



**NEOCLASSICAL LEGAL REVIEW: JOURNAL
OF LAW AND CONTEMPORARY ISSUES**

Journal homepage: <https://talenta.usu.ac.id/nlr>



Review of the Applicability of Advocate Immunity Rights in Indonesia: A Comparative Study with the Australian Solicitor

*Tinjauan Penerapan Hak Imunitas Advokat di Indonesia: Studi
Perbandingan dengan Advokat Australia*

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ARTICLE INFO

Article history:

Received 15 June 2024

Revised 3 July 2024

Accepted 4 July 2024

Available online 9 July 2024

E-ISSN: 2964-4011

How to cite:

Siagian, F. S., (2022). Review of the Applicability of Advocate Immunity Rights in Indonesia: A Comparative Study with the Australian Solicitor. *Neoclassical Legal Review: Journal of Law and Contemporary Issues*, 1(1), 7-20.

ABSTRACT

Advocates are one part of the Law Enforcement Officers who have rights and obligations that must be obeyed by each party. Advocate Immunity Rights which is a right that states advocates cannot be prosecuted civilly or criminally in carrying out their professional duties in good faith for the benefit of client defense. Problems are how is the influence of legal sociology in supporting the professional duties of advocates? and how is the applicability of advocate immunity rights in accordance with the Indonesian advocates law and the Australian solicitor studied based on legal compliance theory? The purpose of this study is to answer the various problems of this research. Normative juridical method with a comparative study approach in Indonesia and Australia. The essential influence of legal sociology in supporting the professional duties of advocates is because advocates will be faced with diverse community cultures. Legal compliance theory of advocate immunity rights in accordance with Advocate Law Number 18 of 2003 is still often ignored by other law enforcement officials. Advocates are still often criminalized in carrying out professional duties, namely defending their clients, unlike in Australia which prioritizes immunity rights. This is a special concern for each of the law enforcement institution to respect each other, in order to create fair law enforcement.

Keyword: *Advocates; Compliance Theory; Immunity Rights; Law enforcer;*

ABSTRAK

Advokat merupakan salah satu bagian dari Aparat Penegak Hukum yang memiliki hak dan kewajiban yang harus ditaati oleh masing-masing pihak. Hak Imunitas Advokat yang merupakan hak yang menyatakan advokat tidak dapat dituntut secara perdata maupun pidana dalam menjalankan tugas profesinya dengan iktikad baik untuk kepentingan pembelaan klien. Permasalahan adalah bagaimana pengaruh sosiologi hukum dalam menunjang tugas profesi advokat? dan bagaimana penerapan hak imunitas advokat menurut undang-undang advokat Indonesia dan Australian solicitor dikaji berdasarkan teori kepatuhan hukum? Tujuan dari penelitian ini adalah untuk menjawab berbagai permasalahan dari penelitian ini. Metode penelitian yang digunakan adalah metode yuridis normatif dengan pendekatan studi perbandingan di Australia dan Indonesia. Pengaruh Sosiologi Hukum yang sangat penting dalam menunjang tugas profesi advokat karena advokat akan dihadapkan pada kultur masyarakat yang beraneka ragam. Teori Kepatuhan Hukum terhadap Hak Imunitas Advokat sesuai dengan Undang-Undang Advokat Nomor 18 Tahun 2003 masih sering diabaikan oleh aparat penegak hukum lainnya. Advokat masih sering dikriminalisasi dalam menjalankan tugas profesinya yaitu membela kliennya, berbeda dengan di Australia yang



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(10.32734/nlrjolei.v1i1.16858)

mengedepankan Hak Imunitas. Hal ini menjadi perhatian khusus bagi masing-masing Institusi Penegak Hukum untuk saling menghormati satu sama lain, demi terciptanya penegakan hukum yang berkeadilan.

Keyword: *Advokat; Teori Ketaatan; Hak Imunitas; Aparat Penegak Hukum;*

1. Introduction

An advocate is referred to as a legal professional who is trained to provide legal advice and legal assistance to those who need it (Chi et al., 2023). In addition to the term Advocate like in Indonesia, other terminology mentions Lawyer. Different countries have different terms for Advocate. In the United Kingdom and Australian it is called Solicitor, while in Germany it is called *Rechtsanwalt*. Advocates are one of the components of the Governing Body of Law Enforcement that is regulated in Law Number 18 Year 2003 on Advocates. Based on Article 1 Point 1 of the Law, it explains that an Advocate is a person whose profession is to provide legal services, both inside and outside the court who fulfils the requirements based on the provisions of this law. Advocates are at the forefront of guarding the Indonesian Rule of Law based on Pancasila and the 1945 Constitution. A noble and independent judiciary requires a free, independent and responsible Advocate profession. This is for the implementation of an honest judiciary that strives for the achievement of justice, expediency, and legal certainty. In addition, Advocates are also given the responsibility to uphold human rights and maintain the rule of law.

The main duties and functions of Advocates are carried out by taking into account the oath taken during the inauguration as an Advocate. The oath is that in carrying out professional duties as a legal service provider must act honestly, fairly, and responsibly based on law and justice. Therefore, Advocates have an equal position with law enforcement officers such as police, prosecutors, and other law enforcement officers. Advocates in carrying out professional duties defend the legal interests of the public who have given their Special Power of Attorney. Advocates are entitled to obtain information data related to the defense of the legal interests of the Power of Attorney (Client). In addition, in the process of defending their clients, an Advocate who conveys information to the print and electronic media must be free and independent from any intervention or threats from certain parties. If an Advocate carries out his duties with high independence and is free from threats from people who want to damage the image of law enforcement, then law enforcement will always prioritise the human rights of its clients. Every citizen has the right to have their legal interests protected. This is a manifestation of equality before the law.

Protecting the rights of an advocate is the responsibility of all components of the nation. Advocate immunity is an important element that must be protected. This immunity protection should be the same between countries in the world. Lawyers for Lawyers (L4L) is an independent, non-political, non-profit organisation of lawyers founded in 1986. It campaigns for the independent functioning of lawyers and the legal profession worldwide in accordance with internationally recognised norms and standards, including the fundamental principles and role of lawyers. It fully supports lawyers in facing problems and risks in carrying out their professional duties, seeks to protect them from threats, risks and reprisals, and strengthens international recognition. The International Lawyers Committee requires legal recognition and protection for lawyers around the world. It wants advocates around the world to fulfil their role as agents of law enforcement around the world. The Committee was granted consultative status with the UN Economic and Social Council in July 2013 (International Legal Digest: Lawyers' Protection and States' Obligations, 2020). In various countries that can be used as a comparative study related to the Fundamental Rights of Advocates, namely Australia. Socio-cultural and legal system differences make the difference between Advocates in Indonesia and Australia. Related to the rights and dignity of an advocate in that country is highly upheld. This is because all components of the nation consider advocates as fighters for the individual rights of the community in seeking justice (Mauluna & Husodo, 2022). Advocates actually have the right to immunity, which will protect them in carrying

out their professional duties. This right is regulated in Article 16 of Law Number 18 Year 2003 on Advocates. Advocate Immunity Right is a right that states an Advocate cannot be prosecuted civilly or criminally in carrying out his professional duties in good faith for the benefit of the defense of his Client. Thus, an Advocate has the independence to defend the legal interests of the Client. Note that an Advocate must stay within the corridors of the law and the values of decency. The limitation of the right of immunity only applies to an Advocate who performs duties that are justified by the law and does not commit misconduct. Restrictions on immunity rights only apply to Advocates who perform duties that are justified by law and do not commit offences. This is explained in Article 14, Article 15, and Article 16 of the Advocates Law Number 18 Year 2003, that Advocates are protected when carrying out professional duties to defend the interests of clients in good faith and adhere to the Code of Ethics and applicable laws.

This indicates that the right to immunity still has its limits. That an advocate is prohibited from committing a form of violation of the law. Australian solicitors in legal practice should have a continuing education programme for all lawyers on the protection of confidential information and the operation of information barriers. Australian solicitors who are experienced in the practice of law will be appointed as compliance officers within the solicitors' organisation, usually placed on professional ethics boards. Australian solicitors require all members to maintain a high level of professionalism and ethics. This includes being free from conflicts of interest and being obliged to maintain the confidentiality of client information. Based on the juridical provisions in Australia, Solicitors specifically require equal and responsible access to Lawyers to obtain information related to the defence of their clients' interests.

The basis of the Right to Immunity has been clearly regulated in a statute as a Real Law. However, a regulation is always faced with two sides, namely obeying and disobeying the orders of the law. Non-compliance with the mandate of the law is influenced by several possible causes, including *obscure legal* substance, legal structure which includes law enforcement officials who do not carry out laws and regulations properly, and legal culture of the community with low legal awareness being the cause of legal violations increasingly rampant. In relation to Advocate Immunity Rights, it is still often violated by various related parties. This is marked by the frequent criminalisation of Advocates who are carrying out their professional duties. Of course, this has the potential to cause disharmony between law enforcement officials. It is important to remember that Advocates' Immunity Rights are often ignored by various parties, indicating that legal culture is still a problem in law enforcement today. However, if we look at the current reality, many advocates are reported to the authorities for their negligence or mistakes in carrying out their professional duties. One of them is a senior advocate, Kamaruddin Simanjuntak, who was reported to the National Police Headquarters regarding a case of defamation of one of the BUMN officials (Eka Yudha Saputra, 2023). Even though the information submitted was accompanied by accurate evidence. Long before that case, advocate Bambang Widjojanto, the case that ensnared LBH Jakarta advocates and a series of other cases.

Non-compliance with legal orders is studied using a legal sociology approach to determine the extent to which the regulation permeates the culture of society in general. This is because a problem related to whether a rule is effective or not must be measured by legal sociology which focuses on empirical facts that describe the problems that occur.

However, a breakthrough of this research is to provide an overview of the condition of the enforcement of Advocates' Immunity Rights in Indonesia through a comparative study with Australia. This research raises the title about Review of the Applicability of Indonesian Advocate Immunity Rights Comparison with the Australian Solicitor. The problem that is the subject of discussion in this research which are the first, how is the influence of legal sociology in supporting the tasks of the advocate profession? the second, how the applicability of advocate immunity rights in accordance with the Indonesian Advocates Act and the Australian Solicitor is Studied Based on legal compliance theory. The purpose of this research is to answer the problems of this research.

This research proposes a new idea, namely that the Advocates Law Number 18 of 2003 should be revised and affirmed in relation to Advocates' Immunity Rights along with Criminal Sanctions against those who do not respect Advocates' Immunity Rights. Not only that, this research also requests that the Advocate Law later accommodate Advocate ethical sanctions related to the presence or absence of an Advocate's good faith. This research also proposes the establishment of an Advocate Professional Ethics and Honor Committee comprised of various Advocate Organizations across Indonesia. This committee is needed to maintain the dignity of the Advocate as *Officium Nobile*. Not only that, an advocate in good faith, as stated in Article 16 of the Advocates Law, can only be assessed by the Internal Committee of the Advocate Organization itself.

2. Method

The method used in this research is descriptive qualitative by collecting various sources and real understanding as a descriptive data collection technique. According to Barda Nawawi Arief, the Descriptive Method is defined as a problem-solving procedure investigated by describing/ describing the state of the subject or object of the article at the present time based on the facts that appear or as they are. Qualitative research is used to describe a situation as it is without using numbers. The type of research used is normative juridical or doctrinal research (Nurhayati et al., 2021).

The results of this study obtained a juridical study that was described to achieve the acquisition of legal science studies. This research method is one of legal research that analyzes, examines juridically, and examines the operation of law in society (Disemadi, 2022). The approach used is a statutory approach relating to Advocate immunity rights. The approach used to examine the research problem is first, a comparative approach which means that a legal review of two different countries is carried out regarding the applicability of Advocate Immunity Rights in Australia and Indonesia. This comparison will explain the similarities and differences between the two.

This research examines the law conceptualized as real behavior that indicates various unwritten social symptoms experienced by everyone in social life. The purpose of this research method is to find the effectiveness and ineffectiveness of the enactment of a particular legislation or principle related to the enactment of Advocate Immunity Rights in Australia and Indonesia. The types of data used are primary and secondary data.

3. Result and Discussion

3.1. The Influence of Legal Sociology in Supporting Advocates Professional Duties

Literally, Sociology is formed from the word *Socio* which means social or society. While *logos* which means science. So that the two fragments of the word when put together will form a sentence that is Sociology is a branch of science that studies various aspects of symptoms related to social life of the community. Sociology is a branch of social science. So that Sociology is able to penetrate across relevant sciences that are interrelated with each other. The aspect that can be penetrated by Sociology is the aspect of Law. The effort to penetrate it is by interpreting the law through two ways, namely traditional and modern. Law is seen traditionally, namely the way people viewed the law before the 15th century viewed the law as an ethical or moral. It means that the law contains meaning as a noble rule related to one's spirituality and morality. Good morality and ethics will always encourage individuals to obey the law. In addition, obeying the law becomes a moral calling of every society.

After the end of the 15th century BCE, there was also a change in the perspective of law from traditional to modern. The modern perspective is to view law as a rule that has an attachment to the interests of the state. This perspective explains that law is always orientated towards state laws. Therefore, this perspective is considered to influence the perspective of the community, which has now begun to ignore regulations as a law. This modern perspective has eliminated the noble nature of the law itself. Thus, law is defined as a rule that contains commands and prohibitions that are morally noble to be obeyed.

Sociology of Law is a branch of science that is outside the dogmatic of law (legal science) and studies law. This Sociology of Law describes the level of legal validity (*legal utility*) in the community environment. This science places society as the main agent in seeing how effective the law can absorb the social environment. This is very urgent, because the law actually comes from the people, by the people, and for the people. So that

the Sociology of Law is closely related to the people. Sociology has an important influence in the development of science, especially the field of law. Sociology also has an important influence on the development of legal practice in the world. This is in line with the *adage* conveyed by Marcus Tullius Cicero who called the law born from society with the phrase "*Ubi societas Ibi ius*" which means where there is society there is law (Matnuh, 2018). This explains that in the gathering of several humans will give birth to an agreement product that is valued as a role model that is jointly obeyed in order to achieve the order of a human group. This is also what makes law a social science that has a broad impact on life today.

The development of material and formal law is essentially always related to the development of human civilization. The development of material law will be associated with the sociology of law regarding the relationship between law and the social characteristics of society. Material law is a statutory provision that contains orders and prohibitions accompanied by sanctions. Includes the Criminal Code, Civil Code, Law, and so on. Community characteristics play a big role in influencing a law. It can also be said to be related to community culture. The development of human civilization has always undergone significant changes. Law is always delayed compared to the development of human civilization, as a legal postulate states in *Het Recht Hink Achter de Feiten Aan* (Lie et al., 2023). This also affects the substance of a set of laws and regulations (national law).

The development of formal law is influenced by changes in the characteristics of society. Formal law is a rule that contains mechanisms or ways to enforce material law. This formal law is oriented towards a method or legal action so that it is also called procedural law, including criminal law, civil procedure, state administrative procedures, and so on. This procedural law is always dynamic because it is always used for the law enforcement process from the first to the final stage of the law enforcement process within the scope of judicial power. Law enforcement within the judicial system is carried out by the main agents of law enforcement. The main agent of law enforcement is also known as *Catur Wangsa*. (Khalid, 2019). Law Enforcement Officers which include Police, Prosecutors, Advocates, and Judges. The law enforcement process is faced with various ways and social interactions between individuals with one another. This aims to find the truth and enforce the law. Good law enforcement must always prioritize morality as the main element. Advocates, as one of the elements of the justice system, are one of the pillars of upholding the rule of law and human rights (Hadiyanto, Alwan; Alam, 2023).

The presence of lawyers throughout the criminal justice system helps to prevent abuse of power by other law enforcement agencies that could potentially violate human rights. Not only that, the presence of lawyers in the justice system is to defend the legal interests of the community. Lawyers are one of the law enforcement agents in the justice system in general throughout the world. It is also what makes the lawyer a noble profession because of defending the legal interests of every human race which is part of the human rights aspect (Moore, 2020). Lawyers assist from the inquiry stage, investigation, prosecution in the prosecutor's office, to the trial process in court. In addition, the lawyer is obliged to examine the evidence obtained by the police and synchronise it with the evidence owned by the client. Lawyers also oversee every existing process, so as to improve the quality of law enforcement that can contribute to finding objective truth without case manipulation (Bernstein, 2019).

In carrying out professional duties, the establishment of justice and society includes efforts to empower the community to realize fundamental rights before the law. The existence and essence of advocates are based on the provisions contained in the Constitution. The 1945 Constitution, Article 1, Paragraph 3, states unequivocally that the State of Indonesia is a state based on law or *Rechtstaat* (Calvin & Pratiwi, 2018). The rule of law guarantees equality before the law for everyone. Therefore, Article 28D of the 1945 Constitution states that everyone is entitled to recognition, guarantees, protection, and certainty of a just law and equal treatment before the law. Efforts to realise the principle of the rule of law in the life of society, nation and state.

The role and function of Advocates as a free, independent and responsible profession is important in addition to other Law Enforcement Agencies.

The Sociology of Law has an important role in relation to the law enforcement process carried out by law enforcement officials (Susanti & Rahardjo, 2018). This is because the law is actually a provision that contains rules about orders and prohibitions to create security, peace and order in society. According to Mochtar Kusumaatmadja, the purpose of law is only to achieve public order (Dedihasriadi & Nurcahyo, 2020). The school of legal history believes that law grows and develops in the soul of the nation, not made and especially intentionally. Law is formed through a *bottom up* mechanism, not *top down*. The influence of Legal Sociology is needed in the law enforcement process. This is because the law was born from society. Mochtar Kusumaatmadja once said that law as a social rule cannot be separated from the values prevailing in a society. Good law is the law that lives in society (*the Living Law*) (Aulia, 2019). The process of law enforcement in the social sphere is faced with social problems that can be studied through a legal sociology approach. It is through this approach that a law enforcer, especially an Advocate, is able to interpret the problems that occur in society through aspects of legal sociology in the social sphere.

Sociology of law is a branch of social science that studies the relationship between law and society. The task of the Advocate profession in the law enforcement process is greatly helped by the existence of Legal Sociology. Legal Sociology provides a problem solving method that is used as a guide in solving legal problems with a Legal Sociology approach including *what, where, who, why, when, and How*. *What* is used to obtain answers from What is the substance of the relevant law in this case, What are the social implications of the application of this law, and What is the impact of this legal decision on society. *Where* is used to obtain information about *Locus delicti* or the location of a legal event and how the location is able to influence the legal situation. Furthermore, where are the values or social norms that apply in society that are reflected in the case that occurred. *Who* is used to explain who the parties involved are, who benefits, and the social identities that influence legal perceptions related to the case being handled by the Advocate. *Why*, is used to explain the background of why conflicts or legal problems occur, why people respond to the law in certain ways according to the characteristics of their society, and why certain legal decisions can be considered fair or unfair by the community. *When*, is used to explain the *Tempus delicti* of legal problems that occur and explain that the extent to which time can affect the perception of law in society. *How*, is used to explain how the process of law implementation, the factors that influence the application of law in society, the extent of knowledge of all components of the nation related to Advocate Immunity rights in carrying out their professional duties, and how the process of law enforcement in society is related to the theory of legal compliance.

The influence of Legal Sociology in relation to the duties of the Advocate Profession is very important. Advocates are required to interact with society, social norms and values. Advocates gain deeper insight into the social context of a legal event that is or has occurred and with this legal sociology, an Advocate is also able to predict legal events that will occur in the future. Advocates who are able to design more effective legal strategies add to their quality as *Officium Nobile* with integrity. This can be achieved through deepening the Sociology of Law that develops in society. This is because legal sociology is a school of thought in its role to explain legal issues in society.

An Advocate with integrity and quality is measured by his ability to analyze every problem that occurs in society. Advocates must be able to interpret various problems, juridical facts, and social symptoms that occur in society to provide legal solutions to defend the legal interests of clients. This is the main task of an Advocate in defending people who are in conflict with the law in order to achieve justice, benefit and legal certainty.

3.2. *The Applicability of Advocates Immunity Rights Under the Indonesian Advocates Act and the Australian Solicitor Studied Under Compliance Theory*

Compliance comes from the word obey which means to like and obey orders or rules, and to be disciplined. So compliance is the nature of obeying, obeying, and submitting to the teachings of the rules. Compliance theory initiated by Stanley Milgram (Milgram, 1963). This theory explains a condition in which a person complies or does not comply with a predetermined rule order influenced by several factors. There are two perspectives in sociological literacy regarding compliance with the law, namely instrumental and normative. The Instrumental perspective assumes that individuals obey the law due to considerations of potential gains and losses. Every individual obeys the law because they expect positive consequences in the form of rewards and at the same time avoid negative consequences, namely punishment. Meanwhile, the normative perspective considers that individuals obey the law based on values, norms, and morality. Individuals obey the law because they consider it to be the right action and in accordance with prevailing societal values or social norms.

An individual who obeys the law is considered to be in accordance and consistent with the internal norms that are inherent in him as his moral calling. This normative commitment through morality has meaning in relation to the law. This is because the law is considered a moral obligation to obey. Meanwhile, normative commitment through legitimacy morality means complying with regulations because the law-making authority has the right to regulate behavior.

The definition of Compliance Theory is as a process where organizations try to ensure that every citizen and constituent complies with applicable rules (Orozco, 2020). This includes various applicable laws and regulations. The practice of compliance includes the norms, regulations and internal policies of a country. This theory will talk about what can and cannot be done in the life of the nation and state. Explicitly, this theory is closely related to Legal Culture, which is a measure of a society's compliance with applicable law (positive law). Compliance legal system theory will discuss aspects of compliance in the field by taking an empirical approach that examines the extent to which a rule has an impact on society.

Law is one of the instruments to regulate the behaviour of society in regulating living relationships. Based on sociological aspects, the law contains various elements including a plan of action or behaviour, conditions, and certain situations. Compliance is an attitude that arises from the impetus of responsibility as a form of good citizenship. The link between the theory of legal compliance and the study of advocates' immunity rights contained in Advocates Law Number 18 of 2003 is that it emphasises the extent to which advocates, the public and other law enforcers comply with advocates' rights not to be intervened and not criminalised by certain individuals who do not want law enforcement to run well. Legal compliance is an awareness of legal expediency that gives birth to a form of community "loyalty" to legal values that are enforced in living together which is manifested in the form of behaviour that actually complies with the values of the law itself which can be seen and felt by fellow community members.

Legal compliance is an awareness of the benefits of law that gives birth to a form of "loyalty" of the community to legal values that are enforced in living together which is manifested in the form of behaviour that actually complies with the values of the law itself which can be seen and felt by fellow community members. Community legal compliance is a manifestation of the legal culture of society that must be harmonised with legal substance, and legal structure. The relationship between the compliance of all components of the nation regarding the provisions of advocate immunity to be free from various interventions and criminalisation by other law enforcers.

Advocates' immunity rights can be upheld if the components of the legal system proposed by Lawrence Meir Friedman are implemented properly. There must be synchronisation between substance, structure and legal culture. Legal culture relates to public compliance with the law. This concerns the extent to which the community knows the provisions of the legislation and the extent to which the morality of the community is called upon to carry out statutory orders properly. So far, the advocate's immunity rights have been well implemented, but not maximally understood by the public. Many parties consider advocates as a mediocre profession and a profession that can be treated unjustly.

Advocate immunity rights that currently occur in Indonesia have not been implemented wisely. This is seen in the components of the legal structure, namely law enforcement officials and bureaucracy in a country. That currently fellow law enforcers are often elbowing each other and not respecting each other. The marginalised

party is the advocate as *officium nobile*. This is like what happened in several regions in Indonesia, where an advocate was intervened and reported to the police related to the advocate's duties in defending the client's legal interests. The most famous case in recent years is that of Advocate Bambang Widjojanto who was criminalised (Khalid, 2019).

In addition, there was also the case of Advocate Liem who was named as a suspect by the Police. There was also the case of Advocate Kamaruddin Simanjuntak who was named as a suspect by the Police Criminal Investigation Unit in 2023 (Saputra, 2023). There are many other cases, indicating that advocates' immunity rights are not fully known and obeyed by the nation's components, from the community to fellow law enforcers.

Advocates are supposed to be law enforcers who defend the interests of the law and at the same time uphold human rights. A person's legal rights are always attached to him or her as part of human rights. On this basis, there is also the mandate of the 1945 Constitution which explains that in addition to the nature of Indonesia as a state of law, there is one substance that confirms that every individual has equal rights before the law and state government. This right is referred to as the principle of equality before the law.

Article 16 of the Advocates Law Number 18 Year 2003 has explained that an advocate cannot be prosecuted civilly or criminally in carrying out his professional duties in good faith for the benefit of the client's defence in court. The duty of an advocate is to defend the interests of the client at all stages, starting from the investigation, investigation, prosecution, and trial stages in court. Article 17 also confirms that an advocate in his/her profession has the right to obtain information, data, and other documents, both from government agencies and other parties related to the interests required for the defence of his/her client's interests in accordance with laws and regulations.

3.3.A Comparison of the Enforceability of Immunity Rights Under the Indonesian Advocates Act and the Australian Solicitor Studied Under the Theory of Legal Compliance

Advocates in carrying out their duties and functions as legal defenders must be protected by the Advocate Immunity Right. Advocates' immunity is, in principle, the right of an advocate not to be prosecuted civilly or criminally in the course of defending his or her client's legal interests in court or outside of court. This right has been regulated in the Advocates Law No. 18/2003 which explains the limited immunity right in Articles 16. In others to be in article 14 and article 15 This immunity right was strengthened by the Constitutional Court Decision No. 26/PUU-XI/2013 the Advocates Law No. 18/2003. This regulations which contains a new interpretation that has full binding legal force on the Advocate's immunity right. The decision recognizes and guarantees the protection of Advocates in non-litigation actions carried out in good faith and in the interest of defending Clients in and out of court (Cahyani et al., 2021).

This immunity aims to protect Advocates to be able to work independently and without pressure from any party that interferes with legal assistance to clients. Assessment of the applicability of Advocate Immunity Rights in accordance with the theory of legal compliance can be done by looking at the extent of the implementation of each existing rule. This legal compliance theory explains that the extent to which Advocates and other related institutions understand and comply with the rules contained in the Advocates Law. Furthermore, this theory is used to answer the applicability of this Immunity Right in the world of judicial practice. However, looking at various legal problems that occur in the community involving Advocates in defending the legal interests of the community, there are often efforts to hinder the performance of Advocates. It is even more fragrant that there is an attempt to criminalize a lawyer because in carrying out his professional duties there are parties who do not accept the sentences delivered to the public, thus attempting to impede the performance of the lawyers in defending the legal interests of the society seeking justice. This, of course, marks that the law enforcement agencies themselves have not yet understood the right to immunity of a lawyer who must work purely and free from intimidation by any party. Moreover, an attorney must have the right of immunity free from any personal or criminal claims. Advocate immunity is not only to protect advocates from criminalisation, but is a manifestation of the independence of law enforcement and human rights.

The applicability of Advocate Immunity Rights must be reviewed from the perspective of legal compliance theory. When linked to Legal Compliance Theory, it will create a perception that all parties must understand the urgency of an Advocate's right to be free from civil and criminal prosecution in relation to his professional duties to defend the legal interests of his Client. In addition, an Advocate has a special aspect that must be

considered, namely good faith in defending the interests of his Client. This immunity right must be respected by all parties in order to build synergy in law enforcement with certainty and justice.

Law enforcement officials are often weakened and powerless due to powerful interests. This indicates that political power interests can reduce the consistency and determination of law enforcers in a country. This situation sometimes makes it difficult for advocates who are defenders of truth and human rights to work optimally due to the hostage of law enforcement with the conflict of interest of a handful of people. So that people are marginalised and find it difficult to get justice from the national justice system (Jaya Putra, 2019). An Advocate can carry out professional duties freely and independently, and is free from intimidation from any party. Therefore, anyone who attempts to threaten or criminalize the Advocate Profession should be punished with criminal penalties. Because in Article 15 of the Advocate Law Number 18 of 2003, Advocates are obliged to carry out their professional duties with full responsibility, and free from pressure and threats. An advocate must perform his/her duties free from any threats and interference. However, advocates are asked to adhere to the code of ethics of the advocate profession. Therefore, an advocate is required to have integrity. Although the law does not explicitly describe advocates with integrity, the meaning of Article 15 of the Advocates Law requires an advocate with integrity. Therefore, all parties, especially those engaged in the scope of Judicial Power, must understand the urgency contained in Articles 15 and 16 of this law. Article 15 of the Advocate Law explains that Advocates in carrying out their professional duties to defend the interests for which they are responsible while adhering to the professional code of ethics and laws and regulations. Article 16 of the Advocates Law explains that Advocates also cannot be prosecuted civilly or criminally in carrying out their professional duties in good faith for the benefit of defending clients in court hearings.

Advocates' Immunity Rights in Indonesia are still often ignored by various parties. Fellow law enforcement officers and ordinary people often ignore this fundamental right. The frequent neglect is due to the low awareness of various parties that the right to immunity is mandated by law (Gayo, 2022). When examined based on the Compliance Theory initiated by Stanley Milgram. This theory explains that people obey an authority if the authority is responsible for the consequences of an action they have taken (McLeod, 2012). This theory explains a condition in which a person obeys or does not obey orders or rules that have been set. The legal culture of Indonesian society is divided into two perspectives, namely instrumental and normative.

The Instrumental perspective shows that people obey the law due to considerations of potential advantages and disadvantages. People obey the law because they expect the rewards they get, not based on a sense of morality to obey the law. Indonesian society currently has this type. The awareness of obeying the rules is due to what is expected. People realize that the law is only oriented towards state policy. However, people should interpret the law as a moral and ethical call to obey it without the expectation of direct rewards.

This Legal Compliance Theory is closely related to the theory of the legal system initiated by Lawrence Meir Friedman. According to him, the legal system consists of elements of substance, structure, and legal culture (Hutomo & Soge, 2021). Until now, the most difficult element to regulate is the legal culture of society. This is due to the culture of society in Indonesia which is thick with the principle of kinship, less emphasis on quality, prioritizing the principle of kinship (relationship), lack of awareness, and often underestimating small mistakes. Some of these things cause people to easily violate simple norms which over time become systematic violations. This is the poor legal culture of Indonesian society. A poor legal culture affects the level of public compliance with the law. Advocates in carrying out their professional duties are often reported to the police and eventually named as suspects (Lubis & Pratiwi, 2019). Where as Advocates exercise their authority to defend the legal interests of their clients. The need for legal services of an Advocate includes providing legal advice, providing legal consultations, legal opinions, legal audits, defense in and out of court. In addition, Advocates also provide legal assistance in criminal cases or civil cases, trade arbitration, and labor issues. The goal is to guarantee the client's rights before the law. The Advocate profession is said to be a noble profession, so it deserves to be protected in carrying out its duties and conducting legal defense in litigation and non-litigation (Legowo & Puspitosari, 2023).

Advocates in Indonesia are considered as agents of development which means as agents who develop law in society. Purnadi Purbacaraka and Soerjono Soekanto explained that law enforcement is an integration of a steady value relationship and embodied in the attitude of value translation actions that have created social engineering, maintain, and maintain (social control) in the peace of life. Good law enforcement is law enforcement that involves harmonization between values and norms with the real behavior of a human being.

The values and rules contained in the law must be applied to the facts of real human events (Uus Sunandar & Abdal, 2021).

Advocates are not bound by political power or are not subject to the hierarchy of government positions. This profession is called independent because it is not bound by any power. As a legal service provider, Advocates are tasked with solving their clients' legal problems through both litigation and non-litigation. Advocates must devote themselves to people who need legal aid services, one of which is fighting for human rights. Therefore, this profession is called a noble profession or *Officium Nobile*.

Advocates, as a noble profession, share the same characteristics as fighters for justice in society. A true warrior must be respected and maintain his dignity. Therefore, Advocates in carrying out their professional duties must be protected by law. Protected in the sense that in carrying out their professional duties, an Advocate cannot be prosecuted before the law in relation to the case he is handling. The nobility of this profession should be respected by anyone including fellow law enforcement officials (*Catur Wangsa*).

Article 16 of the Advocates Law states that Advocates cannot be prosecuted either civilly or criminally in carrying out their professional duties in good faith for the benefit of the client's defense in or out of court. This clearly states the prohibition and warning that Advocates are free from all lawsuits when carrying out their professional duties. However, it is not interpreted as something that must be obeyed. Compliance theory in the context of law and organizations includes the study of factors that influence individual and organizational behavior to comply with rules, norms, or regulations. As stated by Christine Parker, compliance theory considers organizational factors that influence compliance with the law (Efendi, Aan; Susanti, 2022). The act of compliance is more likely to occur when an institution understands and applies rules consistently, provides positive reinforcement, and an organizational culture that supports compliance.

Seeing the condition of state institutions in Indonesia today is very concerning. The recruitment system that is carried out routinely to obtain Human Resources does not run optimally. The empirical fact is that there are still efforts that are cloaked by Corruption, Collusion, and Nepotism in it so that the expected quality of human resources is not obtained. Indeed, an institution in order to carry out its main institutional duties must be supported by quality human resources. In addition, Law Enforcement Agencies that should enforce the law, but violate the mandate of the law. This indicates that a poor organizational culture will result in a low level of compliance with the law. Similarly, if the culture of the organization is good, then this will also support compliance with the law according to the theory put forward by Christine Parker on the Compliance Theory.

Bad organizational culture can also be seen from a lack of awareness to respect and obey the law. So some important things have to be obeyed, but not. One of the objects that is often overlooked is the immunity of the lawyer. Bad organizational culture can also be seen from a lack of awareness to respect and obey the law. So some important things have to be obeyed, but not. One of the objects that is often overlooked is the right to immunity, which is that lawyers are often criminalized. Criminalization is a process or decision to clarify an act or behavior as a crime or violate the provisions of criminal law. The formal step is to report someone to law enforcement (police) for and on behalf of legal certainty. Several examples of cases have often occurred, such as in the case of an Advocate in defending his Client, but systematically trying to report an Advocate to the Police on the grounds of defamation, hate speech, and spreading false news (Hoax). This indicates that the Advocate's immunity rights stipulated in the Advocate Law are not complied with by various parties, especially fellow Law Enforcement Officers.

The Advocate's Right of Immunity applies to any action of the Advocate that is justified by applicable legal norms. If the Advocate violates criminal law norms, such as committing acts of Obstruction of Justice in carrying out his/her professional duties, the Advocate cannot use his/her immunity rights to justify criminal acts (Susanto et al., 2023). This is an exception to the Right to Immunity under the Advocates Law. In general, Advocates who do not have good faith in carrying out their profession can be prosecuted according to applicable legal provisions. However, the interpretation of the right to immunity in accordance with Law Number 18 Year 2003 is considered necessary to specify the rules so as not to have multiple interpretations in the future.

Each country in the world has its own distinctive features with regard to certain rights of its Advocates. For example, Australia is structured around the assumption of being a rule of law country. Usually this is

interpreted as two things, firstly, the role of the courts to determine various aspects relating to the authority of the executive in carrying out its functions. With regard to the right to immunity of Advocates in Australia, it is well executed and professional. The House of Lord by mutual agreement declared acts to intimidate and threaten lawyers unjustified. Not only that, the attempt to prosecute a lawyer in the exercise of his professional duties as an act that must be stopped. The lawyer is immune from responsibility for his negligence (Groves & Derham, 2019). Here are the similarities and differences in the validity of the immunity rights of lawyers in Indonesia and Australia.

3.4. Similarities in the Applicability of Advocates Immunity Rights in Indonesia and Australia

In general, Indonesia and Australia have the same understanding of immunity rights. Immunity is an exclusive right granted to an Advocate in carrying out his professional duties to defend the legal interests of the attorney. Advocates' immunity rights in Australia aim to protect them from pressure or threats. This is so that advocates can provide honest and effective legal advice to their clients. Advocate Immunity Rights in Australia are held in high regard by all components of the nation. In that country, the right of immunity covers communications between an Advocate and his or her Client in both criminal and civil contexts. The communication is considered Privileged communication and not as evidence in the trial (Bolin, 2012)

The expectation of secrecy is not the same as confidentiality in the context of confidential communications. The communication in question may still be considered confidential even though it is private. Positive law in Indonesia, including the Constitution and Advocates Law Number 18 on 2003 as well as several Constitutional Court Decisions have strengthened the legality of immunity rights always attached to an Advocate if in carrying out the defense of the legal interests of his client based on the principle of good faith. Lawyer immunity in Australia is generally highly respected and considered an integral part of a fair and effective legal system (Wolski, 2020). This principle supports the freedom of lawyers to carry out their duties without fear of unfounded legal claims. Public awareness in Australia that the advocate's right to immunity supports the success of the legal system has made it an important aspect to be respected by various parties, ranging from the courts, law enforcement agencies, and the general public. Public culture also affects the level of respect for lawyer immunity rights between Australia and Indonesia.

3.5. Differences in the Applicability of Advocate Immunity Rights in Indonesia and Australia

When studying the structure of the Bar Association, Australia adopted the Single Bar system which means that legal practitioners can become members of one Australian Solicitor Association according to the state as the jurisdiction practicing. This condition raises the degree and public confidence in lawyers in Australia. It's because in Australia it's very organized his lawyer's organization by maximizing the Single Bar.

Unlike in Indonesia, where there are various advocacy organizations, it is difficult to enforce the Code of Ethics of the Honor of Lawyers that has been regulated in the Law on Lawyers. For example, in maximizing the meaning of the provisions of the Right to Immunity in that law, there is the phrase "goodwill." Therefore, the party entitled to judge the goodwill or not of a lawyer is an internal element of the lawyer that includes the organization of laws.

That's what's a problem in Indonesia. So many of the people who are in charge of this profession have committed violations of the law that have resulted in the good name of this occupation being defiled. However, it is true that the lawyer is a noble profession with the right of immunity in it has a very good essence. Under Act Number 18 of 2003 on lawyers, the system in Indonesia is Single Bar. Article 28 Paragraph 1 of the Law on Lawyers stipulates that the Bar Association is the only independent and independent consortium of the profession of lawyers formed in accordance with the provisions of this law with the purpose and purpose of improving the quality of the law profession. So the sound of the article is interpreted that in Indonesia adopted the Single Bar system with the only recognized and entitled organization to conduct the examination of candidate lawyers, nominate candidates, form the Supervisory Board, and form the Honorary Council of Lawyers namely the Indonesian Bar Association. (Peradi).

However, the sentence that states Single Bar or Multi Bar is not mentioned in the law. However, through the Constitutional Court submitted Judicial Review related to this Lawyers Act. The aim is to obtain clarity about the meaning of the article in a rule of law that is obscured and in conflict with the Constitution. The Law on Lawyers does not state explicitly concerning Single Bar or Multi Bar. However, in various Constitutional Court

decisions one of them in Decision Number 014/Law-IV/2006, MK in its legal consideration affirmed that Peradi, which is an acronym of the Indonesian Bar Association, as the Lawyer Organization is the only container of the profession of lawyers under the Law Number 18 of 2003 on lawyer.

In addition, in MK Decision Number 101/Law-VII/2009, MK has considered in Article 28 Paragraph 1 of the Law on Lawyers that the existence of a lawyer organization is the only container of the profession of lawyers, so that the lawyering organization is de facto only the Indonesian Bar Association (Peradi) and the Congress of Lawyer Indonesia. (KAI).

Whereas in Decision Number 66/PUU-VIII/2010, Peradi as the sole organization of Advocates according to the Advocates Law has special authority to carry out testing of Advocate candidates, carry out the appointment of Advocates, form an honorary board, form a Supervisory Commission, and dismiss Advocates. This decision also considers other advocate organizations that have de facto existed, which cannot be prohibited. This is supported by Articles 28 and 28E Paragraph 3 of the 1945 Constitution.

A lawyer's immunity in Australia is due to the authority granted to an attorney to defend his client's interests in a sense of security without fear of any particular pressure from any party. An attorneys in Australia are protected by the right of immunity when defending a client' s interests with unclear chronological cases of his case or his jurisdictional facts showing legal weaknesses (Byrne, 2018). In Australia, a lawyer is given the right to use advances in Artificial Intelligence technology that relate to matters subject to the client's instructions.

Besides, Artificial Intelligence is also used as a lawyer's tactic in dealing with the law of events when the case is unclear in terms of its jurisdictional facts. It allows the right of immunity to be exercised (Rogers & Bell, 2019). Australia has used its technological capabilities to assist its lawyer's duties in both deposition issues, Artificial Intelligence to analyze cases under consideration, and other administrative needs. Unlike in Indonesia, which still has not maximized the ability of modern technology to accommodate the potential of a lawyer in Indonesia. The lawyers in Indonesia have also not maximized the true technology as an instrument to facilitate human performance.

This is a problem that affects the optimization of the application and enforcement of the immunity rights of lawyers, because the right to immunity applies when a lawyer is performing his duties to defend the interests of his client in good faith. Juridically, the right to judge a lawyer is either the Honorary Council or the Commission of the Code of Ethics of the Lawyer Organization. For example, in a police institution, if a member of the Police institution commits an act of ethical violation, then it will be tried internally through the Session of the Committee of the code of ethics of a police profession. (KKEP). If found guilty internally, it will be transferred to external legal proceedings through the General Court. This should also apply in the world of Advocates. The only party that has the right to judge whether an Advocate has violated the Ethics or not is the Advocate Organization. Of course when referring to the conditions in Indonesia that in theory use Single Bar but in practice Multi Bar. It should be remembered that the Multi Bar system is one of its difficulties is when there is a lawyer who commits a violation of the law will be difficult to conduct an internal test of a Lawyer guilty or not. So this condition has an impact on the non-maximum application of the immunity rights of lawyers in the legal practice of events in Indonesia. This has become a crucial issue within the field of lawyers in Indonesia.

4. Conclusion

First, the influence of the sociological aspect in advancing the profession of lawyer is essential. Not only is it necessary, visiting a lawyer is obligatory to have knowledge related to the study of the Sociology of Law. This ability is useful to interpret various legal events through the approach of the sociology of law in order to be able to find legal solutions related to legal problems that occur. First, it is recommended that the Bar Association increase the duration of Special Education of the Lawyer's Profession (PKPA) from the usual one month with eight meetings to a full one-month duration. It aims to consolidate the ability of prospective lawyers in the face of the world of legal practice. In addition, the Legal Sociology and other similar materials that correlate with social sciences must be deepened in the Special Education of the Lawyer profession in order to produce a reliable and integrated lawyer.

Second, the applicability of Advocate Immunity Rights in accordance with Advocate Law Number 18 of 2003 and the Australian Solicitor Studied Based on Legal Compliance Theory is still often ignored by various parties, one of which is by fellow law enforcement officials. The compliance theory describes community compliance only as an Instrumental Perspective. This perspective only assumes that individuals comply with the law due to considerations of potential gains and losses. This condition is also in line with the large number of Advocate organizations which has implications for the difficulty of controlling Advocates. Too many Advocate Organizations make it easier to become an Advocate.

So that this is the cause of the culture of law enforcement and the immunity rights of an Advocate are not maximized. Unlike in Australia, which adheres to the Single Bar system, it is very easy to control its Advocates so that the public also respects the Advocate profession in that country. Therefore, the right to immunity of Advocates can run optimally. Secondly, the best solution to address the minimum compliance of the various parties relating to the right of immunity of a lawyer by providing strict sanctions against the parties who do not abide by the law of lawyers, in particular with regard to the Right of Immunity. It is also necessary to strengthen the position of Lawyers in the social, national, and national life. Furthermore, it is expected that a Disciplinary Committee and Code of Ethics of the Lawyer's Occupation, composed of various Lawyers' Organizations, is deemed essential to uphold the reputation of lawyers in Indonesia. If there is a lawyer who commits a criminal offence, then it must be to the Council of Ethics of the Lawyer's Profession to be later found guilty or not. If proven, then the matter can be referred to other law enforcement agencies.

Furthermore, it is recommended that Indonesia immediately incorporate the scope of the National Lawyer by undertaking a reorganization and making it in a single container of the Joint Advocate Profession Honours of the various lawful lawyer organizations registered within the State Administration. This is to facilitate the realization of the often neglected rights of lawyers, including the right to immunity. Besides, this proposal has a positive impact on the courtesy of the lawyer so it looks well-organized, systematic, and structured.

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