

The Right of Inquiry of the House of Representatives Against the Corruption Eradication Commission in Indonesia

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Abstract

The supervisory function of the House of Representatives (Dewan Perwakilan Rakyat/DPR) serves as an instrument of checks and balances over the executive branch, including through the right of inquiry (hak angket) to investigate the implementation of laws and government policies. Problems arise when this right is directed at the Corruption Eradication Commission (Komisi Pemberantasan Tindak Pidana Korupsi/KPK), which, although situated within the executive sphere, was designed as an independent state institution to safeguard law enforcement from political interference. This article analyzes the constitutional position of the KPK and the limits of applying the DPR's right of inquiry to it. The analysis shows that the KPK constitutes a state auxiliary institution with functional independence; accordingly, pro justitia measures such as investigation, inquiry, and prosecution fall outside the scope of political oversight. Therefore, the use of the right of inquiry against the KPK must be proportionally confined to administrative policy and institutional governance so as not to undermine the independence of anti-corruption law enforcement.

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1. INTRODUCTION

In constitutional law theory, state power is divided into the legislative, executive, and judicial branches, which supervise one another through a mechanism of checks and balances (Budiardjo, 2008:275). This division is intended to prevent the concentration of power in a single organ, because power that is not limited tends to be abused. Accordingly, the constitution functions to limit and at the same time distribute state power so that it does not become absolute (Asshiddiqie, 2009:101).

The House of Representatives (*Dewan Perwakilan Rakyat/DPR*), as the legislative body, exercises legislative, supervisory, and representative functions (Amir & Purnomowati, 2005:34). The supervisory function is carried out to ensure that government policies remain consistent with the constitution and with the will of the people it represents (Romli, 2014:30). To perform this function, the DPR is vested with the rights of interpellation, inquiry, and expression of opinion. Normatively, the right of inquiry is understood as the DPR's authority to investigate the implementation of laws or government policies that are important, strategic, and have a broad impact on social, national, and state life, as affirmed in Article 20A paragraph (2) of the 1945 Constitution of the Republic of Indonesia.

The problem arises when the right of inquiry is directed at the Corruption Eradication Commission (*Komisi Pemberantasan Tindak Pidana Korupsi/KPK*). The KPK was

established in response to the weak effectiveness of conventional law-enforcement agencies and the low level of public trust in corruption eradication efforts (Mochtar, 2016:89). For this reason, the KPK was designed as an independent state institution that is free from the influence of any branch of power (*Undang-Undang Republik Indonesia tentang Komisi Pemberantasan Tindak Pidana Korupsi Nomor 30 Tahun 2002, Pasal 3*).

In various decisions, the Constitutional Court has emphasized the importance of KPK independence as a prerequisite for the effectiveness of corruption eradication. Theoretically, an institution such as the KPK may be classified as a state auxiliary institution or an auxiliary state organ (Manan, 2003:12). Asshiddiqie likewise explains that, in the post-reform era, various independent bodies emerged outside the classical trias politica structure (Asshiddiqie, 2006:23).

Nevertheless, subsequent legal developments placed the KPK within the executive branch, even though it continues to be declared independent in carrying out its duties and authorities. This placement creates a conceptual problem. On the one hand, if the KPK is treated as part of the executive, the DPR may consider itself authorized to use the right of inquiry as an instrument of political oversight. On the other hand, if independence is regarded as the primary principle, the use of the right of inquiry risks turning into a form of political intervention in law-enforcement processes. This tension becomes even more problematic given that not a few corruption cases have in fact involved members of the DPR, so that the potential for conflicts of interest cannot be ignored (Romli, 2014:25).

This controversy became evident when the DPR established a Special Committee on the Right of Inquiry against the KPK in 2017 in relation to the handling of the electronic identity card (e-KTP) corruption case. The move attracted broad criticism because it was considered capable of weakening the KPK's independence and disrupting ongoing law-enforcement processes (BBC Indonesia, 2017).

Academic discussions of the DPR's supervisory authority and the institutional position of the KPK have generally focused on two main issues, namely the development of parliamentary oversight mechanisms and the strengthening role of independent state institutions. Romli (2014) explains that the practice of DPR oversight has evolved over time, and the use of the right of inquiry often reflects political dynamics rather than strictly constitutional limits. Mochtar (2016) and Zoelva (2012) likewise affirm that independent institutions and auxiliary state bodies, including the KPK, were established to address the weaknesses of conventional executive bodies and therefore require a certain degree of protection from political influence. Comparative studies show that many democracies have strengthened their oversight mechanisms, particularly where executive dominance poses challenges to accountability (Bolleyer & Salát, 2021:421; Choi, 2020:567; Russell & Gover, 2020:478). At the same time, the right of inquiry is increasingly studied not only as an accountability instrument but also as a means of political contestation (Kim, 2022:89). Research in Indonesia points to a similar conclusion: post-Reformasi oversight has expanded legislative control while at the same time intensifying political tension within the process (Fathun, 2021:211).

Further studies on independent institutions highlight a persistent tension between autonomy and accountability. Such institutions are generally created to remedy deficiencies in the existing executive structure and are expected to operate independently in order to ensure effectiveness (Verhoest, 2021:365-372; Christensen & Læg Reid, 2019:135-162), while still remaining subject to proper oversight so that they do not develop into unaccountable centers of power (Lodge & Wegrich, 2020:45-63). Indonesian constitutional law scholarship emphasizes that auxiliary institutions perform special functions that cannot

be adequately fulfilled by the main branches of power, such that their independence must be balanced by clear and legally valid oversight mechanisms (Subianto, 2020:472; Oliveira & Jordana, 2022:95).

In the context of corruption eradication, recent studies stress that institutional independence is an essential precondition for preventing political interference and ensuring the credibility of law enforcement (Heywood, 2022:345). Anti-corruption institutions in Southeast Asia, including Indonesia, face a continuing risk of political capture when oversight exceeds constitutional limits (Schütte, 2020:429; Butt, 2020:1). Their effectiveness also depends heavily on broader governance factors and domestic institutional constraints (Marquette & Peiffer, 2021:442; Setiyono & McLeod, 2019:227). Recent research in Indonesia shows that the establishment of the KPK Supervisory Board has introduced a new dynamic of internal oversight within the institution itself (Nurhadi, 2023:15). Even so, the specific relationship between the DPR's right of inquiry and the KPK's institutional independence has not yet been examined in depth. This leaves an important conceptual gap, which this article addresses through a constitutional analysis of the limits of parliamentary oversight over an independent law-enforcement body.

Based on this background, this article aims to analyze the limits of the object of the DPR's right of inquiry under statutory regulations, to examine the constitutional position of the KPK within the Indonesian state system, and to assess whether the KPK ought to be categorized as an object of the DPR's right of inquiry together with the proper limits on its use. This analysis is important in order to ensure that the DPR's supervisory function continues to operate constitutionally without turning into a form of political intervention that would instead weaken anti-corruption efforts.

2. METHOD

This article employs a normative juridical research method. The study is carried out through library research by processing secondary data consisting of primary and secondary legal materials. The primary legal materials include the 1945 Constitution of the Republic of Indonesia, Law Number 17 of 2014 concerning the MPR, DPR, DPD, and DPRD (the MD3 Law) and its amendments, Law Number 30 of 2002 concerning the Corruption Eradication Commission as last amended by Law Number 19 of 2019, as well as Constitutional Court decisions concerning the position and independence of the KPK.

Secondary legal materials are drawn from research findings, books, scholarly journals, and constitutional law literature discussing the DPR's right of inquiry, theories of separation of powers, and independent state institutions. These secondary data are analyzed qualitatively through content analysis. The study is descriptive-analytical in nature.

3. FINDINGS AND DISCUSSION

A. The DPR's Right of Inquiry under Statutory Regulations

The supervisory function of the House of Representatives essentially serves as an instrument of control over the executive branch. Through this function, the mechanism of checks and balances between the legislative and executive branches can operate so that the exercise of governmental power does not deviate from the constitution and statutory regulations. Accordingly, the DPR's oversight cannot be viewed merely as a political right, but rather as a logical consequence of the rule-of-law principle, which requires limitations on power (Asshiddiqie, 2009:343).

The strengthening of this supervisory function became more evident after the amendments to the 1945 Constitution of the Republic of Indonesia. Prior to the

amendments, the functions of the DPR were only implied in the general elucidation, so that its position was relatively weak. After the amendments, the supervisory function obtained an explicit constitutional basis through Article 20A paragraph (2), which states that the DPR possesses the right of interpellation, the right of inquiry, and the right to express opinions. This provision marked the shift of the DPR from merely a rubber stamp parliament into an institution that counterbalances executive power (Asshiddiqie, 2009:346).

One of the principal instruments of this supervisory function is the right of inquiry. This right authorizes the DPR to conduct an investigation into the implementation of laws and/or government policies deemed important, strategic, broadly impactful, and allegedly contrary to statutory regulations. Normatively, Law Number 17 of 2014 concerning the MPR, DPR, DPD, and DPRD affirms that an inquiry committee may summon state officials, government officials, legal entities, and citizens to provide testimony and the documents required. In certain circumstances, such summons may even be accompanied by coercive measures with police assistance. This authority shows that the right of inquiry carries significant coercive force within the constitutional system (Undang-Undang Republik Indonesia tentang Majelis Permusyawaratan Rakyat, Dewan Perwakilan Rakyat, Dewan Perwakilan Daerah, dan Dewan Perwakilan Rakyat Daerah Nomor 17 Tahun 2014).

Nevertheless, the object of the right of inquiry is not unlimited. Article 79 paragraph (3) of Law Number 17 of 2014 explicitly restricts the right of inquiry to the implementation of laws and/or government policies. The elucidation of that provision explains that government policy refers to actions or policies carried out by the President, Vice President, ministers, and other heads of government institutions within the framework of executive functions. Conceptually, therefore, the right of inquiry is designed as an instrument of oversight over governmental policy, rather than over all actions of state institutions without exception (Romli, 2014:30-31).

Contemporary democratic theory emphasizes that the parliamentary right of inquiry must be exercised within clearly defined constitutional limits in order to prevent an expansion of authority that could disrupt the principle of separation of powers (Bolleyer & Salát, 2021:421; Choi, 2020:567). A legislative right of inquiry that exceeds its lawful scope risks turning into a partisan instrument rather than a mechanism of accountability (Kim, 2022:89). This is consistent with comparative findings showing that effective legislative oversight requires a proportional design, so that it neither weakens executive responsibility nor opens space for political obstruction (Russell & Gover, 2020:478; Fathun, 2021:211).

To understand these limits, it is first necessary to clarify the meaning of “government policy.” In public policy literature, policy is understood as an effort planned systematically to achieve particular objectives with clear targets and stages. Government policy therefore consists of decisions or actions structured by the government in order to serve the public interest. In the practice of state administration, such policy may be classified into internal (managerial) policy, which binds officials within the governmental organization, and external (public) policy, which binds the wider community and is generally set out in written instruments such as Government Regulations, Presidential Regulations, or Ministerial Decrees (Subekti, 2008:187-188).

Based on this understanding, it may be seen that the object of the DPR's right of inquiry is closely related to the exercise of governmental functions in the sense of administrative policy and public governance. This understanding of the object's limits

provides an important normative foundation for determining the extent to which the DPR may exercise its oversight authority within the Indonesian constitutional system.

B. The Constitutional Position of the KPK and Its Implications for the Application of the DPR's Right of Inquiry

The establishment of the Corruption Eradication Commission (KPK) through Law Number 30 of 2002 was fundamentally a response to the limited effectiveness and lack of independence of the Police and the Prosecutor's Office in combating corruption. Both institutions are structurally situated within the executive hierarchy and were therefore considered vulnerable to political intervention. In such circumstances, a relatively autonomous institution, separated from the conventional bureaucratic structure, was deemed necessary so that law enforcement could be carried out more objectively and free from political pressure. This phenomenon accords with the view that, during democratic transitions, public distrust of existing state institutions often encourages the creation of independent agencies to restore the credibility of law enforcement (Asshiddiqie, 2009:23).

Normatively, this characteristic is affirmed in Article 3 of Law Number 30 of 2002, which provides that the KPK is a state institution that, in carrying out its duties and authorities, is independent and free from the influence of any power whatsoever (*Undang-Undang Republik Indonesia Nomor 30 Tahun 2002, Pasal 3*). On the other hand, the KPK remains obliged to account for the performance of its duties to the public through periodic reports submitted to the President, the DPR, and the State Audit Board. This provision shows that KPK independence is not identical with the absence of accountability; rather, it is independent in the exercise of its functions while still subject to constitutional mechanisms of responsibility.

Various terms are used to describe state institutions that arise outside the main organs of the state, including state auxiliary institutions or state auxiliary organs, namely supporting state bodies. The existence of such supporting organs has been justified by scholars. Bagir Manan distinguishes state institutions according to their functions: (a) principal organs that directly exercise state power, such as the President, the DPR, and the judiciary; (b) administrative bodies that carry out state administrative functions; and (c) supporting organs (auxiliary organs/agencies) that assist and complement the functions of the principal organs (Manan, 2003:45-47). This view is consistent with George Jellinek's distinction between state main organs and state auxiliary organs, which emphasizes that the state requires additional institutional structures to maintain effective and orderly governance (Jellinek sebagaimana dikutip dalam Asshiddiqie, 2009:49-52).

The emergence of such supporting institutions is not without reason. The creation of independent bodies is often driven by the declining credibility of existing institutions due to systemic corruption, the lack of independence caused by domination by certain political powers, and the inability of conventional bureaucratic structures to perform urgent tasks during democratic transition (Mochtar, 2016:55-63). Hamdan Zoelva argues that constitutional organs formed outside the text of the Constitution arise from the practical needs of state administration; such organs are known as state auxiliary institutions and may take the form of non-ministerial or non-structural bodies (Zoelva, 2012:23-27). In this context, the KPK may be understood as an auxiliary state organ established to respond to the specific need for more effective and independent anti-corruption enforcement.

Subsequent developments through Law Number 19 of 2019 explicitly placed the KPK within the executive branch. Even so, this structural placement was accompanied by an affirmation that the KPK remains independent in carrying out its duties and authorities. This formulation reflects two concurrent characteristics, namely structural placement within the executive sphere and a functional guarantee of independence (Subekti, 2008:215).

Theoretically, placement within the executive branch may be understood to mean that the KPK performs governmental functions, namely the implementation of statutory provisions in the field of law enforcement. On that basis, an argument emerges that the DPR, as a legislative body, possesses supervisory authority (including through the right of inquiry) over the KPK, just as it does over other executive institutions. Yet such an approach cannot be applied in a simplistic or purely formalistic manner.

From the outset, the KPK was designed as an independent agency. Its independence was intended to protect investigations, inquiries, and prosecutions in corruption cases from political interference and external pressure (Baer, 1988:378). Therefore, although structurally placed within the executive branch, functionally the KPK cannot be treated as an ordinary executive organ. It remains a state institution whose duties and authorities must be exercised independently and free from the influence of any power whatsoever, as affirmed in its founding law (Manan, 2003:12).

However, independence does not mean the absence of oversight. In a state governed by the rule of law, every exercise of power must in principle be subject to a mechanism of control. Power left without oversight is susceptible to abuse, as Lord Acton famously observed: “power tends to corrupt, and absolute power corrupts absolutely” (Jellinek sebagaimana dikutip dalam Asshiddiqie, 2009:305). Oversight is therefore a logical consequence of constitutionalism, which seeks to prevent the concentration of power in a single institution.

The issue, then, is not whether oversight is necessary, but how it should be designed proportionately. Power without control risks becoming corrupt, yet excessive oversight may equally create intervention that weakens the effectiveness of the supervised institution. In constitutional practice, imbalanced oversight relations can produce collusive, confrontational, or even gridlock dynamics that impede institutional performance (Mochtar, 2016:72). By contrast, oversight that is properly calibrated encourages cooperative and mutually reinforcing relations.

The need for such balance becomes even more relevant in the context of independent institutions. The literature shows that institutional autonomy is justified insofar as it enables such institutions to discharge their special functions free from undue political pressure (Verhoest, 2021:365; Lodge & Wegrich, 2020:401). Oversight mechanisms that intrude too deeply into operational domains risk diminishing institutional effectiveness, especially in the field of anti-corruption enforcement, which requires impartiality (Heywood, 2022:345). Comparative studies likewise show that anti-corruption institutions tend to lose effectiveness when political actors exercise indirect control through oversight channels whose limits are unclear (Schütte, 2020:429; Marquette & Peiffer, 2021:442; Butt, 2020:1).

Accordingly, a sound oversight design requires clarity as to who exercises oversight, how it is to be carried out, and what its limits are. Without such clarity, oversight originally intended to strengthen accountability may instead weaken the performance of the institution concerned. In the case of an independent institution such as the KPK, oversight remains necessary, but it must be structured in a manner

consistent with its independent character so as not to impair the effectiveness of anti-corruption efforts.

Within the KPK's institutional framework, the need for proportional oversight has been accommodated through internal control mechanisms. Amendments to the law introduced the Supervisory Board (*Dewan Pengawas*) as an instrument of internal oversight over the use of the KPK's powers. Certain law-enforcement measures, such as wiretapping, searches, and seizures, require prior written approval from the Supervisory Board (*Undang-Undang Republik Indonesia Nomor 19 Tahun 2019 tentang Perubahan atas Undang-Undang Nomor 30 Tahun 2002 tentang Komisi Pemberantasan Tindak Pidana Korupsi*). This arrangement indicates that oversight over the KPK's operational actions has been placed within an internal legal and ethical framework, rather than relying solely on external political oversight.

In this context, the use of the DPR's right of inquiry against the KPK must be approached with caution. The right of inquiry is, in essence, an instrument of political oversight over the implementation of laws and government policies (*Undang-Undang Republik Indonesia Nomor 17 Tahun 2014 tentang Majelis Permusyawaratan Rakyat, Dewan Perwakilan Rakyat, Dewan Perwakilan Daerah, dan Dewan Perwakilan Rakyat Daerah sebagaimana telah diubah dengan Undang-Undang Nomor 13 Tahun 2019, Pasal 79 ayat (3)*). Although the KPK is structurally situated within the executive branch, not all of its actions may automatically be categorized as "government policy." Governmental policy differs from pro justitia measures that are technical law-enforcement actions, such as investigation, inquiry, and prosecution. If every institutional action were equated with policy, the scope of the right of inquiry would expand without limit and could diminish the independence of law-enforcement functions that ought to remain free from political intervention.

Within the broader Indonesian constitutional landscape, the KPK's institutional trajectory must also be understood as part of the state's effort to construct a credible integrity institution (Setiyono & McLeod, 2019:227; Nurhadi, 2023:15). This accords with the global tendency showing that anti-corruption agencies require both operational autonomy and measurable accountability in order to maintain legitimacy and public trust (Heywood, 2022:345; Oliveira & Jordana, 2022:95).

Accordingly, although normatively the KPK is placed within the executive branch and is therefore not entirely closed to DPR oversight, it cannot be positioned as an absolute object of the right of inquiry. The boundaries must be clear: the right of inquiry may only extend to administrative policy and institutional governance, not to the processes of investigation, inquiry, and prosecution in concrete cases. Without such limitations, the right of inquiry risks becoming an instrument of politicization that erodes institutional independence. For this reason, oversight of the KPK must be designed carefully and proportionately in order to preserve the effectiveness of anti-corruption enforcement.

4. CONCLUSION AND RECOMMENDATIONS

Based on the foregoing discussion, it may be concluded that the DPR's right of inquiry is a constitutional instrument inherent in the DPR's supervisory function over the implementation of laws and government policies as an expression of checks and balances, intended to ensure that executive power does not deviate from the constitution. Nevertheless, the object of the right of inquiry is not normatively unlimited. The MD3 Law restricts its application to the implementation of laws and/or government policies within

the executive sphere, so that not every action of a state institution may be made the object of a political investigation by the DPR.

From an institutional perspective, the KPK emerged in response to the limited effectiveness and independence of conventional law-enforcement agencies in combating corruption. The KPK was designed as an independent agency or state auxiliary institution, namely an auxiliary state organ that is structurally located within the executive branch but whose functional independence is guaranteed. This institutional character distinguishes the KPK from ordinary executive bodies because its law-enforcement powers must be protected from political interference.

Even so, independence does not mean immunity from oversight. Every exercise of public power must in principle remain within a framework of proportional supervision. Oversight that is too weak risks opening room for abuse of authority, whereas excessive oversight may in fact hamper the effectiveness of law enforcement. Within this framework, the establishment of the Supervisory Board under Law Number 19 of 2019 may be understood as a form of internal control over the KPK's operational actions.

Accordingly, although the KPK is structurally situated within the executive branch, not all of its actions can be qualified as "government policy." Pro justitia measures, such as investigation, inquiry, and prosecution, are technical law-enforcement powers rather than administrative policies. Therefore, the DPR's right of inquiry cannot be applied indiscriminately to all KPK activities. Its use must be confined to administrative policy and institutional governance so that it does not become an instrument of political intervention capable of reducing the independence of law enforcement.

Although classical oversight doctrine places the object of supervision on executive institutions as the implementers of laws, the scope of such oversight must be adjusted to modern constitutional developments marked by the emergence of independent auxiliary state institutions. Bruce Ackerman shows that contemporary constitutional power structures have become increasingly complex with the presence of various commissions and independent agencies, making clearer regulation of oversight mechanisms necessary in order to guarantee legal certainty (Ackerman, 2000:692).

On the other hand, the KPK must remain within the scope of DPR oversight, given that the institution was established by a law enacted jointly by the DPR and the President. The essence of the DPR's supervisory function is to oversee the implementation of the laws it has enacted. Accordingly, DPR oversight of the KPK also constitutes a constitutional and moral responsibility to the public, as the representative institution that formulates legislation. Such oversight, however, must be exercised within proper limits of authority and must not encroach upon law-enforcement processes that belong to the KPK's independent domain.

To maintain the balance between democratic oversight and institutional independence, several recommendations may be advanced. First, statutory regulations should formulate with greater clarity and precision the scope of the objects and the mechanisms for the implementation of the DPR's right of inquiry against independent state institutions, so that overly broad interpretations that risk political interference with law-enforcement functions do not arise.

Second, DPR oversight of the KPK should focus on administrative policy, institutional accountability, and organizational governance, rather than on ongoing investigative, inquiry, or prosecutorial processes.

Third, it is hoped that the Supervisory Board introduced through the amendments to the KPK Law will genuinely perform its function as a professional and proportionate internal control mechanism, free from political intervention, so that it can preserve the balance between accountability and KPK independence in anti-corruption efforts.

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