

Legal Protection of Professional Advocates of Immunity Rights in The Judicial System Process in Indonesia

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Abstract. The implementation of the justice system in Indonesia, plays an advocate from the beginning of the legal process in criminal law, while in civil cases it starts from negotiation, reconciliation, subpoena or reprimand even to the civil court process from the initial stage to the completion of the case, namely the implementation of a decision or execution. According to Article 1 (1) of Law Number 18 of 2003, an Advocate is a person who has the profession of providing legal services both within and outside the Court and meets the standards. Advocates provide legal services in the form of legal advice, legal help, exercising power, representing, assisting, defending, and performing other legal acts so that honesty and ability are demanded from advocates for the legal interests of clients. to clients, but in legal developments, advocates in accordance with the terms of Law No. 18 of 2003 concerning Advocates, are stated to be one of the law enforcement officers called chess wansa law enforcers or four law enforcers in this case: Police, Public Prosecutors, Advocates, and Judges. In view of the roles and authorities that are protected by law, the Advocate profession is given the right of immunity or legal immunity related to the profession it carries out in accordance with the provisions stipulated in Advocates are governed by Law No. 18 of 2003. The problem is, how is the implementation of law enforcement against the Advocates have immunity when it comes to carrying out their responsibilities a legal process in Indonesia? The research method used for problem solving is using a normative research approach. The discussion of the results of this study is that; implementation of the concept of Immunity of Advocates in law enforcement against Immunity of Advocates In providing legal services, based on Law No. 18 of 2003 concerning Advocates to clients as regulated in the Law on Advocates and the Code of Professional Ethics. Therefore, the immunity rights of advocates both inside and outside the court only apply as long as they do not conflict with the laws and regulations or the professional code of ethics. Immunity of Advocates is relative considering that Advocates who carry out their professional duties not in good faith may be subject to sanctions. For this reason, in law enforcement against the immunity of Advocates which is regulated under Advocates are governed by Law No. 18 of 2003, which relates to the implementation and authority of law enforcement against Advocates, both at the supervisory level, in court by the Honorary Council, as well as in general courts, it is necessary to follow up with regulations. Implementation of the Immunity of Advocates in law enforcement in Indonesia against Advocates while carrying out their professional duties, both non-litigation vs. litigation, this right is aimed at the Immunity of Advocates both inside and outside of the courtroom, as long as they don't violate the law or the Professional Code of

Ethics. In the United States, attorneys cannot be charged both civilly and criminally carrying out their professional duties in good faith in their role to realize law enforcement in Indonesia.

Keywords: legal Protection of the Advocate Profession

1 Introduction

Legal development, in a legal state, basically avoids conflicts with social interests, including those relating to the making or updating of laws and regulations and the implementation of legal provisions. The implementation of law in a state of the law is realized in the nation's and state's life, considering the history of the concept of state power often has an impact that can result in no injustice for citizens.

The implementation or enforcement of a legal system as the embodiment of legal ideals and prerequisites for social welfare, namely, the social rule is only possible due to the existence of power or sovereignty. So, the welfare and social order can be maintained because of a balanced interaction between sovereignty (power) as law enforcement and the existence of a legitimate legal system. Between the effective and functional relationship with the realization of welfare as a legal function, namely justice and protection.[1]

If this opinion is related to the function of an advocate as one of the members of the *catur wangsa* or four citizens in law enforcement, then the advocate is also indirectly responsible for the welfare of the community so that the community can be protected and work following their respective fields. The weighing part in regulation is a consideration for forming a law that needs to be observed because it is a cause for making a law. The provisions of Article 1 (1) of Law No. 18 of 2003 Concerning Advocates states that an Advocate is a person whose profession is to provide legal services, both inside and outside of the Court, and who meets the conditions set forth in this Law.

Regarding the criteria for legal services, it is regulated in Article 1 paragraph 2 that states that Advocates provide legal services in the form of legal advice, legal help, exercising power, representing, assisting, defending, and performing other legal acts so that honesty and ability from advocates are required to client's legal interests. The definition of legal services can be broadened if the law does not provide clear boundaries if it is associated with the word legal interests of the client, it shows the duty of an advocate to defend his client both inside and outside the court and always pays attention to the applicable law.

Social and state life requires a legal system order that can follow developments in society. The function of law to regulate social life, political life, economy requires interpretation that can be fair and actual and can be implemented in legal practice. The formulation of law and its application are the two primary aspects of legal practice. The law's implementation includes interpretation of the law, legal vacuums, and vague norms.[2]

The implementation of the law requires interpretation or interpretation from law enforcers, considering that a formulation of laws and regulations cannot regulate all issues in social and state life because they cannot be detailed and clearly stated. The complete rule The rule of law and legal certainty are guaranteed by the rule of law line with efforts to fulfill the sense of justice that lives and develops in society.

According to Bagir Manan, the main joint of the state based on law is that law is the highest source (supremacy of law) in regulating and determining the mechanism of legal relations between the state and society between members or groups of people with one another. The rule

of law in that sense can be interpreted that the principle of legality being the most important basis in every action, whether by individuals or groups.[3]

The enforcement of the rule of law is expected to fulfill legal certainty as well as legal justice so that there is a Citizens' and the state's rights and obligations must be balanced. The law is not for the benefit of certain parties, but the existence of the law of a common will embodied in the legal system.

Law enforcement is part of the legal system cannot be separated from the substance of law and legal culture. Therefore, it is closely related to aspects of social life. Law enforcement is the embodiment of legal ideals to protect the legal community connected to the local legal culture. The new law can run well if there are law enforcement officers as implementers in law enforcement by carrying out legal processes and imposing sanctions for those who violate the law. Law enforcers as regulated in the laws and regulations are police and or investigators, prosecutors/public prosecutors, and judges.

The investigation carried out by the Police Investigator is the initial process of law enforcement to determine whether someone is categorized as a witness or a suspect, for this reason, it requires the ability to apply the articles in the legislation to cases, so here it appears that analytical skills are needed, in the Code of Procedural Law. The crime abbreviated as KUHAP is given the authority to determine the termination of the investigation.

In the process of investigation and prosecution to the judicial system by the Public Prosecutor process in court, the suspect has the right to be accompanied by an advocate, where the function of the judge is to make decisions following applicable legal provisions. The function of the judge is not only as a mouthpiece of the law but is required to make legal discoveries on the concrete problems faced as well as courage and honesty in law enforcement.

The implementation of the justice system in Indonesia, plays an advocate from the beginning of the legal process in criminal law, while in civil cases it starts from negotiation, reconciliation, subpoena or reprimand even to the civil court process from the initial stage to the completion of the case, namely the implementation of a decision or execution.

Functions Advocates or lawyers, arbitrators, legal consultants, or legal advisers act as legal service providers. The legal services provided are in the form of consulting, exercising power, representing, assisting, defending, and taking legal action for clients to resolve disputes, reconcile disputes or provide advice or advice to the parties so that they carry out mutual obligations and return their rights to other parties legally. [4]

Advocates were initially the party who provided legal assistance to clients, but in the development of the law, advocates in accordance with the terms of Law No. 18 of 2003 concerning Advocates are said to be one of the law enforcement officers called *catur wangsa* law enforcers or four law enforcers in this case: Police, Public Prosecutors, Advocates, and Judges.

The Republic of Indonesia, as a constitutional state founded on Pancasila and the Republic of Indonesia Constitution of 1945, seeks to establish a successful, safe, peaceful, orderly, and just national living order. The implementation of an honest, fair, and legal justice for all justice seekers in upholding the law, truth, justice, and human rights necessitates a professional advocate who is free, independent, and responsible for the implementation of an honest, fair, and legal justice for all justice seekers in upholding the law, truth, justice, and human rights. Advocates need to be safeguarded and protected by legislation as a profession that is autonomous, independent, and accountable for enforcing the law for the sake of carrying out efforts to enforce the rule of law.

Advocates as law enforcers, based on Law No. 18 of 2003 relating to Advocates, Article 1(1),(2),(3), it is stated that;

Paragraph 1. An advocate is a person whose job is to provide legal services both within and outside of the courtroom, and who complies with the conditions set forth in this Law.

Paragraph 2. Advocates provide legal services in the form of legal advice, legal help, exercise of power of attorney, representation, accompaniment, defense, and other legal acts for the legal interests of clients.

Furthermore, the rights and obligations of Advocates as regulated in Article 15, Article 16, and Article 17 stated that;

Article 15, Advocates are By complying to the professional code of ethics and legislation, they are free to carry out their professional tasks and defend matters for which they are accountable.

Article 16, In carrying out their professional duties in good faith for the client's defense in court proceedings, advocates cannot be penalized either civilly or criminally.

Article 17, In carrying out his profession, Advocates have the right to seek information, data, and other documents from government agencies and other parties with similar interests in order to protect their clients' interests in accordance with the law.

The role of advocates in the judiciary is as a counterweight can provide broad opportunities for clients or parties affected by the case to prove their arguments. The task of advocates in the judiciary as law enforcers is equal to other law enforcers, although their duties and authorities are different. Therefore, Advocates are protected by the Advocates' Immunity Act of 2003, as regulated under Article 16.

The Immunity of Advocates in providing legal services to clients is beneficial for the community seeking justice, as well as for Advocates as law enforcers. Advocates, on the one hand as law enforcement officers, on the other hand, are advocates for their clients' legal rights, so that in the context of defending the legal arguments put forward by advocates may conflict with the police and or the prosecutor's office. Therefore, the right of immunity is needed for advocates.

Justice-seeking communities or clients have an interest in the immunity of advocates because the advocate's role is more effective in defending without fear. Advocate's immunity arises from the client so that advocates can carry out their duties and must balance with their application which still has obstacles or interpretations, considering that many advocates are affected by legal problems.

Advocates even though they receive an honorarium from litigating clients, advocates are not allowed to take the opportunity by triggering problems because peace is the highest law and must be a priority step from chess wangsa or four law enforcement citizens as the primary role for the success of peace between the party's involved litigation.

The legal efforts of appeal, cassation and judicial review are manifestations of a sense of justice by providing opportunities for justice seekers to ask for justice which of course requires funding and time to carry out legal remedies so it seems to take a long time. Therefore, the inclusion of a fast trial (contante justitie, speed trial) is quite a lot which is realized by the term "immediately." The principles of justice, quick, simple, and low budget are adopted in the Criminal Procedure Code.[5] Through this principle, litigation is carried out as quickly as possible, while still giving birth to legal certainty and justice.

Advocates are obliged to always prioritize the peaceful settlement of cases as the highest legal goal, if this is not realized then a legal process is carried out. Advocates handle criminal cases accompanying suspects or defendants on the strength of a special power of attorney with the obligation to observe during the legal process to always obey legal procedures.

The suspect or his family can go through an advocate to conduct a pretrial in the case of an arrest, detention, or confiscation process that does not comply with legal procedures. In addition,

it can also file a civil lawsuit regarding unlawful acts against law enforcement officers in carrying out their duties that are contrary to the law.

The legal process is so extensive and has touched a lengthy legal process, advocates must remain broad opportunities for the litigants to make peace. However, there are still many misunderstandings that think that the job of an advocate is only to defend cases before the Court in civil cases and to defend criminal cases before the Police, the Prosecutor's Office, and the Court, which is called litigation work. The work of an advocate does not only lie in the field of litigation but includes other jobs outside the court referred to as non-litigation work.[6]

The work of an advocate is very broad, both in the field of litigation and non-litigation so professionalism is needed and always follows developments in society, as well as from a scientific perspective. The role of advocates, both in civil, criminal, and state administrative cases or other legal processes, is greatly needed by the justice-seeking community. There is even a stigma in society about successful advocates if they often win cases. This opinion is not true considering that Advocates in carrying out their duties are based on facts at trial and evidence from clients or evidence obtained later by conducting a juridical analysis.

The role and position of Advocates are not easy because it is like a double-edged sword, because on the one hand, Advocates try to win cases for the benefit of clients and Advocates' big names, but on the other hand, Advocates carry out the heavy task mandated by the Law on Advocates as part of the Catur Wangsa or four citizens law enforcers so that they are required to seek the truth and real justice in the cases being handled.

Stigma from the community that there are advocates to seek profit for clients and themselves without paying attention to law enforcement, besides that there are advocates who always consider the rule of law, justice, and law enforcement itself, even though advocates are noble professions, but also individual advocates who deviate from Code of Ethics and oath of office.

The In the section dealing with point b, the Law of the Republic of Indonesia Number 18 of 2003 on Advocates states: "The judicial power, which is free from all outside influences, requires the profession of Advocates who are free, independent, and responsible for the implementation of an honest, fair trial," and has legal certainty for all justice seekers in upholding the law, truth, justice, and human rights." As a result, legal assistance efforts cover a wide range of topics. Access to legal services both within and outside the Court is unrestricted.

The orientation and goal is an effort to realize a Rule of law based on democratic and human rights principles ".[7] Given the heavy burden of the task imposed on advocates, not only law enforcement but also being honest and always paying attention to and defending human rights, the law provides guarantees and protections that appear in the section considering point c: that advocates Legislation enforcement as a free, independent, and responsible profession must be guaranteed and protected by law for the sake of carrying out efforts to enforce the rule of law.

The role of the Prosecutor, Judge, and Advocate in the trial in the Court although they have their respective roles but have the same mission, namely upholding the rule of law. Balance in the law enforcement system can be realized if there is room for proving wrongdoing, but there are also those who defend so that it is hoped that the judge or judiciary can objectively assess in considering their decisions.

In considering It is governed by the Advocates Law No. 18 of 2003 obvious that advocates must uphold the law, truth, justice, and human rights. So proud of the duties of an advocate that on the other hand, the task is very difficult to carry out, always guided by the Code of Ethics and the oath of office." [8]

The oath of office of an advocate is very necessary because it is a promise as well as an advocate's responsibility to the Almighty, but on the other hand, the freedom of the advocate profession must be guaranteed so that advocates dare to act in upholding the rule of law.

The freedom of the advocate profession must be guaranteed to protect and promote human dignity, which is better known as human rights. The freedom of the Advocate profession, as well as the freedom of the Judge's profession, needs to be guaranteed in the law as well as in reality, which is often referred to as an absolute requirement for the creation of an independent judiciary. [9]

The need for the immunity of advocates for the public interest in law enforcement, so that opinions or statements or legal arguments can be expressed firmly and boldly, which in other countries have been implemented so that advocates are considered as participating in court for justice enforcement. The rule of granting immunity is absolute that protects witnesses, advocates, and judges.

The administration of justice requires participants in the Courts to be able to speak freely without fear of being prosecuted for what they say. Protection or immunity to advocates is universal even though at that time there was no Law on Advocates.

Based on a brief thought from the background of the problem, this thesis research is entitled; Legal Protection of the Advocate Profession for Immunity Rights in the Judicial System Process in Indonesia.

Research Problem

Based on the description above, the writer finds the topic of the problem formulation as follows:

1. Why are advocates given legal protection of the right of immunity in carrying out their profession?
2. What is the process of law enforcement against parties who violate the advocates' immunity rights in carrying out the judicial system process in Indonesia?

2 Research Methods

Research Types

Research on the Immunity of Advocates in law enforcement in Indonesia is a type of legal research that focuses on norms. The approach used in this research is a historical juridical approach and a normative juridical approach. The historical juridical approach is intended that in this research it departs from the history of legislation regarding the functions, duties, and protection of advocates in carrying out their duties since the Dutch East Indies government when Indonesia was independent until the issuance or enactment of Law Number Until now, the Advocates Act No. 18 of 2003 has been in effect.

This research was conducted using secondary sources in the laws and regulations, jurisprudence, literature review, especially regarding agreements or rights and obligations between advocates and clients, rule of law, law enforcement, liability, unlawful acts, immunity. The specification of This study is a descriptive analysis that provides an overview of facts as well as an accurate analysis of laws and regulations that may be utilized as research or analysis material rule of law, law enforcement, accountability, unlawful acts, immunity of advocates.

Source of Legal Material

The primary legal material used in the research for writing this thesis by conducting a literature study. The secondary the following materials were used in this study:

- a. Core legal sources derived from Pancasila's essential standards, the 1945 Constitution, and Law Number 18 of 2003 on Advocates and Lawyers other laws and regulations, Jurisprudence, Code of Ethics; and
- b. Secondary legal materials, i.e., legal materials that explain main legal materials, such as literature books, legal expert views, and research findings of civil and criminal law scholars, particularly those pertaining to the immunity of advocates while doing their duties.

Legal Materials Collection

Considering that the technique for collecting initial legal materials is to conduct an inventory of laws and regulations that relate directly and indirectly to the immunity of advocates in carrying out their duties. This research is normative legal research, and the legal materials examined are secondary legal materials consisting of primary and secondary legal materials. related to the immunity of advocates, namely;

- a. Law Number 18 of 2003 concerning Advocates.
- b. Law enforcement against the advocates' immunity if they are suspected of violating the Code of Ethics, Law Number 18 of 2003 concerning Advocates.

Research Analysis

The legal material obtained from this research is descriptive, analyzed in an explanatory manner. The analysis is carried out by examining the immunity of advocates in law enforcement in Indonesia in a systematic, logical, theoretical method to obtain answers to problems that are used as the starting point for writing a thesis.

The explanative analysis explains the difference between theory and facts that occur in the field. Furthermore, the proportion as the final result is carried out by a deductive process, namely from a normative formulation, it will be concluded and used as a support object.

3 Theoretical Framework

State of Law

The concept of the The rule of law requires that all government actions or inactions have a clear legal basis or validity, based on both written and unwritten law. Some argue that the state's legitimacy is under jeopardy to govern is because the state is a neutral institution, impartial, stands above all groups of people, and serves the interests. The The primary goal of the rule of law is to provide legal protection to the people.

According to Philipus M Hadjon [10], legal protections for citizens against government acts are founded on two principles: the principle of human rights and the principle of the rule of law. Human rights recognition and protection take precedence, and can be said to be the purpose of a rule of law. Human rights, on the other hand, have no place in a totalitarian regime. Furthermore, the concept of the rule of law is inextricably linked to the legal system used by the country in question. According to historic literature, the world's legal system can be classified into two broad groupings, namely the continental legal system and the Anglo-Saxon legal system,[11], and both are equally valid Our globe appears to be divided into two groups by legal systems. [12]

Philipus M. Hadjon [10] suggests 3 (three) types of concepts of the rule of law, namely; rechtsstaat, the rule of law, and the state law of Pancasila. According to M. Tahir Azhary [13], the literature found 5 (five) kinds of rule of law concepts, namely as follows.

- 1 Islamic Nomocracy; is a rule of law concept that is generally applied in Islamic countries.

- 2 Rechtsstaat; is the rule of law concept applied in Continental European countries, for example; Netherlands, Germany, France.
- 3 Rules of Law; is the rule of law concept applied in Anglo-Saxon countries, such as; England, the United States.
- 4 Socialist Legality; is a rule of law concept applied in communist countries.
- 5 The concept of the Pancasila State Law; is a rule of law concept applied in Indonesia.

Social life requires a legal order in the laws and regulations forms to bring order to society. It means that where there is community there is the law. Law develops in social life so that an adequate legal system is needed.

According to Barda Namawi Arief: the rule of the supremacy of values is implied by legislation. It means that the rule of law essentially means that substantial values must be upheld in national life, which animate the law and become the demands of society, such as upholding the values of justice, truth, and honesty, among others; upholding civilized human values and respect/protection of human rights; no abuse of power/authority; no practice of favoritism and corruption, collusion, and nepotism." The values of the rule of law are incorporated throughout society and the state. It implies that not only legal justice, but also social justice, political justice, and justice in all other areas of life be accomplished. [14]

The enforcement of the rule of law is the hope of all components of the state and society that since the beginning of the formation of the Indonesian state, the Indonesian people have agreed to place the law as the supreme commander, thus establishing the Indonesian state as a state of the As a result of the fourth amendment in Article 1 paragraph of the 1945 Constitution (3). The enforcement of the rule of law is related to law enforcement, considering that legal values can function as laws that live and develop in society if they are realized with law enforcement.

Law Enforcement

Since the end of the law-making as described above, the legal process has only completed one stage of a long journey to regulate society. The law-making stage still has to be followed by its concrete implementation in the daily life of society, it is what is meant by law enforcement.[15]

Law enforcement is the actual application of the law based on theory and legal rules are applied to the legal community so that people can assess the implementation of the law. Legal issues are in the spotlight of the community that has developed into public demands for reforms in the field of law that have an impact on law order to achieve a just and prosperous society.

According to Barda Namawi Arief, public distrust will arise and the authority of the law will decrease if the public sees the fact that law bearers and people who are involved in legal problems commit other despicable acts.

It is precisely this belief value that is to be enforced and protected by the law because it is the foundation of people's hopes and beliefs to regulate the association of living together. Law is a manifestation of the value of trust. Upholding the authority of the law means upholding the trust value in society.[14]

The enforcement of legal authority is the enforcement of the value of trust in society is the responsibility of law enforcers which is the formation of the law with a recruitment system, with the hope of obtaining reliable law enforcers both in terms of legal material and morality.

Regarding the behavior of law enforcement officers who tend to abuse authority based on Lord Action's opinion quoted from Miriam Budiardjo: "power authority tends to corrupt, but absolute power corrupts absolutely," [16] implying that all power corrupts tends to enlarge and defend itself, and: that power tends to be abused, so this is where the role of law is needed to control that power." [17]

Concerning the legal structure or the chess of law enforcement agencies and the control of power by law, the law no longer depends on moral perspective because the two are in different places so they cannot be combined into one.

According to Weber, the law does not get its legitimacy from anywhere but from itself.

Legitimacy will be seen in the following things:

- 1 The existence of a system of legal norms developed by legal experts, professionals, so that the norms become social norms;
- 2 The existence of legislation that creates laws that are generally valid and formulated in the abstract; and
- 3 The existence of a judiciary and a government bound by laws to be implemented and enforced.[17]

Authority Theory

In the The terms power, authority, and authority appear frequently in the literature of political science, government science, and law. Power is frequently confused with authority, and the terms power and authority are frequently used interchangeably. Even authority is frequently confused with power. In most cases, power is exercised in a relationship in which "one person rules and the other is ruled" (the rule and the ruled). [18] In the field of public law, the phrase "authority" or "authority" is frequently used. There are, however, distinctions between the two.

Authority is a formal power that arises from executive or administrative power bestowed by law or legislative. As a result, unanimity refers to the power of a specific set of individuals or the power over a specific sector of government or government affairs. Meanwhile, the authority pertains to only a portion of the authority. The right to issue orders and the power to demand that them be followed are both examples of authority.

Based on this There is the possibility of authority that is unrelated to the law. The power that is unrelated to the law is referred to as "blote match" [19], or rational or legal authority, as defined by Max Weber. Authority based on a legal system is defined as a rule that has been acknowledged and accepted by the community, and even enhanced by the State. [20]

The concept of authority in public law is linked to the concept of power. Because the Executive, Legislative, and Judiciary have formal powers, power has the same meaning as authority. In addition to other characteristics, power is an important component of a state's administration of government, including: a) law; b) authority (authority); c) justice; d) honesty; e) conservation measures; and f) virtue. [21]

Power is the essence of the administration of the state so that the nation is in a state of so that the nation might participate, work, excel, and perform in order to serve its citizens As a result, the state must be given authority.

According to Miriam Budiardjo, power is the ability of a person or group of people to affect the conduct of another person or group so that behavior conforms to the person's or country's wants and goals. [18]

For power to be exercised, a ruler or organ is needed so that the state is conceptualized as a collection of positions, which are filled by several officials who support certain rights and obligations based on the construction of the subject of obligations.[21]

Thus, Power has two components: political and legal, whereas authority simply has legal components. It suggests that while authority might originate through the constitution, it can also come from outside the constitution (unconstitutional), such as through a coup or war.

In legal terms, authority refers to the power conferred by legislation to impose legal consequences. [22]

H.D. Stoud defines authority as: Bevoegheid wet kan worden omscreven als het gehele van bestuurechtelijke bevoegdheden door publiekrechtelijke rechts-subjecten in de bestuurechtelijke rechtsverkeer (In public law, authority can be defined as a collection of norms governing the acquisition and exercise of government authority by subjects of public law.) [23]

From these several definitions of authority, it can be concluded that authority is not synonymous with competence. The difference between authority and authority is that authority is a specification of authority, which means that anyone (legal subject) is given authority by law is authorized to do something within that authority.

The authority possessed by government organs (institutions) in carrying out genuine (real) activities, creating arrangements, or issuing decisions is always founded on attribution, delegation, and mandate received from the constitution. The original authority based on the constitution is referred to as attribution (UUD). A delegation of authority to other government institutions must be stressed in the delegation of authority. There is no delegation of authority or control in the mandate; however, individuals who are mandated to act on behalf of the mandate giver do so. When a mandate is granted, the mandated official appoints another official to operate on his or her behalf mandatory.

Attribution is the authority given to a government organ (institution) or state institution by an independent legislative party. This authority is genuine, which is not taken from the previous power.

Delegation is an authority that is transferred from the attribution authority of a government organ (institution) to another organ so that the delegate (the organ that has given the command) can test the authority on his behalf, while in the Mandate, there is no transfer of authority but the mandate giver (mandator) gives authority to other organs to make decisions or take an action on its behalf.

For authority to be legitimate, it must be founded on existing legal requirements (the constitution). As a result, the official (organ) is backed up by the source of authority when making choices.

According to Stroink, "government officials or organs (institutions) can receive sources of authority through attribution, delegation, and mandate." The authority of government organs (institutions) is a legal authority that is regulated and maintained by positive legislation. A sound legal choice cannot be made without authority".[24]

The focus of the study of authority theory is concerned with the government's source of authority in carrying out legal acts, both concerning public law and private law.

As a public law concept, at least three elements make up authority, namely:

- 1 Influence,
- 2 legal basis, and
- 3 legal conformance are the three factors to consider. [24]

The exercise of authority is designed to govern the behavior of legal subjects, which is the influence component. The fundamental principle of law is that authority must always be able to specify a legal foundation, and legal conformance necessitates the existence of a standard of authority, namely general standards (all sorts of control) and special standards (for certain types of power).

Library Review of the Role of Advocates

An advocate is one of the members of the chess dynasty of law enforcement that provides legal services to the justice-seeking community who participates in upholding human rights, as defined in Article 5 (1) of Law No. 18 of 2003 Advocates and always pays attention to the local legal culture in the form of people's expectations about a definite and just law.

An Advocate's legal services include legal advice, legal help, exercising power, representing, assisting, defending, and other legal acts on behalf of the client's legal interests.

According to Arief Sidharta: the main task of the Advocate is basically to provide legal advice to keep the client out of conflict and to file or defend the client's interests in Court. In a case in Court, the main role of an Advocate is to present various relevant facts and considerations from the point of view of his client to enable the Judge to make a fair decision.[25]

Advocates in carrying out their duties deal directly with clients and other members of the chess dynasty of law enforcement, so this is where legal problems arise that need to be analyzed so that there is harmony in interaction. Facts in daily practice, because there is no Law on Advocates that regulates the duties, functions, and responsibilities of Advocates, an Advocate is not treated according to his profession and function. Some are detained, prosecuted, and interrogated for carrying out their duties, there are also prosecutions in court and other treatments that seem to not recognize the immunity of advocates in carrying out their professions. [25]

The hope of immunities for advocates is coveted so that they can do a good job in defending clients as well as participating in enforcing the law.

The enactment of the Law on Advocates provides protection for Advocates as well as for the legal world, because how can law enforcement be maximized if the Advocates themselves are still hesitant in the context of law enforcement. Advocates must always pay attention to the applicable laws and regulations which are a manifestation of the values that are the basis of norms in society.

According to Sudarto: Value can be interpreted as a measure that is realized or not realized by a society or group to determine what is right, what is good, and so on. Values are the basis for norms, and norms are assumptions about how a person should do or not do.[26]

The professionalism of the performance of advocates and other members of the *catur wangsa* of law enforcement is necessary because they are role models for the community and at the same time the wider community as assessors of the performance of the *catur wangsa*, because of the nature of the trial is generally open to the public, besides that through the mass media the public can observe and follow emerging legal cases.

Professionals are more inclined to scientific aspects, on the other hand, science requires an analytical process or a thought that is closely related to ethics and morals in making decisions that can be accounted for before the law, oneself, society, and other members of chess dynasty.

According to Jujun S. Suriasumantri: "ethical and moral values must be placed as a basis or basis for consideration in every activity in science. Ethical and moral values play a crucial role in law enforcement, considering that law is a system that contains many weaknesses that can be used for the benefit of certain parties. The ethics of each law enforcer have been stated in the Code of Ethics which is a binding legal condition, but the moral role that is outside the stipulations of the Code of Ethics and applicable legal provisions must still be considered in analyzing legal cases that are currently being face investigation.[27]

Article 1 (3) of the 1945 Constitution, stating that the Indonesian state is a state of the law is a manifestation of the will of the Indonesian people to submit to the law as the supreme commander.

As a fundamental principle, the preamble to the 1945 Constitution has a constitutive function and a regulatory function. As a constitutive function, the preamble of the 1945 Constitution determines the basis of a legal order that gives meaning and sense to the law itself so that without the base granted by the old *stats* fundamental norm, the law will lose its meaning and significance.[28]

Some of the main principles of the 1945 Constitution, included in Law No. 18 of 2003 on Advocates, can be observed in Everyone has the right to fair recognition, security, protection, and legal certainty, as well as equal treatment before the law, according to Article 28 D of the 1945 Constitution. In the explanation of the Law on Advocates, the principle of equality for everyone before the law, or equality before the law, is clearly established, and Advocates are identified as one of the pillars in defending the rule of law and Human Rights.

Advocates suspected of committing criminal acts must be processed concerning legal principles so that there is legal certainty. The principle of legal certainty is also regulated in Article 1 (1) of the Criminal Code, known as the principle of legality that declares that no act can be punished unless it is based on the strength of the criminal laws in place at the time the crime is committed.

Law No. 4 of 2004 Article 6 paragraph 1 stipulates that no one can bring before the Court other than those determined by law. In the next paragraph, it is stated that no one can be sentenced to a crime, except if the Court because of the valid evidence according to the regulations finds a belief that a person who is considered to be responsible has been guilty of the act he is accused of.

Based on the legal principle of legality, the Public Prosecutor can only indict the defendant if he has committed a criminal act that has been regulated in the existing legislation by heeding the principles of criminal law, so as not to violate human rights. The task of the Public Prosecutor is to uphold human rights because in social interactions in society there are parties who are harmed or whose human rights are violated, so this is where the role of the Public Prosecutor is to make changes following statutory regulations or local laws or regulations that contain criminal elements.

Based on The Prosecutor is an officer who is permitted to serve as a Public Prosecutor and implement court rulings that have permanent legal effect, according to the Criminal Procedure Code, while prosecution is an action by the Public Prosecutor to delegate a criminal case to the District Court according to the procedures regulated in the KUHAP.

Law enforcement and human rights both in criminal law and civil law in the form of claims for compensation can be realized if advocates are given protection and guarantees, there is a system or procedural law that applies and has been regulated in the Advocate's Code of Ethics, oath of office, laws Number 18 of 2003.

Law enforcement officers are not only prosecuted for their morals or honesty, but with the development of science and technology, they must understand and follow developments in outline, even though during examinations at trial the Court may present expert witnesses because, without knowledge, they cannot ask questions or draw conclusions quality, considering that this affects the quality of the decision given.

Advocates are categorized as scientific societies which were observed from Law No. 18 of 2002 Article 1 paragraph 14 states that professional organizations are forums for the scientific community in a branch of cross-disciplinary research and technology, or a sector of professional activity where the state guarantees the development of professionalism and professional ethics in society following the laws and regulations.

The Law's existence on Advocates implies that there is a single organization of Advocates Organization that can supervise and examine Advocates if they are suspected of violating the Professional Code of Ethics, taking the oath of office, or violating the laws and regulations carried out by the Honorary Council.

The legal relationship between Advocates and clients, namely to provide legal services to conduct a defense or legal advice, which begins when Advocates provide legal consultation to clients, both only legal consultations, as well as legal consultations that lead to case handling.

Legal services in providing consultations are generally made with a verbal agreement regarding the honorarium. While in the case of continuing to handle cases, it is possible through oral agreements and power of attorney as evidence continues for the case handling process.

Some advocates use a case handling agreement other than a unique power of attorney so that the rights and duties of the parties are protected. If the parties are stated, an agreement between an advocate and a client or based on a special power of attorney must be made both before and after the right of immunity is regulated even though the legal consequences are different. Through the right of Advocates' immunity that is being regulated, the existing agreement is closely related to the presence or absence of immunity rights attached to advocates. Legal consultation is relatively small, there is a dispute between the Advocate and the client, but the potential for dispute still exists when the legal opinion given by the Advocate to the client deviates or is not following the law, it can be categorized as having committed malpractice. The legal relationship between an advocate and a client that is not harmonious can affect onrechtmatig daad or unlawful acts, which are responsible for the loss of one of the parties.

The legal relationship between an advocate and a client can cause the immunity of the advocate to be touched if the advocate's statement is considered to be defaming the good name of the opposing party or other legal actions while defending the case even though there has been a special power of attorney and the right of immunity. The formation of several articles on the protection of advocates cannot be separated from the history of the development of the world of advocates, which can be seen from the literature and mass media that advocates are exposed to cases in carrying out their duties.

The philosophy of the formation of the right of Immunity for Advocates as regulated in Advocates Law No. 18 of 2003 is the embodiment of the community's legal requirements, and it is extremely important for community empowerment and national law change so that equality is achieved for everyone before the law, therefore, the position of Law enforcement Advocates needs to be aligned over law enforcers who are free, independent, and responsible. Through the Advocates' immunity, Advocates can carry out their functions in court or while carrying out their professional duties to the maximum without fear. Advocates' immunity Advocates' rights are based on Law No. 18 of 2003 are general in the sense that as long as the Advocate carries out his professional duties, both in giving oral and written statements within the limits of the defense for the benefit of the client.

In addition, there are also advocates' rights which are regulated in Article 19 (2) Advocates have the right to the secrecy of their client relationships, including the protection of their files and records against confiscation or investigation, as stated in Law Number 18 of 2003 respecting Advocates wiretapping on the advocate's electronic communication.

Advocates, apart from being entitled to the confidentiality of their relationship with clients, are also an advocate's obligation to keep everything obtained from their clients confidential.

The function of the Immunity of Advocates is nothing more than enforcing the law, so it is hoped that it will not be used for the benefit of the client or Advocate's gain, therefore, there is an opinion about the Immunity rights of Advocates that encourage Advocates to be arrogant, According to Teuku Nasrullah that:

The right of immunity (immunity) for an advocate who is carrying out his duties in defending a client, is only attached as long as the advocate is in court because if that right is used outside the Court, it is feared that there will be an abuse of the Advocate profession. Advocates may be arrogant.[29]

The Immunity of Advocates still refers to the Code of Ethics and applicable laws and rules, so that if the Advocate violates the Code of Ethics and applicable laws and regulations, he or

she will be held accountable, the Advocate can also be prosecuted legally or by the Honorary Council of Professional Organizations as a determinant of the rights and obligations of Advocates.

It is also the opinion of Petrus Bala Pattiono as follows: "The right of immunity for Advocates does not need to be interpreted again. Especially Advocates Organizations must have strict provisions or clear barometers regarding the immunity, obligations, and rights of an Advocate. And that determines this is the Advocates Organization itself." [29]

Before and after the enactment of the Law on Advocates, the Advocate's Organization has a Code of Ethics, and Advocates have used a specific power of attorney in handling cases. As for the difference, after the Law on Advocates was regulated on the immunity of advocates there were differences in the legal consequences, although there were still advocates who were affected by the case, either with opponents of litigation, clients or law enforcement officers.

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