

Professional Ethics of Legal Consultants in Handling Copyright Cases in Indonesia

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ABSTRACT

This article examines the professional ethics history: of legal consultants in handling copyright cases in Indonesia. The research employs a normative legal methodology with statute, conceptual, and case approaches. The study analyzes the ethical obligations of legal consultants under the Indonesian Advocate Code of Ethics, Law Number 18 of 2003 concerning Advocates, and Law Number 28 of 2014 concerning Copyright. The findings reveal that the ethical principles of independence, integrity, confidentiality, and conflict of interest management constitute the fundamental pillars governing legal consultants in copyright dispute resolution. The implementation of these ethical standards faces significant challenges due to the complexity of copyright law, the digital transformation of creative industries, and the commercial pressures inherent in legal practice. The article recommends the strengthening of oversight mechanisms, the development of specialized ethical guidelines for intellectual property practitioners, and the establishment of continuous professional education programs to enhance ethical compliance among legal consultants.

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1. INTRODUCTION

The protection of intellectual property rights, particularly copyright, constitutes one of the fundamental pillars supporting the development of creative industries and the advancement of knowledge-based economies in Indonesia [1]. The enactment of Law Number 28 of 2014 concerning Copyright (hereinafter referred to as UUHC 2014) marked a significant legislative milestone in strengthening the legal framework for copyright protection, replacing the previous Law Number 19 of 2002 [2]. This legislative reform was

necessitated by the rapid digital transformation that has fundamentally altered the landscape of creative content production, distribution, and consumption [3].

In the context of copyright dispute resolution, legal consultants play a pivotal role as intermediaries between creators, rights holders, and the judicial system [4]. The profession of legal consultancy, governed by Law Number 18 of 2003 concerning Advocates and the Code of Ethics of the Indonesian Advocate (Kode Etik Advokat Indonesia), demands the highest standards of

professional conduct [5], [6]. Legal consultants are entrusted with the responsibility of safeguarding the intellectual property rights of their clients while simultaneously upholding the ethical imperatives of their profession.

The intersection between copyright law and legal ethics presents unique challenges that have not been adequately explored in existing legal scholarship. Copyright cases often involve complex technical issues, substantial economic interests, and intricate factual matrices that test the ethical boundaries of legal practice [7]. The principles of independence, integrity, confidentiality, and the avoidance of conflicts of interest assume heightened significance in this specialized domain of legal practice.

This article seeks to examine the ethical obligations of legal consultants in handling copyright cases in Indonesia, analyzing the normative framework governing their professional conduct and identifying the practical challenges encountered in the implementation of ethical standards. The research contributes to the existing body of knowledge by providing a comprehensive analysis of the interplay between copyright law and professional ethics, offering recommendations for the enhancement of ethical compliance mechanisms within the legal profession.

2. LITERATURE REVIEW

2.1 *Theoretical Foundations of Legal Professional Ethics*

The theoretical underpinnings of legal professional ethics can be traced to the concept of *officium nobile*, which characterizes the legal profession as a noble calling dedicated to the administration of justice [8]. According to [9], the legal profession must be understood not merely as a commercial enterprise but as a social institution entrusted with the critical function of upholding the rule of law and protecting

individual rights. This perspective aligns with the progressive law paradigm, which emphasizes that law should serve human welfare and substantive justice rather than merely enforcing formal legal rules [10].

[11], in his seminal work on legal research methodology, emphasizes that the study of legal ethics requires an interdisciplinary approach that integrates normative legal analysis with sociological and philosophical perspectives. The normative dimension examines the formal rules and regulations governing professional conduct, while the sociological dimension investigates the actual behavior of legal practitioners within their professional environments [12].

2.2 *Copyright Law and the Role of Legal Consultants*

Copyright law in Indonesia is primarily governed by UUHC 2014, which defines copyright as the exclusive right of the creator that arises automatically based on the declarative principle after a work is realized in a tangible form [13]. The law distinguishes between moral rights and economic rights, providing comprehensive protection for various categories of creative works including literary works, artistic works, computer programs, and traditional cultural expressions.

Legal consultants specializing in copyright matters are required to possess specialized knowledge encompassing not only the substantive provisions of copyright law but also the procedural mechanisms for enforcement [14]. The complexity of copyright

disputes, which frequently involve technical evidentiary issues such as originality assessment, substantial similarity analysis, and fair use determinations, demands that legal consultants maintain a high degree of professional competence [15].

2.3 *Ethical Principles in Legal Practice*

The ethical framework governing legal consultants in Indonesia is established through the Code of Ethics of the Indonesian Advocate (Kode Etik Advokat Indonesia), which sets forth the fundamental principles of professional conduct [16]. These principles include independence, integrity, confidentiality, loyalty to clients, and the avoidance of conflicts of interest. According to [17], the sociological study of legal professions reveals that ethical compliance is influenced by both internal professional norms and external regulatory pressures.

[18], in his analysis of constitutional law and professional governance, argues that the ethical obligations of legal practitioners are rooted in the constitutional mandate to establish a state based on law (*rechtsstaat*) that respects human dignity and protects fundamental rights. This constitutional foundation elevates professional ethics from mere professional courtesy to a matter of constitutional significance [19].

3. METHODS

This research employs a normative legal methodology, which is defined by [20] as a process of discovering legal rules, principles, and doctrines to answer legal

problems. The normative approach is appropriate for this study because the research questions primarily concern the interpretation and application of legal norms governing professional ethics in copyright practice [21].

The research utilizes three complementary approaches. First, the statute approach (*pendekatan perundang-undangan*) examines all relevant legislation, including UUHC 2014, Law Number 18 of 2003 concerning Advocates, and the Code of Ethics of the Indonesian Advocate [21]. Second, the conceptual approach (*pendekatan konseptual*) analyzes the theoretical foundations of legal ethics, drawing upon the works of Satjipto Rahardjo, Soerjono Soekanto, and other Indonesian legal scholars [21]. Third, the case approach (*pendekatan kasus*) examines relevant court decisions and disciplinary proceedings involving legal consultants in copyright matters.

Data collection is conducted through library research (*studia dokumentasi*), involving the systematic review of primary legal materials (statutes, regulations, and court decisions) and secondary legal materials (textbooks, journal articles, and academic commentaries) [22]. The data analysis employs qualitative legal analysis, which involves the identification of legal facts, the discovery of applicable legal norms, and the application of those norms to the factual circumstances under examination.

4. RESULTS AND DISCUSSION

4.1 *Ethical Obligations of Legal Consultants in Copyright Cases*

The ethical obligations of legal consultants handling copyright cases are multifaceted and derive from multiple sources of legal authority. Under Article 19 of Law Number 18 of 2003 concerning Advocates, legal consultants are obligated to maintain the confidentiality of all information obtained from clients in the course of their professional relationship [23]. This obligation extends beyond the termination of the attorney-client relationship and constitutes

one of the most fundamental ethical duties in legal practice [24].

The Code of Ethics of the Indonesian Advocate, specifically Article 4 paragraph (h), reinforces this obligation by stipulating that advocates must maintain professional secrecy regarding matters entrusted to them by clients [25]. In the context of copyright cases, this confidentiality obligation is particularly significant because clients often disclose sensitive commercial information, trade secrets, and creative processes that could be exploited by competitors if improperly revealed [26].

The principle of independence, as articulated in Article 5 of Law Number 18 of 2003, establishes that advocates are free and independent in the exercise of their professional duties. This independence must be understood in both its external and internal dimensions. External independence requires that legal consultants remain free from undue influence by third parties, including government authorities, commercial interests, and opposing parties. Internal independence demands that legal consultants exercise independent professional judgment in advising clients, even when such advice may be contrary to the client's initial expectations or preferences [27].

4.2 The Principle of Integrity and Professional Competence

Integrity constitutes the cornerstone of legal professional ethics and encompasses honesty, moral uprightness, and adherence to ethical principles even in the face of competing pressures [28]. In copyright practice, the integrity principle manifests in several specific obligations. Legal consultants must provide accurate and complete advice regarding the merits of copyright claims, avoiding the temptation to overstate the strength of a client's position in order to secure engagement or maximize fees [29].

Professional competence in copyright matters requires specialized knowledge that extends beyond general legal training. UUHC 2014 introduces complex provisions regarding the protection of traditional cultural expressions, the management of

collective rights, and the digital exploitation of copyrighted works. Legal consultants must maintain current knowledge of these developments through continuous professional education and practical experience [30].

The integrity principle also prohibits legal consultants from engaging in practices that could compromise the administration of justice. Article 4 paragraph (b) of the Code of Ethics prohibits advocates from providing misleading information to clients regarding the cases they handle. In copyright litigation, this prohibition is particularly relevant to the assessment of damages, where consultants must provide realistic evaluations rather than inflated projections designed to encourage litigation [3].

4.3 Confidentiality and the Protection of Client Information

The duty of confidentiality in legal practice serves multiple important functions. It encourages clients to provide complete and accurate information necessary for effective legal representation, protects sensitive commercial interests, and maintains public trust in the legal profession [6]. In copyright cases, the confidentiality obligation assumes particular importance because the subject matter of representation often involves valuable intellectual property assets whose disclosure could result in irreparable competitive harm [4].

The scope of the confidentiality obligation under Indonesian law is comprehensive. Article 19 paragraph (2) of Law Number 18 of 2003 extends protection to all documents, files, and electronic communications between legal consultants and their clients. This protection encompasses not only the substantive content of client communications but also the mere fact of the attorney-client relationship itself [8].

However, the confidentiality obligation is not absolute. Legal consultants may be required to disclose confidential information when mandated by law or when necessary to prevent imminent harm to third parties [9]. The balancing of confidentiality

against competing interests requires careful ethical judgment and should be guided by the principle that exceptions to confidentiality should be narrowly construed [1].

4.4 Conflict of Interest in Copyright Practice

The management of conflicts of interest represents one of the most challenging ethical issues in legal practice. Article 4 paragraph (j) of the Code of Ethics requires that advocates who handle the joint interests of two or more parties must withdraw completely from representing those interests if a conflict of interest arises between the parties. This provision reflects the fundamental principle that a legal consultant cannot simultaneously serve the interests of clients whose positions are adverse to one another [15].

In copyright practice, conflicts of interest may arise in various scenarios. A legal consultant who previously represented a software developer in licensing negotiations may face a conflict if subsequently engaged by a competitor seeking to challenge the validity of the same software copyright [2]. Similarly, a consultant representing multiple authors in a collective work may encounter conflicts if disputes arise regarding the allocation of royalties or attribution rights [26].

The duty of loyalty to former clients also imposes significant constraints on legal consultants. Information obtained during a prior representation may not be used to the disadvantage of the former client, even if the information is not technically protected by the confidentiality obligation. This duty prevents legal consultants from exploiting inside knowledge gained through prior professional relationships [27].

4.5 Implementation Challenges and Practical Considerations

The implementation of ethical standards in copyright practice faces several practical challenges. The commercial pressures inherent in legal practice may create incentives to compromise ethical standards in pursuit of financial gain. The competitive nature of the legal services market, combined

with the high stakes often involved in copyright disputes, can test the ethical resolve of even the most conscientious practitioners.

The digital transformation of creative industries has introduced new ethical complexities. The proliferation of online content creation, social media platforms, and digital distribution channels has expanded the scope of copyright practice while simultaneously complicating the factual and legal issues involved. Legal consultants must navigate these complexities while maintaining their ethical obligations, requiring both technical competence and moral discernment.

The disciplinary mechanisms for enforcing ethical standards are administered by the Honor Council (Dewan Kehormatan) of the Indonesian Advocate Organization. Article 7 of Law Number 18 of 2003 provides for graduated sanctions ranging from verbal warnings to permanent disbarment, depending on the severity of the ethical violation. However, the effectiveness of these enforcement mechanisms depends on the willingness of affected parties to file complaints and the capacity of the Honor Council to conduct thorough investigations.

5. CONCLUSION

The ethical obligations of legal consultants in handling copyright cases in Indonesia are grounded in a comprehensive normative framework comprising statutory law, professional codes, and constitutional principles. The principles of independence, integrity, confidentiality, and the avoidance of conflicts of interest constitute the essential pillars of professional conduct that must guide legal consultants in their practice (Sidharta, 2004: 267). The implementation of these ethical standards faces significant challenges arising from the complexity of copyright law, the commercial pressures of legal practice, and the evolving technological landscape of creative industries.

The research findings indicate that while the existing legal framework provides adequate normative guidance for ethical conduct, the effectiveness of ethical

compliance depends on the internalization of ethical values by individual practitioners and the robustness of external oversight mechanisms. Strengthening the disciplinary functions of professional organizations, developing specialized ethical guidelines for intellectual property practitioners, and establishing mandatory continuing legal education programs focused on professional

ethics are recommended measures to enhance ethical compliance in copyright practice.

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