LEGAL CERTAINTY ADVOCATE ORGANIZATIONAL SYSTEM
ARRANGEMENTS IN THE IMPLEMENTATION OF PROFESSIONAL QUALITY
WITH THE VALUE OF JUSTICE

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ABSTRACT

Purpose: This research aims to provide an overview of justice-based reconstruction regarding quality accountability in the legal profession, specifically focusing on the Advocate Organization System within Indonesia's legal framework.

Theoretical Framework: Grounded in Article 28 paragraph 1 of Law Number 18 of 2003, this study delves into the unique position of Advocate Organizations as the sole free and independent professional body for Advocates. It explores how these organizations contribute to enhancing the quality of legal advocacy while upholding principles of justice.

Method: The research adopts a normative juridical approach, analyzing legal norms, principles, applicable laws, regulations, legal theories, and doctrines pertinent to the subject matter. It synthesizes insights from legal science and relevant literature to inform the organizational restructuring of Advocate Organizations.

Result and Discussion: Through comprehensive analysis, this study proposes two key strategies for enhancing accountability and quality within the Advocate Organization System. Firstly, the formation of a National Team of Advocates and Advocate Honorary Council is advocated to establish an integrated governance structure. Secondly, the implementation of Standard Curriculum and Examination Standards in Advocate Education is recommended to ensure competency and ethical conduct among legal professionals.

Originality/Value: This research contributes novel perspectives to the discourse on legal certainty within professional organizations, particularly Advocates. By emphasizing justice-oriented quality standards, it offers practical insights for regulatory improvements and organizational enhancements.

Conclusion: In conclusion, this study underscores the importance of legal certainty and accountability mechanisms within the Advocate Organization System. By implementing the proposed strategies, the legal profession can align more effectively with principles of justice, thereby enhancing public trust and professional integrity.

Keywords: Advocates, Justice, Advocate Organizations, Judiciary.

RESUMO

Objetivo: Esta pesquisa tem como objetivo fornecer uma visão geral da reconstrução baseada na justiça em relação à responsabilidade de qualidade na profissão legal, com foco específico no sistema de organização de advogados dentro do quadro legal da Indonésia.

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Quadro teórico: Fundamentado no artigo 28 parágrafo 1 da Lei nº 18 de 2003, este estudo aprofunda a posição única das Organizações de Advogados como o único corpo profissional livre e independente para os Advogados. Ele explora como essas organizações contribuem para melhorar a qualidade da defesa legal, ao mesmo tempo em que defendem os princípios da justiça.

Método: A pesquisa adota uma abordagem jurídica normativa, analisando normas legais, princípios, leis aplicáveis, regulamentos, teorias jurídicas e doutrinas pertinentes ao assunto. Ele sintetiza insights da ciência jurídica e literatura relevante para informar a reestruturação organizacional das Organizações de Advogados.

Resultado e Discussão: Através de uma análise abrangente, este estudo propõe duas estratégias-chave para melhorar a prestação de contas e a qualidade dentro do sistema de organização de advogados. Em primeiro lugar, a formação de uma Equipe Nacional de Advogados e Conselho Honorário de Advogados é defendida para estabelecer uma estrutura de governança integrada. Em segundo lugar, a implementação de Normas Curriculares e de Exame Padrão na Educação de Advogados é recomendada para garantir a competência e a conduta ética entre os profissionais jurídicos.

Originalidade / Valor: Esta pesquisa contribui com novas perspectivas para o discurso sobre a segurança jurídica dentro das organizações profissionais, particularmente Advogados. Ao enfatizar padrões de qualidade orientados à justiça, ele oferece percepções práticas para melhorias regulamentares e aprimoramentos organizacionais.

Conclusão: Concluindo, este estudo ressalta a importância da segurança jurídica e dos mecanismos de prestação de contas dentro do Sistema de Organização dos Advogados. Ao implementar as estratégias propostas, a profissão jurídica pode alinhar-se mais eficazmente com os princípios da justiça, reforçando assim a confiança pública e a integridade profissional.

Keywords: Advogados, Justiça, Organizações de Defesa, Judiciário.

RESUMEN

Propósito: Esta investigación tiene como objetivo proporcionar una visión general de la reconstrucción basada en la justicia con respecto a la rendición de cuentas de calidad en la profesión jurídica, centrándose específicamente en el sistema de organización de defensores dentro del marco legal de Indonesia.

Marco teórico: Basado en el artículo 28 párrafo 1 de la Ley Número 18 de 2003, este estudio profundiza en la posición única de las Organizaciones de Abogados como el único organismo profesional libre e independiente para los Abogados. Explora cómo estas organizaciones contribuyen a mejorar la calidad de la defensa legal al tiempo que defienden los principios de justicia.

Método: La investigación adopta un enfoque jurídico normativo, analizando normas legales, principios, leyes aplicables, regulaciones, teorías legales y doctrinas pertinentes al tema. Sintetiza las ideas de la ciencia jurídica y la literatura relevante para informar la reestructuración organizativa de las organizaciones de defensa.

Resultado y discusión: A través de un análisis exhaustivo, este estudio propone dos estrategias clave para mejorar la rendición de cuentas y la calidad dentro del Sistema de Organizaciones de Defensa. En primer lugar, se aboga por la formación de un equipo nacional de defensores y defensoras del Consejo Honorario para establecer una estructura de gobernanza integrada. En segundo lugar, se recomienda la implementación de un plan de estudios estándar y estándares de examen en la educación de abogados para garantizar la competencia y la conducta ética entre los profesionales del derecho.

Originalidad/Valor: Esta investigación aporta perspectivas novedosas al discurso sobre la seguridad jurídica dentro de las organizaciones profesionales, en particular los Defensores. Al enfatizar los estándares de calidad orientados a la justicia, ofrece información práctica para mejoras regulatorias y mejoras organizacionales.

Conclusión: En conclusión, este estudio subraya la importancia de la seguridad jurídica y los mecanismos de rendición de cuentas dentro del sistema de organización de defensores. Mediante la aplicación de las estrategias
INTRODUCTION

The expression nomocracy (nomocratie) or rule of law, which shows that law determines how state power is exercised, is related to the idea of a rule of law state (Setyowati, 2018). The rule of law idea is the most widely understood concept in the world. Both the idea of the rule of law and the Rechtsstaat, Continental European inventions. One measure of the effectiveness of implementing a law, as a rule of law, is how well it is enforced within the country as a whole. The four basic components of the legal system are legal content, legal structure, legal culture, and legal effects, according to legal sociologist Lawrence M. Friedman. These four factors indicate that law enforcement misrepresents one of the important elements of the legal structure group. This is because law enforcement is a sign that legal certainty has been achieved (Langgeng, 2018).

In Indonesia, there are many different types of law enforcement organizations, including Police, Prosecutors, Judges, Prosecutors, and Advocates. Each of these organizations represents a particular form of law enforcement from other law enforcers, in this case defenders. In practice it is often associated with the concept of law, particularly equality before the law, which implies that everyone has an equal standing under the law and that the pursuit of truth or material truth is in the best interests of the general public (Raharjo, 2023). Every citizen has the right to get legal assistance in terms of promises of protection and being represented by an advocate. To reduce the poverty of the Indonesian people, particularly in the justice system, Frans Hendra Winarta is of the opinion that everyone's right to legal counsel (access to legal aid) is a human right that must be respected (Ni Komang Sutrisni, 2015). Strict action speaking in a broad sense Any activity taken to ensure that the law, which acts as a set of normative standards that control and restrict the subject, is carefully observed and successfully implemented is referred to as law enforcement. In a limited sense, law enforcement mandates the prosecution of any violations or deviations from the content or spirit of the law. The role of the police, prosecutors, advocates and the judiciary in the criminal justice system is quite minimal.
It is this noble work that is meant by the term "advocate profession" (officium nobile). Because advocates dedicate themselves and their responsibilities to serving society and not just themselves, he sees advocacy as a noble profession (Rozi et al., 2003). People who meet the requirements outlined in "Law Number 18 of 2003" concerning Advocates are considered as advocates and have a role in providing legal assistance both inside and outside the court (Tsani, 2021). Either free or in return for payment, advocates contribute to the defense of human rights. The common good, protecting human rights, and ensuring that the rule of law is based on justice are priorities for advocates (Hafidz, 2015). When someone faces a legal problem, the presence of the community requires an advocate to fight for their rights. It is clear that lawyers are required to defend someone who is accused of committing a crime in a society where there are police, prosecutors, judges, and prison guards during investigations, investigations, prosecutions, and examinations in court proceedings (Anna Astuti, 2019). Institutions promoting the defense of suspects or defendants in cases involving the complete state will balance the justice system and enable justice for all.

An ethical framework in the form of a code of ethics in the public sector is needed to support the functioning of the Indonesian legal system. There are always organizational principles, internal work procedures, and regulations in every area of state and federal government (Marzuki, 2017). According to "Law No. 18 of 2003 Concerning Advocates, advocate groups are required to establish a professional code of ethics in their field in order to maintain the good name and honor of the profession. Every advocate must comply with the regulations of the Advocate Organization Honor Council and the professional code of ethics; however, it is entirely up to the advocate and the organization whether they choose to do so or not. This paper will examine Legal Certainty in Advocate Organization System Arrangements in the Implementation of Professional Quality with the Value of Justice.

2 LITERATURE REVIEW

2.1 ADVOCATE PROFESSION

The Latin verb advocare, which also means to defend, summon, ensure, or guarantee, is where the word "advocate" comes from. The word "advocate" in English refers to someone who publicly supports or promotes a cause. (Sharief, 2023). According to the Criminal Procedure...
Code. Those who meet the requirements prescribed by or under laws and regulations to offer legal assistance are considered legal counsel.

A person who performs legal services both inside and outside the courtroom while still complying with the rules outlined in this law is referred to as an advocate in Article 1 Number 1 Law Advocate. Before the Advocate Law came into force, advocates, legal consultants, advisers and advocates could all become advocates based on Article 32 Paragraph 1 and Article 2 Paragraph 2 of the Advocate

Advocates have been elected by the Chairperson of the High Court/Supreme Court of the Republic of Indonesia and by a group of advocates after the adoption of the Advocate Law, which is stated in a Decision of the Chairperson of the High Court/Supreme Court and the Chairperson of the Advocate Organization (Sinaga, 2020)

One of the duties of an advocate is to offer legal services. To guarantee the upholding of law in the Unitary State of the Republic of Indonesia, legal services must be provided to find the truth, enforce it fairly, and uphold the law (Area, 2019) At first, advocates were moral forces that became the moral strength of group members. They observe how some people often experience the arbitrary behavior of rulers. In terms of economics, politics, and law there is always injustice between members of society who are stronger and members of society who are weaker. Likewise, injustice often befalls those who seek justice, especially those who are poor and do not have access to legal representation.

An advocate has the freedom to run a business in accordance with the professional code of ethics and applicable laws and regulations. The advocate profession is free to voice his thoughts or statements when defending cases in court thanks to his freedom. Opinions or statements are expressed without fear, intimidation, pressure, or other negative feelings (Endira et al., 2003).

2.2 ADVOCATE ORGANIZATION

As stated in Law Number 18 of 2003 Article 28 paragraph 1, "Advocate organizations are the only professional organizations.28 paragraph 1" of the law, which states that "Advocate organizations are the only forum for the advocate profession that is free and independent which was established to comply with the provisions of law with the intent and purpose of improving the advocate. Indonesia (IPHI), Indonesian Advocates & Lawyers Association (HAPI), Indonesian Lawyers Union (SPI), Indonesian Legal Consultants Association (AKHI) and
Capital Market Legal Consultants Association. They work with the Supreme Court (Advocate & Advocate, 2016). Apart from other community members at that time, KKAI had a significant strategic role. played a role in the development of the Advocate Law. This problem is mentioned in Article 32 paragraph 3 of the Constitution.

3 RESEARCH METHOD

The normative juridical research method originates from and bases its studies on applicable laws and regulations, legal doctrines and theories, jurisprudence, and other research-related literature, which is used in this study (Sugiyono, 2016). A literature review of Law Number 18 of 2003 concerning Advocates and the Advocate Bill and other works related to the topic of study was carried out to compile legal materials. This paper examines the issue of legal certainty in the Indonesian advocate organization system using a legal framework.

4 RESULT

There are two roles of law enforcement in the concept of rule of law (rechtsstaat), namely the role of forming legislation (legislation process) and law enforcement (regulation process). The purpose of the law formation function (law-making process) must be to protect the rule of law; if a law is promulgated but not implemented, it has no legal force (Langgeng, 2018). Conversely, if the law does not exist, it can still be enforced. If justice and law can be upheld, then everyone will be able to feel the rule of law.

The state also gives advocates access to any and all information, data, correspondence and other documents from public and private sources to defend their clients, placing them on an equal footing with other law enforcement officials. Only laws including the Criminal Code, Criminal Procedure Code, and constitutional procedural law regulate this authority, but Law Number 18 of 2003 concerning State Advocates confirms and makes it clear that advocates are included in Indonesian law. Apart from serving as advocates, judges, prosecutors and police are also members of the law enforcement community in Indonesia. These professions are bound to each other as long as each carries out its obligations and practices in accordance with the law, and if either of them cannot do so effectively, the legal system will not function properly.

Based on the findings of the study used to describe these historical facts, the government, both the executive and the judiciary, continues to intervene to create obstacles for
the growth of advocates and advocate organizations. The main reason for the inadequate regulation of the implementation of the advocate organization system in Indonesia is the protracted dispute between advocate organizations, the education system, and the supervision provided by Law Number 18 of 2003 concerning Advocates which still has many deficiencies (Anna Astuti, 2019). However, in practice there are still legal distinctions or discrimination between advocates and other law enforcers, and sometimes advocates cannot carry out their responsibilities or use their authority to protect the interests of their clients in court, especially when gathering information from government organizations and other sources.

Government entities are overly cautious when disclosing information or data relevant to the interests of their clients because they often believe that advocates have little influence or interest in topics involving information or data that advocates are legally permitted to obtain for that purpose. Provide consumers with legal advice in court. Therefore, there are many challenges for advocates in this procedure. Reconstruction of the arrangements for the implementation of the advocate organizational system which can increase accountability for the quality of the profession based on the value of justice can be carried out through:

4.1 THE FORMATION OF THE NATIONAL ADVOCATE HONORARY COUNCIL BRINGS TOGETHER THE UNITED ADVOCATE ORGANIZATION SYSTEM

The establishment of a national advocate honorary council can be used as a way to determine the quality of the advocate profession. The activities carried out include education, training, counseling, which have been listed in the decision of the honorary council. In this case the honorary council of advocates can be used as a support for advocate levers in the ability to organize is one example of freedom of association and assembly. The human rights of every citizen and resident must be recognized, supported and guaranteed by the state and its authorities. Human rights must always be the main principle and goal when building a community, a country.

4.2 USE OF CURRICULUM STANDARDS AND EXAMINATION STANDARDS BY THE ADVOCATE EDUCATION SYSTEM

In its legal analysis, the Court explained that this requirement was based on the demand that standardization of education would maintain its quality, including that of the advocate
profession. In accordance with the spirit of Article 31 of the 1945 Constitution, the Advocate Law mandates this. The Constitutional Court emphasized that advocate organizations have the right to organize PKPA with Decision Number 103/PUU-XI/2013. However, this does not mean that advocacy groups can form PKPA by ignoring the norms and laws governing the education sector and instead focusing on competence and professional skills. The Constitutional Court emphasized that there must be quality standards and targets for achieving a certain level of expertise in the implementation of PKPA.

5 DISCUSSION

According to Article 28 paragraph (1) Advocate Law", Advocate Organizations are the only free and independent advocate professional organizations established in accordance with their provisions with the aim of increasing the degree of the advocate profession. A jurisdiction is only allowed to have one integrated or mandatory bar as a form of bar association, under the single bar association system. Many advocacy organizations, including “IKADIN, AAI, IPHI, HAPI, SPI, AKHI, HKHPM, and APSI”, are actually based in Indonesia. Article 24 U HAM and Article 28E paragraph (3) of the 1945 Constitution both state that Indonesia is a legal state that provides freedom of association. (Endira et al., 2003). The ability to organize is one example of freedom of association and assembly. The human rights of every citizen and resident must be recognized, supported and guaranteed by the state and its authorities. Human rights must always be the main principle and goal when building a community, nation and state. (Sinaga, 2020).

The public's trust in the reliability and integrity of Indonesian lawyers is declining due to the fact that not all lawyers carry out their legal obligations in practice. One of the aspects that causes the ambiguity of the role of advocates in Indonesia is the concern about the limitations of the Attorney General's Office. Indonesia has a number of laws and regulations that have been issued by various state institutions, such as the Constitutional Court Decision Number 35/PUU-XVI/2018 dated 28 November 2019 concerning Cases of Advocate Organizational Status in Indonesia. Actually, when we talk about advocate rules, what we mean is not only the provisions implied in Law No. 18 of 2003 concerning Advocates. One of them is the Constitutional Court Decision Number 35/PUU-XVI/2018 dated 28 November 2019 regarding legal disputes over the status of advocate organizations in Indonesia. Supreme Court Decision Number 73/KMA/HK.01/IX/2015 Regarding the Oath and Regulations of
the Advocate for the Chief of Police and Number 2 of 2017 concerning Procedures for Providing Legal Assistance by Indonesian Citizens.

(Syarief, 2023) examined previous studies which looked at the position and function of professional advocacy organizations, among others, and examined them in relation to the legal standing of these organizations after the court decision in Law Number "112/PUU-XII/2014 and 36/PUU-XIII/2015. This study examines the decision of the Constitutional Court that the Advocate Organization is a single organization that violates Article 28 paragraph 1 of the Advocate Law. This is different from the decision handed down by the Constitutional Court, Number 112/PUU-XII/2014 & 36/PUU-XIII/2015. The principal of the decision is that a person who can be appointed as an advocate is a member of the Advocates Association organization.

(Sardinata, 2021) Requesting additional studies on advocates; this research examines the right to advocacy immunity to determine how it is implemented, what restrictions apply, and what solutions need to be sought. The implementation of the right of immunity is successful, according to research findings, if law enforcement officials uphold the dignity of the law, lawbreakers continue to act professionally and ethically, and the principle of faith is still upheld while in prison. upholding justice and the rule of law for the benefit of the wider community.

Based on previous research, it can be concluded that in order to provide knowledge about the implementation of the Advocate Law in the hope of Advocate members, Advocates need to be re-optimized through regular visits and outreach to members in each region.

6 CONCLUSION

Based on the analysis that has been carried out, reconstruction of the arrangements for the implementation of the advocate organizational system that can increase accountability for the quality of the profession based on the value of justice can be carried out through: 1) Formation of the National Advocate Honorary Council uniting the unity of the Advocate Organization system; 2) Use of Standard Curriculum and Examination Standards by the Advocate Education System.

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