



The Role of Advocates In Law Enforcement and Providing Legal Aid, Especially In The Religious Courts

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Abstract: This research was conducted with the aim and purpose of examining and seeing the extent of the role of advocates as law enforcers who have a role in providing services and legal assistance to judicial institutions, especially in the Religious Courts. This research uses normative legal type methods, namely research that obtains legal materials by collecting and analysing legal materials related to the problem to be discussed through a statutory approach, namely Law Number 13 of 2003 concerning Advocates. Advocates as law enforcers are recognised through Law Number 13 of 2003 concerning Advocates as a follow-up regulation to the constitution which confirms that Indonesia as a State of Law is obliged to uphold the rule of law. The results showed that the role of advocates as a law enforcement profession in the Religious Courts can provide positive value in providing legal aid considering that the Judiciary, especially the Religious Courts, has absolute competence and relative competence in cases that certainly require the role and assistance of advocates to assist litigants in fighting for their rights in court. In addition, advocates have a very important role in handling certain types of cases, including: marriage, inheritance, wills, grants, waqf, zakat, infaq, sadaqah, and sharia economics.

Keywords: Advocates, Law Enforcement, Legal Aid, Religious Courts

Introduction

The rule of law which is often found in Indonesian literature refers to a concept of a state where the government and rulers, in exercising their power, are not based solely on their will but on the basis of applicable legal norms, all people in the state are subject to legal provisions, both as individuals and society. as well as as a ruler. (Suhartono R. M, 2024) The Constitution of the State of Indonesia, namely the 1945 Constitution, this provision is stated firmly in Article 1 paragraph (3) which reads: "The State of Indonesia is a State of Law". A rule of law is a state that is regulated by law and regulates people's lives on the basis of legal provisions.

The most important element in the concept of a rule of law is the supremacy of law. The three characteristics of a legal state are: 1. recognition of the protection of human rights, which contains equality in the political, legal, social, economic and cultural fields; 2. a judiciary that is free and impartial and is not influenced by any power or force; 3. legality in the sense of law in all its forms. (Rais M. T. R, 2022). Law enforcement, which is the most important element of a rule of law, is carried out by law enforcers, one of whom is an advocate. The implementation of the duties of advocates is further regulated in national regulatory legal instruments in Law Number 18 of 2003 concerning Advocates.

"Advocate status as law enforcer" is one of the legal instruments in the judicial process whose position is equal to other law enforcers such as prosecutors, judges and police in upholding law and justice. (Nurhidayah A, 2023) Even more firmly, it is one of the pillars of upholding the supremacy of law and protecting human rights in Indonesia. Advocates carry out their professional duties for the sake of upholding justice based on law for the benefit of the people seeking justice. Apart from the judicial process, the role of Advocates is also seen in professional channels outside the court. The need for legal services for advocates outside the judicial process is currently increasing, in line with the growing legal needs of society, especially in entering a life that is increasingly open to social interactions between nations.

Advocate is a form of honorable profession (*officium nobile*). In carrying out the profession, an advocate must have freedom based on the honor and personality of an advocate who adheres to honesty, independence, confidentiality and openness, in order to prevent the emergence of dishonorable attitudes and less honorable behavior. (Nardo L, 2023) In Law Number 18 of 2003, an advocate is a profession that provides legal services, both inside and outside the court, which meets the requirements based on the provisions of this law.

Advocates as providers of legal assistance or legal services to the public or clients who face legal problems whose existence is really needed. Nowadays it is increasingly important, along with increasing public legal awareness and the complexity of legal problems. (Kinanty et al, 2023) In particular, people who are Muslim who litigate related to more private matters are tried through the Religious Courts. This is where advocates play a role as providers of legal services to Muslim communities.

Methodology

This research uses normative legal research, which is research that obtains legal materials by collecting and analysing legal materials related to the problems to be discussed through a statutory approach, namely Law Number 13 of 2003 concerning Advocates (The

legal materials) used in this research are primary legal materials, secondary legal materials and tertiary legal materials. (Tan D, 2021) The technique of collecting legal materials is done by conducting library research. The main focus of the article discussed will be focused on questions, among others: How is the role of advocates in law enforcement in Indonesia? And how is the role of advocates in providing legal aid, especially in religious courts?

Result and Discussion

The role of Advocates in law enforcement in Indonesia

Law enforcement in a broad sense includes activities to carry out and apply the law as well as taking legal action against any violations or deviations from the law committed by legal subjects, either through judicial procedures or through arbitration procedures and other dispute resolution mechanisms (alternative disputes or conflicts resolution). (Arliman L, 2020). In fact, in a broader sense, law enforcement activities also include all activities intended so that the law as a set of normative rules that regulate and bind legal subjects in all aspects of social and state life are truly obeyed and truly carried out as they should. In a narrow sense, law enforcement involves taking action against every violation or deviation from statutory regulations, especially more narrowly through the criminal justice process which involves the role of police officers, prosecutors, advocates or lawyers, and judicial bodies.

Article 24 Paragraph (1) of the 1945 Constitution states that judicial power is an independent power to administer justice to uphold law and justice. Therefore, apart from the actors of judicial power, namely the Supreme Court and the Constitutional Court, other bodies whose functions are related to judicial power must also support the implementation of independent judicial power. (Safa'at R. A. & Ananda G. A. P, 2024) One of them is the free, independent and responsible profession of advocate as further regulated in Law Number 18 of 2003 concerning Advocates.

The provisions of Article 5 Paragraph (1) of the Advocate Law give Advocates status as law enforcers who have an equal position with other law enforcers in upholding law and justice. (Syahputra A, 2015) This position requires an organization which is the only professional forum for Advocates as intended in Article 28 Paragraph (1) of the Advocate Law, it is stated that "The Advocate Organization is the only free and independent professional forum for Advocates which is formed in accordance with the provisions of the Law. This law is intended and aimed at improving the quality of the Advocate profession." Therefore, the Advocates' Organization, namely the Indonesian Advocates Association (PERADI), is basically a state organ in the broadest sense that is independent (independent state organ) which also carries out State functions.

Thus, the advocate profession has an important role in law enforcement efforts. Every legal process, whether criminal, civil, state administration, 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 big role by breaking the chain of judicial mafia practices that occur. (Hamonangan V, 2024) Whether this role is carried out or not depends on the advocate profession and advocate organizations whose independence and freedom are guaranteed in the Advocate Law.

Apart from that, realizing an advocate profession that functions as an enforcer of law and justice is also determined by the role of the Advocate Organization. The Law on Advocates provides regulations regarding supervision, action against violations, and dismissal of advocates, the implementation of which is carried out by the Advocates' Organization. The provisions of Article 6 of the Advocates Law, for example, stipulate that advocates can be subject to action on the grounds of: neglecting or neglecting the interests of their clients; act or behave inappropriately towards opponents or fellow professionals; behaving, acting, speaking or making statements that show disrespect for the law, legislation or the courts; do things that are contrary to their obligations, honor, or the dignity of their profession; committing violations of laws and regulations and/or disgraceful acts; violates the Advocate's oath/promise and/or the Advocate's professional code of ethics. (Suhayati M, 2016)

The role of an advocate in providing legal services for the client's interests with the aim of making amends for the parties to the dispute is very decisive. The meaning of the role here is how he can carry out his profession in accordance with his duties and functions as well as the code of ethics and the advocate's professional oath. Meanwhile, what is meant by providing legal services by an advocate is assisting, becoming an attorney, providing legal advice to clients, whether of a social nature; pro bono public or on the basis of receiving an honorarium/fee. In the explanation of the Law on Advocates, it is stated that in practice the role of providing legal assistance is carried out by advocates in litigation and non-litigation. Litigation legal services are legal services relating to legal disputes or cases inside or outside court and arbitration. Meanwhile, non-litigation legal services are legal services outside the field of litigation legal services. (Lubis et al, 2025)

The Role of Advocates in Providing Legal Assistance in Religious Courts

All countries spread across the world have judicial institutions. This is because every country wants to enforce law and human rights, including Indonesia. It is impossible to imagine the condition of a society in a country without a judicial institution. Judicial institutions are a basic need for society and the state in accessing justice and fighting for people's rights, so the government is obliged to establish these institutions. The existence of

the Religious Courts as a legal institution of the first level judiciary which has the task of handling civil cases of Muslim communities in Indonesia based on Pancasila must be able to provide maximum service to people who want law enforcement, which upholds truth and justice. (Gunawan E, 2016)

So the interpretation and understanding of regulations cannot be separated from the law enforcement officials themselves, in this case the judge when handing down a decision which is produced as a legal product of the Religious Courts. The role of advocates in providing legal services for the interests of clients with the aim of providing legal assistance to parties in dispute is very decisive. The role of an advocate in question is how an advocate can carry out his profession according to his function and uphold the code of ethics and advocate's oath. (Alqorni et al, 2025) Meanwhile, what is meant by providing legal services by an advocate is assisting, becoming a legal representative, providing legal services to clients both on a social basis and on the basis of receiving an honorarium.

The position of an advocate in a trial can be to act as a representative or companion of the community, which gives him the power to defend his legal interests. (Pramono A, 2016) If the authorized position is only as an assistant, it means that the advocate concerned does not have the right to speak at the trial. However, if an advocate has been given power of attorney as a representative, then the person giving the power of attorney no longer has the right to speak at the trial. This difference in granting power of attorney is important so that the proceedings are not disrupted. For example, because there are differences in the information provided by the attorney and the applicant's information. This situation often occurs if both of them speak together in court without coordinating first. However, difficulties can also arise if the legal representative who has been appointed as representative does not understand the entire substance of the matter requested by the applicant. To overcome this, with the permission of the panel of judges, either the accompanying attorney or the proxy who has been represented by a proxy may still be given the opportunity to speak if necessary.

In such cases, the person concerned can submit a request to the chairman of the panel who will consider whether he should be given the opportunity to speak or not. There are several factors why people choose to use the services of advocates to represent their cases to be resolved in the Religious Courts, including: The community's knowledge is very weak or lacking regarding the law and the procedural process at trials before the Religious Courts. (Qalbi et al, 2021) It makes the proceedings easier and smoother because the community has other activities Like a job that cannot be abandoned, there is a chance of getting maximum results compared to resolving the case yourself without the help of an attorney.

The role of advocates who practice in Religious Courts in providing legal services is considered positive for society in seeking justice, truth and law enforcement. The positive

role of advocates can be described in several ways, including: Accelerating the completion of case administration in the Religious Courts, Helping to present the parties involved in the case and witnesses related to the case in the Religious Courts, Providing an understanding of the law relating to the case and its position to the parties in conveying it. (FERNADO Y, 2021) application or lawsuit or receiving a decision from the Religious Court, Accompanying the parties involved in a lawsuit in the Religious Court so that they feel protected in their rights to fight for justice, Representing parties who cannot attend the trial process, thereby expediting the trial process.

Like the knowledge possessed by an advocate regarding judicial institutions. The Religious Courts which are the object of this article are the judicial environment under the Supreme Court for people seeking justice who are Muslims regarding certain civil cases regulated by law. The power of the court in each judicial environment consists of relative power and absolute power. Relative powers relate to the jurisdiction of a court, the court of first instance or the court of appeal. (Anom S, 2020). Relative competence is the division of authority or adjudicatory power between District Courts. Or in other words, which District Court has the authority to examine and decide cases. Another definition of relative authority is judicial power of one type and one level, in contrast to the power of courts of the same type and level. Looking at the explanation of this definition, the meaning of relative authority is the power or authority given to a court within a judicial environment of the same type and level relating to the jurisdiction of the court and the area of residence/residence or domicile of the parties involved in the case.

Religious courts, apart from having relative powers as mentioned above, also have absolute powers with regard to types of cases. Absolute competence (absolute competence) is power related to the types of cases and disputes with the power of the court. The power of the court within the Religious Courts is to examine, decide and resolve certain civil cases among certain groups of people, namely people who are Muslim. The absolute authority of the Religious Courts is basically: marriage; inheritance; will; grant; endowments; zakat; infaq; sadaqah; and sharia economics. (Baihaki A. & Prasetya M. R. B, 2021) The absolute competency of the Religious Courts above provides great opportunities for advocates to provide their services in the Religious Courts. However, the services provided are limited to cases submitted by parties who are Muslim. These things are the knowledge and abilities in the legal field that advocates have in providing legal assistance to carry out legal efforts for the interests of clients or the public who ask for help.

In providing legal assistance, as a professional advocate you also have an obligation to uphold the advocate's oath and professional code of ethics in carrying out your role in accordance with your duties and functions. An Indonesian advocate must be willing to provide legal advice and assistance to anyone who needs the professional knowledge and

insight of an advocate in a non-discriminatory manner without regard to differences in religion, belief, ethnicity, nation and so on. (Absi W. Z, 2023) This is a normative ethic which is an obligation for Indonesian advocates apart from being regulated in Law Number 18 of 2003 concerning Advocates, that moral responsibility as a law enforcement profession must be held in the hearts of every person who works as an advocate.

Conclusion

Advocates have a very important role in law enforcement in the Religious Courts. The role of advocates in the Religious Courts is very much needed considering that the Religious Courts have absolute competence in cases which of course require the role and assistance of services from advocates to help parties litigating in the Religious Courts. The services provided by advocates to their clients include accompanying, acting as an attorney, and providing advice.

Religious courts are courts that adjudicate cases for Islamic communities with various types of specific cases, including: marriage, inheritance, wills, grants, endowments, zakat, infaq, sadaqah, and sharia economics. So the role of an advocate as a law enforcement profession in the Religious Courts can provide positive value in providing legal services, for example speeding up the resolution of cases, providing legal understanding regarding the main problems faced by the community, helping to smooth trials, helping present the parties in the case, and representing the parties who could not attend the trial.

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