

Manotar Tampubolon (Advocates' Duties as Officium Nobile for Despicable Conduct: An Altruistic Outlook)

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Advocates' Duties as Officium Nobile for Despicable Conduct: An Altruistic Outlook

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Abstract. The role of an advocate is essential in providing legal aid to those in need, and their legitimate competence and professionalism are considered necessary. This is a descriptive method with statutory and conceptual underlying principles. Instead of constantly pursuing material for legal assistance, the advocate profession promotes ethical conduct in their duties as a legal aid service provider. Every advocate is required to follow the Advocate's ethical standards. The moral and ethical trend of advocates includes submission to Almighty God, the Rule on Advocates, and their own Clients. As a result, the profession of advocate is known as an officium nobile, or a virtuous profession. Advocates must follow the Indonesian Advocates Code of Ethics, which includes sanctions for unethical behavior. According to the authors, Indonesian lawyers do not appear to follow an ethical code in their work. Several lawyers are facing lawsuits for violating ethical principles in the defense of their clients because there is a widespread misconception that an advocate can be prosecuted for criminal or civil law violations. This unprovable assertion breaks the law and also the doctrine of equal treatment under the law.

Keywords. ethics code, disgraceful behavior, officium nobile, integrity

Introduction

Going to win the lawsuit has been at the pinnacle of every advocate's primary concern list due from his or her job. Advocates have already been sworn according to one's corresponding religious views or religious faiths to honestly perform the job in order to receive economic advantages and to perform the tasks under the code of conduct as well as other rules and regulations.

Advocates refers to "individuals who do have a career path to provide legal services, both in and out of court² who satisfy the requirements relying on this Statute," and according Section 1 Number 1 of Law Number 18 the Year 2003 regarding Advocates. The Advocate Code of Ethics identity in order:

" Advocates are individuals that perform delivering legal assistance either in or out of the trial or who meet the minimum requisites, either as Advocates, Lawyers, Defense Counsel, Practitioners, or legal consultants."

Throughout Indonesia¹ advocates are expected to participate in law enforcement; even for the Code of Ethics and Law No. 18 of 2003 concerning Advocates makes it possible someone to evolve over his own possibility as an advocate. The advocate's rights and

protections, on the other hand, are based solely upon on homage and personal characteristics of such an advocate that maintains autonomy, sincerity, integrity, and inclusiveness. It's indeed important to alter how an advocate needs to understand moral standards, in which morality is premised on either a code of conduct and the guidelines that underlies it. As a consequence, since this code of ethics attaches the latter, all advocates in Indonesia should fulfill the advocate's ethical standards.

Advocates are representatives of the legal profession who do have expertise and accountabilities (American Bar Association, 2021). Everything just set up a standards of practice for every law enforcement officer, that also connects all its members next to each other. Advocates intend to develop the whole professional code of conduct to safeguard its organisation's credibility and also the behavioural patterns of members of relevant stakeholders in performance of duties. A code of professional conduct can indeed serve the purpose of social control to maintain conformity to established norms and rules (Carmichael, 2018), whilst trying to prevent oversight or intervention by both the government or society thru different entities or facilitators, and also represent to develop a different degree willpower. The emergence of such an advocate's code of conduct further intended to safeguard the court's integrity from eroding the involved parties throughout the judicial process and even from outside parties, including the media, and what would be widely recognized as Contempt of Court (Mahkamah Agung Republik Indonesia, 2019).

As a necessary consequence, an advocate organization should establish an Honorary Council to supervise as well as enforce issues assigned towards it based on an advocate's code of ethics. A few of these factors will be going to hold a court hearing and lifting sanctions for such a code of conduct for advocates. Some things above will certainly cause several aspects of the world of advocates in their role as legal service providers as lawyers, legal advisors, legal consultants, etc. The real problem is that an advocate's professionalism necessarily requires the effectiveness of many measures that each and every advocate must meet in order for anyone to perceive the advocate profession to be a respectable profession. The preceeding aspect is just what tends to cause a code of ethics should become internally inconsistent within the implementation (Weil, 2008).

Prior despicable conduct in the Advocate court hearing initially emerged in Indonesia during H.R. Dharsono, a 50 petitions' member with his Advocate Adnan Buyung Nasution court hearing (Lukman *et al*, 2020). Adnan Buyung Nasution was alleged to have committed a despicable conduct inside the court hearing (Contempt of Court) for demeaning the court, as per the chair of Central Jakarta District Court. The court considered Adnan Buyung Nasution to have caused a commotion in court, which resulted in his license being revoked; even during the subsequent process, the IKADIN Honorary Council stated that the advocate's actions violated the advocate's code of ethics (Lukman *et al*, 2020). Following this revocation, the Minister of Justice of the Republic of Indonesia issued a Decree of the Minister of Justice of the Republic of Indonesia, which postponed his professional program for 1 (one) year. Nasution is accused of violating provisions in the Advocate Code of Ethics, specifically Article 3 Letter h, which states that "Advocates in the practice of their profession must be polite to all parties." Advocates, on the other hand, may not always be able to maintain their integrity even when carrying out the officium nobile profession. It has already been established that some lawyers have been actively engaged in corruption allegations (Anti-Corruption Clearing House, 2017), as well as lawyers who receive bribes from corruption suspects (Pratama, 2021).

The authors use utilitarian moral approach to determine the Indonesian advocate's codes of conduct, which tends to focus mostly on consequences of actions as to whether a work is justifiable. Utilitarianism believe the said actions as well as failure to act that positively impact

the few whilst still negatively impacting many are morally reprehensible, whilst the actions and inaction that injure individuals while trying to benefit lot of people are ethically correct (Abumere, 2019).

Literature review

There are several concepts of integrity, which could be construed as a self-defense without being tempted by various pressures to think about and prioritize one's own interests and/or benefits while completely disregarding the interests and fate of many people, with responsibility to do this in their hands. Consciousness is associated with knowledge of right and wrong, of good and evil (Wellock, 1979). Credibility is linked to the ability to withstand and control oneself in the face of multiple vices which might ruin one's decency and dignity (Nukaga, 2015). People with dignity can be forced to rely on, considered reliable, as well as admired.

Likewise, integrity can be linked to values like ethics, morality, honesty, and sincerity (Krylova, Jolly, & Phillips, 2016: 2). The essence of integrity is a characteristic, protagonist, or situation which reveals comprehensive oneness and also has the ability and potential to emit self-respect, sincerity, and truthfulness (Mauri, 2011). Another of the values is impartiality, that is going to think of how to behave and act properly. In terms of attitude, professionalism is an attribute of greatness which characterizes itself with an integrative and comprehensive behavior either individually or within an organization (Jenkins & Delbridge, 2020).

The Indonesian Advocate Code of Ethics is the highest law in carrying out the advocates' profession, which further assure and safeguards the advocates' profession, but it also enforces a moral responsibility on every advocate to really be able to take responsibility through carrying out his profession, not only to clients, courts, the state, or society, but also — particularly to himself (Perhimpunan Advokat Indonesia, 2002)

A professional code of practice is a guide with metrics besides professional principles which could be used to assess the professional responsibilities of existing, new, or potential future members of the professional groups. Thus, potential conflicts among members of professional groups, or even between members of professional groups as well as the community, can indeed be managed to avoid (Perhimpunan Advokat Indonesia, 2002). Members of professional organizations or ordinary citizens can claim sovereignty as to whether members of professional associations had already fully met their professional responsibilities in compliance with professional code of conduct by developing a set of ethical standards (Perhimpunan Advokat Indonesia, 2002).

The code of professional conduct must have measured the consistency of both the professional responsibilities of conducted by professional groups as either a preventative measure to intermodulation distortion from certain parties. As a consequence, the government or society will be no longer expected to retaliate through assessing that members of professional groups must carry out their professional responsibilities. The correlation among professional as well as public bearers, like advocates and clients, lecturers and students, and doctors and patients, does not need to be clearly defined by law, the government, and the society because professional groups have formed definite rules and principles through writing in the context of ethical codes to treat equals and unequals equally (Gilman, 2005).

A professional ethics is primarily a standard of behavior and attitude that is already standardized production or formed as a means of preventing conflicts and misunderstandings, but it will be far more effective if the behavioural patterns standard has been constructed in just such a form that the one that fulfills the affected parties. A code of ethics is a formalisation with reasonable conduct. Thus, a code of conduct could perhaps potentially prevent conflicts and

misunderstanding, and this can end up serving as a reflective thinking of an organisation's positive image. A decent code of ethics is one that represents the moral principles from both members of professional groups and those in need of professional services (Gilman, 2005).

Research method

This is a normative legal research which employs both a statute approach and a conceptual approach. The statutory methodology is one which relied heavily on laws and regulations. The conceptual approach to such a study must have been initiated as there was no law and order relevant to the nature of the problem (Marzuki, 2014). Second, this research was conducted out as a result of the transformation of circumstances and scenarios inside the advocate himself, — especially the rules regarding integrity, which are not being coated by an advocate when viewed first from polemic of preserving an advocate's codes of conduct with an approach method that employs a rationalist regulatory conceptualization (Jesus, 2008). The descriptive qualitative analysis method is also used to introduce a study of the information gathered first from research topic.

Analyses

The Advocate Code of Ethics' Roles and Functions

Advocate is indeed a very archaic term that surpasses a terminology lawyer and legal person. There seems to be no doubt that now the phrases legal services or legal person seem to be more pertinent than defensive strategy as they only escort the respondent and suspect in an investigation. The terms legal aid, legal advisor, and lawyer are very popular in society, which means that the meaning of these words is easier to understand because the terms used are quite familiar. An advocate is characterized as either a profession that seems to be autonomous, liberated, and responsible for enforcement issues, for whom the role would be as a law enforcer and therefore is protected by law. As a consequence, advocacy groups possess rights under the law, responsibilities, as well as accountabilities. Section 17 of 2003 Statute No.18 concerning advocates subsidies advocates privileges in guarding clientele, such as the right to gain information, information files, or any other documents from authorities and or parties necessary to protect clients in compliance with the rules of law. Along with his skills and knowledge as well as expertise in the field of law as his main requirement, an advocate's crucial function has so far been linked to filing a lawsuit before the court, and should be suggested that role of an advocate throughout giving legal services to the clients. An advocate's position in delivering legal assistance is just not limited to one tier, and yet continues up from either the District Court to Supreme Court. The power of attorney granted to an advocate also governs their capacity to provide legal representation. The power of attorney contains of such an advocate's privileges, responsibilities, and duties to the client as highlighted in Articles 14 to 20 of Law Number 18 of 2003, as follows:

- a. Accompany
- b. Provide legal advice
- c. Exercising authority
- d. Defending and carrying out other legal actions for the benefit of clients
- e. Representing
- f. Providing legal assistance

The law also governs the obligations of lawyers, particularly with regard to client interests, as follows:

- a. Advocates do not discriminate against clients based on their ancestry, socio-cultural background, religion, ethnicity, or other factors.

b. When defending client cases before authorities and/or the public, advocates cannot be identified with their clients.

c. Advocates must keep any information they obtain confidential.

d. Advocates are required to follow as well as comply the codes of conduct for the practice of advocacy.

e. Advocates have the right to maintain the confidentiality of their client relationships, including the protection of their files and documents from seizure and examination, as well as the protection of their electronic communications from wiretapping.

f. Advocates are entitled to receive honoraria for their legal services.

Based on the duties and obligations of advocates, particularly in relation to client interests, it's indeed fair to assert that perhaps the advocate line of work is an honorable profession (*officium nobile*), which means that it includes a moral responsibility. Advocates also perform with in interests of the public so for the sake of just law enforcement, and those that make a significant contribution to the protection of human rights. Moreover, advocates do have capacity to protect them are also not constrained by instructions from their clients, and therefore do not regard the cases they defend. An advocate should not infringe a relevant law while defending his client.

Advocates are deemed necessary to provide legal assistance with companions, legal representatives, attorneys for and on behalf of their clients, or perhaps to serve as facilitators besides groups involved in the case, whether criminal, civil, or administrative in nature. He can indeed help to identify the reality and enforce fairness throughout order to protect human dignity. And, in contrast to his professional work for profit or lawyer fees, he complies to the noble principle of humanity, which would be pro-bono or free legal aid, as mandated by Law Number 16 of 2011 concerning Legal Aid and Government Regulation of the Republic of Indonesia Number 83 of 2008 concerning Procedures and Requirements for Supplying Free Legal Aid.

Furthermore, advocates are law enforcers whose job it is to provide legal assistance or legal services to the public or clients who are facing legal problems and whose presence is urgently required by the community. Advocates have noble duties, obligations, and responsibilities to themselves, clients, courts, and God, as well as to uphold justice and truth (Aziz, 2019). As a consequence, once advocates are blamed of having to defend a wrong person, this is because those who safeguard rights under the law, such as civil rights, from someone who should be defended, as stipulated in Section 28 D of the Constitution, the International Covenant Rights, Law Number 16 of 2011 concerning Legal Aid, and Article 54 of Criminal Procedure Code.

Advocates' Ethical Responsibility for Disgraceful Behavior

It is a noble profession to become an advocate. Its role in law enforcement is critical. Clients could even put pressure on advocates, which would influence their behavior. Mostly in scenario of Adnan Buyung Nasution, for example, he was charged with obstruction of justice. Those who considered him to become an insult to Court, as well as his protests to the panel of judges were also an insult toward the Court. It is a violation of the provisions of the Advocate Code of Ethics, specifically Article 6 Letters b, c, d, e, and f of Law Number 18 of 2003 concerning Advocates. Advocates may be in violation of the Code of Conduct if:

1. Violate statutory regulations or behave dishonorably.
2. Disrespect the law, statutory regulations, or the Court whilst also the actions, words, or statements.
3. Violating on the Advocate's oath and professional code of ethics.

4. Act or misbehave next to opponents or work colleagues.
5. Ignore or disrespect their clients' interests.
6. Do things that are in confrontation to the obligations, honor, or integrity.

In connection with the malfeasance of advocates, punitive measures may also be imposed on the code of ethics by the Honorary Board of Advocate Organizations under the professional code of ethics, even being threatened with temporary dismissal from being an advocate, as stipulated in Article 6 of Law No. 18 of 2003.

The impact caused by the outrageous actions of advocates in trials in Indonesia, namely confusion of justice and legal certainty, underscores the urgency of regulating the disgraceful behavior of advocates in Court. The goal of legal certainty is community peace and security, so the rules must be strictly enforced. Legal certainty denotes that an individual's or a group's behavior does not deviate from the boundaries or paths established by the rule of law (Braithwaite, 2001). Then, in order to achieve legal certainty, it is divided into three principles: legal assurance from statutory regulations, legal institutions, and legal institutions. The requirement for legal certainty would be that legislation and the law are clear and concise (Popelier, 2008).

Clarity of regulations, as a principle of effective law enforcement (Lorenzoni, 2016), is required in relation to the criminalization of acts of harassment by courts and judges, given that the authority of a court must remain strong, and this must undoubtedly be realized through clarity of procedures and rules. To date, the laws regarding Advocates' disgraceful behavior in Court have come in the form of implied rules in the Criminal Code. Specific standards have been developed because, as we all know, this heinous act becomes more common, while the Court's authority must be preserved. In this case, the law plays a role in ensuring that the rules are updated on a regular basis. This means that the law should be considered in the country's development and therefore a substrate for social change. Law has several aspects, varying from fundamentals to procedures, and thus Law related to the legal development would be both material as well as formal law.

This study points out that when reforming the law, the needs of the community must be taken into account. In order to uphold the law, now is the time for Indonesia to enact regulations concerning the disgraceful behavior of Advocates in Court, in particular, because this is not only for the judges themselves, but also for what the community requires.

Given the broader range of actions that can be classified as Contempt of Court, namely all actions that, in principle, interfere with safety, psychological and physical serenity (Raveson, 1990), it is necessary to establish rules regarding the disgraceful behavior of Advocates in Court that are specifically in line with the expansion of Contempt of Court that affects safety and contentment. However, contempt of court may serve a noble purpose in law enforcement for the public good (Walker, 1991). The following sanctions would be imposed on an advocate who violated the code of conduct due to contempt of court:

- 1) Usual warning
- 2) stern warning
- 3) Temporary suspension for a specified time
- 4) Dismissal from membership of professional organizations.

The imposition of temporary dismissal sanctions for a set period of time must be accompanied by prohibitions from practicing as an advocate outside or before the Court. Reports on parties who have been sanctioned and dismissed, either temporarily or from membership, are addressed to the Supreme Court as information and notes in the list of lawyers. When performing duties as an advocate with a good intention, namely defending clients in

Court, prosecution cannot be carried out from a criminal or civil standpoint, as explained in the rules of Article 16 of Law of 2003 No. 18 regarding advocates and later supported by Article 7 letter g of the Advocate Code of Ethics. Essentially, these two articles provide advocates to legal protection in their responsibilities; however, these privileges must be based on predetermined limitations which are in accordance with the law and the Advocate's code of ethics.

The Indonesian Advocate Code of Ethics, which was agreed upon by at least seven advocate organizations and enacted on May 23, 2002, outlines the limits of the profession for advocates. The obligations that advocates impose on themselves are defined as an advocate's code of ethics. The Indonesian Advocate Working Committee is in charge of enforcing this joint code of conduct (KKAI). Prior to the establishment of the Indonesian Advocate Code of Ethics, each of the seven advocate organizations had its own code of ethics. In terms of substance, the Indonesian Advocate Code of Ethics is an adoption of the previous existing code of ethics for the advocate profession, though there are some differences that are not overly significant. This code of ethics seeks to address common issues such as an advocate's character, relations with colleagues, foreign colleagues, relationships with clients, how to act in handling cases, implementation of the code of ethics, the position as well as role of the Honorary Council, and other provisions.

Disgraceful behavior in the legal profession is inextricably linked to the profession's legitimate role in immunogenicity or impunity. The right of immunogenicity refers to an advocate's freedom to take or not take any action and to issue or not issue opinions, statements, or documents to anyone in the course of carrying out an advocate's professional duties, so that an advocate cannot be forced to take action. Freedom also encompasses not being confined to pressure, threats, hindrances, fear, or treatment that weakens the dignity of the advocate profession. As per Article 7 of the Indonesian Advocate Code of Ethics, an advocate's liberty to engage in state court proceedings is expressed proportionally and not outrageously.

To file a complaint with Honorary Council, disgraceful behavior in court should therefore contravene the Advocate Code of Ethics. The Honorary Council has the authority to monitor Advocates' adherence to the Indonesian Advocates Code of Ethics. It may receive and conduct investigations against an Advocate who has been suspected of breaching the Advocate's Code of Ethics (Article 7, Law No. 18 the Year 2003). The Honorary Council has the authority to investigate and rule on violations of the Code of Ethics by Advocates.

Conclusion

The role of an advocate in providing legal services to clients is critical in the realm of Law, which is related to litigation before the Court, because expertise and authority in Law are the main provisions, and the role of an advocate in providing legal services to clients is critical. It does not limit the role of an advocate in the provision of legal services to a single level, but can proceed at the District Court, High Court, as well as the Supreme Court level. Concerning the limits of legal responsibility and disgraceful ethical behavior by Advocates in Court, it is contained in the Advocates' Code of Ethics, which regulates the sanctions that can be imposed in the event of a violation of the Advocates' Code of Ethics, specifically in Article 16. Seekers of justice should have legal awareness and be able to obey the court's orders in order to maintain peace and order as well as seamless the trial process. Advocates must be able to carry out their responsibilities professionally because breaches of the Advocate Code of Conduct have been considered disgraceful behavior which infringes the rule of law.

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