



## The Government's Role in Building Notary Professionalism

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### Abstract

*A notary is one of the legal professions that requires public trust, so a notary must be able to act professionally. Professionalism can be formed if the Notary in carrying out his duties remains guided by the Notary code of ethics and the Notary Position Act and utilizes information technology. However, the fact is that recently there have been many cases of violations committed by Notaries which ultimately violate the code of ethics and the Law on Notary Positions. For this reason, the role of the Government in minimizing violations in order to foster a professional attitude is very much needed. Based on these reviews, this study aims to examine the Government's efforts in building Notary professionalism. This study uses a normative juridical approach with data collection techniques through literature study. This study concludes that in building Notary professionalism, the Government, namely the President of the Republic of Indonesia together with the House of Representatives, stipulation of laws and regulations concerning Notary Positions, regulations concerning the establishment of the Notary Supervisory Council and Notary Honorary Council, regulations concerning the use of AHU Online, conducting guidance and supervision, as well as routine inspections. Meanwhile, if the Notary has violated the code of ethics, these agencies seek to impose sanctions as a follow-up to the violation.*

**Keywords:** Notary Code of Ethics; Notary Public; The Role of Government; Professionalism.

### A. Introduction

Corruption in Indonesia continues to show an increase every year. The results of the Transparency International Indonesia (TII) survey show that Indonesia is the sixth most corrupt country out of 133 countries.

Notaries as public officials appointed by the state or government bear a great responsibility to the community because they are authorized to make authentic deeds<sup>1, 2, 3</sup>. Therefore, it is important for a Notary to uphold his dignity both when carrying out his duties and not carrying out his duties (Putri & Marlyna, 2021). As a public official, notaries have a very important role in helping the community in terms of legal protection<sup>4</sup>.

However, in practice, as stated by the Minister of Law and Human Rights of the Republic of Indonesia (Menkumham), recently there have been many public complaints against violations committed by Notaries. This statement is reinforced by

<sup>1</sup> Nabila Mazaya Putri et al., "Pelanggaran Jabatan Dan Perbuatan Melawan Hukum Yang Dilakukan Oleh Notaris Dalam Menjalankan Kewenangannya" 5 (2021): 63-77.

<sup>2</sup> Wahyudin, Wahyudin, and Jarot Widya Muliawan, "Perbuatan Melawan Hukum Terhadap Pemalsuan Akta Otentik Yang Dilakukan Notaris," *Borneo Law Review* 5, no. 1 (2021): 36-48.

<sup>3</sup> I Komang Cri Khrisna Adjie, Habib, "Notaris The Run Bussines as the Land Broker" 08 (2022): 18-33.

<sup>4</sup> Adjie Habib; Khistina I Komang Cri, "Notaries That The Run Bussines as The Land Broker," n.d.

the report of the Notary Supervisory Board which states that there are still many cases of violations by Notaries where violations that often occur are violations of the position and code of ethics of the Notary and deviations from the position of the Notary in making and issuing deeds.

The statement above is reinforced by previous studies that examined various kinds of violations committed by Notaries, namely: notaries who act as brokers<sup>5</sup>, notaries who are impartial<sup>6</sup>, notaries who are involved in cases corruption<sup>7</sup>, the formation of a civil partnership of Notaries for profit<sup>8</sup>, typing errors in making authentic deeds<sup>9</sup>, falsification of evidence for depositing tax money<sup>10</sup>, not registering and reporting wills to the Willing List Center<sup>11</sup>, forgery of authentic deeds<sup>12, 13</sup>, ignorance of the Notary about the power of attorney used has no legal force<sup>14</sup> (Simanjuntak & Hoesin, 2022), and unable to properly maintain and protect client certificates<sup>15</sup>.

One of the factors that cause Notaries to commit violations is the level of professionalism of the Notary itself which is still low, where the Notary does not understand his authority, but there are also Notaries who understand the authority and duties of the function but because of material needs that cause Notaries to be trapped in it<sup>16</sup>. Notaries are required to be professional when carrying out their duties and functions.

Professionalism is related to how a professional must behave even though there is no formal institutional sanction, while the rules of legal ethics (code of ethics) regulate how professionals must behave to avoid disciplinary sanctions. Professionalism shows work results that are in accordance with technical or ethical standards of a profession. Professional behavior must meet several requirements, one of which is controlling one's own behavior by using a code of ethics.

<sup>5</sup> Habib Adjie and I Komang Cri Khrisna, "Notaries That The Run Bussines as The Land Broker," n.d.

<sup>6</sup> Sefriani amelia Sari, "Reviewing A Notary Ethics Based On Ethical Code As A Notary Profession," *מדע ודשקיייה* 549, no. 3 (2017): 40-42.

<sup>7</sup> Michael L. Clozen and Trever J. Orsingers, "Family Ties That Bind, And Disqualify: Toward Elimination Of Family-Based Conflict Of Interest In The Provision Of Notarial Services," n.d.

<sup>8</sup> Fonna, Winner Sitorus, and Hasbir Paserangi, "Persekutuan Perdata Notaris Berdasarkan Undang-Undang Jabatan Notaris" 2, no. 1 (2018): 73-82.

<sup>9</sup> Made Ciria Angga Mahendra, "Akibat Hukum Terhadap Kesalahan Ketik Pada Akta Yang Dibuat Notaris," *Acta Comitatus* 4, no. 2 (2019): 227.

<sup>10</sup> Titin Oktalina Safitri, "Pemalsuan Alat Bukti Atas Penitipan Uang Pajak Oleh Notaris/PPAT Dalam Menjalankan Tugas Jabatan," *Acta Comitatus* 4, no. 1 (2019): 109.

<sup>11</sup> Annisa, Yanis Rinaldi, and Teuku Abdurahman, "Tanggung Jawab Notaris Yang Tidak Mendaftarkan Dan Melaporkan Akta Wasiat Ke Daftar Pusat Wasiat" 3, no. April (2019): 1-17.

<sup>12</sup> Aimee Thaliasya et al., "Pertanggung Jawaban Notaris Dalam Pembuatan Akta Hibah Dengan Menggunakan Keterangan Palsu" 07 (2021): 268-281.

<sup>13</sup> Wahyudin, and Muliawan, "Perbuatan Melawan Hukum Terhadap Pemalsuan Akta Otentik Yang Dilakukan Notaris."

<sup>14</sup> Adjie Habib; Khistina I Komang Cri, "Notaries That The Run Bussines as The Land Broker."

<sup>15</sup> Chrisya Nadine Immanuela and Siti Hajati Hoesin, "AKIBAT HUKUM TERHADAP NOTARIS / PPAT TERKAIT PERBUATAN MELAWAN HUKUM OLEH PEGAWAI NOTARIS / PPAT ( Studi Kasus Putusan Pengadilan Negeri Blitar Nomor 10 / Pdt . G / 2020 / PN Blt ) Chrisya Nadine Immanuela \*, Siti Hajati Hoesin \*\*." 08, no. 37 (2022): 1-17.

<sup>16</sup> Irma Mulia Fitri, Ilyas Ismail, and Suhaimi, "Pengawasan Dan Pembinaan Majelis Pengawas Daerah Terhadap Notaris Yang Melakukan Pelanggaran Di Kabupaten Aceh Timur" 3, no. April (2019): 53-62.

The government's roles in minimizing the occurrence of violations of the code of ethics are very important, so that Notaries in carrying out their duties and obligations can act professionally. Based on these reviews, the purpose of this research is to examine the government's efforts in building the professionalism of Notaries. This research is important to do, because Notary is a type of profession that requires public trust, so Notaries must act professionally. It is hoped that this research can be used as a recommendation material for relevant agencies in developing an effective Notary guidance and supervision model.

## **B. Research Method**

This study uses a normative juridical approach where the data collection technique is through library research with secondary data sources in the form of legal materials and laws and regulations relating to the position of a notary such as the Law of the Republic of Indonesia Number 30 of 2004 concerning the Position of Notary, the Law of the Republic of Indonesia. Indonesia Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary (UUJN), Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 16 of 2021 concerning Organizational Structure and Work Procedures, Procedures for Appointment and Dismissal, and Budget Notary Supervisory Council (Permenkumham RI No. 16 of 2021) and Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 17 of 2021 concerning Duties and Functions, Terms and Procedures for Appointment and Dismissal, Organizational Structure, Work Procedure, and Budget of the Notary Honorary Council (Permenkumham No. 17 of 2021), as well as other Permenkumham related to the appointment and implementation of the duties of a Notary.

## **C. Result and Discussion**

### **1. Result**

Notaries have the obligation to act professionally in carrying out their duties as public officials or as holders of certain positions who carry out the profession in legal services to the public (Article 16 paragraph 12 letter n UUJN). In building Notary professionalism, the Government's role is needed in providing guidance and supervision of Notary performance, as well as a role in providing information technology-based collective means to realize fast and reliable Notary legal services. The government in question is: the President of the Republic of Indonesia together with the House of Representatives, the Ministry of Law and Human Rights of the Republic of Indonesia (Kemenkumham RI), assisted by the Notary Supervisory Council and the Notary Honorary Council. Following are some of the roles of each agency as regulated in the legislation.

### **3.1 The Role of the President of the Republic of Indonesia and the House of Representatives**

The President of the Republic of Indonesia together with the House of Representatives decided to stipulate Law of the Republic of Indonesia Number 30 of 2004 concerning the Position of Notary and Law of the Republic of Indonesia Number 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning the Position of a Notary. In these laws and regulations, it is

explained in detail about the position of a Notary, one of which is regarding the authority, obligations, and prohibitions of the position of a Notary. Also explained that a Notary as a public official who carries out his profession in providing legal services to the public, needs to get protection and guarantees in order to achieve legal certainty. These laws and regulations are used as guidelines for Notaries in carrying out their duties and responsibilities.

### **3.2 The Role of the Ministry of Law and Human Rights of the Republic of Indonesia**

The Minister of Law and Human Rights of the Republic of Indonesia (Menkumham) also plays a role in building Notary professionalism. Notaries are supervised by the Menkumham, so the Menkumham forms a Notary Supervisory Council (Article 2 of the Minister of Law and Human Rights of the Republic of Indonesia No. 16 of 2021). The Notary Supervisory Council consists of the Regional Supervisory Council, Regional Supervisory Council, and the Central Supervisory Council (Article 3 paragraph (1) of the Minister of Law and Human Rights of the Republic of Indonesia No. 16 of 2021). The Minister of Law and Human Rights also forms a Notary Honorary Council, in order to carry out guidance to Notaries for the benefit of the judicial process, investigators, public prosecutors, or judges (Article 2 Permenkumham RI 17 of 2021). The Notary Honorary Council consists of the Central Notary Honorary Council and the Regional Notary Honorary Council (Article 3 Permenkumham RI 17 of 2021). Besides that, The Minister of Law and Human Rights also plays a role in the appointment and dismissal of Notaries (Article 2 UUJN and Indonesian Minister of Law and Human Rights No. 19 of 2019 concerning Terms and Procedures for Appointment, Leave, Transfer, Dismissal, and Extension of Notary Term), where in the Permenkumham there are provisions regarding the obligations of Notary candidates. to attach a certificate of Notary Position Quality Improvement Training (PPKJN). PPKJN is held as a form of moral obligation from the Government through the Ministry of Law and Human Rights to be able to appoint qualified notaries. where in the Permenkumham there is a provision regarding the obligation of prospective Notaries to attach a certificate of Notary Office Quality Improvement Training (PPKJN). PPKJN is held as a form of moral obligation from the Government through the Ministry of Law and Human Rights to be able to appoint qualified notaries. where in the Permenkumham there is a provision regarding the obligation of prospective Notaries to attach a certificate of Notary Office Quality Improvement Training (PPKJN). PPKJN is held as a form of moral obligation from the Government through the Ministry of Law and Human Rights to be able to appoint qualified notaries. 60 of 2016 concerning Regulation of the Minister of Law and Human Rights concerning Procedures for Reporting Wills and Applications for Issuance of Electronic Will Certificates. Technically, all these matters are handled by the Directorate General of General Administration (DG AHU) which always follows the development of the industrial revolution 4.0 era through the development of 60 of 2016 concerning Regulation of the Minister of Law and Human Rights concerning Procedures for Reporting Wills and Applications for Issuance of Electronic Will Certificates. Technically, all these matters are handled by the

Directorate General of General Administration (DG AHU) which always follows the development of the industrial revolution 4.0 era through the development of AHU Online (<https://ahu.go.id/>).

### **3.3 The Role of the Notary Supervisory Board**

The Notary Supervisory Board supervises and examines Notaries who have been proven to have violated the duties of a Notary Public. Notaries must be supervised and checked by members of the Supervisory Board who understand the world of Notaries. In general, the Supervisory Board has the following authorities: (Article 27 of the Minister of Law and Human Rights of the Republic of Indonesia No. 16 of 2021)

1. Guidance and supervision of Notaries as well as conducting examinations of alleged violations of the behavior and implementation of the Notary's position;
2. Administration which does not require the approval of the Supervisory Board meeting;
3. Administration which requires the approval of the Supervisory Board meeting; and
4. Routine checks.

The authority of the Supervisory Council at each level, namely the regional, regional, and central levels is explained in detail as follows: The Regional Supervisory Council has the authority as regulated in UUJN, among others:

1. Hold a hearing to examine the alleged violation of the Notary's Code of Ethics or violations of the implementation of the Notary's position;
2. Conduct inspections of the Notary Protocol periodically 1 (one) time in 1 (one) year or at any time deemed necessary;
3. Give leave permission for a period of up to 6 (six) months;
4. Determining the Substitute Notary Public by taking into account the proposal of the Notary concerned;
5. Determine the place of storage of the Notary Protocol which at the time of handover of the Notary Protocol is 25 (twenty five) years old or more;
6. Appoint a Notary who will act as the temporary holder of the Notary Protocol who is appointed as a state official as referred to in Article 11 paragraph (4);
7. Receive reports from the public regarding alleged violations of the Notary Code of Ethics or violations of the provisions of this law; and
8. Prepare and submit reports as referred to in letter a, letter b, letter c, letter d, letter e, letter f, and letter g to the Regional Supervisory Council.

In addition to the Regional Supervisory Council, there is also a Regional Supervisory Council with several authorities regulated in Article 73 paragraph (1) of the UUJN, which are as follows:

1. Hold a session to examine and make decisions on public reports that can be submitted through the Regional Supervisory Council;
2. Summon the reported Notary Public for inspection of the report as referred to in letter a;
3. Giving leave permission for more than 6 (six) months to 1 (one) year;

4. Examine and decide on the decision of the Regional Supervisory Council which rejects the leave proposed by the reporting Notary;
5. Giving sanctions both verbal warnings and written warnings;
6. Propose sanctions against Notaries to the Central Supervisory Council in the form of:
  - a. Temporary suspension for 3 (three) months up to 6 (six) months; or
  - b. Disrespectful dismissal.

Then the Central Supervisory Council also has the authority related to the position of a Notary as stated in Article 77 of the UUJN, namely:

1. Holding hearings to examine and make decisions at the level of appeal against the imposition of sanctions and refusal of leave;
2. Summon the reported notary to carry out the examination as referred to in letter a;
3. Imposing a temporary dismissal sanction; and
4. Proposing sanctions in the form of dishonorable dismissal to the minister.

The combined membership of the Notary Supervisory Board is expected to provide a synergy of objective supervision and inspection, so that any supervision is carried out based on the applicable legal rules, and Notaries in carrying out their duties do not deviate from the Notary Position Act (UUJN).

### **3.4 The Role of the Notary Honorary Council**

The Notary Honorary Council is a body that has the authority to carry out the guidance of a Notary and the obligation to give approval or rejection for the purposes of the investigation and judicial process, for taking a photocopy of the minutes of the deed and summoning a Notary to attend an examination related to the deed or Notary Protocol which is in the Notary's custody. (Article 1 point 1 Permenkumham RI 17 of 2021). The Notary Honorary Council consists of the Central Notary Honorary Council domiciled in the State Capital and the Regional Notary Honorary Council domiciled in the Provincial Capital (Article 3 Permenkumham RI 17 of 2021). The task of the Central Notary Honorary Council in accordance with Article 22 of the Minister of Law and Human Rights of the Republic of Indonesia 17 of 2021 is to provide guidance to Notaries in the context of carrying out the duties and functions of the Notary Honorary Council and to the Regional Notary Honorary Council related to the duties and functions of the Regional Notary Honorary Council. In carrying out this guidance, the Central Notary Honorary Council has the following functions:

1. conduct socialization and briefing to Notaries regarding the duties and functions of the Notary Honorary Council; and
2. supervise and monitor the implementation of the duties and functions of the Regional Notary Honorary Council.

The Central Notary Honorary Council has the authority to:

1. give approval to members of the Central Notary Honorary Council to carry out guidance and supervision of the implementation of the duties and functions of the Regional Notary Honorary Council;
2. request a monthly report from the Regional Notary Honorary Council;
3. sign the administrative correspondence; and
4. coordinate members and secretariat of the Central Notary Honorary Council.

Meanwhile, the Regional Notary Honorary Council has the following duties:

1. conduct examination of applications submitted by investigators, public prosecutors, or judges; and
2. give approval or rejection of requests for approval to take a photocopy of the minutes of deed and summon a Notary to be present in the investigation, prosecution, and judicial process, and has the function:
  - a. maintain the dignity and honor of the Notary in carrying out his profession; and
  - b. provide protection to the Notary in relation to the Notary's obligation to keep the contents of the deed confidential.

## **2. Discussion**

Violations committed by Notaries are becoming more and more common, both violations with certain motives and violations due to the negligence of the Notary himself which in the end has violated the code of ethics. Notaries are required to uphold professionalism in their work. Various government efforts in preventing the occurrence of notary violations are by establishing laws and regulations regarding the position of a Notary, forming a Supervisory Council and the laws and regulations that govern it, conducting coaching and monitoring efforts, as well as routine inspections.

Efforts made by the government in following up on notary violations are by giving sanctions as a follow-up to violations. In terms of follow-up to violations committed by a Notary, there is coordination between the Supervisory Council from the regional, regional and central levels as well as the Menkumham. The Regional Supervisory Council is tasked with receiving, making, and submitting reports of violations from the public as well as holding hearings to examine alleged violations. The Regional Supervisory Council is tasked with summoning the reported Notary, holding hearings to examine and make decisions based on the Regional Supervisory Council report, giving sanctions in the form of written warnings, and proposing sanctions to the Central Supervisory Council.

The role of the Ministry of Law and Human Rights in increasing the professionalism of notaries is not only in terms of coaching and supervising the implementation of positions or ethics (code of ethics). The Directorate General of AHU has provided information technology-based facilities (AHUOnline) for Notaries in carrying out their authority, so that the professional commitment of Notaries will not be hindered by bureaucratic structural constraints which are usually slow and corrupt in character. The breakthroughs made by the Ministry of Law and Human Rights are a challenge for Notaries to be able to demonstrate their pure ability,

understanding, and skills in providing legal services to the community. Notaries are no longer able to give reasons because of the slow response from the Ministry of Law and Human Rights to their clients.

Violations with certain motives or negligence of a Notary still violate the code of ethics, so that the roles of government agencies are needed so that the professionalism of a Notary can be built. A professional notary can certainly increase public trust in using his services, especially with the support of reliable information technology.

#### **D. Conclusion**

Notaries are required to be professional in carrying out their duties and obligations. Therefore, in working a Notary must be guided by the Notary Professional Code of Ethics and UUJN. To prevent violations of the code of ethics and office violations as well as to improve the quality of notarial services, the Government Institution, in this case the President of the Republic of Indonesia together with the House of Representatives and the Ministry of Law and Human Rights, assisted by the Notary Supervisory Council (Regional, Regional, Central) and the Notary Honorary Council (Central Government). and Regions) carried out various efforts, namely: establishing UUJN, Regulations on the Establishment of the Notary Supervisory Council and Notary Honorary Council, Regulations on the Use of AHU Online, conducting guidance and supervision efforts, as well as regular inspections of Notaries. If the Notary violates the code of ethics, then the agency seeks to impose sanctions as a follow-up to the violation. Efforts to prevent and follow up on complaints of violations are carried out so that Notaries always act professionally, coupled with AHU Online support for Notaries in carrying out their positions. Based on these conclusions, in supporting the success of the Government's efforts, it is necessary to have coordination between government institutions, the community, and the Notary himself as well as the support of information technology so that the laws and regulations are still complied with which in the end can form a professional attitude towards the Notary. coupled with AHU Online support for Notaries in carrying out their positions. Based on these conclusions, in supporting the success of the Government's efforts, it is necessary to have coordination between government institutions, the community, and the Notary himself as well as the support of information technology so that the laws and regulations are still complied with which in the end can form a professional attitude towards the Notary.

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