

The Role of the Regional Notary Honorary Council in Guidance and Supervision of the Notary Code of Ethics in Pekanbaru City

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Abstract. This study aims to determine and analyze the role of the Regional Notary Honorary Council (DKD) in providing guidance and supervision to Notaries who violate the Notary Code of Ethics and how the enforcement of sanctions against violators of the Notary Code of Ethics by the Regional Notary Honorary Council in Pekanbaru City. In this study, the author uses the type of empirical legal research. The empirical legal research method is a legal research that functions to be able to see the law in a real sense and examine how the law works in the community. The structural approach method is a method or approach to the working of law in society based on the structure that exists in society. The data structure approach is obtained directly from respondents (research objects). The type of data used in this study is primary data. The analysis in this study is descriptive. Descriptive means that in analyzing the author wants to provide a description or presentation of the research results. The collection of research data using direct interview techniques from sources, namely the Regional Notary Honorary Council in Pekanbaru City. The results of the study indicate that the Regional Notary Honorary Council in Pekanbaru City in its supervision, guidance and the imposition of sanctions has not been running effectively with the discovery of Notaries who still violate the Notary Code of Ethics regulated in Law No. 2 of 2014 concerning amendments to Law No. 30 of 2004 concerning the position of Notary.

Keywords: Council; Guidance; Supervision.

1. Introduction

The history of Notaries in Indonesia began at the beginning of the 17th century, namely on August 27, 1620, Melchior Kerchem was appointed as the first Notary in Indonesia. Melchior Kerchem was a secretary of the College van Schenpenen, who served as a Notary Publicus. The presence of Melchior Kerchem made it easier for Dutch East Indies citizens, especially Europeans and foreign easterners, to make legal documents in the capital. The appointment of Melchior Kerchem

was followed by the appointment of other Notaries to accommodate the need for making legal documents which were considered increasingly important, coupled with the busyness of the City of Batavia at that time¹, making the addition of Notaries a necessity. Generally, the Notaries who were appointed were of European and foreign eastern descent because most indigenous people did not receive proper education. However, there were still indigenous people who received education and were appointed as Notary Assistants. They were nobles or those who had good relations with the colonial government.² According to the Notary Law No. 2 of 2014, a Notary is a public official who is authorized to make authentic deeds and other authorities as referred to in this Law.³ With the provision that a Notary is a public official who makes authentic deeds, a Notary needs an organization that will protect the Notary and also play a role in protecting the general public who use the Notary's services.

Article 82 Paragraph (1) UUJN states that Notaries are united in one Notary Organization. The Notary Organization as referred to in paragraph (1) is the Indonesian Notary Association. The Notary Organization as referred to is the only free and independent Notary profession which is formed with the intent and purpose of improving the quality of the Notary profession.

The Code of Ethics established in Banten, on May 29-30, 2015, contains obligations, prohibitions and exceptions for Notaries in carrying out their duties. Notaries can be subject to sanctions if proven to have violated the provisions contained in the Notary Code of Ethics. The relationship between the Notary profession and the Notary organization is regulated by the Notary Code of Ethics, where the existence of the Notary Code of Ethics is a consequence of a job related to violations of the Notary's behavior which only leads to moral sanctions.

1. This Notary Code of Ethics contains elements of obligations, prohibitions, exceptions and sanctions that will be imposed if a Notary is proven to have violated the Code of Ethics.⁴ Article 3 of the Code of Ethics stipulated in Banten, on 29-30 May 2015, explains the obligations for Notaries, including the following:⁵
 - 5 Having good morals, ethics and personality;
2. Respect and uphold the dignity and honor of the Notary Office
3. Maintain and defend the honor of the Association;
4. Behave honestly, independently, impartially, trustworthy, carefully, with a full sense of responsibility, based on laws and regulations and the contents of the Notary's oath of office;
5. Install 1 (one) nameplate in front of or around the office with a choice of sizes, namely 100 cm x 40 cm, 150 cm x 60 cm or 200 cm x 80 cm, which contains:
 - a. Full name and legal title;

¹ Ira Koesoemawati and Yunirman Rijan, 2009, *To a Notary, Achieve the Hope of Success*, Jakarta, p. 27.

² Ibid

- b. Date and number of the last Decree of appointment as Notary;
- c. Place of residence;
- d. Office address and telephone/fax number.
- e. The nameplate base is white with black letters and the writing above the nameplate must be clear and easy to read. Unless in the office environment it is not possible to install the nameplate in question.

Based on Article 4 of the Notary Code of Ethics established in Banten, on 29-30 May 2015, the prohibitions for Notaries are explained as follows:

- 1. Have more than 1 office, either branch or representative office;
- 2. Installing a nameplate and/or writing that reads "Notary/Notary Office" outside the office environment;
- 3. Carrying out publication or self-promotion, either individually or collectively by including one's name and position, using print and/or electronic media in the form of:
 - a. Advertisement;
 - b. Congratulations;
 - c. Condolences;
 - d. Thank-you note
 - e. marketing activities;
 - f. sponsorship activities, whether social, religious or sporting.
- 4. Cooperate with service bureaus/people/legal entities who essentially act as intermediaries to find or obtain clients;
- 5. Signing a deed whose drafting process has been prepared by another party; Asking the client for minutes to be signed

The things mentioned above are obligations and prohibitions for a Notary who must be guided by if the Notary violates these rules then the Notary's Regional Honorary Council can impose sanctions, so the Notary in his actions must comply with the rules set by the association in assuming office as a Notary.

But in its implementation there are still legal gaps and the Law does not work where based on the provisions of the Code of Ethics Law stipulated in Banten, on May 29-30, 2015 concerning the Notary Code of Ethics. In the implementation of guidance and supervision carried out by the Notary Regional Honorary Council (DKD) it is not running effectively, there are still Notaries who promote themselves by installing more than 1 (one) nameplate, and also road signs or directions with a size exceeding 20cm x 50cm and including the name of the Notary. And also installed within a radius that exceeds the provisions, the rules that should not be more than 100 meters, while the author still finds many other violations committed by Notaries in the city of Pekanbaru.

2. Research Methods

Research is a scientific activity related to analysis and construction that is carried out methodologically, systematically, and consistently. Methodological means in accordance with a certain method or way, systematic is based on a system, while consistent means the absence of contradictory things in a certain framework.⁶

Research method is a system and a process that must be carried out in a research activity and development of science. Legal research is basically a scientific activity based on certain methods, systematics, and thoughts, which aims to study one or several specific legal phenomena by analyzing, and thinking deeply about legal facts and then trying to solve the problems that arise in the relevant symptoms.

3. Results and Discussion

3.1. Supervision and Development Area of the Regional Notary Honorary Council

Based on Article 10 paragraph 1 of the Articles of Association of the Indonesian Notaries Association in 2015 in Banten, the association's equipment consists of:

- a. Members meeting
- b. Management
- c. Honorary Council
- d. Association Court

The Regional Honorary Council is an association equipment consisting of several members selected from ordinary members of the Notary, who are highly dedicated and loyal to the association, have good character, are wise and prudent, so that they can be role models for members and are appointed by the Regional Conference for the same term of office as the term of office of the management. For the first level of the Regional Management, the association has a Regional Honorary Council in each management of the Regional Management of the Indonesian Notary Association.

The Regional Honorary Council in Pekanbaru City periodically at least once a year visits the Notary's office to supervise and provide guidance to Notaries under its regional authority. The implementation of the supervision and guidance is carried out first by notifying that supervision and guidance will be carried out, so that the Notary who will be visited will immediately prepare everything needed for the examination.

In the case of a Notary who violates the Code of Ethics in this thesis, the authority to examine is still within the authority of the Regional Honorary Council. The number of Notaries in Pekanbaru City is 130 Notaries. So that technical supervision will be carried out by forming a supervisory team that will come down to supervise and provide guidance to Notaries, consisting of 3 (three) members, including a Chairperson, a Deputy Chairperson, and a Secretary.

Those who can be appointed as members of the Regional Honorary Council are ordinary members who have served as Notaries for at least 5 (five) years and extraordinary members (former Notaries), who always obey the rules of the association and applicable laws and regulations, are highly dedicated, have meritorious and loyal and have a high sense of concern for the regional conference can determine otherwise, especially regarding the composition of Notaries and former Notaries. The Regional Honorary Council in the city of Pekanbaru consists of the Chairperson, Deputy Chairperson and Secretary

Article 12 Amendments to the Articles of Association of the Indonesian Notaries Association Extraordinary Congress of the Indonesian Notaries Association, Banten, 29-30 May 2015, That the Honorary Council has the duties and authority to:13

- 1) Provide guidance, supervision and coaching to members in enforcing and upholding the notary code of ethics;
- 2) Examining and making decisions on alleged violations of the notary code of ethics;
- 3) Providing advice and opinions to the supervisory board and/or the notary honorary board regarding alleged violations of the notary code of ethics and the notary's position;
- 4) Coordinate, communicate and liaise directly with members and parties related to the implementation and enforcement of the notary code of ethics;
- 5) Making regulations in order to enforce the notary code of ethics together with the central management.
- 6) The honorary council consists of several members selected from among the regular members, who are highly dedicated and loyal to the association, have good character, are wise and prudent, so that they can be role models for the members and are appointed by the congress for the same term as the term of office of the management.
- 7) The Honorary Council consists of:
 - a. The Central Honorary Council is the honorary council at the central level;
 - b. The Regional Honorary Council is an honorary council at the provincial level;
 - c. The regional honorary council is an honorary council at the district/city level.

The role and position of the Honorary Council is very strategic because it is entrusted with the mandate to ensure that Notaries understand and implement the Code of Ethics consistently well and correctly. The Honorary Council also contributes to the honor and nobility of the Notary profession in society. If the Honorary Council cannot enforce the Code of Ethics in accordance with the orders mandated by the organization, then its credibility as an institution enforcing the Code of Ethics will be underestimated by external parties. For example, in certain cases, the integrity and firmness of the Honorary Council can help protect the Notary profession from interference from other parties.

The Honorary Council is obliged to maintain the honor of the Notary Code of Ethics in the Notary Association as mandated in the Congress in Banten on 29-30 May 2015, namely the Amendment to the Notary Code of Ethics of the Extraordinary Congress of the Indonesian Notary Association, as referred to in Article 3 which states that Notaries and other people (as long as the person concerned is carrying out the position of Notary) are obliged to obey the applicable regulations.

3.2. Scope of the Regional Honorary Council in Pekanbaru City

The Regional Honorary Council is an institution formed by INI through a Regional Conference to carry out internal supervision of INI members, regarding the implementation of the Notary Code of Ethics. The function of the Regional Honorary Council is to supervise and impose sanctions on Notaries if there is a violation of the Code of Ethics against Notaries. The Regional Honorary Council is an institution within the exclusive Notary society, which is formed by the community to carry out supervisory functions.

In the Notary's supervisory function, there is a coaching function, because supervision is a symbol of a series of activities, namely supervision, giving warnings, giving sanctions and coaching. The series of activities are only referred to by one symbol, namely supervision, so it does not mean that other activities do not have to be done, including coaching. Coaching for Notaries is a symbol that guides and passes on values.

The forms taken in carrying out the supervisory function are as follows:

a. Viewed from a technical perspective, supervision is divided into:

1. Direct Supervision

Direct supervision is supervision that is carried out directly by the leader by observing, examining, checking and checking himself and receiving direct reports from the implementation at the place where the work is taking place and this is done by inspection.

2. Indirect Supervision

Indirect supervision is supervision carried out by studying the results of reports or documents received from the implementation either verbally or in writing. These documents include:

- a) reports on work implementation, both periodic reports and incidental reports;
- b) audit results report (LHP) obtained from other supervisory devices;
- c) complaint letters;
- d) news or articles in the mass media;
- e) other documents.¹⁴

b. In terms of the position of the body/organ carrying out supervision, it consists of:

1).Internal Supervision

Internal supervision is supervision carried out from internal. This internal supervision is carried out by the highest leader in the organization itself, but usually to be more effective, the leader's task can be delegated to the leaders of their respective fields.¹⁵ It can be interpreted that this internal supervision is supervision carried out by an agency which is organizationally still within the government environment itself, which consists of:

- a) Supervision carried out by leaders or direct superiors, either at the central or regional level, which are government organizational units, including development projects in the environment of departments/other agency institutions, to improve quality in their respective work environments, through:
 - (1). Outlining a clear organizational structure with a clear division of tasks and functions and their descriptions;
 - (2). Details of the implementation policy set out in writing which can be used as a guide in its implementation by subordinates who receive delegation of authority from superiors;
 - (3). Through a work plan that describes the activities that must be carried out, the form of working relationships between these activities, and the relationships between various activities and the targets that must be achieved;
 - (4). Through work procedures are clear implementation instructions

from superiors to subordinates;

- (5). Through recording work results and reporting which is evidence for superiors to obtain the information needed for decision making and compiling accountability, both regarding the implementation of tasks and financial management;
- (6). Through continuous personnel development, the implementers become elements that are able to carry out their duties well.

for which he is responsible and does not take action that is contrary to the aims and interests of his duties. 16

b) Supervision carried out functionally by supervisory officers towards state finances and particularly towards acts government in the field of Friesmessen includes:

- (1). Formal supervision, for example in the procedure for objections to petition rights, administrative appeals, which are classified as preventive supervision, namely the requirement for approval from superiors before a decision is taken, repressive supervision such as spontaneous suspension of implementation and the possibility of cancellation.
- (2). Informal supervision such as evaluation and suspension measures.

2). External Supervision

External Supervision is supervision carried out by officials or officers appointed from outside the government organization (executive). For example, state financial matters are examined by the Audit Board of Indonesia (BPK).

c. Preventive Supervision, Repressive Supervision and General Supervision

1) Preventive Supervision

Preventive supervision is supervision carried out before implementation, this means that supervision has been carried out since it was still a plan. Through this understanding, it can be seen that preventive supervision is intended to avoid possible errors.

2) Repressive Supervision

Repressive supervision is supervision carried out in the form of suspension, postponement and cancellation, with the intention of correcting if there is an error and an evaluation can be carried out. Suspension and cancellation are carried out if they are contrary to higher laws and regulations.

3) General Supervision

General supervision is supervision carried out by the government on all regional government activities to ensure the implementation of good regional governance. However, it also applies to supervision of other targets and objects by all existing supervisory devices.

d. Legal Supervision

Supervision from a legal perspective is supervision that aims to ensure that the government in carrying out its actions must pay attention to legal norms as a preventive measure and is also intended to return to the situation before the violation of legal norms occurred as a repressive measure in order to provide legal protection for the people, which consists of administrative efforts and administrative justice.

Based on the results of interviews conducted by researchers, it can be seen that supervision and guidance of Notaries in Pekanbaru City has not been running smoothly, guidance is only carried out when Notaries violate the Code of Ethics.

3.3. Enforcement of sanctions against violations of the Notary Code of Ethics by the Regional Honorary Council in Pekanbaru City

1. Factors causing notaries to violate the Code of Ethics

Notary is a public official, a profession that is directly related to the community. Therefore, Notary must be able to maintain the good name and dignity of the Notary profession in the eyes of the community. So that the Notary Code of Ethics was created which is useful as a reference or guideline for Notaries to be able to behave so that the Notary's attitude or actions do not deviate from those determined in the Code of Ethics. So that both the Notary's position and the Notary's personal good name are expected to always be good in the eyes of the community as a public official who is authorized to make authentic deeds that can be useful as evidence if needed one day. Violations of the Code of Ethics committed by Notaries can generally be grouped into 2 (two), including:

a. Intentional element, the Notary already knew that what he did was a violation of the Code of Ethics but still did it.

b. Element of ignorance, Violations in this group are usually committed by new Notaries who do not know and understand the regulations of the Notary profession's Code of Ethics.

Based on the possible occurrence of violations of the Code of Ethics committed by Notaries, this is where the Notary Honorary Council is needed. The duties of this Honorary Council are regulated in Article 12 of the Articles of Association of

the Indonesian Notaries Association, Extraordinary Congress of the Indonesian Notaries Association, Banten, 29-30 May 2015, which reads as follows:17

- a. Provide guidance, supervision and coaching to members in enforcing and upholding the Notary Code of Ethics.
- b. Examine and make decisions on alleged violations of the Notary Code of Ethics.
- c. Provide advice and opinions to the Supervisory Board and/or the Notary Honorary Council regarding alleged violations of the Notary Code of Ethics.
- d. Coordinate, communicate and liaise directly with members and parties related to the implementation and enforcement of the Notary Code of Ethics.
- e. Making regulations in order to enforce the Notary Code of Ethics together with the central management.

The Notary Honorary Council is expected to play an active role in maintaining the honor and dignity of the Notary position by enforcing the regulations of the Code of Ethics that apply to Notaries firmly and without discrimination. According to the Notary Code of Ethics, the following are things that are prohibited for Notaries to do:

1. Have more than 1 office, either branch or representative office;
2. Installing a nameplate and/or writing that reads “Notary/Notary Office” outside the office environment;
3. Carrying out publication or self-promotion, either individually or collectively by including one's name and position, using print and/or electronic media in the form of:
 - a. Advertisement;
 - b. Congratulations;
 - c. Condolences;
 - d. Thank you
 - e. marketing activities;
 - f. sponsorship activities, whether social, religious or sporting.
4. Cooperate with service bureaus/people/legal entities who essentially act as intermediaries to find or obtain clients;

5. Signing a deed whose preparation process has been prepared by another party;
6. Ask the client for the minutes to be signed;
7. Trying or attempting in any way to get someone to move from another Notary to him, whether the attempt is made directly to the client concerned or through another intermediary;
8. Coercing a client by withholding documents that have been submitted and/or applying psychological pressure with the aim of making the client continue to make a certificate to him;
9. Carrying out efforts, either directly or indirectly, that lead to the emergence of unfair competition;
10. Determine the honorarium to be paid by the client in an amount lower than the honorarium set by the association;
11. Intentionally employing people who still have the status of employees at another Notary's office without prior approval from the Notary concerned;
12. Badmouthing or blaming another Notary's partner or the deeds made by him/her. In the event that a Notary is faced with and/or finds a deed made by a colleague which turns out to contain serious errors and/or is dangerous to the client, then the Notary is obliged to inform the colleague of the error he/she has made;
13. Not carrying out obligations and violating the prohibitions as referred to in the Code of Ethics;
14. Forming an exclusive group of fellow colleagues with the intention of serving the interests of another agency or institution, especially closing the possibility for other Notaries outside the group to participate;
15. Listing titles that do not comply with statutory regulations;
16. Making deeds exceeding reasonable limits, the limit of which is determined by the honorary council;
17. Participate in auctions to get deed-making jobs.

The above matters are prohibited for a Notary and if a Notary violates these matters, the Honorary Council can impose a Code of Ethics sanction on the Notary concerned.

2. Implementation of sanctions for violations of the Notary Code

of Ethics

Related violation of the Code of Ethics committed by a Notary in the city of Pekanbaru, then the Regional Honorary Council determines sanctions for violations committed by notaries, then the Honorary Council in coordination with the Supervisory Board is authorized to conduct investigations into violations of the Code of Ethics committed by Notaries, Administrative sanctions imposed on members of the Indonesian Notary Association (INI) who violate the Code of Ethics can be in the form of:

- 1) Reprimand;
- 2) Warning;
- 3) Schorzing (temporary suspension) from association membership;
- 4) Onzetting (honorable dismissal) from membership of the association;
- 5) Dishonorable dismissal from association membership.

The imposition of sanctions as mentioned above against members who violate the Code of Ethics is adjusted to the quantity and quality of violations committed by the member. Notaries who are sanctioned may file an objection to the sanctions, efforts that can be made by Notaries who are sanctioned for violating the Code of Ethics.

The Regional Honorary Council must immediately hold a hearing to discuss the alleged violation. If the decision of the Regional Honorary Council hearing proves that there has been a violation of the Code of Ethics, then the hearing will also determine the sanctions for the violation. The decision of the Regional Honorary Council hearing must be sent to the violating member with a copy to the Branch Management, Regional Management, Central Management and Central Honorary Council all within seven working days after the decision is made by the Regional Honorary Council hearing. Sanctions of reprimand and warning by the Regional Honorary Council do not require prior consultation with the Regional Management.

4. Conclusion

There are still many violations of the Notary Code of Ethics in Pekanbaru City, including self-promotion through social media, writing Notary name boards that do not comply with applicable regulations, not being active in organizations, and making flower arrangements with the words "Notary". Sanctions that are limited to warnings alone are not effective and efficient to be given to Notaries who

violate the Position and Code of Ethics, especially in this case, installing Notary Name boards in more than one way will be a bad example for other Notaries.

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