

Analisis Permanence Principle (Prinsip Permanen) Komisi Pemberantasan Korupsi Republik Indonesia Berdasarkan Colombo Commentary on The Jakarta Statement on Principles For Anticorruption Agencies = Analysis of the Permanence Principle of the Corruption Eradication Commission of the Republic of Indonesia Based on the Colombo Commentary on The Jakarta Statement on Principles For Anticorruption Agencies

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Abstrak

xPermanence Principle menentukan agar lembaga pemberantas korupsi dibentuk dengan dasar hukum yang kuat dan stabil seperti konstitusi atau setidaknya undang-undang khusus yang memberi penguatan kelembagaan, memastikan eksistensi dan melindunginya dari perambahan mandat hingga pembubarannya. Pengaturan dalam UUD sejalan dengan constitutional importance sebagaimana pandangan Mahkamah Konstitusi bahwa KPK merupakan lembaga negara yang bersifat independen dan memiliki kedudukan yang sejajar dengan lembaga negara yang tersebut dalam UUD NRI 1945. Lembaga negara independen sendiri merupakan konsep perkembangan cabang kekuasaan di luar trias politica konvensional yang kemudian disebut sebagai The Fourth Branch of The Government atau cabang kekuasaan ke-empat (De Vierde Macht). Permanence Principle adalah salah satu prinsip the Jakarta Statement On Principles for Anti-Corruption Agencies yang kemudian dikembangkan lagi oleh Colombo Commentary. Merupakan instrument pedoman implementasi Pasal 6 dan Pasal 36 UNCAC sebagaimana telah diratifikasi Undang-Undang Nomor 7 Tahun 2006. Negara diberi mandat untuk memberlakukan kerangka hukum, kelembagaan dan kebijakan yang kuat untuk mengatasi korupsi. Dalam konsepsi negara hukum, komisi negara independen merupakan eksistensi cabang keempat (fourth-branch institutions) yang berfungsi untuk menjaga integritas cabang kekuasaan lainnya. Keberadaannya sejalan dengan tujuan dari separation/distribution of power yaitu menghindari pemusatan kekuasaan semata agar hukum dan demokrasi berjalan efektif, mendorong pemerintahan yang responsive, dan menjadikan kompetensi aparat yang profesional. Sehingga dapat memberikan perlindungan dan peningkatan hak-hak fundamental dan keadilan sosial. Melalui metode penelitian yuridis normatif, tulisan ini akan menganalisis permanence KPK berdasarkan Colombo Commentary On the Jakarta Statement On Principles for Anti-Corruption Agencies. Penelitian menunjukkan bahwa undang-undang KPK tidak mempunyai kekhususan dalam urgensi permanence. Darinya berkorelasi faktual atas perubahan yang terjadi secara kilat dan tidak diharapkan publik karena justru tidak memberi penguatan yang diperlukan. Bercermin pada lembaga pemberantas korupsi masa lalu yang selalu berakhir layu dan mati, diperlukan penguatan permanence sebagaimana mandate UNCAC, sekaligus berkorelasi dengan narasi constitutional importance sebagaimana putusan Mahkamah Konstitusi.

.....The Permanence Principles stipulate that a corruption eradication agency should be formed with a strong and stable legal basis such as a constitution or at least a special law that provides institutional strengthening, ensures its existence and protects it from encroachment on its mandate until its dissolution. The provisions in the Constitution are in line with constitutional importance establishing the view of the Constitutional

Court that the KPK is a state institution that is independent and has an equal position with the state institutions referred to in the 1945 Constitution of the Republic of Indonesia. The independent state institution itself is a concept of the development of branches of power outside the trias politica convention later referred to as the Fourth Branch of Government or the fourth power branch (De Vierde Macht). The Permanence Principle is one of the principles of The Jakarta Statement On Principles for Anti-Corruption Agencies which was further developed by the Colombo Commentary. It is a guiding instrument for the implementation of Articles 6 and 36 of the UNCAC as ratified by Law Number 7 of 2006. The state is mandated to uphold strong legal, institutional and policy frameworks to tackle corruption. In the constitution of a rule of law state, an independent state commission is the existence of the fourth branch (fourth branch institution) which functions to maintain the integrity of the other branches of power. Its existence is in line with the objectives of the separation/sharing of powers, namely avoiding the concentration of power solely so that law and democracy can work effectively, encourage responsive government, and make the apparatus professionally competent. So as to provide protection and improvement of fundamental rights and social justice. Through normative juridical research methods, this paper will analyze the permanence of the KPK based on the Colombo Commentary on the Jakarta Statement on Principles for Anti-Corruption Agency. Research shows that the KPK law has no specificity in the urgency of permanence. From that, there is a factual correlation of changes that occurred quickly and were not expected by the public because they did not provide the necessary reinforcement. Reflecting on past corruption eradication institutions which always ended in lay and die, permanent strengthening is needed as mandated by the UNCAC, while at the same time correlating with the narrative of constitutional importance as stated in the decisions of the Constitutional Court.