

LEGALITY OF NON-ADVOCATE TRADE UNION REPRESENTATIVES RECEIVING POWER OF ATTORNEY TO LITIGATE IN COURT FOR TRADE UNION MEMBERS

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Abstrak

Keywords:

Trade Union,
Power of Attorney,
Non-Advocate,
Industrial Relations,
Special Power of Attorney.

This research analyzes the legality of non-advocate trade union representatives receiving power of attorney to litigate in the Industrial Relations Court (PHI), focusing on the normative basis provided by legislation. This study stems from the reality that many workers lack the financial ability to access professional advocates, so trade unions play a primary role in representing them in resolving industrial relations disputes. Juridically, the authority of trade unions is based on Law No. 21 of 2000 concerning Trade Unions/Labor Unions, particularly Article 4 paragraph (1) which affirms the function of defending and protecting members, and Article 25 which grants the board the right to represent members in carrying out organizational functions. Furthermore, Law No. 2 of 2004 concerning the Settlement of Industrial Relations Disputes, through Article 87 paragraph (1), provides formal legitimacy that the parties can be represented by an attorney who holds a power of attorney, which in practice includes trade union officials. The validity of such a power of attorney is also reinforced by the provisions of Article 1792 of the Indonesian Civil Code, which states that the granting of power of attorney is an agreement to perform legal acts on behalf of the principal. The research findings indicate that the authority of trade unions to receive litigation power of attorney is not only legally valid under positive law, but also constitutes a manifestation of constitutional protection as regulated in Article 28D paragraph (1) and Article 28E paragraph (3) of the 1945 Constitution. However, this research highlights the need to enhance legal representation capacity within trade union organizations so that the quality of legal assistance aligns with the needs of the industrial relations judicial process.

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INTRODUCTION

In a modern rule of law state, the implementation of industrial relations not only involves the dynamics of production and employment but also encompasses the protection of workers' fundamental rights. The existence of a legal system that provides space for workers to obtain access to justice is a primary prerequisite in maintaining a balance of position between workers and employers. This is important because employment relationships are fundamentally subordinate, where workers tend to be in a weaker bargaining position compared to employers. Therefore, the state has a constitutional and regulatory obligation to ensure that every worker obtains adequate legal protection, including in the settlement of industrial relations disputes.

In line with the provisions of Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia, every citizen has the right to recognition, guarantee, protection, and fair legal certainty as well as equal treatment before the law. This constitutional norm provides a philosophical foundation for providing an inclusive, effective, and accessible dispute resolution mechanism for all layers of workers, including workers who lack the economic capacity to use professional advocate services. In the realm of industrial relations, one of the most strategic instruments to bridge this access gap is the existence of trade unions as collective representation.

Trade unions, as regulated in Law Number 21 of 2000, have the function of defending and fighting for the rights and interests of members. Article 4 paragraph (2) of that Law affirms the advocacy mandate of trade unions. Operationally, Article 25 of Law 21/2000 provides legitimacy for trade union officials to represent their members in negotiation forums, defense, and dispute resolution. From this provision, trade unions are not merely social organizations, but representative entities given legal space to carry out assistance functions.

The strengthening of trade union legality is also emphasized through Decree of the Minister of Manpower and Transmigration Number KEP.16/MEN/2001 concerning Procedures for Recording Trade Unions/Labor Unions, which regulates the mechanism for recording organizations as a form of state recognition. This recording is not merely an administrative formality but is the basis for the legal standing of trade unions to carry out advocacy functions, organizational services, and represent members in the process of resolving industrial relations disputes. By being recorded according to the Ministerial Decree, the organization's legitimacy in acting on behalf of members obtains strong legal certainty.

In the context of formal settlement through judicial institutions, Law Number 2 of 2004 concerning the Settlement of Industrial Relations Disputes (UU PPHI) provides a more concrete legal basis. Article 87 letter (c) of the UU PPHI explicitly states that parties litigating in the Industrial Relations Court can be represented by trade union officials or other attorneys. Thus, the existence of this norm affirms the legality of non-advocate trade union representation in the litigation process, and places it as an exception to the advocate profession regime as regulated in Law Number 18 of 2003 concerning Advocates. At the same time, this provision broadens the understanding of "attorney" in procedural law, so it is not limited to legal power of attorney from advocates.

On the other hand, the general regulation regarding the granting of power of attorney in the Indonesian Civil Code (KUHPerdata) Article 1792 affirms that power of attorney is an agreement where a person grants authority to another person to perform

an act on behalf of the grantor. This formulation is broad and does not restrict it to a particular profession, thus allowing the application of power of attorney to trade union officials as long as it does not conflict with special regulations. In the context of PHI, the norm in the UU PPHI as *lex specialis* explicitly regulates the exception that legal representation is not a monopoly of advocates.

This legality is also strengthened by jurisprudential considerations, particularly Constitutional Court Decision Number 88/PUU-X/2012, which essentially stated that restricting legal representation in PHI only to advocates contradicts the principle of access to justice. The Constitutional Court affirmed that trade unions have constitutional and functional legitimacy to represent their members in the settlement of industrial relations disputes, including at PHI. This decision not only provides legal certainty but also affirms that defense by trade union officials is part of the freedom of association guaranteed by Article 28E paragraph (3) of the 1945 Constitution.

Nevertheless, there is still debate among academics and legal practitioners regarding the limitations and quality of legal representation by non-advocates. This debate mainly concerns professionalism, ethical standards, and the litigation capacity of trade union officials. However, from the perspective of legal protection for workers, the existence of trade unions as non-advocate attorneys is an inseparable instrument from efforts to expand access to justice. Without such a mechanism, most workers would be in a vulnerable position due to limited resources to obtain professional legal assistance.

Thus, this study is directed at comprehensively analyzing the legal basis, scope, and limitations of THE LEGALITY OF NON-ADVOCATE TRADE UNION REPRESENTATION IN RECEIVING POWER OF ATTORNEY TO LITIGATE IN COURT. The discussion focuses on the normative construction of various legislations, the interpretation of Constitutional Court jurisprudence, and the relevance of the role of trade unions within the framework of legal protection and increasing access to justice for workers.

LITERATURE REVIEW

Rule of Law Theory and Access to Justice

The concept of the rule of law (*rechtstaat*) places the protection of human rights and the guarantee of access to justice as fundamental elements in the administration of state power. In a modern rule of law state, law not only functions as a tool of social control but also as an instrument to guarantee equality before the law for every person. This principle demands that every citizen, including workers, has equal opportunity to obtain effective legal protection and defense. Cappelletti and Garth argue that access to justice must not be limited by economic, social, or structural factors. The state is obliged to provide mechanisms that enable vulnerable groups, including workers, to fight for their rights collectively and individually.

In the context of industrial relations, the imbalance of power relations between workers and employers places workers in a structurally vulnerable position, thus requiring alternative representation mechanisms outside the advocate profession. Trade unions, within this framework, function as an access to justice tool that enables workers to obtain legal defense without being burdened by high professional costs. Therefore, the legitimacy of trade unions as non-advocate attorneys cannot be separated from the rule of law principle oriented towards substantive justice, not merely formal legality.

Theory of Legal Protection for Workers

Legal protection is a central concept in labor law. According to Philipus M. Hadjon, legal protection is an effort to protect individual interests through legal norms that are preventive and repressive. Preventive protection aims to prevent the occurrence of rights violations, while repressive protection aims to resolve disputes through legal mechanisms when violations have occurred. In industrial relations, legal protection for workers is realized through regulations concerning wages, social security, working conditions, and dispute resolution mechanisms.

H. Salim HS emphasizes that legal protection in the context of labor relations involves not only substantive norms but also the effectiveness of dispute resolution procedures accessible to workers. The existence of trade unions as attorneys in the industrial relations dispute process is part of repressive legal protection. Trade unions function as an extension of workers to ensure that their rights can be fought for effectively in court. Thus, the acceptance of litigation power of attorney by non-advocate trade unions is a manifestation of the legal protection theory oriented towards the interests of the weaker party.

Theory of Representation and Power of Attorney in Civil Law

Theoretically, the concept of power of attorney in civil law is rooted in representation. Article 1792 of the Indonesian Civil Code defines power of attorney as an agreement where a person grants authority to another person to perform a legal act on their behalf. This formulation is open and does not limit the attorney to a specific profession. According to Subekti, the granting of power of attorney is a logical consequence of the principle of freedom of contract, as long as it does not contradict laws, morality, and public order. In the context of civil procedural law, M. Yahya Harahap emphasizes that the main condition for the validity of power of attorney is not the professional status of the recipient, but the existence of a legal interest and valid legal standing.

In industrial relations cases, Law Number 2 of 2004 acts as *lex specialis* that expands the category of attorneys by explicitly recognizing trade union officials as parties authorized to represent workers. Therefore, theoretically, representation by non-advocate trade unions can be justified within the framework of power of attorney and legal representation theory.

Theory of Trade Unions as Collective Representation

Trade unions in industrial relations theory are understood as a form of collective representation of workers' interests. Sidney and Webb define trade unions as organizations aimed at fighting for the economic and social interests of workers through collective action. This collective representation becomes important because workers individually are in a weak bargaining position.

Law Number 21 of 2000 adopts this theory by providing an advocacy function to trade unions, including the right to represent members in dispute resolution. This function is not only sociological but also juridical because it is directly legitimized by law. Thus, trade unions are not merely social organizations but legal subjects with representative capacity. Constitutional Court Decision Number 88/PUU-X/2012 strengthens this theory by affirming that restricting the role of trade unions in representing their members in PHI contradicts the right to associate and the right to legal certainty. This decision places trade unions as constitutional actors in the industrial relations judicial system.

Theory on Limitation of Authority and Accountability of Non-Advocate Representation

Although trade unions are recognized as non-advocate attorneys, that authority is not absolute. In authority theory, every attribution of authority must be limited by its purpose. Ridwan HR emphasizes that authority granted by law always contains legal limits, both substantively and procedurally.

In this context, the authority of trade unions is limited to the realm of industrial relations disputes and only for the interests of members. Trade unions cannot extend their authority to cases outside PHI or turn it into a commercial activity. This limitation is important to maintain a balance between access to justice and the professionalism of the judicial system.

Furthermore, accountability theory demands that every form of legal representation be accompanied by moral and institutional responsibility. Trade unions must exercise power of attorney in good faith, with adequate competence, and respect the principles of justice and legal certainty. Thus, the legitimacy of trade unions as non-advocate attorneys not only stems from legal norms but also from the organization's ability to carry out that mandate responsibly.

RESEARCH METHOD

This research uses a normative juridical method that focuses on a study of positive legal norms regulating the authority of non-advocate trade unions in receiving power of attorney to litigate in court. This approach examines legislation, doctrines, and relevant court decisions as a basis for constructing legal arguments. The approaches used include a legislative approach to analyze provisions in the Trade Union Law, UU PPHI, Advocate Law, and civil procedural law; a conceptual approach to understand terms such as power of attorney, collective representation, and legitimacy to act; and a case approach to examine decisions from PHI, the Supreme Court, and the Constitutional Court related to the legality of trade unions as non-advocate attorneys. All legal materials are analyzed qualitatively through grammatical, systematic, and teleological interpretation to produce comprehensive conclusions regarding the scope and limits of trade union representation in the industrial relations litigation process.

RESULT AND DISCUSSION

Legality of Non-Advocate Trade Union Representatives Receiving Power of Attorney to Litigate in Court for Trade Union Members

Position of Trade Unions as Legal Attorneys

The position of trade unions as legal attorneys is regulated by the Industrial Relations Dispute Settlement Law (UUPPHI) Number 2 of 2004 concerning Settlement of Industrial Relations Disputes Article 87 and in Article 25 Paragraph (1) Letter b of Law Number 21 of 2000 concerning Trade Unions also regulates the position of trade unions as legal attorneys. These two regulations are the legal basis for trade unions when an industrial relations dispute occurs that requires resolution in the Industrial Relations Court, so their position is recognized to represent the parties to litigate in Court. However, this legality basis cannot stand alone without considering administrative provisions regarding organizational legal standing as regulated in the Decree of the Minister of Manpower and Transmigration Number KEP.16/MEN/2001 concerning Procedures for Recording Trade Unions/Labor Unions.

This Ministerial Decree contains provisions that trade unions obtain legal status (*rechtspersoon*) after being recorded with the manpower agency. This means that recording is not only an administrative procedure but a constitutive requirement for trade unions to be able to exercise their rights, functions, and authorities, including acting to represent members legally before employers, the government, and judicial institutions, as referred to in Articles 5 and 7 of the Ministerial Decree. Without recording, trade unions do not have legitimacy to act as legal attorneys in PHI, even if their members grant power of attorney. Thus, KEP.16/MEN/2001 becomes an important bridge ensuring that the advocacy role of trade unions guaranteed by Law 21/2000 and UU PPHI can apply legally.

First, it should be remembered that industrial relations disputes are divided into four categories according to UUPPHI Number 2 of 2004, namely rights disputes, interest disputes, termination of employment disputes, and disputes between trade unions within one company. Resolution of these disputes is conducted through bipartite negotiation, mediation, conciliation, arbitration, and the Industrial Relations Court. These resolution efforts can be seen as a form of state protection for the parties when a dispute occurs. H. Salim HS defines legal protection as an effort or form of service provided by law to legal subjects and becomes the object protected. The Industrial Relations Court, which concretely administers judicial power, is seen as one of the primary functions of the state that guarantees legal protection for resolving employment problems.

As a special court within the General Judiciary, PHI is authorized to examine and adjudicate industrial relations disputes as regulated in Article 1 number 17 of UUPPHI. Article 57 of UUPPHI stipulates that PHI uses Civil Procedural Law, including provisions concerning claims, the right to sue (*ius standi*), and the position of the parties. According to M. Yahya Harahap, a plaintiff must have correct legal standing according to law so that their claim does not contain formal defects. This legal standing becomes relevant when trade unions act as legal attorneys, making the administrative requirement of trade union recording based on Kepmenakertrans KEP.16/MEN/2001 crucial.

Problems in industrial relations cannot be separated from conflicts between workers, employers, or among trade unions. Law Number 21 of 2000 defines trade unions as the primary organization protecting the position, rights, and interests of workers. One of the strategic functions of trade unions recognized by law is the ability to represent workers in resolving industrial disputes. However, this function can only be carried out if the trade union has fulfilled the provisions of Article 25 paragraph (1) letter b of Law 21/2000, namely having been recorded with the Manpower Office.

This is the main relevance of KEP.16/MEN/2001:

The Ministerial Decree sets procedures, requirements, and proof of recording (recording number) which become the basis for the legal standing of the trade union before the law.

Therefore, when a trade union has obtained a recording number according to the Ministerial Decree, that trade union can act as a legal attorney for members in PHI trials as guaranteed by Article 87 of UUPPHI. This Ministerial Decree emphasizes that the legality of representation by trade unions depends not only on the substance of UU PPHI or the Trade Union Law but also on the administrative validity of the organization, so unrecorded trade unions cannot carry out their advocacy function. Legitimate trade unions in carrying out their position as legal attorneys have rights

similar to legal attorneys in Civil Procedural Law, including filing lawsuits. Black's Law Dictionary defines the right to sue as a party's right to make a legal claim or seek judicial enforcement of a duty or right. Legal standing in this context involves not only the individual capacity of the officials but primarily the organizational status of the trade union itself. Therefore, the recording of trade unions according to KEP.16/MEN/2001 becomes the main prerequisite determining whether a trade union can be considered legitimate in declaring itself to represent its members in court.

In practice, the legal standing of an attorney from a trade union is not determined by educational degree, advocate status, or organizational attributes, but by two main aspects:

1. the worker's membership in the trade union, and
2. the trade union's recording status based on KEP.16/MEN/2001.

This view aligns with the opinion of Reytman Aruan from the Ministry of Manpower who assesses that the main determinant of legal standing is not the organizational symbol, but membership and legitimate recording at the Manpower Office. In other words, KEP.16/MEN/2001 is a fundamental legal criterion affirming the legality of trade unions as non-advocate attorneys. In the context of industrial relations within a company, trade unions are also given collective authority to represent workers in negotiations. Article 120 of the Manpower Law regulates representation requirements based on membership percentage, although this provision was later moderated by Constitutional Court Decision Number 115/PUU-VII/2009 which set a proportional limit a maximum of three trade unions with a minimum of 10% membership. That Constitutional Court decision strengthens the effectiveness of the representative role of trade unions.

However, representation requirements in negotiations and legal standing requirements in court have different legal bases. For negotiations, the main basis is Article 120 of the Manpower Law. To represent members in PHI, the main bases are Article 25 of Law 21/2000, Article 87 of UU PPHI, and the validity of recording according to KEP.16/MEN/2001. Therefore, this Ministerial Decree ensures that trade unions can carry out their advocacy function legally, not only in daily work relations but also in litigation processes at the Industrial Relations Court. The Industrial Relations Court according to the Law is defined as a Court specially formed within the District Court environment that is authorized to examine, adjudicate and give decisions on industrial relations disputes as regulated in Article 1 Number (17) of UUPPHI Number 2 of 2004 concerning Settlement of Industrial Relations Disputes. Second, the Industrial Relations Court as an administrator of judicial power within the scope of the General Judiciary applies Civil Procedural Law in resolving Industrial Relations Disputes, regulated in Article 57 of UUPPHI Number 2 of 2004 concerning Settlement of Industrial Relations Disputes. Civil Procedural Law recognizes claims and the right to file claims.

Rights and claims are closely related to the plaintiff's right to file a claim in Court. According to M. Yahya Harahap, in Civil Procedural Law, the one acting as plaintiff must be the person who truly has the appropriate position and capacity according to law. A person's position and capacity to file a claim are required when there are rights and interests harmed and causing a dispute, then the dispute is expected to be resolved fairly and ensure legal certainty, namely the guarantee that law is enforced, that those entitled to claim can obtain their rights and that decisions can be

executed. Sudikno in his definition of legal certainty adds the certainty of protection against arbitrary actions, which means a person can obtain something expected under certain circumstances.

Within the scope of industrial relations, problems among parties, whether between workers and employers or between trade unions, are never absent. Trade union organizations are defined based on Law Number 21 of 2000 concerning Trade Unions, essentially being the primary tool for workers to protect and fight for a good position, aiming to provide protection, defense, and improve welfare for their members, and having strategic roles and functions in the implementation of industrial relations. One of the strategic roles and functions of trade unions in industrial relations is that trade unions, federations, and confederations are given special rights to represent workers in resolving industrial disputes. This role and function are guaranteed by law and constitute absolute legal certainty as long as these provisions are not replaced. The provisions that must be complied with by trade unions, federations, and confederations of trade unions to carry out these functions and roles are that they must have a recording number at the Manpower Office (Article 25 Paragraph (1) Letter b of Law Number 21 of 2000 concerning Trade Unions); when a trade union fulfills this requirement, then that trade union can act as a legal attorney to represent its members litigating in the Industrial Relations Court (Article 87 of UUPPHI Number 2 of 2004 concerning Settlement of Industrial Relations Disputes).

Trade unions in carrying out their position as legal attorneys also have the same rights as legal attorneys in Civil Procedural Law, namely having the right to perform all authorities regulated in Civil Procedural Law including filing claims in Court, within its scope being the Industrial Relations Court. The right to file a claim is defined in Black's Law Dictionary as "A Party's right to make legal claim or seek judicial enforcement of a duty or right." Legal Standing is required when a person, group of people, or performs a legal act in Court, their position and capacity in performing the legal act must be correct according to law, in line with M. Yahya Harahap's opinion, an error in acting as plaintiff causes the claim to contain a formal defect or *error in persona*. Reytman Aruan, Head of the Sub-Directorate for Settlement of Industrial Relations Disputes at the Ministry of Manpower, views that the determinant of legal standing of an attorney representing a trade union is not the name and symbol, but if the worker is a member of the trade union, then the trade union may become an attorney for its member.

If the attorney is a member of the trade union, that might be a consideration for the judge, but that is also debatable because the validity requirement for a trade union is based on recording at the Manpower Office and KSBSI has been recorded at the Manpower Office. Article 25 Paragraph (1) of Law Number 21 of 2001 concerning Trade Unions is the legal standing specifically given by law to trade unions as legal attorneys to represent their members. Moreover, permission is not required at the Industrial Relations Court as an advocate if someone wishes to become an attorney for their member; the law does not even problematize someone not being a law graduate as long as the trade union is already recorded at the Manpower Office. The legal standing of an attorney was initially regulated by the Advocate Law, but when a trade union acts as an attorney, it then continues to the Trade Union Law.

Workers being represented by trade unions is intended to strengthen their position in negotiating with employers because trade union officials are generally chosen from people capable of fighting for the rights and interests of their

members. Law Number 13 of 2003 states that if there is more than one trade union/labor union in a company, the one entitled to represent workers/laborers in negotiations with the employer is the one whose membership exceeds 50% (fifty percent) of the total number of workers/laborers in that company (Article 120 paragraph 1). If this provision is not met, then trade unions/labor unions can form a coalition so that the number exceeds 50% (fifty percent) of the total number of workers/laborers in that company to represent in negotiations with the employer (Article 120 paragraph 2). The position of trade unions/labor unions in representing workers to conduct negotiations seems hindered by the provisions of Article 120 paragraphs (1) and (2) of the Manpower Law.

The number stipulated in the article impacts the formation of Collective Labor Agreements. In other words, the aspirations of their members cannot be conveyed properly and trade unions cannot fight for rights and interests as they should. The Constitutional Court issued Constitutional Court Decision Number 115/PUU-VII/2009, which stated that the number of trade unions/labor unions entitled to represent in a company must be limited reasonably or proportionally, namely a maximum of three trade unions/labor unions or a combination of trade unions/labor unions whose members number at least 10% (ten percent) of all workers/laborers in the company. The benefits felt by workers became far more effective after that Constitutional Court Decision, as with a minimum membership of 10% of all workers/laborers, it can facilitate trade unions/labor unions as worker representatives in conducting negotiations with employers so they can fight for the rights and interests of all their members.

Limits and Responsibilities of Trade Union Representation in Receiving Power of Attorney to Litigate in Court

The authority of trade unions as recipients of litigation power of attorney in resolving industrial relations disputes is a legal construction with unique characteristics in the Indonesian judicial system. This construction does not originate from the advocate law regime as regulated in the Advocate Law, but developed through the labor law regime that views trade unions as legitimate collective representation of workers. In the national legal system, the right to obtain legal assistance and representation formally is regulated within the framework of civil procedural law, specifically in the *Herzien Inlandsch Reglement* (HIR) and *Rechtsreglement voor de Buitengewesten* (RBg). Both regulations stipulate that a person can be represented by a party granted power of attorney through a special power of attorney. A non-advocate who can receive power of attorney and appear in civil, religious court, and State Administrative court trials are:

1. Prosecutors (as state attorneys)
2. Non-Governmental Organizations (environmental)
3. Legal bureaus (Government agencies, state bodies or institutions, State-Owned Enterprises/BUMN, Indonesian National Army/TNI, and Indonesian National Police/Polri)
4. Trade unions (Industrial Relations Court)
5. Close family (incidental attorney)

Incidental attorney for certain conditions, and other parties specifically granted authority by law. Trade unions fall into the last category, namely parties that obtain authority through legal attribution.

The jurisdictional basis for granting authority to trade unions can first be found in Law Number 21 of 2000 concerning Trade Unions/Labor Unions, which provides defense and rights protection functions to trade unions. This function is then affirmed

more explicitly in Article 87 letter (c) of Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes (UU PPHI), which states that "trade union officials are authorized to represent workers in industrial relations disputes, including in litigation processes at the Industrial Relations Court (PHI)." Thus, formally, trade unions obtain a legitimate legal position as litigation attorneys, equivalent to other categories of attorneys recognized by law.

However, this construction of authority cannot be read as granting unlimited rights. In the doctrine of civil procedural law, every recipient of power of attorney is subject to the principle of limitation of authority, whether sourced from law, from the substance of the power of attorney, or from the personal competence of the recipient. In the context of trade unions, this limitation becomes increasingly important because trade unions are not part of the formal legal profession that has professional standards like advocates. Advocates are required to attend Special Professional Education for Advocates (PKPA), pass professional exams, undergo internships, adhere to a code of ethics, and are under the supervision mechanism of advocate organizations. Trade unions are not formed to carry out these functions, so their authority is special, limited, and only applies to a specific realm.

The main limitation on the authority of trade unions lies in the scope of industrial relations disputes as regulated in Article 56 of UU PPHI, which includes rights disputes, interest disputes, termination of employment disputes, and disputes between trade unions within one company. Trade unions do not have the authority to represent workers in criminal cases, general civil cases, administrative disputes, or other cases outside the realm of industrial relations. If a trade union accepts power of attorney for cases outside that realm, such action can legally be assessed as misuse of authority or practice of law without a license. Several contemporary law journals emphasize that this limitation must be read as a *labor lex specialis* that should not be interpreted broadly.

Limitations on trade unions also relate to the validity of the power of attorney. The special power of attorney must be signed legally by an authorized party, contain complete and valid identification, and detail the legal actions authorized. Many PHI cases show that workers' claims are dismissed or inadmissible due to defects in the power of attorney, for example because the power of attorney was not signed by a legitimate official, the acting official was not registered with the Manpower Office, or the attorney acted without a valid organizational mandate. In PHI Medan Decision No. 63/Pdt.Sus-PHI/2019/PN.Mdn, for instance, the panel of judges deemed the trade union's attorney invalid because they could not prove themselves as active officials. This case shows that administrative boundaries are an important prerequisite in trade union representation.

In addition to limits based on law and administration, the limit of personal competence plays a central role in the effectiveness of trade union representation. Normatively, the law does not require special formal education for trade union officials acting as attorneys. However, in practice, legal representation requires a deep understanding of procedural law, substantive labor law, legal logic, argumentation techniques, and litigation skills. Many studies show that trade unions without internal advocacy units often face serious challenges in constructing claims, drafting responses, managing evidence, and mastering jurisprudence, which can harm their own

members. Thus, although legally trade unions can be attorneys, organizationally, competence determines whether that function can be carried out effectively.

Compared to other categories of attorneys regulated in HIR, the existence of trade unions as attorneys shares similarities with attorneys granted explicitly by law. Advocates, prosecutors, and guardians or curators obtain authority due to legal provisions. Advocates obtain authority from the Advocate Law, prosecutors from the Prosecution Law as state attorneys, while guardians or curators obtain their authority from civil law. Incidental attorneys have a very limited scope and can only be used by family meeting certain requirements. Trade unions are in a position parallel to categories of attorneys based on legal attribution, but their authority is not equivalent to advocates who have a general mandate to litigate in the entire judicial system. Trade unions have a special and limited mandate, but although limited, that mandate still has constitutional value because it is closely related to the right to associate and the collective freedom of workers.

From the perspective of responsibility, trade unions bear legal, administrative, moral, and institutional responsibilities. Legal responsibility is apparent when trade unions make mistakes or negligence in exercising power of attorney, for example not attending hearings so the claim is dismissed. Under such conditions, the worker as the principal has the right to demand civil accountability for such negligence. From a moral and social perspective, negligence by trade unions can reduce members' trust in the organization and even disrupt the structural stability of the trade union itself. Research by Simanjuntak (2022) shows that the inability of trade unions to carry out legal advocacy is one of the causes of declining membership in several national trade union organizations.

Furthermore, the responsibility of trade unions is also related to ethical principles of representation, including the obligation to maintain member data confidentiality. In the era of personal data protection regulations as regulated in Law Number 27 of 2022, this obligation becomes increasingly important. Trade unions often manage sensitive data such as pay slips, performance reports, medical records related to termination for health reasons, and internal company documents. Negligence in safeguarding data can lead to legal consequences, including data breach lawsuits. Additionally, trade unions must avoid commercializing legal representation. Their function is collective and should not be equated with professional services. Some research indicates practices of trade unions charging high fees for case assistance, practices that can be categorized as misuse of organizational authority (Siregar, 2021). This limitation is important to maintain organizational integrity and ensure that trade unions do not transform into commercial entities far from their original purpose.

Trade unions also have the responsibility not to guarantee case outcomes. Legal representation is probabilistic and highly influenced by evidence and judicial considerations. Therefore, any form of promise of victory not only violates representation ethics but can also be categorized as legal fraud. Trade union representation must be based on good faith, transparency, and objective explanation to members about case opportunities and risks. In carrying out legal representation, trade unions need to build internal competency standards through training, labor law education, and development of organizational advocacy SOPs. Many large trade unions have well-structured advocacy units or departments, with mechanisms for recruitment, internal training, supervision, to performance audits. This practice shows that although

not having authority as a legal profession, trade unions can still become competent legal attorneys if the organization provides adequate institutional support. Such models have been studied by various institutions as good practices in strengthening labor organization capacity (KSBSI, 2020; FSPMI, 2019).

Ultimately, trade unions have a very significant role in ensuring access to justice for workers. Amid the imbalance of power relations between workers and companies, the presence of trade unions as non-advocate attorneys is a corrective mechanism recognized and legitimized by the state. However, the existence of this corrective mechanism must not ignore principles of prudence, professional responsibility, and the limits of procedural law. Trade unions are not formal legal professions, but when entering the courtroom they bear ethical burdens and legal responsibilities not much different from advocates. Legal instrumentation provides space, but its effectiveness depends on the organization's capacity, integrity, and professionalism. With an understanding of these limits and responsibilities, trade union representation can run effectively and remain within legal corridors, while making real contributions to industrial justice and the protection of workers' rights.

CONCLUSION

This research concludes that the legality of non-advocate trade union representation in receiving power of attorney to litigate in the Industrial Relations Court has a strong legal basis in the Indonesian legislative system. Law No. 21 of 2000 and Law No. 2 of 2004 provide normative legitimacy for trade unions to represent their members at every stage of industrial relations dispute resolution. This legality is emphasized through the Decree of the Minister of Manpower and Transmigration KEP.16/MEN/2001, which makes the recording of trade unions a constitutive requirement to obtain legal status to act before judicial institutions. Thus, trade unions have a legitimate legal position as non-advocate attorneys as long as they fulfill administrative and procedural requirements. However, this research also shows that the effectiveness of legal representation is not only determined by normative legitimacy but highly depends on the capacity, litigation competence, and professionalism of trade union officials in carrying out their advocacy function.

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