

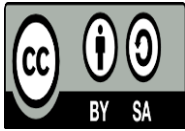
Legal Responsibility of Advocates in Abuse of Power of Attorney from Clients

¹Kurniawan, ²Rahmatullah

¹²Advokat Kurniawan Law Firm And Parnerts, Makassar, Indonesia

Corresponden Author Email: 88kurniawanrani@gmail.com

Manuscript ID	ICLR: 09/Vol.1/No.2/(2025)
Type	Articles
Subject	Constitutionalism
Keywords	Advocates; Law; Clients; Power; Responsibilities
Author(s) Origin	Indonesia
Abstrak (Indonesia)	Tanggung jawab hukum advokat dalam konteks penyalahgunaan kuasa yang diberikan oleh klien, suatu isu yang semakin relevan di tengah meningkatnya praktik hukum yang menyimpang. Secara khusus, penelitian ini mengkaji bagaimana tindakan advokat yang melampaui batas kewenangan atau menyalahgunakan kuasa berdampak pada hak-hak klien dan integritas profesi hukum. Tujuan dari penelitian ini adalah untuk menganalisis dasar hukum pertanggungjawaban advokat serta mengidentifikasi kelemahan regulasi yang menyebabkan lemahnya perlindungan terhadap klien. Metode yang digunakan adalah penelitian hukum normatif dengan pendekatan perundang-undangan dan konseptual, serta data sekunder berupa literatur hukum dan putusan pengadilan. Hasil penelitian menunjukkan bahwa terdapat kekosongan pengaturan mengenai pengawasan eksternal, lemahnya penegakan kode etik, dan minimnya perlindungan hukum terhadap klien. Oleh karena itu, perlu dilakukan reformasi regulasi yang mencakup pembentukan lembaga pengawas independen, revisi UU Advokat, serta penguatan pendidikan profesi advokat agar lebih berorientasi pada etika dan akuntabilitas. Penelitian ini merekomendasikan perlunya sistem hukum yang mampu menyeimbangkan perlindungan terhadap profesi dan hak-hak masyarakat pengguna jasa hukum.
Abstrack	<i>The legal responsibility of advocates in the context of abuse of power granted by clients is an issue that is increasingly relevant amid the increasing number of deviant legal practices. In particular, this study examines how the actions of advocates who exceed the limits of authority or abuse their power impact the rights of clients and the integrity of the legal profession. The purpose of this study is to analyze the legal basis of advocate liability and identify regulatory weaknesses that cause weak protection for clients. The method used is normative legal research with a statutory and conceptual approach, as well as secondary data in the form of legal literature and court decisions. The results of the study show that there is a regulatory vacuum regarding external supervision, weak code of ethics enforcement, and lack of legal protection for clients. Therefore, it is necessary to carry out regulatory reforms that include the establishment of independent supervisory institutions, revisions of the Advocate Law, and strengthening advocate professional education to be more oriented towards ethics and accountability. This study recommends the need for a legal system that is able to balance the protection of the profession and the rights of the legal services user community.</i>



Author(s) retain copyright and grant the journal right of first publication with the work simultaneously licensed under a Creative Commons Attribution-ShareAlike License (**CC BY-SA 4.0**) that allows others to share the work with an acknowledgement of the work's authorship and initial publication in this journal.

Submitted: -07-2025 | Reviewed: 08-2025 | Revised: - 10-2025 | Accepted: -12-2025

I. INTRODUCTION

The profession of advocate has a very important position in the legal system in Indonesia¹. As part of law enforcement together with judges, prosecutors, and police, advocates have an obligation to uphold law and justice for the realization of the rule of law². The role of advocates as professional lawyers is crucial in bridging the interests of the community with the formal legal system. In this context, advocates not only act as legal representatives of their clients, but also as enforcers of ethics, integrity, and honesty in legal practice³.

In general, the existence of advocates in the modern justice system is aimed at providing legal assistance to the community, both litigation and non-litigation. Advocates hold an important mandate as a liaison between the public and the courts, especially in exercising the right to legal defense as guaranteed by the constitution and laws and regulations. Advocates are not only limited to the activities of representing clients in court, but also play a role in providing legal advice, drafting legal documents, and being part of alternative dispute resolution⁴.

But in practice, the role and function of advocates do not always run ideally. The complexity of the relationship between advocates and clients often raises potential deviations, one of which is the abuse of legal representatives. The power of attorney given by the client to the advocate is a fiduciary agreement, meaning a relationship built on the basis of trust. But not infrequently, the power of attorney is abused by advocates for personal interests, contrary to professional ethics, and even violates criminal or civil law.

¹ Acep Saepudin, "Kajian Terhadap Kedudukan Advokat Dalam Sistem Peradilan Pidana Di Indonesia," *Miltthree Law Journal* 1, no. 1 (2024): 1–29, <https://doi.org/10.70565/mlj.v1i1.1>.

² Eternal. S, "The Role of Advocates as Law Enforcers in Supporting the Realization of an Integrated Criminal Justice System in Criminal Law Enforcement in Indonesia," *Journal of Legal Sovereignty* 01, no. 1 (2018): 138–56.

³ S. L Ishak, A. M., Busthami, D., & Poernomo, "Kesediaan Dan Ketersediaan Hukum Gugatan Perwakilan Dalam Perspektif Activisme Yudisial Dan Pembatalan Yudisial.," *Journal of Lex Generalis (JLG)* 2, no. 2 (2021): 524–40.

⁴ Adelita Lubis, "The Role of Advocates in Law Enforcement in the Organization of the Indonesian Advocates Association Medan Branch," *JPPUMA: Journal of Governance and Political Social UMA* 2, no. 2 (2016): 176–92, <http://ojs.uma.ac.id/index.php/jppuma>.

Abuse of power by advocates can occur in various forms, such as embezzlement of client funds, manipulation of documents, actions beyond their authority, to fraud⁵. This act not only harms clients financially and psychologically, but also damages the image of the advocate profession in the eyes of the public. Therefore, it is important to examine the extent to which advocates can be held legally liable when abusing the power granted by the client.

The problems that arise from this abuse of power are not only in the realm of professional ethics, but also touch on aspects of criminal law and civil law. From a legal perspective, abuse of power can lead to serious legal consequences. Advocates can be prosecuted civilly on the basis of default or unlawful acts (PMH), or criminally if they meet the elements of certain criminal acts. However, not all irregularities in the practice of advocates are easy to prove or categorize as violations of the law. A careful analysis of the power of attorney contract, the motives of the advocates, and the forms of irregularities committed is required.

Various previous studies have attempted to examine the responsibility of advocates in the context of ethical violations or violations of the law. For example, research by Liza Arlina examines the forms of ethical violations by advocates and how the Honorary Council of the Indonesian Advocates Association (PERADI) handles them. The results show that ethical sanctions are often ineffective due to weak internal supervision of professional organizations⁷. Meanwhile, another study by Munawar Sadzali (2023) examined criminal liability against advocates due to false letters used when defending clients' legal interests where it was found that this study found that although advocates have the right to immunity as stipulated in Article 16 of the Advocates Law, in practice many criminal reports are made directly to police investigators without going through an ethical mechanism at the Advocate Honorary Council⁸.

These studies make an important contribution to understanding the dimensions of advocate responsibility, but there are still gaps in understanding

⁵ F. Lubis, "The Effectiveness of the Regulation and Responsibility of the Advocate Profession in Preventing and Eradicating Money Laundering Crimes in Indonesia (Case Study of Medan, Jakarta and Yogyakarta).", 2019.

⁶ Maralutan Siregar et al., "The Separation of Torts and Unlawful Acts in the Perspective of Material Law and Application in Court," *Locus Journal of Academic Literature Review* 2, no. 6 (2023): 532–48, <https://jurnal.locusmedia.id/index.php/jalr/article/view/187>.

⁷ Liza Arlina et al., "Legal Review of Advocate Code of Ethics Violations: A Case Study of Roy Rening," *Judge: Legal Journal* 06, no. 01 (2025): 251–62, <https://journal.cattleyadf.org/index.php/Judge/index>.

⁸ Alpi Sahari Munawar Sadzali, "Criminal Liability Against Advocates Due to False Letters Used When Defending the Client's Legal Interests (ANALYSIS OF DECISION NUMBER: 618/PID. B/2019/PN. MDN)," *Journal Dokrin Review* 2, no. 1 (2023): 123–34, <http://journal.unnes.ac.id/sju/index.php/edaj>.

the legal responsibilities of advocates holistically, especially in the context of abuse of power which includes ethical, civil, and criminal aspects at the same time. There have not been many studies that comprehensively discuss the form of legal responsibility of advocates in cases of abuse of power, how the accountability mechanism is, and how preventive efforts can be applied so that power of attorney is not abused by advocates.

Normatively, Law Number 18 of 2003 concerning Advocates has regulated the position and role of advocates as a free, independent, and responsible profession. Article 16 states that advocates cannot be prosecuted criminally or civilly in carrying out their professional duties in good faith⁹. However, this protection does not necessarily relieve the advocate of legal liability if he acts outside his power or violates the client's trust. In practice, there is a gap that raises polemics about the extent to which advocates can be held accountable, as well as how to protect the law for clients in the event of irregularities¹⁰.

In terms of comparative law, other countries such as the United States and the United Kingdom already have stricter supervision systems for the advocate profession, as well as disciplinary mechanisms that run transparently and efficiently¹¹. In Indonesia, the code of ethics enforcement mechanism still faces various challenges, such as internal organizational conflicts of interest, lack of transparency in handling violations, and the absence of an independent external oversight system. This further increases the chance of abuse of power by advocates who feel that they will not receive strict legal sanctions.

In the common law system¹², for example, violations of fiduciary trust in the power of attorney relationship between advocates and clients can be charged with a civil lawsuit in the form of a breach of fiduciary duty. Meanwhile, in the Indonesian legal system, the mechanism of lawsuits against advocates mostly uses

⁹ Mumuh M Rozi, "The Role of Advocates as Law Enforcers in the Criminal Justice System Studied According to Law Number 18 of 2003 concerning Advocates," *Mimbar Justitia Law Journal* 2, no. 1 (2017): 628–47, <https://www.hukumonline.com/klinik/infografik/4-tahap-jadi-advokat-lt65952247352a0/>.

¹⁰ Bamedika Kris Endira et al., "The Position and Role of Advocate Professional Organizations Toward Advocates Which Deals with Law This study tries to examine how to sit," *USM Law Review Journal* 5, no. 1 (2022): 389–400.

¹¹ Budi Raharjo, Rengga Kusuma Putra, and Methodius Kossay, "Legal Issues in the Supervision and Enforcement of Professional Ethics for Advocates in Indonesia," *Hakim: Jurnal Ilmu Hukum Dan Sosial* 3, no. 1 (2025): 900–917, <https://doi.org/10.51903/hakim.v3i1.2287>.

¹² Feri Pramudya Suhartanto and Yenny Febrianty, "Comparison of Civil Law and Common Law Legal Systems," *CONSENSUS: Journal of Defense, Law, and Communication Sciences* 1, no. 3 (2024): 72–83.

the basis of default or PMH,¹³ which is often hit by evidence and procedural obstacles. This is important to study because it concerns the effectiveness of the legal protection system for clients, as well as the accountability of the advocate profession.

This study aims to analyze the forms of legal responsibility of advocates in cases of abuse of power from clients, both from the aspects of civil, criminal, and professional law. This research will also explore the extent to which legal protection is provided to clients aggrieved by advocate actions, as well as examine the mechanism of enforcement of such liability in legal practice in Indonesia. In addition, this study will compare regulations and practices in Indonesia with several other countries to provide a comparative perspective that can enrich the analysis.

The urgency of this research lies in the increasing complexity of the legal relationship between advocates and clients in the world of contemporary legal practice. Cases of abuse of power by advocates not only damage the relationship between the profession and society, but also tarnish the image of the judiciary as a whole. Without firm and systematic enforcement of legal responsibility, public trust in the advocate profession will continue to decline, ultimately disrupting the great goal of fair law enforcement.

In addition, this research is important as a scientific contribution in improving the supervisory system for the advocate profession, as well as encouraging the birth of regulatory reforms that are more adaptive and responsive to the dynamics of legal practice. The results of this study are expected to provide policy recommendations for professional advocacy organizations, lawmakers, and supervisory institutions, to strengthen the integrity and accountability of the legal profession in Indonesia. Thus, through a holistic and multidisciplinary approach, this research aims not only to map the existing problems, but also to find concrete solutions in building a legal accountability system for advocates that is fair, transparent, and oriented towards the protection of clients as vulnerable legal subjects. The main focus is not only on the existence of regulations, but also on the effectiveness of their implementation in real life. This is where the academic and practical significance of this research lies.

¹³ Marten Bunga, "Dispute Resolution Mechanism Through Simple Lawsuits," *Gorontalo Law Review* 5, no. 1 (2022): 41–51.

II. METHODOLOGY

This research is normative legal research¹⁴, which is research that is based on an analysis of applicable legal norms, both contained in laws and regulations, doctrines, and court decisions¹⁵. Normative legal research does not examine law as an empirical phenomenon or societal behavior, but rather as a system of norms that lives and develops in legal practice¹⁶, particularly in the relationship between advocate and client. This research aims to discover, clarify, and analyze the legal principles, concepts, and norms related to the legal responsibility of advocates in cases of abuse of power from clients¹⁷, as well as how such accountability can be effectively enforced in the Indonesian legal system.

In its implementation, this research uses several approaches. First, the statute approach¹⁸ is used to examine various regulations that regulate the advocate profession and its legal responsibilities, such as Law Number 18 of 2003 concerning Advocates, the Civil Code (KUHPperdata), the Criminal Code (KUHPperdata), as well as the Indonesian Advocate Code of Ethics and the internal regulations of advocate organizations. This approach is important to know normatively the legal boundaries that govern the space of the advocate as well as the provisions that bind the legal relationship between the advocate and the client.

Second, the conceptual approach¹⁹ is used to examine basic legal concepts such as power, fiduciary relations, legal responsibility, defaults, unlawful acts, and violations of professional ethics. This approach helps explain how a legal relationship of trust can transform into a legal liability when abuse occurs. In this context, the theory of civil and criminal liability, as well as the theory of ethics of

¹⁴ Saharuddin Sahar et al., "Transfer of Land Rights in the Tayade System," *Petita: Journal of Legal and Sharia Studies* 10, no. 1 (2025): 195–210, <https://doi.org/10.22373/petita.v10i1.412>.

¹⁵ Eril Boli and Muh Nur Hidayat M, "Agrarian Law Reform in Indonesia : Between Legal Certainty and Social Justice," *Indonesian Civil Law Review (ICLR)* 1, no. 1 (2025): 53–68, <https://ejournal.mgpublishing.co.id/index.php/iclr/article/view/5/6>.

¹⁶ Nurul Fadhilah, "Perspectives on Criminal Law and Its Enforcement Against the Crime of Cockfighting Gambling in Pohuwato Regency," *Indonesian Civil Law Review (ICLR)* 1, no. 1 (2025): 18–36.

¹⁷ Ilham, "Law Enforcement Against Gorontalo City Police Area Gambling Crime In," *Indonesian Civil Law Review (ICLR)* 1, no. 1 (2025): 1–17, <https://ejournal.mgpublishing.co.id/index.php/iclr/article/view/1/4>.

¹⁸ Saharuddin Saharuddin Hijrah Lahaling, Arhjayati Rahim, Sumiyati Beddu, Dzikra Ridha Dwi Aribah, "Legal Pluralism in the Tayade System: Reconciling Land and Plant Ownership Laws in Gorontalo," *Al-Syir 'Ab Scientific Journal* 23, no. 1 (2025): 1–17, <https://doi.org/http://dx.doi.org/10.30984/jis.v23i1.3325>.

¹⁹ Irmawati Nasadi and Suhartin I Akdaji, "The Dynamics of Marriage in the Modern Era : Between Tradition and State Law," *Indonesian Civil Law Review (ICLR)* 1, no. 1 (2025): 69–83.

the legal profession, are important references in describing the substance of the problem.

Third, this study also uses a case approach by²⁰ examining a number of court decisions related to the abuse of power by advocates, both from the general court and the Honorary Council of advocate organizations. The analysis of the decision aims to see how the law is applied in practice, as well as to find the pattern of judges' arguments in deciding cases involving the responsibility of advocates. In addition, this approach can also illustrate the legal obstacles that often arise in the process of proving irregularities committed by advocates.

The data sources used in this study consist of primary, secondary, and tertiary legal materials²¹. Primary legal materials include relevant laws and regulations, such as the Advocate Law, Civil Code, Criminal Code, as well as court decisions directly related to the abuse of power by advocates. Secondary legal materials include legal literature, books, scientific articles, and legal journals that discuss the advocate profession, professional ethics, and legal accountability²². Meanwhile, tertiary legal materials are used as a complement to strengthen understanding of terms and concepts, in the form of legal dictionaries, legal encyclopedias, and library indexes²³.

III. LEGAL RESPONSIBILITIES OF ADVOCATES

A. The Position and Function of Advocates in the Indonesian Legal System

The advocate profession in Indonesia is specifically regulated in Law Number 18 of 2003 concerning Advocates. Article 1 number 1 of the Law states that an advocate is a person who provides legal services, both inside and outside the court, who meets the requirements based on the provisions of the law²⁴. In the national legal system, advocates have a position as one of the law enforcers as mentioned in Article 5 paragraph (1) of the Advocates Law, which is on an equal footing with judges, prosecutors, and police. As law enforcers, advocates have

²⁰ andi azizah Hastia, "From Clicks to Contracts: Legal Considerations in Online Sale and Purchase Agreements," *Indonesian Civil Law Review (ICLR)* 1, no. 1 (2025): 37–52.

²¹ Zainuddin Ali, "Legal Research Methods" (East Java: Sinar Grafika, 2010), p. 99.

²² Ahmad Rosidi, M Zainuddin, and Ismi Arifiana, "Methods in Normative and Sociological Law Research (Field Research)," *Journal of Law and Government* 2, no. 1 (2024): 46–58.

²³ FCS Adiyanta, "Hukum Dan Studi Penelitian Empiris: Penggunaan Metode Survey Sebagai Instrumen Penelitian Hukum Empiris," *Administrative Law and Governance Journal* 2, no. 4 (2019): 698.

²⁴ "Law No. 18 of 2003 concerning Advocates," Pub. L. No. 18 (article 1).

the main function of assisting clients in resolving legal issues, defending their rights, and providing legal advice and assistance. This function is carried out in a fiduciary relationship²⁵. In other words, when a client gives power of attorney to an advocate, the advocate is obliged to use the power of attorney responsibly, not to abuse it for personal interests, and to maintain the confidentiality and integrity of his profession.

B. Legal Responsibilities of Advocates: Ethical, Civil, and Criminal

The legal responsibility of an advocate in cases of abuse of power can be divided into three main forms, namely:

- a) Answer Ethics (Indonesian Advocate Code of Ethics) The ethical responsibility of advocates is regulated in the Indonesian Advocate Code of Ethics (KEAI). The Code of Ethics states that advocates are obliged to carry out their duties honestly, responsibly, independently, fairly, and uphold the law and justice²⁶. Article 4 of the Code of Ethics states that advocates are prohibited from using the legal power they have for personal interests or to the detriment of others. If an advocate violates professional ethics, he can be sanctioned by the Honorary Council of Advocate Organizations (such as PERADI), ranging from written reprimands, freezing of practice licenses, to permanent dismissal. This ethical process is administrative, but it can be the basis for lawsuits in the future.
- b) Civil Liability In civil law, abuse of power by an advocate can be categorized as a default (if the advocate violates the power of attorney agreement) or as an unlawful act (if there is no written contract, but the act is detrimental to the client).²⁷ This is in accordance with Article 1243 and Article 1365 of the Civil Code²⁸. In this case, the client who feels aggrieved can sue the advocate in court for damages, both material and immaterial. This civil lawsuit is highly dependent on proving that the advocate has

²⁵ Gilang Sephia Angga Priancha, Ardia Khairunnisa, Tasya Caroline, "Rethinking 'Electronic Agent' Terminology In The Law On Electronic Information And Transaction From The Perspective Of Indonesian Lastgeving Law," *Mimbar Hukum Universitas Gajah Mada* 43, no. 2 (2022): 378, <https://doi.org/https://doi.org/10.22146/mh.v34i2.3864>.

²⁶ Riska Fauziah Syafrina; Divia Zunfriska Irawan; Widya Rizky Ramadhani Putri and Setiawan; Dinda Putri Khairani; Mohammad Alvi Pratama, "The Publicity Dilemma of Advocates: A Study of the Prohibition of Promotion on Social Media Based on the Indonesian Advocate Code of Ethics," *Das Sollen: Journal of Contemporary Studies of Law and Society* 3, no. 1 (2025): 1–15, <https://doi.org/10.11111/nusantara.xxxxxxx>.

²⁷ Sitta Saraya, "A Review of Criminal Law on Malpractice of Advocates in Indonesia," *Intellectiva* 1, no. 10 (2020): 160.

²⁸ Article 1243 and Article 1365 of the Civil Code

breached his professional obligations, for example by misusing funds, being negligent in representing the client, or exceeding the authority granted in the legal representative.

- c) Criminal Responsibility If the advocate's actions meet certain elements of the offense, then he can be held criminally liable. Some of the criminal provisions that can be imposed include²⁹:

Article 372 of the Criminal Code (Embezzlement):³⁰ if the advocate keeps or uses the client's money illegally.

Article 378 of the Criminal Code (Fraud):³¹ if the advocate deliberately deceives the client to obtain profits. Article 263 of the Criminal Code (Forgery of documents):³² if the advocate makes or uses false documents to strengthen his position in the case. However, it should be noted that Article 16 of the Advocates Law provides protection to advocates who carry out their duties in good faith. Therefore, proving the element of "*bad faith*" is very important in the criminal process against advocates.

C. Client Protection and Supervision of the Advocate Profession

In the context of legal protection for clients, regulations in Indonesia still do not provide a strong and effective mechanism. Clients who are aggrieved by advocates often have difficulty proving the existence of abuse of power, especially if there is no explicit written power of attorney contract or if the abuse process is carried out in a covert manner. Professional organizations such as PERADI have a central role in supervising the implementation of the code of ethics and sanctioning their members. However, in practice, the organization's internal oversight still faces obstacles, such as weak transparency, conflicts of interest, and ethical processes that do not have strong legal coercion. In addition, there is no independent mechanism outside the advocate organization to objectively supervise the implementation of this profession's responsibilities³³.

²⁹ Efa Laela Fakhriah Didik Sumariyanto, "Study of Criminal Sanctions for Violations of Advocate Ethics Linked to the Criminal Code (KUHP) and Article 26 Number 6 of Law Number 18 of 2003 concerning Advocates," *Journal of Iustitia Omnibus* 1, no. 2 (2020): 30–49.

³⁰ Article 372 of the Criminal Code

³¹ Article 378 of the Criminal Code

³² Article 263 of the Criminal Code

³³ Eizeluna Farnesty et al., "Legal Professional Ethics: Exposing Code of Ethics Violations in Lawyers' Bribery Cases," *Alliance: Journal of Law, Education and Social Humanities* 1, no. 6 (2024): 98–116, <https://doi.org/10.62383/aliansi.v1i6.555>.

This is in contrast to the legal system in countries such as the United States, where bar associations have independent ethics watchdogs, and can make recommendations for the legal revocation of a practice license³⁴.

D. Comparison with Other Legal Systems

In the Anglo-Saxon legal system, especially in the United States and the United Kingdom, abuse of power by lawyers can be charged with a lawsuit for *breach of fiduciary duty* or breach of fiduciary duty. Courts in those countries generally provide stronger protections to clients and set strict standards of lawyers' conduct, including financial penalties and revocation of practice licenses. In addition, the practice of supervising the legal profession in these countries is carried out openly, transparently, and involving independent parties. The ethical investigation process is public and has concrete legal consequences. This model can be a reference to improve the supervisory system of the advocate profession in Indonesia.

Table 1: Advocate Profession Supervision Comparison Table: Indonesia vs Anglo-Saxon (US & UK)

Aspect	Indonesia	United States & United Kingdom (Anglo-Saxon)	Sources/Regulations
Legal Basis for Lawsuits Regarding Abuse of Authority	<i>Breach of contract</i> (Article 1243 Indonesian Civil Code), or <i>tort/unlawful act</i> (Article 1365 Indonesian Civil Code)	<i>Breach of Fiduciary Duty</i>	Indonesian Civil Code (BW) – U.S. Restatement (Third) of the Law Governing Lawyers
Client Protection	No specific regulatory provisions; protection only relies on general contractual principles and professional ethics	Explicit protection of fiduciary relationships with obligations of loyalty and full disclosure	Law No. 18 of 2003 on Advocates – Solicitors' Code of Conduct (SRA UK)
Sanctions for Violations	Reprimands, suspension, temporary dismissal by professional	Includes fines, restitution, damages, and permanent revocation of legal practice license	PERADI Honorary Council Regulations – Legal Services Act 2007 (UK)

³⁴ Arif Setiawan et al., "Perbandingan Pengaturan Penyelenggaraan Pendidikan Profesi Advokat (Ppa) Di Indonesia Dan Amerika Serikat," *Arena Hukum* 2, no. 2 (2017): 120–40, <https://doi.org/http://dx.doi.org/10.21776/ub.arenahukum.2017.01001>.

	organizations, but revocation of practice license is rare		
Transparency of Ethical Proceedings	Closed and internal to advocate organizations	Ethical proceedings are transparent; investigation results are published and hearings are open to the public	PERADI Honorary Council Procedural Rules – State Bar Rules (USA)
Supervisory Institutions	Internal bodies: PERADI, AAI, KAI, etc.; no external independent supervisory authority	External and independent bodies such as the State Bar (USA) and the Solicitors Regulation Authority (SRA, UK)	Indonesian Advocate Law – SRA Handbook (UK) – ABA Model Rules (USA)
Legal Consequences of Ethical Violations	Generally limited to internal professional effects, without automatically triggering civil/criminal legal consequences	Ethical violations may serve as grounds for civil lawsuits or as evidence in criminal cases	Decisions of the Supreme Court of Indonesia – Model Rules of Professional Conduct (USA)
Professional Conduct Standards	No national uniform standard; each advocate organization sets its own rules	Professional conduct standards are nationally established by regulatory bodies and are mandatory for all legal practitioners	Indonesian Advocates’ Code of Ethics (KEAI) – SRA Principles & Code (UK) – ABA Model Rules (USA)

Source: Research Results 2024

IV. ABUSE OF POWER OF ADVOCATE

The relationship between the advocate and the client is built on the basis of trust and trust. The granting of power of attorney from the client to the advocate is basically a form of handing over legal authority to another party, with the hope that the power of attorney will be used in the best legal interest for the power of attorney. In the Indonesian legal system, the granting of power of attorney is regulated in Article 1792 of the Civil Code, which defines power of attorney as an agreement in which a person authorizes another person to represent him to perform a legal act. In the context of the legal profession, this form of power is often referred to as special power.

However, in practice, the legal power of attorney provided is often a loophole for irregularities. Abuse of power by an advocate occurs when the

advocate acts outside the limits of the authority granted, is contrary to the client's legal interests, or uses his or her power for personal gain at the expense of the client's rights or interests. Actions like this not only violate the principles of professionalism and integrity, but also have the potential to cause serious legal consequences for the advocate. The phenomenon of abuse of power by advocates is generally latent and difficult to detect from the beginning. Many clients are unfamiliar with the law and do not understand the limitations and rights of their legal relationship with advocates. They handed over all documents, information, and even funds for handling cases without clarity about the mechanism of use or accountability. This opens up room for deviation, ranging from the withdrawal of additional costs that cannot be accounted for, falsification of legal statements, manipulation of facts, to the transfer of rights without written consent from the client.

Abuse of power by advocates can also be seen as a violation of the principles of propriety and propriety in the legal profession. When an advocate no longer acts as a client's legal defender, but rather pursues personal gain or uses a legal position to pressure others beyond the mandate given, then he has violated not only the legal norms, but also the ethics of his profession. It is in this context that it is important to distinguish between legally legitimate professional actions and deviant acts that can be qualified as abuse of power.

One of the indicators of abuse of power can be seen from the actions of advocates who ignore or violate the client's wishes. For example, an advocate makes a decision to reconcile or withdraw a lawsuit without the client's explicit consent, even though the substance of the case has not been completed. In this case, the advocate is acting not based on a legitimate mandate and undermines the principle of legal representation. Likewise, when the advocate withdraws funds from the proceeds of the case and does not hand over the part that belongs to the client, this action indicates abuse of power in the form of embezzlement of funds. In litigation practice, there are also forms of abuse of power related to the act of falsifying facts in court documents, directing witnesses to give false testimony, or bribing law enforcement officials. These actions reflect violations of the principles of due process of law and can be categorized as crimes against justice. Although it was done under the pretext of "defending the client", the act

clearly put the advocate in a position that violated ethical norms, criminal law, and the integrity of the judicial system.

Juridically, abuse of power can be charged with various legal rules, depending on the type and consequences of the act. If the form of deviation is contractual, then the advocate can be sued based on the principle of default in accordance with Article 1243 of the Civil Code. If the act is detrimental to the client without a clear written contractual relationship, it can be used as the basis for an unlawful act as stipulated in Article 1365 of the Civil Code. In a criminal context, advocates can be charged with Article 372 of the Criminal Code regarding embezzlement, Article 378 of the Criminal Code regarding fraud, or Article 263 of the Criminal Code if they commit falsification of documents. However, the mechanism for law enforcement against abuse of power by advocates is not easy. One of the biggest obstacles is the difficulty in proof. Clients who feel aggrieved often do not have documents or evidence strong enough to prove that the advocate has acted beyond his authority. On the other hand, the legal protection provided to advocates, especially as stipulated in Article 16 of the Advocates Law, provides immunity to advocates as long as they carry out their duties in good faith. This provision is often used as a basis for defense by advocates who are suspected of abusing power, even though in practice they have committed irregularities.

This is where the tension lies between the protection of the advocate profession and the protection of client rights. The state must be able to balance the two by formulating effective oversight and accountability mechanisms. Professional advocacy organizations, such as PERADI, have a central role in this process. Unfortunately, there are many cases that show that the ethical mechanism owned by professional organizations is still weak in taking action against their members who violate. Often sanctions are only limited to reprimands or temporary suspensions, even though the actions done have seriously harmed the client. In several cases that have occurred in Indonesia, advocates who abuse their power are not only subject to ethical sanctions, but also submitted to criminal and civil courts. For example, there are cases where an advocate is sued by a client for using a power of attorney to sell the client's assets without the knowledge of the person concerned. In the decision, the court granted the lawsuit and stated that the actions of the advocate constituted a

deviation from the authority of the power of attorney and contrary to the principle of fiduciary trust.

V. THE CONCEPT OF CLIENT PROTECTION AND THE ARRANGEMENT OF THE ADVOCATE PROFESSION

The relationship between the client and the advocate is not only functional in the legal context, but also has a very high value of trust and moral attachment. In this context, the protection of clients is not solely the personal responsibility of the advocate, but also the structural responsibility of the state, professional organizations, and the judicial system itself. Legal protection for clients in the practice of advocates has not been optimally integrated in the Indonesian legal system, both in terms of regulation, supervision, and access to justice when there are irregularities by advocates.

Normatively, clients as users of legal services have certain rights inherent in the power of attorney relationship with the advocate. These rights include the right to be professionally accompanied, the right to obtain correct and complete information about the case being faced, the right to access related legal documents, and the right to obtain clarity on the agreed legal service fees. Unfortunately, in practice, many clients are unaware or do not understand these rights, and this is one of the reasons for the vulnerability of the client's position in the legal relationship with the advocate. In the context of legal protection, it is important to establish a system of symmetrical relationships between clients and advocates, especially regarding the aspects of transparency, accountability, and control. Without effective control mechanisms, the granting of power of attorney can turn into the dominance of unilateral legal power by advocates. Therefore, the state and advocate professional organizations need to draft legal tools that explicitly regulate the rights of clients and the limits of the advocate's authority, including dispute resolution procedures in the event of irregularities.

One of the concrete efforts in strengthening client protection is to encourage the preparation of legal agreement standards that contain protection clauses. Today, many advocate-client relationships are based solely on a very simple power of attorney, with no detailed provisions regarding costs, scope of legal work, reporting obligations, or grievance mechanisms. This comprehensive

absence of a contract creates a legal vacuum when a client is about to file a lawsuit or report a deviant advocate.

The arrangement of the advocate profession needs to be carried out with a systemic and sustainable approach. One of the fundamental aspects that must be fixed is the governance of professional organizations which tend to be closed and do not have an external accountability system. Advocate organizations should not only be a forum for member development, but also act as a public protector from deviant professional actions. In many cases, clients who feel aggrieved do not get a fair response or settlement from the advocacy organization's Honor Council, because the handling process is closed and tends to favor members.

This is where the need for an external supervision mechanism for the advocate profession is necessary. In a number of countries, supervision of legal practice is not only carried out by internal professional organizations, but also by independent state institutions. For example, in the United Kingdom there is the Solicitors Regulation Authority (SRA) which oversees and regulates the standards of conduct of lawyers³⁵ openly, while in the United States there are State Bar Associations which have strong and transparent disciplinary³⁶ divisions. Such a system not only maintains the integrity of the profession, but also serves as a guarantee for the public that complaints against advocates are handled objectively and professionally.

Indonesia needs to consider the establishment of an independent advocate oversight body, outside the structure of professional organizations, with the authority to examine alleged violations, receive complaints from the public, and make recommendations on ethical or even criminal sanctions. This institution should consist of elements of professional organizations, academics, legal aid institutions, and public representatives. The goal is to create a balance between the protection of the profession and the protection of the public as users of legal services.

³⁵ Solicitors Regulation Authority, "*SRA Principles*," Solicitors Regulation Authority, updated April 11, 2025, accessed July 8, 2025, <https://www.sra.org.uk/solicitors/standards-regulations/principles/>.

³⁶ *State Bar of California*, "*State Bar Changes Interpretation of Statute, Signaling New Era of Transparency and Accountability*," State Bar of California News Releases, October 7, 2022, accessed July 8, 2025, <https://calbar.ca.gov/About-Us/News/News-Releases/state-bar-changes-interpretation-of-statute-signaling-new-era-of-transparency-and-accountability>.

Another important aspect of client protection is information disclosure. So far, the public has had no access to an advocate's track record, including whether an advocate has ever been sanctioned, been involved in legal disputes, or has a bad professional reputation. This is certainly detrimental to potential clients who want to choose legal services wisely. As part of the professional structuring, advocacy organizations should have an open database system that contains basic information about the qualifications and disciplinary history of its members.

Furthermore, the protection of clients also concerns the professional management of client funds. In some countries, advocates are prohibited from mixing client funds with personal funds. They are required to use a separate account (client trust account) and can only withdraw the funds based on the written authorization of the client. Indonesia does not have specific provisions on this matter, so the management of funds is often undocumented and vulnerable to abuse. Therefore, regulations regarding the management of legal funds need to be included in the regulatory framework of professional organizations or even regulated through law.

Increasing the client's capacity to understand his rights is also an important part of the concept of protection. Many cases of abuse of power occur because clients do not have a sufficient understanding of the limits of the advocate's authority. For this reason, there needs to be continuous public legal education, both through legal aid programs, counseling in the media, and easily accessible digital information modules. Empowering the community to understand their legal position when dealing with advocates will increase social control and suppress potential deviations.

Client protection also concerns the right to access a fast, low-cost, and transparent complaint mechanism. Professional organizations and supervisory agencies should provide an online complaint system, complaint hotline, and accountable investigative procedures. In many countries, the complaint process against lawyers is simplified to encourage public engagement and speed up the resolution process. Indonesia does not have a standardized system like this, so many clients feel that they do not get justice in dealing with rogue advocates.

In the context of national legal reform, the arrangement of the advocate profession also needs to be synergized with efforts to improve the quality of legal education. Many ethical violations in legal practice are rooted in the weak

internalization of professional values during education. Therefore, the legal education curriculum, including advocate education (PKPA), should not only focus on technical skills and substantive legal material, but also emphasize the professional ethics, social accountability, and public responsibility of an advocate.

V. CONCLUSION

Based on the above description, it can be concluded that the legal responsibility of advocates in the abuse of power of the client is a crucial issue that reflects systemic weaknesses in the protection of the law against the community. Abuse of power not only impacts individual losses, but also threatens the integrity of the advocate profession and public trust in the justice system. The imbalance in the legal relationship between clients and advocates, weak supervision mechanisms, and the lack of optimal regulations that regulate the limits of the authority and responsibility of advocates require comprehensive reforms, both in terms of laws and regulations, professional codes of ethics, and education and institutional supervision, in order to realize a fair, accountable, and public protection-oriented legal system.

ACKNOWLEDGMENTS

The authors may recognize those who helped in the research, especially funding supporters of research. The acknowledgment can include individuals who have assisted you in your study: Advisors, Financial supporters, or other supporters, i.e., Proofreaders, Typists, and Suppliers who may have given materials.

COMPETING INTEREST

The authors will be asked to sign this statement once the submission has been accepted.

REFERENCES

- Adiyanta, FCS. "Hukum Dan Studi Penelitian Empiris: Penggunaan Metode Survey Sebagai Instrumen Penelitian Hukum Empiris." *Administrative Law and Governance Journal* 2, no. 4 (2019): 698.
- Ali, Zainuddin. "Metode Penelitian Hukum," hlm 99. Jawa Timur: Sinar Grafika, 2010.
- Angga Priancha, Ardia Khairunnisa, Tasya Caroline, Gilang Sephia. "Rethinking 'Electronic Agent' Terminology In The Law On Electronic Information

- And Transaction From The Perspective Of Indonesian Lastgeving Law.” *Mimbar Hukum Universitas Gajah Mada* 43, no. 2 (2022): 378. <https://doi.org/https://doi.org/10.22146/mh.v34i2.3864>.
- Arlina, Liza, Luthfi Alfarizi Nasution, Muhammad Rizky Khoir, and Nurul Miftahul Jannah. “Tinjauan Hukum Pelanggaran Kode Etik Advokat: Studi Kasus Roy Rening.” *Judge: Jurnal Hukum* 06, no. 01 (2025): 251–62. <https://journal.cattleyadf.org/index.php/Judge/index>.
- Boli, Eril, and Muh Nur Hidayat M. “Agrarian Law Reform in Indonesia : Between Legal Certainty and Social Justice.” *Indonesian Civil Law Review (ICLR)* 1, no. 1 (2025): 53–68. <https://ejurnal.mgpublishing.co.id/index.php/iclr/article/view/5/6>.
- Bunga, Marten. “Mekanisme Penyelesaian Sengketa Melalui Gugatan Sederhana.” *Gorontalo Law Review* 5, no. 1 (2022): 41–51.
- Didik Sumariyanto, Efa Laela Fakhriah. “Kajian Sanksi Pidana Terhadap Pelanggaran Etik Advokat Dihubungkan Dengan Kitab Undang-Undang Hukum Pidana (Kuhp) Dan Pasal 26 Angka 6 Undang-Undang Nomor 18 Tahun 2003 Tentang Advokat.” *Jurnal Iustitia Omnibus* I, no. 2 (2020): 30–49.
- Eizeluna Farnesty, Fenny Rahma Sari, Raihan Dzaky, Rani Bela Septia, Siti Balqis Alayya, Syifa Maura Adinda, and Vina Khalisa. “Etika Profesi Hukum: Mengungkap Pelanggaran Kode Etik Dalam Kasus Suap Pengacara.” *Aliansi: Jurnal Hukum, Pendidikan Dan Sosial Humaniora* 1, no. 6 (2024): 98–116. <https://doi.org/10.62383/aliansi.v1i6.555>.
- Endira, Bramedika Kris, Muhammad Junaidi, Bramedika Kris Endira, Muhammad Junaidi, Diah Sulistyani, Ratna Sediati, and Amri Panahatan Sihotang. “Kedudukan Dan Peran Organisasi Profesi Advokat Terhadap Advokat Yang Berhadapan Dengan Hukum The Position and Role of Advocate Professional Organizations Toward Advocates Which Deals with Law Penelitian Ini Mencoba Untuk Mengkaji Tentang Bagaimana Keduduk.” *Jurnal USM Law Review* 5, no. 1 (2022): 389–400.
- Fadhilah, Nurul. “Perspektif Hukum Pidana Serta Penegakannya Terhadap tindak Pidana Perjudian Sabung Ayam Di Kabupaten Pohuwato.” *Indonesian Civil Law Review (ICLR)* 1, no. 1 (2025): 18–36.
- Hastia, andi azizah. “Dari Klik Ke Kontrak : Pertimbangan Hukum Dalam Perjanjian Jual Beli Online.” *Indonesian Civil Law Review (ICLR)* 1, no. 1 (2025): 37–52.
- Hijrah Lahaling, Arhjayati Rahim, Sumiyati Beddu, Dzikra Ridha Dwi Aribah, Saharuddin Saharuddin. “Legal Pluralism in the Tayade System: Reconciling Land and Plant Ownership Laws in Gorontalo.” *Jurnal Ilmiah*

- Al-Syir ' Ab* 23, no. 1 (2025): 1–17.
<https://doi.org/http://dx.doi.org/10.30984/jis.v23i1.3325>.
- Ilham. “Law Enforcement Against Gorontalo City Police Area Gambling Crime In.” *Indonesian Civil Law Review (ICLR)* 1, no. 1 (2025): 1–17.
<https://ejurnal.mgpublishing.co.id/index.php/iclr/article/view/1/4>.
- Ishak, A. M., Busthami, D., & Poernomo, S. L. “Kesediaan Dan Ketersediaan Hukum Gugatan Perwakilan Dalam Perspektif Activisme Yudisial Dan Pembatalan Yudisial.” *Journal of Lex Generalis (JLG)* 2, no. 2 (2021): 524–40.
- Langgeng. S. “Peran Advokat Sebagai Penegak Hukum Dalam Mendukung Terwujudnya Sistem Peradilan Pidana Terpadu Dalam Penegakan Hukum Pidana Di Indonesia.” *Jurnal Daulat Hukum* 01, no. 1 (2018): 138–56.
- Lubis, Adelita. “Peran Advokat Dalam Penegakan Hukum Di Organisasi Asosiasi Advokat Indonesia Cabang Medan.” *JPPUMA: Jurnal Ilmu Pemerintahan Dan Sosial Politik UMA (Journal of Governance and Political Social UMA)* 2, no. 2 (2016): 176–92. <http://ojs.uma.ac.id/index.php/jppuma>.
- Lubis, F. “Efektifitas Pengaturan Dan Tanggungjawab Profesi Advokat Dalam Mencegah Dan Memberantas Tindak Pidana Pencucian Uang Di Indonesia (Studi Kasus Medan, Jakarta Dan Yogyakarta).” 2019.
- Munawar Sadzali, Alpi Sahari. “Pertanggungjawaban Pidana Terhadap Advokat Akibat Surat Palsu Yang Digunakan Ketika Membela Kepentingan Hukum Klien (ANALISIS PUTUSAN NOMOR:618/PID.B/2019/PN.MDN).” *Journal Dokrin Review* 2, no. 1 (2023): 123–34.
<http://journal.unnes.ac.id/sju/index.php/edaj>.
- Nasadi, Irmawati, and Suhartin I Akdaji. “The Dynamics of Marriage in the Modern Era : Between Tradition and State Law.” *Indonesian Civil Law Review (ICLR)* 1, no. 1 (2025): 69–83.
- Putri, Riska Fauziah Syafrina; Divia Zunfriska Irawan; Widya Rizky Ramadhani, and Setiawan; Dinda Putri Khairani; Mohammad Alvi Pratama. “Dilema Publisitas Advokat: Kajian Atas Larangan Promosi Di Media Sosial Berdasarkan Kode Etik Advokat Indonesia.” *Das Sollen: Jurnal Kajian Kontemporer Hukum Dan Masyarakat* 3, no. 1 (2025): 1–15.
<https://doi.org/10.11111/nusantara.xxxxxxx>.
- Raharjo, Budi, Rengga Kusuma Putra, and Methodius Kossay. “Legal Issues in the Supervision and Enforcement of Professional Ethics for Advocates in Indonesia.” *Hakim: Jurnal Ilmu Hukum Dan Sosial* 3, no. 1 (2025): 900–917.
<https://doi.org/10.51903/hakim.v3i1.2287>.
- Rosidi, Ahmad, M Zainuddin, and Ismi Arifiana. “Metode Dalam Penelitian Hukum Normatif Dan Sosiologis (Field Research).” *Journal Law and*

- Government* 2, no. 1 (2024): 46–58.
- Rozi, Mumuh M. “Peranan Advokat Sebagai Penegak Hukum Dalam Sistem Peradilan Pidana Dikaji Menurut Undang-Undang Nomor 18 Tahun 2003 Tentang Advokat.” *Jurnal Hukum Mimbar Justitia* 2, no. 1 (2017): 628–47. <https://www.hukumonline.com/klinik/infografik/4-tahap-jadi-advokat-1t65952247352a0/>.
- Saepudin, Acep. “Kajian Terhadap Kedudukan Advokat Dalam Sistem Peradilan Pidana Di Indonesia.” *Milthree Law Journal* 1, no. 1 (2024): 1–29. <https://doi.org/10.70565/mlj.v1i1.1>.
- Sahar, Saharuddin, Andi Suryaman M. Pide, Yunus Wahid, Muhammad Ilham Arisaputra, and Amilang. “Transfer of Land Rights in the Tayade System.” *Petita: Jurnal Kajian Ilmu Hukum Dan Syariah* 10, no. 1 (2025): 195–210. <https://doi.org/10.22373/petita.v10i1.412>.
- Saraya, Sitta. “Tinjauan Hukum Pidana Terhadap Malpraktek Advokat Di Indonesia.” *Intelektiva* 1, no. 10 (2020): 160–69.
- Setiawan, Arif, Lucky Suryo Wicaksono, Siti Anisah, and Eko Rial Nugroho. “Perbandingan Pengaturan Penyelenggaraan Pendidikan Profesi Advokat (Ppa) Di Indonesia Dan Amerika Serikat.” *Arena Hukum* 2, no. 2 (2017): 120–40. <https://doi.org/http://dx.doi.org/10.21776/ub.arenahukum.2017.01001>.
- Siregar, Maralutan, Tan Kamello, Hasim Purba, and Rosnidar Sembiring. “Pemisahan Gugatan Wanprestasi Dan Perbuatan Melawan Hukum Dalam Perspektif Hukum Materiil Dan Penerapan Di Pengadilan.” *Locus Journal of Academic Literature Review* 2, no. 6 (2023): 532–48. <https://jurnal.locusmedia.id/index.php/jalr/article/view/187>.
- Suhartanto, Feri Pramudya, and Yenny Febrianty. “Perbandingan Sistem Hukum Civil Law Dan Common Law.” *KONSENSUS: Jurnal Ilmu Pertahanan, Hukum, Dan Ilmu Komunikasi* 1, no. 3 (2024): 72–83.
- Undang-Undang Nomor 18 Tahun 2003 tentang Advokat, Pub. L. No. 18 (n.d.).