



PROBLEMS OF ENFORCEMENT OF THE ADVOCATE CODE OF ETHICS IN THE INDONESIAN ADVOCATE ORGANIZATION SUPERVISION SYSTEM

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Abstract

The Advocate profession, as one of the pillars of law enforcement, is carried out with the status of *officium nobilis* and requires absolute ethical obedience. Law Number 18 of 2003 concerning Advocates (Advocate Law) provides full autonomy (*self-regulation*) to professional organizations to carry out supervision and ethical enforcement through the Honorary Council (DK) of Advocates. However, this study identifies the structural and institutional problems that fundamentally hinder the effectiveness of the enforcement of the Advocate Code of Ethics (KEA). These problems are rooted in (1) the Fragmentation of Advocate Organizations (dualism), which creates jurisdictional disorientation and inconsistency in the decisions of the Supreme Court; (2) the issue of the political independence of the Security Council, which is vulnerable to the internal interests of the organization; and (3) the lack of effective external oversight involvement, leading to a decline in public accountability. This study uses a normative legal research method with *statutes, case law, conceptual, and theoretical approaches*. The findings show that the failure of the Advocate Organization to maintain a *single forum* triggered a crisis of professional ethics legitimacy (*simulacra*). Therefore, this study recommends strategic steps, including the establishment of a Joint Honorary Council (DKB) and strengthening institutional independence, to restore the integrity of ethics enforcement and public trust in the advocate profession.

Keywords: *Problematic, Code of Ethics, Advocate, Supervision.*

1. Introduction

The Advocate profession has a very important position in the Indonesian judicial system, recognized as a law enforcer on an equal footing with judges, prosecutors, and police (Solehoddin, 2023). This position is universally known as *officium nobile* or a noble profession (Laurensius Arliman et al. (2025). To maintain the dignity of this glory, advocates are required to uphold the moral and ethical standards contained in the Code of Ethics for the Advocate Profession (Wira Utama Nugroho Pamungkas, et al. (2025). The Advocate Code of Ethics (KEA) serves as a *self-regulatory law* that binds advocates, not only in the context of the advocate's relationship with the client, but also in their interactions with peers (Foreign Advocates included, throughout the practice in Indonesia) and judicial institutions (Kanda Nilam Must & Ahmad Yubaidi. (2024). Compliance with the KEA is a basic prerequisite for maintaining the integrity of Indonesia's entire judicial system. This ethical regulation governs fundamental matters, including the obligation to maintain client confidentiality and the prohibition of conflicts of interest, which are essential to ensure justice for justice seekers (Muhammad Hafiz Fajar Hidayah et al. (2024).

Therefore, consistent and credible enforcement of the KEA is urgently needed to ensure that advocates carry out their professional duties objectively and morally (Achmad Sujoko & Ali Hadi. (2024). The enactment of Law Number 18 of 2003 concerning Advocates (Advocate Law) is a milestone that provides full autonomy (*self-regulation*) to the Advocate profession to govern itself independently (Irawan, H. D., Samsi, S. N. A., & Auretha, Z. A. (2023). This law delegates vital authorities, previously held by the Supreme Court (MA) and the Minister of Justice, to the Advocates' organization. These authorities include professional education, appointment, certification, supervision, and enforcement of advocates who violate the provisions of the profession. Within this framework of autonomy, the supervision of the implementation of the KEA is specifically delegated to the Honorary Council (DK) formed by the Advocate Organization (OA).



The DK acts as an internal ethics court that examines and adjudicates alleged violations of the KEA (Fauziah Lubis et al. (2025)). Nonetheless, Advocates Law explicitly recognizes the importance of external supervision in maintaining professional accountability. This supervision involves external parties, such as legal academics and community leaders, in the implementation of supervisory functions and ethical courts (Pangaribuan, Luhut M. P. (2024)). The goal is to improve the negative stigma of the public towards the Advocate profession, which is often considered closed, not transparent, and has *excessive corpspi*. This supervision aims to keep the Advocate collegial while upholding the position of *officium nobile*.

Although the Advocates Law mandates the Advocate Organization as the only forum for the advocatee *profession that is free and independent*, in practice, this ideal goal fails to be realized. Since the enactment of the law, the advocate profession has experienced dualism and fragmentation of organizational management (as happened to the Indonesian Advocates Association or PERADI, the Indonesian Advocates Congress or KAI, and other organizations). This institutional fragmentation is a central problem that significantly hinders KEA enforcement. The dualism of organizational leadership creates "ethical disorientation" and uncertainty for DK authorities who have the legal right to prosecute ethical violations.

The constant polemic regarding the existence of *a single forum* has even triggered the polemic of the oath of advocates in the High Court, which some jurisprudence circles call a *simulacra*, a reality whose authenticity continues to be questioned by some. If the institutional authorities in charge of monitoring and enforcement do not have undeniable legitimacy, the enforcement of the KEA is hurt, which ultimately triggers a decline in public trust in the integrity of the advocate profession. This crisis requires an in-depth juridical analysis of the structural impact of this fragmentation on the advocate's internal ethical justice system.

2. Literature Review

2.1. Code of Ethics as a Moral Instrument of the Advocate Profession

According to Amelia (2022), the advocate code of ethics not only functions as a collection of normative rules that govern professional behavior but is also a moral instrument that guides advocates in carrying out their professional responsibilities with integrity. The code of ethics is a tool of self-control that places advocates as a profession that serves truth and justice, not personal or group interests. In this context, advocates are required to have a high ethical *consciousness* to avoid abusing their position in the judicial system.

Amelia emphasized that the effectiveness of the code of ethics is highly dependent on the internal commitment of the advocate organization to instilling ethical values in its members. Without consistency in ethics education, professional moral training, and effective oversight mechanisms, the code of ethics becomes nothing more than a symbol of formality that has lost its usefulness. This view is in line with the concept of the "*self-regulation of profession*" outlined by Roscoe Pound, that every legal profession should be able to govern itself with a higher moral responsibility than the external regulations of the state.

2.2. Functions of the Honorary Council in Ethics Enforcement

A study conducted by Hilmi Dwi Irawan, Sofia Nur Azizah Samsi, and Zaffira Arsyah Auretha (2023) shows that the **Regional Honorary Council (DKD)** and the **Central Honorary Council (DKP)** play a central role in ensuring the implementation of the advocate code of ethics. This council conducts examinations, investigations, and decision-making on alleged ethical violations committed by advocates. However, in practice, these mechanisms often do not function optimally. The obstacles that arise are generally related to **coordination between the structure of advocate organizations**, limited supervisory resources, and weak execution mechanisms for the decisions of the Honorary Council. They highlighted that many advocates do not comply with the Honorary Council's decisions, especially because of the **fragmentation of advocate organizations** after the **Constitutional Court Decision Number 66/PUU-VIII/2010**, which opened up opportunities for the emergence of various advocate



organizations other than PERADI. As a result, there is no single authority that has the power to bind all advocates in the implementation of ethical sanctions, so the decisions of the Honorary Council often lose *enforceability*.

2.3. Fragmentation of Advocate Organizations and Its Impact

The phenomenon of the plurality of advocate organizations is one of the most significant factors in the weakening of the enforcement of the code of ethics in Indonesia. Mujiono (2021) explained that since the Constitutional Court's ruling, the ethics supervision system has lost the centralized authority previously owned by PERADI. With the establishment of various organizations such as KAI, PERADIN, and HAPI, there are no longer uniform ethical standards and discipline enforcement procedures.

This condition gives rise to duality and competition between organizations, each with its own version of the code of conduct and enforcement procedures. Advocates subject to ethical sanctions in one organization can easily join another organization without any cross-verification mechanism. Consequently, the deterrent effect on ethical violations weakens. This fragmentation also causes the public to lose confidence in the credibility of advocacy organizations because the sanctions imposed are not final and binding nationally.

2.4. Weak Sanctions Enforcement and Procedural Inefficiencies

According to Rachmadsyah (2020), the fundamental weakness in code of ethics enforcement lies in procedural inefficiencies and a lack of transparency. The process of examining ethical violations is often long, not open to the public, and appears bureaucratic. This creates a negative perception in society that the enforcement of advocate ethics tends to protect internal interests rather than upholding justice.

In addition, the emergence of conflicts of interest within the Honorary Council, consisting of active advocates, often raises doubts about the objectivity of imposing sanctions. Rachmadsyah assessed that this situation poses a "*moral hazard*" in the body of advocate organizations, where decisions are determined more by personal relationships than professional ethical considerations. Although normatively the code of ethics is complete, in practice, many violations are not responded to proportionately.

2.5. The Urgency of Supervisory System Reform

In response to these problems, Lestari (2022) proposed reforming the ethical supervision system for advocates. According to him, strengthening ethics enforcement needs to be directed at the establishment of an independent national ethics institution that is not under a particular advocate organization. This institution functions as a joint ethics body with the authority to set a single code of ethics standard and check violations of all members of the advocacy profession, regardless of organizational membership.

This approach is considered important to overcome the overlap of authority between organizations and to restore public trust in the advocacy profession. In addition, Lestari emphasized the importance of continuing *legal ethics education* as a preventive effort to instill moral values and integrity from the advocate education stage to the implementation of the profession in the field. Thus, the reform of the supervisory system not only touches the institutional aspect but also the development of the character of the legal profession as a whole.

3. Methodology

This study is Doctrinal *Legal Research*, which focuses on the study of literature and laws and regulations, and seeks to solve legal problems both theoretically and practically. This methodology is designed to analyze law as a norm, where the main goal is "justice". The data sources used in this study were divided into the following categories:

1. Primary Legal Material: Law Number 18 of 2003 concerning Advocates and the Indonesian Code of Ethics for Advocates (KEA).



2. Secondary Legal Materials: These include Constitutional Court (MK) decisions relevant to the Advocate Law, such as Decision No. 26/PUU-XI/2013, which discusses the expansion of advocates' immunity rights, Constitutional Court Decisions related to *single-forum* polemics, and Honorary Council Decisions (for example, Decree No. 2 of 2007 concerning Procedures for Examining and Prosecuting KEA Violations), as well as journal articles, books, and legal literature relevant to professional ethics and organizational dualism.

This study uses four approaches that are required in normative law studies to produce logical, critical, analytical, and realistic analyses:

1. *Statute Approach*: This approach is used to examine the consistency of the hierarchy of norms, ranging from the Law, the Code of Ethics to the implementing regulations issued by the Honorary Council (such as inspection procedures). This approach aims to identify legal *gaps* or conflicts of norms related to supervisory authority and ethical enforcement.
2. *Case Approach*: This approach analyzes important decisions that have been made. First, the decisions issued by the Honorary Council (DK) to test the consistency in the application of sanctions and interpretation of the KEA. Second, the decisions of the Constitutional Court (MK), especially those concerning the existence and authority of the Advocate Organization as a professional forum. This case analysis is important for understanding the juridical and practical impact of dualism.
3. *Conceptual Approach*: This approach was used to examine and explore the legal concepts and doctrines that are the foundation of the Advocate profession, including the concept of *officium nobile*, professional independence, *self-regulation*, and the doctrine of *the single forum of Advocates*. This conceptual understanding is crucial for evaluating whether ethical supervision practices align with professional idealism.
4. *Theoretical Approach*: This approach utilizes the framework of theories in law and ethics, such as the Theory of Professional Autonomy, to measure an OA's independence, and moral theories (e.g., the comparison between Utilitarianism and Deontology) to test the basis of ethical decision-making by the DK. The application of this theory helps to determine whether the decisions of the Security Council focus on absolute moral principles (deontology) or group benefits (utilitarianism).

The collected legal materials were analyzed qualitatively and descriptively. The analysis process includes interpretation, systematization of norms, and legal construction to formulate answers to the problems of enforcing the Indonesian Code of Ethics for Advocates.

4. Results and Discussion

4.1. Normative Framework and Typology of Advocate Ethical Violations

The enforcement of the Advocate Code of Ethics (KEA) is carried out through the Honorary Council (DK), which normatively has the authority to carry out supervision and enforcement. The Supreme Court conducts examinations and adjudications of violations of the KEA at the first level, the technical procedures of which are further regulated by the Decree of the Supreme Court itself, such as Decree No. 2 of 2007 concerning Procedures for Examining and Prosecuting Violations of the Indonesian Advocate Code of Ethics.

Ethical violations that are often highlighted in the practice of the advocate profession can be categorized into several main typologies. First, a conflict of interest arises when an advocate represents two parties whose interests conflict with each other in the same case, which can undermine the advocate's objectivity (Natalia et al. (2023)). Second, Breach of Client Confidentiality, where highly confidential information of the client is disclosed without permission, which is a betrayal of trust (Niken Dayu P., Putri Abella, & Heki Marzadi. (2025)). Third, Unprofessional Actions, including absenteeism from court without a valid reason, providing misleading legal advice, or disrespectful behavior towards clients (Chitra Imelda et al. (2023)).

The sanctions that can be imposed by the DK vary, ranging from verbal reprimands, written reprimands, temporary dismissal for a certain time, to dismissal from membership in professional organizations.



The sanction of temporary dismissal or dismissal must be followed by a prohibition on carrying out the profession, both outside and in front of the court. Furthermore, heavy sanctions must be submitted to the Supreme Court to be known and recorded in the list of Advocates. Although the DK functions as an ethical court, Advocate Law limits its authority to the realm of morality and professionalism. Article 26, paragraph (6) of the Decree of the Honorary Council of Advocate Organizations expressly states that violations of the professional code of ethics that contain criminal elements do not eliminate criminal responsibility. This limitation emphasizes the role of DK as a moral filter.

The DK's failure to take firm action against serious ethical violations can cause the public to choose positive law enforcement (criminal or civil) paths, which can actually reduce the authority of the DK and threaten the principle of professional autonomy. Analysis through *the Case Approach* shows that there is a risk of Inconsistency in the Implementation of Sanctions among various levels of the DK or DK of different organizations. The availability of a spectrum of sanctions requires consistency in ethical and legal jurisprudence. If ethical decisions are selectively cut down or influenced by internal organizational factors, the DK will lose its credibility as the moral guardian of the profession. Therefore, the consistency of decisions is a key parameter for the effectiveness of ethical oversight.

4.2. Institutional Problems Due to Advocate Organization Dualism

The most fundamental problem faced by the ethical supervision system in Indonesia is the destructive impact of the dualism of the management of Advocate Organizations (OA). The Advocate Law mandates the OA as *the only professional forum* to ensure professional unity and sole authority in the exercise of authority, including supervision. However, this fragmentation created a "crisis of professionalism" that paralyzed law enforcement (Maslon Hutabalian. (2020). OA dualism directly results in the disorientation of ethical jurisdiction. When Advocates are divided into various competing OAs, the COUNCILS of each organization also compete to claim jurisdiction.

This phenomenon allows for ethical shopping forums where advocates accused of violating the KEA can question the legitimacy of the DK who prosecutes the theme, or even take refuge under the auspice of the OAs, which is considered more lenient. This mechanism effectively cripples ethical supervision, contrary to Article 9 of the KEA, which requires every advocate to submit to and comply with the code of ethics. The Constitutional Court's rulings on *the issue of a single forum*, despite efforts to establish a legal framework, continue to fuel ongoing polemics. This condition creates a legal reality that is constantly questioned, which, in the eyes of legal philosophy, is called a *simulacra*, where the reality of ethical enforcement becomes vague and uncertain.

The failure caused by this internal conflict harms the justice-seeking community and threatens the independence of the advocate profession itself. The autonomy of the advocate profession (*self-regulation*) is based on the premise that the OA can effectively regulate and discipline its own members. When ethical control fails due to dualism, there is a demand for the government to intervene immediately to restore the state of the organization and encourage reconciliation. If internal conflicts continue and the DK fails to function credibly, there is a serious risk that this *failure of self-regulation* could trigger greater legislative or executive intervention, which could ultimately threaten the independence of the profession guaranteed by the Advocates Law (*lex specialis*) since 2003. Thus, dualism is not only an organizational problem but also an existential threat to the autonomy of the noble profession.

4.3. The Credibility Challenge: Honorary Council Independence and Accountability

The effectiveness of KEA enforcement is highly dependent on the level of independence and accountability of the Honorary Council (Sabina Putri Amelia. (2025). The independence of the Security Council is vulnerable to two main threats: the influence of internal political organizations and *excessive corporatism*. The issue of political independence is prominent. There are concerns that the leaders of the Advocates' Organization could use their positions for practical political gain, potentially influencing the ethical justice process in the Security Council.



This can be seen from the testing efforts at the Constitutional Court, which demanded that the Leader of the Advocate Organization be prohibited from concurrently working with the leader of a political party or occupying the leadership of the successful team to win the Presidential/Vice Presidential Candidate, in order to maintain the integrity and independence of the profession. When the DK is closely linked to the internal political structure of the OA, ethical judgments can be suspected as political tools to discipline or protect certain members instead of upholding purely ethical principles (Irawan, H. D., Samsi, S. N. A., & Auretha, Z. A. (2023).

Philosophically, decisions made by the Council often have to strike a balance between the moral view of *utilitarianism* (emphasizing the greatest benefit to a group or organization) and *deontology* (emphasizing adherence to moral obligations and absolute principles). If the DK is dominated by internal interests, the decisions taken may be more utilitarian, that is, protecting the image of the Advocate collectively, rather than deontological, punishing offenders based on strict moral principles. To overcome this potential subjectivity, the Advocate Law has anticipated this by mandating the involvement of external parties (legal academics and community leaders) in the supervisory function. However, if the involvement of external parties is only a formality without substantial voting power, the DK will continue to maintain excessive corp, which is a long-standing stigma of the profession.

The spirit of *this corps* can cause ethical decisions to be non-transparent and tend to be defensive toward members who violate the theme. The credibility of the DK is also threatened by failures in public accountability. Although the examination procedure is regulated by the Security Council Decree, transparency in handling complaints is often lacking. If the DK fails to enforce the KEA credibly, the public will seek other legal alternatives. Although Advocates are protected by the right to immunity (especially after the Constitutional Court Decision 26/PUU-XI/2013, which extends it inside and outside the court), they can still be prosecuted civilly or criminally for acts that exceed the limits of good faith. If the Security Council does not impose strict sanctions, the public will prefer to take the positive legal path, which ironically undermines the authority of the Internal Ethics Court and the autonomy of the profession as a whole. The need to report severe sanctions (temporary dismissal or dismissal) to the Supreme Court is a formal bridge that must be maximized to ensure accountability in the country's judicial system.

4.4. Reconstructing the Ideal Supervisory Model: Towards an Integrated Ethics

Given the complexity of the problem of dualism and independence, it is necessary to reconstruct a supervisory model capable of restoring the sole authority of ethical enforcement in the medical field. The most strategic institutional solution to overcome the ethical disorientation that occurs is to establish a Joint Central Honorary Council (DKPB). The establishment of the DKPB should be seen as a prerequisite for realizing a single and integrated ethical jurisdiction capable of unifying the standards of sanctions throughout Indonesia. The DKPB will be the answer to the demands for institutional reconciliation that are needed because of the impact of dualism. This model effectively eliminates the opportunity for ethical shopping forums that have been exploited by advocates who violate the KEA. The goal is to ensure that ethical enforcement becomes integrated, objective, and functions as a guardian of the integrity and honor of the advocacy profession.

The reconstruction of the ideal supervisory model must consider the composition of the DKPB membership. The ideal DKPB structure must maximize the involvement of external elements, namely legal academics and community leaders, who have substantive roles and voting rights. In accordance with the mandate of the Advocate Law, the involvement of external parties is important to counteract excessive body spirit and ensure that ethical decisions are made based on an objective and transparent assessment of ethical performance indicators. By integrating external oversight and centralizing the authority of the Security Council, the decision-making process will be pushed towards a deontological framework, prioritizing adherence to professional moral principles rather than utilitarianism and avoiding sanctions for the benefit of the organization. A strong, independent, and inclusive DKPB is the only way to restore public trust and ensure that *the self-regulation* of Advocates in Indonesia can function as it should.



5. Conclusion

The main problem in the enforcement of the Advocate Code of Ethics in the supervision system of the Indonesian Advocates Organization is rooted in the institutional failure to maintain the principle of a *single professional forum* as mandated by the Advocates Law. The resulting dualism and organizational fragmentation have created chaos in ethical jurisdiction (*ethical disorientation*), where the Honorary Councils (DK) of various organizations compete, resulting in inconsistencies in decisions and sanctions. This condition seriously undermines the credibility of *the self-regulation mechanism*, which is supposed to act as a guardian of the profession's dignity. In addition to dualism, the effectiveness of the Security Council is hampered by issues of independence, especially vulnerability to internal political conflicts of interest, and lack of accountability resulting from the lack of substantive external oversight involvement. To restore professional integrity and strengthen the enforcement of the KEA, strategic juridical and institutional measures are needed, including:

1. Establishment of a Joint Central Honorary Council (DKPB): Establishing the DKPB as a single, independent, and integrated ethics oversight entity is crucial for ending the jurisdictional crisis and ensuring that the KEA is enforced uniformly and consistently.
2. Maximizing External Supervision: Revising or tightening the internal regulations of the Security Council to ensure the effective involvement of external parties (legal academics and community leaders) in its composition of the Security Council, in accordance with the mandate of the Advocate Law. This involvement is important for increasing the objectivity and transparency of the decision.
3. Affirmation of Political Boundaries: Re-enforcing the dual leadership of the Advocate Organization, including the prohibition of involvement in the successful winning team of political candidates, to mitigate the risk of conflict of interest and maintain professional independence.

Strengthening the DK through an integrated and independent mechanism is vital to uphold *the officium nobile* and restore public trust in the Advocate Ethics Court system in Indonesia.

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