

Research Article

The Ethical Dilemma of the Advocates Profession vs. the Ideal Model of the Advocates Profession Court in Indonesia

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Abstract

The legal profession in Indonesia is normatively positioned as a noble office that upholds justice and client protection. However, advocates face ethical dilemmas exacerbated by a multi-organizational (multi-bar) system, fragmented regulations, and weak coordination in ethics enforcement. Advocates sanctioned by one organization may move to another, weakening the credibility of the sanction and public trust. This normative-empirical research analyzes the ethical dilemmas of advocates and designs a model for an ideal professional court. Data were collected through legislative reviews, case studies, comparisons of the Malaysian, Dutch, German, and US systems, and interviews with the Supervisory Commission and Honorary Council of PERADI Bandar Lampung. The findings show that ethical dilemmas arise at three levels: (1) individual—price pressures and competition encourage deviations from ethical standards; (2) organizational—conflicts between upholding ethics and protecting members; (3) institutional—the absence of a single authority triggers a shopping forum and inconsistency of sanctions. The proposed solution is a professional tribunal under a single national ethics regulator with comprehensive jurisdiction, transparent procedures, tiered sanctions, and client redress mechanisms, while maintaining organizational plurality. This model is expected to increase accountability and effectively protect clients' legal interests.

Keywords

Advocate, Ethical Dilemma, Officium Nobile, Code of Ethics, Multi-bar System

1. Introduction

Advocates in Indonesia are known as the noble officium, a noble profession that defends clients' rights, upholds justice, and raises public legal awareness [1, 2]. Law Number 18 of 2003 concerning Advocates and various codes of ethics affirm the principles of independence, integrity, competence, and loyalty to clients. This nobility stems from advocates' dedication to the interests of clients and the public.

However, in the past two decades, the realization of this ideal has faced serious obstacles. Cases of misuse of client funds, neglect of clients after receiving large fees, and other

unprofessional behavior have frequently been reported to ethics boards [3, 4]. More worryingly, advocates who are sanctioned or dismissed by one organization can be re-registered with another organization [5, 6]. This phenomenon reflects structural gaps in the multi-bar system that cannot be explained solely by individual moral failures.

The Indonesian legal system consists of various professional bodies (multi-bar) with their own internal structures and ethical enforcement mechanisms. While justified in the name of freedom of association and professional autonomy, this

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configuration results in fragmented standards, overlapping authority, and inconsistent disciplinary outcomes [7]. Meanwhile, client protection is not explicitly regulated in the Advocates Law [8].

A concrete example is that in 2020, an advocate was dismissed by the PERADI Honorary Council after being found guilty of embezzling 450 million rupiah from client funds; however, in 2024, the advocate was reportedly active in another advocate organization. Similar cases show advocates who have been sanctioned continuing to practice despite being subject to evaluation.

This research focuses on two things: (1) how structural and cultural factors in the Indonesian legal profession give rise to ethical dilemmas that hinder the officium nobile and client protection; (2) what kind of professional court design is most appropriate for effective ethical enforcement in Indonesia.

In contrast to studies caught up in the single-bar versus multi-bar debate, this study emphasizes the importance of a single regulatory authority with exclusive jurisdiction to regulate and enforce the code of ethics, regardless of the advocate organization's affiliation [9, 10]. Organizations can remain plural, but the ethics enforcement authority must be centralized. This model offers a concrete path to enhancing public trust and ensuring clients' legal interests receive robust protection, transforming ethical consistency and client protection into core professional performance indicators.

2. Research Methods

The research uses a normative-empirical method [11]. The normative analysis examines the Advocate Law, the Indonesian Advocate Code of Ethics (KEAI), internal regulations of advocate organizations, and comparative legal frameworks from Malaysia, the Netherlands, Germany, and the United States [12]. The legal approach is combined with case studies of ethical violations by Indonesian advocates.

Empirical data were collected through in-depth interviews with Bambang Handoko (Peradi Regional Supervisory Commission, Bandar Lampung) and Prabu Bungaran (Chairman of the Regional Honorary Council). The interviews provided insight into the practical functions of the ethics court, the challenges of handling complaints, and the effectiveness of existing mechanisms.

The data sources consist of: (1) primary data—interviews with parties related to the enforcement of the code of ethics;

(2) secondary data—statutory regulations (UUD 1945, KUHAP, Advocates Law, Legal Aid Law, PP 83/2008, MK Decision 183/PUU-XXII/2024), legal literature, and reference books [13].

The data were analyzed using doctrinal interpretation and socio-legal perspectives, drawing on self-regulation theory, trust theory, agency theory, and organizational behavior theory [14]. These theories explain the strengths and weaknesses of professional bodies in controlling members, the dynamics of client-advocate relationships, and the influence of organizational culture on ethical practice.

3. Results and Discussion

3.1. Ethical Dilemmas at Three Levels

Ethical dilemmas in the Indonesian legal profession arise simultaneously at three levels:

Individual Level

Advocates face competitive pressures from clients, high fee expectations, and informal law firm norms. In these situations, commitment to ethical standards can be undermined by economic or cultural incentives that tolerate ambiguous practices such as aggressive advertising, excessive promises, or opaque financial arrangements. [15] The Advocates Law does not provide explicit protection for client rights, weakening clients' bargaining power vis-à-vis advocates.

Organizational Level

Bar associations adopt codes of ethics and establish ethics boards, but they also function as interest groups that protect their members. This dual role creates tension between upholding professional standards and defending colleagues. [16] In some cases, this manifests as delayed proceedings, lenient sanctions, or reluctance to issue dismissals. The phenomenon of lawyers dismissed by one organization then appearing in another illustrates how organizational boundaries are used to avoid accountability.

Institutional Level

The multi-bar configuration fragmented ethics enforcement authority. There was no national body whose decisions were binding on all advocates. Sanctions lacked cross-organizational impact, and there was no comprehensive registry of ethics violations accessible to all stakeholders. This design allowed for forum shopping and sent ambiguous signals about the profession's seriousness in addressing ethics violations.

Table 1. Main dimensions of the ethical dilemma of multi-bar systems.

| No | Dimensions | Empirical Conditions | Impact |
|----|--------------------------|--|---|
| 1 | Organizational structure | Many organizations with different regimes | Standards and sanctions are not uniform |
| 2 | Enforcement of ethics | Internal sanctions are not recognized across organizations | Advocate changes organization |
| 3 | Client protection | Complaint mechanisms vary | Uneven protection |

| No | Dimensions | Empirical Conditions | Impact |
|----|------------------------|---------------------------------------|-----------------------|
| 4 | Accountability | There is no single national authority | Weak deterrent effect |
| 5 | Organizational culture | Strong corporate interests | Conflict of interest |

From the perspective of the *officium nobile*, this condition shows that the profession's noble status is threatened not only by individual deviations but also by structural features that systematically dilute ethical responsibility.

3.2. Code of Ethics and Public Trust

The Indonesian Advocates Code of Ethics translates the *officium nobile* into concrete obligations: competence, confidentiality, loyalty, independence, and honesty towards clients and the court. [17]. However, the effectiveness of this code depends heavily on the organization's seriousness in internalizing and enforcing it.

Self-regulation is effective when professional bodies have a strong ethical culture, transparent procedures, and independence from political-economic pressures [18]. However, in the Indonesian context, the large number of competing organizations tends to diffuse responsibility and encourage defensiveness in the face of external criticism. Organizations can be tempted to act as protectors of their members rather than guardians of the public interest.

Clients generally lack the expertise to monitor advocates' actions directly and therefore must rely on assumptions of competence and integrity. Ethical violations—especially misappropriation of funds, conflicts of interest, or neglect—attack this trust and create long-term skepticism. If cases are handled

lightly or inconsistently, the erosion of trust extends throughout the institutional framework of legal representation.

The advocate-client relationship is rooted in law and ethics, but a disparity exists between the legal and ethical dimensions [19]. Advocates have immunity from legal claims for professional actions in the defense of clients. However, in practice, some advocates abuse this immunity through criminal acts, violations of the code of ethics, and denial of accountability.

Efforts to restore public trust must go beyond the rhetoric of the noble office and address the structural weaknesses of the self-regulatory system. This is where the design of an ideal professional court becomes crucial.

3.3. Ideal Professional Court Model

This study proposes a professional court under a single national regulatory authority with comprehensive jurisdiction over all advocates, while maintaining organizational plurality (multi-bar).

The professional court will operate under the National Advocates Council or a similar body, with decisions applicable *erga omnes* within the profession. Complaints can be filed by clients, other advocates, or related institutions through clear and accessible procedures. The court will consist of members representing the profession and independent public figures to maintain impartiality.

Table 2. Comparison of ethics enforcement models.

| Model | Key Features | Implications |
|--------------------------------------|---|--|
| Multi-bar without a single regulator | Each organization enforces its own | High risk of inconsistency |
| Single bar | One organization with a unified code | Strong consistency, risk of concentration of power |
| Multi-bar with single regulator | Plural organizations, single national authority | Plurality + uniform ethics |

The multi-bar model with a single ethics regulator is attractive because it combines freedom of association with a robust mechanism for enforcing shared ethical standards. The organization retains a role in professional development, member services, and representation, but ethics jurisdiction is centralized.

Key Elements of the Model:

1) Integrated ethical standards: A national code of ethics that binds all members of the profession

- 2) National jurisdiction: Decisions and sanctions are automatically recognized and enforced by all organizations
- 3) Transparent procedures: Clear rules regarding filing complaints, deadlines, rights of the parties, evidence, and appeals
- 4) Independence: Composition and appointments are designed to minimize conflicts of interest, including the inclusion of external members from academia or civil society

5) Tiered sanctions: Warnings, suspensions, up to dismissal, plus client recovery mechanisms such as restitution

Enforcement Mechanism:

The systematic stages include: (1) a written complaint with documentation; (2) a preliminary examination to screen out frivolous accusations; (3) an investigation of evidence through documents and witness interviews; (4) a formal hearing with full defense rights; (5) a written decision with findings of fact, application of ethical standards, and sanctions.

Sanctions range from mild (written warning, mandatory ethics education) to severe (permanent license revocation). Professional tribunals serve not only as punitive but also as pedagogical bodies that clarify ethical expectations and promote best practices.

Comparative Learning:

Malaysia operates a unified bar system with effective centralized disciplinary authority. The Netherlands uses regional disciplinary boards with appeal mechanisms to the national body [20]. Germany operates state-level associations coordinated through federal guidelines, “German Federal Bar Association. (2023). *Professional Code of Conduct for Lawyers in Germany*. <https://www.brak.de> The United States is decentralized yet maintains consistency through the American Bar Association Model Rules [21].

While structures vary, effective systems require clear ethical standards, accessible complaint mechanisms, transparent procedures, meaningful sanctions, and final appeal mechanisms that maintain the credibility of the system.

4. Conclusion

The ethical dilemma of the Indonesian legal profession is rooted in the interaction of individual, organizational, and institutional factors within a multi-bar system. Although normatively bound by the law, advocates operate within a structural environment that dilutes ethical responsibility through fragmented regulations, organizational interests, and the absence of a single ethical authority.

First, the multi-bar system creates a dilemma between professional autonomy and client protection. Fragmentation results in inconsistent standards, ineffective enforcement, and client vulnerability. Sanctioned lawyers can switch organizations without a centralized tracking system.

Second, codes of ethics play a fundamental role, but their effectiveness depends on organizational commitment. Indonesia’s multi-bar system is a legacy of political compromise that weakens the enforcement of professional standards and compromises client legal protection. Fragmented self-regulation prioritizes member protection over the public interest, eroding the foundations of trust.

The solution is a professional court under a single national ethics regulator with jurisdiction over all advocates, without dismantling the organization’s plurality. By unifying ethical standards, centralizing jurisdiction, and strengthening procedural transparency, this model aligns advocacy practice with

the profession’s noble expectations. The multi-bar model with a single regulator preserves freedom of association while establishing a robust mechanism for ethics enforcement: a binding national code of ethics, comprehensive jurisdiction, transparent procedures, independent composition, tiered sanctions, and client redress.

This model offers a concrete path to enhancing public trust and ensuring clients’ legal interests receive the robust protection they deserve, transforming ethical consistency and client protection from external constraints into core professional performance indicators.

Abbreviations

| | |
|--------|-------------------------------|
| PERADI | Perhimpunan Advokat Indonesia |
| ABA | American Bar Association |

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Author Contributions

Sumarsih: Conceptualization, Funding acquisition, Resources, Supervision

Maroni: Formal Analysis, Investigation, Methodology, Supervision

Hieronymus Soerjatisnanta: Validation, Resources, Supervision

Fathoni: Project administration, Writing – original draft, Writing – review & editing

Conflicts of Interest

The authors declare no conflicts of interest.

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