



The Function of the Professional Code of Ethics in the Reconstruction of a Professional and Dignified Advocate Organization

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Abstract. Advocate profession is a component of the law enforcement system and is included as part of a noble profession (*officium nobile*) so that it is obligatory to obey and uphold the ethical values of the profession. Therefore, it takes a unified and shared perception of values in carrying out legal practices so that justice for society can be realized. However, currently, professional advocate organizations in Indonesia are experiencing divisions where there is more than one advocate organization that claims to be a legitimate advocate organization. This research will examine and evaluate the juridical basis for the establishment of each advocate organization and seek to analyze the reconstruction and restructuring of these professional organizations in the future so that the legal services provided can truly be based on the values of justice, certainty, and the benefits of law to society. This research is a normative juridical research. The results of the interim research show that the need for a united advocate organization is needed so that law enforcement does not just protect every advocate organization that commits an act that is detrimental to the interests of a person or society but returns to the spirit of justice and certainty based on the principles of professionalism and independence.

Keywords: Advocates · Code of ethics · Justice · Law enforcement · Professional organizations

1 Introduction

Advocate profession is a component of the law enforcement system and is included as part of a special and noble profession (*officium nobile*) so that it is obligatory to obey and uphold ethical values. Considering that Advocates fight for the rights of justice seekers who in carrying out their profession must also comply with applicable legal provisions including the Advocate Code of Ethics.

The field of work of an advocate is to provide legal services or legal assistance to people who need it. Of course, the provision of legal assistance by advocates within the larger framework is aimed at fulfilling legal objectives, maintaining order, balancing various interests, welfare and happiness. In proceedings before the Court, the main task of a legal adviser is to present facts and considerations that are related to the client he

is defending in the case, so that with that it is possible for the judge to give the fairest possible decision.

The profession of an advocate as a law enforcer is based on Law Number 18 of 2003 concerning Advocates and Article 24 Paragraph (1) of the 1945 Constitution. The profession of a free, independent and responsible advocate, which is regulated in Law Number 18 of 2003, in administering justice to uphold law and justice. Every legal process, be it criminal, civil, state administration, or even state administration, always involves the advocate profession whose position is equal to other law enforcers. In efforts to eradicate corruption, especially judicial mafia practices, advocates can play a major role by breaking the chain of judicial mafia practices that occur. Whether or not this role is carried out depends on the advocate profession and advocate organizations whose independence and freedom are guaranteed in Law no. 18 of 2003 concerning Advocates.

In several countries, advocates have a very large role for society. Advocates can be directly involved in providing legal assistance, not only for those who are able but also for those who are less able. An advocate who adheres to his code of ethics will not refuse or discriminate against his client's treatment. That is why advocates are called a special and noble profession.

To realize the advocate profession that functions as law enforcement and justice is also determined by the role of Advocate Organizations. Law no. 18 of 2003 concerning Advocates has provided rules regarding supervision, actions against violations, and dismissal of advocates whose implementation is carried out by Advocate Organizations. However, the current problem for advocates in Indonesia is that there are many advocate organizations in this country, even though the advocate organization that was born after the formation of Law Number 18 of 2003 concerning Advocates is Peradi (Indonesian Advocates Association).

Advocate profession cannot be separated from the code of conduct which contains values and morals. The purpose of the code of ethics according to Sidharta is a set of rules of conduct as a guideline that must be obeyed in carrying out a profession. The large number of advocate organizations in Indonesia raises new problems how to uphold the code of ethics if an advocate violates the dignity and authority of his profession.

The formulation of the problem put forward is what is the juridical basis for the formation of each advocate organization? and how about the reconstruction and restructuring of the advocate professional organization? This research is intended so that the legal services provided can really be based on the values of justice, certainty, and the benefits of law to the community.

This research is a juridical-normative research. According to Soerjono, Soekanto and Sri Mamuji normative legal research or also called library legal research is legal research conducted by examining library materials or mere secondary data. Normative juridical research is a type of legal research that places law as a system of norms. Normative legal research is literature research or secondary data by studying sources or written materials. Data analysis uses content analysis and is processed qualitatively. The data sources that the authors use in writing this law are secondary data sources, which consist of:

1. Primary legal materials, namely:
 - a. Law No. 18 of 2003 concerning Advocates.
 - b. The 1945 Constitution of the Republic of Indonesia

2. Secondary legal materials, namely:
 - a. It is data that indirectly provides materials for research studies and legal materials in the form of documents, books, dictionaries, and various other literature.
3. Tertiary legal materials
It is data that indirectly provides materials for research studies and legal materials in the form of internet postings or journals.

2 Discussion

2.1 Overview of the Juridical Basis for the Formation of Each Advocate Organization

1. Prior to the enactment of Law Number 18 of 2003 concerning Advocates which has been in force until now, during the New Order era there were legal regulations regarding advocates who at that time were called practicing lawyers and legal advisers.
2. In Law Number 14 of 1970 concerning Principles of Justice (Law No. 14 of 1970) there is no mention of an advocate, but legal adviser, as specified in Article 35 of Law no. 14 of 1970. In this connection, the terms Legal Counsel and Practicing Lawyer are also known, where practicing lawyers are intended for those who have passed the practice exam and obtained a license to practice at the High Court.
3. The term practicing attorney indicates that if a candidate with a law degree has passed the examination held by the High Court, he will receive a letter of appointment from the High Court, whereas a person who obtains an appointment from the minister of justice after graduating to become a practicing lawyer is called a legal adviser, and this is in accordance with Article 1 of the 1981 Criminal Procedure Code (KUHAP).
4. Then the Supreme Court issued Circular No.: 8 of 1987 concerning Explanations and Instructions for Joint Decisions of the Chief Justice of the Supreme Court and the Minister of Justice dated July 6, 1987 No.: KMA/005/SKB/VII/1987 and No.: M. 03- PR.08.05 of 1987 which divides Legal Advisers into two categories:
 - A. Advocate lawyers who have been appointed by the Minister of Justice and on that basis obtain permission to practice law anywhere.
 - B. Practicing lawyers who are licensed by the Chief Justices of the Court of Appeal to practice law within the jurisdiction of the Court of Appeal concerned.
5. However, in daily practice, practicing lawyers are generally seen as having “lower” status. Because legal advisors appointed by the minister of justice feel they have a higher status and claim to be advocates. Even though both legal advisers and practicing lawyers both undergo a series of training trips in order to fulfill the requirements as advocates.
6. Advocate organizations give their own color to the history of the development of the world of law in this country. Its existence has existed even since the colonial era. The history of the formation of advocate organizations in Indonesia is a long journey, before the enactment of Law Number 18 of 2003 Concerning Advocates, there were actually many advocate organizations that were formed before pre-independence. Country) and raad van justitie (court council). The advocates are members of an organization called Balie van Advocaten.

7. After independence, the Indonesian Advocates National Law Seminar which was held on March 4, 1963 in Jakarta gave birth to an organization called the Indonesian Advocates Association (PAI). Then in the Deliberation I/Congress of Advocates which took place at the Danau Toba Hotel in Solo, on August 30, 1964, by acclamation the establishment of the Association of Indonesian Advocates, abbreviated as Peradin, was inaugurated as a substitute for PAI. Peradin membership is voluntary and there is no compulsion to enter Peradin.
8. During the New Order era, the presence of Peradin was considered a threat to the running of government and law enforcement in Indonesia. Therefore, in the 1980s, the government began to make efforts and strategies to merge Peradin into a single container that could be controlled by the government. In 1977 there was debate due to sharp differences between Peradin members. The debate led to several members leaving and establishing the Indonesian Legal Advisory Association (HPHI).
9. In 1985, a new organization emerged called the Indonesian Advocates Association (Ikadin) which was founded by Ali Said and Ismael Saleh to create a single forum for advocate organizations. Several Peradin figures entered Ikadin and held the first national meeting in 1990. Five years later, in 1995 the second national meeting was held. At this second event, a debate arose within the organization which led to a split. Some members of the Ikadin left and formed an organization called the Indonesian Advocates Association (AAI).
10. In the Reformation era, after the fall of the authoritarian New Order regime known as "Reformasi" advocates began to regroup to push for the birth of the Advocate Profession Law and dream of an independent advocate organization, free from interference by state power. Seven advocate organizations in Indonesia, namely: IKADIN, AAI, IPHI, SPI, HAPI, HKHPM, AKHI.

These seven organizations agreed to form the first version of the Indonesian Advocates Working Committee (KKAI) which was formed on February 11, 2002, so that the existing FKAI Forum merged into the First version of the KKAI. It was this first version of KKAI that then held the Practicing Lawyer Exam on April 17, 2002, made the Indonesian Advocates Code of Ethics (KEAI) on May 23, 2002 and encouraged the ratification of the Advocate Professional Bill into Law No. 18 of 2003 concerning Advocates. After completion and successful implementation of its duties, the first version of KKAI was dissolved and then formed the Second version of KKAI on June 16, 2003 by 8 (eight) advocate organizations mentioned in Article 32 paragraph (3).

KKAI-version Second, one of its tasks is to prepare the establishment of a single forum for advocate professional organizations as mandated in article 28 paragraph (1) of Law Number 18 of 2003 concerning Advocates, considering that according to article 32 the opportunity given to form a single forum for advocate professional organizations is no later than 2 years after the enactment of the Law.

2.2 Overview of the Reconstruction and Restructuring of the Advocate Professional Organization

To anticipate the expiration of the establishment of a single container mandated by Article 32 paragraph (4) of Law Number 18 of 2003 concerning Advocates and follow

up on the results of the implementation of duties from the second version of KKAI, On April 7, 2005 at Balai Sudirman, Jakarta by Indonesian advocates who are members of 8 advocate organizations established a new organization of advocates unity called PERADI (Indonesian Advocates Association). Then stated in the deed of statement of the Director of the Indonesian Advocates Association No. 30, dated September 8, 2005 made before Notary Buntario Tigris Darmawa Ng [1]. Since now PERADI is the only advocate organization in Indonesia based on the mandate and order of Law Number 18 of 2003 concerning Advocates and received constitutional force by the Constitutional Court in Case Decision Number 014 / PUU-IV / 2006 by giving Peradi its position as a State organ [1].

After its formation, Peradi has implemented several fundamental decisions, namely:

1. Peradi has formulated procedures for foreign advocates to submit recommendations to work in Indonesia.
2. Peradi has established a Temporary Honor Board based in Jakarta and will soon establish a permanent Honor Council. The establishment of Honor Councils in other areas is currently Peradi's priority.
3. Peradi has established the Indonesian Advocates Professional Education Commission (KP2AI). The commission is responsible for providing special education for prospective advocates as well as continuing legal education for advocates [1].

Both KKAI and Peradi have prepared basic materials for Peradi to use to improve advocate management in the future. It is also important to note that to date all decisions, including the decision to form Peradi and the composition of its governing body, have been taken through deliberation to reach agreement based on the Indonesian advocate paradigm [4].

The birth of the Peradi organization as the parent forum for advocates as mandated in Law Number 18 of 2003 concerning Advocates does not necessarily make the Peradi organization free from problems, since 2008, PERADI began to be marked by divisions, several PERADI administrators declared their departure and formed the Indonesian Advocates Congress (KAI). In May 2008 the course also experienced a split. The Peradi conflict continued after the implementation of Munas II in Makassar in 2015 which ended in chaos and the Pekanbaru Munas, which resulted in 3 (three) Peradi camps. Namely Peradi, Peradi SAI (Suara Advokat Indonesia) and Peradi RAB (Rumah Advokat Bersama). Which has each organization has a different chairman. A very heartbreaking reality for advocates, and is the first incident in Indonesia, or perhaps in the world, of a professional organization breaking up three with each using the same name.

In 2019, in addition to Peradi, which is recognized as the sole forum for the advocate profession, there are 28 other advocate organizations in Indonesia [5]. So this raises a new problem, a phenomenon occurs that actually obscures the reality of the single bar system of advocate organizations that actually have authority in overseeing the advocate profession.

Of the many advocate organizations in Indonesia, each advocate organization must have its own code of ethics, as a single forum for advocate organizations in Indonesia, the code of ethics issued by Peradi each advocate must comply and comply with the rules issued by the organization. The reality in Indonesia is not met, the impact if a client makes a report that an advocate violates the code of ethics to the Advocate Supervisory

Commission at the advocate organization where the advocate is sheltered, it will have difficulties in terms of sanctioning if the advocate is in a different organization other than Peradi [6].

Indonesian advocates have had a single code of conduct established since 2022. As affirmed in the Preamble to the code of ethics, it is an obligation as a protection for every advocate in carrying out his profession. Whose existence has been and must be recognized by every advocate regardless of which professional organization he belongs to. And further strengthened in Law Number 18 of 2002 concerning Advocates [6].

When compared to other law enforcers such as the Police Professional Code of Ethics, violations of the police professional code of ethics are regulated in the Regulation of the Chief of Police of the Republic of Indonesia Number 14 of 2011 concerning the Code of Professional Ethics of the National Police of the Republic of Indonesia [5]. As well as the Prosecutor Code of Ethics regulated in the Attorney General Regulation of the Republic of Indonesia Number Per-014 /A/Ja/11/2012 concerning the Prosecutor Code of Conduct explained: To realize prosecutors who have integrity, are responsible and able to provide excellent service to the community, and realize a clean, effective, efficient, transparent and accountable bureaucracy based on the doctrine of Tri Krama Adhyaksa [5].

3 Conclusion

The need for the unity of advocate organizations is needed so that law enforcement is not just protecting every advocate organization that commits an act that harms the interests of a person and the community but returns to the spirit of justice and certainty based on the principles of professionalism and independence. This advocate organization dispute must be resolved immediately so that there is legal certainty about the only advocate organization recognized by Law Number 18 of 2003 concerning Advocates, which advocate code of ethics should be used and the division in the advocate community can be stopped immediately.

Recommendation

Despite the dynamics of the conflict, we must continue to strive and encourage the Advocate Organization in Indonesia to be truly independent and optimal in carrying out all its functions (in accordance with the Law on Advocates and IBA Legal Professional Organization Standards, 1990) and actively encourage the realization of a rule of law based on human rights and the Constitution. Not just collecting financial benefits through recruiting as many members as possible and collecting re-registration fees, without paying attention to quality and ethical standards and ignoring the obligation to increase the capacity and professionalism of its members and not being firm against various violations of the professional code of ethics. There is a need for an update of the Law on Advocates because the existence and function of Advocates has developed, because Law Number 18 of 2003 concerning Advocates is no longer relevant to the current situation, as well as legal certainty about the only (single) advocate professional organization in Indonesia recognized by law.

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