

Advocates As Law Enforcers: Duties And Functions Of Legal Powers In The Religious Court System Based On Law No. 18 Of 2003

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Article Info	ABSTRACT
Keywords: Advocates, Law Enforcers, Legal Counsel, Religious Courts, Law No. 18 of 2003.	Advocate in The laws in Indonesia, in particular according to Constitution Number 18 of 2003 concerning Advocate, is profession enforcer free, independent and responsible law answer in to uphold Law. Advocate own rights, obligations and responsibilities answer in accordance with rule applicable law. As profession that plays a role important in enforcement justice, advocate own not quite enough answer big in guard certainty law, especially in religious courts that often handle matters of a nature personal and religious. Research This use method law normative with approach analysis qualitative. Data obtained from regulation legislation, literature law, and studies relevant cases about role advocate in religious courts. Findings study This disclose that advocate own position important in protect rights client, provide defense fair law, and support smooth running of the religious court process in accordance with with principle justice and provisions applicable law. Advocate No only functioning as advisor law, but also as bodyguard integrity system religious courts with give contribution to justice substantial, especially in case related law family and legacy in context of Islam. Research this also suggests the need Updates regulation For increase role advocate in religious courts.
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INTRODUCTION

Success in realize good justice No can separated from the role of the authorities enforcer law, which consists of from four elements : Judges, Prosecutors, Police, and Advocates. They functioning as instrument important for the country in ensure right every individual. Of the four profession law said, advocate own not quite enough significant responsibility and role in to uphold supremacy Law. Advocate equipped with Spirit high fighting spirit For realize fair, honest and impartial justice certainty clear law for those who seek justice.

Advocate Terms according to Language Latin originate from the word *advocare*, which means *to defend, to call to one's aid to voucher or warrant* (for to defend, to call somebody For asked for help to be able to demand and give guarantee). While according to Language Arab term advocate or lawyer known with the word " *mahami*" on duty For to do " *himayah* " which means defense, protection provided by a person power law to his client in advance

court. In practice advocates also often called as consultant law that gives advice and advocacy to clients who need it.

Existence Advocates in Indonesia must become *agent of law development* (agent builder law) and *agents of law enculturation* (agents acculturation law for society), not on the contrary, tends to become marketer law (*agent of law commercialization*) that benefits from suffering client stuck in problem law. If the behavior This displayed by a lawyer, then will damage opinion lawyer the as " *officium nobile* " (Profession Honorable). A noble profession. This will tarnished by the practices deviations committed by a handful of people advocate in give service law to client or society, which will impact very significant negative for organization his profession.

Justice is a process that aims For give justice through known institution as court. Court Alone is a body that has task For receive, examine, judge and resolve every the case submitted. Religious justice refers to the process of granting justice based on law Islam, which is carried out in religious courts. People Islam need institutions that can realize implementation law Islam in a way official and comprehensive, especially in context law family. This is be one of reason existence Constitution Number 1 of 1974 concerning Marriage and the Law Number 7 of 1989 concerning Religious Court, where both Constitution the give solution to various problems faced by the people Islam.

Religious courts are one of the executor power judiciary for public seeker religious justice Islam related case certain, as set up in Law (Article 2 Law Number 3 of 2006). In the environment religious courts, power judiciary run by two institutions : first, the religious court as court level first ; second, the court high functioning religion as court appeal level.

RESEARCH METHODS

Methods used For to examine about Advocate in system Religious Court is method qualitative. This method used remember research conducted included in research studies library. Research qualitative Library study begins with to collect sources literature both primary and secondary related secondary with focus discussion. Also journal This to quote from a number of source journals, articles, books and some source from the internet. After That done data processing for Then displayed as findings research and interpreted until get conclusion end study.

RESEARCH RESULT

Understanding Advocate

Advocate or lawyer is a person who represents his client For do action law based on letter the power granted For defense or prosecution at a court hearing or litigation in court (litigation). While the advisor law is a person who acts give advice or opinion law to a action or action the law that will and has been done his client (non - litigation). However advocate or lawyers in Indonesia besides involved in the trial in court in the practice can also accompany or represent a client based on letter power beyond court (non litigation) For example just accompany or represent client in negotiation For reach agreement to resolved matters outside

court or term the popularity of the Alternative Dispute Resolution process and its actions other laws on Name clients who are not is a litigation process.

Initially, the term profession the law in question there is use different between term advocate, lawyer and advisor law. As example in Law No. 14 of 1970 *in conjunction with* Law No. 4 of 2004 concerning provisions Main Point Power The judiciary that uses term advisor the law in article 36, namely as following :

" Where everyone who is in dispute criminal entitled contact and ask help advisor law."

On the other hand, the Department The Judiciary (Department of Law and Human Rights, ed.) uses two terms in letter appointment for those who have the title bachelor law and have work stay in the field *lawyer*, namely in the period before 1970s using the term " advocate " and in the period after 1970 with name " lawyer ". According to Martyr Projohamidjojo, the existence of difference use term in the middle public law because of Because Not yet existence the law that regulates regarding about the profession in question.

But now rule law profession service law term it advocate, especially because reason consideration aspect meaning language. Where the term advisor law own weakness of nature fundamental. Because the term advisor in a way connotative meaningful passive. Even though normatively in Chapter IV Provisions Composition Justice and Wisdom Judging (RO) properties passive and also active can done a *Advocate in Procurement* in look after something things to do consideration law or look after matter of authority to him. For more to be clear, definition advocate can be seen in Law no. 18 of 2003 concerning advocate article 1 paragraph (1), Law the to mean advocate as following :

" a person whose profession is give service hukaan, both inside or outside court that meets the requirements condition based on provision Constitution This ".

Duties and Functions of Legal Counsel (Advocate)

Function advocate is For defend clients and ensure rights client filled during the trial process criminal. Presence advocate is very important for people who are looking for justice and certainty law. Task main a advocate in trial is convey related facts and arguments with problem the clients they have defend, so that can give solution to problem and assist the judge in give fair verdict.

As noble profession, advocate should uphold tall values justice and honesty, without accept bribe from party wherever. This is in line with explanation in Surah Al- Qashash verses 33-34:

قَالَ رَبِّ إِنِّي قَتَلْتُ مِنْهُمْ نَفْسًا فَأَخَافُ أَنْ يَقْتُلُونِ

And the Lord is the Most High أَنُ أَخَافُ أَن يُصَدِّقُنِي آلِي أَخَا فَاذْهَبْ بِمُتَّبِعِيكَ وَأَخِي هَارُونُ هُوَ أَفْصَحُ مِنِّي لِسَانًا فَأَرْسَلْهُ مَعِيَ رَدْءًا يُصَدِّقُنِي إِنِّي أَخَافُ أَن يُكَلِّمُونِي

Meaning : (Moses) said, "O my Lord, indeed I has kill somebody from they so that I Afraid they will kill me. As for my brother Harun, he more fluent his tongue than me. So, send he with me as my maid For justify my (words). Truly I Afraid they will lie to me."

Where Moses prayed to God, expressing his fear after kill a from group them and asked that his brother, Harun, be sent with him as his maid For strengthen his statement, because He worry will denied. According to advocates For accompany clients at the Religious Exhortation do not let go from a number of reason among them as following :

- a. It is a demands profession or work as lawyers and advisors law

- b. Help parties to the case For finish the matter with easy in accordance with rule applicable law
- c. Give help to the common people or not able and unable understand will law.

Task main advocate in litigation in the Religious Court is submit existing facts and considerations the relation with problem or ongoing case handled by him so that allow for judges to give the fairest decision. Then For development his profession, advisor law must hold on firm to business For to realize involvement and certainty just law.

Position Advocate in Legal Assistance and Authority religious courts

Regulation no. 18 of 2003 concerning Article 22 paragraph 1 of the Advocate regulates that : " Advocate must share support law as free to seeker equality that is not adequate ", and this is also compiled with Order of the Minister of Justice of the Republic No: M.01-UM.08.10 of 1994 concerning Guidelines Implementation of Legal Support Program For Underprivileged Citizens Group Through Legal Support Agencies that have perfected with Order of the Minister of Justice of the Republic of Indonesia No: M.01-UM.08.01 of 1996, in form increase equalization in get organization as well as giving support law as free For circles inhabitant not enough capable of the new past Assembly State law since year calculation 1980 or 1981 to in 1993 or 1994, in the year In 1994 or 1995 and the following year, the Legal Aid Institute (LBH) was also established apart from Assembly existing state law, as a result its implementation help support law For group inhabitant not enough capable done with 2 (two) methods, namely : Application Legal Support through Assembly State law, and its application Legal Support through the Legal Aid Institute (LBH).

Form of assistance support recommended law handed over to the accused who did not or not enough capable in :

- a. Problem threatened crime with 5 (five) years sentence or more,
- b. Threatened criminal cases with punishment dead,
- c. Or problem threatened crime with criminal prison (criminal) prison) less from 5 (five) interesting years attention resident wide.

Provision For get help free law is with include letter information No capable from defendant or the suspect who has legalized by the party authorized in accordance with provision applicable law, or at least by the head village known by the sub-district head. If you experience difficulties, individual the can make the above description stamp witnessed by the assembly law, and can also use information from Leader Assembly State law states that He No capable.

On the other hand, advocates who provide help law appointed by the Leader The Legal Assembly that presides case the after do consultation with Leader State Law Council. Appointment This official through letter Determination Leader Legal Assembly and given to advocate who has reputation good and capable give service law for free. With Thus, the costs paid by the state are only covers replacement cost transportation, costs administration, and the like.

Related with help free law for poor society, no There is the rules that determine limitation or criteria For define poor people. Many people do open confess No capable although they own decent house and enough shophouse For fulfil need family them.

Therefore that 's important For in a way appropriate determine Who only the real ones entitled accept help free law. This is so that advocates who have invest time, energy, attention, and maybe even personal money in give help law No only face disappointment after know condition economy real client.

Constitution Number 18 of 2003 and its Relevance with System Religious Courts in a number of Aspects :

- a. Giving Legal Aid : This Act arrange about right Advocate For give help free law to society that does not able, including in context cases in the Religious Courts, such as Divorce and Inheritance.
- b. Protection of Client Rights: Advocate play a role important in protect rights clients in the Religious Court, ensuring that the legal process walk fair and appropriate with sharia principles.
- c. Independence Profession : This law give advocate autonomy in operate his profession, which is important For guard integrity and justice in system justice, including in Religious Courts.
- d. Oversight and Ethics: Laws this also emphasizes importance supervision to advocate For prevent violation ethics, which has an impact on trust public regarding the legal process in the Religious Court.

With Thus, Law Number 18 of 2003 supports strengthening role advocate in system religious courts, fun that justice can accessible to all party. Religious Courts also have regulated authority in Article 49 of the Law Number 3 of 2006, which is change from Constitution Number 7 of 1989. Authority This includes :

- a. Marriage : Handling related matters with law marriage according to sharia.
- b. Inheritance: Arrange determination expert inheritance and distribution treasure legacy.
- c. Will : Manage case related testament.
- d. Grant: Completed dispute about grant.
- e. Waqf: Regulating related matters with endowment.
- f. Zakat, Infaq, and Shadaqah : Handling case related charity and donations in sharia context.
- g. Islamic Economics: Overcoming dispute in field appropriate economy with sharia principles.

Religious Court is on duty check, decide and complete matters at the level First between people of the Muslim faith fields the. Religious Courts which become focus of this writing is part from system lower court The Supreme Court serves public seeker religious justice Islam in case civil certain provisions regulated by law. Power court in every environment justice consists of from power relative and power absolute / absolute. Power relatively related with jurisdiction a courts, both at the level of First or at the appellate level.

Power relative (relative competentie) is distribution authority or power to judge between District Court. Or in other words, which District Court has the authority? check and decide matter. Another meaning of authority relatively is power one court type and one level, in the difference with power the same court types and levels.

From the above understanding so understanding authority relatively is power or authority granted to court in environment equal justice related types and levels with jurisdiction court and area of jurisdiction residence / place residence or domicile parties to the case. Religious courts other than own power relatively as mentioned above, it also has power absolute in question with type matter.

Authority absolute (absolute competentie) is related powers with type cases and disputes power court. Power court in the neighborhood Religious Courts are check, decide and complete case civil certain among certain groups of people, namely people who are Muslim.

The Role of Advocates in System Religious Courts

Task main a advocate in trial process is submit fact and related considerations with problem defended client in the a case justice so that give answer on problem and also the judge can give the fairest decision. As a profession advocate too very noble so from That Already should a advocate uphold tall values justice, honesty, without existence bribe from party wherever like explained in in Surah Al- Qashash verses 33-34, As paragraph the explained "He (Moses) said, "Yes My God, really I has kill a from group them, so that I Afraid they will kill me. And my brother Harun, he more fluent his tongue than I, so send it he with me as my maid For justify (word) me ; really, me Afraid they will lie to me.

Responsibilities of an Advocate

There are some chapter in Law No. 18 of 2003 which states about rights Advocate and in general special in Chapter IV, namely as following:

- a. The right to freedom and independence (*independence*)
- b. Immunity rights
- c. Right to Request Information
- d. Right of Refusal
- e. The right to Operate Practice Courts throughout Indonesia
- f. Equal Rights with Other Law Enforcement
- g. Right to Obtain Honorium and Conduct Retention
- h. The right to Protect Client Documents and Confidentiality
- i. Right to Grant Summons
- j. Right to Make Legal Comments or Legal Opinions

Administrative processes assisted by advocates in submission divorce in the Religious Court involves a number of step important :

- a. Preparation Documents : Advocate help client prepare required documents, such as marriage certificate, ID card, and letter information from sub-district. Document This important For submit lawsuit divorced in a way official.
- b. Registration Lawsuit : Advocate will register lawsuit divorced to The competent Religious Court, in accordance with with area law place stay defendant.
- c. Preparation of Lawsuit Letter : Advocate compile letter lawsuit stating reason divorce and supporting facts, so that you can accepted by the court.
- d. Mentoring Trial : During the trial process, the advocate accompany client For convey arguments and evidence, as well as attend mediation If required.

- e. Management Divorce Certificate : After decision court, advocate help client in look after deed divorced as proof official divorce.

With help advocate, this process become more structured and ensure rights client protected during the legal process ongoing.

CONCLUSION

Advocate or lawyer is a person who represents his client For do action law based on letter the power granted For defense or prosecution at a court hearing or litigation in court (litigation). While the advisor law is a person who acts give advice or opinion law to a action or action the law that will and has been done his client (non litigation). However advocate or lawyers in Indonesia besides involved in the trial in court in the practice can also accompany or represent a client based on letter power beyond court (non litigation) For example just accompany or represent client in negotiation For reach agreement to resolved matters outside court or term the popularity of the *Alternative Dispute Resolution* process and its actions other laws on Name clients who are not is a litigation process.

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