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REKONSTRUKSI BATASAN HAK IMUNITAS ADVOKAT DALAM PENDAMPINGAN PERKARA TINDAK PIDANA KORUPSI UNTUK MENCEGAH PENYALAHGUNAAN PROFESI DAN MENJAMIN KEPASTIAN HUKUM

Reconstruction of the Limits of Advocates' Immunity Rights in Assistance in Corruption Cases to Prevent Professional Abuse and Ensure Legal Certainty

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Abstrak

Penelitian ini bertujuan untuk menganalisis problematika pengaturan hak imunitas advokat dalam pendampingan perkara tindak pidana korupsi serta merumuskan rekonstruksi batasan hak imunitas advokat yang berbasis kepastian hukum. Penelitian ini menggunakan metode yuridis normatif dengan pendekatan peraturan perundang-undangan dan pendekatan konseptual. Hasil penelitian menunjukkan bahwa pengaturan hak imunitas advokat sebagaimana diatur dalam Pasal 16 Undang-Undang Nomor 18 Tahun 2003 tentang Advokat dan Putusan Mahkamah Konstitusi Nomor 26/PUU-XI/2013 masih mengandung norma yang belum jelas, khususnya mengenai frasa "iktikad baik" dan batasan tindakan profesi yang memperoleh perlindungan hukum. Kondisi tersebut menimbulkan ketidakpastian hukum dan membuka peluang terjadinya penyalahgunaan profesi advokat dalam perkara tindak pidana korupsi, termasuk penyuapan, perintangan proses peradilan (*obstruction of justice*), tindak pidana pencucian uang, penyembunyian aset hasil tindak pidana korupsi, serta memengaruhi atau mengondisikan keterangan saksi. Rekonstruksi hukum yang diusulkan dilakukan melalui perumusan indikator iktikad baik, penegasan batasan profesi advokat, pengadopsian konsep *crime-fraud exception*, serta perubahan terhadap Pasal 16 Undang-Undang Advokat untuk menegaskan bahwa hak imunitas tidak berlaku terhadap tindakan advokat yang dilakukan untuk melakukan, membantu, memfasilitasi, atau menyembunyikan tindak pidana korupsi. Rekonstruksi tersebut bertujuan untuk mewujudkan keseimbangan antara independensi profesi advokat dan efektivitas pemberantasan tindak pidana korupsi sehingga tercipta kepastian hukum, keadilan, dan kemanfaatan.

Kata Kunci:
Hak Imunitas Advokat
Tindak Pidana Korupsi

Keywords:
Advocate Immunity
Corruption

Abstract

This study aims to analyze the problematic regulation of advocate immunity rights in assisting corruption cases and formulate a reconstruction of the limits of advocate immunity rights based on legal certainty. The study uses a normative juridical method with a statutory and conceptual approach. The results of the study indicate that the regulation of advocate immunity rights, as regulated in Article 16 of Law Number 18 of 2003 concerning Advocates and Constitutional Court Decision Number 26/PUU-XI/2013, still contains unclear norms, particularly regarding the phrase "good faith" and the limits of professional actions that receive legal protection. This situation creates legal uncertainty and opens opportunities for abuse of the advocate profession in cases of corruption, including bribery, obstruction of justice, money laundering, concealment of assets obtained through corruption, and witness tampering. The proposed legal reconstruction involves formulating indicators of good faith, affirming the limits of the legal profession, adopting the concept of the crime-fraud exception, and amending Article 16 of the Advocates Law to emphasize that the right to immunity does not apply to actions taken by advocates to commit, assist, facilitate, or conceal corruption. This reconstruction aims to balance the independence of the legal profession with effective corruption eradication to ensure legal certainty, justice, and benefit.

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INTRODUCTION

The concept of a state based on the rule of law places law as a fundamental foundation in the implementation of national and state life. Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia affirms that Indonesia is a state based on the rule of law, which has the consequence that every action of citizens and state administrators must be based on law and guarantee the protection of human rights (Ismoyo, 2025). One of the key principles of a modern state based on the rule of law is the recognition of the right of every person to obtain legal assistance in facing legal processes that have the potential to limit their rights and freedoms. Its guarantee is reflected in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which provides the right to recognition, guarantees, protection, and fair legal certainty, as well as Article 28I paragraph (4), which emphasizes the state's responsibility in protecting and fulfilling human rights (Agustina, 2021). In the criminal justice system, the fulfillment of these rights is realized through the existence of advocates as one of the pillars of law enforcement who provide legal services to the community. The position of advocates as law enforcers is emphasized in Article 5, paragraph (1) of Law Number 18 of 2003 concerning Advocates, which states that advocates have the status of free and independent law enforcers (Syahputra, 2015). The condition demonstrates that advocates not only practice their profession for the private benefit of their clients, but also fulfill their constitutional function of ensuring the upholding of the principles of fair trial, due process of law, and equality before the law in the criminal justice system.

The role of advocates as free and independent law enforcers necessitates adequate legal protection in carrying out their professional duties (Prasetyo, 2022). This defense is realized through the granting of immunity rights, which are not essentially personal privileges, but rather a legal instrument to guarantee the independence of the legal profession in providing maximum defense to clients. The philosophy of the right of legal immunity stems from the idea that advocates will not be able to perform their defense function effectively if every professional action is always overshadowed by the threat of civil lawsuits, criminal charges, or pressure from other parties. Therefore, Article 16 of Law Number 18 of 2003 concerning Advocates stipulates that advocates cannot be sued either civilly or criminally for carrying out their professional duties in good faith for the benefit of defending clients in court proceedings (Cahyani, 2021). This regulation embodies the principles of access to justice and fair trial, also recognized in the Basic Principles on the Role of Lawyers adopted by the 1990 United Nations Congress on the Prevention of Crime and the Treatment of Offenders. The principle affirms that advocates must be able to carry out their professional duties freely without intimidation, obstruction, harassment, or undue interference.

The regulation of advocate immunity rights in the Indonesian legal system has undergone significant development following the issuance of Constitutional Court Decision No. 26/PUU-XI/2013. Prior to this decision, immunity protection, as stipulated in Article 16 of the Advocates Law, only applied to advocates' actions during court proceedings. The Constitutional Court subsequently expanded the meaning of this protection to include not only actions during court proceedings but also actions of advocates in carrying out their profession outside of court, as long as they are carried out in good faith and in the interest of the client's defense. This expansion of the definition, on the one hand, strengthens the independence of the legal profession, but on the other hand, raises new issues regarding the limits of protection provided by the law. Article 16 of the Advocates Law and the Constitutional Court Decision do not provide adequate explanation regarding the parameters of good faith, the limits of professional actions that receive protection, and the

criteria that differentiate between legal defense actions and actions that have entered the realm of crimes (Dewanto, 2020). The lack of clear parameters creates room for multiple interpretations, potentially leading to legal uncertainty for both advocates and law enforcement officials.

This issue becomes even more complex when linked to the practice of handling corruption cases, which has increasingly shown the involvement of several advocates in various forms of criminal acts related to law enforcement. Some frequently encountered methods include advocates acting as intermediaries for bribes to law enforcement officials, concealing assets derived from corruption, witness manipulation, destroying evidence, obstructing justice, and even involvement in money laundering derived from the proceeds of corruption. This phenomenon raises serious concerns because actions that substantially meet the elements of a criminal offense are often claimed to be part of the legal profession's duty to defend clients' interests (Kurniawan, 2019). This situation illustrates the ambiguous boundary between professional protection and criminal liability, a distinction that remains inadequately defined in the Indonesian legal system. This lack of clarity creates the potential for immunity to be misused as a legal shield, allowing actions that fall outside the true scope of the legal profession to be unjustly protected.

The reality can be seen in several cases that have occurred in law enforcement practice in Indonesia. The case of advocate Lucas, who was convicted for aiding the escape of a corruption suspect, demonstrates the ongoing debate regarding the limits of professional action by advocates in providing legal representation to clients (Manihuruk, 2025). Similar concerns were raised in the case of advocate Otto Cornelis Kaligis, which involved the bribery of judicial officials, and in the Djoko Tjandra case, where several advocates were accused of obstructing justice (Ahmad Ash Shiddieqy , Akhmad Roja Badrus Zaman & Muhammad Nur Fathoni, 2025). These various cases reveal that the boundary between professional conduct and criminal acts lacks clear legal parameters. It has given rise to two divergent tendencies in law enforcement practices. Some argue that advocates should receive broad protection to maintain professional independence, while others argue that advocates should be treated equally with other citizens if proven to be involved in a criminal act. These differing approaches ultimately lead to disparities in law enforcement and uncertainty in the application of advocate immunity rights (Arif, 2018).

The absence of clear regulations regarding the limits of advocates' immunity rights indicates a fundamental weakness in Indonesian positive law. To date, there is no legal definition of the meaning of good faith in Article 16 of the Advocates Law, there are no clear parameters regarding actions that fall within the scope of the advocate profession, there are no specific regulations regarding the limits of advocate involvement in acts of obstruction of justice, and the crime-fraud exception doctrine that has developed in various countries such as the United States, the United Kingdom, Australia, the Netherlands, and Singapore has not been adopted. This doctrine provides a clear limit that the protection of the confidentiality of the advocate-client relationship and the right to immunity cannot be used to protect actions aimed at committing or concealing crimes. These regulatory weaknesses have the potential to cause two equally detrimental impacts: the criminalization of advocates who carry out their professional duties legitimately and the abuse of the advocate profession by perpetrators of corruption to avoid legal accountability. Given these circumstances, it is essential to redefine the parameters of advocates' immunity rights in the context of corruption cases. Striking a balance between safeguarding the independence of the legal profession and ensuring the effectiveness of efforts to combat corruption is crucial. It will contribute to legal certainty, justice, and overall benefit within the Indonesian criminal justice system.

METHOD

This study utilizes a normative juridical research methodology that emphasizes the examination of norms, principles, doctrines, legal theories, and laws concerning the rights of advocates' immunity in the context of corruption cases. This method was chosen because the research problem focuses on the vagueness of norms and the lack of legal regulations regarding the limits of advocates' immunity rights, as stipulated in Article 16 of Law Number 18 of 2003 concerning Advocates and Constitutional Court Decision Number 26/PUU-XI/2013. Therefore, a systematic legal analysis is required to identify the ideal legal concept for legal reform. The approaches used include a statute approach and a conceptual approach. The legislative strategy involves thoroughly examining a range of laws and regulations pertaining to the legal profession, the criminal justice system, corruption offenses, money laundering offenses, and other pertinent regulations to pinpoint alignments, inconsistencies, and vulnerabilities in the existing legal framework. The conceptual approach is used to examine various expert views, legal doctrines, legal principles, and theories related to the rule of law, the legal profession, immunity rights, legal certainty, justice, benefit, and independence of the legal profession as a basis for formulating an ideal legal construction. Through these two approaches, this study is expected to produce a comprehensive analysis of the weaknesses in the regulation of advocate immunity rights in Indonesian positive law and formulate a reconstruction of the limits of advocate immunity rights in assisting corruption cases that is oriented towards legal certainty, justice, and benefit.

RESULT AND DISCUSSION

1. The Right to Immunity of Advocates in Assistance in Corruption Cases from the Perspective of Indonesian Positive Law

The position of advocates in the Indonesian legal system cannot be separated from the concept of a state based on law, which guarantees the protection of human rights and access to justice for every citizen. Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia affirms that Indonesia is a state based on law, which places law as the basis for organizing national and state life. The consequence of this principle is the guarantee of the right of every person to obtain legal assistance in facing legal processes that may affect their rights and freedoms. This constitutional guarantee is reflected in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which provides the right to recognition, guarantees, protection, and fair legal certainty, as well as Article 28I paragraph (4), which affirms the state's responsibility in protecting and fulfilling human rights. In this context, advocates play a crucial role in law enforcement as they protect the legal rights of the community. Article 5, paragraph (1) of Law Number 18 of 2003 concerning Advocates expressly states that advocates have the status of free and independent law enforcers guaranteed by law and statutory regulations. This acknowledgment underscores that advocates are not simply a profession that manages civil relations with clients; they are, in fact, a vital component of the judicial system, tasked with preserving the balance of power between the state and citizens within the law enforcement process (Saepudin, 2024).

The position of advocates as free and independent law enforcers requires legal protection so that their defense function can be carried out effectively without intervention, pressure, or intimidation from any party. This protection is realized through the regulation of advocate immunity rights as stipulated in Article 16 of Law Number 18 of 2003 concerning Advocates, which states that advocates cannot be sued either civilly or criminally for carrying out their professional duties in good faith for the benefit of defending clients in court. The right to immunity is essentially a professional protection instrument that aims to guarantee the freedom of advocates to perform their defense function professionally, independently, and responsibly. This protection does not aim to grant privileges or absolute immunity to advocates; instead, it is designed to ensure that they can present legal arguments, defend their clients' interests, offer

evidence, and take legal action without the fear of facing criminal threats or civil lawsuits as a result of performing their professional duties. The right to immunity is a crucial part of realizing a fair justice system because, without such protection, advocates will be in a vulnerable position to pressure from parties interested in a case (Nurhidayah, 2023).

The regulation surrounding advocate immunity rights has experienced considerable alterations following the Constitutional Court Decision Number 26/PUU-XI/2013. This decision was born in response to the limited scope of protection that was previously only provided to advocates when performing their professional duties in court. The Constitutional Court, in its consideration, stated that the function of an advocate is not only carried out in the courtroom, but also includes various legal activities outside the trial that are directly related to the interests of the client's defense. Based on this decision, the phrase "in court proceedings" in Article 16 of the Advocates Law is interpreted not only as limited to actions taken in court, but also includes the actions of advocates in carrying out their profession both in and outside the court, as long as they are carried out in good faith for the interests of the client's defense. This expansion of meaning strengthens the guarantee of the independence of the advocate profession while providing legal certainty for various professional activities carried out in the stages of legal consultation, assistance in examinations, preparation of legal documents, and other legal efforts related to client defense. The legal consequence of this decision is that advocates' immunity rights are broader in scope than previous regulations, though they are still limited by the requirement of good faith and a legitimate defense objective according to law (Imron, 2021).

The existence of advocate immunity rights is closely related to the principles of fair trial, due process of law, and equality before the law, which are fundamental in the modern criminal justice system. The principle of fair trial requires that every person facing the law has an equal opportunity to defend themselves through the assistance of free and independent legal counsel. The principle of due process of law demands that all law enforcement processes be carried out fairly, proportionally, and in respect of individual rights. The principle of equality before the law, as stipulated in Article 27 paragraph (1) and Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia, emphasizes that everyone has equal standing before the law without discrimination. The realization of these principles cannot occur if advocates performing their defense duties are perpetually at risk of criminalization for actions taken on behalf of their clients. Consequently, the right to immunity is a vital component of the protection mechanisms that ensure a fair trial process. An independent advocacy system is essential for maintaining a balance between the authority of the state, represented by law enforcement, and the rights of individuals who are navigating legal proceedings (Cinthia Wijaya, John Calvin, 2019).

The regulation of advocate immunity rights is strengthened through the Indonesian Advocates Code of Ethics, which places independence, integrity, and professionalism as fundamental principles in carrying out the profession. The code of ethics highlights that advocates must conduct themselves with honesty, independence, and responsibility while prioritizing the legal interests of their clients, all while adhering to relevant laws and regulations. The scope of advocate protection in practice extends beyond the trial phase to encompass the investigation, inquiry, prosecution, and execution of court decisions, provided these actions align with the legitimate exercise of their professional duties. Accompanying suspects during investigator examinations, providing legal advice, preparing defense documents, professional communication with clients, and filing legal actions are all activities that substantively fall within the scope of the advocate profession. Protection for these activities is necessary to ensure the effectiveness of the advocacy function, but such protection cannot be interpreted as absolute immunity that eliminates the possibility of legal liability if the advocate commits actions that violate criminal law or the professional code of ethics (Hidayat, Sabrina, Oheo Kaimuddin Haris, 2024).

The concept of immunity rights must ultimately be understood within the framework of the independence of the legal profession, a crucial element of the criminal justice system. The independence of the legal profession is a fundamental requirement for the realization of a democratic, just, and human rights-respecting justice system. The existence of free and independent advocates allows for the creation of a mechanism to control the use of authority by law enforcement officials while guaranteeing the protection of the rights of suspects, defendants, and other parties in conflict with the law. The right to immunity is a legal instrument that maintains this independence, allowing advocates to carry out their advocacy functions without external pressure. The position of immunity rights in the Indonesian legal system must be understood as protection of the professional function, not protection against unlawful acts committed by individual advocates. Protection can only be granted as long as the actions taken are within the scope of professional duties, carried out in good faith, and aimed at the legitimate defense of clients.

2. Problems and Weaknesses in the Regulation of Advocate Immunity Rights in Corruption Cases

The regulation of advocate immunity rights in Indonesian positive law is essentially intended to guarantee the freedom and independence of advocates in carrying out their client defense function. However, this regulation still leaves various normative issues that have implications for legal uncertainty in law enforcement practices, particularly in corruption cases. The main problem lies in Article 16 of Law Number 18 of 2003 concerning Advocates, which states that advocates cannot be prosecuted civilly or criminally for carrying out their professional duties in good faith for the defense of clients. This provision does not provide a clear definition or parameters regarding the meaning of the phrase "good faith," thus creating a vague norm that opens up room for differing interpretations. There is no explanation of objective indicators that can be used to determine whether an advocate's actions remain within the scope of legal defense or have crossed the line and entered the realm of unlawful acts. The situation causes the application of immunity rights to be highly dependent on the interpretation of law enforcement officials and judges in each case, potentially leading to inconsistent decisions and legal uncertainty.

This ambiguity of norms is further exacerbated by the absence of regulations that clearly define the limits of professional actions by advocates that are legally protected. Article 16 of the Advocates Law and Constitutional Court Decision No. 26/PUU-XI/2013 do protect advocates' actions both inside and outside the courtroom, provided they are carried out in good faith for the benefit of the client's defense. However, neither law specifically explains the types of actions that fall within the scope of this protection. This lack of legal parameters creates serious problems in practice, particularly when advocates engage in activities related to the criminal case being handled. The professional relationship between advocate and client often places advocates in close contact with facts, documents, assets, and legal strategies related to the client's case. Under certain circumstances, the line between professional conduct and criminal conduct becomes blurred, particularly when advocates engage in actions that may formally be claimed as part of legal defense but substantively involve elements of aiding or facilitating the commission of a crime. The absence of norms that provide clear boundaries ultimately creates a gray area that is vulnerable to abuse by certain parties.

This issue has become increasingly evident in the handling of corruption cases, where, in practice, several advocates have been involved in various criminal activities related to the law enforcement process. Such involvement includes acting as intermediaries in the bribery of law enforcement officials, assisting in the concealment or transfer of assets derived from corruption, engaging in acts of obstruction of justice, influencing witness testimony, destroying evidence, and even participating in money laundering involving the proceeds of corruption. This phenomenon indicates that the professional relationship between advocates and their clients in corruption cases may evolve beyond the proper limits of legal representation. Concerns arise when such conduct is asserted to be part of an advocate’s defense strategy

or professional responsibilities. In these circumstances, the right to immunity, which is intended to serve as a safeguard for the legal profession, may instead be used as a means of avoiding legal accountability. The lack of a clear distinction between legitimate legal defense and active participation in criminal conduct highlights a fundamental weakness in the current framework governing advocate immunity.

This regulatory weakness is reflected in various cases that have occurred in law enforcement practice in Indonesia. The case of advocate Lucas is one example that demonstrates the ongoing debate over the limits of protection for the legal profession. Lucas was convicted for allegedly assisting a corruption suspect in fleeing the country through travel arrangements and obtaining certain documents, which were deemed to constitute obstruction of justice. From a law enforcement perspective, these actions constitute obstruction of justice and cannot be categorized as part of the legal profession's duties. Conversely, from a defense perspective, the argument arose that these actions were committed in order to provide legal assistance to a client. A similar debate emerged in the case of Otto Cornelis Kaligis, who was found guilty of bribery of judges and judicial officials in a case he handled. Another relevant case is the Djoko Tjandra case, which involved several parties, including members of the legal profession, in actions aimed at obstructing the law enforcement process. These various cases demonstrate the lack of clear legal standards regarding the threshold at which an advocate's actions lose immunity and become criminal acts subject to legal accountability.

This lack of clarity in norms ultimately leads to inconsistencies in law enforcement practices regarding advocates. Some approaches position advocates as a profession that must receive broad protection to maintain their independence and freedom in carrying out their advocacy functions. This approach tends to interpret the right to immunity extensively with the aim of preventing the criminalization of advocates who are carrying out their professional duties. Some other approaches place advocates as ordinary legal subjects who must be processed criminally if there is evidence of involvement in a criminal act, without considering the professional aspects inherent in the act. These different approaches create disparities in the handling of cases involving advocates and have the potential to harm the principle of legal certainty as guaranteed in Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia. This situation indicates that the Indonesian legal system lacks a clear mechanism for evaluating whether an advocate's actions remain within the bounds of professional protection or if they have crossed into criminal behavior. Consequently, both the legal protection afforded to advocates and the efforts to enforce the law against corruption perpetrators are likely to face uncertainty.

The conflict between protecting the independence of the legal profession and the importance of eradicating corruption has become an increasingly complex issue in the Indonesian criminal justice system. Advocates' independence is a fundamental principle that must be upheld to ensure fair trials, due process of law, and the protection of human rights. Corruption eradication, on the other hand, is a strategic constitutional agenda because corruption has been categorized as an extraordinary crime that causes significant losses to the state and society. The absence of clear regulations regarding the limits of advocates' immunity rights often places these two interests at odds. Overly broad protection may create impunity for advocates involved in corruption, while overly strict restrictions threaten professional independence and open up opportunities for criminalization of advocates who carry out their duties professionally. The ultimate impact is the emergence of legal uncertainty, weakened effectiveness in corruption eradication, decreased public trust in the legal profession, and suboptimal protection of the rights of those in conflict with the law.

3. Reconstructing the Limits of Advocates' Immunity Rights in Corruption Cases Based on Legal Certainty

Reconstructing the limits of advocates' immunity rights in corruption cases must begin with the establishment of a philosophical foundation that positions immunity rights as an instrument of professional protection, not as a form of legal immunity from criminal acts. Immunity rights are essentially granted to ensure the principles of fair trial, due process of law, and the protection of human rights through the existence of free and independent advocates in performing their professional duties. This protection must remain in line with the objectives of the law, as stated by Gustav Radbruch, namely to achieve justice, legal certainty, and benefit in a balanced manner. The necessary legal reconstruction does not involve the elimination of advocates' immunity rights, but rather an affirmation of the limits of their protection to prevent their misuse as a means of avoiding criminal liability. This concept positions advocates as law enforcers who enjoy protection when carrying out their professional duties legitimately, but can still be held accountable if proven to be involved in corruption or other crimes related to abuse of their profession. This approach will create a balance between protecting the independence of the legal profession and the state's interest in eradicating corruption as an extraordinary crime.

The legal basis for legal reconstruction is based on the vagueness of Article 16 of Law Number 18 of 2003 concerning Advocates, which does not provide a clear definition or parameters for the phrase "good faith." Reconstruction needs to be carried out through normative amendments by adding an explicit legal definition of good faith as an advocate's actions carried out in accordance with the law, the professional code of ethics, and the advocate's professional standards, and not intended to assist, facilitate, conceal, or hinder the disclosure of criminal acts. Article 16 also needs to be revised by adding a provision that the right to immunity applies only to actions directly related to the provision of legal services in the defense of a client and does not apply to acts that meet the elements of a criminal offense based on a court decision. These amendments need to be accompanied by technical provisions in the Government Regulations or Advocates Organization Regulations regarding professional standards in corruption cases. The presence of more detailed norms will reduce the room for multiple interpretations and provide clear guidelines for advocates, law enforcement officials, and judges in determining the scope of professional protection.

The sociological basis for legal reconstruction departs from the increasing public demand for accountability of the lawyer profession in eradicating corruption. Various cases involving advocates reveal that some perpetrators of corruption take advantage of their professional relationships with advocates to conceal assets, control witnesses, destroy evidence, or carry out acts of obstruction of justice. This condition creates a negative public perception of the advocate profession and has the potential to reduce public trust in the justice system. Legal reconstruction must be directed at establishing a more effective monitoring mechanism through synergy between advocate organizations, law enforcement officials, and judicial institutions. Advocate organizations need to be given the obligation to conduct rapid ethical checks on advocates suspected of being involved in criminal acts of corruption. The results of ethical proceedings may serve as a supporting instrument in the law enforcement process without undermining the presumption of innocence. Strengthening professional oversight constitutes a concrete measure to ensure that the right to immunity is not misused as a shield for conduct that violates the law and professional ethical standards.

The experience of various countries shows that protection for advocates is always accompanied by clear boundaries against abuse of the profession. The United States, England, Australia, the Netherlands, and Singapore apply the crime-fraud exception concept, which limits the protection of professional relationships between advocates and clients if the relationship is used to commit or conceal a criminal act. Based on this concept, communications, documents, and actions that previously received legal protection lose their protection when they are proven to be used as a means of committing a crime. This concept can be adopted in the Indonesian legal system through the addition of provisions

in Article 16 of the Law on Advocates which states that the right to immunity does not apply to actions by advocates carried out to facilitate criminal acts of corruption, criminal acts of money laundering, obstruction of investigations, prosecutions or trials, falsification of evidence, as well as other actions which directly or indirectly aim to obstruct the law enforcement process. Adoption of this concept will provide legal certainty as well as create objective standards in determining the limits of protection for the advocate profession.

Reconstruction also must be conducted through the formulation of clear indicators regarding actions that still fall within the scope of the advocate profession and actions that eliminate immunity protection. Actions that still receive protection include providing legal consultations, preparing legal opinions, assisting in examinations, preparing defenses, submitting valid evidence, submitting legal remedies, and professional communication with clients in the context of legal defense. On the other hand, immunity protection must be declared void if the advocate intercedes for bribes, helps a suspect escape, hides assets resulting from corruption, conditions or influences witnesses to give false statements, destroys evidence, falsifies documents, or carries out actions that meet the elements of obstruction of justice. These criteria need to be included explicitly in the explanation of Article 16 of the Advocate Law so as not to give rise to different interpretations. Strict regulations will provide legal certainty regarding the boundaries between legitimate legal defense and the involvement of lawyers in criminal acts.

Ideal reconstruction also requires the establishment of a preliminary immunity assessment mechanism or initial testing of advocates' immunity rights claims. This mechanism can be carried out through a special forum involving elements of advocate organizations, judges, and law enforcement officials before criminal proceedings are continued against advocates who claim immunity protection. This test aims to determine whether the action in question is still within the scope of the profession or meets strong indications of being a criminal act. Based on this reconstruction, Article 16 of the Law on Advocates can be reformulated to emphasize that advocates cannot be prosecuted civilly or criminally for professional actions carried out in good faith and in accordance with the professional code of ethics, unless these actions are used to commit, assist, facilitate, hide, or hinder the disclosure of criminal acts. The formulation will produce a model of proportional professional protection, namely, continuing to protect advocates who carry out their duties professionally and independently, but firmly closing the scope for abuse of the profession in cases of criminal acts of corruption. Thus, legal certainty, justice, and benefit can be realized in a balanced manner in the Indonesian criminal justice system.

CONCLUSION

Based on the research results, it can be concluded that the regulation of advocate immunity rights in Indonesian positive law is in principle aimed at guaranteeing the independence of the advocate profession as a law enforcer in carrying out the function of defending clients. The position of advocates recognized in Article 5 paragraph (1) of Law Number 18 of 2003 concerning Advocates and the protection provided through Article 16 of the Advocates Law and Constitutional Court Decision Number 26/PUU-XI/2013 is a form of legal guarantee to realize the principles of fair trial, due process of law, and equality before the law. However, these regulations still contain fundamental weaknesses in the form of unclear norms regarding the phrase "good faith", the absence of clear parameters regarding the limits of the legal profession's actions, and the absence of regulations regarding conditions that cause the loss of immunity protection. These weaknesses have created legal uncertainty and opened up space for abuse of the advocate profession in various corruption cases, such as bribery, obstruction of justice, money laundering, concealment of assets resulting from corruption, and witness conditioning. Various cases involving advocates demonstrate that the boundary between

legitimate legal defense and involvement in criminal acts has not been clearly defined, leading to inconsistencies in law enforcement practices. Therefore, reconstructing the boundaries of advocates' immunity rights is urgently needed to achieve a balance between protecting the independence of the legal profession and effectively eradicating corruption.

Based on this conclusion, legal reform is needed through amendments to Article 16 of Law Number 18 of 2003 concerning Advocates, including a clear definition of good faith, indicators of actions within the scope of the legal profession, and criteria for actions that result in the loss of immunity protection. Lawmakers need to adopt the concept of the crime-fraud exception, as implemented in various countries, to emphasize that immunity rights do not apply to advocates' actions used to commit, assist, facilitate, conceal, or hinder the disclosure of corruption. Advocates' organizations also need to strengthen their oversight and enforcement systems for codes of ethics through more effective inspection mechanisms for advocates suspected of abusing their profession. Law enforcement officials and judicial institutions need uniform guidelines for assessing advocate immunity claims to avoid disparities in law enforcement and provide legal certainty for all parties. This reconstruction is expected to be able to build a proportional model of protection for the legal profession, namely continuing to guarantee the freedom and independence of advocates in carrying out their defense duties professionally, while simultaneously preventing the abuse of the profession as a means to protect or facilitate criminal acts of corruption, so as to create a criminal justice system that is just, has legal certainty, and provides benefits to the community.

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