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Advocates In Religious Courts

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ABSTRACT This article discusses the legal arrangements governing advocates practising within the Religious Courts and the strategic role they play in the religious justice system. The Religious Courts have an important role in resolving disputes relating to family law and religion. Therefore, advocates practising in the Religious Courts have a great responsibility in assisting the parties involved in the legal process. This article reviews the requirements and obligations of advocates in the Religious Courts, the professional code of ethics, and sanctions for ethical violations. It also discusses the strategic role of advocates in mediation and out-of-court dispute resolution, which can influence the outcome of the cases they handle. With a better understanding of the legal arrangements and strategic role of advocates in the Religious Courts, it is hoped that the religious justice system can function more effectively in carrying out its duties in resolving sensitive and complex legal disputes. The challenge for an advocate to litigate and use their services in the Religious Courts is that not all procedural laws applicable in the Religious Courts are also applicable in the general courts, so some advocates who use their services in the Religious Courts do not fully master the procedural laws applicable in the Religious Courts.

KEYWORDS Advocates, Legal Arrangements, Strategic Role

INTRODUCTION

Religious Courts Religious Courts are legal institutions that have specialised jurisdiction in handling cases relating to family law and religion within a country. The role of an advocate in a religious court is crucial to ensure that the rights of the individuals involved in the case are protected and justice is served. The Religious Courts are one of the most urgent institutions in the life of the community. Especially for Muslims.

Philosophically, it was formed to fulfil the guidance of law enforcement and justice for Allah SWT. The legal basis of religious courts in the 1945 Constitution is regulated by Article 24 which in paragraph (1) explains that judicial power is an independent power to administer justice to uphold law and justice. Law Number 7 of 1989 concerning Religious Courts as amended last time by Law Number 50 of 2009, which in Article 2 confirms that religious courts are one of the implementers of judicial power for people

seeking justice who are Muslims regarding certain civil cases regulated in law.

Furthermore, Article 2 paragraph (1) explains that judicial power within the religious courts is exercised by religious courts and religious high courts. The definition of judiciary and court, according to (Hartono, 1977) Judiciary is the duty or function of upholding law and justice imposed on the courts. A court is an organisation or body that carries out the duties and functions of the judiciary. Religious Courts are also one of the 3 Special Courts in Indonesia. It is said to be a Special Court because the Religious Courts try certain civil cases and regarding certain groups of people.

Within the organisational structure of the Religious Courts, there are Religious Courts and Religious High Courts that are directly in contact with the settlement of cases at the first and appellate levels as a manifestation of the function of judicial power. Judicial power within the religious courts is exercised by the Religious Courts and the Religious High Courts.

Religious Courts have the duty and authority to examine, decide and resolve cases between people of the Islamic faith in the fields of marriage, inheritance, wills, grants, waqf, zakat, infaq, sadaqah and sharia economy as stipulated in Article 49 of Law Number 3 of 2006 concerning Amendments to Law Number 7 of 1989 concerning

Religious Courts. The functions of religious courts include judicial power, guidance function, supervisory function, advisory function, administrative function and other functions to coordinate the implementation of hisab and rukyat tasks with other related institutions, such as DEPAG, MUI, Islamic mass organisations and others, as well as legal counselling services, research services and so on and provide the widest possible access for the public in the era of openness and transparency of judicial information, as regulated in the Decree of the Chief Justice of the Supreme Court of the Republic of Indonesia Number KMA/144/SK/VIII/2007 concerning Information Disclosure in the Courts.

The problem of law enforcement in Indonesia is already very concerning, concern about the condition of the law is not only because the legal material is no longer able to answer the level of development of society's needs for law, but also because the entire system related to law enforcement efforts is no longer able to provide the best service to the community to obtain justice before the law.

METHODS

Based on the problem of free writers in this study, this type of research uses a form of normative legal research, the approach used is the approach of legislation (statute

approach) because the object under study is the various rules of law that are the focus as well as the central theme of the research. statutory approach - the invitation whose norming relates to the law is studied.

RESULT

1. Basic Concepts

The definition of advocate linguistically comes from Latin. *Advocare*, which means to defend (defend), to call to one said (call someone to say something), to vouch or to warrant (guarantee).

In English, the definition of advocate is expressed with the word *advocate*, which means: to defend by argument, to support, indicate or recommend publicly. In the legal dictionary, the definition of an advocate is defined as a defender, a person (legal expert) whose job is to file and defend cases in or out of court. Meanwhile, according to the Indonesian Advocates Law article 1 paragraph 1 explains that an advocate is a person whose profession is to provide legal services, both inside and outside the court who fulfils the requirements under this law.

The definition of advocate in terms, is a person who carries out advocacy activities, namely an activity or effort carried out by a person or group of people to facilitate and fight for the rights, as well as the obligations of a person or group of clients based on applicable rules. In Dutch, the word *advocaat*

means *procereur*, which means lawyer, while in French, *advocate* means barrister or counsel, *pleader*, which in English all of these words refer to the profession that is active in the Court.

A profession is essentially a permanent job in the form of service work carried out with the mastery and application of knowledge in certain fields of science whose development is lived as a life calling and its implementation is bound by certain values based on a spirit of devotion to fellow human beings for the public interest and rooted in respect and efforts to uphold human dignity. The terms *attorney*, *lawyer* and even *defender* are often used to represent or assist parties seeking justice.

In Arabic, a lawyer is called a *mahami*. This word is a derivation of the word *himaya*, which means the defence carried out by a person or the protection of an attorney against his client in front of a court session. Advocate's role in religious courts: Representing the Client: Advocates are responsible for representing their clients in matters relating to family and religious law in religious courts. They work to understand the needs and wishes of their clients and provide appropriate legal advice.

2. Providing Legal Advice

Advocates provide legal advice to their clients regarding their rights and obligations in matters related to divorce, inheritance,

child custody, marriage, and other religious law matters.

3. Attending Court

Advocates are present in religious courts during court proceedings to represent their clients. They present arguments, and evidence, and make legal submissions to the client's interests.

4. Negotiation and Mediation

In many cases, advocates try to settle cases out of court through negotiation or mediation between the parties involved. This can help avoid lengthy and expensive court proceedings

5. Oversight of Legal Proceedings

Advocates ensure that all legal procedures are followed correctly and that their clients' rights are protected throughout the legal process.

6. Drafting Legal Documents

Advocates are also responsible for drafting necessary legal documents, such as prenuptial agreements, divorce suits, or wills, by applicable religious laws.

CONCLUSION

The role of advocates in religious courts Advocates have a very important role in the religious justice system as they are responsible for representing their clients and protecting their legal interests in cases relating to religious matters such as marriage, divorce, and inheritance rights. The

advocate's role includes providing legal advice to clients, filing legal documents, arguing in court, and ensuring that legal procedures are properly followed. Advocates in religious courts must also have a good understanding of the applicable religious laws and follow the legal profession's code of ethics in all their actions. In addition, advocates may utilise a variety of legal strategies, including negotiation, mediation, and thorough preparation, to achieve their clients' legal objectives. Overall, advocates in religious courts play a key role in ensuring that legal proceedings run fairly and by the applicable principles of religious law, while protecting the individual rights and interests of their clients, not necessarily with expensive objects, namely land.

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