


## Dynamics Of An Advocate From A Syariah Scholar

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| Article Info   | ABSTRACT   |
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| <b>Keywords:</b><br>Dynamics,<br>Advocate,<br>Sharia Bachelor.   | Sharia graduates have very broad opportunities when becoming advocates. However, if we look at the reality that even though the law has provided opportunities for sharia graduates, very few of them become advocates. The method applied in this study is an empirical method in the field of law, namely a method that considers the reality that exists in field practice. Despite many obstacles, sharia graduates are still very much needed today. They have different predicates and are expected to contribute to law enforcement. Their existence can bring enlightenment to weak laws and corruption. However, the sharia faculty needs to prepare them well so that they can contribute optimally. |
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### INTRODUCTION

If we look at the present era, namely the era that is increasingly developing and advanced, there are so many changes and problems in society, so that the profession of advocate is currently very much needed. So many legal acts are carried out by people today . The profession of advocate needs to be known as a profession that has existed since ancient times or an old profession, as well as judges, prostitutes, and doctors are said to be the oldest professions when viewed in the history of human civilization in this world (Sastra 2019).

Previously, to become an advocate in Indonesia, only someone with an educational background from the faculty of law , but now not only someone from the faculty of law, but students from the faculty of sharia can also work as an advocate. The legal basis that states that graduates from the faculty of sharia can become advocates is Law Number 18 of 2003 concerning advocates. Article 2 paragraph 1 of the Law states that the Advocates Organization organizes special education for the profession of advocates whose higher education is from a law graduate can be appointed as an advocate or lawyer (RI 2024). From this article, it can be understood that what is meant by a law college is a graduate of the faculty of law, the faculty of sharia, the police college, and the military law college. In fact, graduates of sharia have very broad opportunities when becoming an advocate. However, if we look at the reality that even though the law has provided opportunities for sharia graduates, very few of them become advocates (Rachmat 2020).

We know that sharia scholars in addition to studying Islamic law at this time also study positive law , but for some reason, especially sharia scholars, most of them consider the advocate profession to be a dirty profession, because defending criminals even though the advocate profession has an *officium nobile* , namely a noble profession. In fact, there are still many factors that make sharia scholars reluctant to become advocates, both from internal

and external factors. The advocate profession also has different advantages from intelligent machines, namely reason and conscience. With the existence of reason and conscience, it is hoped that the advocate profession will play a major role in always being able to defend the public interest for the common good (Sastra 2019). Therefore, based on the description above, on this occasion the author will explain the dynamics for a sharia scholar who becomes an advocate.

## RESEARCH METHODS

The method applied in this study is an empirical method in the field of law, namely a method that considers the reality that exists in field practice (Muhaimin 2020). This approach can also be called a sociological approach, which involves direct observation in the field. The purpose of this study is to directly describe the situation in the field in order to understand the problems that arise, then it will be analyzed by connecting it with applicable laws and regulations and relevant legal theories.

## DISCUSSION

Profession is a term for a job that is pursued by someone. However, not all jobs can be said to be a profession, because professions have criteria or specificities. A job that can be said to be a profession is a job that requires special skills that are achieved from the results of a certain education that is relevant to the profession being pursued (Serlika 2019). There are so many kinds of professions nowadays, which we often hear such as accountant profession, legal profession, medical profession, and many more. From so many professions we know that legal profession is one of them. Legal profession is related to legal officers and advocate is one of the legal professions.

When someone wants to become an advocate, he must follow the procedures that have been regulated by law to become an advocate. Special Education for Advocate Profession (PKPA) and must pass the Advocate Profession Examination (UPA) and the organizer of this Advocate exam is Peradi or the Indonesian Advocates Association. After being declared to have passed this advocate profession exam, he must do an internship for at least 2 consecutive years in a lawyer's office as regulated in Article 4 paragraphs 1, 2, and 3 of the Advocate Law and Article 3 paragraph 1 letter g of the Advocate Law. After that, carry out the advocate's oath at the high court in the place of his legal domicile, with a minimum age of 25 years as regulated in Article 3 paragraph 1 letter d of the Advocate Law.

There are many terms used other than advocate for someone who provides legal assistance such as legal advisor, legal consultant, and many more which have the meaning of someone who has a permit to be able to become an attorney for a client who is in a legal position who needs legal advice from an advocate both in court and outside the court. Of course, with the development of the era and the current era of globalization and the dynamic development of law, the role of an advocate is very much needed. Although at present technology is developing rapidly and there is an opportunity for artificial intelligence to provide legal services faster, it cannot replace the role of an advocate. Its existence is very important because it is different from machines that do not have a conscience because

advocates have an urgent role and function in the dynamics of law enforcement (Mansur 2019).

If we look at the history of when sharia scholars can become advocates, it is a long history and has various challenges and obstacles. Before the enactment of Law Number 18 of 2003 concerning advocates, sharia scholars were very different from law faculty scholars. Because at that time, graduates from the sharia faculty could only become judges in religious courts as regulated in Law Number 7 of 1989 concerning religious courts. Then after the enactment of Law Number 18 of 2003 concerning advocates, it opened up opportunities for sharia scholars to become advocates. If we look at it, the loss of this view, which we see as discrimination, should be utilized as it should be by sharia scholars.

In fact, if we look at it, there is actually an organization for advocates from sharia graduates, APSI which stands for the Indonesian Sharia Lawyers Association which was founded on February 18, 2003 by graduates of the sharia faculty. According to Law Number 18 of 2003 concerning advocates, the APSI organization is a legitimate organization and its existence is recognized. Regarding the organizations or groups of advocates that are recognized and in accordance with the law are AAI (Indonesian Advocates Association), IKADIN (Indonesian Advocates Association), IPHI (Indonesian Legal Advisors Association), SPI (Indonesian Lawyers Association), AKHI (Indonesian Legal Consultant Association, HAPI (Indonesian Advocates and Lawyers Association, HKPM (Capital Market Legal Consultant Association, and APSI (Indonesian Sharia Lawyers Association) (Fauziah 2020).

APSI has a very important role, APSI can motivate and provide encouragement to alumni from the sharia faculty to open their minds about the negative stigma of advocates and make them interested in becoming an advocate. There are many ways that APSI can use, one of which is by creating an agenda and activities related to law and opening meetings with fellow scholars from graduates of the sharia faculty. The existence of a meeting will provide an opportunity to provide direction and explanation about what are the opportunities in working as an advocate.

Sharia scholars when they want to become an advocate will certainly face various challenges. If we look at the challenges, they can come from personal factors or called internal factors and can also come from factors outside themselves or external factors. The challenges can be felt when they have not become advocates or when they have become advocates, but of course all challenges can be overcome if we try hard in carrying out any profession, especially the advocate profession.

The challenge for sharia scholars who want to become advocates when viewed from their own factors is that sharia scholars feel less confident because they think that their abilities are inferior to those of law faculty scholars who focus on studying positive law. In fact, the most important capital to become an advocate is self-confidence, willingness, and courage. And regarding legal knowledge and legal techniques, it can actually be learned autodidactically and through practical experience in the field later.

It is true that many sharia scholars feel no better than law scholars due to the curriculum in the sharia faculty itself. The curriculum in the sharia faculty should pay more attention to the courses taught in accordance with the development of the times and have a clear relay line. The objectives and indicators of graduate competencies from the curriculum in the sharia

faculty should be aimed at preparing scholars who are ready and have the competence to work in legal institutions, especially as advocates (Yusdani 2024).

Apart from internal factors, the external factor that is a challenge for sharia scholars is the lack of appreciation for sharia science or Islamic law, especially among legal experts and legal practitioners, as if sharia science is a stepchild because it does not provide direct implications for legal regulations in Indonesia. This challenge should be answered by sharia scientists.

In addition to the things mentioned above, there is a stigma in society that views the scope of advocates as full of falsehood. The public assumes that advocates always defend the wrong party, by justifying things that are not in accordance with the truth of the facts. Such as in cases of murder, rape, fraud, theft, and other crimes. These acts are certainly reprehensible in the eyes of society. Therefore, if the advocate has a sharia background whose background in religious knowledge is strong, if he handles these cases he will get gossip from relatives and the community.

Although many obstacles will be faced by sharia scholars, it feels like sharia scholars are very much needed in the current era, the predicate as a sharia scholar has its own value that is different from scholars from other law faculties. Because sharia scholars are more trusted in society, with their religious predicate, sharia scholars who become advocates have a moral obligation to contribute to the role of amaliah in law enforcement.

The current condition of this nation which is always in the spotlight of shame, weak law enforcement and terrible corruption. We cannot lie, if there is still honesty in this country, the word superlative is a very appropriate word to realize the increasingly declining law in this country. Therefore, the existence of advocates from sharia scholars has the opportunity to present new alternatives by providing enlightenment to the increasingly cloudy law enforcement at this time. However, this is not easy because of course it requires very hard work, especially for the sharia faculty which must prepare sharia scholars who have better competence so that when they become advocates they can work optimally and provide new perspectives on law enforcement in Indonesia.

Not only that, seeing that advocates are currently carrying out their profession deviating from its true purpose by shifting to business interests alone which makes law a commodity. Many advocates have lost their idealism and moral ethics because of this. Many advocates actually defend their clients by justifying various means by exploiting the freedom of advocates to protect their clients' rights. It is hoped that advocates from sharia who have religious predicates do not do this.

Of course we have to be optimistic, but there are several things that must be fixed so that what we hope can be realized, one of which is by socializing to students in Islamic universities, especially students in the sharia faculty, about opportunities in the advocate profession. This is certainly important because there are still many wrong views on the advocate profession with a negative stigma that assumes advocates justify something that is wrong and blame something that is right, as well as other negative stigmas. In fact, they only see a glimpse of certain individuals who do things that make the advocate profession worse in the eyes of the public. In fact, advocates should have high morals, be noble, and carry out their duties by upholding the law (Abdul 2021).

In addition, the faculty also needs to improve the curriculum or complete its curriculum, because the current curriculum used is still lacking to prepare students to become advocates. This must be an evaluation for the faculty and requires cooperation for both parties between Islamic universities and the Ministry of Religion in order to include an appropriate and up-to-date curriculum. And it is hoped that Islamic universities will collaborate with advocate associations that are considered successful in order to direct students to do internships in those places, and also universities need to form legal aid institutions that will become laboratories for sharia students.

## CONCLUSSIONS

Sharia scholars who want to become advocates will face various challenges, both from themselves (internal factors) and from outside (external factors). One of the internal challenges is a lack of self-confidence, because they feel inferior compared to law scholars who study positive law. In fact, self-confidence, will, and courage are important keys. Legal knowledge can be learned independently or through experience. External factors that are a challenge are the lack of appreciation for sharia knowledge from legal circles, as if this knowledge is not recognized in the Indonesian legal system. In addition, there is a negative stigma in society towards advocates, who view this profession as full of falsehoods. If an advocate with a sharia background handles a difficult case, they may be criticized. Despite many obstacles, sharia scholars are still very much needed today. They have different predicates and are expected to contribute to law enforcement. Their existence can bring enlightenment to weak laws and corruption. However, sharia faculties need to prepare them well so that they can contribute optimally. It is necessary to socialize the opportunities of the advocate profession to students and improve the curriculum to prepare them. The faculty also needs to collaborate with the advocate association and form a legal aid institution as a place of practice for students.

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