



Legal View on the Definition of Advocate as Law Enforcement Officers from a Positive Legal Perspective

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ABSTRACT

This study examines the legal perspective on the profession of advocates as law enforcers in Indonesia, focusing on the inconsistency of referring to advocates as law enforcement officers, similar to judges, prosecutors, and police. Based on Law Number 18 of 2003 concerning Advocates, Article 5 paragraph (1), advocates have the status of law enforcers who are free, independent, and guaranteed by law, but do not have the same characteristics and authority as law enforcement officers. Advocates play a crucial role in providing legal services, including consultation, assistance, and defense, for the interests of clients, without the bureaucratic hierarchy and authority that often accompany detention, prosecution, or legal decision-making. This study uses a normative juridical method by analyzing laws and regulations, expert opinions, and legal literature. The results of the study indicate that advocates play a crucial role in maintaining justice and protecting human rights within the justice system, encompassing both criminal and civil matters, with the principles of independence and immunity that are recognized nationally and internationally. However, referring to advocates as law enforcement officers is inappropriate due to differences in duties, functions, and independence. This study recommends reaffirmation in regulations to clarify the status of advocates as independent law enforcers, as well as increasing public understanding to strengthen the integrity of the advocate profession in supporting a fair justice system in Indonesia.

Keywords: Advocates, Law Enforcer, Law Enforcement Officers.

1. Introduction

The public's understanding of Indonesia as a state governed by law has been ingrained for a long time. It began with the ideas of Plato in 429 BC, who argued that the ideal ruler should be someone who understands the fundamentals of goodness, namely, a philosopher king.¹ Indonesia has adopted the concept of a state based on law under the mandate of Article 1 paragraph (3) of the 1945 Constitution, as a form of implementation of the message of the Constitution which requires Indonesia

¹Ias Muhlashin, "Negara Hukum, Demokrasi dan Penegakan Hukum di Indonesia," Jurnal Al-Qadai: Peradilan dan Hukum Keluarga Islam 8, no. 1 Juni 2021, p. 88, <https://doi.org/10.24252/alqadai.v8i1.18114>.

to formulate a comprehensive concept of a state based on law, but unfortunately the nature of the concept of a state based on law is still sectoral and has not been massively connected into a complete network.² In this regard, advocates play a crucial role in the law enforcement process in Indonesia. The continuity of legal proceedings in Indonesia can be ensured if advocates are involved, thus aligning them with the principles of justice. In the judicial process, advocates are involved in providing defense to their clients involved in legal cases. Developing the concept of human rights and freedom of expression in Indonesia is one of the contributions advocates make when involved in the legal process.

The position of advocates in the criminal and civil justice systems has a very important role in providing guarantees of justice and protection of human rights to obtain legal facilities.³ In terms of justice, advocates have an equal position with law enforcement officers in the judicial institution, namely the Police, the Prosecutor's Office, and Judges. Article 1 paragraph (1) of the Advocates Law states that, "Advocates are people whose profession is providing legal services, both inside and outside the court who fulfill the requirements based on this law" especially based on Article 5 paragraph (1) of the Law which states: "Advocates have the status of law enforcers, free and independent which is guaranteed by law and statutory regulations."

One of the limitations of advocates is the difficulty in accessing information on case files that advocates are handling and this is the main challenge for advocates.⁴ This situation significantly hinders the continuity of the legal profession when processing information and evidence to defend clients. In practice, advocacy is a profession that relies on expertise and understanding of the advocate's case, given that it is their responsibility to defend clients while adhering to the guidelines of the advocate organization.

The law enforcement agencies commonly known to the public are the police, the prosecutor's office, and the judiciary. These three institutions operate within the Indonesian justice system, which adheres to the concept that criminal cases are disputes between individuals and society or the public. In the Indonesian criminal justice system, the authority to examine and try a case is exercised by the judge, while the prosecutor acts as the public prosecutor tasked with prosecuting the defendant, who is assisted by an advocate. From this statement, it can be concluded that advocates are a component that plays a role in the Indonesian justice system.⁵

Basically, before discussing further about the profession of advocate, it would be better to first know about the definition of advocate as one of the elements of law enforcement, this is following Law Number 18 of 2003 concerning Advocates, Article 5 paragraph 1 which reads:

"Advocates have the status of law enforcers, free and independent, which is guaranteed by law and statutory regulations."

It can be interpreted that an advocate is a person whose profession is providing legal services both in litigation processes and outside of litigation.

²Ismail Adha, Rio Bayu Riansyah Harahap, and Fauziah Lubis, ""Peranan Advokat Dalam Sistem Peradilan Pidana di Indonesia," *El-Mujtama: Jurnal Pengabdian Masyarakat* vol.3,number.3 (February 14, 2023), p. 747. <https://doi.org/10.47467/elmujtama.v3i3.2932>.

³Mutiara Nora Peace Hasibuan and Mujiono Hafidh Prasetyo "Kedudukan Advokat Dalam Sistem Peradilan Pidana di Indonesia" *Jurnal Ius Constituendum* 7, Number 1 (April 2022), p. 161. <https://doi.org/10.26623/jic.v7i1.4629>.

⁴Mutiara Nora Peace Hasibuan and Mujiono Hafidh Prasetyo "Kedudukan Advokat Dalam Sistem Peradilan Pidana di Indonesia" *Jurnal Ius Constituendum* 7. Number 1 April 2022. P. 161. <https://doi.org/10.26623/jic.v7i1.4629>.

⁵Mumuh M Rozi, *Peranan Advokat Sebagai Penegak Hukum Dalam Sistem Peradilan Pidana Dikaji Menurut Undang-Undang Nomor 18 Tahun 2003 Tentang Advokat*, *Mimbar Justitia Journal*, Volume VII Number 1, January-June 2015, pp. 630-631. <https://doi.org/10.35194/jhmj.v1i2.44>.

According to history, the advocate profession is an old profession in Indonesia. Before Indonesia's independence in 1945, the public had already known about the advocate profession until 1947, there was a regulation regarding advocates known as the Reglement op de rechterlijke organisatie en het beleid der justitie indonesia. On the other hand, although advocates are not law enforcement officers, advocates are law enforcers whose position is equal to judges, prosecutors, and police only differ in their duties and functions.⁶

During the Japanese occupation, indigenous advocates were treated more fairly in court, as evidenced by the granting of equal rights to both indigenous and Dutch advocates. This contrasted with the Dutch colonial era, which imposed differential treatment in the courts. Law Number 1 of 1942, issued by the Japanese military, Dai Nippon, for Java and Madura, also regulated the structure and authority of the courts.⁷

During the Roman Empire, the role of an advocate was limited to providing legal advice, while the Patronus-Procurator of the Roman Empire acted as a spokesperson in legal proceedings. Only an advocate was considered a jurist and thus granted permission to litigate in court, while a procurator, etymologically derived from the word "Pro-Curo" meaning "representative," was therefore only considered a representative. Finally, the terms were combined into advocaat-procurator in 1979, thus every advocate was treated the same as a procurator. However, this cannot be reversed; not all procurators can be considered advocates in a legal context.⁸

An advocate is a lawyer who speaks on behalf of another person who grants him or her power of attorney before a court. This definition explains that the job is a profession involving duties both in and out of court.⁹ In its history, the legal profession is one of the oldest professions, which is considered to be *Officium Nobile*, which means an honorable profession.¹⁰ This distinction is bestowed upon the legal profession because the advocate's clients have entrusted them with defending and advocating for their rights in court. History records that advocates have long been known since ancient Rome. In ancient Roman history, the term "advocate" was used from the 5th to the 15th century, referring to the existence of church advocates (*kerkelijkke advocaten* or *duivel advocaten*) whose duty was to provide advice and assistance in cases of objections to the canonization of deceased individuals.¹¹

Law enforcement in this context refers to the professional environment or officials tasked with enforcing the law. Generally, law enforcement can be defined as the police, prosecutors, and courts. Although advocates are regulated as law enforcement officers by law, they are not considered part of the law enforcement system, either in theory or doctrine.¹² In practice, advocates are often labeled as law enforcement officers, even though Law Number 18 of 2003 concerning Advocates does not specify that advocates are law enforcement officers, only that they are law enforcers. The term "Law Enforcement Officer" can be considered merely an informal designation and cannot be legally justified as a law enforcement officer.

⁶ Handayani, T.A., & SH, M. (2018). Kedudukan Dan Peranan Advokat Dalam Penegakan Hukum di Indonesia (Study Di Dewan Pimpinan Cabang Peradi Kabupaten Bojonegoro). *JUSTITIABLE-Jurnal Hukum*, 1(1), 13-24. <https://doi.org/10.56071/justitable.v1i1.37>.

⁷ Paet Hasibuan, Muhammad Nurul Azmi, And Fauziah Lubis. "Masa Jabatan Pimpinan Organisasi Advokat Melalui keputusan Mahkamah Konstitusi RI" *Journal on Education* 5. Number 2. January 2023. P. 1851. <https://doi.org/10.31004/joe/v5i2.825>.

⁸ Acep Saepudin, "Kajian Terhadap Kedudukan Advokat Dalam Sistem Peradilan Pidana di Indonesia" *Milthree Law Journal*, Volume 1 Number 1, March 2024, p. 11. <https://doi.org/10.70565/mlj.v1i1.1>.

⁹ Endira, B. K., Junaidi, M., Sediati, D. S. R., & Sihotang, A. P. (2022). Kedudukan Dan Peran Organisasi Profesi Advokat Terhadap Advokat Yang Berhadapan Dengan Hukum. *Jurnal USM Law Review*, 5(1), p. 390. <https://doi.org/10.26623/julr.v5i1.4841>.

¹⁰ Op. cit.

¹¹ Acep Saepudin, "Kajian Terhadap Kedudukan Advokat Dalam Sistem Peradilan Pidana di Indonesia" *Milthree Law Journal*, Volume 1 Number 1, March 2024, p. 11. <https://doi.org/10.70565/mlj.v1i1.1>.

¹² *Ibid* p. 18

In Indonesia, there are various law enforcement agencies, including the Prosecutor's Office, the Police, and the Supreme Court, which are powers under the Judicial Institution, so there is a bureaucratic hierarchy. In contrast, the advocate profession is considered a law enforcer who does not have a bureaucratic hierarchy so that it is free, independent, not bound and independent. Advocates are one of the law enforcers, although they are in a different bureaucratic group from the Prosecutor's Office, the Police, and the Supreme Court, but the advocate profession has the same interest, namely defending the interests of the people/clients to seek absolute and real truth, in order to achieve the ideal of realizing true justice for the sustainability of a democratic state.

The legal profession is an honorable profession (*Officium Nobile*) which in carrying out its professional duties is protected by laws and regulations and internal provisions of professional legal organizations so that there are no bureaucratic hierarchical ties which are certainly different from the police, prosecutors and judges who are considered law enforcement officers.¹³ In practice, advocates are often considered as law enforcement officers. This has led to the emergence of discourse among legal experts and legal observers regarding the naming of advocates as law enforcement officers, which is considered to be inconsistent with statutory regulations and the practice of the advocate profession, which is indeed inappropriate if it is said to be a law enforcement officer.

The history of the legal profession in Indonesia is inextricably linked to the struggle for independence, which influenced Indonesia's social dynamics. This is especially true given the significant role advocates played in defending Indonesian independence. In the pre-independence era, Indonesian intellectuals and political leaders, including advocates, played a crucial role in the struggle for independence. Educated in the liberal culture of Western Europe, the Dutch played a crucial role in instilling Western European doctrines. Consequently, the foundations of the Indonesian constitution contain Dutch-influenced values. This esteemed position significantly influenced the direction of Indonesian politics and the constitution during that era.¹⁴

Based on Article 1 paragraph (1) of the Advocates Law, it states that "An Advocate is a person whose profession is providing legal services, both inside and outside the court who meets the requirements based on this law." It is also emphasized in Article 5 paragraph (1) of the Advocates Law that "An Advocate is a law enforcer, free and independent which is guaranteed by law and statutory regulations." Thus, the position of an advocate is equal to that of the police, prosecutors and judges as law enforcers.¹⁵

Based on the researcher's analysis, the legal profession is not considered a law enforcement officer. This is also based on different characteristics in terms of duties, functions, and independence. Advocates essentially work as defenders of clients and monitor the stability of the judiciary in the ongoing legal process by the advocate's clients. This paper aims to outline the legal perspective affirming that advocates are not law enforcement officers who can be equated with judges, police, and prosecutors under the hierarchy of the state's judicial trias politica.

Based on the background above, several problems can be put forward as follows:

1. What is the legal view regarding the profession of advocate as a law enforcer?
2. What is the legal view on the profession of advocates who are not considered law enforcement officers?

The objectives of compiling this research writing based on the title above include:

¹³ Hamdani, H. (2024). Pandangan Hukum Terhadap Profesi Advokat Dalam Segi Hukum Islam Dan Hukum Positif. *Jurnal Review Pendidikan Dan Pengajaran (JRPP)*, 7(1), 1310-1324. p. 1311. <https://doi.org/10.31004/jrpp.v7i1.25146>.

¹⁴ Nurhidayah, A. (2023). Hak Imunitas Advokat Dalam Menjalankan Profesi Hukum. *Constitutum: Jurnal Ilmiah Hukum*, 2(1), 77-89. <https://doi.org/10.37721/constitutum.v2i1.1337>.

¹⁵ Fenny Cahyani, "Kedudukan Hak Imunitas Advokat di Indonesia," *USM Law Journal*, Volume 4 Number 1, 2021, p. 148. <https://doi.org/10.26623/julr.v4i1.3328>.

1. To find out the legal perspective on the profession of advocate as a law enforcement officer
2. To inform and make the public understand that the profession of advocate is not as a law enforcement officer but rather only as a law enforcer.

2. Research Method

This research design was implemented using the normative juridical method. This research was conducted through this normative juridical method, which is the basis of research by collecting data from the literature, which the researcher refers to based on laws and legal norms that apply in everyday life in society. This research method can also be interpreted as research with the process of analyzing laws, both written in books (law as is written in the book), the opinions of legal experts regarding the research title that the author took, and this research is the result of data processing that the author interpreted.

3. Results and Discussion

3.1 The answer to the first question Legal Views on The Advocate Profession As A Law Enforcement Officer

A lawyer is part of law enforcement who must be concerned with enforcing the law in a fair, balanced, and responsible manner, while upholding the values of human rights.¹⁶

As legal subjects, the public undoubtedly needs advocates to assist in the process of upholding justice. The goal of bringing in advocates is to provide legal assistance to defendants in cases and to assist judges in pursuing justice. Therefore, advocates are rightly considered law enforcers.¹⁷

The definitions of law enforcement and law enforcement officers, which have long been considered synonymous by the public, need to be clarified. These two terms have distinct meanings that cannot be equated. In a broad sense, law enforcement refers to individuals or institutions responsible for enforcing the law and ensuring the justice system remains independent and fair. In a narrower sense, law enforcement officers possess "Police Power," meaning the right to arrest, question, and detain, a power held exclusively by the Prosecutor's Office, the Police, and Judges. Law enforcement involves elements within the law enforcement apparatus, laws, and the public. Law enforcement officers, with their authority, maintain law enforcement and take action in the event of violations, engage the public in upholding existing legal norms, and ensure the optimal functioning of laws and regulations to ensure law enforcement.¹⁸

According to article 1 Numbers 1 and 2 of Law Number 18 of 2003 concerning advocates which reads:

"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 this law."

"Legal services are services provided by advocates in the form of providing legal consultations, legal assistance, exercising power of attorney, representing, accompanying, defending, and carrying out other legal actions for the legal interests of clients."

¹⁶ Amatahir, Z. (2021). Peran Dan Kedudukan Hukum Advokat Dalam Penegakan Hukum: The Role And Legal Position Of An Advocate In Law Enforcement. *Jurnal Media Hukum*, 9(2), 70-77. <https://doi.org/10.59414/jmh.v9i2.435>.

¹⁷ Langgeng, S. (2022) Peran Advokat Sebagai Penegak Hukum Dalam Mendukung Terwujudnya Sistem Peradilan Pidana Terpadu Dalam Penegakan Hukum Pidana di Indonesia. *Jurnal Daulat Hukum*, 1 (1). P. 142. <http://dx.doi.org/10.30659/jdh.v1i1.2628>.

¹⁸ Lubis, M. A., Dhevi, R. S., & Yasid, M. (2020). Penegakan Hukum Terhadap Aparat Sipil Negara Yang Melakukan Pelanggaran Hukum Dalam Mewujudkan Good Governance. *Jurnal Darma Agung*, 28(2), 269-285. <https://doi.org/10.46930/OJSUDA.V28I2.649>.

The article interprets an advocate as someone whose profession is to provide legal services, both in and out of court, who meets the competencies stipulated in the law. The primary duties of an advocate are to provide legal consultation, assistance, advocacy, and representation of clients in legal proceedings. Advocates hold a strong sense of independence, ensuring that they fully uphold the interests of their clients when carrying out their profession.

In Law Number 18 of 2003 concerning Advocates, specifically in Article 5 paragraph (1) it explicitly explains that advocates are a free and independent law enforcement profession. Although this status equates advocates with prosecutors, police, and judges. However, this equality cannot be misinterpreted to mean that advocates should also be law enforcement officers, considering that law enforcement officers are authorized to defend the interests of the public, the state and the people while the advocate profession is authorized to defend clients only. Advocates are authorized to ensure that justice for their clients runs properly and well, defend human rights that are entitled to be given to their clients, provide arguments that are justified by law. This can be ascertained if the advocate profession is not a law enforcement officer who has the function of detention, prosecution, providing legal decisions for the interests of the public and the state community.¹⁹

The fundamental difference between advocates and law enforcement officers lies in their characteristics. Law enforcement officers, such as police, prosecutors, and judges, are mandated by the state to enforce the law directly before the public. Judges are not only responsible for these duties, but also for presenting cases in court following the law, conducting investigations and inquiries for the police, or making arrests and prosecutions by the prosecutor's office. It can be further explained that law enforcement officers and advocates have several different characteristics, including:²⁰

1. Independence: Advocates are independent professionals with no hierarchical coordination with any institution, especially the state. Advocates work for their clients, not for state agencies, and do not have the same authority as police or prosecutors to enforce the law. Article 15 of Law Number 18 of 2003 stipulates that advocates must maintain independence in carrying out their duties for the benefit of their clients.
2. The duties and functions of an advocate focus on the client's interests, not on directly enforcing the law, as law enforcement officers do. Advocates do not have the authority to prosecute, arrest, investigate, or exercise other powers that are unique to law enforcement regulations.
3. Advocates are subject to the code of ethics of each advocate organization that is the parent of advocates. In this code of ethics, there is an emphasis on the obligation of advocates to provide loyalty to clients, unlike law enforcement officers who are subject to state regulations and have an interest in protecting the interests of the public.
4. Advocates do not have a vertical or horizontal line of instruction with any government agency, unlike law enforcement officers, who have a relationship with the government because they are part of the government.

In carrying out their profession, advocates have the right to immunity, ensuring they remain committed to the principles of independence and freedom. This right to immunity is regulated in various laws and regulations, which are of course, international and apply to all advocates worldwide. These regulations are as follows:

1. Basic Principles Role of Lawyers adopted by the 8th congress of the United Nations (UN) regarding efforts to prevent criminal acts and the treatment of perpetrators of crimes in Havana, Cuba in 1990, which essentially explains that the government is obliged to guarantee that

¹⁹Pattipawae, DR (2022). "Kedudukan Advokat Sebagai Penegak Hukum Dalam Hubungan Dengan Aparat Penegak Hukum Lainnya Untuk Menegakkan Hukum dan Keadilan". SASI, 18(1), 64-71. DOI: <https://doi.org/10.47268/sasi.v18i1.339>

²⁰ Novriansyah, Novriansyah & Syaiful Ahmad Dinar. (2023). "Analisis Tugas dan Kewenangan Aparat Penegak Hukum di Indonesia" MORALITY: Journal of Legal Studies, vol. 9, no. 1, pp. 132-139. ISSN 2614-2228. <https://jurnal.upgriplk.ac.id/index.php/morality/article/view/470>

advocates in carrying out their profession are free from intimidation, intervention and interference, including legal prosecution.

2. International Bars Association Standards for The Independence of The Legal Professionals adopted in 1990 which essentially explains that advocates not only have immunity from criminal and civil penalties but also from administrative economic penalties and other sanctions or enforcement in carrying out their duties as legal advisors for their clients.
3. The declaration produced at The World Conference of the Independence of Justice in Montreal, Canada in 1983 stated that there must be a fair system in the administration of justice which can guarantee the independence of advocates.
4. Article 14 of the Advocates Law explains that advocates have the freedom to express opinions or statements in defending cases that are their responsibility in court proceedings while adhering to the provisions of the code of ethics of the advocate profession and complying with statutory regulations.
5. Article 16 of the Advocates Law explains that Advocates cannot be sued civilly, criminally or administratively because advocates have the right to immunity and only carry out their work to defend their clients in court.
6. Jurisprudence of the Supreme Court of the Republic of Indonesia Number 129 K/Kr/1970 dated January 10, 1973 or often known as the Yap Thiam Hien jurisprudence in which Yap Thiam Hien in his capacity as an Advocate was forced to reveal an intimate relationship between the reporting witness and law enforcement regarding the criminal case that ensnared his client as a form of defense for his client.²¹

The legal profession is one of the oldest professions, comparable to medicine, and can therefore be considered a highly respected one. While doctors focus on caring for their clients' health, advocates maintain the security of justice for clients who have been deprived of justice. The legal profession is considered essential to oversee the delivery of justice for their clients. Advocates are required to possess a high level of legal competence to carry out their profession professionally. Public trust will be high if advocates can apply this competence to assist their clients, both in and out of court, following statutory provisions.²²

3.2 Legal Views of The Advocate Profession That are Not Suitable To Be Considered Law Enforcement Officers

The definition of advocates as law enforcement officers is a custom from the New Order era. Therefore, until now, the general public has always considered advocates to be law enforcement officers, just like the police, judges, and prosecutors. According to Law Number 18 of 2003 concerning advocates, Article 5 paragraph (1) states that advocates have the status of free and independent law enforcers, guaranteed by law and statutory regulations.

In the process of both civil and criminal courts, advocates have the authority to provide legal assistance in the form of case assistance so that the right to justice is guaranteed for the accused or the parties to the case. The importance of this role is recognized internationally with the term "Basic Principle on The Role of Lawyers" which was claimed by the Eighth Criminal Congress in Havana on August 27 to September 7, 1990. The document emphasizes the importance of programs that provide information on legal rights and obligations, as well as the important role of advocates in

²¹ Saraya, S. (2020). Tinjauan Hukum Pidana Terhadap Malpraktek Advokat di Indonesia. *JURNAL EKONOMI, SOSIAL & HUMANIORA*, 1(10), 167-168. <https://www.jurnalintelektiva.com/index.php/jurnal/article/view/935>.

²² Sitorus, N., & Arfa'i, AI (2023). Analisis Pengaturan Kewenangan Advokat Menurut Undang-Undang Nomor 18 Tahun 2003. *Limbago: Journal of Constitutional Law*, 3(2), 199-213. <https://doi.org/10.22437/limbago.v3i2.20732>.

implementing efforts to protect fundamental freedoms, especially for those who do not have the ability to seek justice because they are oppressed to be further fought for in the courts.²³

The function of an advocate as a defender is:

- a. Protecting the rights of justice seekers by treating them humanely.
- b. Ensuring that the judicial process and the examination process that serve to seek the truth do not drag on without clear legal clarity.
- c. Ensure that the rights of justice seekers are based on law and ensure that law enforcement officers and the state government pay more attention to justice seekers.²⁴

From An explanation of the advocate's role as a law enforcer in the criminal justice process means that the presence of an advocate in the legal process in court should be mandatory. This is to ensure that there is no difference in treatment between suspects/defendants who are accompanied by an advocate and defendants who are not.²⁵

Considering that these advocates are not law enforcement officers, they have difficulty exercising their freedom of movement, because they are hampered by the threat of intervention from law enforcement officers such as the Police and the Prosecutor's Office, thus reducing the process of providing legal protection for the community carried out by advocates, thus sometimes the integrity of the advocate profession is seriously threatened by intervention from these parties.²⁶

The problematic nature of criminal law in Indonesia presents a unique challenge for advocates as law enforcers. Increasing their understanding is crucial due to the shifting nature of legislation, which is increasingly being amended to adapt to current conditions, enabling them to maintain their clients' legal defense. On the other hand, advocates often face pressure because some in society perceive advocacy as a materialistic profession, perceived as solely focused on financial gain and not fully advocating for their clients.

In this paper aims to further examine the fact that advocates are not part of the law enforcement apparatus but rather are law enforcers. This will strengthen this assertion, provide a clearer perspective on the status of advocates in the judiciary, and emphasize the importance of their role in maintaining integrity, providing rights to their clients, and helping to create a climate of honesty in court proceedings.

The individual's right to receive legal assistance at all stages of the examination is an important principle in upholding justice during the legal process.²⁷ The role of an advocate significantly impacts the well-being of the suspect they represent, as they serve to prevent attempts to violate the suspect's rights to justice. Given that the suspect is being held behind bars, the presence of an advocate can minimize the risk of threats, torture, and intimidation during the investigation, allowing the suspect to obtain testimony voluntarily and without pressure.

²³ Wagiman, W., & Sekartaji, R. R. H. T. (2024). Instrumen Perserikatan Bangsa-Bangsa Mengenai Prinsip Dasar Peran Pengacara dan Penerapannya di Indonesia dan Malaysia. *JURNAL HUKUM STAATRECHTS*, 7(2), 1-27. <https://doi.org/10.52447/sr.v7i2.7865>.

²⁴ Krisnowo, R. D. A. P., & Sianturi, R. M. (2022). Peran Advokat Dalam Pendampingan Hukum Terhadap Klien. *Jurnal Jendela Hukum*, 9(1), 52-63. <https://doi.org/10.24929/fh.v9i1.1958>.

²⁵ Acep Saepudin, "Kajian Terhadap Kedudukan Advokat Dalam Sistem Peradilan Pidana di Indonesia" *Milthree Law Journal*, Volume 1 Number 1, March 2024, p. 18. <https://doi.org/10.70565/mlj.v1i1.1>

²⁶ Bamedika Kris Endira et al., "Kedudukan Dan Peran Organisasi Profesi Advokat Terhadap Advokat Yang Berhadapan Dengan Hukum," *JURNAL USM LAW REVIEW* 5, no. 1 (May 29, 2022), p. 395, <https://doi.org/10.26623/julr.v5i1.4841>

²⁷ Asmuni Iswani Setiawan, Ridho Fitriantoro, and Ibnu Mubarak. 2024 "Pembatasan Hak-Hak Tersangka Dan Terdakwa Dalam Tindak Pidana Narkoba: Keseimbangan Antara Kepentingan Negara Dan Hak Asasi Manusia" *Decisio: Journal of Law*. No. 1. P. 25. <https://doi.org/10.52249/decisio.v1i1.4>

Before Indonesian independence, native advocates had been active in the Indonesian judicial system during the Dutch East Indies era, during the Dutch colonial period which called it the continental European legal system.²⁸ During the Dutch East Indies era, there were significant changes in law enforcement. Every village had a bamboo pokrol, while in big cities there were professional legal experts who played a role similar to modern advocates. Both bamboo pokrol and professional advocates served as intermediaries in community legal affairs, with the obligation to comply with the procedures, mechanisms, and judicial procedures according to the formal legality standards set by the Dutch East Indies government. Through the Principle of Concordance and the King's firman dated May 16, 1848 Number 1 (ordonatie met koninklijke machtiging) in Staatsblaad 1848 Number 16, it was determined that all laws applicable in the Netherlands also apply in the Dutch East Indies, including the Reglement op de Rechterlijke en het Beleid der Justitie (RO) and at that time advocates began to be considered as law enforcement officers similar to Judges, Police and Prosecutors so that there were regulations regarding advocates Law Number 18 of 2003 is a reaffirmation that advocates are not appropriate to be called law enforcement officers.

The legal basis that the legal profession is not worthy of being considered a law enforcement officer is based on Law Number 18 of 2003 concerning Advocates, Article paragraph (1) which reads:

"Advocates have the status of law enforcers, free and independent, which is guaranteed by law and statutory regulations."

If we look at this article, it is clear that it cannot be justified if advocates are always considered as law enforcement officers like judges, prosecutors and police.

4. Conclusion

Based on the author's discussion above, it can be concluded that the advocate profession has a long history of being a profession that defends law enforcement, especially defending clients. Advocates are a profession that can be considered as *Officium Nobile* because they always uphold humanity in accordance with the principles of human rights and defend justice. important role as law enforcers in Indonesia, as regulated in Article 5 paragraph (1) of Law Number 18 of 2003 concerning Advocates, which states that advocates have the status of law enforcers who are free, independent, and guaranteed by law. However, advocates cannot be equated with law enforcement officers such as the police, prosecutors, and judges because they have different characteristics, duties, and functions. Advocates focus on defending the interests of clients independently without a bureaucratic hierarchy, while law enforcement officers have direct authority such as investigations, prosecutions, and making legal decisions for the public interest so that there is a bureaucratic hierarchy. The legal perspective emphasizes that advocates play a role in maintaining justice and protecting human rights in the judicial process, both criminal and civil, with the principles of independence and immunity that are recognized nationally and internationally. Although often mistaken for law enforcement officers, advocates do not possess "police" powers such as detention or prosecution. Instead, they are tasked with providing consultation, assistance, and legal defense to clients. Therefore, referring to advocates as law enforcement officers is inconsistent with regulations and the characteristics of the profession. This research emphasizes the importance of understanding the status of advocates as independent law enforcers to strengthen the integrity of the profession and ensure fairness in the Indonesian justice system.

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²⁸ Asmuni, (2024), "*Relevansi Kedudukan Advokat Sebagai Penegak Hukum Perspektif Hukum Islam*". *Al-Mawarid: JSYH* 6, No. 1. P. 37. <https://doi.org/10.20885/mawarid.vol.6.iss1.art3>

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