

Obstruction of Justice Against Advocates in Indonesian Corruption Cases: Implications of Article 21 for Professional Independence

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Abstract.

The offense of obstruction of justice (OJ) functions to safeguard the integrity of the administration of justice from acts that intentionally interfere with law enforcement processes. In the context of corruption eradication in Indonesia, the regulation of OJ under Article 21 of the Anti-Corruption Law is designed as a protective instrument for the judicial system. However, the elastic formulation of the norm—particularly the phrase “directly or indirectly”—creates significant legal problems when applied to advocates, who are doctrinally positioned as independent officers of the court. This article examines the boundary between legitimate adversarial defense and obstruction of justice committed by advocates in the legal representation of corruption cases by analyzing the structure of the offense, the relationship between actus reus and mens rea, and its implications for professional independence and the principle of fair trial. This research employs a normative juridical method using statutory, conceptual, and doctrinal approaches, supported by national and international literature review. The findings demonstrate that the lack of precision in defining the elements of conduct, causality, and the threshold of intent in Article 21 of the Anti-Corruption Law has the potential to obscure the boundary between lawful defense actions and criminal obstruction, thereby increasing the risk of overcriminalization and creating a chilling effect on advocacy practices. This article proposes a framework for normative reform through rule-sharpening and role-based screening liability approaches to ensure that the criminalization of obstruction of justice continues to function as a safeguard for the judicial system without undermining the independence of the legal profession and the right to effective legal representation.

Keywords: *Obstruction of Justice; Advocates and Professional Independence.*

I. INTRODUCTION

Obstruction of Justice (OJ) is doctrinally understood as an offense that functions to protect the integrity of judicial processes and the administration of justice from any form of intervention that intentionally obstructs, misleads, or frustrates law enforcement.[1] In the context of corruption offenses, OJ acquires a strategic dimension because it is directly related to public interest, the institutional legitimacy of law enforcement authorities, and the effectiveness of combating extraordinary crimes.[2] Therefore, in many modern legal systems, OJ is classified as a **system-protective** offense, namely an offense designed to safeguard the functions and authority of judicial institutions rather than merely protecting individual interests. In Indonesia, the regulation of OJ is implicitly embedded in the Criminal Code (KUHP) through offenses relating to interference with legal processes and is further expanded explicitly through Article 21 of the Anti-Corruption Law as a *lex specialis* that broadens the scope of criminalization to ensure the effectiveness of corruption law enforcement [3]. However, serious legal problems arise when the subject subjected to prosecution is an advocate—a profession that, within legal professional theory, is positioned as an independent officer of the court, rather than merely a representative of client interests. Normatively, advocates are afforded protection through professional privilege and functional immunity for defense statements made within the framework of judicial proceedings, as prerequisites for the realization of a fair trial and equality of arms.

[4] Article 21 of the Anti-Corruption Law, which employs the phrase “directly or indirectly” without providing limiting parameters, operational standards of causality, or a clear *mens rea* filter, creates space for excessive interpretation. This condition risks shifting OJ from an instrument designed to protect the judicial system into a mechanism of overcriminalization against the defense function.[5] Theoretically, this phenomenon aligns with critiques of the expansion of criminal law that blur the boundaries between ethical violations, professional responsibility, and criminal conduct, thereby generating a chilling effect on the

practice of the legal profession. Several studies indicate that the ambiguity of OJ provisions tends to encourage defensive lawyering, a condition in which advocates rationally limit their defense strategies due to fear of criminal prosecution, ultimately reducing the quality of legal representation and weakening the role of advocates as a mechanism of checks and balances within the criminal justice system.[6] From this perspective, criminalization without role-based screening not only undermines professional independence but also threatens the legitimacy of the judicial system itself. Although scholarly discussions on obstruction of justice and the criminalization of advocates have developed within criminal law and legal profession literature, most studies still situate this issue at the level of sectoral normative conflict or ethical violations, without systematically examining the offense structure, causality, and *mens rea* under Article 21 of the Anti-

Corruption Law as the basis for criminal liability against advocates. Consequently, there remains no comprehensive conceptual framework capable of precisely distinguishing between legitimate adversarial defense and obstruction conduct within an institutional formal offense regime. This analytical gap constitutes the primary space of intervention addressed by this article. This article offers a conceptual contribution by reformulating obstruction of justice against advocates as a role-based offense, which requires subject screening (*role screening*) and precision in defining prohibited conduct (*rule sharpening*), thereby directing criminalization toward active and manipulative acts that demonstrably undermine judicial processes, rather than legitimate and dignified defense activities. Academically, this discussion is significant in defining the outer limits of criminal law intervention against the legal profession within a democratic rule-of-law state. From a policy perspective, this analysis is relevant to ensuring that anti-corruption enforcement does not compromise the principles of fair trial and the independence of defense counsel as pillars of the justice system. Based on this framework, this article aims to: (1) analyze the normative problems of Article 21 of the Anti-Corruption Law, particularly concerning causal phrasing and the expansion of legal subjects; (2) map its implications for professional independence, the functional immunity of advocates, and clients' access to justice; and (3) propose directions for normative reform through rule-sharpening and role-screening liability approaches, so that the OJ offense can be enforced with precision as an instrument for safeguarding the judicial system without negating the mandate of legitimate legal defense within the framework of *officium nobile*. The analysis is conducted through a normative-doctrinal approach employing conceptual analysis and limited comparative study, using theories of criminalization and professional role morality as the primary analytical lenses.

II. METHODS

This research constitutes a normative legal study oriented toward legal policy research, aimed at analyzing the weaknesses in the normative structure of obstruction of justice under Article 21 of the Anti-Corruption Law and formulating directions for more precise and proportionate normative reform. The study employs a qualitative prescriptive approach through the *statute approach* and *conceptual approach* [7] to examine the regulation of OJ offenses and the concept of protecting the administration of justice. The legal materials consist of statutory regulations, court decisions, and scholarly literature on criminal law and the legal profession. The analysis is conducted through normative content analysis[8] using indicators such as the *behavioral delict indicator*, *causal proximity test*, and *corrupt intent threshold* to assess the precision of offense elements and the boundary between legitimate defense and obstruction of judicial processes. The findings are validated based on the principles of *lex certa*, proportionality, and *ultimum remedium* in criminal law.

III. RESULT AND DISCUSSION

A. Concept and Regulation of Obstruction of Justice in Indonesia

Etymologically, obstruction of justice derives from two words: *obstruction*, meaning hindrance or interference, and *justice*, meaning fairness or judicial process. Literally, the term denotes “interference with justice.” Within the Anglo-Saxon legal tradition, the concept has long been used to prosecute individuals who attempt to disrupt legal proceedings, such as destroying evidence, providing false testimony, intimidating witnesses, or influencing law enforcement officials to make decisions that deviate from the

law.[1] In the United States legal system, obstruction of justice is categorized as a crime against the administration of justice, namely an offense that attacks or undermines the administration of justice. The Congressional Research Service explains that such offenses encompass acts that “frustrate governmental purposes by violence, corruption, destruction of evidence, or deceit.”[9]. This offense does not merely cause harm to specific parties but also threatens the sustainability of law itself as an instrument for enforcing justice. Accordingly, the term carries a broader meaning than an ordinary criminal act; it represents a violation of the values of honesty, transparency, and legal integrity. [10]

According to Deborah C. England, several forms of conduct may be classified as obstruction of justice. These include assisting a suspect by providing information regarding the course of an investigation, giving false or misleading statements to investigators, conspiring to eliminate or conceal evidence, and tampering with or destroying evidentiary materials.[11] All such actions are regarded as attempts to hinder law enforcement processes and may therefore give rise to criminal liability. This practice is considered a serious threat to the integrity of the judicial system because it can weaken the material truth that underpins the legitimacy of judicial decisions, as reflected in various criminal law literature that characterizes OJ as conduct affecting enforcement effectiveness and the credibility of legal institutions.[12] In international and comparative law contexts, this concept is often operationalized through elements of intent to interfere and the nexus between the conduct and formal investigative or adjudicative processes, distinguishing it from mere procedural violations.[13] Accordingly, obstruction of justice is not merely a category of offense focused on concrete consequences but also emphasizes the manipulative tendency and purpose directed at the judicial system—extending, in theoretical terms, from the protection of due process norms to ensuring the substantive integrity of law enforcement. Under the former Indonesian Criminal Code (KUHP), obstruction of justice was not constructed as an autonomous offense but rather appeared implicitly and was dispersed across various provisions.

For example, Article 221 of the KUHP criminalized acts of concealing an offender or providing assistance to enable a person to evade investigation, arrest, or detention, while Article 233 regulated the destruction or removal of evidence that obstructs legal proceedings.[14] Normative juridical studies indicate that these provisions were materially oriented and consequence-based, focusing evidentiary assessment on the resulting obstruction or closure of legal processes, rather than systematically protecting the administration of justice as a primary legal value. Research concerning legal protection for advocates, for instance, emphasizes the material character of these offenses by placing evaluative emphasis on the consequences caused by the conduct, rather than on the potential danger posed to judicial processes themselves.[15] Reform through the new Criminal Code (Law No. 1 of 2023) has restructured the regime of offenses against judicial processes through a more formal and administration-of-justice-oriented approach. A series of provisions under Chapter VI of the new KUHP (such as Article 278 concerning false evidence, Articles 281–282 regarding influence or intimidation of related parties[16], and Articles 289–291 relating to the concealment or destruction of evidence) demonstrate a paradigmatic shift from consequence-based offenses to offenses that prohibit conduct from the outset because of its inherent tendency to obstruct or distort legal processes.

This transformation reflects a criminalization orientation that no longer waits for concrete consequences but instead addresses conduct based on its potential to undermine the integrity of the judicial system, as part of the modernization of the Criminal Code in alignment with contemporary criminal law principles [17]. However, despite the expansion of protection over judicial processes through more explicit statutory formulations in the new Criminal Code, the need for layered interpretation and harmonization with external norms remains crucial—particularly concerning law enforcement professions such as advocates. Overly broad provisions without precise parameters regarding *actus reus* and *mens rea* risk generating legal uncertainty (*normative uncertainty*), which may inadvertently formalize the criminalization of defense strategies that are in fact legitimate adversarial defense. Normative safeguards, such as a *mens rea* filter and functional limitations on defense conduct, are therefore necessary to ensure that OJ provisions do not shift from instruments of judicial system protection into mechanisms for penalizing protected professional roles.[3] Furthermore, in the context of corruption eradication, obstruction of justice is most explicitly

regulated under Article 21 of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 concerning the Eradication of Corruption (Anti-Corruption Law). As a *lex specialis* to the Criminal Code, this provision is designed to criminalize conduct that has the potential to obstruct investigations, prosecutions, or court proceedings in corruption cases, which are categorized as extraordinary crimes.

Clear interpretative parameters are required to distinguish conduct that genuinely threatens law enforcement processes from actions undertaken by advocates as an expression of professional defense rights. Without realistic and measurable limitations, the provision risks creating interpretative ambiguity and disparities in law enforcement.[5] Obstruction of justice is fundamentally an offense aimed at protecting the integrity of the administration of justice as an institutional legal interest, emphasizing the intent and tendency of conduct that has the potential to obstruct or distort judicial processes, rather than merely focusing on the concrete consequences produced. The development of Indonesian criminal law demonstrates a shift from the implicit and consequence-based regulation under the former Criminal Code toward a more formal and preventive approach in the new Criminal Code, which criminalizes conduct at an early stage based on its potential harm to the judicial system. However, this expansion carries the risk of normative uncertainty if applied without precise limitations concerning professions that are functionally protected, particularly advocates, thereby creating the potential to shift obstruction of justice from an instrument of judicial system protection into a mechanism for criminalizing legitimate defense functions. In the context of corruption eradication, Article 21 of the Anti-Corruption Law, as a *lex specialis*, reinforces the character of obstruction of justice as a system-protective offense, while simultaneously requiring strict interpretation grounded in a *mens rea* filter and role-based screening to ensure that effective law enforcement remains aligned with the protection of professional independence, the principle of fair trial, and the overall legitimacy of the criminal justice system.

B. Legal Ambiguity of the Phrase “Directly or Indirectly” in Article 21 of Indonesia’s Anti-Corruption Law

The phrase “directly or indirectly” in Article 21 of the Anti-Corruption Law represents a legislative technique intended to broaden the scope of obstruction methods against judicial processes, including conduct carried out through intermediaries, administrative arrangements, or engineered conditions that hinder the work of law enforcement authorities.[18] However, from the perspective of *rechtsvinding*, the expansion of obstruction of justice norms reveals structural problems in criminal law, as it encourages judges to engage in judicial law-finding within a domain that is constitutionally constrained by the principle of legality. Accordingly, *rechtsvinding* is relevant not to justify the expansion of OJ norms, but rather to delineate the limits of criminal interpretation and underscore the need for more precise offense formulation. Juridically, the absence of clear limiting parameters renders the phrase susceptible to multiple interpretations, creates disharmony with the functional immunity of advocates (Article 16 of the Advocates Law), and opens the risk of overcriminalization of adversarial actions that are inherently part of the professional mandate of legal defense.[19] This condition may trigger excessive caution (*defensive lawyering*) and contribute to disparities in decisions at both investigative and judicial levels. In judicial review proceedings, the Constitutional Court emphasized that the applicant’s proposed textual modification (adding the word “and” and removing the phrase *a quo*) would substantively alter the meaning of the norm, leading the Court to declare the petition vague and formally defective, as reflected in Constitutional Court Decision No. 27/PUU-XVII/2019.

[5] Although the Court did not approve the removal of the phrase, the decision highlights the central issue addressed in this research: the interpretative limits of the terms “directly or indirectly” remain fully dependent on the discretion of law enforcement officials and judges, rather than on measurable conduct standards embedded within the statutory text. Doctrinally, an ideal OJ offense requires a strict nexus between *mens rea* (conscious intent to obstruct) and *actus reus* (active and manipulative conduct beyond the legitimate scope of defense).[20] However, because Article 21 of the Anti-Corruption Law does not differentiate between a *corrupt intent threshold* and *behavioral delict indicators*, obstruction tendencies are often inferred merely from the potential for interference, without requiring proof of logical and proportionate functional causality. This condition risks shifting the normative function from safeguarding the administration of justice toward penalizing professional roles, particularly when applied to advocates

representing clients with significant influence. Normative vagueness in Article 21 of the Anti-Corruption Law primarily stems from the use of the phrase “directly or indirectly,” which is not accompanied by measurable conduct standards or operational parameters of causality.

This ambiguity is reflected in the absence of clear benchmarks to distinguish legitimate procedural defense (*legitimate adversarial conduct*) from manipulative obstruction, resulting in evaluative standards that often shift from normative foundations to the perceptual judgments of law enforcement authorities or judges. Such an offense construction generates inconsistency in the early criminal liability threshold, expands the risk of overcriminalization, and creates a gap between the objectives of criminalization and the operational effectiveness of the norm [9]. Imprecision also arises at the level of *mens rea*. The provision merely requires the element of acting “intentionally” without differentiating levels of intent, such as *opzet met oogmerk*, *zekerheidsbewustzijn*, or *dolus directus* as thresholds of corrupt intent. Consequently, intent is frequently interpreted in a monolithic and expansive manner, including professional conduct carried out in good faith that should properly fall within the safe harbor of professional immunity under the Advocates Law and professional codes of ethics. A broadly framed general clause without clear delictual indicators reflects the weakness of precision of conduct in criminal norms, which ideally require a strict separation between criminal intent and defense-oriented intent. Obstruction of justice is conceptually an offense intended to protect the integrity and functional operation of the administration of justice from manipulative interference.

Accordingly, criminalization—particularly when directed at advocates—can only be justified when cumulatively established that there is an affirmative act, corrupt intent to obstruct judicial proceedings, and a rational causal nexus to an ongoing or reasonably foreseeable legal proceeding.[21] However, these normative standards have not been adequately institutionalized within Indonesian positive law, particularly in relation to the *actus reus* dimension. The absence of measurable conduct indicators (*behavioral delict indicators*) results in the elements of “preventing, obstructing, or frustrating” under Article 21 of the Anti-Corruption Law being interpreted elastically and potentially extended into the spectrum of professional legal activities, including administrative actions, legal communications, and litigation strategies that structurally form part of legitimate defense mandates. Consequently, enforcement of the formal offense of obstruction of justice frequently depends on case-by-case causal constructions that are judge-dependent, without requiring proof of active manipulative conduct beyond defense functions or demonstrable causal relations that can be operationalized objectively. This condition not only increases the risk of overcriminalization and produces a chilling effect on the professional independence of advocates, but also risks shifting the function of obstruction of justice from an instrument designed to safeguard the judicial system into a mechanism for penalizing defense roles that are normatively protected within criminal justice systems grounded in the principles of fair trial and equality of arms.[22]

Furthermore, this vagueness produces systemic consequences for the legal profession. Overly broad provisions encourage defensive lawyering, generate chilling effects, and ultimately reduce the quality of legal assistance and access to justice. Within the framework of a democratic rule-of-law state, vague criminal norms not only fail to satisfy the principle of maximum certainty [23], but also risk undermining the legitimacy of anti-corruption enforcement itself, as imprecise norms create space for unpredictable enforcement and the punishment of professional roles rather than solely wrongful conduct. Within formal offense regimes such as Article 21 of the Anti-Corruption Law, causality does not require proof of concrete consequences, yet it still demands a rational, measurable, and operational causal relationship to determine whether a particular act genuinely possesses a tendency to obstruct law enforcement processes.[24] The expansion of the phrase “directly or indirectly” in this provision is not accompanied by clear causal parameters, whether in the form of conduct indicators, measures of causal proximity, or evidentiary standards establishing functional linkage between conduct and obstructed legal processes. As a result, the phrase “indirectly” is frequently interpreted excessively, extending to professional legal conduct that remains within the orbit of legitimate legal representation, thereby rendering causality standards perceptual and dependent on the subjective evaluation of law enforcement authorities or judges, rather than on operational benchmarks embedded within the statutory text.

The absence of such parameters gives rise to three methodological consequences in law enforcement. First, there is no causal proximity threshold determining how far the role of intermediaries or chains of conduct may still be attributed to the principal perpetrator. Second, there is no evidentiary standard of causation based on functional roles (*role-based causation test*) for advocates, whose actions are inherently adversarial and procedural in nature. Third, there is no normative indicator specifying forms of conduct that logically possess obstructive force, such as active manipulative acts including concealing evidence, directing false testimony, or intimidating witnesses. The absence of these benchmarks causes the enforcement of the formal OJ offense under the Anti-Corruption Law to lack an operational threshold, thereby increasing disparities in causal construction in practice. Furthermore, the ideal causation standard for obstruction of justice should be established through a logical relationship between the conduct and the ongoing legal process, rather than mere assumptions of potential interference [25].

Without operational parameters, the enforcement of Article 21 risks adopting a speculative causation model, in which conduct that merely “may create obstruction” is considered sufficient for criminal liability, even in the absence of concrete conduct design or corrupt intent directed toward undermining judicial processes. In the context of advocates, this condition risks blurring the boundary between procedural defense actions (such as objections, motions, or administrative litigation maneuvers) and manipulative obstructive conduct, as both are evaluated using the same metric—namely, interference with legal processes—without a clear causal filter. The systemic implication for the legal system is the erosion of predictability of enforcement and measurability of conduct, both of which constitute essential prerequisites in criminal policy to ensure that formal offenses operate within the limits of maximum certainty [26]. In constitutional review proceedings, the Constitutional Court considered the phrase to be *obscur* because it lacked limiting parameters that would preserve its meaning, indicating that the core problem lies not in the existence of the phrase itself, but in the absence of operational standards for its interpretation and enforcement. Accordingly, future normative reform should incorporate measurable causality standards through models such as role-screening causation, corrupt-intent proximity tests, or conduct-based causal indicators, to ensure that the OJ offense effectively protects judicial processes without undermining the functional independence of the legal profession.

C. The Boundary Between Legitimate Legal Defense and Obstruction of Justice

Conceptually, the boundary between legitimate adversarial defense and obstruction of justice (OJ) cannot be determined solely on the basis of factual consequences in the form of delays or impediments to investigation, prosecution, or court proceedings. Criminal law scholarship emphasizes that certain procedural obstacles constitute an inherent consequence of defense mechanisms within an adversarial criminal justice system, provided that such actions are performed within the scope of professional duties and grounded in good faith.[27] Therefore, OJ should be understood as an offence aimed at protecting the integrity and function of the administration of justice, rather than as an instrument for criminalizing every defensive action that factually slows legal proceedings.[28] Within the context of the legal profession, this distinction becomes crucial because advocates are normatively positioned as independent officers of the court, whose role is to maintain procedural balance while safeguarding the rights of the accused. Advocate immunity remains attached as long as the actions undertaken fall within the professional mandate and are carried out in good faith.[29] However, such immunity is conditional and may be forfeited when an advocate actively engages in manipulative conduct that functionally undermines the integrity of judicial proceedings [15].

Accordingly, the boundary between legitimate defense and OJ must be determined through a cumulative evaluation of the form of conduct, the purpose of the action, and its functional relationship to judicial proceedings, thereby ensuring that criminalization does not shift into a restriction on the professional independence of advocates. From the perspective of *mens rea*, numerous studies emphasize that the offence of obstruction of justice (OJ) requires a conscious intention to obstruct legal proceedings, rather than merely an intention to defend a client’s interests. The element of intent in OJ must therefore be construed as an *intent to obstruct*, such that legitimate defensive intent (*intent to defend*), even when it factually results in procedural delays, cannot automatically be classified as a criminal offence.[27] The lack of clear differentiation among levels of intent constitutes a primary source of normative ambiguity within Article 21

of the Anti-Corruption Law and creates room for excessive interpretation of advocates' professional conduct.[28] From the *actus reus* dimension, doctrinal developments and legal practice within Indonesian scholarship consistently limit OJ to active and manipulative conduct that falls outside the scope of legitimate legal defense, such as the destruction or concealment of evidence, directing witnesses to provide false testimony, or engaging in non-procedural interventions toward law enforcement authorities.

The absence of a comprehensive definition of OJ conduct within Indonesian positive law has resulted in procedural actions undertaken by advocates being drawn into the scope of criminal liability, despite their structural function as legitimate defense strategies.[2] Furthermore, in terms of causation, the enforcement of OJ offences should be grounded in a clear functional relationship between the actor's conduct and an actual disruption of judicial proceedings, rather than on assumptions or subjective perceptions of law enforcement authorities.[5] The lack of operational parameters within the phrase "directly or indirectly" in Article 21 of the Anti-Corruption Law intensifies the risk of legal uncertainty and enforcement disparity, particularly when advocates become the subjects of prosecution. Accordingly, the application of OJ offences to advocates necessitates a role-based screening approach to ensure that the norm does not shift from an instrument for safeguarding the administration of justice into a mechanism for excessive criminalization of legitimate defense mandates.

[30] Based on the foregoing analysis, it can be concluded that the boundary between legitimate legal defense and obstruction of justice cannot be simplistically determined based on the factual impact of delays or impediments to judicial proceedings. Instead, such a distinction must be constructed through a normative framework that positions OJ as an offence aimed at protecting the integrity of the administration of justice. Within the context of the legal profession, this distinction is fundamental because advocates functionally constitute an integral part of the justice system itself. Consequently, advocates' immunity rights and professional independence may only be set aside when there is clear evidence of conscious, active, and manipulative conduct intended to obstruct legal proceedings. The lack of clarity regarding the differentiation of *mens rea*, the limitation of *actus reus*, and the causal relationship within Article 21 of the Anti-Corruption Law demonstrates a normative problem that risks blurring the demarcation line between legitimate defense and criminal conduct. Therefore, the application of obstruction of justice offences to advocates necessitates a role-based screening approach and precise operational indicators, ensuring that the norm continues to function as an instrument for safeguarding the administration of justice without being reduced to a mechanism for criminalizing legitimate defense mandates.

D. Strategies for Protecting Professional Independence

The expansion and elasticity in the interpretation of obstruction of justice norms necessitate the strengthening of protection strategies for advocates' professional independence that are not merely normative but also operational and institutional. Within the context of an adversarial criminal justice system, advocates' independence constitutes a functional prerequisite for the realization of fair trial principles and equality of arms. Therefore, any law enforcement mechanism that has the potential to criminalize defensive legal actions must be balanced by adequate risk mitigation instruments.[31] Without clear safeguards, obstruction of justice offences risk experiencing mission creep, namely a functional shift from protecting the administration of justice to becoming an instrument of pressure against defense actors. [32] The mitigation of these systemic risks demands a multi-dimensional safeguard model designed to balance professional independence with criminal accountability. *First*, at the practical level, the mitigation of criminalization risks against advocates must be implemented through systematic professional documentation procedures. Every strategic action undertaken in legal defense—such as legal advice, client communication, or particular procedural measures—should be supported by administrative records demonstrating that such actions were conducted within the scope of professional duties and in good faith. The absence of documentation often creates opportunities for law enforcement authorities to construct narratives of obstructive *mens rea*, even when the actions performed are defensive and procedural in nature.[15]

From a comparative perspective, this practice aligns with defensive lawyering safeguards developed in common law jurisdictions, where professional records function as *ex ante* protection against obstruction allegations.[33] In addition to documentation, internal consultation mechanisms and ethical referrals

constitute essential instruments for safeguarding professional independence. Collective involvement—whether through law firms, bar associations, or ethics committees—functions as a screening mechanism to assess whether a particular defensive action risks exceeding the boundaries of legitimate adversarial defense. Decisions reached through collective deliberative processes are less likely to be characterized as individual conduct intended to obstruct legal proceedings.[29] In the Indonesian context, strengthening the role of the Advocates' Honorary Council as a preventive ethical forum is crucial to ensure that conflicts between criminal law and professional ethics are not immediately transformed into criminal prosecution regimes. Second, strategies for protecting advocates' professional independence also require harmonization between criminal law and the professional ethics regime. The tension between Article 21 of the Anti-Corruption Law and the principle of advocates' immunity demonstrates a normative disharmony that has not been fully resolved by the legislature.

Criminal law should function as an *ultimum remedium* for professional violations, whereas ethical or disciplinary breaches should primarily be addressed through internal professional mechanisms.[28] This approach is consistent with the principle of role differentiation in legal systems theory, which emphasizes that each actor within the justice system operates under distinct functional logics and therefore cannot be uniformly subjected to criminal sanction regimes.[34] Third, at the policy level, protecting advocates from the risk of criminalization must not be interpreted as creating a zone of impunity. Instead, policy formulation should adopt a rule-sharpening and role-based liability approach, which involves clarifying the elements of obstruction of justice through operational indicators while affirming that advocates may only incur criminal liability when they demonstrably act beyond the scope of legitimate defense functions and with an intent to obstruct.[2] This recommendation positions the criminal liability of lawyers as an exceptional mechanism that should only be activated where there is compelling evidence of the abuse of professional roles to undermine the integrity of judicial proceedings.[35] Accordingly, strategies for protecting advocates' professional independence must be understood as an integral component of a balanced criminal justice system design. Without operational mitigation measures, normative harmonization, and role-based policy frameworks, the expansion of obstruction of justice norms risks eroding the advocate's function as a guardian of suspects' and defendants' constitutional rights, and ultimately weakening the quality of the administration of justice itself.

IV. CONCLUSION

Obstruction of justice constitutes a criminal law mechanism designed to protect the integrity and functionality of the administration of justice from manipulative interference with law enforcement processes. This study demonstrates that the formulation of Article 21 of the Anti-Corruption Law remains normatively imprecise, particularly regarding the boundaries of actus reus, causal nexus, and mens rea threshold. Such ambiguity creates significant risks when applied to advocates, whose professional role inherently involves defense mandates and functional immunity. The absence of clear demarcation between legitimate adversarial defense and obstruction conduct risks transforming the norm from a system-protective instrument into a mechanism of overcriminalization, thereby undermining professional independence, fair trial guarantees, equality of arms, and the overall legitimacy of the criminal justice system.

This study contributes doctrinally by proposing a role-based analytical framework that differentiates legitimate defense conduct from obstruction behaviour through cumulative evaluation of intent, conduct, and functional causation. From a policy perspective, the reform of obstruction of justice regulation should prioritize rule-sharpening and role-based screening liability to ensure that criminal responsibility is imposed only upon demonstrable intent to obstruct accompanied by affirmative manipulative conduct outside legitimate defense functions. Additionally, harmonization between criminal law enforcement and professional ethics regulation is necessary to maintain effective anti-corruption enforcement while safeguarding advocates' independence and the constitutional right to legal representation. Future regulatory development should incorporate clearer operational indicators to enhance predictability, proportionality, and legal certainty in obstruction of justice enforcement.

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