

## Legal Dialectics in Suspension of Minutes of Advocate's Oath: Professional Independence, Judicial Contestation, and Shadows *Contempt of Court*

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### Abstrak

*This research critically examines the suspension of the minutes of the oath of advocates Firdaus Oiwo, and Razman Arif Nasution, by the Ambon and Banten High Courts within the framework of a legal dialectic that reconciles the tension between advocate independence, judicial supremacy, and the limits of the concept of contempt of court. The main academic problem raised is how the court's authority to enforce trial discipline can conflict with the principle of due process of law and the doctrine of officium nobile which is the fundamental basis of advocate independence. Therefore, this research aims to analyze the legitimacy and juridical implications of freezing the advocate's oath as an instrument of control of the legal profession, as well as identifying the potential for abuse of judicial authority in the construction of Indonesian law. By using normative juridical methods through statutory, case and conceptual approaches which are analyzed hermeneutically-critically. The research results show that the suspension of the advocate's oath by the high court is not just an administrative action, but is a form of judicial intervention which has implications for weakening the independence of the legal profession. Even though it aims to protect the dignity of the judiciary, this action exceeds the limits of legitimate authority and is contrary to the principles of fair trial and due process of law. Apart from that, contempt of court in the Indonesian legal system still has regulatory ambiguity, so it can become a repressive instrument against advocates who are critical in the courtroom. This research recommends revising the contempt of court regulations so as not to limit the freedom of advocates and encourages guidelines that balance judicial authority and the independence of the legal profession, in order to prevent distortion of the rule of law and institutional delegitimization.*

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## 1. INTRODUCTION

The advocate profession as one of the main pillars in the justice system has an independent position in carrying out its duties as a law enforcer [1, pp. 533–544]. This independence is not just a normative necessity, but also a manifestation of principle *due process of law* which guarantees the right of every individual to obtain fair defense [2, pp. i–iv]. However, in practice, the relationship between advocates and judicial institutions is often under tension, especially in the context of judicial contestation involving actions that can be categorized as *contempt of court* [3, pp. 811–822].

One case that reflects this tension is case number 1057/Pid.B/2024/PN.Jkt.Utr. at the North Jakarta District Court, involving Advocate Firdaus Oiwo, S.H., and Advocate

Razman Arif Nasution, S.H. The trial, which took place on February 6 2025, received wide attention from various media because it gave rise to debate about the limits of lawyers' freedom in the courtroom. The two advocates were accused of causing a commotion which was deemed to have damaged the dignity of the judiciary, which resulted in the action of freezing the minutes of the advocate's oath by the Banten High Court with number: 52/KPT.W29/HM.1.1.1/II/2025 against Advocate a/n Firdaus Oiwo, S.H. and Ambon High Court with number: 44/KPT.W27/HM.1.1.1/II/2025 against Advocate a/n Advocate Razman Arif Nasution, S.H. This step sparked controversy, because apart from having an impact on the individual concerned, it also invited critical questions about the limits of the court's authority in enforcing judicial ethics and its implications for principles. *fair trial* as well as the independence of the advocate profession.

Academically, this phenomenon opens up a deep debate regarding legal dialectics in the relationship between advocates, courts and the supremacy of law. Suspension of an advocate's oath is not just an administrative action, but has broad juridical implications, especially in determining the objective parameters of an advocate's actions that can be categorized as ethical violations or *contempt of court*. Previous studies have focused more on the aspect of contempt of court as a form of harassment of the court from a criminal law perspective [3, pp. 811–822], [4, pp. 1134–1145], [5, pp. 1–16], [6, pp. 82–100], [7, pp. 107–126], but has not specifically reviewed the suspension of the advocate's oath as an instrument of professional limitation in the dynamics of judicial contestation.

The academic gap (research gap) in this study lies in the absence of a systematic discussion regarding the legitimacy of freezing an advocate's oath in the broader legal landscape, especially in relation to advocate freedom, due process of law, and the limits of judicial authority. Existing legal studies focus more on the ethical aspects of the advocate profession [8, pp. 795–805], [9, pp. 233–246], [10, pp. 1–13], [11, pp. 10498–10503] and implementation *contempt of court* in criminal justice as previously mentioned, but has not yet discussed in depth the structural implications of freezing the oath on the existence of advocates as independent legal subjects. Therefore, this research not only attempts to fill this academic void, but also offers a new perspective on the constitutionality and legitimacy of freezing an advocate's oath in a more holistic legal construction.

The significance of this research lies in its efforts to offer a sharper analytical framework in understanding the relationship between the independence of the advocate profession and the authority of the court in maintaining court order. By exploring the juridical and sociological dimensions of this phenomenon, this research can be a reference in formulating more proportional legal standards regarding the mechanism for restricting advocates who are deemed to interfere with the proceedings, without harming the principle of independence of the legal profession itself. Apart from that, this research also contributes to formulating clearer normative boundaries regarding action *contempt of court*, so that it is not used as a repressive tool that can reduce the role of advocates as guardians of justice.

This research aims to analyze the legitimacy and juridical implications of freezing an advocate's oath in the Indonesian judicial context. In addition, this research explores the limits of law in determining whether the court's actions have a legitimate basis or are contrary to principal *due process of law*. From the aspect of novelty (*novelty*), this research offers an integrative approach that links the problem of freezing lawyers' oaths with the supremacy of law, freedom of proceedings, and judicial contestation as an arena of tug-of-war between lawyers and the courts.

## 2. RESEARCH METHOD

This research departs from a normative juridical approach which relies on literature review or *library research* [12, p. 16] to examine legal norms, doctrine and court decisions

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regarding the suspension of the minutes of the advocate's oath [13, p. 219]. This approach is used to understand the legal construction that underlies judicial authority over the advocate profession and its implications for the principle of judicial independence. Thus, this research not only examines normative aspects in legal texts, but also examines how these norms are interpreted and applied in judicial practice, especially in cases that are currently in the spotlight.

As part of legal research, this analysis is based on three main complementary approaches [14, p. 93]. *First*, legislative approach (*statute approach*) is used to identify the legal basis that is the basis for freezing the minutes of an advocate's oath, both in Law Number 18 of 2003 concerning Advocates and other related regulations. *Second*, conceptual approach (*conceptual approach*) is applied to explore theoretical ideas that support the independence of the advocate profession as well as the application of concepts of contempt of court in controlling the behavior of advocates in the courtroom. This approach is enriched by an analysis of the thoughts of legal experts regarding the limits of court intervention in advocate organizations and the implications for the wider justice system. *Third*, case approach (*case approach*) focused on studying legal events in case Number: 1057/Pid.B/2024/PN.Jkt.Utr at the North Jakarta District Court, which involved two advocates, Firdaus Oiwo, S.H. and Razman Arif Nasution, S.H., who allegedly caused a disturbance during the trial. Through this approach, the research describes the juridical construction behind the suspension of the minutes of the advocate's oath and the consequences for the relationship between the judiciary and the advocate profession.

Data collection was carried out through document studies covering primary legal sources, such as statutory regulations and court decisions; secondary legal sources, in the form of law books, academic journals, and legal expert opinions; as well as tertiary legal sources, which include legal dictionaries, encyclopedias, and other reference materials. The collected data was then analyzed using the deductive-inductive legal analysis method, namely by systematically examining legal norms and comparing them with the reality of judicial practice.

The analytical model used in this research adopts interpretative methods and legal hermeneutics [15, pp. 63–64], which aims to reveal the meaning behind the regulations governing the role of advocates as well as the limits of the court's authority in freezing the minutes of an advocate's oath. This analysis was carried out through three main stages. *First*, textual analysis, namely examining the substance of the rules that apply in legal texts. *Second*, contextual analysis, which highlights the implementation of legal norms in judicial practice, especially in the cases studied. *Third*, critical analysis, which evaluates the dynamics of power relations between judicial institutions and advocate organizations in the context of law enforcement.

In order to ensure the validity of the research, source triangulation techniques were used, namely by comparing findings from various different legal sources in order to obtain a comprehensive and unbiased understanding. Additionally, approach *legal reasoning* applied to test the coherence of legal arguments put forward in the various literature and court decisions analyzed. The reliability of this research is maintained by ensuring that all data used comes from valid legal sources and can be retested by other research. Consistency in legal analysis methods is also maintained by using a clear and systematic analytical framework. Thus, the results of this research are not only descriptive, but also analytical and argumentative in building a more complete legal framework regarding the dialectics of freezing minutes of advocates' oaths.

With this approach, it is hoped that this research can provide a significant academic contribution in clarifying the limits of judicial authority over the advocate profession as

well as formulating a more comprehensive legal basis regarding the independence of advocates in the Indonesian justice system.

### 3. RESEARCH RESULTS AND DISCUSSION

In real law enforcement, freezing minutes of advocates' oaths is a phenomenon that not only touches the administrative aspects of the profession, but also penetrates legal dialectics involving advocate independence, judicial authority and the boundaries of *contempt of court*. Based on the normative juridical study that has been carried out, the incident of freezing the minutes of the advocate's oath arising in case Number: 1057/Pid.B/2024/PN.Jkt.Utr cannot be separated from the tug-of-war between the supremacy of the court in maintaining the dignity of the judiciary and the fundamental rights of advocates as *a noble office* in the Indonesian legal system.

#### 3.1. Independence Advocates in Judicial Contestation: A Paradox

Advocate independence is a fundamental element in a democratic justice system. Advocates act as free and independent law enforcers, as regulated in Article 5 paragraph (1) of Law Number 18 of 2003 concerning Advocates [16, pp. 1–23]. These principal mandates that advocates in carrying out their duties must be free from all forms of pressure, whether from the executive, legislative or judiciary. However, the case of freezing the minutes of advocates' oaths that befell Razman Arif Nasution and Firdaus Oiwobo shows a paradoxical reality: the independence of advocates comes face to face with judicial authority in a legal contestation that risks the legitimacy of both.

The suspension of the minutes of the advocate's oath by the Chairman of the Ambon High Court and the Chairman of the Banten High Court gave rise to a complex legal debate. This decision was based on the argument that the actions of the two advocates in the trial of case Number: 1057/Pid.B/2024/PN.Jkt.Utr had caused a commotion that threatened the dignity of the judiciary. In this context, the action of freezing the minutes of the advocate's oath by the high court is part of the affirmative steps taken to maintain the dignity of the judicial institution. However, from the perspective of professional independence, this action is actually considered a form of silencing advocates in carrying out their duties. This situation raises a fundamental question: to what extent does the court have the authority to revoke or freeze the status of an advocate who has been legally sworn in?

In the context of normative law, the authority to grant and revoke advocate status is in principle in the domain of advocate organizations, not in the hands of the courts. Article 12 paragraph (1) of Law Number 18 of 2003 concerning Advocates states that supervision of advocates is carried out by advocate organizations, not judicial institutions. Therefore, the action of freezing the lawyer's oath minutes carried out by the high court sparked a juridical controversy because it had the potential to conflict with principles of self-regulation in the lawyer profession.

Furthermore, this court action can be seen in prospective *contempt of court*, where advocates who are deemed to have created noise during the trial may be subject to ethical or even criminal sanctions. However, in a legal system that upholds *due process of law*, any action that has implications for professional restrictions must be carried out through a mechanism that is in accordance with the applicable law and code of ethics. In this case, the mechanism that should be taken is through the Honorary Council of Advocates, not through a unilateral decision from the high court.

This dynamic reflects the tension between the independence of advocates and the supremacy of the court in maintaining court order. On the one hand, advocates have the right and obligation to defend their clients optimally, including with aggressive

strategies and critical arguments against judges and prosecutors. On the other hand, the court has an obligation to ensure that trials take place in an orderly and dignified manner. This contestation, if not managed properly, can lead to abuse of authority on the part of both advocates and the judicial institution itself.

The broader implications of this case are the potential precedent for other high courts in taking similar action against advocates who are deemed to be "disrupting" the course of trials. If this happens widely without a clear legal basis, the independence of advocates will be further eroded, and the courts have the potential to become instruments for limiting freedom of expression in the courtroom. Therefore, legal clarity is needed regarding the limits of the court's authority in imposing sanctions on advocates, so that there is no overlap between judicial authority and the mechanism for enforcing the advocate's code of ethics.

In the long term, strengthening dialogue and cooperation between judicial institutions and advocate organizations is the key to building a more balanced and fair legal system. By clarifying the limits of authority of each institution, it is hoped that similar polemics will not occur again which could damage the dignity of the judiciary or weaken the independence of advocates in carrying out their profession.

### **3.2. Discretion Judicial and Regulatory Ambiguity**

Judicial authority has limitations that must comply with applicable legal principles. Article 53 paragraph (3) of Law Number 49 concerning the Second Amendment to Law Number 2 of 1986 concerning General Courts regulates that the high court has the authority to supervise the administration of justice within its jurisdiction [17, pp. 1–17], but does not explicitly have the authority to revoke or suspend advocate status. Thus, the action of freezing the minutes of an advocate's oath exceeds the administrative authority of the high court and enters the realm of professional regulation.

Use of judicial discretion [18, pp. 18–24] in this case is based on the argument of protecting the dignity of the judiciary. However, without clear regulations, this discretion can become an instrument that limits the freedom of advocates in carrying out their profession. In a legal system that prioritizes legal certainty, all forms of restrictions on professional status must have an explicit legal basis and not depend on the subjective interpretation of judicial officials. In practice, the judicial discretion used in suspending an advocate's oath presents significant regulatory ambiguity. On the one hand, the court has the authority to enforce court order, but on the other hand, this action raises questions regarding the juridical legitimacy of decisions that have implications for the advocate profession. Without clear boundaries, this discretion risks being misused and creates legal uncertainty for the advocate profession.

The action of the Ambon and Banten High Courts in freezing the minutes of an advocate's oath without going through a proper legal review mechanism has raised ethical and normative debates. In a democratic legal system, any restrictions on professional rights must be tested through accountable and transparent mechanisms. The use of discretion without a strong legal basis can create authoritarian judicial practices and has the potential to harm the principles of justice [18, pp. 18–24]. Stricter regulations are needed to regulate the limits of the court's authority in supervising advocates. The existence of ambiguous regulations opens up gaps for different legal interpretations, which in the end can lead to legal uncertainty in the advocate profession. Therefore, revision of the regulations governing the authority of courts and advocate organizations is an urgency.

A more transparent and participatory approach in interpreting court powers needs

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to be implemented. A consultative mechanism with advocate organizations in cases related to professional discipline can be one solution to reduce regulatory uncertainty and ensure that every action taken is in line with the principles of justice. Standardization of regulations in restricting lawyers in trials must be made clearer in order to create legal certainty and avoid abuse of authority. This clarity will help create a balance between the supremacy of law and the rights of the advocate profession.

### 3.3.Shadows *Contempt of Court*: Between Trial Discipline and Professional Silencing

Draft *contempt of court* or contempt of court is a legal instrument that aims to maintain authority and order in the judicial process. Normatively, *contempt of court* includes various actions that are considered to disrupt the course of trials, whether in the form of inappropriate behavior, interference with judicial independence, or disobedience to court orders [4, pp. 1134–1145], [6, pp. 82–100]. In the Indonesian legal system, provisions regarding contempt of court have been regulated in Articles 279-285 of Law Number 1 of 2023 concerning the Criminal Code [19, pp. 1–345]. However, the application of this concept in the case of freezing the minutes of an advocate's oath raises a fundamental question: is this action a legitimate form of enforcing trial discipline, or is it instead a tool of silencing the advocate profession?

Juridically, advocates have the position of independent law enforcers, as regulated in Article 5 paragraph (1) of Law Number 18 of 2003 concerning Advocates [16, pp. 1–23]. As part of the justice system, advocates cannot be separated from broader judicial functions. However, in practice, the tendency of mechanisms *contempt of court* used repressively to control the role of advocates in the courtroom, as if it were a tool for the court to limit freedom of speech and the role of advocates in defending the interests of their clients. This condition is supported by research that reveals regulations *contempt of court* as stated in Article 279-285 of Law Number 1 of 2023 concerning the Criminal Code [19, pp. 1–345] has the potential to become a tool to silence freedom of expression, so in its recommendations there needs to be steps to improve this situation in order to maintain democracy and human rights in Indonesia [20, pp. 21–31].

In the context of this case, the suspension of the minutes of the advocate's oath carried out by the Ambon High Court and the Banten High Court can be categorized as a judicial sanction that exceeds the limits of authority in the mechanism. *contempt of court*. If an advocate's actions are deemed to violate trial ethics, the procedure that should be followed is through a warning mechanism, administrative sanctions, or reporting to an advocate organization. By freezing the advocate's oath, the Ambon and Banten high courts not only enforced court order, but also directly revoked the advocate's legal status without going through a proportional and transparent procedure.

Furthermore, the application of contempt of court should not be contrary to principal *due process of law*. In a democratic justice system, every legal action must have a clear normative basis and can be tested through an objection or appeal mechanism. If the high court has absolute authority to suspend an advocate's oath on the basis of contempt of court without giving the advocate the right to defend themselves, then this action has the potential to violate the principles of procedural justice [2, pp. i–iv]. This is also against the basics: listen to the other side, which guarantees each party's right to be heard before being sanctioned.

In addition, in various cases in other countries, abuse of contempt of court is often criticized because it tends to suppress freedom of speech and hinders the work of advocates in carrying out their duties. In the United States, for example, courts have held that *contempt of court* must be applied with strict limits to avoid abuse of authority

by judges [21, pp. 181–247]. The same thing happened in England, where implementation of *contempt of court* must go through clear procedures and can be tested through a higher judicial system [22, pp. 1913–1958].

Thus, the act of freezing an advocate's oath in this case can be seen as a form of excessive judicial discretion. If left without a clear control mechanism, this could create a “dangerous” precedent that could allow the high court to take similar action against other advocates in the future. Therefore, it is necessary to revise stricter regulations regarding implementation of *contempt of court* so that it is not used arbitrarily to limit the role of advocates in the justice system.

To avoid potential abuse, it is important for the Supreme Court and advocate organizations to formulate more specific guidelines regarding the limits of the court's authority in imposing sanctions on advocates. With the existence of a stricter monitoring mechanism, it is hoped *contempt of court* can be used proportionally as a law enforcement tool, not as an instrument to silence the advocate profession.

Ultimately, the supremacy of law can only be realized if all elements in the justice system carry out their authority transparently, accountably, and in accordance with the principles of justice. The independence of advocates must be maintained as part of a balanced legal system, while the court's authority to enforce trial discipline must be limited so that it does not become a tool of repression that harms the fundamental rights of other law enforcers.

### Critical Reflection and Normative Implications

The findings of this research lead to a critical reflection that freezing the minutes of the advocate's oath in case Number: 1057/Pid.B/2024/PN.Jkt.Utr is more than just an administrative action, but is part of a broader legal dialectic between the independence of the advocate profession and the supremacy of the court in maintaining court order. Normatively, this action does not have an explicit legal basis, thus opening up space for varied judicial interpretations and potentially giving rise to arbitrary legal practices.

From the perspective of procedural justice theory (*procedural justice theory*), the practice of freezing an advocate's oath without a further testing mechanism is a violation of the principle *due process of law*. The absence of an appeal or objection mechanism to this decision has the potential to give rise to a crisis of confidence in the judicial system, especially in the context of protecting the rights of advocates in carrying out their duties.

This research recommends clearer and more structured regulations regarding the court's authority to deal with advocates who are deemed to have violated trial ethics. Apart from that, there needs to be a material review mechanism or appeal procedure in the case of freezing the minutes of an advocate's oath to prevent potential abuse of authority. Thus, this study not only presents a conceptual analysis of the events that occurred, but also contributes to the formulation of more comprehensive legal arguments to clarify the limits of the court's authority over the advocate profession and the urgency of regulatory reform in the Indonesian legal system.

## 4. CONCLUSION

Based on the results of this research, it can be concluded that the application of *contempt of court* in the context of the suspension of the advocate's oath by the Ambon High Court and the Banten High Court, creates various significant legal and ethical implications. Even though it aims to enforce trial discipline, this action has the potential to exceed the limits of the authority that the high court should have. This poses challenges to the independence of the advocate profession and opens up opportunities for abuse of authority in the justice system. In addition, this research highlights the need for regulatory

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revisions that are stricter in implementation *contempt of court* so that it is not used as a tool to silence advocates. Principle *due process of law* must be upheld, by ensuring that there is a mechanism for objections and self-defense for advocates who are subject to sanctions. Advocate organizations and the Supreme Court have an important role in ensuring that judicial authority is used in a transparent and accountable manner. Ultimately, the supremacy of law can only be realized if every element in the justice system carries out its duties and authority in accordance with the principles of justice. In the future, more constructive dialogue is needed between judicial institutions and advocate organizations to create a legal system that is balanced, fair and not repressive towards the freedom of the legal profession.

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