

Analysis of Law on the Notaries Office in Determination, Guidance & Supervision of Notaries Organizations as a Single Container for Notaries Organizations

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Abstract. *Notaries in Indonesia have a very important position because Notaries are one of the public officials who are authorized to make authentic deeds. Notaries as Public Officials (Openbaar Ambtenar) who must be professional because they represent the state in carrying out the duties and functions of their position in changing deeds as evidence in the form of "Authentic Deeds". The Notary Organization is the only Notary professional forum formed with the intent and purpose of improving the quality of the Notary profession. Guidance and supervision of the Notary Organization need to be carried out so that there are no deviations in implementing the Articles of Association and Bylaws (AD-ART), as well as the Code of Ethics of the Notary Organization. The purpose of this study is to analyze: 1. To find out and analyze the Notary Law in the determination, development, and supervision of the Notary Organization as a place of residence in Indonesia 2. To find out what obstacles are faced in the analysis of the Notary Law in the determination, development, and supervision of the notary organization as a single place and how to solve them. The type of research used in this study is normative legal research, the approach method used is through a legislative, comparative, historical, philosophical, conceptual, analytical approach. The data used is secondary data sourced from library materials. The data analysis method used in analyzing the data is qualitative analysis. The government has issued Law No. 2 of 2014 Amendment to Law No. 30 of 2004 Concerning the Notary Position, In the analysis of the Notary Position Law there are several obstacles within the Indonesian Notary Association (INI) organization, of course, especially related to the determination, guidance, and supervision of the notary profession operating in Indonesia. These obstacles occur due to many factors. The absence of a Ministerial Regulation concerning the determination, guidance, and supervision of notary professional organizations that have not been further regulated in the Notary Position Law as well as limitations in supervision, complexity in guidance, challenges in enforcing the code of ethics, and dependence on state supervision.*

Keywords: *Determination; Guidance; Organization; Supervision.*

1. Introduction

Notaries in Indonesia have a very important position because Notaries are one of the public officials who are authorized to make authentic deeds. Notaries as Public Officials (*Openbaar Ambtenaar*) who must be professional because they represent the state in carrying out the duties and functions of their position in changing deeds as evidence in the form of "Authentic Deeds". Article 15 paragraph (1) of the Notary Law No. 2 of 2014 states that Notaries are authorized to make authentic deeds regarding all acts, agreements, and determinations required by laws and regulations and/or desired by the interested party to be stated in an authentic deed.¹ Authentic deeds as the strongest and most complete evidence have an important role in every legal relationship in the life of society. Through authentic deeds that clearly determine rights and obligations, guarantee legal certainty, and at the same time it is hoped that disputes can be avoided. Although the dispute cannot be avoided, in the process of resolving the dispute, authentic deeds which are the strongest and most complete written evidence provide real contributions to the resolution of cases cheaply and quickly.

Notaries in carrying out their profession, are not only limited by legal norms or generally applicable moral norms, but also every notary must comply with the provisions of professional ethics regulated in the code of professional ethics. Considering that the issue of the Notary's code of ethics is very important in the development of national law, especially in terms of legal material, in this case the Notary's code of ethics must be made as well as possible so that it can limit notaries in every implementation of their performance. In order to guarantee legal certainty, order and legal protection, Notaries are a specific position that carries out their profession in legal services to the community to realize legal certainty. The legal certainty provided by Notaries in carrying out their duties and positions cannot be separated from the special rules of Notaries so that in carrying out their duties and positions they do not violate the provisions of the laws and regulations, so Notaries are expected to have moral rules outside the laws and regulations, for the implementation of good professional ethics in society. The means of social control are intended so that the community is expected to continue to have trust in Notaries because by guaranteeing these interests, the community's trust in Notaries will be stronger.²

Since the issuance of Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning the Position of Notary, the Law on the Position of Notary

¹Notary Law Number 2 of 2014

²Prayojana, DA, Murni, RR, et al (2018). Implementation of Settlement of Notary Code of Ethics Violations Regarding the Installation of Notary Nameplates in Denpasar City. *Art Comitas*, p.21

until now has not issued a Ministerial Regulation governing the determination, development and supervision of the Notary Organization. Whereas Article 82 paragraph (5) of the Law on the Position of Notary mandates that provisions regarding the determination, development and supervision of the Notary Organization need to be regulated by a Ministerial Regulation. Article 82 paragraph (1) of the UUJN also stipulates that the Notary Organization is the only Notary professional body formed with the intent and purpose of improving the quality of the Notary profession. This is the only body, so development and supervision of the Notary Organization needs to be carried out so that there are no deviations in implementing the Articles of Association and Bylaws (AD-ART), as well as the Code of Ethics of the Notary Organization. Based on the results of the analysis, the recommendation that can be submitted to the Director General of General Legal Administration (Dirjen AHU) needs to be immediately prepared in the form of a Draft Regulation of the Minister of Law and Human Rights concerning the Determination, Development and Supervision of the Notary Organization. The writing of the thesis is driven by the dualism of the Indonesian Notary Association (INI) organization, which is the only notary organization in Indonesia. The polemic of the two camps of the Indonesian Notary Association management which is divided into dualism, has caused many turmoil problems among Notaries and even disrupted public services related to notary services to the general public.³

This article discusses the single body of notary organizations recognized in Indonesia and what role this organization plays, as Article 82 paragraph (1) regulates how notaries must join a single professional organization and Article 1 paragraph (5) Number 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning the Position of Notary, states that notary organizations must take the form of associations that have legal status.

2. Research Methods

The problems raised in this study use normative legal research methods with literature and statutory studies, which use secondary data types where the data is obtained indirectly including primary legal materials. The data obtained is then collected through documentary study data collection techniques or literature studies by collecting data based on legal materials that have been used in this study, and analyzed using qualitative data analysis techniques. As the purpose of the study is one of them as a prediction, in order to provide a description of the findings that are then obtained in this study and also to find conclusions that are correct and can be scientifically accounted for.⁴

³Abdul Jalal, and Sri Endah Wahyuningsih, (2018), Involvement of Notary Officials in Unlawful Acts and Participation in Criminal Acts in Document Forgery, *Jurnal Akta*, Vol. 5 No. 1, p.228

⁴Tan, D. (2021). Legal Research Methods: Examining and Reviewing Methodology in Conducting Legal Research. *NUSANTARA: Journal Social science*, Vol. 8, No. 8. p. 2463-2478

3. Results and Discussion

3.1. Analysis of the Notary Law in the Establishment, Development, and Supervision of the Notary Organization as a Single Body in Indonesia

Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning the Notary Position, in the amendment to the Law, it is then stated that the Notary Organization as referred to in Article 82 paragraph (1) is the Indonesian Notary Association. Thus, the Indonesian Notary Association is the only professional organization for the notary position as referred to in the provisions of the Notary Position Law (UUJN). The Indonesian Notary Association (hereinafter abbreviated as INI) is an association whose purpose and objective is to improve the quality of the Notary profession (Article 82 paragraph 3 UUJN). The role of the Indonesian Notary Association, commonly referred to as (INI) based on the Notary Position Law (UUJN) is not only to provide shelter to Notaries, but also to assist the Government in providing legal certainty, especially in relation to notary legal services.⁵

The Indonesian Notary Association (hereinafter abbreviated as INI) is an association whose purpose and objective is to improve the quality of the Notary profession (Article 82 paragraph 3 of the Notary Law). The role of the Indonesian Notary Association (INI) based on the Notary Law (UUJN) is not only to provide protection to Notaries, but also to assist the Government in providing legal certainty, especially in relation to notarial legal services.

Based on this, as a single forum for all Notaries, INI with only one Notary Organization forum, the Government will easily carry out guidance and supervision of the organization so that the running of the organization does not deviate from the provisions of the Law or the Articles of Association and Bylaws of the Notary Organization. In the provisions of Article 82 of the UUJN it reads as follows:

1. Notaries gather in one Notary Organization.
2. The Notary Organization as referred to in paragraph (1) is the Indonesian Notary Association.
3. The Notary Organization as referred to in paragraph (1) is the only free and independent Notary professional body which was formed with the aim and objective of improving the quality of the Notary profession.
4. Provisions regarding the objectives, duties, authorities, work procedures and organizational structure are stipulated in the Articles of Association and Bylaws of the Notary Organization.

⁵Rio Adminral Parikesti, (2018), Implementation of the Principle of Legality in the Policy of Centralization of Harmonization of Legislation, Indonesian Legislation Journal Vol 18 No. 4. 450-459

5. Provisions regarding the determination, development and supervision of Notary Organizations are regulated by Ministerial Regulation.

Article 82 paragraph (5) of the UUJN contains provisions that the determination, development and supervision of the Notary Organization is regulated by a Ministerial Regulation. For this reason, the immediate formation of a Regulation of the Minister of Law and Human Rights (hereinafter abbreviated as Permenkumham) concerning the determination, development and supervision of the Notary Organization is urgent because it has been mandated by the UUJN since 2014. The legal vacuum that has been going on for 8 (eight) years could become a bad precedent in the future.

The nature of the professional work of the Notary as a Public Official who carries out part of the government's duties in the field of public law has its own characteristics and can give rise to "high risks" if the utmost good faith principle and trustworthiness given by the public to the Notary are not protected and monitored regularly and strictly, especially in making authentic deeds which are used as evidence of the existence of rights and obligations for the maker.

Therefore, the Government is obliged to carry out periodic and strict guidance and supervision of the work of the Notary profession, so that the public is not harmed. To facilitate guidance and supervision by the Government, the Notary profession is united in one Notary Organization, which is a necessity and a realistic need. The Government's attitude in recognizing the Indonesian Notary Association (INI) as the only Notary Organization in Indonesia. This is related to Article 1 number (5) of Law No. 30 of 2004, which reads: "The Notary Organization is a notary profession organization in the form of a legal entity."

Notaries are an extension of the government, in this case the state, where the state has given Notaries the trust to carry out some of the state's affairs or duties, especially in the field of civil law, so that the party who has held the position of Notary will have the responsibility to always maintain the dignity and honor of the Notary profession.⁶

The function of the Indonesian Notary Association (INI) is basically 2 (two), namely the function of coaching Notaries and the function of supervising Notary ethics. In accordance with the mandate of Article 82 paragraph (5) of the UUJN, what needs to be regulated in this Permenkumham is about the determination, this mandate is imperative in nature, meaning it is an obligation, not optional. The UUJN has been ratified since 2014, meaning this mandate has emerged since 2014, but it was only drafted in 2022. However, that's okay because it is better late than never drafted at all.⁷Notaries are public officials, which means they are

⁶Nindy Putri, Paramita Prananingtyas, (2020) The Role of the Indonesian Notary Association (This) in Determining Tariffs Among Notaries in Balikpapan City, NOTARIUS, Vol. 12 No. 1, p. 67.

⁷Anand, Ghasham, (2014), Characteristics of Notary Positions in Indonesia, Zifatama Publisher, Sidoarjo, p.56

sworn in and appointed by the state. Talking about Notaries, it always touches on ethics because the position of Notary is an honorable position. Ethics relate to good and bad, while law or morals relate to right and wrong. The provisions of Article 82 paragraph (1) of the UUJN, which states: "Notaries gather in one Notary Organization".

A single container of the Notary Organization as a public official is needed, in order to maintain the quality of services provided by notaries to the public, to uphold the standards of service provided by notaries as members of the organization. Conducting socialization and improving the quality of Notary services, in carrying out their duties and authorities. Conducting supervision of the provisions and standards of Notary service services. The existence of a notary code of ethics that must be respected by every notary in carrying out their duties and authorities to maintain the dignity and honor of the notary position.⁸

One form of guidance and supervision of Notaries is the requirement for there to be a Notary Organization, as stipulated in Article 82 paragraph (1) of the UUJN, which states that "Notaries are united in a Notary Organization", this is solely to facilitate the guidance and supervision of Notaries spread throughout the territory of the Unitary State of the Republic of Indonesia.⁹ Guidance and supervision of Notaries carried out by the Minister, in this case the Minister of Law and Human Rights, both organizationally and individually, aims to provide protection to all citizens of the Republic of Indonesia, especially the community using the Notary profession from the possibility of abuse of office and authority by Notaries. So that the guidance and supervision are not limited to certain Notaries or certain Notary Organizations.

In carrying out his/her duties, a Notary is part of the legal service to meet the needs of the community. The position of a Notary as a public official is a state organ that has been delegated authority by the state in order to provide legal services to the general public in the civil sector, especially in the preparation of deeds.¹⁰ The position held by a Notary is a position of trust granted by law and society, so that the Notary has the duty to maintain this trust by always upholding the ethics of the legal profession and the dignity and nobility of his position.

In Article 7 of the Amendment to the Articles of Association of the Extraordinary Congress of the Indonesian Notary Association, there are objectives of the association: to uphold truth and justice and to maintain the dignity of the position of Notary as a qualified public official in the context of his devotion to

⁸Sidoarjo Anand, Ghansham, (2018), Characteristics of Notary Positions in Indonesia, Prenada Media Group, Jakarta, p.35

⁹Darus Luthfan Hadi, (2016), Notary Law and the Responsibilities of the Notary Office, UII Press, Yogyakarta, p. 34

¹⁰Theo Anugrah Pakarti, (2022), Notary Position and Notary Code of Ethics: What is the Role and Function of the Notary Honorary Council?, Kertha Semaya Journal Vol. 10 No. 7, pp. 1663-1676

God Almighty, the Nation and the State in order to realize legal certainty and foster unity and togetherness as well as the welfare of its members. In relation to this, the status of a legal entity actually allows the Notary Organization to be independent, meaning that this organization can seek its own funds for the implementation of its activities to achieve the desired goals without having to depend on the government or its members' money. This is also a consideration in determining the requirement for the Notary Organization to be in the form of a legal entity association, namely the consideration that later this organization will be independent. The Notary Organization whose members are Notaries who are public officials is expected to be able to stand alone in legal traffic.¹¹

Based on the recognition of the Ministry of Law and Human Rights, that the Notary organization referred to by UUJN is INI as a "single container". The Indonesian Notary Association (INI) is the only professional organization for all Notaries throughout Indonesia. In addition to the provisions in the Articles of Association of Indonesian Notaries, in this organization there are associations at each regional, area, and central level. The purpose¹²so that every member in the region can directly benefit from the existence of this organization. Based on the Articles of Association of the Indonesian Notaries Association, the Regional Management is the implementer of the Association's policies at the Regency/City level who serves as a mentor, coordinates and organizes activities that are deemed necessary and useful for the interests of members to improve the professionalism of Notaries in their management area while the Regional Management is the implementer of organizational policies at the provincial level and as the coordinator of regional management in their management area.

The theory of authority consists of two syllables, namely authority and theory. Before the theory of authority is explained in this case, a theoretical concept of authority is given. HD Stoud, as reported by Ridwan HR, provides an interpretation of authority. Authority is: All the rules relating to the acquisition and use of government authority by public law subjects within the bounds of public law.¹³

Before the authority is given to the institution that runs it, so that it must first be stipulated in legislation, whether in the form of government regulations, laws, or lower levels. The nature of legal ties is a role that is related and has a relationship or bond related to law. There are legal ties that play a private and public role.

¹¹Yudara, N.(2006) Notaries and their Problems (Main Points of Thoughts on the Position and Function of Notaries and Notarial Deeds According to the Indonesian Legal System). Jurnal Hukum, Vol. 1, No. 10, p.234

¹²Yoghi Pratama, (2023), The Role of the Notary Supervisory Board in the Implementation of the Notary Code of Ethics, Jurnal Notarius, Vol.16, No.2, p. 861

¹³Salim, HS (2015). Deed Making Technique One Theoretical Concept, Notary Authority, Form and Minutes of Deed. Jakarta: PT. Rajagrafindo Persada. p. 76

Philipus M. Hadjon's view is that the authority to issue decisions can only be obtained through two methods, namely attribution or delegation. Attribution is the authority that is attached to the position. Philipus said that Dialogue on delegation in the case of the transfer/transfer of existing authority. If the authority is imperfect, it means that the decision that comes from that authority is not legal by law.¹⁴From the explanation above, it can be understood that delegation and attribution are facilities used to determine whether an agency has authority or not when carrying out obligations to the community. Philipus M. Hadjon said that during the mandate there is no transfer of authority or recognition of authority.

In addition to the determination of the position of the Notary Organization, there is the development of the Notary Organization. According to Masdar Helmi, development is all efforts, endeavors and activities related to planning and organizing and controlling everything in an orderly and directed manner. In addition, Mathis provides the view that development is a process in which people achieve certain abilities to help achieve organizational goals, development can be viewed narrowly or broadly. Likewise, Ivancevich defines development as an effort to improve employee performance in their current job or in other jobs that they will hold soon. Furthermore, in relation to this definition, Ivancevich put forward a number of important points, namely that development is a systematic process to change a person's work behavior.

The word "guidance" is placed at the beginning of the sentence with the intention that the council functions as a supervisory institution.¹⁵Therefore, this coaching function is more important than the supervisory function. Of course, the creators of the Notary Code of Ethics intend to communicate, especially to notaries, and generally as users of notary services.¹⁶

The coaching function of the Honorary Council is to remind the Notaries who are being coached to always understand the Notary's code of ethics. Therefore, notaries will always comply with the notary's code of ethics and applicable laws and regulations in carrying out their duties and authorities. If a Notary is found to have violated the code of ethics, the Notary concerned will be subject to punishment according to the type of violation. The existence of notary supervision is to provide coaching to notaries in carrying out their duties and authorities as notaries, improve professionalism and work quality, and provide legal certainty and a legal umbrella for the community in using notary services.¹⁷

¹⁴Hadjon, PM (2001). Introduction to Indonesian Administrative Law. Yogyakarta: Gadjah Mada University, p. 11

¹⁵Martuti, ES(2010), Authority to handle violations of the notary code of ethics by the notary supervisory board and the notary honorary council. Diponegoro University, p.67

¹⁶Indrajaya, Rudi., et.al.(2020), Notaries and PPAT: An Introduction. Bandung: Refika Aditama., p.34

¹⁷Handayani, TU, Suryaningtyas, A., & Mashdurohatun, A. (2018). The Urgency of the Notary

3.2. Obstacles Faced in the Analysis of the Notary Law Regarding the Establishment, Development, and Supervision of Notary Organizations as a Single Body and Their Solutions

As a single organization, the Indonesian Notary Association (INI) certainly faces many obstacles, especially related to the determination, guidance, and supervision of the notary profession operating in Indonesia. These obstacles occur due to many factors. The absence of a Ministerial Regulation regarding the determination, guidance, and supervision of notary professional organizations that have not been further regulated in the Notary Law. The implementation of the Notary Law (UUJN) regarding the determination, guidance, and supervision of notary organizations as a single forum faces several obstacles, including limitations in supervision, complexity in guidance, challenges in enforcing the code of ethics, and dependence on state supervision.

1. Obstacles in Supervision of Notary Organizations as a Single Organization

Supervision of notaries carried out by a single organization faces various complex and interrelated obstacles. This supervision is a big responsibility, especially considering the very large number of notaries spread throughout Indonesia. The following is a more comprehensive explanation of the obstacles faced:

a. Very Large Number of Notaries and Widely Spread;

Indonesia has thousands of notaries spread across various regions, from big cities to remote areas. With such a large number of notaries, a single organization responsible for supervision often has difficulty in carrying out comprehensive and effective supervision.¹⁸

b. Limited Human Resources in Supervision;

Effective supervision requires competent supervisors who have a deep understanding of the duties and responsibilities of notaries. However, in practice, there is often a shortage of qualified and adequate number of supervisors. This limitation causes a heavy workload for existing supervisors, so that supervision of notaries cannot be carried out optimally.¹⁹

c. Geographic and Infrastructure Challenges;

Indonesia has a very large and diverse geographical area, which includes remote islands, mountains, and hard-to-reach areas. This condition makes it difficult to carry out direct supervision, especially in areas with limited infrastructure. As a

Honorary Council in Enforcing the Notary Code of Ethics in Pati Regency. *Jurnal Akta*, Vol.5,(No.1), p.51–64.

¹⁸Simbolon, R. (2017). "Supervision of Notaries in Order to Improve the Professionalism of Notary Positions in Indonesia". *De Jure Legal Research Journal*, Vol. 17, No. 2. Pp. 253-268

¹⁹Ibid.

result, supervision is often carried out administratively without being able to carry out adequate field verification.

d. Long and Complicated Bureaucracy

The supervision process in a single organization is often hampered by long and complicated bureaucratic procedures. This can slow down the response to violations committed by notaries, and ultimately reduce the effectiveness of supervision. In addition, coordination between institutions or departments responsible for notary supervision is also often inefficient, which adds to the complexity of the problem.

e. Lack of Use of Technology in Surveillance;

Although information technology can facilitate the supervision process, in practice, the adoption of technology in notary supervision is still limited. Many organizations still use manual or semi-manual systems in supervision, which not only hinders efficiency but also increases the risk of errors and omissions in supervision.

f. Imbalance of Supervision in Various Regions;

Related to geographical challenges, supervision of notaries is often uneven. Notaries in urban areas may receive more intensive supervision than those in remote areas. This imbalance creates gaps in the application of notary professional rules and standards in various regions.

The impact of these Supervision Constraints includes causing a decline in the quality of notary services due to ineffective supervision, some notaries may not comply with the established ethical and professional standards, which has an impact on the decline in the quality of service to the public. When supervision is weak, irresponsible notaries may feel that there are no serious consequences for violations, which can lead to an increase in the number of violations. This also ultimately makes the public lose trust in the notary profession if supervision is inadequate and there are many cases of violations that are not handled properly.

2. Obstacles in Notary Development by Single Organizations

The development of notaries as part of a single organization faces various complex obstacles, which can hinder efforts to maintain the quality and integrity of the notary profession. This development is a process that includes providing guidance, training, and supervision aimed at ensuring that notaries carry out their duties in accordance with applicable professional and legal standards. The following is a detailed explanation of the obstacles faced in the development of notaries:

a. Complexity of Coordination between Various Parties

Notary development requires close coordination between various parties, including the Ministry of Law and Human Rights (through the Director General of General Legal Administration), notary organizations, and notaries themselves. This complexity often creates obstacles, especially when there is a lack of understanding or difference of vision between the parties involved. For example, notary organizations may have a different development approach from the direction of the government, making it difficult to implement consistent development programs across regions.

b. Differences in Notary Understanding and Compliance Levels

Notaries who are members of a single organization have different educational backgrounds, experiences, and understandings of their duties and responsibilities. These differences affect the level of compliance with established rules and standards. Notaries in urban areas may have easier access to the necessary training and guidance, while notaries in remote areas may have difficulty keeping up with the latest developments or fully understanding regulatory changes. This creates disparities in the quality of training received by notaries.

c. Adaptation to Changing Regulations and the Legal Environment

The legal world is constantly evolving, and notaries must be able to adapt to regulatory changes and the dynamics of the legal environment that occur. However, the coaching process is often unable to keep up with these changes quickly. Training and mentoring programs organized by a single organization may not always be updated according to the latest developments, so notaries do not gain the knowledge and skills they need to face new challenges in their profession.

d. Resistance to Change in Coaching

Some notaries may show resistance to proposed changes in the coaching program, especially if the changes are considered irrelevant to their daily practice or if they feel that the coaching disrupts their work routine. This resistance can hinder efforts to implement a more modern and effective coaching program that is in line with the demands of the times.

The impact of obstacles in the development of the notary profession that is less than optimal includes inconsistent service quality. Notaries who receive inadequate or inappropriate development may provide poor quality services, which can harm clients and tarnish the image of the notary profession. Furthermore, it also has an impact on the difficulty in enforcing the code of ethics. Ineffective development can also cause difficulties in enforcing the code of ethics of the profession, because notaries may not fully understand or

appreciate the importance of ethical standards in their work. Finally, it also causes an imbalance of competence among notaries. Due to differences in access and quality of development, there will be an imbalance of competence among notaries, which has an impact on the quality of legal services available in various regions.

3. Obstacles in Enforcing the Notary Code of Ethics by a Single Organization

Enforcement of the code of ethics is one of the critical aspects in the development and supervision of the notary profession. This code of ethics is designed to ensure that notaries carry out their duties with integrity, professionalism, and in accordance with applicable legal standards. However, in practice, the single organization responsible for enforcing the code of ethics faces various complex obstacles. The following is a detailed explanation of these obstacles:

a. Diversity of Characteristics and Backgrounds of Notaries

Notaries who are members of a single organization come from various social, educational, and cultural backgrounds. This diversity can affect their understanding and interpretation of the applicable code of ethics. For example, a notary who works in an urban environment with rapid legal dynamics may have a deeper understanding of the code of ethics than a notary in a remote area who rarely interacts with the latest regulatory changes. This difference causes a gap in the application of the code of ethics across regions.

b. Complicated and Bureaucratic Enforcement Process

Enforcement of the code of ethics often involves a lengthy and bureaucratic process. When there is an alleged violation of the code of ethics, the investigation and handling process can take a long time because it must go through various administrative stages. This complicated process can result in delays in the imposition of sanctions or corrective actions, which ultimately reduces the effectiveness of code of ethics enforcement. In addition, excessive bureaucracy can make it difficult for notaries to understand the process they must go through if they are involved in a violation case.

c. Gaps in the Application of Sanctions

One of the major obstacles in enforcing the code of ethics is the unevenness in the application of sanctions for violations. Notaries who are in different regions or who have stronger relationships with supervisory officials may receive different treatment compared to other notaries in cases of similar violations. This gap can be caused by various factors, including nepotism, lack of transparency, or different interpretations of the code of ethics in different regions. As a result, enforcement of the code of ethics becomes inconsistent, which can damage public trust in the integrity of the notary profession.

d. Resistance from Notaries

Some notaries may show resistance to the enforcement of the code of ethics, especially if they feel that the code of ethics is irrelevant or too strict in the context of their work. This resistance can appear in the form of deliberate non-compliance, avoiding supervision, or even trying to influence the law enforcement process through informal channels. Such resistance can undermine the efforts of a single organization to maintain ethical standards and professionalism among notaries.

e. Lack of Transparency in Enforcement Process

Transparency is an important element in the fair and credible enforcement of the code of ethics. However, the process of enforcing the code of ethics in a single organization is often less transparent, which creates the impression of unfairness or bias in handling violations. This lack of transparency can also reduce the accountability of the single organization in carrying out its duties, as well as reduce the trust of notaries and the public in the internal law enforcement process.

When codes of ethics are not enforced consistently and fairly, the standard of professionalism among notaries may decline. This can negatively impact the quality of services provided to the public. In addition, obstacles to enforcement of codes of ethics can lead to increased violations, as notaries who do not face serious consequences may feel free to break the rules without fear of sanctions. Finally, the public may lose confidence in the notary profession if codes of ethics are not properly enforced. This can negatively impact the reputation of the entire profession, as well as reduce confidence in the legal system in general.

4. Obstacles in the Implementation and Monitoring of Standard Operating Procedures (SOP) in the Notary Organization as a Single Organization

Implementation and monitoring of Standard Operating Procedures (SOP) is an important aspect in ensuring that notaries carry out their duties in accordance with applicable rules and regulations. SOP serves as a guide that helps notaries carry out their duties with consistency, efficiency, and accountability. However, in a notary organization that is managed as a single organization, there are several obstacles that can hinder the effectiveness of SOP implementation and monitoring. The following is a comprehensive explanation of these obstacles:

a. Variations in Interpretation and Application of SOPs

One of the main obstacles in implementing SOPs is the variation in their interpretation and application across regions. Notaries spread across Indonesia have different backgrounds and operate in unique local contexts. This causes differences in how they understand and apply the same SOP. As a result, although SOPs are designed to create consistency, differences in application can

lead to variations in the quality of service and compliance with established standards.

b. Lack of Training and Understanding of SOPs

To ensure that SOPs are implemented properly, notaries need to clearly understand every detail of the procedure. However, there is often a lack of specific training related to SOPs. Notaries may not receive adequate training on new procedures or changes to SOPs, so they may not fully understand how to implement them. Additionally, the training materials available may not always be presented in a way that is easily understood by all notaries, especially those new to the profession.

c. Resistance to Procedural Change

In many organizations, including notary organizations, there is a tendency to show resistance to change, especially when the change involves long-standing work procedures. New or revised SOPs may be considered an additional burden or something that is difficult to implement in daily practice. This resistance can cause SOP implementation to be slow or even ignored by some notaries, which ultimately hinders efforts to improve efficiency and compliance.²⁰

d. Lack of Coordination and Support from Supervisors

Implementation and monitoring of SOPs require good coordination between notaries and the supervisory party or responsible authority. However, there is often a lack of coordination or adequate support from the supervisory party, either in the form of guidance, counseling, or continuous monitoring. When notaries feel they do not receive sufficient support, they may become less motivated to comply with the SOP, or they may feel confused in carrying out the established procedures.

e. Bureaucracy and Rigid Procedures

SOPs that are too rigid and bureaucratic can also be an obstacle in their implementation. Procedures that are too detailed and inflexible may be difficult to apply in different situations, requiring adjustments. When SOPs do not provide room for flexibility, notaries may feel burdened and have difficulty adjusting procedures to field conditions. As a result, SOPs that are intended to increase efficiency can actually become obstacles in daily work.

f. Ineffective Monitoring

Monitoring is an important element to ensure that SOPs are followed properly. However, monitoring is often carried out sporadically or not comprehensively.

²⁰Pratama, DA (2016). "Challenges of Supervision of the Notary Profession in the Digital Era". Proceedings of the National Law Seminar, 2, 112-128.

This can be due to limited human resources on the part of the supervisor, lack of effective monitoring tools, or the focus of supervision that is more inclined to other aspects besides SOPs. Lack of effective monitoring can cause SOPs to be ignored or carried out only as a formality, without really paying attention to quality and compliance.²¹.

The impact of Constraints in Implementation and Monitoring of SOPs includes creating inconsistent service quality. Differences in the application of SOPs can cause significant variations in the quality of service provided by notaries. This can be detrimental to clients and damage the reputation of the notary profession as a whole. Furthermore, a lack of understanding and training regarding SOPs, as well as resistance to change, can increase the risk of violations of procedures or non-compliance with applicable standards. Finally, SOPs that are not implemented properly can hinder the operational efficiency of notaries, so that work that should be done quickly and accurately becomes protracted.

If examined in more detail, basically the obstacles that arise from the implementation of the Notary Law in relation to the Indonesian Notary Association as the sole notary professional organization in Indonesia are due to the absence of rules or derivative legal products that regulate further. The determination, guidance, and supervision of notary positions have so far been carried out without a Ministerial Regulation regulating these points. Although it has been mandated, the rules have not been available until now.

The determination, guidance, and supervision of notary positions are very urgent to be regulated in detail. Therefore, even though there are no regulations yet, a concrete solution is needed to regulate the implementation of the determination, guidance, and supervision of notary positions. The solutions that can be provided include:

1. Strengthening the implementation of regulations by the government and related agencies by means of:
 - a. The government and the Indonesian Notary Association (INI) need to hold intensive socialization and education programs for all notaries regarding the importance of having an organizational forum. This can be done through seminars, workshops, and the dissemination of information digitally and in print.
 - b. There is a need for stricter regulations and clear sanctions for notaries who do not comply with the provisions for joining a single body. Consistent law enforcement will ensure compliance across the region.

²¹Ibid.

c. To overcome internal competition or differences of interest among members, the Indonesian Notary Association (INI) needs to actively hold dialogue and mediation to reach a mutual agreement. This mediation aims to ensure that all notaries feel represented and appreciated in this single forum.

2. Standardization of organizational structure and functions, namely by:

a. The Indonesian Notary Association (INI) needs to have a clear and transparent organizational structure, which allows for active participation from all members. This includes a fair division of tasks and a democratic procedure for electing administrators.

b. To ensure that all members of the organization follow the same principles, it is necessary to develop a unified code of ethics and socialize it evenly to all members.

3. Improving the quality of human resources can be done through:

a. The Indonesian Notary Association must regularly hold training and professional development programs for notaries. These programs must cover the latest topics in law, professional ethics, and technology related to notary work. Periodic certification can also be implemented to ensure notary competence.

b. For notaries who are just starting their career, mentorship by a more experienced notary can be an effective solution in improving competence. This program can help reduce common mistakes made by novice notaries.

4. Adjustment of the coaching program to local needs by creating coaching programs that are tailored to local conditions in various regions. This means that INI must be flexible in designing programs that are in accordance with the specific needs of the region, both in terms of law, culture, and socio-economic conditions.

5. Optimization of the Notary Supervisory Board (MPN) can be done through:

a. MPN must be increased in capacity, both in terms of the number of personnel, competence, and resources owned. This includes training for MPN members so that they can carry out supervision more effectively and fairly.

b. For areas with a large number of notaries, it is necessary to decentralize supervision by forming a sub-committee for supervision at the regional or city level. This will ensure that supervision can be carried out more closely and effectively.

c. Building an online reporting and monitoring system that can be accessed by MPN and all notaries. This system can be used for reporting violations, audits, and to store notary activity records.

6. Enforcement of code of ethics and sanctions, namely through:

- a. There needs to be stricter enforcement of the code of ethics, with appropriate and fair sanctions for notaries who violate it. This includes fines, suspension of licenses, or revocation of licenses for serious violations.
- b. The process of enforcing sanctions must be carried out transparently and accountably, so that all members of the organization can see that the rules are enforced consistently.

4. Conclusion

Analysis of the Notary Law issued since 2004, and has been updated in 2014, but until now the mandate of Article 82 paragraph 5 has not been implemented, namely regarding the regulation of the determination, guidance and supervision of the Notary Organization with the Ministerial Regulation. This is one of the urgencies, why it is necessary to immediately form a Draft Regulation of the Minister of Law and Human Rights concerning the Determination, Guidance, and Supervision of the Notary Organization which is urgent because it has been mandated by the UUJN since 2014. The legal vacuum that has lasted for 8 (eight) years can be a bad precedent in the future, that guidance and supervision of the Notary Organization is needed to ensure that the running of the Notary Organization as a single institution does not deviate from the provisions that have been regulated in the Articles of Association and Bylaws of the Notary Organization itself.

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