

# Corruption Eradication Policy Judging from the Politics of Criminal Law (Law Number 19 of 2019 Concerning the Second Amendment to Law Number 30 of 2002 Concerning the Corruption Eradication Commission)

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*Abstract - Corruption is not an ordinary crime, but an extraordinary crime, therefore the handling must also be done in extraordinary ways. The public reaction turned out to be the pros and cons of the issuance of Law Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning the Corruption Eradication Commission. This is because there are 3 (three) points proposed to be changed, namely the elimination of the KPK's duty to prosecute corruption cases, additional requirements to conduct wiretapping, and plans to establish a KPK supervisory board. In this study using the normative juridical method. This is done based on theories, concepts, legal principles, and applicable laws and regulations. The issue raised in this paper is the urgency of Law Number 19 of 2019 concerning the Second Amendment to amendment of Law Number 30 of 2002 concerning the Corruption Eradication Commission related to the elimination of the KPK's authority to prosecute corruption cases? that the purpose of establishing the KPK is to increase the effectiveness and effectiveness of efforts to eradicate corruption. Eliminating the element of prosecution will cause the KPK to have limitations to eradicate corruption. This is because the various corruption cases that have been handled by the KPK will not necessarily be followed up by the prosecutor's office.*

**Keywords:** corruption, KPK, law number 19 of 2019

## I. INTRODUCTION

Corruption is not an ordinary crime, but an extraordinary crime. Therefore, the handling must also be done in extraordinary ways. One of the actions taken by the government to handle cases of criminal acts of corruption is to establish an institution that specializes in handling cases of corruption eradication, ranging from investigations, investigations to prosecutions, namely the Corruption Eradication Commission (KPK). The KPK is considered successful in revealing several major cases in the field of corruption. This can be seen from the number

of corruptors who have been arrested and convicted due to the hard work of the KPK.

The legal basis for the existence of the Corruption Eradication Commission in the beginning was Law Number 30 of 2002 concerning the Corruption Eradication Commission. At present, the law has been amended by Law Number 19 Year 2019 concerning the Second Amendment to Law Number 30 Year 2002 concerning the Corruption Eradication Commission.

The KPK found that there were 26 (twenty six) points that could potentially weaken the KPK because of the articles in Law Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning the Corruption Eradication Commission. This is considered to reduce the number of powers previously possessed by the KPK. The 26 (twenty-six) points are considered to be very risky to weaken the KPK, because some of the reduced authority is the main authority in carrying out the KPK's duties. The 26 (twenty six) points that were changed include [1]:

The KPK is placed as a state institution in the executive family that will reduce the independence and employees of the KPK as the State Civil Apparatus (ASN), so that it carries the risk of not independently appointing, shifting and mutating employees while carrying out their duties.

Article which stipulates that the leader is the highest responsible is deleted, because the KPK leadership is no longer an Investigator and Public Prosecutor so that it will risk pro-justicia actions in carrying out enforcement duties.

The existence of the Supervisory Board is also considered to be more powerful than the leadership of the KPK, but the requirements to become a leader of the KPK are more difficult than the Supervisory Board.

The authority of the Supervisory Board enters the technical case handling, namely giving or not giving permission for wiretapping, search and seizure. In fact, the standards for the prohibition of ethics and anti-conflict of interest for the Supervisory Board are lower than the leadership and employees of the KPK.

These changes cause pros and cons in society. Because one of the things that will be revised is regarding the elimination of the prosecution element in the KPK's duties. In fact, the public considers that the success of the KPK today is because the KPK has the authority to prosecute.

## II. PROBLEM FORMULATION

The issue raised in this paper is how is the urgency of Law Number 19 Year 2019 concerning the Second Amendment to the amendment of Law Number 30 Year 2002 concerning the Corruption Eradication Commission related to the KPK's authority to abolish the corruption case?

## III. DISCUSSION

Etymologically corruption comes from Latin, namely *corrumpere* which means rotten, damaged, shaking, turning, bribing. According to Transparency International, corruption is the behavior of public officials, both politicians and public servants who improperly and illegally, enrich themselves or enrich those closest to them by abusing public power entrusted to that person [2].

The Big Indonesian Dictionary states that corruption literally means bad, damaged, likes to use the goods (money) entrusted to him, can be bribed (through his power for personal gain). In terminology, corruption is fraud or embezzlement (state or company money) for personal or other people's interests [3].

Corruption is a violation of human rights, therefore efforts must be made to eradicate corruption. The umbrella provision that currently regulates corruption is Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Corruption.

The basis for the enactment of Law Number 20 of 2001 concerning Amendment to Law Number 31 of 1999 concerning Eradication of Corruption, among others, is that corruption which has been widespread, has not only harmed state finances but also constituted a violation of the rights social and economic rights of society at large. So that corruption must be classified as a crime whose eradication must be carried out extraordinary.

One of the policies adopted by the government in an effort to eradicate corruption is to establish an independent institution that handles corruption cases. This is in line with the provisions stipulated in Article 43 of Law Number 31 of 1999 concerning Eradication of Corruption Crimes, stating that:

- a. At the latest 2 (two) years after this law comes into force, a Corruption Eradication Commission is established.
- b. The Commission as referred to in paragraph (1) has the duty and authority to coordinate and supervise, including conducting investigations, investigations and prosecutions in accordance with the provisions of the applicable laws and regulations.

- c. Membership of the Commission as referred to in paragraph (1) consists of elements of government and elements of society.
- d. Provisions regarding the formation, composition, organization, work procedures, responsibilities, duties and authorities, as well as the membership of the Commission as referred to in paragraph (1), paragraph (2) and paragraph (3) shall be regulated by law.

The government subsequently enacted Law Number 30 Year 2002 concerning the Corruption Eradication Commission. The consideration for the formation of Law Number 30 Year 2002 concerning the Corruption Eradication Commission is:

- a. That in the context of bringing together a just and prosperous society based on Pancasila and the 1945 Constitution of the Republic of Indonesia, the eradication of corruption that has occurred so far has not been carried out optimally. Therefore, the eradication of corruption must be increased professionally, intensively, and continuously, because corruption has harmed the country's finances, the country's economy, and impeded national development.
- b. That state institutions that handle corruption cases have not functioned effectively in eradicating criminal acts of corruption.
- c. Whereas in accordance with Article 43 of Law Number 31 of 1999 concerning Eradication of Corruption Crimes as amended by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Corruption, it is necessary to establish an Eradication Commission Independent Corruption Crime with the task and authority to eradicate corruption.

Based on several considerations of the promulgation of Law Number 30 of 2002 concerning the Corruption Eradication Commission, it can be seen that eradicating criminal acts of corruption until the formation of Law Number 30 of 2002 concerning Corruption Eradication Commission (KPK) has not been implemented optimally, therefore it is necessary an institution that has independent authority was formed with the task and authority to eradicate corruption.

Article 3 of Law Number 30 Year 2002 concerning the Corruption Eradication Commission stated that : "Corruption Eradication Commission is a state institution that in carrying out its duties and authorities is independent and free from the influence of any power".

The KPK has the duties, authorities and obligations as regulated in Law Number 30 of 2002 concerning the Corruption Eradication Commission. Article 6 of Law Number 30 Year 2002 concerning the Corruption Eradication Commission, states that: "The Corruption Eradication Commission has a duty:

- a. Coordination with agencies authorized to eradicate corruption.
- b. Supervision of agencies authorized to eradicate corruption.
- c. Investigate, investigate and prosecute corruption.

- d. Take measures to prevent corruption; and
- e. Monitor the implementation of state government ".

Article 7 of Law Number 30 Year 2002 concerning the Corruption Eradication Commission, states that: "In carrying out the coordination task as referred to in Article 6 letter a, the Corruption Eradication Commission is authorized:

- a. Coordinate the investigation, investigation and prosecution of criminal acts of corruption.
- b. Establish a reporting system in the eradication of corruption
- c. Request information about the eradication of corruption from related agencies.
- d. Conduct hearings or meetings with agencies authorized to eradicate corruption.
- e. Requesting reports from relevant institutions regarding the prevention of corruption.

At present the government promulgates Law Number 19 Year 2019 concerning the Second Amendment to Law Number 30 Year 2002 concerning the Corruption Eradication Commission. Consideration of the enactment of Law Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning the Corruption Eradication Commission because it is considered the performance of the Corruption Eradication Commission felt less effective, weak coordination between lines of law enforcement, violations of the Code of Ethics by the leadership and staff of the Corruption Eradication Commission, as well as problems in carrying out their duties and authority.

The implementation of the duties and authority of the KPK that is different from the provisions of the Criminal Procedure Code, the weakness of coordination with fellow law enforcement officers, the problem of wiretapping, the management of investigators and investigators that are less coordinated, the overlapping of authority with various law enforcement agencies, and the weakness of the absence of a supervisory agency that able to oversee the implementation of the duties and authority of the KPK. So that there is a gap and lack of accountability in carrying out the duties and authorities in the eradication of corruption by the KPK.

Public reaction was seen as pros and cons of the enactment of Law Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning the Corruption Eradication Commission. This is because there are 3 (three) points proposed to be changed, namely the elimination of the KPK's task of prosecuting corruption criminal cases, additional requirements for wiretapping, and plans to establish a KPK supervisory board.

Article 1 paragraph (3) of Law Number 30 Year 2002 concerning the Corruption Eradication Commission states that: "Eradication of corruption is a series of actions to prevent and eradicate corruption through coordinating, supervising, monitoring, investigating, investigating, prosecuting, and examining in court sessions with the participation of the community based on applicable laws and regulations."

Article 1 number 4 of Act Number 19 of 2019 concerning the Second Amendment to Act Number 30 of 2002 concerning Corruption Eradication Commission: "Eradication of corruption is a series of activities to prevent and eradicate corruption through coordinating, supervising, monitoring, investigating, investigating with community participation based on applicable laws and regulations".

Based on the changes in the law, it can be seen that the word prosecution is omitted. The House of Representatives (DPR) as a legislative body strengthens the reduction of the KPK's authority in Article 6 and Article 7 of Law Number 19 of 2019 concerning the Second Amendment to Law Number 30 of 2002 concerning the Corruption Eradication Commission. The KPK's task is only to investigate and investigate corruption.

Article 6 of Act Number 19 of 2019 concerning the Second Amendment to Act Number 30 of 2002 concerning Corruption Eradication Commission, states that: "The Corruption Eradication Commission in charge of doing some things, namely:

- a. Preventive measures so that there is no corruption.
- b. Coordination with agencies authorized to carry out 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 eradication of criminal acts of corruption.
- e. Investigation and prosecution of corruption.
- f. Actions to implement the determination of Judges and court decisions that have obtained permanent legal force ".

The rationale proposed by the DPR is that the KPK focus on prevention, investigation and investigation while the prosecution is transferred to prosecution as stipulated in Law Number 16 of 2004 concerning the Prosecutor's Office. This is intended to prevent overlapping functions between institutions in law enforcement.

Those who disagree with these changes are of the opinion that the change is an attempt to weaken the KPK because a lot of corruption cases have been revealed thanks to the performance of the KPK.

One of the reasons for the formation of the KPK is the ineffectiveness of the existing government institutions, namely the police and prosecutors in handling criminal cases. The Prosecutor's Office, as it is known, has so far been deemed not to function effectively and efficiently in eradicating criminal acts of corruption. Thus the abolition of the KPK's duties in prosecution and submitting it to the Prosecutor's Office is certainly not appropriate. Overlapping cannot be used as an excuse because there is a clear power difference between the KPK and the Prosecutors' Office.

In addition, eliminating the KPK's task of prosecuting will cause the KPK to become an ordinary institution that does not have specificity. This is certainly contrary to Article 4 of Law Number 30 Year 2002 concerning the Corruption Eradication Commission which

states that the purpose of establishing the KPK is to increase the effectiveness and effectiveness of efforts to eradicate corruption. Eliminating the element of prosecution will cause the KPK to have limitations in efforts to eradicate corruption. This is because the various corruption cases that have been handled by the KPK will not necessarily be followed up by the prosecutor's office.

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