

The Role of Advocates in Providing Legal Assistance to Criminals Who Assist in Carrying Out Child Sexual Exploitation

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Abstract. *This study aims to examine and analyze the role of advocates in providing legal assistance to perpetrators of crimes that help carry out sexual exploitation of children, obstacles and solutions. This study uses a sociological juridical approach method, analytical descriptive research specifications. The data used are primary data and secondary data. Data collection methods include field studies and literature studies, and the data analysis method is qualitative. The theories used in this study are the theory of the legal system, and the theory of authority. The role of advocates in providing legal assistance to perpetrators of crimes that help carry out sexual exploitation of children is in line with applicable laws and regulations, namely the Advocates Law, the Criminal Procedure Code, and other relevant legal regulations. Obstacles faced by advocates in providing legal assistance to perpetrators of crimes that help carry out sexual exploitation of children are difficulties in communication/negotiation with law enforcement officers, the legal system not running well, difficulties in communicating with children when the client is a child.*

Keywords: *Advocate; Assistance; Crime; Exploitation; Sexual.*

1. Introduction

The Republic of Indonesia is a state based on law, as stated in Article 3 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which means that all aspects of social, state and governmental life must always be based on law.¹The realization of the principles of the rule of law in social and state life, particularly in relation to the implementation of the right to recognition, guarantee, protection and certainty of fair law as well as equal treatment before the law, requires the role and function of law enforcement officers, one of which is an advocate. The profession of advocate as a law enforcer is based on Article 24 Paragraph (1) of the 1945 Constitution and Law Number 18 of 2003 concerning Advocates.²Another

¹Agus Ekhsan and Umar Ma'ruf, Advocates Role in Assistance of the Affected Using Sharp Weapons and Abusing, Law Development Journal, Volume 2 Issue 3, September 2020, p. 314.

²Muhammad Abu Aksan and Sri Kusriyah, Advocates Role in Assisting the Accused of Embezzlement, Complete Systematic Land Registration, Law Development Journal, Volume 2 Issue 3, September 2020, p. 534

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characteristic of the legal profession is the trust (usually confidential) of clients (those seeking justice) who are expected to carry out their duties professionally.³

According to the provisions of Article 1 number 1 of Law Number 18 of 2003 concerning Advocates (hereinafter referred to as the Advocates Law), an advocate is a person whose profession is providing legal services, both inside and outside the court who fulfills the requirements based on the provisions of this law.⁴ Article 54 of the Criminal Procedure Code regulates the assistance of perpetrators of criminal acts, which states that for the purposes of defense, suspects or defendants have the right to receive legal assistance from one or more legal advisors during the time and at each level of examination, according to the procedures determined by law. Through the legal services provided, advocates carry out their professional duties to uphold justice based on law for the benefit of the justice-seeking community, including efforts to empower the community to realize their fundamental rights before the law. Advocates as one element of the justice system are one of the pillars in upholding the supremacy of law and human rights.⁵

The role of an advocate in handling a criminal case is one of the efforts to enforce the law in society, both through the courts and outside the courts as legal advisors. The professional activities of an advocate should not prioritize mere material interests, but rather should be based on loyalty and dedication to law enforcement.⁶

The role of advocates as providers of legal services is greatly needed by the public. In carrying out their duties and functions, advocates act as companions, advisors, or legal representatives for and on behalf of clients. Advocates can also act as mediators for parties in disputes, facilitators in seeking the truth and upholding justice, defending human rights, and providing free and independent legal representation. According to Satjipto Rahardjo, the role of an advocate is to safeguard the authority of the court. In this regard, advocates are tasked with ensuring that legal officials do not commit abuses that could harm the rights of the accused/defendant.⁷

The perpetrator of a crime (suspect) has the right to receive legal assistance from an advocate who has a better understanding of the law. One of the assistance provided by an advocate is in the criminal act of assisting the sexual exploitation of children in the case of decision No. xxx/Pid.Sus/2023/PN Date. The defendant was charged with committing a crime by intentionally assisting the sexual exploitation of children as regulated in Article 88 in

³Artidjo Alkostar, 2010, *The Role and Challenges of Advocates in the Era of Globalization*, FH UII Press, Yogyakarta, p. 1

⁴Ahmad Robhib and Umar Ma'ruf, *Legal Analysis of The Right of Advocate Immunity in The Criminal Act of Obstruction of Justice (Case Study of the Decision of the Central Jakarta District Court Number 84/Pid.sus-TPK/2023/PN.JKT.PST in conjunction with the Decision of the Jakarta High Court Number 12/PID.SUS-TPK/2024/PT.DKI)*, *Law Development Journal*, Volume 2 Issue 3, September 2020, p. 78

⁵Dian Dwi Jayanti, *This is the Role and Function of an Advocate in Criminal Cases*, <https://www.hukumonline.com>, accessed May 20, 2025.

⁶Akmaluddin, *The Role of Advocates in the Indonesian Judicial System*, *Ganeç Swara*, Vol. 8 No. 2, September 2014, p. 48

⁷Ahmatnijar, et al, 2024, *Advocates in Legal Assistance to Clients in Indonesia*, *Semesta Aksara*, Yogyakarta, p. 4

conjunction with Article 76I of Law Number 35 of 2024 concerning Child Protection in conjunction with Article 56 paragraph (2) of the Criminal Code, and was sentenced to imprisonment for 1 year and 5 months and a fine of IDR 10,000,000, - subsidiary to imprisonment for 3 months.

In this case, the legal counsel has provided assistance, where at the investigation level, it has provided arguments to the investigator that the perpetrator had no intention of committing a crime, because he was only a boarding house guard whose job was to clean the boarding house. The lawyer has tried to ask the investigator to conduct a re-examination of the police report, because during the initial examination, the suspect was not accompanied by a legal counsel, but the request was rejected by the investigator, while according to the suspect's statement, in the initial investigation he received pressure from the investigator. In this case, it finally continued to the judicial process and the suspect was given criminal sanctions, while the boarding house owner who should have been responsible was not touched by the law. This can certainly harm the public's sense of justice.

This study aims to examine and analyze the role of advocates in providing legal assistance to perpetrators of criminal acts that help carry out child sexual exploitation, obstacles and solutions.

2. Research Methods

The sociological-juridical approach uses descriptive analytical research specifications. The data used are primary and secondary data. Data collection methods include field studies and literature reviews, and the data analysis method is qualitative analysis.

3. Results and Discussion

3.1. The Role of Advocates in Providing Legal Assistance to Criminals Who Assist in Carrying Out Child Sexual Exploitation

In practice, judicial power is exercised by state judicial bodies. The primary duties of judicial bodies are primarily judicial, namely examining, trying, deciding, and resolving cases submitted by the public. This is as stated in Article 24 paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that the judicial power is an independent power to administer justice to uphold law and justice. Therefore, in addition to the executors of judicial power, namely the Supreme Court and the Constitutional Court, other bodies whose functions are related to judicial power must also support the implementation of an independent judicial power. One of these is the free, independent, and responsible legal profession as further regulated in Law Number 18 of 2003.⁸

Law Number 18 of 2003 concerning Advocates explicitly stipulates that an advocate is a person whose profession is to provide legal services both inside and outside the court, thus it can be said that an advocate is a law enforcer. An advocate as an enforcer is one of the

⁸Bambang Sutiyo, 2010, Justice Reform and Law Enforcement in Indonesia, UII Press, Yogyakarta, p. 3.

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instruments in the judicial process that has an equal or the same position as other law enforcers, such as the police, prosecutors and judges, in upholding law and justice.⁹

In general, there are two duties of an advocate in relation to law enforcement efforts, namely the duty to defend the interests of his client in court (legal assistance) by contributing his thoughts through legal arguments to the judge and to act as a consultant to the community.¹⁰

The role of advocates in assisting clients in the following cases of sexual exploitation is described in Decision Number xxx/Pid.Sus/2023/PN Date as follows:¹¹

1) Accompanying clients in examinations from investigation to trial

During the investigation phase, the advocate accompanied the client during the questioning. The advocate also filed a request for a suspension of detention for the suspect, both at the investigation and prosecution stages. However, neither the investigation nor the prosecution stage granted the request, citing the need to go through several procedures.

2) Providing legal guidance/advice to clients

The lawyer also gave instructions for the client to provide honest, consistent information that would not harm him/herself, and reminded the client not to be provoked by tricky questions from the authorities or the opposing party.

3) Submitting a de charge witness

In defense of the client, the attorney presented mitigating witnesses (de charge) during the examination, both during the investigation and during the trial. In the decision case No. xxx/Pid.Sus/2023/PN Date, two de charge witnesses were presented, with the hope that they could provide testimony and be used as considerations by the judge in imposing a lighter sentence.

4) Submit a defense memorandum

At the trial examination stage, the advocate made a defense by preparing a defense note that was read out in court. The defense made by the advocate in the case of decision Number xxx/Pid.Sus/2023/PN Date was that the legal team considered the Public Prosecutor's demand in imposing a prison sentence of 1 (one) year and 7 (seven) months on the defendant to be inappropriate and very burdensome for the defendant. How could the defendant be convicted if the elements charged by the Public Prosecutor were very burdensome for the defendant. The defendant has always been known as a good citizen who was raised in a good family environment.

⁹Luhut MP Pangarimbun, 2013, Criminal Procedure Law, Official Letters from Advocates in Court, Papas Sinar Sinanti, Jakarta, p. 56.

¹⁰ Jeremias Lemek, 2007, Seeking Justice: A Critical View of Law Enforcement in Indonesia, Galang Press, Yogyakarta, p. 55.

¹¹Results of an interview with Brian Halimawan Radityo, as an Advocate/Lawyer at the Law Office B&B Associates Tegal, dated August 29, 2025.

5) Supervise the course of the criminal justice process

Advocates can monitor the course of the criminal justice process to ensure that the process is carried out fairly and in accordance with the law.

Based on the description above, it can be seen that the role of advocates in providing legal assistance to perpetrators of crimes involving child exploitation is to provide legal assistance at every stage of the examination, from the investigation to the trial. Advocates also provide guidance to clients during each examination. During the trial, advocates prepare a defense memorandum to serve as a consideration for the judge in order to mitigate criminal penalties.

The role of advocates in providing legal assistance to perpetrators of crimes involving child sexual exploitation aligns with the duties and functions of advocates as stipulated in laws and regulations. In providing legal assistance, advocates act within their statutory authority.

3.2. Obstacles Faced by Advocates in Providing Legal Assistance to Criminals Who Help Commit Child Sexual Exploitation and Their Solutions

The obstacles encountered by advocates in providing legal assistance to perpetrators of criminal acts who assist in carrying out child sexual exploitation are:¹²

1) Difficulty communicating/negotiating with law enforcement officers

Communication between advocates and law enforcement officials is crucial for upholding ethical values and professionalism, building synergy in the law enforcement and justice process, and avoiding misunderstandings that could harm case handling. Effective communication must be conducted with mutual respect, maintain integrity, and avoid unethical interference with the legal process or mutually benefiting each other.

In practice, advocates have difficulty communicating/negotiating with law enforcement officials when assisting clients. In this case example, pThere was a time when an advocate was assisting a client, but it turned out that the client had already been examined and a police report (BAP) had been prepared without legal representation. In this case, the advocate requested that the BAP be refiled to reconcile the case description presented by the client to the advocate with the case description presented during the examination without the advocate. However, the request was denied.

The solution to this problem is for advocates to continue negotiating with law enforcement officials, both investigators and prosecutors, to protect their clients' rights. However, if communication is no longer possible, advocates must yield.

2) The legal system is not functioning properly

¹²Results of an interview with Brian Halimawan Radityo, as an Advocate/Lawyer at the Law Office B&B Associates Tegal, dated August 29, 2025.

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The legal system in Indonesia is not yet functioning properly. As is well known, law enforcement agencies in Indonesia are not limited to the police alone, but comprise several other institutions. Each of these agencies has distinct roles, duties, and authorities.

In Indonesia, there are four recognized pillars of law enforcement: the police, prosecutors, judges, and correctional institutions. With the enactment of the Advocates Law, one more of these four pillars has been added: advocates. The confirmation of advocates as one of the law enforcement officers has changed the term "four pillars" to "five pillars" of law enforcement. This provision is as stated in Article 5 paragraph (1) of the Advocates Law, which explains that advocates have the status of law enforcers, free and independent, which is guaranteed by law and statutory regulations. The meaning of advocates having the status of law enforcers is that advocates, as one of the instruments in the judicial process, have the same status and role as other law enforcement officers. This equality exists in terms of upholding law and justice.¹³

In practice, the position of lawyers is often at odds with other law enforcement officials. As advocates, they often face legal action against their clients. In this context, advocates represent their clients, whether they are victims of crime or perpetrators. Therefore, even though advocates are law enforcement officials, they are sometimes still viewed with disdain by other law enforcement officials.

In handling cases, and in negotiations with law enforcement officials, for example, when an advocate requests a suspension of detention, the law enforcement officials often demand bribes to secure the suspension. However, not all of the advocates' clients are wealthy. This certainly complicates the legal process for advocates. Even in other matters, if they want a case to proceed smoothly, law enforcement officials often demand bribes. This demonstrates that the legal system in Indonesia is not functioning properly. There are always bribes involved in everything.

The solution to overcome these obstacles is to continuously implement close oversight within every law enforcement agency to eliminate bribery payments. This way, advocates can fulfill their role as advocates and ensure their clients' rights are met.

3) Difficulty communicating with children when the client is a child

Children lack the maturity to think, making it difficult to understand legal terms. They also don't understand legal procedures, the meaning of legal assistance, or the consequences of their statements. In some cases, advocates struggle to communicate with children regarding the case. Furthermore, sometimes the child's statements differ from those of their parents. This naturally leaves advocates confused about which statements are true and which are false. Consequently, advocates are unsure of what action to take.

¹³Duties and Authorities of Law Enforcement Officers, <https://www.hukumonline.com>, accessed September 2, 2025.

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The solution to addressing this barrier is a persuasive approach, engaging in casual conversation without intimidating the child. Likewise, parents should be given an understanding to ensure that statements are truthful and reflect the actual situation.

4. Conclusion

The role of advocates in providing legal assistance to perpetrators of crimes that help carry out sexual exploitation of children is in line with applicable laws and regulations, namely the Advocates Law, the Criminal Procedure Code, and other relevant laws. Obstacles faced by advocates in providing legal assistance to perpetrators of crimes that help carry out sexual exploitation of children include difficulties in communication/negotiation with law enforcement officials, the ineffectiveness of the legal system, and difficulties in communicating with children when the client is a child. Going forward, advocates should truly carry out their role professionally and not hesitate to provide bribes to other law enforcement officials.

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