

Strengthening the Role of Advocates in Providing Legal Assistance to Indonesian Society

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ABSTRACT

The role of Advocates in providing legal assistance to the community is regulated in Article 1 number 1 Chapter I of Law Number 16 of 2011 concerning Legal Aid, which states: "Legal Aid is a legal service provided by Legal Aid Providers free of charge to Legal Aid Recipients". Meanwhile, the recipients of legal aid here are impoverished people or people and Legal Aid Providers are Legal Aid Institutions or community organizations that provide legal aid services as described in Law Number 16 of 2011 concerning Legal Aid. According to Law Number 18 of 2003 Article 1 number 9, Chapter I provides the meaning that "Legal Aid is a legal service provided by Advocates free of charge to clients who cannot afford it". Legal aid can be provided to everyone without distinguishing a person's social status. This is like what exists in a legal state (rechtsstaat) where the state recognizes and protects the human rights of every individual. The state's recognition of individual rights implies inequality of standing before the law for all people. Article 28 D paragraph (1) of the 1945 Constitution reads, "Everyone has the right to recognition, guarantees, protection, and fair legal certainty as well as equal treatment before the law." Consequently, Advocates play an important role in upholding legal protection in society. Therefore, the role of Advocates must always be enhanced and supported by the government

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1. Introduction

A law force who often gets attention is a lawyer, because of his extraordinary position in law enforcement. This specialty can be seen from the scope of work which stretches from upstream to downstream (from investigation to execution of punishment), in contrast to other law enforcers which are only partial. An advocate's field of work is providing legal services or legal assistance to people who need it. Of course, the provision of legal assistance by advocates within a more

considerable framework is aimed at fulfilling legal objectives, maintaining order, and balancing various interests, welfare, and happiness (Taufik, 2013).

Advocates, better known as lawyers, are one of the main pillars of the legal system in various countries around the world. The role of advocates in providing legal assistance is a key element in maintaining justice, protecting individual human rights, and ensuring that the law is applied fairly and evenly. As society develops and the complexity of legal issues increases, the role of advocates has evolved and grown to become more diverse and important. In this essay, we will explore the role of advocates in providing legal assistance by reviewing various aspects, starting from the historical development of this profession, to its contribution to maintaining social justice and protecting human rights (Sutrisni, 2015).

To understand the role of advocates in providing legal assistance, we need to look back at the history of the development of this profession. Advocates are an integral part of the common law-based legal system that developed in countries such as England, the United States, and many other countries. The early development of the advocate profession can be traced to the 16th and 17th centuries in England (Setyowati & Muchiningtias, 2018).

At that time, the emergence of increasingly complex regulations and laws meant that people needed legal experts who could help them understand and defend their rights before the courts. This is the background to the emergence of advocates as a professional group who have knowledge and skills in law. They represent individuals in judicial proceedings and provide legal advice (Abduh & Riza, 2018).

As time goes by, the advocate profession experiences development and change. They organized themselves in bar associations and underwent more formal training. This has resulted in greater professionalization of legal practice, with advocates being held to strict ethical standards and codes of conduct (Sahlepi, 2018).

In the context of the development of legal systems in various countries, the role of advocates becomes increasingly important. They not only act as legal representatives of individuals or legal entities but also have several key functions in the legal system, including: (Raharjo, 2013)

- a. Protector of Individual Human Rights;
- b. Legal Representative;
- c. Legal Advisor;
- d. Mediators and Negotiators;
- e. Legal Development.

In addition to their traditional role in court and providing legal assistance to individual clients, advocates also have an important role in maintaining social justice. This includes:

- a. Advocacy for Social Rights;
- b. Protection of Minority Rights;
- c. Pro Bono and Community Service;
- d. Legal Education and Legal Awareness.

In the modern era with the development of information technology and globalization, the role of advocates has changed and developed. Some aspects of this change include:

- a. Legal Technology; Advocates must adapt to the rapid development of legal technology. This includes the use of legal software, online legal database searches, and data security to protect client information.
- b. Practice of International Law: Globalization has increased in the practice of international law. Advocates today are often involved in cases involving multiple jurisdictions, and they must have a deep understanding of international law.
- c. Online Advocacy: Advocates can also use social media and online platforms to enhance their advocacy. They can share legal information, network, and expand the impact of their advocacy via the Internet.

- d. Contemporary Legal Issues: Advocates are often involved in addressing contemporary legal issues, such as privacy rights in the digital world, climate change, and immigrant rights. They must stay up-to-date with the latest developments in the law.

Article 1 number 1 Chapter I of Law Number 16 of 2011 concerning Legal Aid, states: "Legal Aid is a legal service provided by Legal Aid Providers free of charge to Legal Aid Recipients". Meanwhile, the recipients of legal aid here are poor people or people and Legal Aid Providers are Legal Aid Institutions or community organizations that provide legal aid services as described in Law Number 16 of 2011 concerning Legal Aid. According to Law Number 18 of 2003 Article 1 number 9, Chapter I provides the meaning that "Legal Aid is a legal service provided by Advocates free of charge to clients who cannot afford it". Legal aid has an important position in every criminal, civil, and state administrative justice system, including Indonesia. In general, it can be said that legal aid has objectives aimed at various social categories in society, namely: (1) Guaranteeing and fulfilling the rights of legal aid recipients to obtain access to justice; (2) Realizing the constitutional rights of all citizens by the principle of equality under the law; (3) Guarantee certainty that the implementation of Legal Aid is carried out evenly throughout the territory of the Republic of Indonesia; and (4) Realizing an effective, efficient and accountable judiciary. The concept of legal aid is related to a person's rights to exercise these rights, therefore legal aid is carried out by legal experts and people who are experienced in carrying out their profession. Legal aid is carried out by legal aid providers who are oriented towards noble values, namely the humanitarian aspect of fighting for human rights to live in prosperity and justice.

The role of advocates in providing legal assistance is an important aspect of maintaining justice, protecting individual human rights, and ensuring that the law is applied fairly. Since the beginning of the development of this profession in England, until it became an integral part of the legal system in various countries, advocates have played a role as legal representatives, advisors, mediators, and human rights defenders. In the modern era, advocates face new challenges such as technological developments, international legal practices, and contemporary legal issues. Nevertheless, their role in maintaining social justice and ensuring access to justice remains important. By recognizing the importance of advocates in the legal system, we can better understand how they contribute to the formation of a just and civilized society. Increasing access to justice, balanced legal development, and protecting human rights are the results of the dedication and commitment of lawyers in carrying out their important role in providing legal assistance.

This article will discuss how to strengthen the Prosecutor's Office so that it is independent and independent in carrying out law enforcement

2. Materials and Methods

The method used in writing this applied paper is a descriptive-analytical method, namely by using data that clearly describes the problem directly in the field, then analysis is carried out and then conclusions are drawn to solve a problem. The data collection method is through observation and literature study to obtain solutions to problems in preparing this paper.

3. Result and Discussion

The Role of Advocates in Indonesian Judiciary

The duties and authorities of the Prosecutor's Office in Law no. 16 of 2004 concerning the Republic of Indonesia Prosecutor's Office. as specified in Article 30, namely:

Law enforcement includes activities to implement 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 conflict resolution). 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 obeyed and 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 the police, prosecutors, advocates or lawyers, and judicial bodies.

An advocate as a role occupant carries out the ideal role and expected role. The profession of advocate as a law enforcer is equal to other law enforcement agencies, therefore colleagues and other law enforcers must respect each other. Therefore, every Advocate must maintain the image and dignity of the profession, be loyal, and uphold the Code of Ethics and Professional Oath, the implementation of which is supervised by the Honorary Council as an institution whose existence has been and must be recognized by every Advocate regardless of which professional organization they belong to. he comes from and becomes a member, which when taking his Professional Oath implies his acknowledgment and compliance with the applicable Code of Ethics for Advocates. Thus, the Indonesian Advocate Code of Ethics is the highest law in carrying out the profession, which guarantees and protects but imposes obligations on every advocate to be honest and responsible in carrying out their profession, both to clients, the court, the state, or society, and especially to themselves. The ideal values of an advocate are being chivalrous, honest in maintaining justice and truth based on high morals, dignified and noble, and capable of upholding the law, the Constitution of the Republic of Indonesia, the professional code of ethics, and the oath of office (Article 2 of the Advocate's Code of Ethics).

A lawyer or advocate's position is subjective because he is appointed by one of the parties to represent him at trial and his assessment is very subjective because he has to defend the interests of his client. However, it is important to remember that the main function of a lawyer is to help facilitate the resolution of cases by upholding Pancasila, law, and justice. Apart from that, it is also by the advocate's code of ethics that advocates must not only prioritize the interests of their clients but also prioritize upholding the law, justice, and truth (Sudewo, 2005).

Starting from this, the role of advocates as law enforcers is very important to become one of the elements of law enforcement who can participate as an agent in legal reform in Indonesia to produce a judiciary with integrity. This role is still not fully understood or may still be neglected by the advocates themselves. In fact, in the field, there are still many cases where advocates only focus on thinking solely for the interests of clients. And what's worse is that advocates lower the dignity of their profession by providing themselves as "couriers" between clients. with law enforcement (Mahardika, 2018).

Some of these advocates have even served time for their involvement in bribery cases. Advocates have an extraordinary position in law enforcement. This specialty can be seen from the scope of work which stretches from upstream to downstream (from the investigation stage to the implementation of punishment), in contrast to other law enforcers which are only partial. The field of work of advocates is to provide legal services or legal assistance to people who need it. Of course, the provision of legal assistance by advocates in a larger framework is aimed at fulfilling legal objectives, maintaining order, and balancing various interests, welfare, and happiness (Gunawan, 2016).

Strengthening the Role of Advocates in Providing Legal Assistance to Indonesian Society

The implementation of law in society is very dependent on the legal awareness of society because humans are legal subjects. However, apart from depending on legal awareness, the community also depends on and is largely determined by the implementation of law enforcement by law enforcement officers. Therefore, many legal regulations cannot be implemented properly because law enforcement officers do not understand how to carry out their duties and responsibilities (Toni, 2017).

An advocate is a person whose profession is to provide legal services, both inside and outside the court, who fulfills the requirements based on the provisions of Law Number 18 of 2003 concerning Advocates. The services provided by Advocates include providing legal consultations, legal assistance, exercising power of attorney, representing, assisting, defending, and carrying out other legal actions

for the client's legal interests (legal services). An advocate is a lawyer appointed by the Minister of Justice after receiving advice from the Supreme Court (Kusumah & Wijaya, 2019).

The code of conduct for professional holders is summarized in the Code of Ethics which contains ethical content, including descriptive ethics, normative and metaethics. So the code of ethics is related to certain professions so each profession has its code of ethics. A code of ethics can offset the negative aspects of a profession and with a code of ethics, public trust in a profession can be strengthened, because every client has the certainty that their interests will be guaranteed. A code of ethics is like a compass that shows the moral direction of a profession and at the same time also guarantees the moral quality of that profession in the eyes of society. For the code of ethics to function well, the code of ethics must become self-regulation of the profession. By creating a code of ethics, the profession will establish black and white its intention to realize the moral values it considers to be essential, which have never been imposed from outside. Another condition is that its implementation is continuously monitored (Lubis, 2014).

The legal jurisdiction of an advocate's duties is all provinces in Indonesia. The basis for providing legal assistance to people who cannot afford it is based on the following provisions:

- a. Law Number 4 of 2004 concerning Judicial Power;
- b. Article 13 (1) concerning the organization, administration, and finances of the Supreme Court and judicial bodies under the authority of the Supreme Court.
- c. Article 37 concerning: Every person involved in a case has the right to obtain legal assistance.
- d. Law Number 8 of 1981 concerning the Criminal Procedure Code.
- e. Article 56 (1) concerning: If a suspect or defendant is suspected or accused of committing a capital crime or carries a sentence of fifteen years or more or for those who are incapacitated who are threatened with a sentence of five years or more who do not have their legal advisor, Concerned officials at all levels of examination in the judicial process are obliged to appoint legal advisors for them.
- f. Article 56 (2) concerning: Every legal advisor appointed to act as intended in paragraph (1), provides his assistance free of charge.
- g. Civil Procedure Code (HIR/RBG) Article 237 HIR/273 RBG concerning: Anyone who wishes to litigate either as a plaintiff or as a defendant, but is unable to cover the costs, can obtain permission to litigate free of charge.
- h. Instruction of the Minister of Justice of the Republic of Indonesia No. M 01-UM.08.10 of 1996, concerning Guidelines for Implementing Legal Aid Programs for Underprivileged Communities Through Legal Aid Institutions.
- i. Instruction of the Minister of Justice of the Republic of Indonesia No. M 03-UM.06.02 of 1999, concerning Guidelines for the Implementation of Legal Assistance Programs for Underprivileged Communities Through District Courts and State Administrative Courts.
- j. Circular Letter of the Director General of the General Judiciary and State Administrative Courts No. D.Um.08.10.10 dated 12 May 1998 concerning JUKLAK for the Implementation of Legal Aid for Underprivileged Groups of Society Through LBH.

With the passing of the Law on Legal Aid (Law Number 16 of 2011 concerning Legal Aid) during the plenary session on October 4, 2011, it is hoped that it will lighten the burden on all economically disadvantaged citizens who stumble upon legal problems and can be assisted by the Government. Legal aid to help people who cannot afford it can be obtained from the Legal Aid Institute (LBH) or others (Kusumah & Wijaya, 2019).

The code of ethics for advocates as a form of personality in carrying out their profession as a provider of legal services is:

- a. Advocates can refuse to provide legal advice and assistance to anyone who needs legal services and/or legal assistance because it is not by their expertise and is contrary to their conscience;

- b. In carrying out his duties the aim is not only to obtain material things but to prioritize upholding law, truth, and justice; (Miftahuddin, 2022)
- c. In carrying out professional practice, they must be free, independent, and not influenced by anyone, and must fight for human rights;
- d. Willing to provide legal assistance to anyone who needs it regardless of religion, race, ethnicity, descent, or political beliefs;
- e. Advocates are not permitted to do other work that could harm their freedom, status, and dignity;
- f. Always uphold the profession of an advocate as an honorable profession;
- g. If an advocate is appointed as a state official then he is not permitted to practice as an advocate.

Strengthening the role of advocates in providing legal assistance to the Indonesian people is an important step in maintaining justice, protecting individual human rights, and ensuring that the law is applied fairly in this country. Several ways and forms of strengthening the role of advocates in providing legal assistance to the Indonesian people involve: (Nurudin, 2012)

- a. Advocate Education and Training: To ensure that advocates have adequate knowledge and skills, strengthening the role of advocates starts with better education and training. This includes quality legal education programs and relevant training courses to prepare advocates with a deep understanding of the law.
- b. Providing Legal Access: One important way to strengthen the role of advocates is to ensure that all citizens have equal access to the legal system. This could involve providing free or affordable legal aid to those who cannot afford the services of an advocate.
- c. Pro Bono Legal Services: Advocates can contribute to society by providing pro bono legal services to those in need. This can be free legal aid in certain cases or very low-cost legal aid.
- d. Human Rights Advocacy: Advocates have an important role in fighting for human rights. They can actively advocate to ensure that basic rights such as the right to education, work, and welfare are maintained and expanded.
- e. Legal Education Campaign: Advocates can play a role in legal education campaigns in society. They can provide seminars, workshops, and other educational programs to increase people's awareness of their legal rights and obligations.
- f. Use of Legal Technology: The use of information technology in legal practice can speed up the process of providing legal assistance. Advocates can use online platforms to provide legal consultations, share legal information, and run advocacy campaigns.
- g. Collaboration with Legal Institutions: Advocates can collaborate with other legal institutions such as law enforcement agencies, courts, and government agencies to increase the effectiveness of providing legal assistance. This collaboration can help in resolving complex legal issues.
- h. Advocacy for Legal Change: Advocates have a role in advocating for legal changes necessary to improve justice and protect human rights. They can participate in the law-making process and provide legal input to policymakers.
- i. Training Young Judges and Lawyers: Preparing the next generation of competent and ethical lawyers is an important part of strengthening the role of advocates. This involves training and mentoring young lawyers to ensure that values of ethics and justice are maintained.
- j. Professional Supervision: Advocate associations and regulatory agencies have a role in supervising the ethics and professionalism of advocates. Strengthening professional oversight can help maintain the integrity of the profession and ensure that advocates adhere to high ethical standards.

Strengthening the role of advocates in providing legal assistance to the Indonesian people is an important step in maintaining the rule of law, justice, and protection of human rights. Through collaborative efforts between advocates, legal institutions, and the government, Indonesia can ensure that access to justice is available to all citizens, without discrimination, thereby creating a more just and civilized society.

Advocates carry out the task of upholding justice and enhancing human dignity so that the work of advocates is said to be *officium nobile*, a noble job. As an elegant profession, advocates are required to be able to work professionally, bound by professional ethics and scientific standard responsibilities. The image of advocacy as a beautiful profession will be determined by professional ethos in the extent to which the advocate community can apply ethical standards and professional technical skills. (Artidjo., 2010)

4. Conclusion

Strengthening the role of advocates in providing legal assistance to the Indonesian people is an important step in maintaining justice, protecting individual human rights, and ensuring that the law is applied fairly in this country. Several ways and forms of strengthening the role of advocates in providing legal assistance to the Indonesian people involve Advocate Education and Training; Providing Legal Access; Pro Bono Legal Services; Human Rights Advocacy; Legal Education Campaigns; Use of Legal Technology; Collaboration with Legal Institutions; Advocacy for Legal Change; Training of Young Judges and Lawyers; and Professional Supervision. With the passing of the Law on Legal Aid (Law Number 16 of 2011 concerning Legal Aid) during the plenary session on October 4, 2011, it is hoped that it will lighten the burden on all economically disadvantaged citizens who stumble upon legal problems and can be assisted by the Government. Legal aid to help people who cannot afford it can be obtained from the Legal Aid Institute (LBH) or others.

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