

The Role of the Regional Supervisory Board in Enforcing the Notary Code of Ethics in Sragen Regency

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Abstract. *This study aims to analyze: 1) The role of the Regional Supervisory Council in the implementation of the enforcement of the notary code of ethics in Sragen Regency. 2) Challenges of the Regional Supervisory Council (MPD) of Notaries in the framework of enforcing the code of ethics for notaries in Sragen Regency. This type of research is included in the scope of empirical research. The approach method in this study is a sociological legal approach. The types and sources of data in this study are primary and secondary data, obtained through interviews and literature studies. The analysis in this study is prescriptive. The results of the study concluded: 1). The role of the Regional Supervisory Council in the implementation of the enforcement of the notary code of ethics in Sragen Regency is to ensure that notaries carry out their duties in accordance with the code of ethics and applicable laws and regulations. MPD functions as a supervisor and mentor, with the main task of providing guidance through socialization, training, and evaluation of notary performance in order to prevent violations. In addition, MPD also periodically supervises notary protocols and follows up on public complaints regarding alleged violations of the code of ethics or notary positions. As a supervisory institution, the MPD has the authority to hold hearings on alleged violations, grant leave permits, appoint replacement notaries, and determine the storage location for protocols that are 25 years old or more. 2) Challenges of the Regional Supervisory Council (MPD) of Notaries in enforcing the code of ethics for notaries in Sragen Regency, namely the Regional Supervisory Council (MPD) of Notaries in Sragen Regency faces various challenges in enforcing the code of ethics, including limited authority, lack of resources, minimal supporting facilities, and low legal awareness among the community and notaries themselves. In addition, complex bureaucracy and a legal culture that is still developing also hamper the effectiveness of supervision. Therefore, it is necessary to strengthen*

regulations, increase the capacity of the MPD, optimize facilities, and provide legal education for the community and notaries in order to create more effective and professional supervision.

Keywords: Code of Ethics Enforcement; MPD; Notary

1. Introduction

The existence of the Notary position is regulated by law with the aim of assisting and providing services to the community who require authentic written evidence related to an event, situation, or legal action. Notaries are authorized by law to create such absolute evidence. This implies that the contents stipulated in the authentic deed are essentially considered true.¹

Notaries have a very unique role. For the community, notaries appear as figures who have public authority, educators, and advisors. The position of notary has two essential characteristics and traits, namely impartiality and independence or independence in providing assistance to their clients. It is a credo, a belief, that these two characteristics are inherent in and identical to the behavior of notaries in carrying out their duties.²

Article 1 number (1) of Law 30 of 2004 as amended by Law Number 2 of 2014 concerning the Position of Notary states 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 legal basis for a notary in carrying out his duties is that the notary has authority over all actions, requirements and determinations regulated in the Law. There are several other authorities of a notary in this article, namely guaranteeing the time of making, grosse, copies and extracts of deeds.³

The supervisory function of Notaries is the authority of the Minister of Law and Human Rights as stated in Article 67 paragraph 1 of the UJNP, which in its implementation forms a Notary Supervisory Board starting from the central level carried out by the Central Notary Supervisory Board, the Provincial level by the Regional Notary Supervisory Board and the Regency/City level by the MPD. Such

¹Rizki Nurmayanti & Akhmad Khisni, 2017, Role and Responsibilities of Notaries in the Implementation of Deed Making, Deed Journal, Volume 4 Number 4, page 611

²Umi Setyawati, Antonius Iwan Murdianto, and Amin Purnawan, 2018, Deed of Confirmation of Inheritance Information as a Substitute for Inheritance Information in the Process of Transferring the Name of the Inheritor at the Semarang City Land Office, Jurnal Akta, Volume 5 Number 1, p.35

³Sujanayasa & Ariawan, 2016. Position of Instrumental Witnesses, Acta Comitas: Journal of Notary Law, Volume 1 Number 2, p. 284

matters are contained in Article 67 paragraph 2, Article 68 and Article 69 of the Amendment to the Notary Limitation Law.⁴

Article 83 paragraph (1) of Law Number 30 of 2004 concerning the Position of Notary in conjunction with Law Number 2 of 2014 concerning the Position of Notary states that "The Notary Organization establishes and enforces the Notary Code of Ethics". This provision is followed up by the provisions of Article 13 paragraph (1) of the Articles of Association of the Indonesian Notaries Association which states: "To maintain the honor and nobility dignity of the position of Notary, the association has a Notary code of ethics which is determined by the Congress and is a moral rule that must be obeyed by every member of the association". The Notary code of ethics is based on the fact that a Notary as one of the bearers of the legal profession is a person who has expertise and knowledge in the field of notary, so that he is able to meet the needs of the community who require services in the field of notary.

The spirit of the Notary's code of ethics is respect for human dignity in general and the dignity of Notaries in particular, so that notary profession holders have the characteristics of being independent and impartial, not referring to self-interest, rationality in the sense of referring to objective truth, functional specificity and solidarity among fellow professionals. Notary Code of Ethics is a moral rule determined by the Indonesian Notary Association based on the decision of the association's congress and/or which is determined by and regulated in the laws and regulations governing this matter and which applies to and must be obeyed by each and every member of the association, and all persons who carry out the duties of a notary, including temporary notary officials, substitute notaries when carrying out their duties.

This Code of Ethics aims to ensure that notaries carry out their duties and authorities with integrity, fairness, and professionalism. In Sragen Regency, the existence of the Notary Code of Ethics is very important as a guideline for notaries in carrying out their duties. However, the challenges in enforcing this code of ethics are quite complex. The Regional Supervisory Council (MPD) of Notaries as a supervisory institution has a strategic role in supervising and enforcing the code of ethics. This raises questions about the extent to which the Regional Supervisory Council (MPD) of Notaries carries out its duties in enforcing the notary code of ethics, as well as what challenges the Regional Supervisory Council (MPD) of Notaries faces in enforcing the Notary Code of Ethics.

⁴Apriza Deva, 2018, Limitation of Authority of the Regional Notary Supervisory Board of Palembang City in Handling Violations of the Code of Ethics Committed by Notaries, Scientific Journal of Notary Law, Vol. 7 No. 1 Year 2018, FH: Sriwijaya University, Palembang, p.1

2. Research Methods

The approach method in this study is a sociological legal approach. The types and sources of data in this study are primary and secondary data, obtained through interviews and literature studies. The analysis in this study is prescriptive.

3. Results and Discussion

3.1. The Role of the Regional Supervisory Board in the Implementation of the Enforcement of the Notary Code of Ethics in Sragen Regency

Notaries in carrying out their duties and positions must be guided by laws and regulations and codes of ethics. The code of ethics is a reminder of what is and is not allowed, which dynamically follows developments in the environment and interested parties. The code of ethics for notaries only reaches the level of moral and administrative sanctions, but unlike spirituality, the level of sanctions is God's sanctions that can be directly felt in the world (karma) or that will be paid in the afterlife. Therefore, the Indonesian Notary Association looks forward to the development of the spirituality level of members of the Indonesian Notary Association as an important part of the formation of the character of professional Indonesian notaries. The Indonesian Notary Association through its Honorary Council should be able to ensure that its members understand the notary code of ethics well and clearly. Thus, there is one understanding, which can later support the enforcement of the code of ethics for its members.⁵

Notaries in providing services to their clients must pay attention to the interests of the parties related to the deed in a balanced manner, the notary profession must have elements, namely being honest towards clients and oneself (intellectual honesty), being aware of the limits of their authority, not solely based on monetary considerations, having solid moral integrity.⁶ Everyone who uses notary services definitely wants to be treated honestly, fairly, impartially and in accordance with applicable laws and regulations.⁷ Due to the notary's independent and impartial position, the resulting deed constitutes a definite legal certainty and guarantee.⁸

Considering the role and authority of Notaries is very important in the life of society, then every behavior and action carried out by Notaries in carrying out their duties is very vulnerable to abuse of their professional position which can

⁵Herlina Ernawati Napitupulu, 2017, The Role of the Indonesian Notary Association in the Development of Notaries and Supervision of the Notary Code of Ethics in the North Sumatra Region, *Premise Law Journal*, p.6.

⁶Liliana Tedjasaputro, 1995, *Notary Professional Ethics (In Criminal Law Enforcement)*, Bigraf Publishing, Yogyakarta, p.86

⁷Jaifurrachman, Habib Adjie, 2011, *Aspects of Notary's Accountability in Making Deeds*, Mandar Maju, Bandung, p. 251

⁸Tan Thong Kie, 2011, *Notary Studies and All About Notary Practice (Second Printing)*, Ichtar Baru van Hoeve, Jakarta, p.444.

harm society, therefore a body is needed to supervise Notaries. In article 1 number (1) of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number M.02.PR.08.10 of 2004, it is emphasized that what is meant by supervision is preventive and repressive activities including coaching activities carried out by the Supervisory Board for Notaries. Also in accordance with that regulated in the Decree of the Minister of Justice and Human Rights Number. M-O1.HT.03.01 of 2003 concerning Notaries, what is meant by supervision in Article 1 paragraph (8) is administrative activities that are preventive and repressive by the Minister which aim to ensure that Notaries in carrying out their duties are in accordance with laws and regulations.⁹

The main task of supervising Notaries is to ensure that all rights, authorities and obligations granted to Notaries in carrying out their duties as provided by the relevant basic regulations are always carried out according to the prescribed path, not only the legal path but also the moral and ethical path of the profession in order to ensure legal protection and certainty for the community.¹⁰

The Notary Supervisory Board is a body that has the authority and obligation to carry out guidance and supervision of Notaries as regulated in Article 1 number (6) of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary. The Supervisory Board is formed by the Minister of Law and Human Rights and consists of government elements, Notary organizations and experts or academics. The Supervisory Board in question is the Regional Supervisory Board, the Regional Supervisory Board and the Central Supervisory Board. In the implementation of Notary supervision in each district/city area there is a Regional Notary Supervisory Board.¹¹

The Regional Supervisory Council (MPD) has a very important role in ensuring that notaries carry out their duties in accordance with applicable regulations, especially Law Number 2 of 2014 concerning the Position of Notary (the latest UUJN) and the Notary Code of Ethics established by the Indonesian Notary Association (INI). In practice, supervision of notaries is crucial considering the role of notaries which is very closely related to legal certainty in community transactions, both in the civil, business, and land fields.

In Sragen Regency, the existence of Regional Supervisory Council (MPD) becomes very relevant, considering the increasingly growing community activities and the high need for notary services. With the many transactions that require notary services, it is not uncommon to find various problems that lead to violations of the code of ethics or deviations that have the potential to harm the community. Therefore, the MPD is required to carry out its duties optimally in providing guidance, supervision, and action against notaries who are suspected of violating

⁹Abdul Hariss and Felda Rizki Azalia, 2015, The Role of the Regional Supervisory Board in Supervising Notaries in Jambi City, Lex Specialis Journal, Number 22, p.29.

¹⁰Ibid.,

¹¹Arifani Kurnia, The Role of the Regional Supervisory Board in Imposing Sanctions on Notaries Who Do Not Read Deeds, Lex Renaissance Journal, No. 2 Vol. 2 July 2017, p. 375.

the rules. The Regional Supervisory Council (MPD) of Sragen Regency has a very important role in enforcing the code of ethics and maintaining the professionalism of notaries in Sragen Regency. As a body established by the Minister of Law and Human Rights, the MPD of Sragen Regency is tasked with providing guidance and supervision to notaries at the district/city level. namely:

1. Notary Development

As part of preventive supervision efforts, the Sragen Regency MPD is responsible for guiding and providing direction to notaries so that they understand and comply with applicable provisions. This guidance aims to minimize violations due to ignorance or administrative errors that can harm the community. Guidance carried out by the Sragen Regency MPD includes several aspects, namely socialization and training, evaluation of notary performance, and assistance in resolving disputes.

2. Notary Supervision

In addition to providing guidance, MPD also has the main task of supervising every notary activity. This supervision aims to ensure that notaries carry out their duties professionally, honestly, and do not deviate from applicable provisions. Notary supervision through inspection mechanisms can be divided into 2 (two), namely:¹²

- a. Periodic inspections and inspections deemed necessary.
- b. 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.

As a regional supervisory institution, the MPD of Sragen Regency is also tasked with ensuring that each notary carries out his/her duties in accordance with applicable laws and regulations. The role and authority of the MPD are regulated in the Law, specifically Articles 70 and 71 of Law Number 2 of 2014 concerning the Position of Notary (Latest UUJN) and the Notary Code of Ethics stipulated by the Indonesian Notary Association (INI). The role of the MPD in enforcing the code of ethics and maintaining the professionalism of notaries in Sragen Regency, namely:

1. Holding a Hearing to Examine Alleged Violations of the Notary Code of Ethics or Violations of the Implementation of the Notary's Office

This procedure begins when the MPD receives a report from the public or related parties claiming that there has been a violation by a notary.

a. Report Acceptance Process

¹²Dewa Nyoman Rai Asmara Putra & Putri ME Purwani, 2016, Supervision of Notaries by the Regional Notary Supervisory Board after the Decision of the Constitutional Court No. 49/Puu-X/2012, Udayana Master of Law Journal: Denpasar, Volume 5, Number 4, p.797.

The public or other parties who feel aggrieved can file a report regarding alleged violations of the code of ethics or violations of the implementation of duties by a notary. This report can relate to unprofessional behavior, abuse of authority, or other deviations in notarial practice.

b. Verification of Alleged Violations

After the report is received, the MPD must first conduct verification to assess whether the report is sufficient and can be forwarded to the examination hearing. The examination by the Regional Examination Board is closed to the public and begins no later than 7 (seven) days since the Examination Board was appointed. The Regional Examination Board completes and submits the results of the examination no later than 30 (thirty) days from the time the Report is recorded in the case register book. After the hearing is completed, the MPD will prepare a report on the results of the examination and send it to the Regional Supervisory Board (MPW). The results of the examination are stated in the minutes of the examination and recommendations for the results of the examination and further steps that may need to be taken, including whether further action needs to be taken against the notary concerned.

2. Conducting Inspections of Notary Protocols Periodically or at Any Time Deemed Necessary

The MPD is obliged to periodically check and supervise notary protocols, at least once a year. This inspection is important to ensure that the protocols managed by the notary are in accordance with the provisions in force in the Notary Law and other regulations. The protocol inspection aims to ensure the validity and integrity of the documents stored by the notary. The protocol includes deeds made by the notary, which are important documents that have legal force. This inspection also ensures that the protocol is stored in a safe and secure manner.

3. Granting Leave Permit and Appointing a Replacement Notary

The MPD has the authority to grant leave permission to notaries who need time to rest or for other purposes, with the provision that the leave may not exceed 6 months. Notaries who wish to take leave must submit an official application to the MPD. This application will be considered based on the reasons submitted, and if approved, the MPD will grant leave permission. As part of this authority, the MPD also plays a role in appointing replacement notaries to replace the duties of notaries who are on leave. This replacement aims to ensure that notarial services in the area continue to run smoothly without disrupting the interests of the community. This process must also be carried out transparently, ensuring that the appointed replacement has credibility and meets the requirements to replace the notary who is on leave.

4. Determining the Storage Place for Notary Protocols That Are 25 Years Old or Older

The MPD is responsible for determining the storage location of notarial protocols that are 25 years old or older. These old protocols still have high legal value and

must be stored in a safe manner. The MPD must ensure that the storage location of long-standing protocols is safe and in accordance with the established procedures, considering that these documents may still be used as evidence in the future.

5. Appointing a Notary Who Will Act as Temporary Holder of the Protocol of a Notary Appointed as a State Official

In the event that the notary in question is appointed as a state official and is temporarily unable to carry out notarial duties, the MPD is authorized to appoint a replacement notary who will act as the temporary holder of the protocol. The temporary holder is responsible for maintaining, caring for, and ensuring that the protocol remains well-managed while the notary in question is unable to carry out his duties.

6. Receiving Reports from the Public Regarding Alleged Violations of the Notary Code of Ethics or Violations of Provisions in the Law

MPD functions as a complaint institution for the public who feel disadvantaged or who are aware of alleged violations committed by notaries. Reports received will be followed up with a verification process and further examination. With this reporting mechanism, the public has a channel to submit complaints and reports related to violations committed by notaries, so that it can increase accountability and transparency in this profession.

7. Making and Submitting Reports to the Regional Supervisory Board

After conducting the inspection, the MPD is obliged to make a report on the inspection results which must be submitted to the Regional Supervisory Board (MPW). This report includes findings obtained from the inspection hearing or notary protocol inspection as well as recommendations for follow-up actions that need to be taken. This report will be used as a consideration by the MPW to determine the next steps. The MPW can make decisions, including imposing sanctions or taking other actions if necessary.

Based on the theory of authority above, the authority of the Regional Supervisory Council in implementing the enforcement of the notary code of ethics in Sragen Regency is obtained from the attribution authority. The attribution authority is legally attached to the intended institution, so that the organ has independent authority in carrying out its duties without having to accept the delegation of authority from other organs. In the context of the Regional Supervisory Council (MPD) of Sragen Regency, the attribution of authority comes from Law Number 2 of 2014 concerning the Position of Notary, specifically Articles 69 to 71, which stipulates the MPD as a supervisory institution tasked with supervising, enforcing, and ensuring notary compliance with the code of ethics and applicable legal provisions.

This authority does not come from delegation or mandate from the Regional Supervisory Board (MPW) or the Central Supervisory Board (MPP), but is given directly by law. Therefore, the MPD has independence in carrying out its

supervisory duties, although in the notary supervision system it still works in a hierarchical hierarchy with the MPW and MPP. Because the MPD's authority comes from attribution, there are several important implications in practice:

1. The MPD has clear legal authority and does not require approval from the MPW or MPP in carrying out its duties.
2. The MPD cannot delegate this authority to another party, because the authority has been granted directly by law and is inherent.
3. The MPD must work professionally, independently and accountably, because every action taken is part of a supervisory mechanism that has a strong legal basis.
4. The MPD only acts within the limits of its authority as regulated by law, so it cannot impose sanctions directly, but can only conduct investigations and forward findings to the MPW for further processing.

The attribution in the authority of the Regional Supervisory Council (MPD) of Sragen Regency comes directly from Law Number 2 of 2014 concerning the Position of Notary, which establishes the MPD as a supervisory institution with the main task of examining violations of the code of ethics, supervising notary protocols, granting leave permits, and receiving public reports. As an institution that obtains authority through attribution, the MPD has strong and independent legal authority, but remains within a broader supervisory system with the Regional Supervisory Council (MPW) and the Central Supervisory Council (MPP).

3.2. Challenges of the Regional Supervisory Council (MPD) of Notaries in the Framework of Enforcing the Code of Ethics for Notaries in Sragen Regency

The Regional Supervisory Council (MPD) of Sragen Regency faces various challenges in enforcing the notary code of ethics, including:

1. Limited authority of the MPD in the regulation. Based on Article 70 of Law Number 2 of 2014 concerning the Notary Position, the MPD is only authorized to examine alleged violations and submit reports to the Regional Supervisory Board (MPW) or the Central Supervisory Board (MPP). The absence of authority to impose sanctions directly causes the process of enforcing the code of ethics to be longer and provides less of a deterrent effect for notaries who violate. In addition, in some cases, there are inaccuracies or legal gaps in the regulation, so that the MPD has difficulty in interpreting a violation that is not explicitly regulated in the applicable regulations.
2. In addition to limited authority, the MPD also faces challenges in terms of human resources and supervisory capacity. The limited number of MPD members is not comparable to the increasing number of notaries to be supervised, so the workload is getting heavier, especially in the examination of notary protocols which must be carried out periodically. The lack of training and capacity building of MPD members is also an obstacle, because not all members have a deep understanding of the code of ethics, legal regulations, and

investigative techniques. In fact, many cases faced by the MPD are complex and require special expertise in civil, criminal, and state administration law.

3. Coordination between the MPD and the MPW and MPP is also a challenge in the process of enforcing the code of ethics. The MPD often experiences obstacles in waiting for follow-up from the MPW on reports that have been submitted, so that the resolution of violation cases takes longer. In addition, in some cases, MPD decisions can be resisted by notary organizations, such as the Indonesian Notary Association (INI), especially if there are differences of interest in enforcing the code of ethics. Not infrequently, notary organizations tend to defend their members, so that MPD decisions can be seen as contradictory to the interests of the notary profession.

4. Public participation in reporting alleged violations of the code of ethics is also still low. Many people are not aware of the existence and function of the MPD as a supervisory institution, so they tend not to report the violations they experience. In fact, when there are people who know the reporting mechanism, they are often hesitant or afraid to report because they feel they do not have enough evidence or are worried that their case will not be followed up. On the other hand, notary compliance with the code of ethics is also still a challenge, because there are some notaries who continue to commit maladministration or abuse their authority even though there is supervision from the MPD. Some notaries even try to find legal loopholes to avoid sanctions, so the MPD must work harder in conducting investigations.

5. In addition to regulatory challenges, human resources, coordination, and community participation, the MPD also faces technical and administrative constraints. Limited operational budgets often hamper the effectiveness of supervision, both in organizing examination hearings and in field examinations of notary practices.

To improve the effectiveness of supervision, several strategic steps are needed, such as strengthening regulations so that the MPD has broader authority in imposing sanctions, increasing the number and training of MPD members, and improving coordination with MPW and notary organizations. In addition, it is also important to increase public awareness in reporting alleged violations, as well as developing a digitalization system in supervision administration so that the process of recording and managing data becomes more efficient. With these steps, it is hoped that the MPD of Sragen Regency can be more optimal in enforcing the code of ethics and maintaining the professionalism of notaries in its area.

The enforcement of the notary code of ethics in Sragen Regency by the Regional Supervisory Council (MPD) cannot be separated from various influencing factors. Based on Soerjono Soekanto's theory, the enforcement of the notary code of ethics by the MPD in Sragen Regency faces various challenges in five main factors. From a legal perspective, the MPD is still limited in its authority to provide direct sanctions, so that enforcement of the code of ethics is less

effective. From a law enforcement perspective, the number and competence of MPD members still need to be increased so that supervision is more optimal. Meanwhile, limited facilities and infrastructure hinder the operational effectiveness of the MPD in carrying out its duties. From a societal factor, low legal awareness and public participation in reporting violations are serious obstacles to supervision. Meanwhile, from a legal culture perspective, the existence of a permissive culture towards violations of the code of ethics and slow bureaucracy worsen the effectiveness of enforcement of the notary code of ethics.

4. Conclusion

The role of the Regional Supervisory Council in implementing the enforcement of the notary code of ethics in Sragen Regency is to ensure that notaries carry out their duties in accordance with the code of ethics and applicable laws and regulations. The MPD functions as a supervisor and mentor, with the main task of providing guidance through socialization, training, and evaluation of notary performance in order to prevent violations. In addition, the MPD also conducts regular supervision of notary protocols and follows up on public complaints regarding alleged violations of the code of ethics or the position of notary. As a supervisory institution, the MPD has the authority to hold hearings on alleged violations, grant leave permits, appoint replacement notaries, and determine the storage location for protocols that are 25 years old or more. With this role, the MPD not only maintains the professionalism of notaries but also increases public trust in the notary profession in Sragen Regency. Through strict supervision and consistent enforcement of regulations, the MPD ensures that notaries carry out their duties with integrity, transparency, and accountability. The challenges of the Regional Supervisory Council (MPD) of Notaries in enforcing the code of ethics for notaries in Sragen Regency are limited authority, lack of resources, minimal supporting facilities, and low legal awareness among the community and notaries themselves. In addition, complex bureaucracy and a legal culture that is still developing also hamper the effectiveness of supervision. Therefore, it is necessary to strengthen regulations, increase the capacity of the MPD, optimize facilities, and provide legal education for the community and notaries in order to create more effective and professional supervision.

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