investigations, investigations and/or prosecutions as referred to in paragraph (2).

According to (Kaligis, 2020) there is a polemic regarding the authority of the KPK which has been trimmed, so that several opinions have emerged that say it can weaken the KPK in carrying out its duties and authority, namely:

SP3 Authority

In Article 40 of Law Number 30 of 2002, the KPK is not given the authority to issue a letter of termination of investigation and prosecution (SP3), but after the revision of Law Number 19 of 2019 in the same article, the KPK is given the authority to issue a letter of termination of investigation and prosecution (SP3) if in a case of corruption the investigation and prosecution are not completed within a maximum period of 2 (two) years. The authority of the KPK in issuing

SP3 is contrary to the decision of the Constitutional Court (MK, *Mahkamah Konstitusi*) Number 06/PUU-1/2003 which expressly prohibits the KPK from issuing SP3 because the KPK should be more careful before determining a case that enters the realm of investigation but the evidence it finds is not enough, so the order of the Constitutional Court (MK) decision on the case must still be delegated to the trial and the defendant must be prosecuted for release.

Recruitment Authority

The loss of authority of the Corruption Eradication Commission in the recruitment of independent investigators and investigators and all KPK employees must have the status of State Civil Apparatus (ASN, *Aparatur Sipil Negara*) which has an impact on KPK employees to be subject to the provisions of the State Civil Apparatus Law (ASN). This is stated in Article 1 number 6 of Law Number 19 of 2019 which states that "employees of the Corruption Eradication Commission are State Civil Apparatus as referred to in the laws and regulations concerning the State Civil Apparatus" with the existence of this rule eliminates the independence of the KPK in the management of human resources, because even though opportunities are opened from government agencies/internal KPK in the next paragraph regulating the existence of cooperation with The Police/Prosecutor's Office to be able to meet certain requirements to become KPK investigators and investigators.

Research Authority

In Article 43 paragraph (1) of Law Number 30 of 2002 it is explained that "Investigators are investigators at the Corruption Eradication Commission who are appointed and dismissed by the Corruption Eradication Commission" after the revision of the Law in the same Article but there is a different content, namely "Investigators of the Corruption Eradication Commission come from the Police, the Prosecutor's Office, other government agencies, and/or internal to the Corruption Eradication Commission". In the next paragraph, there is a rule that requires the cooperation of the KPK with the Police and/or the Prosecutor's Office in fulfilling certain requirements to become an investigator which indirectly with the existence of this rule eliminates the independence of the KPK in the management of human resources, in addition, before the Law is revised in Article 12 letter a, the KPK also has the authority to conduct wiretapping in the investigation stage.

Where the KPK is authorized to conduct wiretapping and record conversations, but after the revision of the Law, the KPK's authority to conduct wiretapping is only given a period of six months and can be extended once through approval/permission from the Supervisory Board. This is stated in 12B paragraph (1) of Law Number 19 of 2019 while the wiretapping instrument is the most important instrument because it is legally tested evidence.

Investigation Authority

Article 45 of Law Number 30 of 2002 explains that "Investigators are investigators at the Corruption Eradication Commission who are appointed and dismissed by the Corruption Eradication Commission" Then, after the revision of the KPK Law in the same Article but with different contents, namely "Investigators of the Corruption Eradication Commission can come from the Police, the Prosecutor's Office, Civil Servant investigators who are given special authority by the Law, and investigators from the Corruption Eradication Commission. This rule affirms a decision from the Constitutional Court in 2016 that gives the KPK the authority to recruit investigators outside of the police and prosecutor's offices (Kaligis, 2020).

In addition, in Article 47 paragraph 1 of Law Number 30 of 2002 it is explained that "on a strong suspicion of sufficient preliminary evidence, the investigator may carry out a seizure without the permission of the chairman of the district court related to his investigative duties" but after the law is revised, the authority of the KPK in conducting seizures and searches must obtain approval from the Supervisory Board, this is regulated in Article 47 paragraphs (1) and (2) of Law Number 19 of 2019 which reads:

- 1) In the investigation process, investigators can conduct searches and seizures with written permission from the Supervisory Board.
- 2) The Supervisory Board may grant written permission or not give written permission to the permit request as intended in paragraph (1) no later than 1x24 (one time twenty-four) hours from the time the permit request is submitted.

Prosecution Authority

The public prosecutor in the Corruption Eradication Commission who was appointed and dismissed by the Corruption Eradication Commission. The public prosecutor is a public prosecutor who, after receiving the case file from the investigator, is obliged to hand over the case file to the District Court no later than 14 (fourteen) working days, but after the revision of the Law in Article 12 A the KPK is required to coordinate with the Attorney General's Office which is contrary to the basis of the KPK which is a law enforcer that combines investigative functions, investigation and prosecution under one roof.

If the KPK must coordinate first with the Attorney General's Office, it can disrupt the KPK's work rhythm which is known to be fast in resolving a case, in addition to that in this prosecution process there are several points or content materials that are considered to be able to weaken the KPK in carrying out and resolving corruption cases, where in Article 12 of Law Number 30 of 2002 it is said that, The KPK in carrying out its investigation, investigation and prosecution duties as referred to in Article 6 letter c, the Corruption Eradication Commission is authorized to:

- 1) Wiretaps and record conversations.
- 2) Ordering the relevant agencies to prohibit a person from traveling abroad.

- 3) Requesting information from banks or other financial institutions about the financial situation of the suspect or defendant being investigated.
- 4) Ordering banks or other financial institutions to block accounts suspected of being the result of corruption belonging to suspects, defendants or other related parties.
- 5) Request wealth data and tax data of suspects or defendants to relevant agencies.
- 6) Request wealth data and tax data of suspects or defendants to relevant agencies.
- 7) Temporarily suspend a financial transaction, trade transaction and other agreements or temporarily revoke permits, licenses and conventions carried out or owned by a suspect or defendant who is suspected based on sufficient preliminary evidence related to the corruption crime being investigated.
- 8) Asking for the assistance of Interpol Indonesia or law enforcement agencies of other countries to search, arrest and confiscate evidence.
- 9) Requesting the assistance of the police or other related agencies to carry out arrests, detentions, searches and confiscations in corruption cases that are being handled.

The provisions regarding KPK Law Number 19 of 2019 the second amendment to Law Number 30 of 2002 eliminate strategic authority in the prosecution process because in Article 12 of Law Number 19 of 2019 it is said that regulations regarding prohibitions on going abroad, asking for banking information, stopping financial transactions related to corruption and asking for assistance from the National Police and Interpol can only be done during the investigation process. The ban will end when the investigation of the case has reached the second stage, namely prosecution, and if it has reached the prosecution stage, these prohibitions, such as the ban on traveling abroad, can no longer be carried out.

Law Number 19 of 2019 concerning the second amendment to Law Number 30 of 2002 which has been explained by the author of the revision of the KPK Law in its content can eliminate the independence of the KPK if the KPK is in the group of executive powers that can affect the nature of the independence of the KPK in the process of handling corruption cases, then about the existence of a KPK policy that can issue an investigation termination order (SP3) if the investigation process is not completed within a period of 2 (two) years, where this policy is very contrary to efforts to eradicate corruption because it takes a long time to find the evidence needed by the KPK to handle corruption cases.

The revision of the KPK Law has a very big impact on the KPK because in the content of the revision of Law Number 19 of 2019, the second amendment to Law Number 30 of 2002 there are major changes that are specific in the settlement of corruption crimes, especially the authority of the KPK in the investigation process must obtain permission from the Supervisory Board to conduct wiretaps, in the investigation process the KPK must obtain permission from the Supervisory Board to conduct searches and seizures, in the prosecution process, the KPK must

coordinate with the prosecutor's office and also the authority of the KPK in issuing an investigation termination order (SP3). These changes have an impact on the KPK's limited space in carrying out its duties and authorities in carrying out its duties and functions in eradicating corruption in Indonesia. The theory of authority used in this study is related to the legislation that is the legal basis related to the existence of the Corruption Eradication Commission (KPK), namely Law Number 19 of 2019, the second amendment to Law Number 30 of 2002 which substantially regulates the authority, duties and functions of the KPK in eradicating corruption in Indonesia.

The source of authority in the authority theory in this study is related to the attribution given by the lawmakers (DPR and Government) to the KPK in conducting investigations, investigations and prosecutions as stated in Article 6 letter e of Law Number 19 of 2019, but the authority in the KPK Revision Law explains that there are several authorities owned by the KPK that have been trimmed and the entry of the Supervisory Board as a new element that has the authority to stronger than the KPK. The authority of the KPK that has been trimmed and amended includes where the KPK does not have the authority to recruit investigators and investigators and the prosecution authority carried out by the KPK must first coordinate with the Attorney General's Office so as to disrupt the rhythm of the KPK which is considered fast in resolving corruption crimes and rules regarding wiretapping, search and seizure where the most important point of the KPK's authority is wiretapping and the existence of rules regarding permission from the Council Supervisors can cause information regarding wiretapping to be prone to leakage.

The Supervisory Board also has the right to choose and select evidence so that investigators can lose evidence. Authority in the Supervisory Board is an authority that should not be possessed by the Supervisory Board because the task of a Supervisory Board is only about the occurrence of a violation of the code of ethics, not to the enforcement permit because it can damage the KPK which in carrying out its duties is independent and free from any power. The reason for the reduction in this authority is because the KPK will be more directed at preventive duties than enforcement while the KPK was formed to take action against corruption crimes.

Legal Consequences of KPK Performance with the Existence of the Supervisory Board as Regulated in Article 37B Paragraph (1) of Law Number 19 of 2019

The Supervisory Board of the Corruption Eradication Commission was formed based on Law Number 19 of 2019 the second amendment to Law Number 30 of 2002 which aims to supervise the implementation of the duties and authorities of the Corruption Eradication Commission, then the position of the Supervisory Board can be said to be the supervisor of the KPK. The Supervisory Board was formed because each institution must be supervised to prevent arbitrariness carried out by the Corruption Eradication Commission. Indonesia Corruption Watch (ICW) said that it rejected all concepts of the KPK Supervisory Board which is a new structure in the KPK body, this is because theoretically the KPK is included in the group of independent state institutions and does not recognize the concept of the Supervisory Board institution, in the KPK Law before the

revision it has been explained that the KPK is supervised by several institutions such as the House of Representatives (DPR), The Audit Board (BPK) and the President.

The Supervisory Board is claimed to be a form of supervision over the KPK, but in the provisions of Article 21 paragraph (1) it is determined that the Supervisory Board is part of the Corruption Eradication Commission, as a result of the authority that should not be given to the supervisory organ, this is considered a form of weakening and restricting the movement of the KPK in carrying out its duties. Since the presence of the Supervisory Board in the KPK, the level of public trust in the Corruption Eradication Commission is considered to have decreased. According to a survey conducted by Indo Barometer in early 2020, the KPK was ranked fourth as an institution trusted by the public with 81.8% of the vote.

The position achieved by the KPK is now under the TNI institution with a score of 94 percent, the President with 89.7 percent and religious organizations such as Nahdlatul Ulama (NU) and Muhammadiyah with 86.8 percent. In fact, in previous years, the KPK was always ranked in the top 3 (three) (Adhi Wicaksono, 2021, p.05). One of the factors causing the decline in the level of public trust in the KPK is due to the extension of the bureaucratic chain that is thick with the KPK's performance, resulting in the non-functioning of authority optimally and the KPK is considered very slow with complicated procedures. One of the factors that slows down the KPK is the granting of permits by the Supervisory Board, the existence of licensing rules related to wiretapping, seizure and search has damaged the nature of the confidentiality of the interception of confidential evidence that can potentially thwart the main purpose, in addition to the existence of a permit instrument that is the authority of the Supervisory Board, the Supervisory Board has the right to assess the results of the case title for wiretapping permits and also select or select evidence and tools evidence that has implications for the authority possessed by the investigator is a relative authority, because KPK investigators cannot conduct wiretapping, searching, and confiscation without permission from the Supervisory Board (Syaukani & Thoari, 2010).

The existence of the Supervisory Board as a new one in the KPK body is too superbody because the authority possessed by the Supervisory Board seems stronger than the KPK Leadership, where the authority possessed by the KPK Chairman as an investigator and prosecutor is eliminated which has serious consequences because the KPK Leadership can be said to only carry out administrative functions and does not enter into action, then the Supervisory Board has the task to supervise the duties and authorities of the KPK, giving permission related to wiretapping, search and seizure and holding a hearing to examine if there is an alleged violation of the code of ethics by the KPK Leadership, which means that the pro justicia authority originally owned by the KPK Leader has shifted to the Supervisory Board which makes the existence of the KPK very weak and its existence is subordinate to the Supervisory Board because

it is very dependent on the Supervisory Board, In addition, if viewed from Article 37 and Article 47 where the authority possessed by the Supervisory Board can interfere with the nature of the implementation of the Corruption Eradication Commission which is independent, moreover, the Supervisory Board has greater authority than the KPK Leadership and the Supervisory Board is not subject to the code of ethics, is free to meet with someone, then there is a possibility that there can be a potential for abuse of position so that balance or check and balance has not been achieved and cannot create a strengthening of performance in the KPK (Jaya et al., 2021).

Another risk that can arise is the effectiveness in the disclosure of corruption cases where the opportunity for intervention that can be carried out by the Supervisory Board is very large and the solution to regulate and give authority to license, wiretap, confiscate and search tends to weaken the performance of the KPK. The integrity of the KPK will also continue to be questioned whether the KPK is an institution with high integrity or only as a state institution controlled by the state (Wibowo et al., 2021).

The authority of the Supervisory Board in granting permission to the KPK to conduct wiretapping, search and seizure is a form of supervision that actually does not need to be done, this was conveyed by Zainal Arifin Mochtar who is a constitutional law expert from Gajah Mada University who questioned the decision of the House of Representatives (DPR) in regulating wiretapping at the KPK because not only the KPK has the authority to conduct wiretapping, However, many other agencies also have the authority to conduct wiretaps, without the existence of the Supervisory Board, supervision of the KPK has also been carried out internally through the Directorate of Internal Supervision and the Advisory Board (Priyono, 2018).

For KPK leaders who violate the code of ethics, it will be processed by the formation of an Ethics Committee, while for employees who commit violations, it will be carried out through the Employee Advisory Council which then forms an Ethics Council. The presence of the Supervisory Board creates confusion, especially regarding its duties, which are considered very powerful not only in the internal scope of the KPK, but also the authority of the KPK as a whole (Rahma Laila Ali, 2020, 84-85). In November 2019, 13 anti-corruption figures who are members of the KPK Law advocacy submitted a formal test against Law Number 19 of 2019 to the Constitutional Court (MK), but the Constitutional Court (MK) decided to reject all formal tests against Law Number 19 of 2019.

Then a number of academics also submitted a formal test application and through Decision Number 70/PUU/XVII/2019 the Constitutional Court (MK, *Mahkamah Konstitusi*) recently decided to grant part of the formal test application (Alfada, 2019). The provision in the formal test granted by the Constitutional Court (MK) is that in conducting investigations and investigations, the KPK only reports to the Supervisory Board. While this is good news, the KPK may be busier resolving internal issues than demonstrating performance in eradicating

corruption and the process of restoring the KPK's performance to the most fit and optimal condition to uncover strategic cases will take time (Garnesia, 2021).

The most significant thing after the revision of Law Number 19 of 2019 is that the number of over-the-top (OTT) operations has decreased drastically, this is in stark contrast to the over-the-top (OTT) operations carried out by the Corruption Eradication Commission in 2016 17 times, 2017 19 times OTT, 2018 30 times, 2019 21 times and 2020 7 times. Even though before the law was enacted, the KPK caught 2 OTTs in just two nights. If viewed statistically from year to year, 2018 was the year with the most actions carried out by the KPK, namely 164 cases and then in 2019 it decreased to 142 cases, in 2020 the number of investigations carried out by the KPK decreased again to 111 cases and overall, from 2004 to May 2021 the number of investigations carried out by the Corruption Eradication Commission was 1,429 cases (Oktavianto & Abheseka, 2019).

Based on the above explanation, the author uses the theory of Lawrence M Friedman which states that to measure the effectiveness of the performance of law implementation in a country refers to 3 (three) indicators, namely legal structure, legal substance and legal culture. All of these points are still a problem in Indonesia, especially related to the state's commitment to corruption crimes. In the legal structure, for example, the Corruption Eradication Commission during the revision of the KPK Law has not shown the best performance in investigating corruption crimes. This assessment is seen from the level of public trust in the KPK where the data shows that the KPK is the 4th (fourth) institution trusted by the public, then on the legal substance related to the performance of the Corruption Eradication Commission institution which has decreased due to the amended and trimmed enforcement authority and the authority owned by the Supervisory Board which is stronger than the KPK Commissioner. so that pro justicia which was initially owned by the KPK Commissioner became the authority of the Supervisory Board which made the KPK very dependent on the Supervisory Board where the task of the Supervisory Board should only focus on supervising violations of the code of ethics committed by the KPK and not participate in enforcement affairs because the Supervisory Board is a new element in the KPK members can cause the information provided by the KPK to be prone to leakage.

Finally, the legal culture section is also still the same as the other two points. Corruption perpetrators handled by the KPK are still on a large scale and according to data from 2018 to 2020 there has been a decline in investigations of corruption cases so that it has an effect on public trust, the revision of the KPK Law at all stages of the process and the substance of this regulation hampers the performance of the KPK, initially the eradication of corruption was on a fast track, but because of this Law it has turned back to a slow track. The weakening of the anti-surah institution of the KPK can affect the economy of the Republic of Indonesia which will be extractive relying on natural resources (SDA) because the economy will be piled up in a number

of groups and equity will be difficult to show, state policies will be aimed only at elite groups. Public trust in the KPK continues to decline and the KPK will not get much support from the public anymore which in the end will ask the KPK to be dissolved.

CONCLUSION

Based on this analysis, it can be concluded that the enactment of Law No. 19/2019 has significantly reduced the authority of the Corruption Eradication Commission (KPK). The law places the KPK under the executive power structure, which limits its independence and weakens its capacity to effectively investigate, prosecute and combat corruption. Key investigative powers, such as wiretapping, search and detention, now require court approval, which reduces the KPK's ability to respond quickly and effectively to corruption cases. In addition, the incorporation of the KPK into the executive branch raises concerns of political interference, further undermining its independence. The establishment of the Supervisory Board, as stipulated in Article 37B paragraph (1), also has a significant legal impact on the KPK's performance. The Supervisory Board's extensive oversight of KPK's internal policies and decisions may reduce KPK's agility and efficiency in handling corruption cases. This decline in KPK performance is primarily due to the KPK's reduced authority, the need to coordinate with other government agencies, and increased political pressure. These factors collectively hamper the KPK's ability to effectively combat corruption, raising concerns about the future of corruption eradication efforts in Indonesia.

This research is expected to provide valuable input for policymakers, legal practitioners, and the public in assessing and improving the effectiveness of corruption eradication efforts. This research also contributes to the ongoing discourse regarding the independence of the KPK and the strengthening of the legal framework in the fight against corruption. In addition, this research also serves as a basis for future research on the evolving relationship between the KPK and the Supervisory Board, and how such changes affect public perceptions and confidence in the KPK's ability to effectively combat corruption.

REFERENCES

- Alfada, A. (2019). The destructive effect of corruption on economic growth in Indonesia: A threshold model. *Heliyon*, 5(10), e02649. <https://doi.org/https://doi.org/10.1016/j.heliyon.2019.e02649>
- Annur, C. M. (2021). *Kinerja Penyidikan KPK Menurun dalam 3 Tahun Terakhir*. Databoks.Katadata.Co.Id. <https://databoks.katadata.co.id/datapublish/2021/05/18/kinerjapenyidikan-kpk-menurun-dalam-4-tahun-terakhir>

- Ansori, L. (2017). Reformasi Penegakan Hukum Perspektif Hukum Progresif. *Jurnal Yuridis*, 4(2), 148–163.
- Ashshofa, B. (1996). Metode Penelitian Hukum, PT. *Rineka Cipta*, Jakarta.
- Asshiddiqie, J. (2006). *Perkembangan dan konsolidasi Lembaga Negara Pasca reformasi/Prof. Dr. Jimly Asshiddiqie, SH*.
- Asyikin, N., & Setiawan, A. (2020). Kedudukan kpk dalam sistem ketatanegaraan pasca diterbitkannya revisi undang-undang kpk. *Justitia Jurnal Hukum*, 4(1).
- Badjuri, A. (2011). Peranan Komisi Pemberantasan Korupsi (KPK) sebagai lembaga anti korupsi di indonesia. *Jurnal Bisnis Dan Ekonomi*, 18(1).
- Baswir, R. (2002). Dinamika korupsi di Indonesia: dalam perspektif struktural. *Jurnal Universitas Paramadina*, 2(1), 25–34.
- Daya, B. B. (2019). Memperkuat KPK, Memberantas Korupsi. *Lex Librum: Jurnal Ilmu Hukum*, 5(2), 875–886.
- Garnesia, I. (2021). *Menelusuri Kinerja KPK Pasca Revisi UU*. Tirto.Id. <https://www.google.co.id/amp/s/amp.tirto.id/merunut-kinerjakpk-pasca-revisi-undang-undang-gf7e>
- Isra, S., Yuliandri, Amsari, F., & Tegnan, H. (2017). Obstruction of justice in the effort to eradicate corruption in Indonesia. *International Journal of Law, Crime and Justice*, 51, 72–83. <https://doi.org/https://doi.org/10.1016/j.ijlcj.2017.07.001>
- Jaya, K., Akub, M. S., & Halim, H. (2021). Kewenangan Pemberantasan Korupsi: Aturan dan Fakta Dewan Pengawas dalam Penguatan Kinerja Komisi. *Jurnal Al-Qadau: Peradilan Dan Hukum Keluarga Islam*, 8(1), 18–28.
- Kaligis, R. V. (2020). Implikasi Hukum Atas Revisi Undang-Undang Nomor 30 Tahun 2002 Tentang KPK Terhadap Penyelesaian Kasus Tindak Pidana Korupsi. *Lex Crimen*, 9(1).
- Mukti Fajar, N. D., & Achmad, Y. (2010). *Dualisme penelitian hukum: normatif & empiris*. Pustaka pelajar.
- Muttaqin, L., & Susanto, M. E. (2018). Mengkaji serangan balik koruptor terhadap KPK dan strategi menghadapinya. *Integritas: Jurnal Antikorupsi*, 4(1), 101–144.
- Nababan, A. I., Parlaungan, F. R., & Siburian, M. (2024). TINJAUAN HUKUM TERHADAP AKTIVITAS PASAR MODAL PASCA PEMILIHAN UMUM TAHUN 2024. *Causa: Jurnal Hukum Dan Kewarganegaraan*, 2(12), 25–35.
- Nabilah, A. P., Salsabila, N. K., Bagaskara, P. C., Nugroho, A., & Rahayu, A. M. (2023). Hubungan Perkembangan Politik Hukum dengan Tindak Pidana Korupsi di Indonesia. *Wijayakusuma Law Review*, 5(1).
- Oktavianto, R., & Abheseka, N. M. R. (2019). Evaluasi Operasi Tangkap Tangan KPK. *INTEGRITAS: Jurnal Antikorupsi*, 5(2), 117–131.
- Priyono, B. H. (2018). *Korupsi: melacak arti, menyimak implikasi*. Gramedia Pustaka Utama.
- Solechan, S. (2019). Asas-asas umum pemerintahan yang baik dalam pelayanan publik. *Administrative Law and Governance Journal*, 2(3), 541–557.
- Syaukani, I., & Thoari, A. A. (2010). Dasar-Dasar Politik Hukum, Jakarta: PT. *Raja Grafindo Persada*, 26–27.

- Syuraida, H. (2015). Perkembangan pemberantasan korupsi di Indonesia era orde lama hingga era reformasi. *Jurnal Pendidikan Sejarah*, 3(2), 230–238.
- Wibowo, H. H., Rizalqi, D. F., & Yani, S. H. (2021). Pengaruh Revisi Undang-Undang Kpk Dalam Kegiatan Pemberantasan Korupsi Di Indonesia. *Jurnal Sosial Dan Sains*, 1(8), 943–950.
- Wicaksono, A. (2019). *Perpu Revisi UU KPK: Antara Penyimpangan dan Konspirasi*. [Www.Cnnindonesia.Com. https://www.cnnindonesia.com/nasional/20190912134311-12-429901/surpres-revisi-uu-kpk-antara-kejanggalaan-dan-konspirasi](https://www.cnnindonesia.com/nasional/20190912134311-12-429901/surpres-revisi-uu-kpk-antara-kejanggalaan-dan-konspirasi)
- Yulianto, Y. (2020). Politik hukum revisi undang-undang KPK yang melemahkan pemberantasan korupsi. *Jurnal Cakrawala Hukum*, 11(1), 111–124.
- Yusuf, M. Y. (2020). *Kewenangan Dewan Pengawas Komisi Pemberantasan Tindak Pidana Korupsi (KPK) Dalam Pemberian Izin Penyadapan, Penggeledahan, Dan/Atau Penyitaan*. Universitas Hasanuddin.

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First publication right:

Asian Journal of Engineering, Social and Health (AJESH)

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