The Digest:
Journal of Jurisprudence and Legisprudence
Vol. 6 Issue 1 (2025) 47-80
DOI: https://doi.org/10.15294/digest.v6i1.27462
Available online since: June 26, 2025

Juridical Implications of the Constitutional Court Decision Number 150/PUU-XXII/2024 on Legal Aid Provision in Indonesia

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Abstract

The provision of legal aid is a crucial aspect of law enforcement and access to justice, especially for underprivileged communities. However, the limited number of advocates and their uneven distribution has hindered the effectiveness of legal aid. One potential solution is involving civil servant lecturers (PNS) as advocates, although this was previously obstructed by the provisions in Law Number 18 of 2003 concerning Advocates. The Constitutional Court Decision Number 150/PUU-XXII/2024 granted legal standing for PNS lecturers to become advocates and participate in

providing legal aid. This study, using a normative juridical method with a qualitative approach, found significant legal implications, such as the conditional unconstitutionality of two articles in the Advocate Law, the expansion of the definition of "advocate," and the recognition of PNS lecturers, including government-contracted lecturers (PPPK), as eligible to represent clients in court. Previously, ASN lecturers were restricted from litigating and lacked technical regulations to support such roles. Following this decision, there is a need to harmonize regulations, establish ethical oversight bodies, expand lecturers' community service roles, improve teaching quality, and manage potential conflicts of interest. This study recommends revising the Advocate Law, issuing implementing regulations, strengthening university institutional frameworks, enhancing ministry-level oversight, and conducting public outreach on lecturers' new role in expanding access to justice.

Keywords
Juridical Implications; Constitutional Court Decision; Legal Aid.

I. Introduction

A country that adheres to the principles of a rule of law, both individuals and the government are bound by the constitution and subject to the provisions of laws and regulations. The rule of law also requires the state to ensure equality for every individual before the law, to recognize, respect, and protect the rights possessed by its citizens, to treat them equally before the law, and to provide equal access to law and justice for

all the people of Indonesia or access to law and justice[1]. This is affirmed in Article 27 paragraph (1) and Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states that all citizens have the right to recognition, protection, certainty, and to receive equal status and treatment before the law.

The provision of legal assistance is a tangible implementation of the constitutional mandate, the fulfillment of which holds a very important and fundamental position. It not only reflects legal protection and equality but also serves as the main foundation in realizing a fair and impartial judicial system (fair trial)[2]. Legal assistance is one form of guarantee for the protection of human rights, particularly for suspects or defendants, ensuring that they receive humane treatment from law enforcement officials. This becomes even more crucial for individuals from economically disadvantaged groups who lack adequate understanding of the legal rights they possess. Therefore, the provision of legal assistance is expected to ensure the constitutional rights of every individual to receive proper legal aid, while also accommodating the need for legal protection for the underprivileged in facing the legal issues they encounter.[3]

Regulations regarding the provision of legal assistance in Indonesia are currently outlined in various laws and regulations. In Article 1, number 1 of Law Number 16 of 2011 on Legal Aid (hereinafter referred to as the Legal Aid Law), it is explained that legal

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1 Frans Hendra Winarta, *Pro Bono Publico* (Jakarta: Gramedia Pustaka Utama, 2009). hal 1

2 Febri Handayani, *Bantuan Hukum Di Indonesia* (Yogyakarta: Kalimedia, 2016). hal 131

3 Zulkifli, La Ode Husen, dan Askari Razak, "Pemberian Bantuan Hukum Bagi Masyarakat Miskin Oleh Negara Dalam Perspektif Hak Asasi Manusia," *Journal of Lex Generalis (JLS)* 3, no. 8 (2022): 1424–36. hal 1426

assistance is a legal service provided free of charge by the provider to the recipient of the assistance.[4]

Advocates are a key component in providing legal assistance in Indonesia. This is mandated in Article 22 paragraph (1) of the Advocate Law, which requires advocates to provide legal aid free of charge to those in need. However, the current situation shows that the number of advocates still has a significant gap when compared to the population of Indonesia. Today, the number of advocates in Indonesia is at most no more than 90,000 individuals,[5] Meanwhile, the population of Indonesia, according to data from BPS (Statistics Indonesia) in May 2025, is 284.4 million people.[6] With this population, the ratio between the number of advocates and the number of people is 1:3,160. In comparison, the ratio of advocates to the population in the United States is 1:274, in Singapore 1:1,203, and in Malaysia 1:1,887.[7] This data is concerning, considering that there are currently at least 53 advocate organizations in Indonesia,[8] However, this number has not

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4 Sonny Saptoajie Wicaksono, Gabrielle Poetri Soebiakto, dan Ridwan Arifin, "Legal Aid for the Victims of Domestic Violence: Problems and Challenges," *The Indonesian Journal of Internasional Clinical Legal Education* 3, no. 2 (30 Juni 2021): 139–50, https://doi.org/10.15294/ijicle.v3i2.47936. hal 142

5 Deddi Fasmadhy, . ". Efektifkah Jumlah Pengacara Dengan Batasan Resources Jumlah Desa Pada Masalah Hukum Di Indonesia?," https://liputanterkini.co.id/2024/07/26/efektifkah-jumlah-pengacara-dengan-batasan-resources-jumlah-desa-pada-masalah-hukum-di-indonesia/, 2023.

6 Badan Pusat Statistik RI, "Statistik Indonesia 2025" (Jakarta, 2025). hal 3

7 Yosua Lamsar, "Penerapan Dan Tinjauan Yuridis Pasal 3 Ayat (1) Huruf G Undang - Undang Nomor 18 Tahun 2003 Tentang Advokat," https://rechtsvinding.bphn.go.id/?page=artikel&berita=943, 2024.

8 Iwan Sutiawan, "Ada 53 Organisasi Advokat, PKPA Peradi Jakbar-Iblam: Hanya Ada Satu Wadah Tunggal. ," https://www.gatra.com/news-571477-hukum-ada-53-organisasi-advokat-pkpa-peradi-jakbar-iblam-hanya-ada-satu-wadah-tunggal.html., 2023.

been sufficient to produce advocates with the quality and quantity needed by society. Therefore, there is a need to expand the provision of legal assistance so that it is not only provided by advocates, but also by other parties, including universities through lecturers.

The provision of legal assistance by universities through their legal aid services is one form of legal aid implementation and represents an effort to break the boundaries of educational institutions, extending beyond the academic realm to the practical domain. This initiative aims to provide assistance to the community, particularly the poor, who are involved in legal issues, as much as possible.[9] This is a concrete manifestation of the tridarma of higher education, namely education and teaching, research, and community service, which are the foundation and main pillars of higher education in Indonesia. Community service can be realized through various activities tailored to each field of study. For example, the Faculty of Law can carry out legal aid activities to ensure the fulfillment of the public's human rights in obtaining legal protection.

The existence of legal assistance provided by universities is not without challenges. The provision of legal aid still faces obstacles that hinder its optimal implementation. One of the challenges faced by universities is the prohibition for lecturers who are civil servants (referred to as PNS) to practice as advocates or provide legal assistance to clients in court proceedings. This prohibition is regulated in Article 3 paragraph (1) letter c and Article 20 paragraph (2) of the Advocate Law, which stipulates that the requirement to become an advocate is that an individual must not hold any other position that could interfere with the execution of their profession as an advocate, including being a civil servant or a state official.

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[9] Mohammad Ali, *Pendidikan Untuk Pembangunan Nasional, Menuju Bangsa Indonesia Yang Mandiri Dan Berdaya Saing Tinggi* (Jakarta: Grasindo, 2009). hal 177

The paradigm prohibiting civil servant lecturers from becoming advocates and representing clients in court was ultimately overturned after the Constitutional Court (MK) granted the petition for a judicial review filed by two lecturers and one student from the University of Indonesia: Djarot Dimas Achmad Andaru, S.H., M.H., Ahmad Madison, S.H., M.H., and Salsabilla Usman Patamani through Constitutional Court Decision No. 150/PUU-XXII/2024 on January 3, 2024. This decision brought about a significant change in the paradigm of legal assistance provision in Indonesia, particularly that provided by universities. In the ruling, the MK abolished the provisions in Article 3 paragraph (1) letter c and Article 20 paragraph (2) of the Advocate Law. Given the paradigm shift in the provision of legal assistance, it is interesting to further study the "Juridical Implications of Constitutional Court Decision No. 150/PUU-XXII/2024 on the Provision of Legal Assistance in Indonesia."

II. Method

This research is a normative juridical study using a qualitative approach with a statute approach aimed at analyzing and explaining the juridical implications of the Constitutional Court Decision No. 150/PUU-XXII/2024 regarding the legality of civil servant lecturers (PNS) in providing legal assistance through legal aid institutions under the auspices of universities. This approach was chosen to gain a deeper understanding of the applicable legal norms and their practical application. The types of data used in this study include primary legal materials, secondary legal materials, and tertiary legal materials such as encyclopedias, legal dictionaries, and reports from relevant institutions. Data collection techniques are carried out through literature study and interviews. Data validity is ensured through source triangulation by comparing data from various references. All collected data is then

analyzed using the Miles & Huberman interactive analysis model, which includes the stages of data collection, data reduction, data presentation, and conclusion drawing.

III. Considerations of the Constitutional Court Judges in Decision No. 150/PUU-XXII/2024

Judge's Considerations from a Historical Perspective

A historical perspective refers to considerations based on historical elements and the sequence of events over time, which serve as factors in decision-making, regulation formulation, and policy development.[10] The considerations from a historical perspective in Constitutional Court Decision No. 150/PUU-XXII/2024 reflect the evolution of the legal system and the principles that have been established over time. One historical aspect that was taken into account is the prohibition for civil servant lecturers (PNS) to practice as advocates, as regulated in Article 3 paragraph (1) letter c and Article 20 paragraph (2) of the Advocate Law. The Constitutional Court revisited this prohibition by examining the history of regulations related to the role of advocates and the involvement of academics in Indonesia's legal system.

In this historical context, the Constitutional Court cites Decision No. 006/PUU-II/2004, which essentially states that the provision of

[10] Irwan Ramadhani, "Tinjauan Yuridis Terhadap Pemberian Izin Perkawinan Beda Agama Dalam Penetapan Pengadilan Negeri Surabaya (Studi Terhadap Penetapan Nomor 916/Pdt.P/2022/PN.Sby)" (Institut Agama Islam Negeri Ponorogo, 2023). hal 38

legal assistance should be open to all parties who possess the capacity and ability in the fields of law and advocacy. The Constitutional Court, in this historical consideration, also reflects on how legal education systems in various countries have evolved to integrate practical aspects into their curricula. Many countries have adopted systems where legal academics can practice as advocates in pro bono cases or under certain limitations to ensure that students gain applicable learning experiences, such as in Latin American countries, Asia, Eastern Europe, South Africa, and the United States.

Judge's Considerations from a Juridical Perspective

Considerations from a juridical perspective are the reasoning or justifications for a rule or decision based on existing laws and regulations.[11] In Decision No. 150/PUU-XXII/2024, the Constitutional Court considered that the main issue in this petition was whether the prohibition for lecturers who are civil servants (PNS) to become advocates, as regulated in Article 3 paragraph (1) letter c and Article 20 paragraph (2) of the Advocate Law, is in conflict with the 1945 Constitution of the Republic of Indonesia.

In its consideration, the Constitutional Court focused on the provision in Article 3 paragraph (1) letter c of the Advocate Law. This article stipulates the requirements to become an advocate, which explicitly includes not being a civil servant or a state official. Furthermore, the definition of civil servants in Article 2 paragraph (1) of Law No. 43 of 1999 concerning Amendments to Law No. 8 of 1974 on State Civil Service, includes PNS, TNI, and Polri. This provision is

[11] Otti Ilham Khair, "Analisis Landasan Filosofis, Sosiologis Dan Yuridis Pada Pembentukan Undang-Undang Ibukota Negara," *CADEMIA : Jurnal Inovasi Riset Akademik* 2 (Februari 2022): 1–10. hal 7

reinforced by Article 20 paragraph (2), which emphasizes that an advocate is prohibited from holding any other position that requires such significant involvement that it may interfere with their professionalism or diminish their independence and freedom in performing their duties as an advocate.

The Constitutional Court also emphasized that in the higher education system in Indonesia, the role of lecturers is not limited to teaching activities, but also includes research and community service. These three components constitute the tridharma of higher education, as stated in Article 1 number 2 of Law No. 14 of 2005 concerning Teachers and Lecturers, which states that a lecturer is a professional educator as well as a scientist who has the main responsibility to transform, develop, and disseminate knowledge, technology, and arts through education, research, and community service.

Juridically, the Constitutional Court also considered the regulation regarding the prohibition for civil servants in Article 5 of Government Regulation No. 94 of 2021 on Civil Servant Discipline (PP Disiplin PNS). However, in this regulation, the Constitutional Court found that there is no explicit prohibition for civil servants to practice as advocates. This regulation focuses more on prohibiting civil servants from engaging in actions that could harm the interests of the state, such as abuse of authority, harming state finances, involvement in practical politics, or actions that violate laws and civil servant ethics. Therefore, according to the Constitutional Court, lecturers, including civil servant lecturers (PNS), have the right to provide legal assistance to the public.

Judge's Considerations from a Philosophical Perspective

Philosophical considerations are fundamental reasons that state that regulations must not contradict Pancasila and the 1945 Constitution of the Republic of Indonesia, as both are the sources of all sources of national law and serve as the ideology of the Indonesian state, acting as guidelines and foundations in the life of the nation and state. Therefore, in adjudicating a case, judges must not only consider the juridical aspects but must also pay attention to the philosophical aspects based on Pancasila and the 1945 Constitution as the foundation of the state and the constitution.[12]

In Constitutional Court Decision No. 150/PUU-XXII/2024, the value of social justice as the fifth principle of Pancasila was a key consideration for the Court in interpreting the prohibition for civil servant lecturers (PNS) to practice as advocates. The Court considered that this prohibition contradicted the principle of social justice because it restricted the rights of civil servant lecturers to serve the community, particularly in providing legal assistance to underprivileged groups.

The Court further considered the philosophy behind Article 28C paragraph (1) of the 1945 Constitution, which guarantees every citizen the right to develop themselves by fulfilling basic needs and benefiting from knowledge, technology, arts, and culture to improve their quality of life. The right to self-development encompasses not only education and employment but also participation in contributing to society. Article 28D paragraph (1) of the 1945 Constitution further guarantees every individual the right to recognition, assurance, protection, and legal certainty, as well as to be treated equally before the law.

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[12] *Ibid.* hal 2-3

The Constitutional Court also took into account Article 27 paragraph (1) of the 1945 Constitution, which emphasizes that all citizens are equal before the law and government, reflecting the principle of equality before the law. The restriction on civil servant lecturers from practicing as advocates without a strong constitutional basis could potentially violate this principle. Such a restriction could also conflict with the principle of due process of law, as it is not based on rational, proportional reasons and does not follow a fair legal process.

Judge's Considerations from a Sociological Perspective

A sociological perspective refers to considerations or reasons that show that regulations are designed to meet the needs of society in various fields, based on empirical facts regarding the development of issues and the challenges faced by society and the state.[13]

The Constitutional Court understands that the profession of an advocate is not just a job, but a social role with a significant responsibility toward society. As the Court stated, advocates carry out their professional duties to uphold justice based on the law, in the interest of the people seeking justice. The restriction on civil servant lecturers (PNS) from becoming advocates, according to the Court, could limit the public's access to justice, especially for those who are economically disadvantaged.

Another social consideration raised by the Court concerns the accessibility of law and the equitable distribution of legal aid services across various regions in Indonesia. According to the Court, public access to justice is an inseparable element of the characteristics of a rule of law. In this context, the law should be transparent and accessible to

[13] *Ibid.* hal 3

all. The Court recognized that there is an imbalance in the distribution of advocates in different regions, where communities in remote or less developed areas often struggle to access professional legal services. If civil servant lecturers with a legal background are allowed to practice as advocates on a pro bono basis for community service, they can increase the quantity of legal aid services and potentially address the inequality in legal aid services due to the limited number of advocates in various regions in Indonesia.

The Court also considered the social conditions in many countries, where legal academics play an active role in providing legal aid and engaging in social advocacy. The Court cited examples from various countries, such as those in Latin America, Asia, Eastern Europe, South Africa, and even developed countries like the United States, where academics are involved in the legal aid system. Therefore, the Court concluded that allowing civil servant lecturers to serve as advocates in the context of community service aligns with global developments in the provision of legal aid.

IV. Juridical Implications of Constitutional Court Decision No. 150/PUU-XXII/2024

Conditional Unconstitutionality of Article 3 paragraph (1) letter c and Article 20 paragraph (2) of Law No. 18 of 2003 on Advocates

The Constitutional Court's rulings, based on Article 56 of Law No. 24 of 2003 on the Constitutional Court, consist of three types of decisions: petitions declared inadmissible, petitions rejected, and petitions granted. Over time, the decisions of the Constitutional Court have evolved and are no longer limited to these three types. There are

Constitutional Court decisions that provide interpretations of certain norms, such as guidelines, directions, delays in enforcement, guidelines and conditions, and even the creation of new norms, which are known as conditional rulings.[14]

In practice, the Constitutional Court has issued two forms of conditional rulings in Constitutional Court cases. One form is the conditionally constitutional ruling, which states that a norm remains in accordance with the constitution for a certain period, until certain conditions set by the Constitutional Court in the ruling are met. The second type is the conditionally unconstitutional ruling, which means that if the conditions set by the Constitutional Court are not met, the norm will be declared in conflict with the 1945 Constitution of the Republic of Indonesia. In such cases, the norm that the Constitutional Court has declared conditionally unconstitutional is initially considered unconstitutional at the time the ruling is announced. However, it can regain its constitutional status if the lawmaker fulfills the conditions specified by the Constitutional Court.[15]

Constitutional Court Decision No. 150/PUU-XXII/2024 is one of the rulings that adopts the conditionally unconstitutional type. In its legal considerations, the Court found that the provisions in Article 3 paragraph (1) letter c and Article 20 paragraph (2) of the Advocate Law are in conflict with the constitutional principle of the right to self-development. The implication of Constitutional Court Decision No.

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[14] Sri Indriyani Umra and Fatma Faisal, "Dampak Putusan Inkonstitusional Bersyarat Terhadap Kepastian Hukum," *INNOVATIVE: Journal Of Social Science Research* 3, no. 6 (2023): 7297–7307. hal 7300

[15] Nurul Aini Octavia, "Mengenal Amar Putusan Konstitusional Bersyarat Dan Inkonstitusional Bersyarat Yang Dianut Mahkamah Konstitusi Dalam Pengujian Perundang-Undangan: Kesalahan Teoritik Dalam Putusan Mahkamah Konstitusi NO. 91/PUU-XVIII/2020," *Ijtihad: Jurnal Hukum dan Ekonomi Islam,* 16, no. 2 (6 Desember 2022): 171–86, https://doi.org/10.31078/jk1712. hal 180-181

150/PUU-XXII/2024 is that Article 3 paragraph (1) letter c and Article 20 paragraph (2) of the Advocate Law are declared conditionally unconstitutional. Since the Constitutional Court's decision is self-executing and self-implementing, the regulation regarding the legitimacy of civil servant lecturers (PNS) to become advocates follows the provisions established by the Court in this ruling immediately after the decision is read.[16]

Civil Servant Lecturers (PNS) Can Practice as Advocates

Lecturers, according to Article 1 number 2 of Law No. 14 of 2005 on Teachers and Lecturers, are professional educators and scientists whose main duties are to transform, develop, and disseminate knowledge, technology, and arts through education, research, and community service. Civil servant lecturers (PNS) fall under the category of permanent lecturers in accordance with the Minister of Education, Culture, Research, and Technology Decree No. 209/P/2024 concerning Technical Guidelines for the Service and Development of Lecturer Profession and Career.[17] Therefore, civil servant lecturers (PNS) are subject to the applicable civil service regulations for ASN, such as Law No. 5 of 2014 on State Civil Apparatus and its derivative regulations. This means that civil servant lecturers have dual roles: as academics who uphold freedom of thought and public service, and as

[16] Efer Musa Tamungku, Donald Albert Rumokoy, and Toar Neman Palilingan, "Penerapan Praktik Inkonstitusional Bersyarat Di Mahkamah Konstitusi," *Jurnal Fakultas Hukum Universitas Sam Ratulangi* 12, no. 1 (July 2023): 1–12. hal 9

[17] Arie Ramadhani, "Analisa Hukum Dosen Yang Melakukan Rangkap Profesi Sebagai Advokat," *Jurnal Ilmiah Pendidikan Pancasila dan Kewarganegaraan (JPPKn)* 6, no. 2 (2021): 68–78. hal 73-74

civil servants bound by the principles of neutrality, loyalty, and accountability in their duties to the state.

Constitutional Court Decision No. 150/PUU-XXII/2024 is a significant milestone in the legal landscape regarding the profession of advocates in Indonesia. One of the most significant implications of this decision is the opening of opportunities for civil servant lecturers (PNS) to practice as advocates. Previously, Article 3 paragraph (1) letter c of the Advocate Law prohibited civil servants, including PNS, TNI, and Polri, from becoming advocates. This prohibition was general and did not distinguish between the positions or duties of civil servants, including lecturers with legal qualifications and backgrounds. In practice, this restriction created limitations for PNS lecturers who wanted to directly contribute to providing legal assistance to the public, especially those who had completed their legal profession education and even had litigation experience, but were hindered by their civil servant status.

Thus, Constitutional Court Decision No. 150/PUU-XXII/2024 not only expands the scope for civil servant lecturers in the context of providing legal aid, but also opens a new perspective on utilizing academic resources to strengthen access to justice in society. This step is a recognition of the importance of intellectual involvement in the judicial system, while also affirming that being a civil servant should not be an absolute barrier to contributing professionally in a social and non-commercial capacity.[18] Civil servant lecturers (PNS) no longer have to choose between their dedication to education or their commitment to justice, as both can now proceed simultaneously, as long as they are grounded in integrity, professionalism, and clear regulations. This development allows lecturers to contribute to the legal field while

[18] Dian Ekawati, Chessa Ario, dan Jani Purnomo, "Menilik Peran Dosen Dalam Pusaran Sistem Bantuan Hukum Indonesia," *Pamulang Law Review* 3, no. 2 (2020): 91–100. hal 94

continuing to fulfill their educational roles, strengthening the connection between academia and public service in a meaningful and impactful way.

Expansion of the Definition of Advocate Subject

Post-Constitutional Court Decision No. 150/PUU-XXII/2024, there has been a significant shift in the perspective regarding who can be considered an advocate. The Court interpreted the blanket prohibition on all civil servants (PNS) from practicing as advocates as an overly general and disproportionate restriction. The Court differentiated between civil servants who hold positions of state power or authority, such as prosecutors, judges, or ministry employees, and civil servants who work as academics, such as lecturers.

From the Court's perspective, lecturers do not possess coercive authority or make public decisions that could lead to conflicts of interest if they practice law. Therefore, the total prohibition on all civil servants, including lecturers, was seen as an unjust limitation on their rights and inconsistent with the principles of justice and equality before the law. Through this ruling, the Constitutional Court implicitly expanded the category of advocates to include civil servant lecturers (PNS), as long as their legal practice is not for commercial purposes or in conflict with their academic roles, but rather as part of their community service. This means that the advocacy profession is no longer monopolized by private individuals or non-state actors, but is now open to civil servants who fulfill non-structural professional duties, particularly in higher education.

This expansion not only creates inclusivity within the legal profession but also fosters a collaborative space between the academic and legal practice sectors in serving the public. The change resulting from the Constitutional Court's decision indicates that the definition of

"advocate" can no longer be understood narrowly as someone practicing law outside of the state structure. With the legal recognition of civil servant lecturers engaging in legal advocacy as part of their community service, the definition and scope of advocacy in Indonesia have been substantially broadened. This also reflects the dynamic development of law, where substantive justice takes precedence over mere formalistic restrictions.

Recognition of the Role of Academics to Practice Pro Bono in Indonesian Procedural Law

Constitutional Court Decision No. 150/PUU-XXII/2024 not only opens the space for civil servant lecturers (PNS) to practice as advocates but also indirectly acknowledges the role of academics in the pro bono advocacy process. Prior to this decision, procedural law in Indonesia did not explicitly provide a place for academics, especially law lecturers, to actively engage in legal assistance within the courtroom. Their roles were largely outside the litigation process, typically in the form of legal counseling, research, or other non-litigation community service activities. After this ruling, this paradigm has shifted. Civil servant lecturers, who were previously prohibited from practicing law, now legally receive recognition to perform advocacy as part of their community service. This marks an important moment in the history of procedural law in Indonesia, as it opens a new space for academics to directly participate in the judicial process.

The recognition of academics as providers of pro bono legal assistance within the framework of procedural law is not just about expanding the scope of subjects who can participate in legal proceedings, but also about improving the quality of legal intervention itself. Academics, especially law lecturers, possess a strong theoretical and methodological understanding of various legal norms, principles,

and philosophies. In practice, this can strengthen the position of disadvantaged and marginalized communities before the law, as they are not only supported by advocates but also by academics who have integrity and competencies tested in the educational world.

Constitutional Court Decision No. 150/PUU-XXII/2024, in this context, paves the way for a more inclusive and socially just legal system. With the recognition of academics' roles in pro bono practice, the judicial system is no longer elitist or closed off, but rather more open to the participation of the academic community, which has long been a passive observer in the practice of law. Civil servant lecturers, as part of the academic community, can now perform their advocacy functions not just for personal gain, but as a form of legal service to society.

Clearer Regulations Regarding PPPK Lecturers

The juridical implications of Constitutional Court Decision No. 150/PUU-XXII/2024 not only affect civil servant lecturers (PNS) but also touch upon the existence of lecturers with the status of Government Employees with Employment Agreements (PPPK). In the state civil service structure based on Law No. 5 of 2014 on State Civil Apparatus (UU ASN), PPPK is one of the two categories of ASN employees, alongside PNS. PPPK are appointed based on a work contract and have characteristics different from PNS in terms of work duration, salary system, and pension rights. However, they still have similar responsibilities in carrying out state duties.[19] The issue arises because Article 3 paragraph (1) letter c of the Advocate Law states that advocates cannot come from civil servants or state officials, and the explanation of

[19] Samsir Andi et al., "Tinjauan Hukum Perbandingan Pegawai Negeri Sipil (PNS) dan Pegawai Pemerintah dengan Perjanjian Kontrak (PPPK) dalam Peraturan Perundang-Undangan di Indonesia.," *INNOVATIVE: Journal Of Social Science Research* 4, no. 4 (2024): 11755–11764. hal 11762

the term "civil servant" refers to a regulation that has now been repealed and is no longer relevant, namely Law No. 43 of 1999.

Although the petition in the case was submitted by civil servant lecturers (PNS), the Constitutional Court explicitly acknowledged that PPPK (Government Employees with Employment Agreements) are also part of the State Civil Apparatus (ASN). The Court did not differentiate between PNS and PPPK in terms of the right to practice as advocates, particularly in the context of carrying out the tridharma of higher education. Thus, the ratio decidendi of this ruling applies mutatis mutandis to PPPK lecturers, whose legal status in terms of providing legal assistance and becoming advocates had previously been unclear. This ruling clarifies that PPPK lecturers, like PNS lecturers, may now engage in legal advocacy as part of their community service duties, ensuring a more inclusive interpretation of the role of educators in the legal system.

V. Legal Consequences and Practice of Legal Assistance by Civil Servant Lecturers as Advocates

Legal Consequences

1. **The Government Must Harmonize Regulations by Revising Law No. 18 of 2003 on Advocates.**

   Constitutional Court Decision No. 150/PUU-XXII/2024 has opened significant opportunities for civil servant lecturers (PNS) to practice as advocates, particularly in the context of providing legal assistance. However, despite the fact that the decision is final and binding from a juridical standpoint, its application within the national legal system still requires regulatory harmonization,

especially with regard to the Advocate Law, which explicitly prohibits civil servants from practicing as advocates concurrently.

A revision of the Advocate Law is a crucial step to ensure that the positive law in Indonesia does not contradict the Constitutional Court's decision. Specifically, revisions to Article 3 paragraph (1) letter c and Article 20 paragraph (2) of the Advocate Law, which prohibit civil servants from becoming advocates, must be made explicitly to align with the Court's ruling and provide legal certainty. Without this revision, there will be a duality of norms, where on one hand, the Court permits civil servant lecturers to practice law, but on the other hand, the Advocate Law still prohibits them. This harmonization is necessary to maintain the dignity and integrity of the legal profession and to prevent misinterpretation in practice. With such a revision, civil servant lecturers who wish to engage in legal practice will have a strong legal foundation, eliminating any legal ambiguity.

Regulatory harmonization following Constitutional Court Decision No. 150/PUU-XXII/2024 should also involve creating derivative regulations that address administrative aspects within the bureaucratic framework. This would facilitate cooperation between the Ministry of Law, the Ministry of Administrative and Bureaucratic Reform (PAN-RB), and the Ministry of Higher Education, Research, and Technology. It is crucial to ensure that civil servant lecturers who wish to contribute to providing legal assistance are not hindered by the lack of adequate legal frameworks. Through this cross-sector collaboration, the provision of legal aid by civil servant lecturers can proceed effectively and in accordance with the constitutional spirit affirmed by the Constitutional Court.

2. Formation of an Ethical Body by the State

One of the most significant legal consequences of Constitutional Court Decision No. 150/PUU-XXII/2024 is the

allowance for civil servant lecturers (PNS) to provide legal assistance without the requirement of becoming a member of an advocate organization. This, however, creates a gap in terms of ethical oversight, as until now, the oversight of advocates has been carried out by advocate organizations such as PERADI, KAI, and others through the Honorary Council of Advocates.[20] Without the mandatory membership requirement, civil servant lecturers (PNS) who practice as advocates will not be subject to the ethical mechanisms of these organizations. Therefore, the state needs to establish a new ethical oversight body specifically to supervise the advocacy practices of PNS lecturers to ensure they remain aligned with the primary goal: providing free and professional legal assistance.

This oversight body should ideally be coordinated by the government but remain independent, with ethical authority. Given the nature of the legal profession, which highly values independence, this body should not be bureaucratically dominated solely by government agencies. Instead, it must also involve representatives from civil society, academia, and legal practitioners. The aim is to ensure that the oversight body does not become a political tool or a mere administrative function but is truly able to maintain the moral integrity and professionalism of PNS lecturers in their role as advocates. This body could take the form of a dedicated ethics commission or a legal aid ethics council for lecturers, created through derivative regulations, such as a presidential decree or ministerial regulation.

[20] Cahya Wulandari, "The Pro Bono Publico Prodeo Legal Aid System Model for the Poor Society in Indonesia," in *1st International Conference on Indonesian Legal Studies (ICILS 2018)* (Semarang: Atlantis Press, 2018), 88–93. hal 89

The urgency of establishing this body becomes even more significant because PNS lecturers, as part of the state civil apparatus (ASN), have their own code of ethics and regulations governed by the State Civil Apparatus Commission (KASN). However, these regulations do not cover the advocacy profession, which is directly involved in law enforcement and public service. Therefore, an ethics body is needed to bridge the academic domain of ASN with the advocacy profession. The absence of such an ethical oversight body leads to a gap in monitoring actions related to this profession, which should adhere to principles of caution and professionalism. This could result in disparate treatment between general advocates and PNS lecturers performing a similar function, further reinforcing the need for a dedicated ethical oversight body.

Practical Consequences

1. *Increased Options for Legal Assistance Requests for Those in Need*

One of the most notable consequences of the Constitutional Court Decision Number 150/PUU-XXII/2024 is the opening of a new option for the public in accessing legal aid. Prior to this ruling, the public's choices for obtaining free legal aid were limited to accredited legal aid organizations[21], Legal Aid Posts (Posbakum) in courts, and advocates willing to perform pro bono work.[22] Although

[21] Setiani, Syalis Mei. "The Role of Legal Aid Institutions in Providing Legal Aid for Suspects and Defendants." *The Indonesian Journal of International Clinical Legal Education* 3, no. 4 (2021): 425-444.

[22] Zulkarnaini, "Implementasi Standar Layanan Bantuan Hukum Oleh Advokat Dalam Memberikan Bantuan Hukum Cuma-Cuma Bagi Klien Kurang Mampu (Menurut Undang-Undang Nomor 16 Tahun 2011 Tentang Bantuan Hukum)" (Universitas Islam Negeri Ar-Raniry, 2022). hal 4

this system is formally adequate, in practice, many people still face difficulties in accessing legal aid, particularly due to the limited number of advocates willing to provide free legal assistance and the uneven distribution of legal aid organizations across Indonesia. The presence of civil servant lecturers (PNS) as new actors in providing legal aid indirectly expands the channels for distributing justice within society.

The recognition of civil servant lecturers as parties allowed to practice law under the framework of community service now provides the public with an additional alternative in seeking legal assistance. Many higher education institutions, particularly those with Law Faculties, have had Legal Aid Organizations (LBH) or Legal Clinics for a long time, playing a role in providing legal education and consultation to the public. However, before this Constitutional Court ruling, lecturers' roles in such LBHs were often administrative, educational, or limited to legal consultations, without the ability to provide direct legal assistance or represent clients in court due to their status as civil servants. With this ruling, the role of lecturers in university-based LBHs can be enhanced to become more substantive, including conducting litigation and granting legal representation directly to clients in need.

This added option has a significant positive impact, especially in regions with limited access to advocates and legal aid organizations. State universities spread across various provinces can become new centers of academic-based legal aid, relying on the professionalism of law lecturers combined with the spirit of community service. With this model, communities that have been underserved by LBHs and Posbakum or cannot afford professional legal services can now access legal aid from lecturers practicing under

the auspices of educational institutions.[23] This undoubtedly strengthens the principle of equality before the law and the right to legal aid, as outlined in Article 28D paragraph (1) and Article 28H paragraph (2) of the 1945 Constitution of Indonesia.[24]

2. **Students Receive Instruction from Lecturers with Practical Experience**

One of the most noticeable practical benefits of allowing civil servant lecturers (PNS) to become advocates is the enhancement of the quality of teaching in higher education institutions, particularly in law faculties. Lecturers who are actively involved in legal aid practice bring real-world experience into the classroom. This is invaluable for students, as the material being taught is no longer purely theoretical, but is supplemented with real-life illustrations from cases the lecturer has handled. As a result, the learning process becomes more contextual and relevant to the realities of the legal world outside the university.

Lecturers with practical experience can provide a more comprehensive explanation of the dynamics of legal processes. They can elaborate on how litigation strategies are designed, how to interact with clients and law enforcement, and how both administrative and psychological challenges arise in the practice of legal aid. This knowledge is difficult to obtain from textbooks alone. Students gain a more realistic understanding of the challenges and

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[23] Gregorius Yolan Setiawan, Anak Agung Sagung Laksmi Dewi, and I Made Minggu Widyantara, "Efektivitas Bantuan Hukum Advokat Di Pos Bantuan Hukum (Posbakum) Pengadilan Negeri Denpasar Kelas I A," *Jurnal Konstruksi Hukum* 2, no. 2 (May 2021): 373–78, https://doi.org/10.22225/jkh.2.2.3258.373-378. hal 377

[24] M. Arie Wahyudi et al., "Pemberian Bantuan Hukum Oleh Lembaga Bantuan Hukum Medan Terhadap Masyarakat Kurang Mampu di Kota Medan," *Locus Journal of Academic Literature Review* 1, no. 5 (1 September 2022): 280–288, https://doi.org/10.56128/ljoalr.v1i5.78. hal 286

complexities of the legal profession, making them better prepared to face the workforce after graduation. These practitioner lecturers can serve as role models, inspiring students to delve deeper into the area of law they are interested in. With experiential learning methods like this, students not only understand the concepts but also develop practical skills. This experience also adds value to students' portfolios when applying for jobs or pursuing post-graduate professional education.

Although the experience of being an advocate can be shared by lecturers with students, there must be quality filters and accreditation mechanisms in place to ensure that the experience brought into teaching is relevant and meets academic standards. Additionally, lecturers must maintain neutrality and academic integrity. The classroom should not become a platform for promoting personal legal services or sharing biased opinions due to involvement in certain cases. Academic ethics and professional codes of conduct must go hand in hand to ensure that the benefits of practice do not turn into conflicts of interest.[25]

3. Addition of Service Execution Options by Civil Servant Lecturers (PNS)

The Tri Dharma of higher education, which must be carried out by every lecturer, includes community service. Typically, this service is conducted in the form of legal counseling, skills training, seminars, or other social activities. However, with the Constitutional Court Decision Number 150/PUU-XXII/2024 that allows civil servant lecturers (PNS) to become advocates, the scope of

[25] A.A. Ngurah Bayu Kresna Wardana dan Nyoman Satyayudha Dananjaya, "Hak Dan Kewajiban Advokat Dalam Memberikan Bantuan Hukum Secara Pro Bono Kepada Masyarakat Kurang Mampu," *Kertha Semaya : Journal Ilmu Hukum* 10, no. 3 (8 Februari 2022): 629, https://doi.org/10.24843/ks.2022.v10.i03.p13. hal 631

community service has become broader. Now, providing direct legal aid, whether in the form of legal consultations or litigation support, can be part of the realization of community service. This not only expands the range of activities but also increases the relevance and impact of lecturers' service in addressing the real needs of society.

By becoming legally recognized advocates, civil servant lecturers can directly provide pro bono legal assistance to the poor and vulnerable groups. They no longer just share legal information theoretically, but also act as legal defenders for those facing legal problems in society. This form of assistance is much more concrete than simply giving lectures or training. In this context, community service becomes not just an administrative formality to fulfill the lecturer's workload but truly a platform for making a tangible contribution to social justice.

4. The Workload of Lecturers Becomes Heavier

Allowing civil servant lecturers (PNS) to become advocates and provide direct legal aid certainly brings many benefits, both for students and society. However, the logical consequence of this practice is the significant increase in the workload of lecturers. As civil servants who are required to carry out the three pillars of higher education teaching, research, and community service lecturers are expected to maintain quality in each aspect of their duties. When they also practice as advocates, their time and energy will be divided, requiring a well-thought-out work management strategy to ensure that all obligations are still fulfilled optimally.

Moreover, the current lecturer workload system (BKD) in state universities has not fully accommodated the role of lecturers as practicing advocates. There is no clear format for recognizing advocacy work as part of the official workload of lecturers, unless it is directly related to community service. This creates administrative issues, where lecturers must still report their workload, which

consists of the three pillars of higher education, while their advocacy activities may be considered outside the system if not administratively coordinated. As a result, the workload becomes overlapping, potentially creating additional bureaucratic pressures.

5. **The Need for Advocacy or Practice Training for Civil Servant Lecturers (PNS) Who Become Advocates**

Although many civil servant lecturers (PNS) in the field of law have a deep understanding of legal theory, when they begin practicing as advocates, additional practical skills are required. The world of advocacy demands not only legal knowledge but also the ability to apply it concretely in front of clients, courts, and other legal institutions. Therefore, it is essential to provide systematic access to advocacy or legal practice training for PNS lecturers who wish to become advocates. This is a prerequisite to ensure that the legalization of lecturers' roles as advocates does not lead to unprofessional practices or violations of legal ethics.

This advocacy training can cover various aspects, ranging from litigation techniques in court, client communication skills, legal document preparation, to dispute resolution strategies. With adequate training, civil servant lecturers can be better prepared to face the challenges of legal practice without compromising the academic values they have always upheld.

6. **Potention of Conflict of Interest**

The Constitutional Court Decision Number 150/PUU-XXII/2024, while opening significant opportunities for civil servant lecturers (PNS) to practice as advocates and provide direct legal aid, also brings serious consequences, one of which is the potential for conflicts of interest. In the legal profession, the principles of independence and professionalism are the cornerstone. An advocate must act in the best interest of their client without external pressure, interference, or divided loyalty to other parties. However, when a

civil servant lecturer also becomes an advocate, it is very likely that situations will arise where they must choose between the interests of their educational institution and the legal interests of their client.

A concrete example of this can occur when the university or institution where the lecturer works becomes a party in a legal dispute, whether civil, criminal, or administrative. If the lecturer is then appointed or voluntarily becomes the legal representative of the university, serious questions will arise regarding their independence. On the other hand, if the lecturer acts as the legal representative of the opposing party to the institution, the situation becomes even more complicated, as it could be perceived as a violation of loyalty to their workplace. In both of these scenarios, the lecturer finds themselves in a dilemma that could lead to bias, internal pressure, and even pose a threat to their career as a civil servant.

VI. Conclusion

The Constitutional Court Decision Number 150/PUU-XXII/2024 establishes that civil servant lecturers (PNS) can practice law in a limited manner as part of community service, based on four considerations: historical, juridical, philosophical, and sociological. The juridical implications of this ruling include declaring Articles 3 paragraph (1) letter c and 20 paragraph (2) of the Advocates Law as conditionally unconstitutional, expanding the definition of the subject of advocacy, recognizing academics as eligible to practice law, and the need for further regulations for PPPK lecturers. From a practical standpoint, this opens a new avenue for providing more equitable legal aid, enhances the quality of teaching as lecturers can share practical experiences, and broadens the scope of community service provided by PNS lecturers. However, the consequences include an increased workload, potential

conflicts of interest, and the need for training and strict ethical oversight. Therefore, harmonizing regulations and establishing a clear monitoring mechanism are necessary to ensure the effective implementation of this decision and strengthen the strategic role of academics in the national legal system.

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DECLARATION OF CONFLICTING INTERESTS

The author declares that there is no conflict of interest in this article.

FUNDING INFORMATION

This article was developed without financial support from any public, commercial, or non-profit funding agency.

ACKNOWLEDGMENT

The authors express their gratitude to the anonymous reviewer for their valuable comments and insightful suggestions on this article.

Judex set lex laguens