

The Law Enforcement Analysis of Violations of the Notary Code of Ethics

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Abstract. *The law enforcement is an effort to implement the code of ethics of a notary as it should be, supervise its implementation so that there is no violation, and if there is a violation, restore the violated code of ethics so that it is re-enforced. Notaries in carrying out their duties and positions are not closed to the possibility of committing violations. This study aims to find out and analyze the enforcement of the code of ethics for notaries who have committed violations, and what are the obstacles to the Notary Honorary Council in imposing sanctions on the code of ethics for notaries who commit violations. Based on research results shown the law enforcement of the code of ethics for notaries who commit violations is that the Honorary Council makes summons, gives warnings to notaries who commit violations, and holds hearings to examine suspected violations of the code of ethics. The obstacles of the Notary Honorary Council in enforcing the code of ethics are the limited number of members of the Notary Honorary Council so that they cannot carry out their duties optimally if one of them cannot attend, and there is a feeling of reluctance to fellow professionals to reprimand or impose sanctions.*

Keywords: *Enforcement; Ethics; Violations.*

1. Introduction

The Notary Code of Ethics is a moral code determined by the Indonesian Notary Association based on the Decree of the Association Congress and/or which is determined and regulated in the laws and regulations governing this matter and which applies to and must be obeyed by each and all members of the association and all members of the association. A person who carries out his duties and

positions as a Notary. Notaries have a code of ethics because Notaries are one of the professions in Indonesia based on Act No. 2 of 2014 concerning Notary Positions. The existence of a notary code of ethics is a profession that can be carried out professionally with motivation and orientation to intellectual skills as well as rational and critical argumentation and upholding moral values.¹

As a Notary, you must comply with, understand and implement all the provisions of the applicable laws and regulations. So that the notary must work according to his ability carefully, honestly, trustworthy and impartial, in this case the notary must be required to be careful in practice. In the Law on the Position of a Notary, most of the articles relate to the development of a notary, how the duties and authorities of a notary are regulated.²

The main task of the Honorary Council is to supervise the implementation of the code of ethics. If a notary is proven to have violated the code of ethics and regulations on the provisions contained in the Notary Position Act, the notary concerned will be subject to sanctions according to the type of violation committed by the notary. Thus, there is a need for a continuous monitoring mechanism by the Notary Honorary Council.

The number of violations committed by Notaries, the Supervisory Board and the Honorary Council requires an increase in their role in conducting efforts to foster notaries and impose sanctions on notaries who commit violations, both behavioral violations and violations of the implementation of the notary position, because currently there are many violations committed by Notaries. However, there are still many cases where the signing and reading of deeds are not carried out by a Notary in front of the parties, such a Notary practice actually does not only violate his oath but can be categorized as a Notary not having good intentions and intentionally making fake deeds, which leads to criminal acts³.

In order not to be categorized as violators of the code of ethics, they should be more cooperative with the parties or clients because the Notary has an important task in serving the interests of the community in general. If it is known by the Notary Honorary Council that he has not read the deed and signed it before the parties, he will be given a sanction as stated in Article 6 of the Notary Code of Ethics.⁴

Based on the description above, this study aims to examine and analyze the enforcement of notary code of ethics violations in the city of Semarang and what are the obstacles and solutions to the notary honorary council in the city of Semarang in enforcing violations of the notary code of ethics.

¹Act No. 2 of 2014 concerning Notary Positions

²Yovita A. Mangesti and Bernard L. Tanya, (2014), *Moralitas Hukum*, Yogyakarta: Genta Publishing, p.104

³ Anang Ade Irawan, Pertanggungjawaban Ahli Waris Notaris sebagai Pejabat Umum atas Akta Notaris yang Menimbulkan Kerugian Para Pihak, *Jurnal Lentera Hukum*, Volume 5 Issue 2 2018

⁴Anonim, (2006), *Himpunan Etika Profesi : Berbagai Kode Etik Asosiasi Indonesia*, Yogyakarta: Yustisia

2. Research Methods

The method used for this research is a juridical-empirical approach. The research specification used is descriptive analysis. The data used are primary data and secondary data, primary data is filled with interviews and secondary data obtained from library research. The data analysis method used in this research is qualitative analysis method and theoretical framework used to answer the problem formulation using legal certainty theory and theory law enforcement.

3. Results and Discussion

3.1. Enforcement of violations of the code of ethics for Notaries in the City of Semarang

Enforcement of the Notary Code of Ethics is an effort to implement the notary code of ethics as it should, supervise its implementation so that there is no violation, and if a violation occurs, the code of ethics that has been violated must be re-enforced. Notaries as public officials require supervision of the enforcement of the code of ethics because the main task of a notary is very directly related to the interests of the community.

Enforcement of the code of ethics for notaries who commit violations is that the Honorary Council calls, gives warnings to notaries who commit violations, and holds hearings to examine suspected violations of the code of ethics.

According to AL Notary, in carrying out his position, it is possible to commit violations. The violations that are often committed by a Notary are:

- The notary in reading the deed is not in accordance with what is stated in the deed. What is read must be in accordance with the deed that has been made, if it is not appropriate then it is not said to be an authentic deed.
- The notary forgets not to read or sign the contents of the deed in front of the client. In this case, it is necessary to pay attention to the formal requirements for making the deed, one of which is a Notary who reads the contents of the deed in front of the witnesses, signed by all parties.

Examination based on the above forms of violations that are often carried out by Notaries in carrying out their duties or positions, is the authority of the Supervisory Council because it concerns the implementation of positions in making deeds and violations of the code of ethics⁵. If it is related to the Notary's code of ethics which does not involve a deed, then it becomes the authority of the Notary Honorary Council.⁶

The Notary Honorary Council is a complementary tool for associations consisting

⁵ Eko Puji Hartono, Akhmad Khisni, "The Role of PPAT in Making the Deed of Transfer of Rights to Land and/or Buildings Formerly of Customary Ownership Related to the Payment of Duty on the Acquisition of Rights to Land and/or Buildings", *Jurnal Akta* VOL. 5, No. 1, March 2018

⁶The author's interview with AH, Notary/Honorary Board of Notaries of Semarang City

of several members elected from ordinary members and notary officers, who are highly dedicated and loyal to the association, have good personality, are wise and wise, so that the Honorary Council can be a role model for members and appointed by the congress for a term management position. The Honorary Council has the authority to examine violations of the Code of Ethics and impose sanctions on violators according to their authority and are tasked with⁷:

- Carry out coaching, supervision, guidance, improvement of members in upholding the Code of Ethics
- Provide advice and opinions to the Supervisory Board on alleged violations of the Code of Ethics and Notary Position
- Examine and make decisions on alleged violations of the provisions of the Code of Ethics that are internal or that do not have a direct public interest.

In connection with the importance of enforcing the code of ethics for notaries, the Honorary Council plays an important role in efforts to enforce the code of ethics to maintain the dignity of the notary profession. Because in carrying out his position, it is possible for a notary to violate the code of ethics. The Honorary Council must prevent it, because from the beginning before the Notary carried out his profession he had been sworn in and had known/understood all the legal provisions in the Notary Position Act.

If a notary in carrying out his duties and positions violates the provisions of the code of ethics, he will be subject to sanctions in the form of a warning, warning, temporary dismissal, dismissal of membership and dishonorable discharge. Sanctions given to notaries who violate the code of ethics are not in the form of dismissal from the position of a notary but from membership in the association (organization) of the Indonesian Notary Association (INI)⁸.

3.2. Obstacles and solutions to the Notary Honorary Council in Semarang City in enforcing violations of the Notary Code of Ethics

The supervision and guidance carried out by the Regional Honorary Council has objectives such as improving the quality of work of a notary, encouraging the performance of the notary world, and improving notaries in carrying out their positions. So that the supervisory function can provide a deterrent effect on notaries who commit violations or regulations governing the position of a notary.⁹

⁷ Harnita, dkk. "Tanggung Jawab PPAT dalam Penetapan Nilai Transaksi Jual Beli Tanah dan Bangunan di Kota Banda Aceh", *Udayana Master Law Journal*, Vol. 8 No. 3 September 2019, p. 354-370.

⁸ Karina Prasetyo Putri, *Tanggung Jawab Dan Perlindungan Hukum Bagi Notaris Purna Bakti Terhadap Akta Yang Pernah Dibuat (Analisis Pasal 65 dan Pasal 66 Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan Atas Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris)*, *Jurnal Fakultas Hukum*, Universitas Brawijaya

⁹Syarifa, 2011, *Peran Organisasi Profesi Notaris dalam Menjaga Kode Etik Notaris*, Tesis, *Jurnal Magister Kenotariatan* Universitas Indonesia, Depok.

Violations occur in carrying out their positions if they are related to the morality of a notary that the code of ethics is a collection of ethics and norms, so that in carrying out his position as a public official he must have good behavior and morals, not solely relying on abilities and knowledge in the field of notary. In enforcing the notary code of ethics, there are several. The obstacles of the Notary Honorary Council in enforcing the code of ethics are the limited number of members of the Notary Honorary Council so that they cannot carry out their duties optimally if one of them cannot attend, and there is a feeling of reluctance to fellow professionals to reprimand or impose sanctions.

The Notary Honorary Council stated that the code of ethics was made firmly and clearly in fact there were still many who violated it. Ranging from violations that occur due to the notary's ignorance of the code of ethics to violations that occur due to pretending not to know, or some even don't care about the existence of a notary code of ethics. The enforcement of the Notary Code of Ethics by the Honorary Council in carrying out supervision and guidance has not run optimally because there are several factors that hinder the Honorary Council in carrying out its duties. These factors include, among others, the imposition of sanctions that are less strict, therefore notaries who violate the code of ethics are not deterrent, psychologically, the quality of the imposition of sanctions and the time and scope of the area are considered too broad.

The solution carried out by the Notary Honorary Council is to implement preventive and curative supervision, namely to prevent violations of the position of a notary and provide guidance to the notary himself. It is better to increase the number of members of the Notary Honorary Council or to have a reserve member so that one can replace one if one is unable to attend and it is hoped that the Notary Honorary Council can play an active role in maintaining the honor and dignity of the notary position by enforcing the code of ethics regulations that apply to notaries strictly and without indiscriminately, so that all activities or implementation are in accordance with what is desired without harming any party.

The supervisory function carried out by the Honorary Council in carrying out efforts to prevent and reduce the occurrence of violations of the code of ethics, the efforts carried out by the Honorary Council are in the form of preventive and curative supervision.¹⁰

- Preventive supervision and guidance carried out by the Honorary Council is in the form of counseling and guidance that can be carried out during an examination to a notary position does not deviate from the regulation.
- Increasing supervision of notaries so that violations of the code of ethics are smaller
- The Notary Honorary Council is expected to play an active role in

¹⁰Endang Purwaningsih, 2015, Bentuk Pelanggaran Hukum Notaris di Wilayah Provinsi Banten dan Penegakan Hukumnya, *Jurnal, Bagiann Hukum Bisnis*, Fakultas Hukum Universitas YARSI, Jakarta.

maintaining the honor and dignity of the notary position by enforcing the rules of the code of ethics that apply to notaries firmly and indiscriminately, so that all activities or implementation are in accordance with what is desired.

According to AH. In relation to supervision, the guidance on the enforcement of the code of ethics for solutions carried out by the Honorary Council is an evaluation and improvement of every violation committed by a notary so that the factors that support the occurrence of violations can be minimized and eliminated. And the Honorary Council members in carrying out their duties must take a firm stand and focus so as not to be influenced by anyone's persuasion.

4. Conclusion

Enforcement is an effort to implement the code of ethics of a notary as it should be, supervise its implementation so that there is no violation, and if there is a violation, restore the violated code of ethics so that it is re-enforced. Violations committed by Notaries related to the code of ethics are actions that need to be followed up and supervised by the Notary Honorary Board, so that in the future there will be no more violations and so that the level of discipline will increase. And the Constraints of the Honorary Council in enforcing the code of ethics, namely, the rules in carrying out supervision are not complete, the existence of limited members of the Honorary Council, the lack of rules for implementing UUJN in relation to guidance and supervision, as for the solution of the Honorary Council in enforcing the code of ethics for Notaries to evaluate and supervise.

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