

Optimizing the Role and Function of the Regional Supervisory Board Against the Abuse of Notary Position in Balikpapan City

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Abstract. *The examination conducted by the MPD on notaries in Balikpapan City has not been optimal so that the MPD cannot directly monitor and supervise documents issued by notaries or other notary protocols and the MPD is concerned that there are still notaries who make mistakes related to the abuse of notary office and the notary code of ethics. The purpose of this study is to determine and analyze the role and function of MPD supervision of the abuse of notary office in Balikpapan City which has not been optimal and to determine and analyze the optimization of the role and function of MPD supervision of the abuse of notary office in Balikpapan City. The approach method in this study is the empirical legal method. The research specifications used are Structural approach research and Economic Analysis of Law. The type of data uses primary data and secondary data. Theory of the Working of Law and Structural Theory and functionalism. The results of the research and discussion in this study are: The role and function of MPD supervision of abuse of office by Notaries in Balikpapan City in practice still faces various challenges both in the examination at any time (periodically) or when there are reports from the public resulting in the ineffectiveness of the MPD's role, further supervision in principle MPD Balikpapan City is not a superbody, but as a mentor, protector and protector and tries to accompany Notaries, including the status of Notaries who are summoned to be examined as witnesses and in such cases of course there must be a basis for determining the Notary concerned as a witness. Because the Notary who is summoned does not mean or is not necessarily guilty, but there could be other factors that cause the Notary concerned to have the status of a witness who may also be a suspect. For this reason, improvements are needed that start from within, namely the institution that appoints and the Notary organization itself. In this case, the role of the organization is needed so that the problem does not drag on because it will harm the Notary himself which will ultimately also harm the community, so that to solve*

this problem there needs to be a commitment from all parties who are competent in this matter.

Keywords: *Examinations; Function; Notary; Optimization.*

1. Introduction

Indonesia as a country of law based on Pancasila and the 1945 Constitution of the Republic of Indonesia guarantees certainty, order and legal protection for every citizen. To guarantee order and legal protection, authentic written evidence is needed regarding acts, agreements, determinations and legal events made before or by authorized officials.¹In Article 1 number 1 of Law Number 2 of 2014 amending Law Number 30 of 2004 concerning the Position of Notary (UUJN) it is stated that "A notary is a public official who is authorized to make authentic deeds and has other authorities as referred to in this Law or based on other laws."

The economic development of Indonesian society is currently very advanced. Of course, society definitely needs a role that can be relied on, can be trusted, can guarantee the legality and security of legal documents. The need for notaries is increasingly needed to accompany society in times like today. Notaries as public officials who are authorized to provide legal advice and can create a legal document and can be used as authentic evidence in a legal process.²

Society needs legal certainty and protection in a legal process that generally requires evidence that clearly determines the rights and obligations of a person as a legal subject in society. In relation to the clarity of a person's legal rights and obligations in community life, one of which is done by the role of a notary.³Notaries play an important role in providing legal certainty and protection for the community to reduce the risk of legal problems such as disputes in the future by issuing deeds that can be recognized as authentic evidence in court and related to a person's rights and obligations in law and other things that are useful as perfect evidence.

Notaries are present to serve the interests of the community who need evidence in the form of authentic deeds according to requests from Notaries, so without

¹M. Luthfan Hadi Darus, 2017, Notary Law and the Responsibilities of the Notary Office, Uii Press, Yogyakarta, P. 1.

² Pramudita, SH Putri Diva N, 2022, The Role of the Regional Supervisory Board in Supervising Notaries Through the Implementation of Siemon in Sleman Regency During the Covid-19 Pandemic, Yogyakarta, p. 1

³ *Ibid*, p.2

the community who need Notaries, Notaries are useless.⁴

Notary is one of the professions in the legal field. The notary profession was born from the results of interactions between members of society and was developed and created by society itself.⁵ Law of the Republic of Indonesia No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning the Position of Notary Public, hereinafter referred to as UUJN, a Notary Public is a public official who has the authority.

The Notary position is an institution created by the state. Placing a Notary as a position is a field of work or task that is deliberately made a legal rule for certain purposes and functions (certain authorities) and is continuous as a permanent work environment.⁶ The duties of a notary include making authentic deeds, recording and storing documents made, drawing up deeds before the relevant parties, providing legal advice, and carrying out other duties based on statutory regulations.⁷

Notary is a position of trust. This has the meaning that those who carry out the duties of the position can be trusted and because the position of Notary is a position of trust so that the position of Notary is a position of trust and the person who carries out the duties of the position can also be trusted, both of which support each other.⁸

Considering the very important role and authority of Notaries for legal traffic in community life, the behavior and actions of Notaries in carrying out their authority functions are vulnerable to abuse which can cause losses to the community, so that the institution for fostering and supervising Notaries needs to be made more effective.⁹

One of the legal bases that regulates the supervision of Notaries in carrying out their duties and positions is Article 1 point 6 of the Notary Law, stating that the Supervisory Board is a body that has the authority and obligation to carry out guidance and supervision of Notaries. Based on the article above, the task of supervising Notaries after the enactment of the Notary Law is the task of the Supervisory Board. The Regional Supervisory Board is one of the supervisory

⁴ Nurwidanarko, Adi. 2021, *Legal Dynamics*, Karanganyar, p. 11

⁵ Habib Adjie, 2008, *Indonesian Notary Law*, Rafika, Bandung, p. 8

⁶ Denny Saputra and Sri Endah Wahyuningsih, 2017, *The Principle of Caution for Notaries/Ppat in Carrying Out Their Duties and Functions in Efforts to Prevent Criminalization Based on the Code of Ethics*, *Jurnal Akta*, Vol.4 No.3, Accessed on May 16, 2024 at 20.25 WITA, P. 348.

⁷ Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary (UUJN).

⁸ Habib Adjie, 2014, *Weaving Thoughts in the World of Notaries & Ppat*, Pt. Citra Aditya Bakti, 2nd Edition, Bandung, P. 12.

⁹ Yanti, F. 2019. *The Authority of the Regional Notary Supervisory Board in Supervising Notaries*. *Jurnal Jurisprudencia*, 1(2), p. 47.

bodies that carries out its duties to supervise the performance of notaries in the district/city area. The Regional Supervisory Board has the authority and obligations related to its supervisory duties towards notaries as regulated in Article 70 and Article 71 of the Notary Law.

The role of the Regional Supervisory Board in providing guidance and supervision of notaries is very important to carry out. Based on Article 2 of the Regulation of the Minister of Law and Human Rights Number 15 of 2020 concerning Procedures for the Supervisory Board's Examination of Notaries, the Supervisory Board has the authority to provide guidance and supervision of notaries and to conduct examinations of alleged violations of the behavior and implementation of the notary's office. Notaries who are guided and supervised by the Notary Supervisory Board are carried out once a year based on the Notary Position Law with a random test method carried out by the Regional Supervisory Board. Examination of Notaries is carried out by the Regional Supervisory Board by visiting each Notary's office periodically every year.

The inspections carried out by the MPD on notaries in Balikpapan City have not been maximized so that the MPD cannot directly monitor and supervise documents issued by notaries or other notary protocols and the MPD is concerned that there are still notaries who make mistakes related to the abuse of notary office and the notary code of ethics.

2. Research Methods

The author in compiling this research uses the Empirical Law research method. This type of research is empirical jurisprudence, research based on observations, experiences, or real data obtained from the real world, not just theories or abstract concepts. This research relies on evidence that can be tested through observation or experimentation. According to Soerjono Soekanto and Sri Mamudji, empirical legal research is legal research conducted by examining primary data, namely data obtained directly from the community.¹⁰The legal approach (law is seen as a norm or *das sollen*), because in discussing the problems of this research using legal materials (both written law and unwritten law or both primary legal materials and secondary legal materials). Empirical approach (law as a social, cultural reality or *das sein*, because in this study primary data obtained from the field is used. The approach method used is the structural approach and Economic Analysis of Laws. The Structural Approach focuses on how law operates as a complex social system. This approach examines the relationship between various elements of law and how law functions in society. This concept includes the study of norms, legal institutions, and power relations that form social structures. While the Economic Analysis of Law approach to legal research emphasizes that law must be analyzed from an

¹⁰ Irwansyah, 2022, Legal Research, Mirra Buana Media, Yogyakarta, p. 43

economic perspective, especially in terms of efficiency and utility value. This approach involves evaluating legal regulations based on their impact on resource allocation, market efficiency, and individual or entity behavior. The goal is to ensure that the law provides maximum benefits at the lowest possible cost, supporting more rational policies in an economic context.

3. Results and Discussion

3.1. The Role and Supervisory Function of the MPD Against the Abuse of Notary Positions in Balikpapan City is Not Yet Optimal

The Notary position is an institution created by the state. Placing a Notary as a position is a field of work or task that is deliberately made a legal rule for certain purposes and functions (certain authorities) and is continuous as a permanent job.¹¹Notaries in carrying out their duties and positions are required to submit to and obey all regulations set out in the UUJN, the Code of Ethics of the Indonesian Notary Association and other laws relating to the duties of a Notary. Supervision of Notaries is carried out by the Notary Supervisory Board in a hierarchical manner.¹²In the effort to foster and enforce the law in Indonesia, a set of laws and regulations and enforcement tools are needed. In addition, there are also known community institutions that contribute to maintaining and implementing the law properly by members of society, so that it is expected to create order and security in the midst of society.¹³

The function and role of Notaries in the increasingly complex national development movement today are certainly increasingly broad and developing, because the smoothness and certainty of law carried out by all parties are increasingly numerous and extensive, and this is certainly inseparable from the services and legal products produced by Notaries. The government and the wider community certainly have hopes that the services provided by Notaries to them truly have value and weight that can be accounted for. Given the very important role and authority of Notaries for legal traffic in community life, the behavior and actions of Notaries in carrying out their authority functions are susceptible to abuse that can cause losses to the community, so that the institution for fostering and supervising Notaries needs to be made effective. Provisions governing supervision for Notaries are regulated in Law Number 2 of 2014 concerning the Position of Notaries. This provision is one of the efforts to

¹¹ Denny Saputra and Sri Endah Wahyuningsih, 2017, *The Principle of Caution for Notaries/Ppat in Carrying Out Their Duties and Functions in Efforts to Prevent Criminalization Based on the Code of Ethics*, *Jurnal Akta*, Vol. 4 No. 3, p. 348

¹² Johnny Ibrahim, 2008, *Theory and Methodology of Normative Legal Research*, Fourth Edition, Banyumedia, Jakarta, p. 321.

¹³ Dwikky Bagus Wibisono, Umar Ma'ruf, 2018, *The Role of the Regional Supervisory Council (MPD) in Supervising the Implementation of Notary Positions in Tegal Regency*, *Jurnal Akta*, Vol.5 No.1, P. 179.

anticipate weaknesses and deficiencies in the supervision system for Notaries, so that it is hoped that in carrying out their profession, Notaries can further improve the quality of service to the community.¹⁴

The Notary Supervisory Board is an extension of the Minister of Law and Human Rights of the Republic of Indonesia. The purpose of this supervision is so that Notaries when carrying out their duties fulfill the requirements related to the implementation of Notary duties in order to safeguard the interests of the community, because Notaries are appointed by the government not for the interests of the Notary himself but for the interests of the community he serves.¹⁵ Notaries in carrying out their duties as public officials authorized to make authentic deeds are supervised by the Notary Supervisory Board formed by the minister. Provisions regarding supervision of Notaries are regulated in UUN Chapter IX concerning Supervision. Supervision is generally understood as an activity carried out by supervisors in seeing, paying attention, observing, controlling, reviewing and maintaining and providing wise direction.

The position of a Notary as a public official has an important role in making authentic deeds, so that a Notary as a public official who makes authentic deeds is required to have a good personality, work hard, be independent, honest, impartial (fair) and have a full sense of responsibility. Notaries are also required to have skills or mastery in the field of law that is their competence. In serving the needs of the community in providing services in the field of civil law, Notaries are also required to provide legal counseling (legal advisor) to their clients.¹⁶

The Regional Supervisory Council (MPD) of Balikpapan City is one of the institutions that has the authority to supervise the performance of a notary, which in this case aims to ensure that the notary can be responsible for what has been done so that later there will be no mistakes that can result in losses for users of the notary's services or can damage the good name of the notary concerned. The institution for fostering and supervising Notaries established by the Minister of Law and Human Rights needs to be made effective and its quality and quality improved, because Notaries are expected to be able to carry out their profession by always improving the quality of professionalism and legal protection for the community. The role of this Supervisory Council is very important in fostering and supervising the position of a Notary continuously regarding personal behavior in carrying out the position or outside the position as the spearhead to ensure legal certainty for the community who use the services of a Notary.

In carrying out their work, notaries must be careful in carrying out their duties

¹⁴ *Ibid.* P. 180.

¹⁵ GHS Lumban Tobing, 1983, Notary Regulations, Erlangga, Jakarta, p. 301.

¹⁶ Ratna Madyastuti, 2020, "The Authority of the Notary Supervisory Board in Preventing Violations of the Authority and Duties of the Notary Office", *Lex Renaissance*, Vol. 5, No. 3, P. 713

and responsibilities by complying with all applicable laws and regulations, namely what is stated in the Notary Code of Ethics in Article 3 and what has been stated in Article 16 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary. The Balikpapan City Regional Supervisory Council (MPD) is one of the institutions that has the authority to supervise the performance of a notary, which in this case aims to ensure that notaries can be responsible for what has been done so that later there will be no mistakes that can result in losses for users of the notary's services or can damage the good name of the notary concerned. The development and supervision institution for Notaries formed by the Minister of Law and Human Rights needs to be made effective and its quality and quality improved, because Notaries are expected to be able to carry out their profession by always improving the quality of professionalism and legal protection for the community. The role of the Supervisory Board is very important in continuously developing and supervising the position of a Notary regarding personal behavior in carrying out his position and outside his position as the spearhead to guarantee legal certainty for the community who use the services of a Notary.

In carrying out their work, notaries must be careful in carrying out their duties and responsibilities by complying with all applicable laws and regulations, namely what is stated in the Notary Code of Ethics in Article 3 and what is stated in Article 16 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary.

The definition of supervision is not regulated in the UUJN but is found in the Regulation of the Minister of Law and Human Rights (Permenkumham) M.02. PR.08.10 of 2004 concerning the Procedures for Appointing Members, Dismissing Members, Organizational Structure, Work Procedures, and Procedures for Examination of the Notary Supervisory Board. In Article 1 number 5 of Permenkumham M.02. PR.08.10 of 2004 it is stated that: "Supervision is an activity that is preventive and curative in nature including coaching activities carried out by the Notary Supervisory Board."¹⁷

Preventive action refers to actions taken by authorities to prevent or discourage illegal acts before social deviation occurs. Prevention and control are generally carried out through coaching, guidance, and invitation. Therapeutic action: This action is taken after socially deviant behavior has occurred. This action is intended so that the offenders are aware of their mistakes and are willing and able to improve their lives so as not to repeat them again in the future.¹⁸This is in

¹⁷ Ria Trisnomurt, et al, (2017), "Duties and Functions of the Regional Supervisory Board in Organizing Supervision, Examination, and Imposing Sanctions on Notaries", *Jurnal Notariil*, Vol. 2, No. 2, P. 129.

¹⁸Donald, Henry. Legality of the Existence of the Notary Supervisory Board and the Notary Honorary Board. *De Jure Legal Research Journal*. Volume 20 Number 3, September 2020 (Downloaded and accessed on January 1, 2025 at 17.55 WITA).

line with the provisions of Article 70 of the UUJN, which determines the authority of the Regional Notary Supervisory Board as follows:

- 1) Holding a hearing to examine any alleged violations of the Notary Code of Ethics or violations of the implementation of the Notary's office;
- 2) Conduct periodic inspections of the Notary Protocol once every 1 (one) year or whenever deemed necessary;
- 3) Granting leave permission for a period of up to 6 (six) months; appointing a Replacement Notary by taking into account the recommendation of the Notary concerned;
- 4) Determining the storage location for Notarial Protocols which at the time of handover of the Notarial Protocol are 25 (twenty five) years old or more;
- 5) Appoint a Notary who will act as the temporary holder of the Notary Protocol who is appointed as a state official;
- 6) Receiving reports from the public regarding alleged violations of the Notary Code of Ethics or violations of the provisions of the Notary Law; and
- 7) Create and submit reports to the Regional Supervisory Board.

The examination process carried out by the Regional Supervisory Board is based on the existing legal basis, namely as regulated in Article 70 letters a, b, and g of the Notary Law, namely concerning the holding of hearings to examine alleged violations, conducting examinations of notary protocols periodically, namely once a year or when it is deemed necessary, and receiving reports from the public regarding the existence or absence of alleged violations committed by notaries. Then for the complete procedures regarding how to carry out the examination of the supervisory board against notaries, it is stated in the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 15 of 2020 concerning Procedures for the Examination of the Supervisory Board Against Notaries.

In carrying out its duties as the Balikpapan Regional Supervisory Council, According to Mrs. Elsa Aprina, SH, MH, it implements through several work programs, in implementing and carrying out its role in the framework of fostering and supervising notaries, it has a work program that will be carried out during the term of office of members of the Balikpapan Regional Supervisory Council. One of the main work programs of the Balikpapan Regional Supervisory Council is to conduct examinations of Notary protocols. For routine examination purposes, at least once a year or at certain times as needed. At the time the examination is carried out, the Notary concerned must be in his office and prepare all protocols to be examined or in certain conditions the notary can be called to a place according to the results of the Balikpapan Regional Supervisory

Council deliberation.¹⁹

In implementing the work program, it can take up to 4 (four) months because there are many notaries registered in Balikpapan, namely 134 Notaries under the supervision of the Balikpapan City Notary Supervisory Board. In the examination of the Notary protocol, the Balikpapan City Notary Supervisory Board goes around to each registered Notary office and is carried out every Saturday considering that on weekdays all Notary members have their respective obligations and activities in each of their jobs as government employees, Notaries, and academics.²⁰

The results of the examination by the Examination Team as stated in the Examination Minutes are evaluated to assess the level of Notary compliance with the UUN and the Notary Code of Ethics, and the results of the evaluation are used as considerations in carrying out guidance and supervision of Notaries. Furthermore, the work program carried out by the Balikpapan City Notary Regional Supervisory Board is the guidance of the implementation of the notary's position. Where the aim is to guide notaries so that they can carry out their positions in accordance with applicable laws and regulations that regulate the position of Notary itself.²¹The Balikpapan City Notary Regional Supervisory Board also provides administrative services for every notary who wants to apply for leave, recommendations for job transfers and others that are administrative in nature. And the Balikpapan City Notary Regional Supervisory Board can also hold a Chairman's Council Meeting if there is a complaint, so this council meeting is only carried out depending on whether or not there is a complaint.²²

Another objective of the Balikpapan MPD's supervision of Notaries is to ensure the protection of public interests against Notaries who carry out their duties irresponsibly and do not respect ethical values and standards and neglect the dignity and duties of their office.²³In carrying out their duties and positions for the benefit of the general public, notaries must be under the supervision of a neutral and independent institution. Supervision of the implementation of the code of ethics is carried out in the following manner:²⁴

1) At the first level, it is carried out by the regional administrators of the Indonesian Notary Association and the Regional Honorary Council;

¹⁹ The results of the interview with Mrs. Elsa Aprina, SH, MH as the Academic Section of the members of the Balikpapan Regional Notary MPD which was conducted on January 14, 2025 at 12.00 WITA.

²⁰ *Ibid*, interview with Mrs. Elsa Aprina, SH, MH

²¹ *Ibid*.

²² *Ibid*.

²³ Yogi Priyambodo, Gunarto, 2017, Review of Violations of the Code of Ethics of the Notary Position in Purbalingga Regency, Jurnal Akta, Vol. 4 No. 3, p. 332.

²⁴ *Ibid*, p.333.

- 2) At the appeal level, it is carried out by the regional administrators of the Indonesian Notary Association and the Regional Honorary Council;
- 3) At the final level, it is carried out by the central management of the Indonesian Notary Association and the Central Honorary Council.

Based on the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number: M.02.PR.08.10 of 2004 concerning the Procedures for Appointing Members, Dismissing Members of the Organizational Structure, Working Procedures and Examination Procedures of the Notary Supervisory Board Article 1 number 5 defines the meaning of supervision which reads, Supervision is an activity that is preventive and curative in nature including coaching activities carried out by the Supervisory Board for Notaries. Basically, the one who has the authority to supervise and examine Notaries is the Minister of Law and Human Rights of the Republic of Indonesia, in the implementation of which the Minister forms the Notary Supervisory Board. The Minister of Law and Human Rights has the task of assisting the president in carrying out part of the government's affairs in the field of law and human rights. Thus, the authority to supervise Notaries lies with the government, so that it is related to how the government obtains the authority to supervise.

The authority to supervise Notaries lies with the Minister of Law and Human Rights. However, in practice, the minister delegates this authority to the Notary Supervisory Board that he has formed. UUJN emphasizes that the minister supervises Notaries and the authority of the minister to carry out this supervision by UUJN is given in the form of a delegative delegation to the minister to form the Notary Supervisory Board, not to carry out the functions of the Notary Supervisory Board that have been explicitly determined to be the authority of the Notary Supervisory Board.

The stages or process of summoning a Notary who is suspected of violating his/her official duties (Repressive Efforts) can refer to the provisions of Article 22 of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number M.02.PR.08.10 of 2004 concerning Procedures for Appointing Members, Dismissing Members, Organizational Structure, Work Procedures, and Procedures for Examination of the Supervisory Board, as follows:²⁵

- 1) The Chairman of the Examination Panel summons the reporter and the reported party.
- 2) The summons shall be sent by letter by the secretary no later than 5 (five) working days before the hearing.
- 3) In urgent circumstances, the summons as referred to in paragraph (2) can be

²⁵ Interview Loc.Cit., Mrs. Elsa Aprina, SH, MH

made by facsimile which will be immediately followed by a letter of summons.

4) If the reported party is not present after being legally and properly summoned, a second summons will be issued.

5) In the event that the reported party is still not present after being legally and properly summoned for the second time, the examination will be carried out and the verdict pronounced without the reported party being present.

6) If the reporter does not attend after being legally and properly summoned, a second summons will be issued, and if the reporter still does not attend, the Examination Panel will declare the report to be void and cannot be submitted again.

To supervise the actions of Notaries in providing good and optimal services in providing legal services to the public in accordance with laws and regulations, the Government has formed a Notary Supervisory Board. Based on Article 1 number 6 of the UJUN, it is stated that the Notary Supervisory Board, hereinafter referred to as the Supervisory Board, is a body that has the authority and obligation to carry out guidance and supervision of Notaries. The nomenclature with the same formulation is also found in Article 1 number 2 of Permenkumham No. 15 of 2020 and Article 1 number 1 of Permenkumham No. 16 of 2021. Regarding the definition of Notary Protocol, it is regulated in Article 1 number 13 of the UJUN, which states that the Notary Protocol is a collection of documents which are state archives that must be stored and maintained by Notaries in accordance with the provisions of laws and regulations. The nomenclature with the same formulation is also found in Article 1 number 11 of Permenkumham No. 15 of 2020 and Article 1 number 5 of Permenkumham No. 16 of 2021.

Supervision of Notaries is carried out by the Notary Supervisory Board in stages. Based on Article 67 of the UJUN, it is stated that Supervision of Notaries is carried out by the Minister, in this case the Minister of Law and Human Rights. In the framework of this supervision, the Minister forms a Supervisory Board. The Supervisory Board has the authority to provide guidance and supervision to Notaries and to conduct investigations into alleged violations of the behavior and implementation of the Notary's office. There are two important words in the authority of the Supervisory Board; 'guidance' and 'supervision'. The word 'guidance' means that the Supervisory Board's task prioritizes preventive measures, while the word 'supervision' is repressive in nature to impose sanctions on Notaries who are proven to have violated their position and/or behavior.²⁶In another reference, it is stated that the word "guidance" at the beginning contains the meaning of preventive activities, while the word

²⁶ Notary Supervisory Board of the Republic of Indonesia, 2013, Coordination Meeting Material for Development and Supervision, Coordination Meeting of the Notary Supervisory Board at the Harris Hotel Bandung, 23 to 25 September 2013, Page 16.

"supervision" contains the meaning of "repressive-curative", namely the act of examining notaries who are suspected of committing violations of their position and behavior.²⁷

The role and function of supervision of the Balikpapan City MPD to avoid misuse of the Notary's position in the form of prevention (prevention) as the implementation of Article 71 UUJN stipulates that the Regional Supervisory Council is obliged to:

- 1) Record in the register book included in the notary protocol by stating the date of examination, the number of deeds and the number of private letters that were legalized and made since the date of the last examination.
- 2) Prepare a report of the examination and submit it to the local Regional Supervisory Board, with copies to the Notary concerned, the Notary Organization, and the Central Supervisory Board.
- 3) Keep the contents of the deed and the results of the examination confidential. Receive certified copies of the deed register and other registers from the Notary and keep them confidential.
- 4) Examine public reports against Notaries and submit the results of the examination to the Regional Supervisory Board, within 30 (thirty) days, with copies to the reporting party, the notary concerned, the Central Supervisory Board, and the Notary Organization.
- 5) Submit an appeal against the decision to refuse leave.

Notary supervision through inspection mechanisms can be divided into 2 (two), namely:

- 1) Periodic inspections and inspections deemed necessary.
- 2) Examination due to public complaints due to alleged violations of the notary code of ethics or alleged violations of the notary's position, or due to requests from investigators, prosecutors or judges who are examining a case related to a notary.

If there is a party who feels disadvantaged, due to an alleged violation of the code of ethics or violation of the notary's position, they can submit a written report to the Regional Supervisory Board. The report will be followed up immediately, starting with the Chairperson of the Regional Supervisory Board forming an Examining Board, consisting of 3 people taken from each element of the Regional Supervisory Board, and assisted by a secretary. This is stipulated in

²⁷ Latifah Amir, Et Al, 2014, "The Existence of the Decision of the Notary Supervisory Board According to the State Administrative Court Law", *Journal of Legal Studies*, p. 100

Article 20 paragraph (1). Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number M.02.PR.08.10 of 2004. However, in this case, the Examining Board does not have the authority to impose sanctions on the reported notary. Paragraph (2) stipulates that the Regional Examining Board and the Central Examining Board have the authority to examine and decide on reports received. While in Article 21 paragraph (3) and paragraph (4) it is stipulated that reports regarding alleged violations of the code of ethics or violations of the implementation of the Notary's position are submitted to the Regional Supervisory Board. While reports other than that are submitted to the Regional Supervisory Board. In Article (5) and Article (6) it is stipulated that if the report is submitted to the Regional Supervisory Board or the Central Supervisory Board, the report is forwarded to the Regional Supervisory Board.²⁸

For the above, the supervision of the Balikpapan City MPD as a form of prevention effort against violations committed by Notaries in Balikpapan in practice still faces various challenges that result in effectiveness in supervision. The obstacles come from Human Resources from Members of the Balikpapan City Regional Supervisory Board, which number 9 people, in this case making it clear that there is a disproportionate relationship with the total number of Registered Notaries in Balikpapan City, which is 134 Notaries. The alternative solution to this disproportionality is to provide guidance such as briefing through seminars as an effort to increase insight for each Notary so that they can optimize the mandate of the UUJN and the Code of Ethics in carrying out their Duties and Authorities. Then for the process of resolving the alleged violations of the notary's position above, of course there are obstacles faced by the Balikpapan City Regional Supervisory Board in its implementation, including the reported party who provides convoluted information so that the implementation takes a long time and does not directly address the core of the problem, so that if the investigator will summon a Notary either as a witness or a suspect, the investigator must first send a letter to the Regional Supervisory Board (MPD). Legal actions of summons, examination and confiscation carried out by investigators can be carried out against Notaries either as witnesses or suspects, especially in relation to a criminal act in the making of an authentic deed by the Notary concerned in accordance with the provisions of Article 7 paragraph (1) letter j of the Criminal Procedure Code. According to the author's analysis, in principle the Balikpapan City Regional Supervisory Council is not a superbody, but as a mentor, protector and protector and tries to accompany Notaries, including the status of Notaries who are summoned to be examined as witnesses and in such cases of course there must be a basis for determining the Notary concerned as a witness. Because the Notary who is summoned does not mean or

²⁸ Putri Sagung ME Purwani, 2016, Notary Supervision by the Regional Notary Supervisory Board After the Decision of MKNo. 49/Puu-X/2012, Udayana Master of Law Journal, Vol. 5 No. 4 of 2016, Postgraduate Program of Udayana University, pp. 98-99.

is not necessarily guilty, but there could be other factors that cause the Notary concerned to have the status of a witness who may also be a suspect. For this reason, improvements are needed that start from within, namely the institution that appoints and the Notary organization itself. In this case, the role of the organization is needed so that the problem does not drag on because it will harm the Notary himself which will ultimately also harm the community, so that to resolve this problem, there needs to be a commitment from all parties who are competent in this matter.

4. Conclusion

The role and function of MPD supervision of abuse of Notary position in Balikpapan City in practice still faces various challenges both in the examination every time (periodically) or when there are public reports resulting in ineffectiveness in the role of MPD, furthermore in supervision in principle the Balikpapan City Regional Supervisory Council is not a super body, but as a mentor, protector and protector and tries to accompany Notaries, including the status of Notaries who are summoned to be examined as witnesses and in such cases of course there must be a basis for determining the Notary concerned as a witness. Because the Notary who is summoned does not mean or is not necessarily guilty, but there could be other factors that cause the Notary concerned to have the status of a witness who may also be a suspect. For this reason, improvements are needed that start from within, namely the institution that appoints and the Notary organization itself. In this case, the role of the organization is needed so that the problem does not drag on because it will harm the Notary himself which will ultimately also harm the community, so that to resolve this problem there needs to be a commitment from all parties who are competent in this matter.

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