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Judicial Independence and Dual Positions: A Siyasa Qadhaiyah Analysis of Constitutional Court Decision No. 183/PUU-XXII/2024

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Abstract

This research is motivated by the limited number of studies analyzing Constitutional Court Decision No. 183/PUU-XXII/2024 concerning the prohibition of concurrent positions between leaders of advocate organizations and state officials from a siyasa qadhaiyah perspective. Previous studies generally focused on the constitutional aspects of the advocate profession without linking them to Islamic judicial principles. This research uses a normative juridical method with a statutory and conceptual approach through an analysis of Constitutional Court decisions, related regulations, and legal literature. The results show that the Constitutional Court affirms independence, impartiality, and the prevention of conflicts of interest as the primary basis for limiting concurrent positions to maintain the integrity of the advocate profession. This decision strengthens the professionalism of advocate organizations, clarifies the boundaries of relations with state power, and supports an accountable judicial system. From a siyasa qadhaiyah perspective, the decision aligns with the principles of justice, trustworthiness, and sadd al-dzari'ah as preventive mechanisms to maintain the purity of the judicial function. These findings confirm that Constitutional Court decisions have constitutional and normative relevance in developing a judiciary with integrity.

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Introduction

The advocate profession in the Indonesian legal system is positioned as a law enforcer who plays a role in assisting justice seekers and maintaining a just legal supremacy, free from intervention by political and administrative powers, so that the independence of the advocate profession is an important element in guaranteeing the fulfillment of citizens' constitutional rights before the law in judicial practice. (Lubis et al., 2025).

Law Number 18 of 2003 concerning Advocates stipulates a prohibition on leaders of advocate organizations holding concurrent positions with those of political parties. However, this provision does not explicitly prohibit concurrent positions with state officials, leading to legal controversy when several leaders of advocate organizations also held state positions. (Hukum Online, 2025).

The issue was finally brought to the Constitutional Court through a material appeal against Article 28 paragraph (3) of the Advocates Law, known as Case Number 183/PUU-XXII/2024. In its decision, the Court granted part of the appeal by stating that the head of an advocate organization must be inactive if appointed or designated as a state official in order to prevent potential conflicts of interest (Tim, 2025). In its legal considerations, the Court emphasized that the prohibition on holding dual positions is necessary to maintain the independence of the advocate profession and avoid conflicts of interest in the Indonesian justice system, considering that advocates have an equal role to other law enforcers, such as judges and prosecutors. (Hukum Online 2025).

In addition to the legal considerations, the Constitutional Court Decision also has significant legal implications for the legal profession, including the internal regulation of legal organizations and professional practices, as well as impacting the dynamics of the relationship between legal professionals and the judicial system. (Diva, 2025). These legal implications need to be explained systematically to understand how the decision affects the implementation of the advocate's function and the law enforcement mechanism which is free from the domination of structural power. (Hukum Online 2025).

Studies on advocate organizations and the Constitutional Court have been conducted in several previous studies, but they have focused on partial issues. Japansen Sinaga and Irene Puteri A.S. Sinaga examine the professionalism and integrity of advocates in law enforcement in Indonesia, emphasizing that the quality of the advocate profession is largely determined by ethical and institutional independence, preventing them from becoming trapped in structural conflicts of interest. (Japansen, 2024). Meanwhile, Sandi Yoga Pradana and Qurrotul Aini examine the judicial contestation in the dynamics of the suspension of advocates' oaths from a legal perspective, which shows that the institutional problems of advocates are closely related to the legitimacy of the profession and its relationship to the national justice system. (Sandi Yoga, 2025). Another study by Bambang Handoko, H.S. Tisnanta, and Rinaldy Amrullah highlighted the urgency of reforming the advocate supervision system as an instrument of professional accountability, with the conclusion that weak supervision and overlapping interests can affect public trust in the legal system. (Handoko et al., 2025). These three studies are relevant because they all position advocates as pillars of law enforcement, but they have not specifically examined Constitutional Court Decision No. 183/PUU-XXII/2024 in relation to the prohibition on concurrent positions of advocate organization leaders and state officials.

Based on a review of previous research, a significant academic gap exists because most previous studies only highlight the constitutionality of advocate organization norms or institutional independence separately, without linking the Constitutional Court's ratio decidendi to the systemic implications for the advocate profession and the national judicial system, particularly from a *siyasah qadhaiyah* perspective. This study occupies a novel position by constructing a more integrative analysis across three dimensions simultaneously: the legal considerations of the panel of judges in Decision No. 183/PUU-XXII/2024, the legal implications for the independence of the advocate profession and the Indonesian judicial structure, and its relevance to the principles of justice, trustworthiness, and *sadd al-dzari'ah* in *siyasah qadhaiyah*. Thus, this research not only expands the study of constitutional law related to advocate organizations, but also offers a synthesis between positive law and Islamic law in reading the Constitutional Court's decisions more comprehensively.

Method

This study employs a normative juridical research method with statutory and conceptual approaches. The statutory approach is used to examine relevant legal norms governing the advocate profession and Constitutional Court authority, particularly Constitutional Court Decision Number 183/PUU-XXII/2024, Law Number 18 of 2003 concerning Advocates, and the 1945 Constitution of the Republic of Indonesia. Meanwhile, the conceptual approach is applied to analyze legal doctrines, principles of constitutional law, and the theory of *siyasah qadhaiyah*, especially those related to judicial independence, conflict of interest, and professional integrity.

The legal materials used in this study consist of primary and secondary legal sources. Primary legal materials include Constitutional Court decisions, statutory regulations, and official legal documents. Secondary legal materials consist of scientific journal articles, legal textbooks, and relevant academic publications that discuss constitutional law, advocate profession, and Islamic legal thought. Data collection is conducted through a library research method, by systematically reviewing and selecting relevant legal materials.

The data analysis technique uses a qualitative juridical analysis, which is carried out through legal interpretation methods, including grammatical, systematic, and teleological interpretation. This analysis aims to examine the ratio decidendi of the Constitutional Court decision and to evaluate its legal implications within both constitutional law and *siyasah qadhaiyah* perspectives. The analytical process is conducted descriptively and analytically to establish a coherent relationship between positive legal norms and Islamic legal principles, particularly in relation to justice, trustworthiness, and the prevention of conflicts of interest.

Results

Considerations of the Constitutional Court Judges in Decision Number 183/PUU-XXII/2024

The Constitutional Court, in Decision Number 183/PUU-XXII/2024, examined the constitutionality of Article 28 paragraph (3) of Law Number 18 of 2003 concerning Advocates in relation to the 1945 Constitution of the Republic of Indonesia. The Court found that the existing provision only regulates the prohibition of concurrent positions between leaders of advocate organizations and political parties, but does not explicitly regulate concurrent positions with state officials.

This condition creates a normative gap that has the potential to generate legal uncertainty and opens opportunities for dual positions that may affect the independence of advocate organizations. The Court considered that this absence of regulation could lead to ambiguity in determining the limits of professional and institutional relationships between advocate organizations and state power.

Conditional Constitutional Interpretation of Legal Norms

Based on its examination, the Constitutional Court formulated a conditional constitutional interpretation. The Court declared that Article 28 paragraph (3) of the Advocates Law remains constitutionally valid as long as it is interpreted to include the prohibition of concurrent positions between leaders of advocate organizations and state officials.

As a consequence of this interpretation, individuals holding leadership positions in advocate organizations are required to be inactive if they are appointed or designated as state officials. This interpretation serves as a binding legal norm that must be followed in the governance of advocate organizations.

Affirmation of the Independence of the Advocate Profession

The Constitutional Court emphasized that the advocate profession is an integral part of the law enforcement system that must uphold independence and freedom from external intervention. In its consideration, the Court affirmed that advocates have an equal position with other law enforcement officers, such as judges and prosecutors, within the judicial system.

Therefore, maintaining the independence of advocate organizations is considered essential to ensure the proper functioning of the legal system. The prohibition of dual positions is positioned as a mechanism to protect this independence from potential structural influence of state power.

Prevention of Conflict of Interest

Another important finding of the Court relates to the prevention of conflicts of interest. The Court identified that concurrent positions between leaders of advocate organizations and state officials have the potential to create conflicts of interest, particularly in relation to decision-making processes within advocate organizations.

Such conditions may affect objectivity and neutrality, as well as influence organizational policies in a manner that is not fully independent. Therefore, the prohibition

of dual positions is established as a preventive measure to avoid potential conflicts that may arise from overlapping roles.

Legal Implications for Advocate Organizations and the Judicial System

The Constitutional Court's decision has implications for the institutional governance of advocate organizations. The requirement for organizational leaders to be inactive when holding state office necessitates structural adjustments within advocate organizations, particularly in relation to leadership arrangements and organizational management.

In addition, the decision clarifies the boundaries between professional organizations and state institutions, thereby contributing to a more defined relationship between the advocate profession and state power. This also has broader implications for the judicial system, particularly in maintaining institutional integrity and public trust in the legal profession.

Discussion

Interpretation of Normative Gaps in Advocate Regulation

The findings reveal that the Constitutional Court identified a normative gap in Article 28 paragraph (3) of the Advocates Law regarding the absence of regulation on concurrent positions with state officials. This gap reflects a broader issue within the Indonesian legal system, where legal norms often fail to anticipate institutional overlaps that may affect professional independence.

From a constitutional perspective, such normative gaps can undermine legal certainty and create ambiguity in the application of the law. The Court's intervention through judicial interpretation demonstrates its role in ensuring that statutory provisions remain aligned with constitutional principles, particularly those related to equality before the law and institutional integrity.

Constitutional Interpretation and Judicial Function

The conditional constitutional interpretation formulated by the Court indicates a shift toward a more progressive and substantive judicial approach. Rather than merely declaring a norm unconstitutional, the Court reconstructs its meaning to ensure conformity with constitutional values.

This approach reflects the Constitutional Court's function not only as a negative legislator but also as a constitutional interpreter that actively shapes legal norms. By requiring advocate organization leaders to be inactive when holding state office, the Court establishes a clearer legal standard that strengthens the governance of professional institutions.

Strengthening the Independence of the Advocate Profession

The affirmation of advocate independence in the Court's decision highlights the importance of maintaining a separation between legal professions and state power. Independence is a fundamental principle in the rule of law, ensuring that legal practitioners can perform their duties objectively and without external pressure.

The prohibition of dual positions serves as a structural mechanism to preserve this independence. Without such limitations, the overlapping roles between advocate leaders

and state officials could create institutional bias and compromise the neutrality of the legal profession. Therefore, the decision contributes to reinforcing the position of advocates as an independent pillar within the judicial system.

Conflict of Interest as a Constitutional Concern

The prevention of conflicts of interest emerges as a central justification in the Court's reasoning. Dual positions inherently create the possibility of overlapping interests, particularly when an individual holds authority within both professional organizations and state institutions.

From a legal standpoint, conflicts of interest can weaken institutional credibility and reduce public trust. The Court's decision addresses this concern by establishing a preventive framework that limits the potential for such conflicts. This demonstrates that constitutional interpretation is not only concerned with formal legality but also with maintaining ethical standards in legal practice.

Institutional Implications for Advocate Organizations

The decision has significant implications for the governance of advocate organizations. The requirement for leaders to be inactive when holding state office necessitates organizational restructuring and clearer internal regulations.

This development contributes to improving institutional accountability and transparency. It also clarifies the relationship between advocate organizations and state institutions, reducing the potential for undue influence. In the broader context, these changes support the creation of a more independent and credible judicial system.

Siyasah Qadhaiyah Perspective on Judicial Authority

From the perspective of *siyasah qadhaiyah*, judicial authority must be grounded in the principles of justice and trustworthiness. These principles are clearly articulated in the Qur'an, particularly in Surah An-Nisa verse 58:

إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا وَإِذَا حَكَمْتُمْ بَيْنَ النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ ۗ إِنَّ اللَّهَ نِعِمَّا يَعِظُكُمْ بِهِ ۗ إِنَّ اللَّهَ كَانَ سَمِيعًا بَصِيرًا

Meaning: "Indeed, Allah commands you to deliver trusts to their owners. When you judge between people, judge with justice. Indeed, Allah teaches you the best lesson. Indeed, Allah is All-Hearing, All-Seeing."

This verse establishes that the exercise of authority must be based on *amanah* (trust) and *al-'adl* (justice). In relation to the Constitutional Court's decision, the prohibition of dual positions reflects an effort to uphold these values by ensuring that legal authority is exercised without bias or conflicting interests.

Preventive Legal Policy and *Sadd al-Dzari'ah*

The principle of *sadd al-dzari'ah*, which emphasizes the prevention of harm, provides further justification for the Court's decision. Dual positions can be seen as a potential pathway to injustice, particularly when they create opportunities for conflicting interests to influence decision-making.

The legal maxim:

دَرْءُ الْمَفَاسِدِ مُقَدَّمٌ عَلَى جَلْبِ الْمَصَالِحِ

illustrates that preventing harm takes precedence over achieving benefit. In this context, the prohibition of dual positions functions as a preventive legal measure aimed at safeguarding the integrity of the judicial system.

Critical Reflection from Islamic Legal Perspective

Despite its alignment with the principle of *sadd al-dzari'ah*, the decision may also be critically examined through the lens of *tahqiq al-maslahah*. Islamic legal theory emphasizes the importance of balancing harm prevention with the realization of public benefit.

An absolute prohibition on dual positions may risk overlooking contextual considerations where no actual conflict of interest occurs. Therefore, while the decision is progressive in its preventive approach, its implementation should remain proportional and context-sensitive to avoid excessive legal rigidity.

Integration of Constitutional Law and Islamic Legal Values

Overall, the discussion demonstrates that Constitutional Court Decision Number 183/PUU-XXII/2024 represents an intersection between constitutional law and *siyasah qadhaiyah*. The decision not only strengthens legal certainty and institutional independence but also reflects broader ethical values rooted in Islamic legal thought.

This integration highlights the relevance of Islamic legal principles in contemporary constitutional discourse, particularly in promoting justice, accountability, and the integrity of legal institutions.

Conclusion

Constitutional Court Decision Number 183/PUU-XXII/2024 establishes that the prohibition of dual positions between leaders of advocate organizations and state officials constitutes a constitutional measure aimed at safeguarding the independence, integrity, and accountability of the advocate profession within the Indonesian judicial system. Through a conditional constitutional interpretation of Article 28 paragraph (3) of the Advocates Law, the Court addresses a normative gap and provides a clearer legal standard to prevent conflicts of interest and maintain institutional neutrality. This decision reinforces the position of advocates as independent law enforcement actors and contributes to strengthening public trust in the legal system.

From the perspective of *siyasah qadhaiyah*, the substance of this decision is aligned with fundamental Islamic legal principles, particularly justice (*al-'adl*), trustworthiness (*amanah*), and the principle of *sadd al-dzari'ah* as a preventive mechanism against potential

harm. The prohibition of dual positions reflects an effort to ensure that judicial authority is exercised ethically and free from conflicting interests, thereby maintaining the integrity of legal institutions and promoting the public good.

However, this study is limited to a normative juridical approach that focuses on the analysis of legal texts and judicial decisions. It does not examine the empirical implementation of the Constitutional Court's ruling or its practical impact on the governance of advocate organizations and the broader judicial system. Therefore, future research is recommended to adopt empirical or socio-legal approaches in order to assess the effectiveness of this decision in practice, including its implications for institutional reform, professional ethics, and the relationship between legal professions and state power.

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