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Constitutional Paradox of KPK's Functional Independence in Indonesia: A Comparative and Prospective Study

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Abstract

Corruption eradication requires institutions with strong authority and a high degree of independence within the legal system. Regulatory changes concerning the Corruption Eradication Commission (KPK) have introduced new dynamics in its institutional structure and functional capacity. This study analyzes the dynamics of the KPK's institutional authority and functional independence, compares them with international practices, and formulates an ideal direction for institutional strengthening. The research employs a normative juridical approach through a literature review of primary, secondary, and tertiary legal materials, analyzed qualitatively through inventory, classification, comparison, interpretation, and conclusion drawing. The findings indicate that the revision of Law Number 19 of 2019 has shifted the KPK's position to the executive branch and constrained its strategic authorities, thereby weakening its functional independence and potentially reducing the effectiveness of corruption eradication. The implications underscore the importance of reconstructing an institutional design that balances independence and accountability to sustain the KPK's effectiveness within the Indonesian legal system

1. Introduction

The eradication of corruption is a fundamental element in realizing clean, transparent, and accountable governance. The existence of effective anti-corruption institutions with a high degree of independence is an essential prerequisite for ensuring the integrity of the state system [1]. Within the Indonesian legal framework, independent institutions play a strategic role in upholding the rule of law and ensuring the effective eradication of corruption. One of the most prominent institutions in this context is the Corruption Eradication Commission (KPK), which, since its establishment, has been designed as an institution endowed with strong institutional authority and a high level of functional independence [2]. This institution is responsible for preventing, prosecuting, and recovering state losses resulting from corrupt practices, thereby fostering public trust in government institutions and promoting sustainable development [3]. Without serious efforts in combating corruption, the potential of national

[1] Hanita Pratiwi et al., "Upaya Tata Hukum dalam Pemberantasan Korupsi di Indonesia," *Konstitusi: Jurnal Studi Hukum*, 2025. https://glonus.org/index.php/konstitusi/article/view/90
[2] Christine S T Kansil and Rama Saputra Sundaynatha Adi, "Efektivitas Komisi Pemberantasan Korupsi Sebelum dan Sesudah Menjadi Lembaga Pemerintah," *Jurnal Kewarganegaraan*, 2023. https://doi.org/10.31316/jk.v7i1.5066
[3] Via Nurita et al., "Tinjauan Hukum Terhadap Kewenangan KPK dalam Perampasan dan Penyitaan Aset Pelaku Tindak Pidana Korupsi Berdasarkan Undang - Undang Nomor 8 Tahun 2010 Tentang

resources will be eroded, the equitable distribution of welfare will be hindered, and the foundations of democracy will be jeopardized [4].

In Indonesia, the Corruption Eradication Commission (KPK) has long been recognized as a vital institution in the fight against corruption, owing to its special authority (*lex specialis*) that enables it to operate independently from interference by the executive, legislative, and judicial branches [5]. This authority has been a key factor in the KPK's effectiveness in uncovering major corruption cases involving high-ranking state officials [6]. However, the revision of Law Number 19 of 2019 concerning the Corruption Eradication Commission (KPK Law) has fundamentally altered this institutional architecture. These changes extend beyond administrative aspects and directly affect the core of the KPK's authority and functional independence [7]. The performance of the Corruption Eradication Commission (KPK) has a direct impact on public trust and the supremacy of law.

The position of the Corruption Eradication Commission (KPK) as a special state institution generates distinct dynamics within Indonesia's constitutional structure, particularly in terms of institutional relations, oversight mechanisms, and the scope of its authority [8]. This condition provides the KPK with a degree of flexibility in carrying out its law enforcement functions; however, it also gives rise to conceptual debates regarding its constitutional status and legitimacy. Institutional relations between the KPK and other bodies, such as the police and the prosecution service, are often characterized by overlapping authorities, which underscores the need for clearer regulatory frameworks within the national legal system [9]. Furthermore, these dynamics are evident in the design of oversight mechanisms for the KPK, which must be structured proportionally to avoid undermining its independence. Excessive oversight risks creating undue interference in law enforcement processes, whereas insufficient oversight may lead to accountability concerns [10]. On the other hand, the limits of the KPK's authority remain a central issue in legal discourse, particularly in determining the extent to which the institution can independently exercise its functions of inquiry, investigation, and prosecution [11]. Therefore, strengthening an institutional design that effectively balances independence and accountability is a crucial element in sustaining the effectiveness of the KPK's role within Indonesia's constitutional system.

Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang," *MABIS Journal* 15, no. 02 (2024): 74–81. https://journal.widyadharma.ac.id/index.php/mabis/article/view/10479

[4] Muhammad Rizal, "Analisis Inkonsistensi Antara Kinerja dengan Kepercayaan Publik pada Komisi Pemberantasan Korupsi," *JJA Journal* 7, no. 2 (2023): 236–53. https://doi.org/10.29303/jaa.v7i2.192

[5] Yaqien Makkarateng, "Komisi Pemberantasan Korupsi (KPK) Pasca Revisi Undang-Undang," *Bilancia Journal* 16, no. 1 (2022): 59–78. https://doi.org/10.25157/moderat.v8i3.2762

[6] Zakaria Saputra, "Kewenangan KPK dalam Memeriksa Tindak Pidana Korupsi pada Bank Indonesia," *Jurnal Rechtens* 14, no. 2 (2025): 257–80, https://doi.org/10.56013/rechtens.v14i2.4951.

[7] Muhammad Arif Bagaswara et al., "Implikasi Perubahan Undang-Undang KPK Terhadap Independensi KPK (Kajian Yuridis Normatif Independensi Dalam Perspektif Kelembagaan)," *Borobudur Law and Society Journal*, 2022, https://doi.org/10.31603/7682.

[8] Wandi Pratama Putra and St Hadijah Wahid, "Analisis Peranan Komisi Pemberantasan Korupsi (KPK) Dalam Menanggulangi Tindak Korupsi di Indonesia," *Legal Journal Of Law Advice*, 2024. https://jurnal.fhumkendari.ac.id/index.php/JLA/article/view/37

[9] Nanci Yosepin Simbolon, "Politik Hukum Penanganan Korupsi Oleh Komisi Pemberantasan Korupsi Pasca Disahkannya Undang-Undang No. 19 Tahun 2019," *JURNAL MERCATORIA*, 2020, https://doi.org/10.31289/mercatoria.v13i2.3740.

[10] Tri Mulyani et al., "Penguatan Komisi Pemberantasan Korupsi," *Jurnal Hukum Tata Negara & Hukum Administrasi Negara*, 2024. https://doi.org/10.61863/gr.v3i2.42

[11] Gea Jundari, "Analisis Terhadap Peran Komisi Pemberantasan Korupsi (KPK) dalam Pemberantasan Tindak Pidana Korupsi di Indonesia," *AL-DALIL: Jurnal Ilmu Sosial, Politik, dan Hukum*, 2024, https://doi.org/10.58707/aldalil.v2i3.873.

Previous studies have extensively examined the dimensions of change within the Corruption Eradication Commission (KPK) following the revision of Law Number 30 of 2002 into Law Number 19 of 2019. [12] argue that the amendments introduced by Law No. 19 of 2019 may enhance the KPK's effectiveness in conducting corruption investigations, provided that the Supervisory Board demonstrates clear commitment, objectivity, and firmness in assessing and granting authorization for wiretapping. Otherwise, corruption eradication efforts may become increasingly difficult, as corruption offenses are often committed collaboratively, making evidentiary processes challenging without surveillance measures. [13];[14] highlight that the role of the KPK in Indonesia extends beyond enforcement to encompass prevention, prosecution, judicial strengthening, monitoring of court decisions, and international cooperation. Meanwhile, [15] emphasize that the post-revision positioning of the KPK as a state institution within the executive branch has significant implications, particularly in limiting its operational space in combating corruption and increasing its vulnerability to potential interventions, especially from the executive domain.

[16] demonstrate that the revision of Law Number 19 of 2019 has repositioned the Corruption Eradication Commission (KPK) under the executive branch, restricted its technical authorities such as wiretapping and search and seizure and limited public participation in the legislative process. As a consequence, the effectiveness of corruption eradication efforts has declined, as reflected in the decrease in sting operations and the erosion of public trust in the KPK. [17] further argue that the revised KPK Law has, in fact, weakened the institution in several respects. First, the positioning of the KPK within the executive branch, despite formally maintaining its independence in exercising its duties and authority; second, the establishment of the KPK Supervisory Board; third, the regulation of wiretapping functions; fourth, the introduction of mechanisms for issuing Orders for the Termination of Investigation (SP3) by the KPK; fifth, the institutional coordination between the KPK and other law enforcement bodies such as the police, the prosecution service, and relevant ministries or agencies in accordance with criminal procedural law in conducting inquiries, investigations, and prosecutions of corruption cases; sixth, the procedures governing search and seizure; and seventh, the restructuring of the KPK's personnel system.

Based on a review of previous studies, a research gap can be identified, indicating that most existing works predominantly focus on normative and descriptive analyses of institutional changes and the implications of legislative revisions on the Corruption

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[12] Sukmareni Sukmareni, Ujuh Juhana, and Muhammad Basri, "Kewenangan Penyadapan Komisi Pemberantasan Korupsi Berdasarkan Undang-Undang Nomor 19 Tahun 2019 Tentang Perubahan Kedua Atas Undang-Undang Nomor 30 Tahun 2002 Tentang Komisi Pemberantasan Tindak Pidana Korupsi," *Pagaruyuang Law Journal* 3, no. 2 (2020): 197–212, https://doi.org/10.31869/plj.v3i2.1876.

[13] Sultan Zora Fernanda and Idul Rishan, "Dampak Revisi Undang-Undang Kpk Terhadap Independensi dan Efektivitas KPK dalam Pemberantasan Korupsi," *PALAR (Pakuan Law Review)*, 2024.

[14] Putra and Wahid, "Analisis Peranan Komisi Pemberantasan Korupsi (KPK) dalam Menanggulangi Tindak Korupsi Di Indonesia." (2024).https://journal.unpak.ac.id/index.php/palar/article/view/10251

[15] Nehru Asyikin and Adam Setiawan, "Kedudukan KPK dalam Sistem Ketatanegaraan Pasca Diterbitkannya Revisi Undang-Undang KPK," *JustitiaJurnal Hukum*, 2020. https://doi.org/10.30651/justitia.v4i1.3736

[16] Fery Andriansyah and Anom Wahyu Asmorojati, "Komisi Pemberantasan Korupsi dalam Dinamika Politik Hukum Ketatanegaraan Pasca Undang-Undang Nomor 19 Tahun 2019," *Lex Renaissance*, 2025, https://doi.org/10.20885/jlr.vol10.iss1.art10.

[17] Uyan Wiryadi, Fadhila Gifari, and Hery Chariansyah, "Kedudukan dan Kewenangan Komisi Pemberantasan Korupsi (KPK) dalam Ketatanegaraan Indonesia Pasca Undang-Undang Baru," *Begawan Abioso*, 2024, https://doi.org/10.37893/abioso.v14i2.797.

Eradication Commission (KPK), without comprehensively examining the relationship between institutional authority and functional independence from comparative and prospective perspectives. Prior studies tend to emphasize partial aspects, such as limitations on technical authority, the positioning of the KPK within the executive branch, and their impact on the effectiveness of corruption eradication. However, they have not thoroughly integrated comparative analyses with anti-corruption institutional models in other countries, nor have they projected future institutional strengthening within the framework of the Indonesian legal system.Therefore, the novelty of this study lies in its more holistic approach, combining comparative and prospective analyses to critically evaluate the balance between institutional authority and functional independence of the KPK following legislative revisions. In line with this, the objective of this research is to conduct an in-depth analysis of the dynamics of institutional authority and functional independence of the KPK within the Indonesian legal system, to compare it with anti-corruption institutional practices in other countries, and to formulate an ideal direction for institutional strengthening in order to enhance the effectiveness of corruption eradication in the future.

2. Methods

This study employs a normative juridical approach as its primary methodological framework to comprehensively analyze the institutional authority and functional independence of the Corruption Eradication Commission (KPK) following legislative revisions within the Indonesian legal system. This approach focuses on examining positive legal norms, legal principles, doctrines, and relevant theories within the fields of constitutional and administrative law. The analysis is conducted on various laws and regulations related to the KPK, both prior to and following the revision, in order to identify structural changes and their implications for the institutional position and functions of the KPK. Accordingly, this research is not merely descriptive but also analytical in assessing the consistency and relevance of legal regulations in relation to the principle of independence of state institutions.

In its implementation, this study relies on secondary data obtained through library research, encompassing primary, secondary, and tertiary legal materials. Primary legal materials include legislation related to the KPK, while secondary materials consist of books, academic journals, and relevant previous studies, and tertiary materials include legal dictionaries and encyclopedias. The data analysis procedure is carried out qualitatively through systematic stages, namely the inventory and identification of legal materials, classification based on thematic focus, comparative analysis of changes in legal norms, legal interpretation to understand the meaning and implications of such changes, and the drawing of conclusions through deductive reasoning [18]. Through these stages, the study aims to produce an in-depth analysis of the dynamics of institutional authority and functional independence of the KPK, as well as to provide a prospective conceptual framework for strengthening its institutional design in the future.

3. Results and Discussion

3.1. The Shift in Institutional Authority and Functional Independence of the Corruption Eradication Commission (KPK) within Indonesia's Constitutional Structure: A Comparison between Law Number 30 of 2002 and Law Number 19 of 2019

Regulatory changes concerning the Corruption Eradication Commission (KPK) through Law Number 19 of 2019, which amended Law Number 30 of 2002, have marked a fundamental shift in

[18] Silvando Rananda Sukma, "Tindak Pidana Korupsi di Indonesia Pendekatan Yuridis Normatif dan Empiris," *Terekam Jejak (JTJ), Copyright © 2025*, 2025. https://journal.terekamjejak.com/index.php/jtj/article/view/225

the institution's position, authority, and independence. Initially recognized as a *state auxiliary body* an independent state institution free from interference by any branch of power the KPK is now positioned within the executive branch. This transformation has raised significant concerns, as both structurally and functionally, the KPK's independence has been substantially weakened, potentially undermining the effectiveness of corruption eradication efforts in Indonesia [19]. The impact of these changes can be examined through several crucial aspects that influence the performance and role of the KPK within Indonesia's constitutional system.

The comparison between Law No. 30 of 2002 and Law No. 19 of 2019 should not be understood merely as a change in statutory wording but as a transformation that creates a potential normative tension within the KPK's institutional design. Article 3 of Law No. 19 of 2019 places the KPK within the executive branch while simultaneously maintaining its institutional independence. From Radbruch's perspective, this dual positioning raises questions of legal certainty because the norm establishes institutional accountability within the executive while requiring functional independence in exercising anti-corruption powers. Thus, rather than creating greater legal certainty, the amendment may generate normative ambiguity concerning the extent of executive authority over an institution that is required to act independently. This ambiguity may also affect the interpretation of investigative authority and the institutional discretion of KPK officials.

Under the framework of Law Number 30 of 2002, the Corruption Eradication Commission (KPK) was explicitly recognized as an independent state institution, endowed with full autonomy to carry out its duties and authorities without interference from the executive, legislative, or judicial branches [20] This position granted the KPK a distinct advantage, enabling it to act swiftly and decisively in addressing corrupt practices. However, with the enactment of Law Number 19 of 2019, this status underwent a fundamental revision [21]. Although the new law formally maintains that the KPK exercises its functions independently, its placement within the executive branch implicitly subjects it to governmental coordination and oversight [22]. This shift has altered both the perception and operational reality of the KPK from an institution previously regarded as equal to other high state bodies to one functioning as an implementing agency bound within the governmental bureaucracy. Consequently, this transformation carries the potential to diminish its autonomy and expose it to greater political influence [23].

The weakening of the functional independence and institutional authority of the Corruption Eradication Commission (KPK) represents one of the most critical aspects highlighting

[19] Anton Prasetyo and K M S Herman, "Strengthening the Role of the Corruption Eradication Commission in Combating Corruption Crimes and Evaluating Its Effectiveness in Addressing Corruption Cases," *Devotion : Journal of Research and Community Service* 6, no. 7 (2025): 684–91. https://devotion.greenvest.co.id/index.php/dev/article/view/25475

[20] Salma Aulia, Farahdina Ariani, and Nanik Prasetyoningsih, "Fighting Corruption Post Revision of the Act of the Corruption Eradication Commission," *Media of Law and Sharia* 3, no. 3 (2022): 235–54. https://doi.org/10.18196/mls.v3i3.13232

[21] Y. Pahlevi, R., & Bustomi, "Legal Reform against the Conflict of Norms in the Corruption Eradication Commission Law.," *Journal of Law and Legal Reform* 4, no. 2 (2023). https://journal.unnes.ac.id/sju/jllr/article/view/65811

[22] Ardy Gunawan Tomagola et al., "The Effectiveness of Indonesia ' s Anti-Corruption Law on Legal Reform and Implementation," *West Science Law and Human Rights* 2, no. 03 (2024): 251–58. https:10.58812/wslhr.v2i03.1129

[23] Fadli Yasser et al., "A Progressive Approach to Corruption Law Enforcement by The Corruption Eradication Commission in Indonesia," *Jurnal Ilmu Syariah Dan Hukum* 25, no. 2 (2025). https://journal.uin-alauddin.ac.id/index.php/al_risalah/article/view/60534

the transition from Law Number 30 of 2002 to Law Number 19 of 2019 [24]. The new mechanisms introduced under the 2019 Law are widely regarded as significant constraints on the effectiveness of the KPK's operations. One of the most fundamental changes is the establishment of the Supervisory Board (*Dewan Pengawas*). Previously, the KPK was only required to provide notification when undertaking pro-justitia measures such as wiretapping, seizure, and search. Under the new framework, however, the Supervisory Board holds full authority to grant prior authorization. This licensing process is feared to slow down the KPK's operational responsiveness, diminish the element of surprise in sting operations (*Operasi Tangkap Tangan*), and potentially create information leaks that could be exploited by investigation targets. Furthermore, the transformation of the KPK's employment status into that of Civil Servants (*Aparatur Sipil Negara* or ASN) has raised serious concerns [25]. With this status, KPK personnel are now bound by government employment regulations, which may create dual loyalties [26]. This condition risks affecting their objectivity and independence in carrying out anti-corruption duties. The institutional loyalty to the KPK and its anti-corruption mission previously a defining characteristic may become diluted, potentially eroding the organizational ethos that has been firmly established ([27].

This tension can be further understood through comparison with Hong Kong's Independent Commission Against Corruption (ICAC). Although the ICAC operates within Hong Kong's governmental structure, its functional independence is supported by institutional safeguards, including separate oversight mechanisms and protection of its investigative functions from direct political intervention. The comparison indicates that institutional placement within the executive does not necessarily eliminate independence; rather, the decisive factor is whether the legal framework provides effective safeguards against political interference. In contrast, the Indonesian framework after Law No. 19 of 2019 creates a potential tension between executive institutional placement and the statutory requirement of independence, thereby making the scope of KPK's functional independence more legally contested.

Finally, the aspect of independent investigators has also undergone a significant shift. Law Number 30 of 2002 granted the KPK full authority to recruit its own investigators, ensuring that personnel possessed high levels of integrity and commitment [28]. In contrast, Law Number 19 of 2019 requires that investigators originate from the police, the prosecution service, or hold ASN status [29]. This limitation may reduce the independence of investigators in handling cases, as they

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[24] Lukman Arake, Ma'adul Yaqien Makkarateng, and Asrial Wahyuga, "Analysis of Shifts in the Independence of the Corruption Eradication Commission (KPK) after the Revision of the Law," *International Journal of Health Sciences*, 2022, https://doi.org/10.53730/ijhs.v6ns8.12497.

[25] Taryanto Taryanto and Eko Prasojo, "Performance Management Concept Framework of The Corruption Eradication Commission (KPK) in Optimizing State Loss Recovery," *Journal of Governance*, 2021, https://doi.org/10.31506/jog.v6i2.12813.

[26] Farah Syah Rezah, "Komisi Pemberantasan Korupsi Pasca Perubahan Undang-Undang dalam Perspektif Kelembagaan," *Asas Wa Tandhim* 5, no. 1 (2026): 249–60. https://doi.org/10.47200/awtjhpsa.v5i1.3206

[27] Sonny Langingi and Rochmad Abu Bakar, "Pengawasan Terhadap Lembaga Negara Independen : Antara Independensi dan Akuntabilitas," *Lentera Multidisipliner Ilmu* 3, no. 4 (2025): 749–66. https://doi.org/10.57096/lentera.v3i4.180

[28] Sudirman Hariyanto, Edi Saputra Hasibuan, and Lusiana Sulastri, "Kewenangan Intelijen Kejaksaan dalam Penyelidikan Tindak Pidana Korupsi Pasca Undang-Undang Nomor 11 Tahun 2021," *Paradigma: Jurnal Filsafat, Sains, Teknologi, dan Sosial Budaya* 32, no. 11 (2026): 190–212, https://doi.org/10.33503/paradigma.v32i1.2961.

[29] Fery Andriyansyah, "Komisi Pemberantasan Korupsi dalam Dinamika Politik Hukum Ketatanegaraan Pasca Undang-Undang Nomor 19 Tahun 2019 * Fakultas Hukum , Universitas Ahmad Dahlan , Yogyakarta , Indonesia ," *Lex Renaisance* 10, no. October (2025): 249–73. https://doi.org/10.20885/JLR.vol10.iss1.art10

may remain institutionally affiliated with their parent organizations or be subject to broader bureaucratic hierarchies. Consequently, this could weaken their assertiveness and impartiality, particularly in investigating corruption cases involving powerful actors. Taken together, these changes collectively raise substantial concerns regarding the future effectiveness of corruption eradication efforts in Indonesia.

The accountability framework of the Corruption Eradication Commission (KPK) has undergone significant transformation. Under Law No. 30 of 2002, the KPK operated within a transparent and accountable system, reporting directly to the public through annual reports submitted to the President, the House of Representatives (DPR), and the Audit Board of Indonesia (BPK). This mechanism ensured multi-layered oversight and minimized the potential for abuse of authority. In contrast, under Law No. 19 of 2019, the institutional positioning of the KPK within the governmental bureaucracy has increased the dominance of executive oversight. Although the KPK is formally expected to maintain its independence in carrying out its duties, the introduction of executive supervisory structures has raised concerns regarding its susceptibility to political influence [30]. Overall, this regulatory shift has generated substantial concern about the potential weakening of anti-corruption efforts in Indonesia. Increased political and bureaucratic intervention whether direct or indirect may undermine the effectiveness of the KPK in addressing high-level corruption cases. This development poses a critical challenge to the future of accountability and good governance in Indonesia, and calls for a deeper reflection on how the independence of anti-corruption institutions can be preserved amid evolving legislative dynamics. Based on the foregoing discussion, a comparative analysis of the regulatory frameworks can be explicitly presented in the table below;

Table 1. Regulatory Comparison

Aspek	UU No. 30 Tahun 2002	UU No. 19 Tahun 2019
Kedudukan ketatanegaraan	KPK adalah lembaga negara independen yang bebas dari pengaruh kekuasaan manapun dalam melaksanakan tugasnya	KPK berada dalam rumpun kekuasaan eksekutif (pemerintahan). Meskipun disebutkan tetap independen dalam tugas, secara struktural KPK berada di bawah pemerintah yang dipimpin Presiden
Status Pekegawaian dan Struktur	KPK memiliki sistem kepegawaian mandiri, memungkinkan fleksibilitas dan independensi tinggi dalam penyidikan	Pegawai KPK dialihfungsikan menjadi Aparatur Sipil Negara (ASN), yang tunduk pada birokrasi pemerintahan
Otoritas tindakan	Penyidik KPK memiliki kewenangan penuh, termasuk melakukan penyadapan tanpa izin eksternal.	Kewenangan penyadapan, penggeledahan, dan penyitaan kini memerlukan izin dari Dewan Pengawas (Dewas) KPK, yang mengurangi kecepatan dan kemandirian fungsional
Kelembagaan	Pimpinan KPK adalah penanggung jawab tertinggi	Dibentuk Dewan Pengawas untuk mengawasi kerja KPK, yang berpotensi menimbulkan dualisme otoritas dan intervensi operasional

[30] Leo Agustino et al., "Corruption Eradication in Indonesia: The Experience of The Corruption Eradication Commission (KPK)," *Journal of Governance*, 2021, https://doi.org/10.31506/jog.v6i2.12126.

Source: Author's Processed Data, 2026

The shift from Law No. 30 of 2002 to Law No. 19 of 2019 has brought significant changes to the independence of the Corruption Eradication Commission (KPK), marking a new phase in Indonesia's anti-corruption landscape. One of the most fundamental changes lies in the institutional position of the KPK within the state structure. Previously established as an independent body free from any external interference, the KPK is now structurally positioned within the executive branch, although it is formally claimed to remain independent in the exercise of its functions. This shift has profound implications for the KPK's functional independence, particularly evident in the establishment of the Supervisory Board. The authority of this body to grant approval for pro-justicia measures such as wiretapping, searches, and seizures has directly reduced the operational speed and autonomy of the KPK, and may potentially create vulnerabilities for information leakage to investigation targets [31].

Furthermore, the transformation of KPK personnel status into State Civil Apparatus (ASN) raises concerns regarding dual loyalty and the potential for bureaucratic intervention, which may affect both the objectivity and the integrity of anti-corruption efforts. Similarly, the requirement that KPK investigators must originate from the police, the prosecution service, or hold ASN status represents a departure from the KPK's previous authority to recruit independent investigators. This change is widely perceived as potentially undermining the independence and effectiveness of investigators in handling corruption cases. Overall, these transformations ranging from institutional positioning and personnel systems to functional authority have generated serious concerns regarding the weakening of the KPK and the overall effectiveness of anti-corruption efforts in Indonesia. The increased potential for political and bureaucratic intervention, whether direct or indirect, poses a substantial challenge to maintaining the integrity, independence, and effectiveness of the KPK moving forward.

According to Gustav Radbruch, the primary objective of legal certainty is to ensure stability, legal security, and predictability in order to prevent arbitrariness. Prior to the revision, the independence of the Corruption Eradication Commission (KPK), as guaranteed under Law No. 30 of 2002, effectively fostered legal order by ensuring impartial enforcement against corruption without political interference. However, the enactment of Law No. 19 of 2019 introduced structural changes such as the establishment of the Supervisory Board and the transformation of KPK personnel into State Civil Apparatus (ASN) which have raised concerns regarding new forms of arbitrariness, potential political and bureaucratic intervention, and reduced operational independence. Although the government and the House of Representatives argued that the revision aimed to strengthen institutional coordination, accountability, and corruption prevention, critics contend that these changes have instead weakened the KPK's independence, particularly through restrictions on investigative authority and the introduction of mechanisms such as approval requirements and the power to issue Order for Termination of Investigation (SP3) [32]. The controversial and rapid legislative process, coupled with limited public participation, further intensified public distrust, and recent developments in 2026 indicating support from Joko Widodo to revert to the pre-2019 legal framework reflect a growing reassessment of the revision's impact on the effectiveness of anti-corruption efforts in Indonesia.

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[31] Alfons Zakaria et al., "Immunity Rights for Officials of the Corruption Eradication Commission (KPK): A Proposed Model," *Integritas : Jurnal Antikorupsi*, 2023, https://doi.org/10.32697/integritas.v9i2.967.

[32] Berlian Simarmata and Elizabeth Ghozali, "Pretrial Regarding Termination of the Investigation," *The International Journal of Humanities & Social Studies*, 2024, https://doi.org/10.24940/theijhss/2023/v11/i12/hs2312-004.

Viewed through Radbruch's concept of legal certainty, the central issue is therefore not simply whether the KPK is formally independent, but whether its institutional position provides clear, consistent, and predictable legal boundaries for the exercise of its authority. The coexistence of executive status and institutional independence may create uncertainty when these principles conflict in practice. Therefore, the juridical reform of the KPK should clarify the relationship between executive accountability and operational independence rather than merely redefining its institutional status.

3.2. Juridical Implications of the constitutional status shift and the resulting norm conflicts

A fundamental change in the institutional status of the Corruption Eradication Commission (KPK) constitutes one of the most critical aspects of Law No. 19 of 2019. Pursuant to Article 3 of the law, the KPK previously recognized as an independent state organ free from any external interference is now juridically positioned within the executive branch. This shift carries significant implications, particularly regarding the potential erosion of the KPK's independence. When an anti-corruption body that is expected to operate independently and impartially is placed under the executive namely the President there is a heightened concern that objectivity in the processes of investigation and prosecution of corruption cases may be compromised [33]. This vulnerability becomes more pronounced when cases involve political elites or actors closely connected to executive power, thereby opening opportunities for political intervention that may undermine fair and impartial law enforcement.

The loss of institutional independence represents the most fundamental juridical consequence of this revision. The KPK, which previously functioned as an auxiliary state organ autonomous from any branch of power, is now effectively subordinated to the executive. This transformation substantially diminishes the core characteristics that once made the KPK an effective and trusted institution [34]. Its status, no longer positioned as an independent body alongside other branches of power but instead embedded within the executive structure, risks blurring the line between law enforcement and political interests. Consequently, this condition may reduce the KPK's capacity to act solely on the basis of legal principles, thereby affecting the integrity and effectiveness of corruption eradication efforts ([35].

The positioning of the Corruption Eradication Commission within the executive branch inherently increases its vulnerability to political intervention [36]. Historical experience demonstrates that law enforcement institutions operating under the influence of a particular branch of power are more susceptible to the politicization of cases, where extra-legal interests may infiltrate enforcement processes [37]. This condition risks undermining the integrity of law enforcement and diminishing public trust in the KPK as the frontline institution in combating corruption. Furthermore, the

[33] Mohammad Zulfahmi and Rosalia Dika Agustanti, "Cacat Mekanisme Pelaksanaan Revisi UU KPK 2019 Dan Perbandingan Substansi Serta Dampak Terhadap Kinerja KPK," *Perahu (Penerangan Hukum) : Jurnal Ilmu Hukum*, 2024, https://doi.org/10.51826/perahu.v12i1.976.

[34] Nandaswara Putra, "Analisis Kewenangan Lembaga Negara di Bawah Kekuasaan Eksekutif Sebagai Pelaksana Undang- Undang," *Collegium Journal* 8, no. 1 (2025): 113–22. https://doi.org/10.56301/csj.v8i1.1661

[35] Unggul Satriyo, "Diskursus Kedudukan Komisi Pemberantasan Korupsi Sebagai Lembaga Negara Independen Pasca Putusan Mahkamah Konstitusi Nomor 70/PUU-XVII/2019," *Al Qisth Law Review* 6, no. 2 (2023): 245–73. https://doi.org/10.24853/al-qisth.6.2.245-273

[36] Fuan Yuniar Priyudha, Alisa Safira, and Tsalitsa Haura Layyina, "Peran Aktor Politik : Revisi UU KPK 2019 Terhadap Demokrasi Indonesia," *Jurnal Dinamika Sosial Budaya* 27, no. 1 (2025): 32–41. https://doi.org/10.26623/jdsb.v27i1.11015

[37] Bintang Karyudi, "Implementasi Supremasi Hukum dalam Penegakan Hukum di Indonesia," *Lex Et Lustitia* 1, no. 2 (2024): 86–98. https://doi.org/10.70079/lel.v1i2.72

transformation of personnel status from independent employees to State Civil Apparatus (ASN) carries significant juridical consequences. Although intended to standardize administrative governance, this shift raises concerns regarding the reduced autonomy of investigators in making independent legal decisions, as they may face pressures to align with executive hierarchies rather than adhere strictly to objective legal principles.

The establishment of the Supervisory Board, while formally designed as an external oversight mechanism, has also generated considerable debate. The involvement of government elements in the selection of its members raises concerns that it may constrain the KPK's enforcement discretion. For instance, critical investigative actions such as wiretapping previously conducted with greater speed and discretion now require prior approval, potentially delaying case handling and weakening the effectiveness of operations such as sting operations that rely on urgency and confidentiality [38]. Additionally, the introduction of the authority to issue a Order for Termination of Investigation (SP3) after two years without significant progress constitutes another crucial issue. While SP3 is a recognized instrument within criminal law, its application to complex corruption cases which often require extended periods for evidence gathering may hinder legal certainty. This authority is further feared to be susceptible to misuse, either to terminate high-profile cases involving powerful actors or to provide opportunities for suspects to evade prosecution by exploiting procedural time limits.

The ambiguity of norms underlying Article 3 of Law No. 19 of 2019 concerning the Corruption Eradication Commission (KPK) constitutes a central issue in debates on institutional independence, as it presents a structural paradox between positioning the KPK within the executive branch while simultaneously asserting its functional independence and freedom from external influence. Juridically, this contradiction signifies a fundamental shift from an independent state organ to an entity integrated into the governmental bureaucracy, thereby inherently risking the weakening of its independence in carrying out core functions such as investigation and prosecution of corruption cases [39]. The provision explicitly states that the KPK is part of the executive while remaining independent, yet this vague norm creates substantial difficulty in ensuring genuine autonomy, particularly when handling cases involving actors within the executive itself. Although Constitutional Court Decision No. 36/PUU-XV/2017 previously affirmed that the KPK operates within the executive domain while maintaining independence, the 2019 revision further institutionalizes this position in a manner that arguably diminishes its functional autonomy compared to the pre-revision framework. Moreover, the establishment of a Supervisory Board appointed by the President introduces additional bureaucratic layers that, despite claims of enhancing accountability, may hinder the effectiveness and discretion of investigative actions such as wiretapping, searches, and seizures due to procedural delays. Consequently, the KPK has shifted from a quasi-supra-institution with exceptional authority into a more conventional governmental body, rendering it more susceptible to political influence in determining case selection, enforcement priorities, and investigative outcomes. This normative ambiguity ultimately contributes to declining public trust, as perceived risks of political intervention undermine both the legitimacy and effectiveness of the KPK in combating corruption [40].

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[38] Faruq Azzam et al., "Kedudukan Dewan Pengawas KPK Terhadap Eksistensi KPK Dalam Pemberantasan Korupsi di Indonesia Tugasnya Untuk Meningkatkan Kegunaan Dan Efektivitas Langkah-Langkah Antikorupsi Tanpa," *Simbur Cahaya* XXIX, no. 2 (2022): 307–25, https://doi.org/10.28946/sc.v29i2.621.

[39] Aulia, Ariani, and Prasetyoningsih, "Fighting Corruption Post Revision of the Act of the Corruption Eradication Commission." 2022. https://doi.org/10.18196/mls.v3i3.13232

[40] Alfian A. Manupapami, Donny Eddy Sam Karauwan, and Jumiran, "Evaluation of the Performance of the Corruption Eradication Commission (KPK) in Tackling Corruption in the Public Sector," *DELICTUM : Jurnal Hukum Pidana Islam*, 2024, https://doi.org/10.35905/delictum.v3i1.10738.

3.3. The Future (Prospective) Independence of the KPK in Combating Corruption Post-Amendment within the Indonesian Legal System

The independence of the Corruption Eradication Commission (KPK) following the revision through Law No. 19 of 2019 has experienced a significant decline, fundamentally transforming its status into part of the executive branch. This shift represents not merely an administrative adjustment but a structural transformation that renders the KPK more vulnerable to political intervention, thereby threatening the effectiveness of future anti-corruption efforts [41]. Although the revision was formally intended to strengthen the institution, in practice it has raised serious concerns regarding the KPK's functional independence. This weakening is evident across several critical aspects, including its institutional position, the role of the Supervisory Board, and changes in personnel status. Post-amendment, the KPK can no longer be categorized as a purely independent state institution as Article 3 of the revised law explicitly places it within the executive domain, meaning that hierarchically and administratively it falls under the authority of the government led by the President. This condition inherently reduces the KPK's autonomy from political influence, increasing the risk of intervention or pressure from political actors, and potentially undermining its capacity to act objectively and impartially particularly in handling corruption cases involving officials or entities within the executive branch itself.

The establishment of the Supervisory Board, mandated under Law No. 19 of 2019, although formally intended to enhance accountability, has become a factor that may hinder the operational effectiveness of the Corruption Eradication Commission (KPK). The requirement for prior authorization in pro justicia measures such as wiretapping, searches, and seizures introduces procedural delays that may significantly slow investigative processes. Such delays risk eliminating the element of surprise that is crucial in sting operations, thereby providing opportunities for suspects to destroy evidence or evade arrest, ultimately weakening the KPK's enforcement capacity [42]. In effect, these procedural constraints may be exploited by actors seeking to undermine robust anti-corruption efforts.

Furthermore, the transformation of KPK personnel into State Civil Apparatus (ASN) represents another significant shift with potential implications for institutional independence. As civil servants, KPK employees are now subject to broader bureaucratic regulations and hierarchical structures, which may create dilemmas of loyalty between adherence to executive authority and commitment to anti-corruption objectives. This condition raises concerns that political or administrative pressures could influence investigators' independence, particularly in cases involving high-ranking state officials. These institutional problems require more than a general recommendation to restore KPK independence. Three future models can be considered: a restored-independent model based on Law No. 30 of 2002, an executive-independent model with stronger legal safeguards, and a hybrid model combining operational independence with public and ethical oversight. Each model should be assessed based on constitutional compatibility, enforcement effectiveness, and political acceptability. In the post-revision context, there is also an expectation that the KPK will place greater emphasis on preventive measures, thereby fostering a more balanced approach between enforcement and prevention. While this shift may contribute to strengthening systemic governance and reducing opportunities for corruption, it must not come at the expense of enforcement functions, which remain the backbone of the KPK. Maintaining an appropriate balance

[41] Mohammad Zulfahmi and Rosalia Dika Agustanti, "Cacat Mekanisme Pelaksanaan Revisi UU KPK 2019 dan Perbandingan Substansi Serta Dampak Terhadap Kinerja KPK."
[42] Sulaiman Amiruddin et al., "Transformasi Hukum Operasi Tangkap Tangan dalam Penindakan Tindak Pidana Korupsi Sulaiman," *Jurnal Retentum Transformasi Hukum* 5440 (2025): 475–86.

between robust prevention strategies and firm, independent enforcement is therefore essential to preserving the credibility and effectiveness of the KPK in combating corruption.

The preventive-repressive balance should be viewed as complementary rather than competing functions. Law No. 19 of 2019 strengthens the KPK's preventive mandate through prevention, coordination, monitoring, and education. However, excessive emphasis on prevention may weaken the deterrent effect of enforcement, while repression alone cannot address structural corruption risks. Therefore, the KPK requires an integrated approach that combines effective prevention with independent enforcement, supported by measurable indicators such as risk reduction, investigation outcomes, asset recovery, and institutional reform. This approach should also be aligned with the National Strategy for Corruption Prevention (Stranas PK), established through Presidential Regulation No. 54 of 2018. Rather than duplicating other institutions' preventive functions, the KPK should strengthen systemic prevention through monitoring, coordination, and education while maintaining credible and independent enforcement. This integration positions prevention as an upstream strategy and enforcement as a downstream mechanism for accountability.

An ideal solution to preserve the independence of the Corruption Eradication Commission within Indonesia's legal system following the enactment of Law No. 19 of 2019 requires a careful balance between public accountability and freedom from political intervention, particularly given that the KPK's integration into the executive branch has weakened its position as an independent auxiliary state body [43]. Prospectively, the most fundamental step is a limited revision of the law to restore the KPK's status as a fully independent institution, including reinstating an independent personnel system rather than State Civil Apparatus (ASN), in order to prevent excessive bureaucratization and conflicts of interest and to ensure that employee loyalty remains fully directed toward anti-corruption objectives. In addition, the role of the Supervisory Board should be substantially redefined to focus on ethical oversight rather than granting technical approval for pro justicia measures, thereby preventing operational delays in law enforcement. In the absence of immediate legislative reform, the KPK must strengthen its internal oversight mechanisms, enforce strict ethical standards across leadership and staff, and enhance institutional integrity as a primary safeguard of public trust. The proposed legal reform should follow a clear normative roadmap by revising Article 3 on the KPK's institutional position, provisions concerning the Supervisory Board, leadership appointment and dismissal, and personnel status, while clearly separating ethical oversight from operational decision-making. Institutional transition should include appropriate transitional provisions, while a Perppu should only be considered under constitutionally recognized emergency conditions; otherwise, ordinary legislative amendment and, where necessary, judicial review provide more appropriate mechanisms. Based on comparative evidence and Indonesia's constitutional context, a hybrid-independent KPK model is proposed, combining operational independence with strong ethical, judicial, public, and financial oversight while adapting relevant lessons from Singapore to Indonesia's constitutional system. Furthermore, a balanced approach that integrates both enforcement and preventive strategies is essential, including improving governance systems to close opportunities for corruption and promoting a culture of integrity through comprehensive anti-corruption education. Such a holistic strategy is crucial to ensuring the long-term effectiveness, credibility, and functional independence of the KPK in combating corruption.

[43] Eko Nursetiawan et al., "Questioning the Independence of the Corruption Eradication Commission (KPK) and Judicial Restraint," 2023, https://doi.org/10.2991/978-2-38476-164-7_52.

4. Conclusions

The shift in the legal foundation of the Corruption Eradication Commission (KPK) from Law No. 30 of 2002 to Law No. 19 of 2019 marks a fundamental transformation that extends beyond administrative restructuring and reaches the core of the institution's functional and operational independence. Law No. 30 of 2002 positioned the KPK as a sui generis institution autonomous and free from interference by other state bodies a status that was essential in ensuring objectivity and firmness in combating corruption. This independence was reflected in its authority to undertake pro justicia actions without external approval, its independent recruitment system, and its direct accountability to the public, all of which strengthened institutional legitimacy and public trust. However, Law No. 19 of 2019 significantly altered this paradigm by placing the KPK within the executive branch and introducing a series of changes that collectively risk weakening its institutional capacity. This condition not only has the potential to hinder the effectiveness of corruption enforcement but also generates legal uncertainty and opens avenues for intervention that may undermine the principles of objectivity and the rule of law in Indonesia's anti-corruption efforts.

For future research, it is recommended that more in-depth studies be conducted using a comparative international approach to examine anti-corruption institutional models in countries with high levels of effectiveness, in order to identify an ideal framework for strengthening the independence and performance of the KPK. Furthermore, subsequent research should integrate normative juridical approaches with empirical methods to directly assess the impact of the legislative revision on the KPK's performance, levels of public trust, and internal institutional dynamics, thereby producing more comprehensive, data-driven recommendations for sustainable legal reform.

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