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DISPARITY IN SENTENCING AGAINST ADVOCATES IN INDONESIA: MINIMIZING IT THROUGH SENTENCING GUIDELINES

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Abstract:
Philosophically, theoretically, historically, legally, and sociologically, the presence of advocates is greatly needed as a balance in the justice system, but some of them commit corruption. The problem is, their punishment causes disparity, due to the existence of vague legal norms and the absence of legal norms. Therefore, the research focuses on, first, the ratio decidendi of punishment for advocates who commit corruption which causes disparity in punishment. Second, the renewal of the concept of punishment for advocates who commit corruption based on legal certainty. This legal research uses a statutory, conceptual, philosophical, and case approach by collecting and processing primary and secondary legal materials as well as non-legal materials that are analyzed prescriptively. The results are, first, the ratio decidendi related to punishment for advocates who commit corruption results in different prison sentences even though there are similarities related to proven crimes, thus proving the occurrence of disparity in punishment which is quite disruptive to the realization of the principle of legal certainty. Theoretically, the discourse on disparity in sentencing in criminal law is not intended to eliminate differences in the magnitude of punishments for perpetrators of crimes, but to reduce the range of differences in sentencing. Second, guidelines for sentencing in corruption cases committed by advocates, for example, bribery or obstruction of investigation, are considered necessary and realistic. Theoretically, guidelines for sentencing advocates who commit corruption do not set aside the independence, independence, or freedom of judges, but are an instrument of control over the performance of judges so that their decisions do not cause disparities in sentencing that are quite disturbing and set aside the realization of legal certainty.

Keywords:
Disparity in Sentencing; Advocate; Corruption; Legal Certainty

1. Introduction
The advocate is the equivalent of the word "advocaat" (Dutch), namely someone who has been officially appointed to carry out his profession after obtaining the title "Meester in de Rechten (Mr)". Furthermore, the root comes from the Latin word "advocate, advocator". Historically, advocates are one of the oldest professions. In its journey, this profession was named officium nobile, or a noble position. The naming occurred because of the aspect of "trust" from the power of attorney (client) which he carried out to defend and fight for his rights in the specified forum. Advocate as the official name of the profession in the first judicial system was found in the provisions of the "Judicial Structure and Judicial Policy or RO". (Eleanora, 2014)
Legally, the target of presenting an advocate, in addition to fulfilling Article 56 of the Republic of Indonesia Law Number 8 of 1981 concerning Procedural Law (KUHAP), is also to provide legal assistance to the accused and assist

judges in finding legal truths that are based on justice. In the general provisions of the Republic of Indonesia Law Number 18 of 2003 concerning Advocates (Law No. 18 of 2003), it is explained that legal aid is a legal service provided by an advocate free of charge to clients who cannot afford it. Then, the legal service is a service provided by an advocate in the form of providing legal consultation, legal assistance, exercising power, representing, accompanying, defending, and carrying out other legal actions for the legal interests of the client. Mardiana (2018) "All of this is clear that a positive value must indeed be maintained in enforcing the law that is essential so that there is no discrimination and deviations in the process of enforcing the law, so that truth and justice can be felt by the community".

Sociologically, the legitimacy of advocates is reflected in the public's trust in them. The role of legal counsel in the criminal justice system exists along with the development of law and society. Mardiana (2018) "The law will always exist as long as there is society and society needs the law and wants law enforcement. Then, the state as a form of formal power, together with its legal apparatus and system, is entrusted to complete the law which was previously still in the form of moral awareness and norms, so that it becomes a rule or legal norm that can be enforced."

The problem then is that several advocates stumble into the vortex of corruption. Some of them have even been sentenced to criminal penalties because they have been legally and convincingly proven to have committed corruption. The Corruption Eradication Commission (KPK), for example, arrested and detained Fredrich Yunadi, the former attorney for Setya Novanto. The determination of Fredrich as a suspect extends the list of advocates who have stumbled into legal problems, especially corruption. According to the records of Indonesia Corruption Watch (ICW), since 2005 there have been at least 22 advocates who have been processed by law and charged with the law on corruption. Yuntho (2018) "They were arrested on suspicion of bribery, obstructing the investigation of corruption cases, and providing false information." The problem is that the sentences imposed create disparities in criminal penalties, which of course have implications for the guarantee of legal certainty in the criminal justice system.

In fact, in carrying out their profession in the field of law enforcement, advocates should comply with the applicable code of professional ethics. The reason is, that the profession is seen as highly specialized intellectual, making professionals not only work for institutions to gain profit but also carry out the task of trust from the community. At this point, the ethical measure is often relatively eroded by the flow of diffusion of cultural values without limits. Mangesti (2017) "The code of professional ethics is a product of applied ethics produced based on the application of a profession's thinking. It is also basically a norm of behavior that is considered correct, to satisfy the related parties, namely the professional actors and violations can be subject to sanctions."

Meanwhile, in the Netherlands, this disparity in sentencing is also a serious problem. Not only in the Netherlands but in many other countries this is also a major concern. (Tak, JP, 2001, p.175) The problem of disparity in sentencing in Indonesia is very likely to occur. This potential is very large considering that the criminal sanction regulation system adopted by Indonesia originated from the Netherlands through the implementation of the Criminal Code, in which the formulation of the criminal threat is formulated in the form of a maximum threat. With this formulation model, judges are given considerable freedom to determine the amount of punishment in each case as long as it does not exceed the maximum threat.(Langkun et al, 2014, p.10)

In his research, Andre Abraham found that the causes of disparity include differences in the sense of justice, differences in the philosophy of sentencing, the existence of judicial discretion, the principle of judicial independence, and the function of the Supreme Court of the Republic of Indonesia (MA) which is inconsistent with its authority as judex jurist. Disparity in sentencing should be minimized by standardizing the philosophy of sentencing and creating a sentencing guideline that applies to judges in imposing sentences. According to Supandriyo in his research, the judge's interpretation of the application of the principle of judicial freedom in imposing criminal penalties for crimes containing special minimum threats is greatly influenced by the judge's paradigm in understanding the law from the dimensions of ontology, axiology, and epistemology. (Supandriyo,2018)

Meanwhile, research by Tutuko Wahyu Minulyo revealed that the implementation of bribery criminalization regulations in corruption cases currently ignores Article 12C of the Republic of Indonesia Law Number 31 of 1999 concerning the Eradication of Corruption which has been amended by the Republic of Indonesia Law Number 20 of 2001 (Law No. 20 of 2001). (Rahmat,2019,p6-14) This is considering the weakness of the substance, namely the absence of an obligation to consider the ethics of officials receiving gratification to report something received by them. Therefore, the regulation in question needs to be reconstructed. This idea is emphasized in research by Diding

Rahmat, namely the protection of advocates' basic rights before the law and the principle of equality and balance before the law to by the demands of the value of justice becomes very necessary. (Minulyo , 2022)
By previous studies, this article is not a repetition of previous studies. This article is a synthesis of previous studies that focus their studies on the criminalization of advocates who commit corruption, both according to Law No. 20 of 2001 and court decisions. The description of the criminalization and the findings of the problems in it will be discussed further to find the concept of criminalization of advocates who commit corruption based on legal certainty.
Based on the description above, this article focuses on 2 (two) things. First, the problem of criminalization of advocates in Indonesia who commit corruption, especially in the disparity of criminal sentences imposed by judges. In this first part, the author will present data related to several advocates who were sentenced to different amounts. Second, the idea of minimizing the problem of disparity in sentencing through a sentencing guideline. In this second part, the author will present data related to sentencing guidelines that apply in several countries to minimize the occurrence of disparity in sentencing.

2. Research Method

This article is compiled using a legal research method which is a know-how activity to answer the formulation of the specified problem. In this article, the researcher identifies legal problems, analysed the legal problems faced, and then provides answers to the legal problems. (Mahmud , 2019,p.60) To answer the legal issues in this article, several approaches are used, namely the statutory approach, conceptual approach, philosophical approach, and case approach. This article collects and processes primary and secondary legal materials as well as non-legal materials that are analysed prescriptively using several selected approaches.

3. Problems of Punishment for Advocates in Indonesia

In the context of punishment, parity means equality of punishment between similar crimes in similar conditions.(Manson , 2001,p.92-93) Disparity is inequality of punishment between similar crimes in similar conditions or situations. The concept of parity itself cannot be separated from the principle of proportionality, the principle of punishment proposed by Beccaria, which expects the punishment imposed on the perpetrator of a crime to be proportional to the crime he committed. .(Manson ,2001, p.82) If the concept of parity and proportionality is seen as one unit, then disparity of punishment can also occur in the case of the same punishment being imposed on perpetrators who commit crimes of different levels of crime.
According to Cheang Molly, disparity of sentencing is the application of unequal punishment to the same crime or to crimes whose dangerous nature can be compared without a clear justification. The disparity of punishment becomes a problem when the range of differences in punishment imposed between similar cases is so large that it causes injustice and can raise suspicions in society. Therefore, the discourse on disparity in sentencing in criminal law and criminology was never intended to eliminate differences in the magnitude of punishments for perpetrators of crimes, but to reduce the range of differences in sentencing.
The emergence of disparity in decisions due to the judge's carelessness. Disparity can occur because there is no professional standard for judges in making authoritarian decisions. It can also be the cause of disparity in imposing or giving punishment in cases because they are not the same and the characteristics of the defendants are different. The problem of disparity can also originate from judges, for example, it occurs because of diverse ideological understandings of the philosophy of punishment, at least in following the flow of criminal law.
The disparity in punishment that has grown in law enforcement certainly has inevitable consequences, namely pros and cons for the community will emerge, so it is feared that scepticism and a priori will arise towards the performance of law enforcement officers and people's appreciation or respect for the law will be low. Not only is it interpreted as a difference in the severity of the punishment imposed on the defendant in a similar case, but it also includes differences in release or exemption from punishment without being based on the same legal definition. The confusion of definition or unclear formulation of a legal understanding can lead to multiple interpretations, thus causing differences in the treatment of offenders whose mistakes are comparable.
The disparity in sentencing becomes essential when the convict feels like a victim of the application of unequal punishment to the same crime or to crimes whose dangerous nature can be compared without a clear justification. The existence of planning or unintentional factors in a criminal case can be one of the aggravating or justifying

reasons that can influence the conclusion of the panel of judges regarding the punishment to be given. From here a serious problem will appear because it will be an indicator and manifestation of the failure of a system to achieve equal justice in a state of law and at the same time will weaken public trust in the criminal law system.

We often find that some advocates, when carrying out their duties and functions as legal advisors, actually create a new crime. These advocates blindly defend their clients using various methods, even to the point of breaking the law itself. This is due to the existence of a system that provides opportunities for advocates to abuse their authority as official nobile by taking actions, such as bribing other law enforcers, eliminating evidence, obstructing the investigation process, directing false testimony, and other actions to weaken the law.

Advocates can relatively be a channel for giving birth to corruption, but they can also be individuals who can eradicate corruption. In civil cases, giving something to a judge is not without the possibility of winning the case. Likewise in criminal cases, starting from examinations by the police, prosecutors, and in court, giving them to reduce, or even free suspects or defendants, in our country, is not impossible. Advocates must uphold a code of ethics not to bribe law enforcers. However, advocates are aware that if they do not give, their case will be lost. There are quite a lot of reports in the newspapers about police, prosecutors, and judges asking for compensation in connection with the cases they handle.

Here are some advocates involved in corruption:

No.	Advocate Name (Year)	Case	Decision
1.	Tengku Syaifuddin Popon (2005)	Bribing an employee of the High Court for Corruption Crimes in the amount of Rp250,000,000.00 related to a case he was handling (at that time he was handling a corruption case involving Abdullah Puteh).	Sentenced by the High Court for Corruption for 2 years and 8 months.
2.	Harini Wijoso (2005)	Bribing an employee of the Supreme Court (MA) and a Supreme Court Justice related to a case involving Probosutejo.	The Supreme Court sentenced him to three years in prison and a fine of Rp. 100,000,000.00.
3.	Manatap Ambarita (2008)	Obstructing the investigation process carried out by the prosecutor's office against a corruption suspect in the misuse of the remaining 2005 budget at the Kimpraswil Service of the Mentawai Islands Regency.	In 2008, the Padang District Court sentenced him to 1.5 years in prison and was upheld by the West Sumatra High Court. In 2010, the Supreme Court sentenced him to 3 years in prison. In 2012, he was included in the "Wanted List" and declared a fugitive by the Mentawai District Attorney. The development of the subsequent process is unclear.

4.	Lambertus Palang Ama (2010)	Alleged involvement in the Gayus Halomoan Tambunan case.	Sentenced to 3 years in prison by the South Jakarta District Court plus a fine of Rp150,000,000.00. Lambertus was proven to have helped engineer the origin of Rp28,000,000,000.00 belonging to Gayus. The money was blocked by investigators from the Criminal Investigation Agency of the Republic of Indonesia National Police (Bareskrim Polri) because it was suspected of being the result of a criminal act while working at the Directorate General of Taxes, Ministry of Finance.
5.	Adner Sirait (2010)	Bribing Ibrahim, a Judge of the Jakarta High State Administrative Court related to a 9.9-hectare land dispute in Cengkareng, West Jakarta, against the Jakarta Special Capital Region Provincial Government.	Sentenced by the Corruption Court to 4 years and 6 months and a fine of Rp. 150,000,000.00.
6.	Haposan Hutagalung (2011)	Alleged involvement in the Gayus Halomoan Tambunan mafia case and bribery of officials at the National Police Criminal Investigation Unit.	The Supreme Court sentenced him to 12 years in prison plus a fine of Rp. 500,000,000.00.
7.	Mario C Bernardo (2013)	The bribe is suspected of being related to a case currently at the cassation level. Arrested by the KPK after previously handing over money to MA employee Djody Supratman.	Sentenced by the Jakarta Corruption Court to 4 years in prison and a fine of Rp. 200,000,000.00.
8.	Susi Tur Andayani (2014)	Susi is suspected of being an intermediary for the bribery of former Chief Justice of the Constitutional Court, M Akil Mochtar in several	Sentenced to 5 years in prison by the Panel of Judges of the Jakarta Corruption Court and the DKI Jakarta High Court. However, through the

		regional head election disputes.	cassation decision numbered 2262/K/Pid.Sus/2015, dated February 23, Susi was sentenced to 7 years in prison.
9.	M. Yagari Bhastara Guntur alias Gerry (2015)	Alleged bribery of Judges and Clerks of the Medan State Administrative Court (PTUN). Caught red-handed by the KPK, named a suspect, and is still under investigation and detained.	Sentenced by the Jakarta District Court to 2 years in prison plus a fine of Rp. 150,000,000.00 or six months in prison.
10.	OC Kaligis (2015)	Alleged bribery of Judges and Clerks of the Medan PTUN. Named a suspect and is still under investigation and detained.	At the Jakarta Corruption Court, OC Kaligis was sentenced to 5.5 years in prison and a fine of Rp300,000,000.00 subsidiary to 6 months in prison. The Supreme Court increased OC Kaligis' sentence to 10 years in prison and a fine of Rp500,000,000.00 subsidiary to 6 months in prison.
11.	Fredich Yunadi (2018)	Committing acts to prevent, obstruct, or thwart investigations, both directly and indirectly in defending Setya Novanto related to the E-KTP procurement case.	At the Jakarta Corruption Court, he was sentenced to 7 years in prison and a fine of Rp. 500,000,000.00 million, subsidiary to 5 months in prison.

Based on the data in the table above, it is clear that the disparity in criminal penalties occurs, namely for the same article, the amount of punishment can vary. The balance of punishment must be based on considerations that are in harmony with existing decisions. In addition to being in harmony with the decisions of other judges in similar cases. In harmony with social justice, and also in harmony with the justice of the convict. So it seems that disparities in sentencing are permitted if they have gone through appropriate and logical considerations and must be objective. By providing appropriate considerations, considerations that are in harmony with existing decisions, in harmony with the decisions of other judges in similar cases, by social justice, in harmony with the situation, conditions, and circumstances of the defendant, and by developments.

The punishment of advocates who commit corruption as described above has similarities, as long as it concerns the advocate profession which is one of the reasons for the increased prison sentence that needs to be imposed. However, on the other hand, the reasons for the increased punishment result in different prison sentences even though there are similarities related to the proven criminal acts. Therefore, this study found the fact that the difference in the number of prison sentences in question proves the occurrence of disparity in sentencing which is quite disruptive to the realization of the principle of legal certainty.

The sentencing of advocates who commit corruption in Indonesia needs to be a serious concern. Theoretically, the freedom of judges to make decisions, which contain reasons that mitigate and aggravate the sentence can have a negative impact, namely the emergence of disparity in sentencing. The disparity in sentencing becomes a problem when there is a difference in the sentences imposed between similar cases so that it is seen as causing injustice. The discourse on disparity in sentencing in criminal law and criminology is not intended to eliminate the difference in the amount of punishment for perpetrators of crimes, but to reduce the range of differences in sentencing.

4. The Idea of Minimizing the Occurrence of Disparity in the Sentencing of Advocates

Exactly on December 29, 2009, the Supreme Court (MA) issued a Circular of the Supreme Court of the Republic of Indonesia, Number 14 of 2009 concerning the Development of Judges' Personnel. Substantively, this circular contains 3 (three) things. First, to develop high court judges, discussions on legal issues should be held periodically. Second, there is development for first-level judges. Third, the steps referred to in points one and two do not limit judges in finding innovations in conducting development.

Interestingly, in point 2 (two) related to the development of first-level judges, it is also ordered that the heads of the appellate courts should maintain disparity in decisions. Maintaining disparity means a request to the heads of the appellate courts to reduce disparity in sentencing in the issuance of decisions. This circular should be used as an entry point to avoid disparity in decisions. However, technically, the guidelines for sentencing have not been regulated.

Therefore, there needs to be a solution offered, one of which is through the use of sentencing guidelines. Sentencing guidelines are more of a guideline for judges to impose or apply sentencing. In other words, sentencing guidelines are a "judicial guideline" for judges. The purpose of having sentencing guidelines is: (1) to promote a clear, fair, and consistent approach to sentencing; (2) to produce analysis and research on sentencing; and (3) to work to increase public trust in sentencing. Sentencing guidelines also aim to increase transparency in sentencing policies. Some countries create sentencing guidelines by taking an average of each case, which is not easily accessible to the public, or even politicians as legislators and parties who can form a policy.

In Indonesia, sentencing guidelines can be found in the Regulation of the Supreme Court of the Republic of Indonesia Number 1 of 2020 concerning Sentencing Guidelines for Article 2 and Article 3 of the Corruption Eradication Law (Perma No. 1 of 2020). The considerations for issuing these guidelines are, first, that every sentencing must be carried out by paying attention to the certainty and proportionality of sentencing to realize justice based on Pancasila and the 1945 Constitution of the Republic of Indonesia. Second, to avoid disparities in cases with similar characteristics, sentencing guidelines are needed.

According to Article 5 of Perma No. 1 of 2020, in determining the severity of the sentence, the judge must consider the following stages in sequence: (1) category of state financial losses or the state economy; (2) level of error, impact, and profit; (3) range of sentencing; (4) aggravating and mitigating circumstances; (5) sentencing; and (6) other provisions relating to the sentencing. The judge must describe the facts revealed in the trial regarding the stages in paragraph (1) in narrative form in the consideration of his decision.

Meanwhile, another country, the United States of America (USA), is one of the countries that has guidelines for sentencing in its criminal law system. However, the birth of this product cannot be separated from the criminal law policy chosen by the regime in power in the USA at that time. At the same time, each choice regarding the issue of sentencing in the USA has different consequences which ultimately contribute certain characteristics to the current criminal system. Therefore, an understanding of each criminal law policy in the USA must be had before entering into the discourse on disparities in sentencing.

The idea of mandatory sentencing guidelines for judges was first proposed by Minnesota in 1978. Following an opinion by Judge Marvin Frankel, Minnesota created a special administrative agency, a sentencing commission, with the authority to establish sentencing guidelines. The mandatory nature of the sentencing guidelines meant that judges were required to provide reasons for imposing sentences not permitted by the sentencing guidelines. The appropriateness of those reasons was subject to review by an appellate court. Judge Frankel argued that a permanent administrative agency would be better able to produce rational, evidence-based sentencing policy than a legislature that is subject to high turnover, lower attention spans, and a tendency to react impulsively to emotions and political issues.

The use of the US sentencing guidelines, developed by the US Sentencing Commission, follows these steps: (1) determine the crime guidelines to be used for the evidence; (2) determine the basis of the crime level and use the characteristics of the crime, cross references, and special instructions set out for each crime; (3) make adjustments for the relationship to the victim, role in committing the crime, or obstruction of the investigation; (4) if it turns out that the perpetrator is proven to have committed multiple crimes, repeat steps in points 1 to 3 for each proven crime and group the calculations and adjust the crime level proportionally; (5) use appropriate adjustments if the perpetrator accepts the consequences of his actions, so that if the perpetrator clearly shows remorse for his actions, this can lower the crime level by 2 levels; (6) look at the specifics of the criminal record and adjust it; and (7) determine the sentence range to adjust to the level of the crime and the category of criminal record.

Next is to examine the Dutch sentencing guidelines. The Dutch legal system tends to be dominated by the civil law tradition and has several similarities in its legal system with Indonesia, which is the reason why the Dutch legal system can be used as one of the comparative materials in studying the justice system, especially on the issue of disparity. In addition, the Netherlands also does not have sentencing guidelines, like countries that are dominated by the common law tradition (the USA, Great Britain, and so on).

However, the Netherlands has prosecutor guidelines made by the Board of Prosecutor General. These guidelines bind prosecutors in the Netherlands in imposing the amount of the charge. The obligation to follow the prosecution guidelines is because the Netherlands adheres to a hierarchical system in its prosecutorial structure. Regulations regarding prosecution guidelines do not bind the judiciary, because the judiciary is a separate organ from the prosecutor's office. However, in practice, prosecution guidelines have a strong influence on judges and are often used as a basis for deciding the amount of punishment.

Since 1999, the Dutch Prosecutor's Office has introduced a new prosecution guideline system called the Polaris Guidelines. The Polaris Guidelines system has the advantage of having more detailed prosecution guidelines and very clear regulations. The public prosecutor only needs to enter the chronology of the case into the Polaris Guidelines system and the system will calculate how much the demands should be imposed. In terms of calculating the amount of demands, the first thing is to determine the starting point of the punishment for the proven crime. Each crime has basic punishment points, for example, bicycle theft 10 points, motorcycle theft 35 points, robbery 40 points, and so on. The starting points can increase or decrease according to the level of error and seriousness of the criminal act committed by the defendant. For example, if the criminal act is only an attempt, it will reduce the starting points of the crime, or vice versa if the act is committed by a recidivist, the starting points will be added.

Meanwhile, the Dutch Supreme Court uses judicial reference points as the basis for judges' references in determining the amount of punishment. Unlike sentencing guidelines, the judicial reference point instrument is non-binding and only serves as a reference for the Panel of Judges when deciding a case. This instrument was prepared by the National Consultative Forum of Criminal Justice Chairmen (LOVS). Later, when formulating the judicial reference point, LOVS will appoint a Commissie Rechtseenheid team to prepare the judicial reference point. LOVS has created several judicial reference points, including narcotics crimes, traffic violations, theft, fraud, and several other crimes.

The discussion that emerged later was the sentencing guidelines as formulated in PERMA No. 1 of 2020 about the freedom of judges in issuing criminal sentences. So far, judges have only relied on the principles of judicial power and conscience in issuing a decision based on the principle of justice itself. More than just a philosophical reason, breaking through the formal provisions of special minimum sentences is part of the performance of judges who are independent or free in finding a legal norm.

According to the judicial power system in Indonesia, the word freedom is used for judicial institutions (independent judicial power) and judges (judicial freedom) as the core apparatus of judicial power. The term judicial freedom as a principle that has been used by the constitution, in fact, in terms of personal and social implementation has given rise to many different interpretations. When the word freedom is combined with the word judge, which forms the compound word "judicial freedom", then the interpretations vary. Some interpret that judicial freedom is a freedom that is not absolute because the judge must uphold the law and justice which must be based on being bound to the Pancasila.

The independence of judicial power must run with accountability, namely that judges cannot simply protect themselves from their independence, but must be balanced with judicial accountability. Perma No. 1 of 2020 is one way to ensure that the aspects and functions of accountability in the regulation are regulated in detail through consideration of parameters in sentencing so that the parties can know the considerations in the decision in detail. In

implementation, the parties can know the imposition of imprisonment and fines with a range of sentences imposed by the judge with calculations that have been regulated in the regulation, so that the concept of accountability will be maintained.

Thus, theoretically, the guidelines for sentencing advocates who commit corruption do not ignore the independence, independence, or independence of judges. The guidelines for sentencing advocates who commit corruption are a control instrument for the performance of judges so that their decisions do not cause disparities in sentencing that are quite disturbing and ignore the realization of one aspect of the purpose of the law, namely legal certainty.

5. Conclusion

First, the punishment of advocates who commit corruption as described above has similarities, as far as the advocate profession is concerned, which is one of the reasons for the increased prison sentence that needs to be imposed. However, on the other hand, the reasons for the increased sentence result in different prison sentences even though there are similarities related to the proven crime. Therefore, this article finds the fact that the difference in the number of prison sentences in question proves the existence of a disparity in punishment that is quite disruptive to the realization of the principle of legal certainty.

Second, in determining the severity of the sentence, the judge must consider through the sentencing guidelines in sequence the stages related to (1) the level of error and impact; (2) the range of sentencing; (3) aggravating and mitigating circumstances; (4) the imposition of the sentence; and (5) other provisions related to the imposition of the sentence, for example, related to the role of the defendant who cooperates with law enforcement to uncover the crime. Theoretically, the sentencing guidelines for advocates who commit corruption do not ignore the independence, independence, or independence of judges. The guidelines for sentencing advocates who commit corruption crimes are a control instrument for the performance of judges so that their decisions do not create disparities in sentencing that are quite disturbing and disregard the realization of one aspect of the purpose of the law, namely legal certainty.

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