



Legal Analysis Of Crime Advocates Who Commit Crimes In Carrying Out Their Duties And Professions

Yasir Habiebie

ARTICLE INFO

Keywords:

Legal, Crime, Professions

Date received : 15 Agustus 2022

Revision date : 18 Agustus 2022

Date received : 22 Agustus 2022

ABSTRACT

In achieving a good legal order law enforcement in Indonesia is run by law enforcement officers consisting of judges, prosecutors, police, and also advocates. Advocate is one of the law enforcement officers, currently advocates in carrying out their profession regulated in Law Number 18 of 2003 on advocates. In fact, there are also advocates who are indicated to have committed crimes in carrying out their duties and professions as happened in 2010 where two lawyers were named as suspects. Crimes that can be committed by an advocate in carrying out his duties and profession actually all crimes can be committed by anyone if the control within the person is very weak and specifically related to the duties and profession of an advocate of course the crime is a crime related to the duties and profession of an advocate in law enforcement bribery. against several other law enforcement authorities and witnesses.

INTRODUCTION

Indonesia is a country based on the law as contained in the Constitution of 1945 Article 1 Paragraph (3) which states that Indonesia is a country of law. In achieving a good legal order law enforcement in Indonesia is run by law enforcement officers consisting of judges, prosecutors, police, and also advocates. According to Law No. 18 of 2003 concerning Advocates, an advocate is a person whose profession is to provide legal services, both inside and outside the court that meets the requirements under the provisions of this law. Historically, lawyers are one of the oldest professions. In the course of this profession was named as officium nobile, the Office of His Majesty. The naming that occurs is due to the "trust" aspect of (the authorizer, the client) that it exercises to defend and fight for its rights in a predetermined forum.

The lawyer is one of the law enforcement officers. Currently, advocates in carrying out their profession are regulated in Law Number 18 of 2003 concerning advocates, as well as the Indonesian advocate Code of ethics. Based on Law No. 18 of 2003 concerning advocates, advocates are people who work to provide legal services, both inside and outside the court that meet the requirements under the provisions of the Advocates law. While legal services are services provided by advocates in the form of providing legal consultation, legal assistance, exercising power of attorney, representing, accompanying, defending, and performing other legal actions for the legal interests of clients. While the client is a person, legal entity or other institution that receives legal services from advocates. Currently in Indonesia there are 8 (eight) advocate organizations, namely the Indonesian lawyers and Advocates Association (HAPI), Indonesian Advocates Association (IKADIN), Indonesian Advocates Association (AAI), Indonesian Legal

Advisory Association (Iphi), Indonesian Lawyers Union (SPI), Indonesian Sharia Lawyers Association (APSI), Capital Market Law Consultant Association (HKHPM), Indonesian Legal Consultant Association (AKHI).

Basically, The Advocate profession is a noble profession or in latin called *officium nobile*, so that an advocate must realize his vocation and must always be independent, honest, and especially open. Open also to others who can give direction and reprimand to The Advocate concerned. Therefore, every Indonesian Advocate must maintain the image and dignity of The Advocate profession, faithfully uphold and obey the principles of the Indonesian advocate Code of ethics

In fact, there are also advocates who are indicated to have committed crimes in carrying out their duties and professions as happened in 2010 where two lawyers were named as suspects. Secretary of the legal Mafia Eradication Task Force, Denny Indrayana said those who had tarnished the Advocate profession were not worthy of being called Advocates. "It was a scalper case," said Denny Indrayana after accompanying the Cabinet Secretary, Dipo Alam met with Attorney General Hendarman Supandji, at the Attorney General's office, Jakarta, Thursday, April 1, 2010. Denny said the determination of two advocates as suspects by the KPK and the police was a big challenge for other advocates. "To restore honor, as prosecutors and police are moving quickly.

Some problems related to crimes that can be committed by advocates in carrying out their duties and professions, namely what crimes can be committed by an advocate in carrying out their duties and professions, How is law enforcement against an advocate who commits crimes in carrying out their duties and professions and what problems arise in law enforcement and resolution efforts?

METHOD

The research method used in writing this law is a normative juridical approach. Normative juridical approach is a study that uses secondary data sources / data obtained through library materials. This normative legal research usually includes: research on legal principles, research on legal Systematics, research on vertical and horizontal synchronization levels, Comparative Law and legal history. The method of this approach is carried out by studying the legal norms in legislation.

RESULTS AND DISCUSSION

In the life of society there are various kinds of problems, and these problems can affect the interaction of people's lives. This can be felt the impact on growth in society. As for one of these problems is related to the field of law so that an advocate/lawyer is needed to solve the problem. One of the legal problems that often occur in people's lives is the problem of crime, in this crime problem related to criminal law because it is related to criminal acts. Criminal acts in criminology are defined as all forms of crimes and offenses that arise in society that are influenced by other factors such as cultural background, environment, social relations, and the weak influence of law. Crime as human behavior has long been observed and studied by experts in sociology, psychology, law and so on. But each of the experts looked at the object and the glasses individually and for the benefit of their own knowledge. Meanwhile, the experts were preoccupied by other problems in their field of study. The consequence is that criminologi specialists acquire the opportunity to study crime in more depth.

Crimes that are widely discussed by the general public are when crimes are committed by law enforcement officers, police, prosecutors, judges and even advocates/lawyers. In 2010 the public was shocked by the existence of two advocates who were indicated to have committed crimes as stated by Sutomo in the midst of the excitement of the Gayus Tambunan case, there was an advocate, namely Haposan Hutagalung who was allegedly dragged into the tax mafia network. Not long ago, in a different case, advocate Adner Sirait was caught in the act of bribing Judge Ibrahim. Regardless that the case of the legal mafia that dragged the two advocates above has not been legally fixed; the reality of The Advocate world is often polluted because the elements wallow in the mud of bribery, not a new case.

In the science of criminal law, crimes and offenses are referred to as criminal acts or criminal acts. According Moeljatno criminal act is an act that is contrary to the law, namely: acts prohibited by a rule of law, prohibition which is accompanied by a threat in the form of certain criminal, for whoever violates the Prohibition.

In addition, criminal acts can also be interpreted as: actions that by a rule of law are prohibited and threatened with criminal, provided that in the meantime it is remembered that the prohibition is aimed at actions, (i.e. a situation or event caused by the behavior of people), while the criminal threat is aimed at the person who caused the incident.

In this discussion, the authors limit some of the definitions related to crimes that can be committed by advocates in carrying out their duties and professions, among others: in the Indonesian dictionary, crime is defined as an evil act that violates the law and behavior that is contrary to the values and norms that have been enacted by written law. 8 Advocate is a person who represents his client to perform legal actions based on a power of attorney granted for the defense or prosecution at the trial in court or proceeding in court (litigation) and also accompany or represent the client based on a power of attorney outside the court (non litigation).

The profession is a permanent job as the implementation of community functions in the form of service works whose implementation is carried out independently with commitment and scientific expertise in certain fields whose development is lived as a call to life and related to general ethics and Ethics in particular (professional ethics) which is based on the spirit of devotion to fellow human beings for the public interest, and is rooted in respect for human dignity. The bearer of the profession covers areas related to one and fundamental human values, such as justice (law). Professional criteria include having special skills and expertise, specialized in certain areas. The group of professions that work in the field of law is referred to as the legal profession. Bearers of the legal profession work professionally and functionally with a high level of accuracy, prudence, perseverance, critical, and devotion, being responsible to themselves and to their fellow members of society, even to God Almighty

In practice, there are also many nomenclature terms "advocate" that developed in Indonesia and according to the Indonesian Advocates Association (AAI) in Chapter 1, Article 1 Paragraph (1), AAI's articles of association, advocates are defined: "including legal advisors, practicing lawyers, and legal consultants who enter the scope of advocates". Rahmat Rosyadi and Sri Hartini, interpret advocates as: 11 "a profession that provides legal services to the community or its clients, both litigation and non-litigation by getting or not getting honorarium/free".

Basically, the jurisdiction of The Advocate profession is free, not bound by space and time. There is no limit to the authority to provide assistance, defense, representation or assistance to its clients. Advocates are also free to perform their duties, whether it concerns the authority of legal matter or the area of practice in any judicial institution. 12 according to the provisions of the circular of the Supreme Court

of the Republic of Indonesia SEMA RI) number 8 of 1987, an advocate may proceed based on the provisions of absolute competence (in all the scope of the court) and relative competence (in all regions of Indonesia) to realize the supremacy and respect of human rights (HAM), especially in defending the interests of the client. The application of law in this case refers to the Corruption Eradication law, where the defendant is ultimately found guilty by the court in accordance with the indictment and prosecutor's demands, which refers to the provisions of Article 22 of the Corruption Eradication law, in this case the author agrees with the sentencing of the defendant even though the author himself wants no change to The Advocate law, especially regarding criminal provisions, namely there must be criminal provisions that threaten severe punishment for advocates who commit crimes in carrying out their professional duties because advocates status as law enforcement, while the current advocate law only regulates criminal provisions for false advocates and other pasal only regulates prohibitions for Advocates whose enforcement is by professional organizations. Law enforcement is not merely implementing legislation, therefore there are several factors that can affect law enforcement. These factors have a neutral meaning, so the positive or negative impact lies on these factors. In connection with this view according to Soerjono Soekanto there are several factors that affect law enforcement, namely: 1. Own legal factors; 2. Law enforcement factors; 3. Factor means or facilities that support law enforcement; 4. Community factors; 5. Cultural factors.

The five factors above are factors related to each other. Is the essence of law enforcement and the work of law in society. So that the problems that arise in law enforcement is a complex problem and involves all aspects of both aspects of the rule of law, aspects of law enforcement, aspects of facilities and infrastructure that support law enforcement, community aspects and cultural aspects. So that if there is disharmony in one aspect, there will be law enforcement that is felt to be inappropriate and less fair.

As an effort to solve it, it requires joint steps to realize law enforcement without having to focus on one aspect of law enforcement, which means that all aspects of law enforcement must work together in one order to run at the actual rail level because if one aspect is not running, law enforcement will not run optimally. Specifically related to law enforcement in the case that the author discusses, it turns out that law enforcement is quite difficult because the case involves many parties including law enforcers and even involves the legal mafia to

the extent that the government formed the legal anti-Mafia task force as an effort to resolve this case.

CONCLUSION

Crimes that can be committed by an advocate in carrying out his duties and profession actually all crimes can be committed by anyone if the control within the person is very weak and specifically related to the duties and profession of an advocate of course the crime is a crime related to the duties and profession of an advocate in law enforcement bribery of several other law enforcement authorities and witnesses. Law enforcement against an advocate who commits a crime in carrying out his duties and profession is actually the same as everyone who commits a crime because in the law of the application of the principle of "everyone has an equal position before the law", but even so, of course for an advocate if it is indicated to commit a crime, there are internal rules of professional organizations and professional organization associations before being processed further in the formal law enforcement process, this has a good purpose, namely if The Advocate is proven to have committed a crime, the person concerned may be subject to two penalties in the form of punishment from the State, for example, imprisonment, also from professional organizations or professional organization associations in the form of revocation of his advocate's license to practice. The problems that arise in law enforcement the problem here is very broad which essentially concerns the rule of law where there is still a gap in the rule of law that can still be tricked because of the vagueness and indecision of the rules, then concerning the law enforcement officers where there are still unscrupulous law enforcement officers who are mentally bad, and the third concerns the wider community who are not aware of the law, wanting to achieve everything practically. While the settlement efforts can not only be partial in the form of one-sided improvement, for example, only suppress the improvement of law enforcement officers but must be synergistic both in terms of the rule of law, in terms of law enforcement officers and of course in terms of society, because if not all dibiaki it will limp and will not succeed the purpose of law enforcement.

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International Asia Of Law and Money Laundering

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