

The Role of the Regional Office of the Ministry of Law and Human Rights in Notary Supervision at the Regional Level

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ABSTRACT

This study discusses the role of the Regional Office of the Ministry of Law and Human Rights (Kemkumham) in the supervision of notaries in Indonesia, which is regulated by Law number of notaries reaching 19 109 people, the Ministry of Law and Human Rights is committed to improving the quality of legal services through continuous coaching and supervision. The Notary Supervisory Council is a supervisory institution that ensures notaries carry out their duties through regulations and codes of ethics. This research also highlights the importance of establishing a Notary Legal Problem Investigation Team to handle public complaints efficiently. Through strict supervision, it is hoped that the professionalism of notaries can be maintained to provide optimal legal protection for people who use notary services.

Keywords: Notary Supervisory Council, Role and Authority, Ministry of Law and Human Rights.

I. Introduction

Nowadays, we find few Notary offices where we live, so it can be concluded that the number of Notaries in Indonesia is large; based on CNN Indonesia survey data in 2022, the number of Notaries in Indonesia reached 19,109 people. In Indonesia, the position of a Notary is regulated in Law Number 30 of 2004. Indonesia has a unique law regulating notary positions; this regulation was developed through the Regulation of Notary Positions in Indonesia (1860) (Reglement op het Notary-ambit in Indonesia). (1860) (Reglement op het Notary-ambit in Indonesia) is no longer valid. However, it was developed into Law No. 30 of 2004 and updated into Law No. 2 of 2014 concerning the Notary Position (Law No. 2/2014).

Based on, Article 1 paragraph (1) of Law Number 2 of 2014 concerning the Notary Position states that: "A Notary is a public official who is authorized to do authentic deeds and has other authorities as referred to in this Law or based on other laws." According to previous research, a notary is one of the public officials authorized to make an authentic deed, which is a form of valid proof. Notaries are state officials who carry out some of the state's duties in civil law (Dody Radjasa, 2001). It can be concluded that notaries have an important role in carrying out some of the state's duties in the private law section to provide legal protection for the community in terms of carrying out civil acts or private affairs. As explained above, the notary is authorized to make authentic deeds.

The authority of a notary as a public official is regulated in Article 15, Law No. 2 of 2014, amending Law No. 30 of 2004 concerning the Notary Position. The Notary in this article has at least 11 Notary powers, namely, "The Notary is authorized to do an authentic deed regarding all acts, agreements, and determinations required by laws and regulations and/or those desired by the interested party to be stated in an authentic deed, guarantee the certainty of the date of doing the deed, keep the deed, provide grosses, copies and excerpts of the deed, all as long as the making of the deed is not also assigned or excluded to other officials or other persons prescribed by Law." In line with the definition of a Notary as a public official as has been explained, the authority of a notary in designing and ratifying an authentic deed includes all types of legal acts that are either on the initiative of interested parties or based on applicable legal provisions, must be stated in the form of an authentic deed. The mechanism and stages in making a notary deed have definite and systematic rules, namely in the applicable laws and regulations, so that the position of a notary as a public official covers all aspects of his authority (M. S. Borman, 2019). Thus, there is no need to add other designations that refer to the unique authority of notaries. In exercising his authority, a notary must meet several requirements stipulated in the Law. Some of them are as follows:

- Every minute deed made must be signed by interested parties, witnesses present, and the notary himself. This signature is authentic evidence of the occurrence of a legal act.
- The person or party who agrees before a notary must have reached the age of majority and have full legal capacity, meaning they can understand every legal right and obligation arising from the agreement.
- The deed that has been made must be read clearly and completely in front of the parties involved; this aims to make the parties understand the content and legal consequences of the signed deed.
- Notaries are prohibited from concurrently holding certain positions, such as being advocates or mediators, to maintain independence and objectivity in their duties.

The notary's non-compliance with the requirements that have been set has resulted in a violation of the law. This situation not only negatively impacts the notary's reputation but can also harm the parties involved in the authentic deed that has already been made. Therefore, the Notary Supervisory Council must provide administrative sanctions to notaries violating the provisions. Strict supervision is the key to obeying every legal provision adequately. According to the Great Dictionary of the Indonesian Language (KBBI), supervision is the awareness that focuses on specific events or facts as a research method. Supervision also comes from the word "alert," which means to observe and take good care of it. Supervision is one of the activities whose purpose is to prevent abuse of rights or authority to assess an action or deed and improve it to achieve the desired target or achievement (Meddy & Agus, 2021). As public officials, notaries must be supervised to be qualified to exercise their authority. The Notary Supervisory Council supervises notaries themselves.

According to Law No. 2 of 2014 concerning the Notary Position, article 1 paragraph (6) reads, "The Notary Supervisory Council, hereinafter referred to as the Supervisory Council, is a body that has the authority and obligation to carry out guidance and supervision of Notaries." This means that the Notary Supervisory Council is an official body formed to ensure that the notary profession runs well and meets the standards that have been set. The institution has the task of:

- Testing the performance of notaries: Conducting inspections of the notary's work to ensure that every deed made is by the rules and there are no errors.
- Provide guidance: Provide direction and training to notaries so that they can improve their knowledge and skills.
- Receiving complaints: Receiving and following up on complaints from each community regarding alleged violations of the code of ethics committed by notaries.

- Sanction: Sanction notaries who have been proven to have committed violations, ranging from reprimands to revocation of permits.

The Notary Supervisory Council, abbreviated as MPN, is under the Ministry of Law and Human Rights auspices. The Ministry of Law and Human Rights (hereinafter abbreviated as the Ministry of Law and Human Rights) is one of the ministries in the government cabinet of the Republic of Indonesia that plays a crucial role in law enforcement and human rights protection in Indonesia, which is an integral part of the system of government and democratic society. In line with Presidential Regulation No. 18 of 2023, the Ministry of Law and Human Rights of the Republic of Indonesia (abbreviated as the Ministry of Law and Human Rights of the Republic of Indonesia) is an important institution in the Indonesian government that has special responsibilities for law and human rights and is responsible to the president and under the auspices of the president. Therefore, as a state agency, the Ministry of Law and Human Rights plays a vital role in law enforcement in Indonesia, especially in supervising notaries.

II. Research Method

According to Soejono Soekanto, legal research is a scientific activity based on specific methods, systematics, and thinking, aiming to study and clearly understand one or several specific legal phenomena by analyzing them (Soerjono, 2006). As a systematic, structured, and objective activity, research is vital in advancing science and technology. Through research, humans strive to obtain a deeper and more specific understanding of natural and social phenomena and scientifically and legally understand the legal problems that occur to produce valuable innovations (Cornelius & Muhamad Azhar, 2020). Legal Research is a philosophical activity (thinking) and acting logically and systematically in looking at juridical events, legal events, or empirical events happening in society. Of course, this is important in studying an event to produce factual and scientific data and reveal the actual truth. In this study, the author uses a quantitative research method; according to Sugiono, quantitative research is a research method based on the philosophy of positivism and uses numbers as research data (Sugiono, 2018). Analyze the role of the Ministry of Law and Human Rights in the supervision of notaries by collecting data from books, journals, scientific papers, and legal research. The author conducted research at the Regional Office of the Ministry of Law and Human Rights, North Sumatra Province, located at Jl. Putri Hijau No. 4, West Medan District, North Sumatra. The author conducted research at the Regional Office of the Ministry of Law and Human Rights of North Sumatra Province because the author wants to know more about the role of the Ministry of Law and Human Rights in the supervision of Notaries. Therefore, the author is interested in researching at the Regional Office of the Ministry of Law and Human Rights in North Sumatra.

III. Result and Discussion

3.1. The Role of the Regional Office of the Ministry of Law and Human Rights of North Sumatra in the Supervision of Notaries in North Sumatra

The Regional Office of the Ministry of Law and Human Rights is one of the government agencies responsible and subordinate to the president. It is located in every province in Indonesia and is an extension of the Ministry of Law and Human Rights. The regional office is in charge of carrying out the functions and responsibilities of the Ministry of Law and Human Rights in the country by the policies and procedures of the Minister of Law and Human Rights. Government Regulation No. 28 of 2023 Article 5 regulates the duties and functions of the Ministry of Law and Human Rights. The public can expect legal services from notaries that provide legal certainty and have a quality that can be accounted for so that the community feels satisfied (Saragih & Silviana, 2024). To meet these expectations, the government must increase the guidance and supervision of the notary profession through continuous training, a strict code of ethics, and a transparent

complaint mechanism. The Ministry of Law and Human Rights (Kemenkumham) continues to carry out its coaching duties in Indonesia. This coaching effort aims to maintain the professionalism of notaries in carrying out their duties and maintaining behavior per the professional code of ethics. Supervision is a continuous cycle that includes planning, implementation, control, and performance improvement. The coaching aims to improve the competence and performance of notaries so that the implementation of their duties can achieve more optimal results. Meanwhile, supervision is a series of measures designed to support the achievement of these results. In carrying out supervisory duties, the entire Supervisory Council is required to work synergistically and in stages. The Regional Supervisory Council, as a technical implementing unit in the region, has a crucial role in receiving and examining community complaint reports and coordinating with the Supervisory Council at a higher level in the settlement process (KUNTJORO, 2017). By the provisions of the Notary Position Law, the Notary Supervisory Council has the legal authority and obligation to provide guidance and supervision on the notary profession. The public can expect legal services from notaries that provide legal certainty and have a quality that can be accounted for. To meet these expectations, the government must improve the performance of the notary profession by conducting strict supervision and fostering the notary profession, as well as continuous training, the implementation of a strict code of ethics, and a transparent complaint mechanism.

The Notary Supervisory Council is an organization or legal entity that is authorized and obliged to carry out its duties to supervise and nurture notaries (Adhilia & Tarring, 2022). This means that the Notary Supervisory Council is an institution formed by the government to keep notaries continuing to carry out their profession by the Notary Position Law and still obeying the applicable rules regarding the notary profession code of ethics. Simply put, this Assembly acts as a "supervisor" for notaries. "Given the rampant number of legal cases involving notaries in the last period, there is an urgency to improve the quality of supervision and coaching of the notary profession. The Notary Problem Investigation Team is one of the legal entities formed to investigate and collect evidence related to complaints of violations of the Notary Position Law submitted by the public. Thus, the investigation team is an independent fact-finding (Budiono, 2009). The Investigation Team formed by the Ministry of Law and Human Rights is a fact-finding organization in notary matters.

Therefore, the Minister of Law and Human Rights initiated the formation of a Notary Legal Problem Investigation Team, which not only reacts to public complaints but also proactively conducts investigations. Efficiency in collecting data and facts in the field is the key to the success of the Investigation Team in carrying out its duties. Thus, the examination process at MPDN can be completed more quickly so that the reported notary can obtain legal certainty over his status. In contrast, the community that uses notary services and is harmed can immediately get justice. Thus, the existence of the Investigation Team does not reduce the authority and responsibility of the Supervisory Council in carrying out supervision and fostering the notary profession that commits violations in carrying out their duties. These two institutions have complementary roles in maintaining the integrity and professionalism of notaries (Setiadewi & Rudy, 2021).

3.2. Authority of the Notary Supervisory Council at the Regional Level

The Notary Position Law, especially Article 1 paragraph (6), expressly places the Supervisory Council as an institution responsible for guiding and supervising all notary activities. Thus, the Supervisory Council has delegated the authority to supervise the legal and legal implementation of the notary profession. Notaries are a unique object of the organizational authority of the Supervisory Council. Its authority includes examining notaries, holding violation hearings, making decisions, granting sanctions, arranging leave permits, determining replacement notaries, and arranging leave protocols. Thus, the Supervisory Board has a central role in maintaining the integrity and professionalism of notaries.

The existence of regulations for the Notary Supervisory Council is a must to ensure that the implementation of supervision runs orderly and effectively. The regulation will be a reference for the Supervisory Council in carrying out its duties, namely fostering and supervising notaries so that they always

carry out their profession professionally and responsibly (Panjaitan & Adriansyah, 2024). The ultimate goal of this supervision is to provide optimal legal protection for people who use notary services.

Supervision of the notary profession is carried out in stages by the Notary Supervisory Council as mandated in the Notary Position Law. Based on the provisions of Article 67 of the Law, the highest supervision of the notary profession is under the authority of the Minister of Law and Human Rights. To carry out the supervisory task, the Minister established a Supervisory Council consisting of nine people, including:

- The government is 3 (three) people.
- Notary Organization as many as 3 (three) people and
- experts or academics as many as 3 (three) people.

Article 68 of the Notary Office Law regulates the form of the structure of the MPN organization; this structure is vertical, namely, the Regional Supervisory Council (MPD), the Regional Supervisory Council (MPW), and the Central Supervisory Council (MPP). In carrying out its duties, each Supervisory Council is assisted by a secretary determined in the assembly meeting, as stipulated in Article 24 paragraph (1) of the Regulation of the Minister of Law and Human Rights Number 16 of 2021. These three MPNs are functionally and hierarchically tasked with different authority, meaning they have different authority at each level. MPDs serve according to their areas of duty, namely cities or districts. In contrast, MPWs serve in each Indonesian province, and MPPs serve in a complex or comprehensive manner throughout Indonesia. It can be concluded that this level is for the effectiveness of implementing notary supervision duties in Indonesia.

The Notary Regional Supervisory Council (MPW) is an institution or legal entity that is specifically formed to carry out the task of coaching and supervising notaries in the provincial area. The establishment of the MPW is based on a Decree stipulated by the Director General of General Legal Administration of the Ministry of Law and Human Rights of the Republic of Indonesia. There are several regulations that the government has set regarding the authority of the MPW, none other than the following: the UUJN and the Decree of the Minister of Law and Human Rights. UUJN No. 2 of 2014 article 73 of the Regional Supervisory Council is authorized to:

- Holding a hearing to examine and make decisions on community reports that can be submitted through the Regional Notary Supervisory Council.
- Summoning the notary of the reported person to examine the report as intended in the letter; a.
- Granting leave permits for more than 6 (6) months to 1 (one) year;
- Examining and deciding on the Decision of the Regional Supervisory Council that rejects the leave submitted by the notary of the reporter.
- Sanctioning both verbal warnings and written warnings; Proposing the provision of sanctions against notaries to the central supervisory council in the form of;
- Temporary suspension of 3 (three) months to 6 (six) months; or
- Disrespectful dismissal.

Other rules that regulate the formal authority of the MPW are as follows: Article 26 of Permenkumham No. M.02.PR.08.10/2004, it is stated that several authorities of the MPW are deciding and examining the results of reports from the MPD, examining reports from the MPD for 7 (seven) days, summoning the complainant and the reported party to get information, making a decision with a deadline of 30 (thirty) days. Other regulations also regulate the authority of the MPW, namely, the Decree of the Minister of Law and Human Rights of the Republic of Indonesia No. 39 PW.07.10./2004 article 2 paragraph (2), also regulates the authority of the MPW such as submitting the revocation of positions and administrative sanctions on notaries to the Central Supervisory Council, examining and deciding on the decision of refusal of leave by the MPD against notaries, recording notary leave permits, reporting notaries on alleged criminal elements to the police or related agencies, through reports from the MPD, making periodic reports to the Central Supervisory Council.

The authority of the MPW that the author has presented above is insufficient to guarantee that it can prevent the abuse of notary authority. Therefore, the Ministry of Law and Human Rights formed an investigation team that is proactive in collecting data for MPWs to carry out their duties and assisting MPDs in moving for the supervision of notaries. Because there are quite a lot of cases of notaries violating the code of ethics, in this case, the public acts to report to the MPD, based on Article 71 letter e of the Notary Position Law, the MPD is obliged to examine the report and submit the results of the examination to the Regional Supervisory Council (MPW). Furthermore, the MPW is authorized to impose administrative sanctions, such as verbal or written warnings against notaries proven to have violated the code of ethics, as stipulated in Article 73 paragraph (1) letter e of the same Law. For severe and repeated violations of the code of conduct, MPW may impose heavier sanctions.

IV. Conclusion

The Regional Office of the Ministry of Law and Human Rights is important in its functions and responsibilities in law and human rights. The Ministry of Law and Human Rights duties include policy formulation, supervision, coaching, and management of human resources and state property. In the context of the notary profession, the Ministry of Law and Human Rights is committed to improving the quality of legal services through continuous coaching and supervision, including training and implementing a strict code of ethics. The Notary Supervisory Council is a supervisory institution that ensures that notaries carry out their duties and authority according to applicable regulations. In addition, the establishment of the Notary Legal Problem Investigation Team by the Minister of Law and Human Rights aims to increase efficiency in handling public complaints and ensure justice for notary service users. Overall, this effort aims to maintain the integrity and professionalism of notaries in providing quality legal services. The UUJN stipulates that the Supervisory Council body is the institution responsible for coaching and supervising notary activities. The Supervisory Council has broad authority, including examinations, conduct of violation hearings, decision-making, and sanctions for violations of notary positions. The Regional Supervisory Council is authorized to examine community reports, grant leave permits, and impose administrative sanctions on code of conduct violations. The purpose of this supervision is to ensure the professionalism of notaries and ensure legal protection for notary service users in Indonesia.

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