

American Journal of Humanities and Social Sciences Research (AJHSSR)

e-ISSN :2378-703X

Volume-08, Issue-01, pp-78-87

[www.ajhssr.com](http://www.ajhssr.com)

Research Paper

Open Access

## ADVOCATES ORGANIZATION IN THE PROSPECTIVE OF LAW ENFORCEMENT AND HUMAN RIGHTS IN INDONESIA

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**ABSTRACT:** The existence of advocates is very important for society in defending a person's (individual's) rights in facing legal issues, whether criminal, civil or other. If an individual faces criminal charges, for example, the state itself has instruments such as police, prosecutors, judges and correctional institutions. Human rights exist by themselves, not depending on their recognition and implementation in the legal system of a particular country. Therefore, human rights are considered to have a universal nature, rights that humans have solely because they are human. In other words, human rights are the rights of every human being because these rights are rooted in human dignity. The values contained implicitly or explicitly do not conflict with the values of upholding human rights. The principles of Human Rights Law in Indonesia are not much different from the principles of Human Rights Law adopted by other countries because they both adhere to the principle of Universality because in every state regulation protects the Human Rights of its citizens and citizens of other countries who are in a country. Advocates' organizations as organizations that produce advocates have a very important role. In this case, it makes an ideal and reliable advocate. This has become very commonplace and has become a reciprocal measure of the success of the goals of the Advocate Organization itself. An ideal and reliable advocate will always safeguard, protect and fight for human rights in each carrying out his duties, both for the advocate himself and upholding human rights for clients or the wider community. To be able to make this happen, several points need to be considered. One of them is initial education so that advocates can carry out their professional duties.

**Key Words:** Advocate Organization, Human Rights

### I. INTRODUCTION

Based on Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (1945 Constitution), Indonesia guarantees equality for everyone before *the law*. This guarantee is confirmed in Article 27 paragraph (1) of the 1945 Constitution which states that every citizen has the same position under the law and government with no exceptions. For example, one form of guarantee of equal standing under the law is the right to be accompanied by a legal advisor or advocate when dealing with legal issues. This right is regulated in Article 54 of Law Number 8 of 1981 concerning Criminal Procedure Law (KUHAP) which regulates that, for the purposes of defending a suspect or defendant, he has the right to receive legal assistance from one or more legal advisors during the time and at each level of the examination, according to the procedures the manner specified in this Law.

The existence of advocates is very important for society in defending a person's (individual's) rights in facing legal issues, whether criminal, civil or other. If an individual faces criminal charges, for example, the state itself has instruments such as police, prosecutors, judges and correctional institutions. Here it is clear that advocates are needed to defend individuals who have the status of suspects or defendants who are facing investigation, inquiry, prosecution and examination in court. Advocates' defense of suspects or accused facing a state that has complete equipment will create balance in the judicial process so that justice for all *can* be achieved. <sup>1</sup>Professional freedom (*free profession*) for advocates is very important. Not only for the sake of the advocate profession itself but also to realize broader interests, namely the creation of an independent judicial

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<sup>1</sup>Frans Hendra Winata, *Pro Bono Publico Constitutional Rights The Poor to Obtain Legal Assistance*, (Jakarta: Gramedia Pustaka Utama, 2009), p. 1-2.

institution; *independent judiciary* which is a prerequisite for upholding *the rule of law* and implementing democratic values.<sup>2</sup>

The profession of advocate is known as a noble profession (*officium nobile*). It is said that advocacy is a noble profession because advocates dedicate themselves and their obligations to the interests of society and not solely because of their own interests. Advocates themselves are one of the law enforcers who are included in the law enforcement family apart from the police, prosecutors and judges. In Article 1 Number 1 of Law Number 18 of 2003 concerning Advocates, it is stated that an Advocate is a person whose profession is to provide legal assistance, both inside and outside the court, who meets the requirements under the provisions of this Law. Advocates also participate in upholding human rights both without compensation and with compensation.

To carry out certain functions as intended in the Law on Advocates, a forum or institution is needed that can house advocates. The advocate organization system itself has a *single bar* or *multi bar system*. The Indonesian Advocates Association (PERADIN) prioritizes unity and oneness, thereby making this advocates organization a strong, independent guardian of the constitution and able to provide a noble role for people seeking justice. The existence of PERADIN embodies great and extraordinary power to oversee the running of government and law enforcement in Indonesia. As once said by the living legend of Indonesian advocates, Adnan Buyung Nasution, in his speech at the national working meeting (national working meeting) of the Indonesian Advocates Association (IKADIN) on June 27 2012, regarding the intervention of the new order government on PERADIN, which led to this first Indonesian advocate organization finally broke.

The formation of the Advocate Organization which was mandated in Law Number 18 of 2003 concerning Advocates apparently gave rise to its own polemic regarding the Advocate Organization whose existence was recognized by this law. As is known, the 1945 Constitution has provided basic protection for freedom of association and assembly, so the provisions of this article provide a constitutional basis that every Advocate actually has the right to establish more than one Advocate Organization, so that from this, a misunderstanding was found in the Advocate Law, which confuses the meaning of an organization and its formation with the true meaning of the aim of establishing a single forum in the Advocate profession.

## II. DISCUSSION

In Law Number 18 of 2003 concerning Advocates, the definition of an Advocate is a person whose profession is to provide legal services, both inside and outside the court, who fulfill the requirements based on the provisions of this Law. The word "advocate" etymologically comes from the Latin *advocare* which means *to defend, to call one, said to vouch or warrant*. In English, *advocate* means *to speak in favor of or depend by argument, to support, indicate, or recommend publicly*.<sup>3</sup>

As a noble profession, carrying out the profession of advocate is required to carry out the legal profession by basing oneself on the values of common morality *such as*:<sup>4</sup>

1. Human values (*humanity*) in the sense of respect for human dignity;
2. The value of justice, in meaning encouragement to always give to people what becomes his rights;
3. The value of propriety or fairness (*reasonableness*), in the sense that efforts to create order and justice in society;
4. The value of honesty (*honesty*), in meaning there is a strong urge to maintain honesty and avoid yourself from doing that cheat;
5. Awareness to always be respectful and maintain integrity and honor of the profession;
6. The value of serving the public interest (*to serve public interest*), in meaning that in development the legal profession is inherent spirit of alignment with rights and community satisfaction seeker of justice who is a direct consequence of holding firm values fairness, honesty, and credibility his profession.

The requirements to become an Advocate are a bachelor's degree with a higher education background in law and after taking special education for the Advocate profession carried out by the Advocate Organization<sup>5</sup>, and to be appointed as an Advocate there are several requirements as stated in article 3 of Law Number 8 of 2003 concerning Advocates, namely:

1. Citizen of the Republic of Indonesia;
2. Residing in Indonesia;

<sup>2</sup>Rahmat Rosyadi and Sri Hartini, *Advocates in Islamic Perspectives & Positive Law*, (Jakarta: Ghalia Indonesia, 2003), p. 17-18.

<sup>3</sup>Frans Hendra Winarta, *Indonesian Advocate for Image, Idealism and Concerns*, (Jakarta: Pustaka Sinar Harapan, 1995), p. 19.

<sup>4</sup>Frans Hendra Winata, *The Image of Advocates as Officials and the Role of Advocate Organizations, Opinion, Varia Advokat, Vol. 06.*, September 2008, p. 16.

<sup>5</sup>Article 2 paragraph 1 of Law Number 8 of 2003 concerning Advocates

3. Not having status as a civil servant or state official;
4. At least 25 (twenty five) years of age;
5. Has a bachelor's degree with a higher education background in law as followsreferred to in Article 2 paragraph (1);
6. Pass the exam held by the Advocate Organization;
7. Internship for at least 2 (two) years continuously at an Advocate's office;
8. Never been convicted of committing a criminal offense threatened with imprisonment for 5 (five) years or more;
9. Behave well, be honest, be responsible, be fair and have integrity all one.

Historically, the profession of advocate is one of the professions that is considered old in Indonesia. Long before the Indonesian nation gained independence in 1945, the public was already familiar with the term advocate profession, and over time it continued to develop, then in 1947 a regulation was introduced that dealt with matters of the advocate profession, this regulation was known as the *Reglement op de Rechterlijke organisatie en het Beleid der Indonesian Justice*. Then in Law no. 18 of 2003 concerning Advocates also explains that advocates are law enforcers who have an equal position with other law enforcers such as judges, prosecutors and police. However, even though they both act as law enforcers, the positions, roles and functions of each are different from each other.

The Advocate Law itself adheres to the *single bar association system* as stated in Article 28 paragraph (1) of the Advocate Law which states that the Advocate Organization is the only free and independent professional forum for Advocates which is formed in accordance with the provisions of the Advocate Law with the aim of and the aim of improving the quality of the Advocate profession. *The single bar association system* itself is a system that determines that only one advocate organization in the form of *an integrated/compulsory bar* can exist in a jurisdiction.

Indonesia as a rule of law guarantees freedom of association and assembly as regulated in Article 28E paragraph (3) of the 1945 Constitution which is then further regulated in Article 24 of the Human Rights Law. with the freedom of association and assembly guaranteed in Article 28E paragraph (3) of the 1945 Constitution and Article 24 of the Human Rights Law, it is possible for there to be more than one advocate organization in Indonesia (multi bar).<sup>6</sup>

The current system of advocate organizations tends towards a multi-bar system, and as such the code of ethics for advocates will be determined by each advocate organization. The juridical implications of the *single bar split* within the advocate organization, the formation/establishment of a new advocate organization is possible and this causes the advocate organization to also have the authority as regulated in Law no. 18 of 2003 concerning Advocates.

However, the risk of a *multi bar association system* if implemented in Indonesia is that it is possible that various problems will arise. Among other things, the quality of advocates is not guaranteed, because each advocate organization can determine its own advocate education curriculum and advocate exams, each advocate organization will have a different code of ethics, and advocates. can easily move to another organization if they are subject to sanctions in their original organization.

### 1. Position, Role and Function of Advocates

The position of advocates in the law enforcement system as law enforcers and respected professions must have the same authority as other law enforcers such as police, prosecutors and judges. The authority of advocates in the law enforcement system is very important in order to maintain the independence of advocates in carrying out their profession and also to avoid arbitrariness carried out by other law enforcers.

Authority of Advocates in Terms of Judicial Power Advocates are placed to protect and represent the community. Meanwhile, judges, prosecutors and police are placed to represent the interests of the state. In a position like this, the position, function and role of an advocate are very important, especially in maintaining a balance between the interests of the state and society. There are at least two functions of advocates for justice that need attention. Firstly, interests, representing clients to uphold justice, and the role of an advocate is important for the clients they represent. Second, helping clients, an advocate maintains the legitimacy of the justice system and the function of an advocate. Apart from these two functions of Advocates, what is no less important is how Advocates can provide enlightenment in the field of law in society. This enlightenment can be done by providing legal education, socializing various laws and regulations, legal consultations to the public either through print, electronic or direct media.

Based on the provisions in Law Number 18 of 2003, several rights and obligations of advocates are explained, including:

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<sup>6</sup>Constitutional Court Decision Number 112/PUU-XII/2014 and Number 36/PUU-XIII/2015 dated 29 September 2015.

1. Advocates are free to express opinions or statements in defense of the matter at hand while adhering to the professional code of ethics and statutory regulations. This means that in protecting and defending clients facing a case, advocates are free to provide and express opinions in the interests of their clients, but in providing defense with free statements, every advocate must still be guided by and limited to the norms or code of ethics that apply in the profession. the advocate.
2. Advocates are free to carry out their professional duties to defend cases for which they are responsible while adhering to the professional code of ethics and statutory regulations. This means that every advocate in carrying out his professional duties cannot be intervened by any party, clearly carrying out his responsibilities independently is based on the advocate's professional code of ethics.
3. Advocates cannot be prosecuted either civilly or criminally for carrying out their professional duties in good faith for the purposes of defending clients in court trials. In carrying out the professional responsibilities of an advocate at trial, every advocate cannot have legal action taken against him, meaning that every advocate when providing legal services or assistance to his client cannot be given legal sanctions, either civil or criminal, as long as the things given and shown are for the benefit of the client. However, the immunity rights possessed by every advocate must be used properly and not at will.
4. In carrying out their profession, advocates have the right to obtain information, data and other documents, both from government agencies and other parties related to these interests, which are necessary to defend the interests of their clients in accordance with statutory regulations. This provision gives advocates the right that in the case of defending clients, an advocate has the right to obtain information or data sources from various parties, both government and non-government.
5. Advocates in carrying out their professional duties are prohibited from differentiating treatment of clients based on gender, religion, politics, descent, race, or social and cultural background. With the provisions as intended in the Law on Advocates, an advocate must act fairly and must not act in a discriminatory manner towards clients in carrying out his duties and profession as an advocate.
6. Advocates cannot be identified with their clients in defending their clients' cases by the authorities and/or the public. This means that an advocate in providing legal services or assistance to clients must not be equal in terms of attitude or behavior.

## 2. Advocate Organizations as Producers of Advocates to Guard Law Enforcement and Human Rights

An organization is defined by Greenberg J. and Baron RA as "a structured social system composed of individuals and groups who work together to achieve several mutually agreed goals".<sup>7</sup> Several basic elements that an organization must have, namely: a) the organization is a system; b) coordinating a group or individual activity; and c) to achieve common goals. An organization is a presentation of the will and goals to be achieved by the members of the organization, where the members of the organization have submitted (mandated) the will and achievement of these goals to the organization. In a democratic context, the sovereignty of an organization is in the hands of its members. This means that the organization was founded on the basis of a mutual "agreement" and determining the direction of policy, including selecting the leadership of the organization, is entirely the right of the members of the organization through a system that applies and is agreed upon within the organization.<sup>8</sup>

The advocate profession is closely related to the advocacy organizations where advocates take refuge. Article 32 paragraph (4) of the Advocate Law mandates the formation of an advocate organization no later than 2 (two) years after the enactment of the Advocate Law. The advocate organization, based on Article 28 paragraph (1) of the Advocate Law, is the only free and independent forum for the advocate profession which was formed in accordance with the provisions of the Advocate Law with the aim and objective of improving the quality of the advocate profession. To implement the provisions of the Advocates Law, the Indonesian Advocates Association (Peradi) was formed on April 7 2005 at Balai Sudirman, Jakarta.<sup>9</sup>

One of the functions of an advocate organization is as a supervisor of advocates whose aim is that advocates in carrying out their profession always uphold the code of ethics of the advocate profession and statutory regulations. In carrying out this function, the Advocate Organization is given the authority based on Article 29 paragraph 1 of the Advocate Law Number 18 of 2003, to establish and implement an advocate professional code of ethics for its members. Where this authority is intended in accordance with the provisions of Article 26 paragraph 1 of Law Number 18 of 2003, namely to maintain the dignity and honor of the advocate

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<sup>7</sup>Greenberg J. and Baron RA *Behavior in Organizations: Understanding and Managing The Human Side of Work*. (London: Prentice Hall, 1995), p. 11.

<sup>8</sup>Dharma Sutomo, "Indonesian Advocate Organization According to Republic of Indonesia Law No. 18 of 2003 Peradi or KAI", *Varia Advocate, Volume 05, August 2008*, p. 24.

<sup>9</sup>PERADI, *Book of Indonesian Advocates*, (Bandung: PERADI, 2007), p. 100.

profession. However, Advocate Organizations also have other authorities which are also regulated by the Advocate Law Number 18 of 2003, namely:

1. Carrying out PKPA (Article 2 paragraph ( 1 ) ) ;
2. Organizing internships (Article 3 letter g) ;
3. Carrying out exams (Article 3 letter f) ;
4. Appoint an advocate (Article 2 paragraph ( 2 ) ) ;
5. Supervise advocates (Article 12) ;
6. Taking action and sanctions (Article 9) ;
7. Recommendation of foreign advocates (Article 23) ;
8. Develop a code of ethics (Article 26, Article 29) ;
9. Establishing a Supervisory Commission (Article 13) ;
10. Establishing an Honorary Council (Article 27) ;
11. Make a member register book (Article 2) ;
12. Determine which advocate offices are entitled to internship programs (Article 29 paragraph ( 5 ) , ( 6 ) ) .

In the world, there are three forms of advocate organizations. First, *Single Bar Association* , that is, there is only one advocate organization in a jurisdiction (legal area in a country). Other organizations may still exist but only one is recognized by the state and advocates are obliged to join it. <sup>10</sup>Second, *the Multi Bar Association*, namely there are several advocate organizations, each of which stands independently. Third, *the Federation of Bar Associations* , namely existing bar organizations joining/uniting in a federation at the national level. In this case, the nature of membership is dual, at the local and national levels.<sup>11</sup>

The form of advocate organization can be analogous to the concept of statehood. The form of the state states the organizational structure as a whole, which includes all its elements or the state in its form as an organization. A unitary state ( *eenheidsstaat/unitaris* ) is a single structured state, where there is one government that holds the power to run all regional affairs. Single structure means that in a country there is only one state, one government, one head of state, one constitution and one legislative institution. Meanwhile, a federation ( *bonstaat /federal/unity/union*) is one large country that functions as a whole government with a federal constitution, in which there are a number of states, each of which has its own constitution. The federal constitution sets the limits of overall (federal) authority, while the rest is considered to belong to the community (state). Federalism will emphasize the sovereignty of existing groups, which are in a large container. The rights of association will also be well accommodated when the sovereignty of the factions is recognized.<sup>12</sup>

Human rights are inherent in humans by nature as a gift from God Almighty. These rights cannot be denied.<sup>13</sup>Freedom to assemble and associate involves the freedom to determine the choice of organization with or where to go. In other words, a person must voluntarily determine their own free will, not because they are forced or led by other people to join an organization. Every person has the right to establish an organization in order to express thoughts and ideas or organize efforts to realize their beliefs in a democratic manner.<sup>14</sup> The guarantees in the constitution are further regulated in Law Number 39 of 1999 concerning Human Rights (UU HAM) and Law Number 17 of 2013 concerning Community Organizations. Article 24 of the Human Rights Law states:

**“(1) Everyone has the right to assemble, meet and associate for peaceful purposes.**

**(2) Every citizen or community group has the right to establish a political party, non-governmental organization or other organization to participate in the running of government and state administration in line with demands for the protection, enforcement and promotion of human rights with the provisions of statutory regulations.”**

Freedom of association and assembly is a human right that can be reduced or limited under certain conditions (*derogable right*) based on Article 28J paragraph (2) of the 1945 Constitution and Article 70 of the Human Rights Law. Article 28J paragraph (2) of the 1945 Constitution states that in exercising his rights and freedoms, every person is obliged to comply with the restrictions determined by law with the sole aim of ensuring

<sup>10</sup>Academic Manuscript of Draft Law on Amendments to Law Number 18 of 2003 concerning Advocates, DPR RI, 2013.

<sup>11</sup>Lentera Timur, May 9 2012, Advocates and Organizations Indonesian Federalism, available at <http://www.lenteratimur.com/organization-advokat-dan-federalisme-indonesia/> accessed 31 December 2023.

<sup>12</sup>*Loc., Cit.,*

<sup>13</sup>General Explanation of the Law on Human Rights

<sup>14</sup>M. Najib Ibrahim, *Legality of Dissolution of Mass Organizations* , (Jakarta: Publica Press, 2014), p.

recognition and respect for the rights and freedoms of other people and to fulfill fair demands in accordance with with considerations of morals, religious values, security and public order in a democratic society.

The Advocate Law in Indonesia itself adheres to the *single bar association system* as stated in Article 28 paragraph (1) of the Advocate Law that the Advocate Organization is the only free and independent forum for the Advocate profession which was formed in accordance with the provisions of the Advocate Law with the aim and purpose of improving the quality of the Advocate profession. The *single bar association system* is a system that determines that only one advocate organization in the form of an *integrated/compulsory bar* can exist in a jurisdiction.

From the explanations above, the one most likely to be implemented as a form of advocate organization in Indonesia is the form of a *federation of bar associations*. The federation system can accommodate the freedom of association and assembly guaranteed in the constitution by regulating the requirements for establishing a lawyer's organization as regulated in law. Advocate membership is dual at the local and national levels so that advocates are required to become members of a local advocate organization of their choice and become members of a federated organization at the national level. The Federation of Advocate Organizations determines educational curriculum standards and advocate exam materials, as well as exam passing standards. Advocate education and examinations are organized by each advocate organization at the local level using standards determined by the federation of advocate organizations. This will maintain the quality of prospective advocates who graduate to become advocates. The oath taking is carried out by each advocate organization.

By using a federated organizational form, the federation of organizations has the authority to compile and establish a code of ethics used by all advocate organizations. Then, in the case of preventing an advocate's practice from being sanctioned in one advocate organization and then moving to another organization, the resolution of cases of violations of the code of ethics is carried out at the first level in the advocate organization where the advocate concerned is a member. If the advocate is not satisfied, he can file an appeal. Settlement of cases of violations of the code of ethics at the appeal level is carried out at the federation of bar organizations.

Apart from that, there can also be collaboration between *single bar* and *multi bar systems* simultaneously. Note that the parent organization or *single bar system* is limited.

Understanding the meaning of Advocate Organization grammatically itself can be interpreted as a cooperative effort or form of association of Advocates to achieve a common goal in which each Advocate has a recognized role to carry out and obligations or tasks to be carried out to achieve a common goal or group of goals. . As is known, in the formation of an organization in Indonesia, the 1945 Constitution has provided basic protection, this is contained in Article 28E paragraph (3) of the 1945 Constitution which states, "Everyone has the right to freedom of association, assembly and expression of opinion", so the provisions of this article provide a constitutional basis that Advocates have the right to establish an Advocate Organization, not just one organization as long as in its establishment it meets the requirements as stipulated in the provisions for establishing an Organization and the founders are Advocates, then it is appropriate to say that this is also true. an Advocate Organization.

In the provisions of Article 28 paragraph 1 of the Law on Advocates which states that the Advocate Organization is "the only forum for the free and independent profession of Advocates..." is a clause that has the right sentence, because it would not be possible for a Notary, Judge or Police or Other professions outside of Advocates can form Advocate organizations, because those who can form them are people who work as Advocates. The definition of an advocate organization as a single forum is correct if we look at its meaning as an organization and also at the level of one type of profession. Advocate organizations can be formed with various names for the organization, such as the Peradi Advocate Organization, Peradin, KAI, or others, but this is This does not mean that there are many forums for the advocate profession, the forum for advocates is still one, namely the Advocates' Organization, but only the names are different.

This has also been recognized by the Constitutional Court in its decision which states that:<sup>15</sup>

**"...the Law on Advocates does not ensure whether other professional bodies for advocates that do not exercise these powers have the right to continue to exist or can still be formed. Taking into account all the provisions and norms in the Advocate Law as well as the reality of the Advocate professional forum, according to the Court, the only Advocate professional forum in question is only one Advocate professional forum which carries out the 8 (eight) a quo authorities, which does not rule out the possibility of there being an advocate professional forum others who do not exercise these 8 (eight) authorities based on the principle of freedom of assembly and association according to Article 28 and Article 28E paragraph (3) of the 1945 Constitution. This is reinforced by the fact that in the formation of PERADI, the 8 (eight) existing advocate organizations did not disband yourself and not merge yourself with PERADI"**

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<sup>15</sup>Decision Number 66/PUU-VIII/2010 dated 27 June 2011, p. 342.

After the promulgation of Law Number 18 of 2003 concerning Advocates, especially if it is linked to the provisions of article 28 paragraph 1 of Law Number 18 of 2003 concerning Advocates which states "The Advocate Organization is the only free and independent professional forum for Advocates which is formed in accordance with the provisions This Law is intended and aimed at improving the quality of the Advocate profession," it turns out that the thing that is being used as a polemic is how to understand the meaning of "the only single forum" as referred to in the article.

In the Constitutional Court decision Number 66/PUU-VIII/2010 dated 27 June 2011 stated that:

**"The only forum for the Advocate profession as intended in the Law on Advocates is the only forum for the Advocate profession which has the authority to carry out special education for the Advocate profession (Article 2 paragraph (1), testing prospective Advocates (Article 3 paragraph (1) letter f), appointment of Advocates (Article 2 paragraph (2)), creating a code of ethics (Article 26 paragraph (1)), forming an Honorary Council (Article 27 paragraph (1)), forming a Supervisory Commission (Article 13 paragraph (1)), carrying out supervision (Article 12 paragraph (1)), and dismissing Advocates (Article 9 paragraph (1), Law on Advocates)".**

The location of the problem that can be concluded from the description above, is a misunderstanding in the Law on Advocates itself which confuses the meaning of forming an organization which should be in line with Article 28E paragraph (3) of the 1945 Constitution which states, "Everyone has the right to freedom of association, assembly, and express opinions" with what is the true meaning of Article 28 paragraph 1 of the Law on Advocates, which apparently has a different purpose. From the considerations in the Constitutional Court's decision, it can be concluded that the intention of the provisions of Article 28 paragraph (1) of the Law on Advocates is to establish a forum for the Advocate profession which has the authority to carry out:

1. Special education advocate profession.
2. Testing of prospective Advocates.
3. Appointment of Advocates.
4. Create a code of ethics.
5. Establish an Honorary Council.
6. Establish a Supervisory Commission.
7. Carry out supervision, and
8. Dismissing an Advocate.

If you want a single institution tasked with carrying out the 8 (eight) functions mentioned above, it needs to be separated by a special institution that is formed, but it should not be called an Advocates' Organization, because every Advocate has the right to create their own Advocates' Organization, as long as the people who founded it The Advocate Organization is in one profession, namely Advocates. This special institution was formed from a joint agreement with the Advocates that this institution is the one with the authority to carry out 8 (eight authorities) and with mutual agreement, is the only single institution recognized by the Advocates.

Apart from having these 8 (eight) authorities, the position of this institution is an advocate organization, so that this institution is expected to be a reference for advocate organizations in carrying out the running of their organization or the running of the Advocate profession in accordance with the principles of being a noble law enforcer.

It is necessary to understand first, if you look back at the fact that the existence of conflict between several Advocate Organizations is in an effort to form an Advocate Organization to become "the only single forum" as intended in the Advocate Law itself, it cannot be denied that this is due to the formation Advocate organizations are handed back entirely to the Advocates, so if you look at the current reality, especially with so many people who work as Advocates and it turns out that there are also a large number of Advocate Organizations, it is very unlikely that such a special institution will be able to be formed, because there will be another fight over rights regarding who formed it first and there will be competition again regarding who can claim to legally form it first and this in reality does not solve the problem. So, to anticipate this, there needs to be another power of an imperative nature that has the authority to handle this matter. In line with the theory of the Democratic Rule of Law that in order to maintain common prosperity in society, the state's efforts are to actively participate in every community activity, which is one form of state responsibility to achieve shared prosperity, so the government should take part in efforts to resolve problems. establishment of a special institution in the Advocate Profession which has 8 (eight) functions as intended in the Advocate Law.

The government's role in establishing a single forum does not conflict with freedom and independence as desired by the Law on Advocates, because as is known, freedom of association (*rights to associate*) for peaceful purposes is a right that is classified as non-derogable so that the state cannot prevent people from joining a union, but the state with its authority can assume that there are evil intentions from the existence of a union<sup>29</sup>, this understanding if it is related to the conditions regarding internal problems experienced by

Advocate Organizations in Indonesia, will of course be detrimental not only to the Advocates themselves, but also for the general public because they cannot get legal certainty about what the actual legal regulations are regarding Advocate organizations.

The government can be understood through government functions in the form of activities that must be carried out by the government, as well as government organizations that carry out these government functions. According to Prajudi, state administration has three meanings, namely first as state apparatus, government apparatus and political institutions. In this case, state administration is defined as the administration of the state as an organization, second is the activity of serving the government as a government operational activity and third, state administration as a technical process of implementing laws. The first two meanings have the meaning of important involvement of the community/citizens. As an apparatus, of course there is a citizen's right to be directly in that position, as a service activity, of course the right to public service is a citizen's right in government. In the technical implementation of laws, the government is obliged to pay attention to the interests of the community as the main thing. This is known as interaction in development or political communication.<sup>16</sup>

By entering the government to mediate the problems that occur in the Advocates Law, efforts to create a rule of law can be pursued in line with the objectives of establishing the Advocates Law itself. The concept of a legal state is experiencing growth, which is marked by the concept of a modern legal state (*welfare state*) where the state can no longer be passive but must also actively participate in community activities, so that the welfare of the community is guaranteed. This shows a paradigm shift in the extent to which the state is responsible for achieving prosperity for its people. With the entry of the government by establishing a single institution that has a quo authority, in this case the concept of the rule of law is more advanced and develops in accordance with the wishes of the community. This is also in accordance with the opinion of Bagir Manan who states that the modern legal state is a combination of the legal state and the welfare state, so that the state is not only the guardian of security or public order but also the one responsible for realizing social justice, general welfare and great prosperity of the people.<sup>17</sup>

Human rights exist by themselves, not depending on their recognition and implementation in the legal system of a particular country. Therefore, human rights are considered to have a universal nature, rights that humans have solely because they are human. In other words, human rights are the rights of every human being because these rights are rooted in human dignity. The values contained implicitly or explicitly do not conflict with the values of upholding human rights. The principles of the Human Rights Law in Indonesia are not much different from the principles of the Human Rights Law adopted by other countries because they both adhere to the principle of Universality because in every state regulation protects the Human Rights of its citizens and citizens of other countries who are in a country, this can be seen from The various articles that usually use the words "EVERY PERSON" show universal principles. In Chapter I GENERAL PROVISIONS of Law No. 23 of 1999 concerning Human Rights, Article 1(1) also clearly states "Human Rights are a set of rights that are inherent in the nature and the existence of humans as creatures of the Almighty God and is His gift which must be respected, upheld and protected by the state, law and government, and every person for the sake of honor and protection of human dignity," this means that all people must not be differentiated. based on race, color, gender, language, religion, political beliefs, nationality, or origin, level of wealth, birth, or other status.

Apart from that, Indonesia also adheres to the principle that everyone has equal rights (*equality*). This is stated in Article 5 numbers (1,2 and 3) of the Human Rights Law no. 23 of 1999 which reads:

1. Every person is recognized as an individual human being who has the right to demand and obtain equal treatment and protection in accordance with his or her human dignity before the law.
2. Everyone has the right to receive fair assistance and protection from an objective and impartial court.
3. Every person belonging to a vulnerable group of people has the right to receive greater treatment and protection regarding their particularities.

From the article above, it is clearly stated that everyone has the same position before the law regardless of anything. Indonesia, as a country that has agreed to uphold human rights, must carry out this commitment as part of structuring and developing a democratic political system. Vigilant steps that must continue to be taken in structuring human rights justice in Indonesia are actions that remain within the corridor of normative values believed in by the Indonesian people, namely the values of Pancasila.<sup>18</sup> For example, in criminal law, the

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<sup>16</sup>Harkristuti Harkrisnowo, et al, *Basic Materials on Law and Human Rights*, (South Tangerang: Open University, 2015), p. 713-732.

<sup>17</sup>Ni'matul Huda, *State Institutions in the Democratic Transition Period*, (Yogyakarta: UII Press, 2007), p. 56.

<sup>18</sup>Muhammad Amiruddin, The Role of Advocates in Protecting Human Rights, *Journal of Jurisprudentie, Vol. 1, No. 1*, p. 74.

protection of human rights is contained in Chapter IV of the Criminal Procedure Code (KUHP) . The rights of suspects or defendants are clearly explained as follows :

- a. The right to receive an immediate examination ;
- b. The right to defend ;
- c. Rights when in custody ;
- d. The defendant's rights before the court trial ;
- e. The defendant's right to utilize legal remedies ;
- f. The right to claim compensation and rehabilitation

Providing rights to suspects or defendants, in addition to upholding legal certainty and the supremacy of the law, is also intended to provide protection for their human rights and dignity.

### III. CONCLUSION

The advocate profession is closely related to the advocacy organizations where advocates take refuge. The form of organization adopted by the Advocates Law is specified in Article 28 paragraph (1) of the Advocates Law, namely a single bar association. The single bar association form adopted by the Advocates Law creates various problems, including taking an oath for prospective advocates and the existence of two advocate organizations that declare themselves as advocate organizations based on the Advocates Law. The provisions on organizational forms in the Advocates Law will be revised through regulations in the Advocates Bill. The Advocates Bill provides stricter regulations on the freedom to establish advocates' organizations which is guaranteed in the constitution through Article 16 paragraph (1) of the Advocates Bill which allows the establishment of more than one advocates' organization.

An ideal Advocate Organization will produce Ideal and reliable Advocates. This has become very commonplace and reciprocal as a measure of the success of the goals of the Advocate Organization itself. An ideal and reliable advocate will always safeguard, protect and fight for human rights in each carrying out his duties, both for the advocate himself and upholding human rights for clients or the wider community. To be able to make this happen, several points need to be considered. One of them is initial education so that advocates can carry out their professional duties.

The role of the government as an intermediary means that in establishing a single forum that carries out these 8 (eight) authorities, it is formed by the government, but its management is still handed back to the Advocates or the advocate organizations themselves, this is intended to continue to emphasize the role and function of Advocates as a profession who is free, independent and responsible. The role of the government is to carry out the government's function, namely that it is obliged to pay attention to the interests of the community as the main thing, this is in accordance with the concept of a modern legal state.

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