

**INDEPENDENCY OF THE CORRUPTION ERADICATION
COMMISSION IN INDONESIAN CONSTITUTIONAL
SYSTEM WITH SPECIAL REFERENCE TO THE
REVISION OF THE LAW OF THE CORRUPTION
ERADICATION COMMISSION**

Undergraduate Thesis



**Written by:
Lathifah Yuli Kurniasih
NIM. 20170610432**

**Faculty of Law
International Program for Law and Sharia
Constitutional Law
2021**

**INDEPENDENCY OF THE CORRUPTION ERADICATION
COMMISSION IN INDONESIAN CONSTITUTIONAL
SYSTEM WITH SPECIAL REFERENCE TO THE
REVISION OF THE LAW OF THE CORRUPTION
ERADICATION COMMISSION**

Undergraduate Thesis



**Written by:
Lathifah Yuli Kurniasih
NIM. 20170610432**

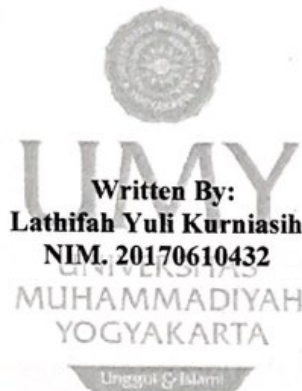
**Faculty of Law
International Program for Law and Sharia
Constitutional Law
2021**

APPROVAL

**INDEPENDENCY OF THE CORRUPTION ERADICATION
COMMISSION IN INDONESIAN CONSTITUTIONAL
SYSTEM WITH SPECIAL REFERENCE TO THE
REVISION OF THE LAW OF THE CORRUPTION
ERADICATION COMMISSION**

Undergraduate Thesis

Submitted as one of the requirements to obtain bachelor degree at
Faculty of Law Universitas Muhammadiyah Yogyakarta



This Undergraduate Thesis has been approved by the Advisor
On Monday, March 8th 2021

Advisor



Iwan Satriawan, S.H., MCL., Ph.D.
NIK. 197007061999904 153 039

DECLARATION

I am, the undersigned:

Nama : Lathifah Yuli Kurniasih

NIM : 20170610432

Judul Skripsi : **INDEPENDENCY OF THE CORRUPTION ERADICATION COMMISSION IN INDONESIAN CONSTITUTIONAL SYSTEM WITH SPECIAL REFERENCE TO THE REVISION OF THE LAW OF THE CORRUPTION ERADICATION COMMISSION**

I hereby declare that this Undergraduate Thesis, is truly the work of my own and I did not do a plagiarism or quotation in ways that are inconsistent with the prevailing ethics in the scientific community. On this statement, I am ready to bear the risk/any sanction imposed to me in accordance with the applicable regulations. If a breach of scientific ethics is found in the future, I am willing to accept the sanction.

Yogyakarta, March 9th 2021



Lathifah Yuli Kurniasih
NIM. 20170610432

DEDICATION

This Undergraduate Thesis is dedicated to

Almighty God, Allah SWT

Prophet Muhammad SAW

My beloved Parents

Sri Widodo

Suratmi

My beloved siblings

Danar Erlangga Kinarya Wiguna

Unggul & Islami

FOREWORDS

Assalamualaikum Wr. Wb.

Alhamdulillahirobbil‘alamin. Praise be to Allah SWT, the Almighty for the mercy and strength so that I could finally finish my Undergraduate Thesis entitled **“INDEPENDENCY OF THE CORRUPTION ERADICATION COMMISSION WITH SPECIAL REFERENCE TO THE REVISION OF THE LAW OF CORRUPTION ERADICATION COMMISSION”**, at International Program for Law and Sharia, Faculty of Law, Universitas Muhammadiyah Yogyakarta.

Invocation and peace go to Muhammad SAW, the Prophet, his family and his disciples. May Allah bless them and give them peace.

I realize that this thesis cannot be completed without the support of many parties, both morally and materially. Therefore, I would like to express my gratitude to all those who have helped me in completing this thesis, especially to:

1. My loving family, Bapak Wid, Mama Ami, my little brother Danar Erlangga, Mbahti, Mbok Sipon, Bunda In, Pakdhe To, Pakdhe Narwan, Bulik Wiwik, Om No, Budhe Imah, and all of my dear cousins who never stop showering me with their love, who never stop giving me support, and never ending prayer.
2. My advisor, Bapak Iwan Satriawan, S.H., MCL., Ph.D. who has always guided me with patience and wisdom.
3. Bapak Nasrullah, S.H., S.Ag., MCL. as the Director of IPOLS.

4. My beloved sisthur, my cancerian, barbie Sonya Whisler Refisyanti and my girl, purple lovers Devi Seviyana who are willing to fight, support and help each other until we can finish our thesis together.
5. My beloved sisters and brothers since first year, Aliza Mufida, Mutia Ovitasaki, Nadila Wati, Aisa Nur, Wynne Khalida Sekarwangi, Jamilah Arifin, Elfatia Ayu Kinasih, Yulian Ahmad Hanafi, Sigit Rosidi, and Yasir Perdana Ritonga who have support me during my study.
6. My beautiful gurls, Ayu Mega Rakhmawati and Salma Rahmi Pratiwi who are willing to be my diary when I was in Malaysia.
7. My beloved friends, Tiwi, Indah, Erlinda, Yustika, Alma, Popi, Tania, Ratih, and Kikok for all the love that have given to me and for being my sister since so long. Hope this sisterhood will be lasting forever.
8. My beloved enemy, my “deep down” who never stop support me and never stop saying “Ayu pasti bisa”.
9. My seniors who are willing to discuss with me and answer all of my confusion.
10. My IPOLIANS brothers and sisters, especially IPOLIANS batch 2017.
11. My IMM brothers and sisters, especially IMM FH 2017.
12. My “Pejuang PENA Families”, especially Pejuang PENA #5. Thank you for teaching me about many things and for giving me many lessons and experiences.
13. My internship friends, Ita, Iin, Windu, Naufal and the big family of Kejaksaan Negeri Sleman who are willing to share experiences in the implementation of

knowledge in the field of work. Hopefully my internship experience will be of use for my future.

14. And to the vast and wonderful world that gives us life and requires us to not to stop in struggle.

Finally, I hope this Undergraduate Thesis will give benefits to all human beings.

Amin. InsyaAllah.

Wassalamu 'alaikum Wr. Wb.



Yogyakarta, March 9th, 2021

UMY
UNIVERSITAS
MUHAMMADIYAH
YOGYAKARTA

Unggul & Islami

A handwritten signature in black ink, appearing to read 'Lathifah Yuli Kurniasih'.

Lathifah Yuli Kurniasih
NIM. 20170610432

TABLE OF CONTENTS

APPROVAL..	ii
ENDORSEMENT	iii
DECLARATION	iii
MOTTO	v
DEDICATION	vi
FOREWORDS	vii
TABLE OF CONTENTS	x
LIST OF STATUTES	xii
LIST OF ABBREVIATION	xiv
ABSTRACT	xvi
CHAPTER ONE INTRODUCTION	
A. Background of Research.....	1
B. Research Problems.....	4
C. Objectives of Research	4
D. Benefits of Research	5
CHAPTER TWO LITERATURE REVIEW	
A. The Concept of Independent State Institutions.....	6
B. The Idea of Corruption Eradication Commission.....	10
C. Theory of the Formation of Law and Regulation	13
CHAPTER THREE RESEARCH METHOD	
A. Type of Research	17
B. Types of Data.....	17
C. Method of Collecting Data	19
D. Method of Data Analysis	19
CHAPTER FOUR FINDING AND ANALYSIS	
A. The Position of the KPK as an Independent State Institution in the Indonesian Constitutional System After the Enactment of the Law Number 19 of 2019 Concerning the Second Amendment to the Law Number 30 of 2002 Concerning the Corruption Eradication Commission.....	20
1. Corruption Eradication Commission (KPK) as a Part of Executive Branch	20
2. The Establishment of the Supervisory Board of Corruption Eradication Commission (KPK).....	23
3. Change of Authority of the Corruption Eradication Commission (KPK) after the Revision of the Law of KPK	27

B. The Implication of the Revision of the Law of KPK to the Position and Status of the KPK in the Indonesian Constitutional System	33
C. The Better Concept for KPK as an Independent State Institution in the Indonesian Constitutional System	41
D. The Problem of Making KPK Independent	50
CHAPTER FIVE CLOSING	
A. Conclusion	54
B. Recommendation	55
BIBLIOGRAPHY	57



LIST OF STATUTES

The 1945 Constitution of the Republic of Indonesia

People's Consultative Assembly Decree Number VIII/MPR/2001 of 2001 concerning Recommendations for the Policy Direction on the Eradication and Prevention of Corruption, Collusion, and Nepotism

People's Consultative Assembly Decree Number XI/MPR/1998 concerning State Administration that Clean and Free from Corruption, Collusion and Nepotism

Law Number 19 of 2019 concerning the Second Amendment to the Law Number 30 of 2002 concerning the Corruption Eradication Commission

Constitutional Court Decision Number 36/PUU-XV/2017

Constitutional Court Decision Number 081/PUU-X/2012

Law Number 12 of 2011 concerning the Formation of Laws and Regulations

Constitutional Court Decision Number 133/PUU-VII/2009

Constitutional Court Decision Number 010/PUU-IV/2006

Constitutional Court Decision Number 006/PUU-I/2003

Law Number 30 of 2002 concerning the Corruption Eradication Commission

Law Number 28 of 1999 concerning State Administration that Clean and Free from Corruption, Collusion, and Nepotism

Indonesian Criminal Procedure Code

Academic Draft of the Draft of the Second Amendment of the Law Number 30 of
2002 concerning Corruption Eradication Commission



LIST OF ABBREVIATION

BI	= Bank Indonesia
BPK	= <i>Badan Pemeriksa Keuangan</i> (Audit Board of the Republic of Indonesia)
CPIB Singapore	= Corrupt Practices Investigation Bureau Singapore
DPD	= <i>Dewan Perwakilan Daerah</i> (Regional Representative Council)
DPR	= <i>Dewan Perwakilan Rakyat</i> (House of Representatives)
ICAC Hong Kong	= Independent Commission Against Corruption Hong Kong
INTERPOL	= International Criminal Police Organization
KOMNAS HAM	= <i>Komisi Nasional Hak Asasi Manusia</i> (National Human Rights Commission)
KPK	= <i>Komisi Pemberantasan Korupsi</i> (Corruption Eradication Commission)
KPKPN	= <i>Komisi Pengawas Kekayaan Pejabat Negara</i> (Commission for the Supervision of State Officials' Wealth)
KPPU	= <i>Komisi Pengawas Persaingan Usaha</i> (Business Competition Supervisory Commission)
KPU	= <i>Komisi Pemilihan Umum</i> (General Election Commission)
KY	= <i>Komisi Yudisial</i> (Judicial Commission)
MA	= <i>Mahkamah Agung</i> (Supreme Court)
MK	= <i>Mahkamah Konstitusi</i> (Constitutional Court)

MPR	= <i>Majelis Permusyawaratan Rakyat</i> (People's Consultative Assembly)
OTT	= <i>Operasi Tangkap Tangan</i> (Arrest Hand Operation)
POLRI	= <i>Polisi Republik Indonesia</i> (Police)
PROLEGNAS	= <i>Program Legislasi Nasional</i> (National Legislation Program)
SP3	= <i>Surat Perintah Penghentian Penyidikan</i> (Warrant Termination of Investigation)
TNI	= <i>Tentara Nasional Indonesia</i> (Indonesian International Army)
US	= United States

