

## ACCELERATION OF THE ROLE OF THE KPK IN PREVENTION AND ERADICATION OF CORRUPTION CRIMINAL ACTS POST AMENDMENT TO LAW NUMBER 19 OF 2019

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**Abstract:** The Corruption Eradication Commission in carrying out its duties and authorities is independent and free from the influence of any power. This article aims to describe the efforts of the Corruption Eradication Commission in preventing the eradication of criminal acts of corruption after the enactment of Law Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning the Corruption Crime Commission. This type of research is normative legal research which is oriented to processing legal principles, legal doctrines, and current law. This research also uses primary legal materials, secondary legal materials, and tertiary legal materials. The three legal materials were collaborated in an analytical and prescriptive study in this study using a statutory and conceptual approach. The findings in this study reveal that the revised KPK Law provides convenience in enforcing the law on corruption by building synergy with other law enforcement officials such as the Indonesian National Police, the Indonesian Attorney General's Office by prioritizing prevention without ignoring the principles of eradicating corruption. In addition, the Corruption Eradication Commission's supervisory board is a state institution within the executive power cluster that carries out the task of preventing and eradicating criminal acts with a supervisory function to carry out the oversight function in the process of enforcing criminal acts of corruption committed by the Corruption Eradication Commission.

**Keywords:** accelerating the role of the KPK, preventing corruption, eradicating corruption

## I. INTRODUCTION

In the formation of social life, humans are often influenced by culture or culture that is formed and systemized massively, so in this situation, reason and character as well as morals become parameters or as barriers (barriers) so that attitudes in social life conform to the rules that have been *established*. mutually agreed upon as a mechanism for controlling human social behavior in its position as an individual or a group.

One manifestation of the pattern of human social life as individuals and groups of people formed by the existence of a culture or culture which does not actually represent the nature of life as human beings/living beings who have reason, character and morals is the existence of "an act from history is an act which in ancient times it was an act that covered a wide range of elements and now it has shrunk to mere misappropriation of public office"<sup>1</sup> or commonly known as Corruption .

In an effort to trace the meaning of corruption from a historical perspective, (no matter how schematic it may be), I cannot prevent myself from proposing the hypothesis that 'corruption' is an ordinary term in the realm of idioms evaluating the quality of people, actions, or phenomena.<sup>2</sup> Although this point became clearer in the process of tracing, I am not endowed with the philological skills to give a more definitive answer.<sup>3</sup> Thus, it is permissible for this point to be put forward as a hypothesis, but from this point one can identify the reasons why for centuries the meaning of 'corruption' has had a broad scope, encompassing all attitudes, actions and symptoms which show a decline from the quality of the whole/ideal.<sup>4</sup>

In general there is no definition firm about corruption itself in legislation. However, Article 2 of Law Number 31 1999 in conjunction with Law No 20 of 2001 concerning Changes Second on Law Number 31 The year 1999 implies that follow Corruption crimes include anyone (everyone people) consciously or not consciously doing the opposite with the law that aims to enrich themselves, their cronies, and others groups or other people, as well as a corporation or institution that is detrimental state economy and finances. This rule describes that manifestation Corruption manifests from abuse resources of power/authority such as facilities and equipment based on power authority attached to him in order personal, family, and his cronies/classes are filled. Perpetrator Corruption can come from all dimensions. both in the political, bureaucratic, and economy for the same deed<sup>5</sup>.

For the sake of realizing good and responsible governance, a breakthrough must be made so that corruption, which has been classified by various countries, especially in Indonesia, as extraordinary crimes, is very reasonable if corruption is classified as an extraordinary crime, because along with the development of corruption has penetrated into all aspects of human life from various social strata and this has affected the country's economic development and taken away people's economic rights. This means that with the increasing prevalence of corruption in Indonesia, it will be difficult to achieve a decent life for society as mandated by the Constitution of the Republic of Indonesia contained in Article 27 paragraph (2) which expressly states that "every citizen has the right to work and livelihood. worthy of humanity".

Corruption in Indonesia is currently still an important problem that must be prevented and addressed by the Indonesian government.<sup>6</sup> The ideals of the state are to provide economic

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<sup>1</sup>B. Herry Priyono, 2018, *The Corruption Book Tracing the meaning, listening to the implications*, Jakarta, Gramedia Pustaka Utama Publishers, page 4

<sup>2</sup>Ibid

<sup>3</sup>Ibid

<sup>4</sup>Ibid

<sup>5</sup> Setiyono, B. Understanding corruption at local level post-decentralization: Evidence from four case studies. *Politics: Journal of Political Science*, 8(1), 27–62. 2017

<sup>6</sup>Fathur Rauzi, and Sukarno. "Legal Counseling on the Prevention of Corruption Crimes for Prospective Advocates of the Mataram Branch of the Association of Indonesian Legal Advisors and Consultants". *JILPI : Scientific*.

life, justice and achieve a clean and responsible state life. The state, in this case the government, must take a firm stance so that corruption, which seems to have grown and is considered a new culture, must be eradicated by involving stakeholders. who have an interest in fighting corruption . In addition, the state, in this case the government, must be firm in law enforcement, which of course makes maximum use of the duties and functions of law enforcement agencies, namely the Supreme Court, the Attorney General's Office and the Republic of Indonesia Police.

Individual corruption is part of the history of the New Order, which of course experiences a different paradigm from the reform era which is full of renewal steps, because society is very responsive to the poor law enforcement in the New Order era. However, the perception that this reform requires the elimination of law enforcement agencies, namely the police, is incorrect and the great *jekasaan* which is contaminated with issues of corruption ethics, as the initial institution of preventing and eradicating corruption.<sup>7</sup>

In addition, the proliferation of institutional corruption is a direction of law enforcement perspective.<sup>8</sup> This institutional corruption is not interpreted as a form of institutional legitimacy for corrupt acts, but rather as a deviation of collective action against policies that are detrimental to the country's economic finances, thereby burdening the contamination of these state institutions.<sup>9</sup>

Thus, based on Law Number 30 of 2002 concerning the Corruption Eradication Commission, it became the originator of the Corruption Eradication Commission (in this case called the KPK). The KPK was formed as *a trigger mechanism* for the prosecutor's office and the police, which have so far not been optimal in dealing with corruption. The KPK in carrying out its duties and authorities is independent and free from the influence of any power. This law was then perfected with the revision of the KPK Law in 2019, with the issuance of Law Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning KPK (in this case it is called the revised KPK Law). The revised KPK Law regulates the matter of increasing synergy between the KPK, the police and the prosecutor's office in handling corruption cases.<sup>10</sup>

In the criminal justice system, the level of success in preventing and eradicating corruption must actually be based on the existence of an *Integrated Criminal Justice System*, and instead of creating a system of discriminatory authority, in the end there is disaggregated law enforcement, so that anecdotes often arise, it is better to be investigated by the Police and the Attorney General's Office than the KPK.<sup>11</sup>

## II. RESEARCH METHOD

This type of research is normative legal research; as research that is oriented to processing legal principles, legal doctrine, and the law that applies at this time.<sup>12</sup> This study also uses primary legal materials, secondary legal materials, and tertiary legal materials. The three legal materials were collaborated in an analytical and prescriptive study in this study using a statutory and conceptual approach. The results of the studies in this study are arranged systematically using a syllogistic flow; thus, this legal research examines legal issues with various constructive arguments to get answers to the legal issues raised.

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<sup>7</sup>Prof. Dr. Indrayanto Seno Adji, SH. MH, Corruption and law enforcement, Diadit Media, 2009, p

<sup>8</sup>Ibid p. 80

<sup>9</sup>Ibid p. 80

<sup>10</sup><https://aclc.kpk.go.id/action-information/lorem-ipsuam/20220510-null>

<sup>11</sup>Op. cit Hak. 81

<sup>12</sup>Dyah Octorina Susanti & A'an Efendi, *Legal Research* (Jakarta: Sinar Graphic, 2015) page 44.

### III. RESULT AND DISCUSSION

#### Corruption

Commission Corruption Eradication Commission (KPK) in 2018 reported that progress Corruption Behavior Index in Indonesia has touched the 2.0 mark for the period in 1999–2017, while Vietnam, Thailand, Cambodia, the Philippines, and Malaysia shows a behavioral index Corruption tends to decrease to minus zero. Period 2014–2017, Case KPK handled 618 cases of corruption cases involving bribery (55.02%), cases of procurement of goods and services (26.54%), abuse cases budget (7.44%), licensing case (3.40%), cases of levies (3.40%), cases money laundering crime (3.07%), and cases hindering KPK processes (1.13%). Meanwhile, the perpetrators of corruption cases with the highest percentage is private sector (25.37%), echelon I to III (23.13%), members of DPR/DPRD (20%), and the remainder is carried out by heads of institutions/ministeries, mayors/regents and deputies, governors, judges, commissioners, ambassadors, and so on<sup>13</sup>.

Thus the corrupt behavior in Indonesia is very closely related to the dimensions of bribery, procurement of goods and services, and budget abuse which is generally done by the parties private sector and government employees, start the lowest echelon to the highest echelon tall.<sup>14</sup> Corruption is likened to a plague and infiltrates all aspects of life. If allowed to continue this corruption will become an ordinary crime that thrives.<sup>15</sup>

For this reason, legal reform is carried out so that the prevention and eradication of criminal acts of corruption can run effectively and in an integrated manner so as to prevent and reduce state losses which continue to increase due to criminal acts of corruption. Strengthening the Corruption Eradication Commission in prevention activities does not mean that corruption eradication activities are neglected. In fact, the strengthening is intended so that the activities of the Corruption Eradication Commission are in accordance with common expectations. Legal reform is also carried out by organizing the institution of the Corruption Eradication Commission and strengthening preventive measures so that state administrators and the public are aware not to commit criminal acts of corruption that can be detrimental to state finances.<sup>16</sup>

In theory, law consists of three components which are part of the legal system, namely structure (legal structure), substance (legal substance), and culture (legal culture). The legal structure is an institution created by the legal system with various functions in order to support the operation of the system. This component makes it possible to see how the legal system provides services for the regular processing of legal materials.<sup>17</sup> Substance (legal substance) is the output of the legal system, in the form of regulations, decisions that are used both by those who regulate and those who are regulated.<sup>18</sup> Culture (legal culture) which consists of values and attitudes that influence the operation of law, or what Friedman calls legal culture. It is this legal culture that functions as a bridge that connects legal regulations with the legal behavior of all citizens<sup>19</sup>.

From the description above, it must be understood and emphasized that the components in the legal system must work in harmony so that the goals of law enforcement are as expected, meaning that law enforcement components and legal instruments in the form of laws and

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<sup>13</sup> Panjaitan, B. (2018, October 17). Participation Society in Eradication Corruption [Power Point Slide]. Accessed from <https://unwidha.ac.id/wp-content/uploads/2018/10/materi-kuliah-Umum-KPK-Unwidha-2018.pdf>.

<sup>14</sup> Hariyanto. (2012). Priyayism and collusive corruption nepotism (KKN): Study of group status in Sleman Regency, Regional Province Yogyakarta Special. *Aspiration: Journal Social Problems*, 3(2): 11–129.

<sup>15</sup> Moh Rizaldi, "Corruption Eradication Commission as an Independent State Institution?" (2021) 12:1 *Log J Kuningan University Researcher* 21–32 at 26.

<sup>16</sup> <https://www.jogloabang.com/pustaka/uu-19-2019-kedua-uu-30-2002-kpk>

<sup>17</sup> Lawrence Meir Friedman, *The Legal System A Social Science Perspective*, Bandung: Nusa Media Publisher, 2018

<sup>18</sup> *Ibid*

<sup>19</sup> *Ibid*

regulations and moral awareness are expected to prevent societal culture. who are sensitive to the dangers of continuing corrupt practices.

Thus, referring to the previous review above, the KPK must carry out institutional strengthening, updating the legal system in preventing and eradicating criminal acts of corruption.

The Corruption Eradication Committee (KPK) as a state institution that has been established since its establishment has been known to be aggressive in its actions to eradicate corruption. The KPK is more impressed with prioritizing prosecution rather than preventing corruption.<sup>20</sup> Efforts to act aggressively as carried out by the KPK in fact did not produce substantial excesses in terms of minimizing acts of corruption, so it is deemed necessary to expand its efforts by prioritizing prevention, of course, accompanied by eradicating criminal acts of corruption.<sup>21</sup>

As a form of KPK's efforts to take action to prevent and eradicate criminal acts of corruption, basically it must involve various stakeholders who have the same vision and mission to eradicate criminal acts of corruption. Article 6 of Law Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning the KPK reads that the corruption eradication commission has the authority to:

- a. Preventive measures to prevent Corruption Crimes from occurring;
- b. coordination with agencies authorized to carry out Corruption Eradication and agencies tasked with implementing public services;
- c. monitor the implementation of state government;
- d. supervision of agencies authorized to eradicate corruption;
- e. investigation, investigation and prosecution of Corruption Crimes; And
- f. actions to carry out the determination of judges and court decisions that have obtained permanent legal force.

From the description above, it can be seen that the supervision carried out by the KPK is important in terms of preventing and eradicating corruption. Supervision is seen as important in preventing and eradicating corruption because it has the goal that the state's ideals of eradicating criminal acts of corruption committed by the Corruption Eradication Commission are in line with other law enforcers, namely the Attorney General's Office and the Indonesian Police, which basically have the same authority in the context of law enforcement, as well as supervision. can also avoid assumptions that the KPK has more specific powers than other law enforcers.

Efforts to prevent and eradicate criminal acts of corruption by the KPK are a series of various schemes, such as prevention and repressive measures, for example, efforts to supervise, synchronize, investigate, prosecute and examine.<sup>22</sup> In fact, the presence of the KPK is expected to be at the forefront of carrying out the eradication of criminal acts of corruption quickly and precisely. KPK has the authority to carry out prevention and prosecution (investigation, investigation and prosecution). In this reformation era, the Corruption Eradication Committee (KPK) has become a reliable state institution with its duties and functions to resolve acts of corruption. It was noted that during its formation, the KPK had a positive impact by saving state finances in the form of repressive and preventive measures.<sup>23</sup>

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<sup>20</sup>Yenni Wiranti & Ridwan Arifin, "Challenges and Problems in Law Enforcement of Corruption Crimes in Indonesia" (2020) 20:1 Cosmic Huk 45-55 at 47-48.

<sup>21</sup>Ibid p. 98

<sup>22</sup>Widjojanto, Bambang & Abdul Fickar Hadjar, *Corrupted Reform, Eradicate KPK: A Critical Note* (Malang: Intrans Publishing, 2020), Page 8

<sup>23</sup>Putriyana, Ayu & Nur Rochaeti, " *The Impact of Enforcement of Corruption Law by the Corruption Eradication Commission after the Ratification of the Latest KPK Law* " (2021) , p. 158

From another perspective, the KPK is an institution that has the potential *to abuse of power*<sup>24</sup>. Moreover, it is undeniable that the authority of the KPK is also seen as a superbody institution *considering* that the authority of the KPK is far greater than that of other law enforcement officials<sup>25</sup>. then to avoid this assumption, Article 8 of Law Number 19 of 2019 concerning Amendments to Law Number 30 of 2002 concerning KPK reads "in carrying out the coordination task as referred to in Article 6 letter b, the Corruption Eradication Commission has the authority to:

- a. coordinate investigations, investigations, and prosecutions in the Eradication of Corruption Crimes;
- b. establish a reporting system in Corruption Eradication activities;
- c. request information about Corruption Crime Eradication activities from the relevant agencies;
- d. carry out hearings or meetings with agencies authorized to eradicate corruption; And
- e. request a report from the competent authority regarding prevention efforts so that corruption does not occur.

The attitude of non-synergy, discriminatory authority including law enforcement agencies, namely the National Police, the Attorney General's Office and the KPK in eradicating corruption, actually weakens law enforcement, so the Balance *and Rqual of Power* is the rise of law enforcement, the National Police, the Attorney General's Office and the KPK as "*voorprotaal*" (front gate) opens the veil of institutional corruption in the context of a prospective<sup>26</sup> *Due Process of Law*.

### **Position of the KPK Supervisory Board After the enactment of Law Number 19 of 2019 concerning Amendments to Law Number 30 of 2002 concerning the KPK**

Pros and cons regarding the revision of Law Number 30 of 2002 concerning the Corruption Eradication Commission (hereinafter referred to as the KPK Law), and amendments to Law Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning the Eradication Commission Corruption (hereinafter referred to as the Revised KPK Law), seems to be a nightmare in law enforcement of corruption in Indonesia. This triggered a wave of protests from various groups, including students, legal observers and certain community groups in Indonesia. This is a form of disappointment in the government's decision with the House of Representatives to revise the KPK Law which is seen as an effort to weaken the KPK's performance.<sup>27</sup>

There are several articles that are considered controversial in the revision of the KPK Law, including:<sup>28</sup> (1) KPK is an executive institution; (2) KPK members have status as State Civil Apparatuses; (3) Formation of the KPK Supervisory Board (hereinafter referred to as the KPK Board of Trustees); (4) KPK can conduct SP3; and (5) investigations, wiretapping and searches must have permission from the KPK Board of Trustees.

Article 21 paragraph (1) of the KPK Law emphasizes that the KPK Supervisory Board is an integral part of the KPK institution which was formed in the context of providing guarantees for the principles contained in Article 5 of the revised KPK Law, namely legal certainty, transparency, accountability, public interest, proportionality, and respect for human rights, through supervision in carrying out the duties and authorities of the KPK, evaluating the performance of the KPK leadership and examining and imposing witnesses for violations of the code of ethics committed by KPK leaders and employees.

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<sup>24</sup>Muhammad Syahrur, *Journal of Law Reform Studies* (2022), p. 95

<sup>25</sup> *Loc. cit.* Muhammad Syahrur

<sup>26</sup>Prof. Dr. Indrayanto Seno Adji, SH. MH, *Corruption and law enforcement*, Diadit Media, 2009, p. 82

<sup>27</sup>Widjojanto & Hadjar, *supra* note 5 at 35.

<sup>28</sup>*Ibid* at 38

In his position, the KPK Supervisory Board (in this case called the KPK Board of Trustees) is appointed by the President, who in his position is not hierarchical, but is placed on an equal footing with the KPK leadership.<sup>29</sup> This non-hierarchical position made the KPK Supervisory Board more independent.<sup>30</sup> However, in Law Number 19 of 2019 concerning the Corruption Eradication Commission (revised KPK Law) there are no provisions governing the authority of the Supervisory Board and its status other than their duties.<sup>31</sup>

The above review will be the opening discussion of the position of the KPK's board of trustees and their duties, which are in the momentum of changing the revised KPK Law, there are opinions that the existence of a KPK supervisory board can increase the length of the bureaucracy in the process of enforcing corruption criminal law in Indonesia and this discussion will focus on a number of things namely related to (1) regulations regarding the KPK Dewas, (2) the KPK can carry out SP3 and (3) investigations, wiretapping and searches must have permission from the KPK Dewas.

In order to ensure that the implementation of prevention and eradication of criminal acts of corruption in Indonesia carried out by the KPK does not occur *Obuse of Power* or appears to be taking action arbitrarily by ignoring the principle of legal certainty in law enforcement, it is deemed important to have a KPK Supervisory Board that has a supervisory function in the process taking action to prevent and eradicate criminal acts of corruption, apart from that, the presence of the KPK Board of Trustees was actually able to minimize public concern, so that the KPK Board of Trustees were able to become the party carrying out supervisory duties for the KPK.<sup>32</sup>

In the following review related to the existence of the KPK Supervisory Board which based on the revised KPK Law, the KPK has the right to issue an investigation termination warrant (SP3) which in its provisions must obtain permission from the KPK Supervisory Board, this of course creates a polemic and becomes a paradox in law enforcement in Indonesia.

Article 40 paragraph 1 of the revised KPK Law which reads, "*The Corruption Eradication Commission has the authority to stop the investigation and prosecution of corruption cases whose investigations and prosecutions have not been completed within a maximum period of 2 (two) years.*" In addition, Article 40 paragraph 2 of the revised KPK Law which reads, "*The termination of the investigation and prosecution as referred to in paragraph (1) must be reported to the Supervisory Board no later than 1 (one) week after the issuance of the order to terminate the investigation and prosecution*".

In its provisions, the KPK in providing SP3 is still guided by Article 109 paragraph 2 which is regulated in the Criminal Procedure Code which reads: "*In the event that the investigator stops the investigation because there is not enough evidence or the event is not a crime or the investigation is stopped for the sake of law, the investigator will notify that to the public prosecutor, the suspect or his family*". In the Criminal Procedure Code it can be seen that the issuance of an SP3 against a general criminal suspect (pidum) is given under the following conditions:

1. *There is not enough evidence;*
2. *It turns out that the incident is not a crime; And*
3. *The case is closed by law*

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<sup>29</sup><https://www.mkri.id/index.php?page=web.Berita&id=16599&menu=2>

<sup>30</sup>Ibid

<sup>31</sup>Ibid

<sup>32</sup>Muhammad Syahrums, Existence of the Corruption Eradication Commission Supervisory Board After the Revised KPK Law, *Journal of Law Reform Studies* (2022), p. 98

The SP3 rule is added with the aim that a person suspected of committing a criminal act of corruption does not appear to be being held hostage by protracted demands, indictments, or suspect status attached to him. This provision will also refer to the legal provisions regarding SP3 as stipulated in the Criminal Procedure Code.

In the opinion of the author, there is no effort to weaken or inhibit the performance of the KPK in enforcing corruption law enforcement in Indonesia by amending the revised KPK Law which in its regulations gives the authority to issue SP3, because even though the KPK's law enforcement process has specificities, it still guided by the Criminal Procedure Code which also regulates SP3 and when the SP3 is issued by an institution/institution that has authority in law enforcement including obtaining new evidence, then the investigation and prosecution can be canceled, then the law enforcement process against someone suspected of committing a crime Corruption can be named as a suspect or can be prosecuted again. This is as stated in Article 40 paragraph 4 of the revised KPK Law which reads " *The termination of the investigation and prosecution as referred to in paragraph (2) can be revoked by the Corruption Eradication Commission leadership if new evidence is found which can cancel the reasons for stopping the investigation and prosecution, or based on pretrial decisions as referred to in laws and regulations* ”.

Thus the inclusion of the authority to issue SP3 and the permission of the KPK Board of Trustees in the revised KPK Law does not violate constitutional rights and the position of the KPK Board of Trustees in terms of granting the permit based on applicable statutory provisions in order to achieve aspects of legal certainty.

The KPK Dewas is the most highlighted issue by various groups, because they are considered to have the same position as the KPK leadership which of course can change the rhythm of law enforcement, especially in corruption crimes. Because it has the potential to cause friction for certain interests by taking advantage of the existence of the KPK Board of Trustees, which in terms of the process of prosecution, determination of suspects, wiretapping and SP3 issued must have the permission of the KPK Board of Trustees, it can be used by certain parties or certain groups, whether from elements of state or private administrators, so as to avoid legal entanglements. corruption crime.

For further discussion, in the case that investigations, wiretapping and searches are part of the exercise of pro-justicia powers, the KPK must ensure that their implementation must be proper and not conflict with human rights. Wiretapping must obtain permission from the KPK Board of Trustees as stipulated in Article 37B paragraph 1 letter b of the revised KPK Law which reads: *The Supervisory Board is in charge; "giving permission or not giving permission to Wiretapping, search and/or confiscation; "*

Furthermore, in other provisions concerning investigations, wiretapping and searches, it is emphasized that they must obtain permission from the KPK Dewas, namely Article 47 paragraph (1) of the Revised KPK Law states that "during the investigation process, investigators who will carry out searches and seizures must obtain written permission from the Dewas KPK. Then, Article 47 Paragraph (2) of the Revised KPK Law outlines that the KPK Board of Trustees has the right to give or not give written permission; since the request for permission is submitted no later than 1x24 hours. The Revised KPK Law emphasizes the various licensing stages in a structured manner prior to wiretapping.

The Constitutional Court (MK) finally canceled the authority of the KPK Supervisory Board (Dewas) regarding the issuance of wiretapping, search and/or confiscation permits by the Corruption Eradication Commission (KPK).<sup>33</sup>This is because this authority is a *pro justitia action* that can only be carried out by law enforcement officers. Since this decision, it is only

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<sup>33</sup><https://www.Hukumonline.com/berita/a/mk-batalkan-kejuangan-dewas-kpk-terkait-izin-penyadapan--pengeledahan--penyitaan-lt6091a49ea900c?page=all>



sufficient for the Corruption Eradication Commission to notify the KPK Board of Directors of wiretapping, search and/or confiscation actions.<sup>34</sup>The court granted part of the request submitted by the Chancellor of the Islamic University of Indonesia (UII) Fathul Wahid and a number of UII Law Faculty lecturers.<sup>35</sup>Fathul Wahid et al asked for review of Article 1 point 3; Article 3; Article 12B; Article 24; Article 37 B paragraph (1) letter B; Article 40 paragraph (1); Article 45a paragraph (3); and Article 47 Amendments to the KPK Law.<sup>36</sup>In their petition, Article 12B, Article 37B paragraph (1) letter b, and Article 47 paragraph (1) of the Corruption Eradication Commission Law are contradictory to Article 28D paragraph (1) of the 1945 Constitution. The Petitioners argued that this was because wiretapping, search and/or confiscation were *pro justitia* actions, so it is not right if the authority to give permission for these actions belongs to the KPK Board of Trustees.<sup>37</sup>

From various reviews about the position of the KPK Board of Trustees and about their duties regulated in the revised KPK Law which have recently raised pros and cons and sparked a wave of demonstrations as a manifestation of the anger of Indonesian citizens who position themselves as parties against the revision Article 37E of the Revised KPK Law reads "the election of the KPK Board of Trustees is carried out by the President and DPR RI. This creates problems; because, the KPK Board of Trustees, who have a strategic position in the success of eradicating criminal acts of corruption, are very vulnerable to becoming an instrument of repression as well as a political compromise between the President and the DPR."<sup>38</sup>

Thus, after the Constitutional Court decision no 70/PUU-XVII/2019, the KPK Supervisory Board still has a significant role in carrying out the supervisory function within the KPK and ensuring that the KPK is a law enforcement agency and the elements within it carry out law enforcement not as if become a *superbody institution* that has the potential for abuse of power by the KPK to arise.

Then the institutional arrangement of the Corruption Eradication Commission was carried out in line with the Constitutional Court Decision Number 36/PUU-XV/2017. Where it is stated that the Corruption Eradication Commission is part of a branch of government power. The Corruption Eradication Commission is included in the realm of executive power which is often called a government agency (*regeringsorgaan–bestuursorganen*). This is intended so that the position of the Corruption Eradication Commission in the Indonesian constitutional system becomes clear, namely as part of the executor of government power (*executive power*).<sup>39</sup>

Based on the thorough review above, it can be concluded that the KPK Law before and after the implementation of the revised KPK Law was still guided by the principles of law enforcement, although there were other opinions that the revised KPK Law prioritized prevention and was seen as an effort to weaken the KPK. However, this does not rule out the principles of eradicating corruption as expected and in accordance with its implementation (*das sein das sollen*).

#### IV. CONCLUSION

Based on the description in the discussion above, the author can conclude that the revised KPK Law provides convenience in enforcing the law on corruption by building synergy with other law enforcement officials such as the Indonesian National Police, the Indonesian

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<sup>34</sup>Ibid

<sup>35</sup>Ibid

<sup>36</sup>Ibid

<sup>37</sup>Ibid

<sup>38</sup>Surahmad et al, "A Study of the Corruption Eradication Commission Supervisory Board in the Perspective of Sociological Jurisprudence" (2021) 11:1 *Humani (Hukum and Civil Society)* 23–37 at 27.

<sup>39</sup>Ibid

Attorney General's Office by prioritizing prevention without ignoring the principles of eradicating corruption. . Besides that, the Corruption Eradication Commission's supervisory board is a state institution within the executive power cluster that carries out the task of preventing and eradicating criminal acts with a supervisory function to carry out the oversight function in the process of law enforcement on corruption crimes committed by the Corruption Eradication Commission.

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