



ANALYSIS OF PROFESSIONAL ETHICS VIOLATIONS IN NOTARY PRACTICE CASE STUDY IN KISARAN CITY

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Abstract

Violation. Ethics. Profession. Notary Public. can occur. In. Various forms, ranging from non-compliance with obligations to maintain confidentiality, permission from authorities, to making deeds that do not comply with legal procedures. Many factors can trigger this violation, such as a lack of understanding of the code of ethics, economic pressure, and conflicts of interest. The impact of these violations not only harms the image of the notary profession, but also has the potential to reduce public trust in legal institutions as a whole. This research adopts a normative-juridical method, which involves literature study and analysis of secondary data. Data that includes secondary sources such as statutory regulations, scientific journals, research results, and so on is an important reference in understanding the authority of Article 67 paragraph (1) of the Law on the Position of Notaries (UUJN) which states that supervision of notaries is carried out by the Minister. In carrying out this supervision, the Minister formed a Notary Supervisory Council which is tasked with ensuring notary compliance with applicable regulations. Supervising notaries is a Supervisory Council created by the Ministry of Law and Human Rights. This institution consists of the Regional Supervisory Council (MPD), Regional Supervisory Council (MPW), and Central Supervisory Council (MPP). According to I Gede A.B. Wiranata, there are eight factors that can influence the decline in morality in the legal profession. These factors include profession, business orientation in carrying out the profession, lack of social awareness and care, stagnation in the justice system, influence of position, consumer lifestyle, weak faith, and the influence of family characteristics. If a notary is involved in violations such as falsifying client data, making deeds that favor one party, or providing false information to clients, this can threaten his career. The client has the right to report the action to the Honorary Council to provide sanctions to the notary in accordance with the applicable code of ethics. Apart from that, clients can also report these actions to the police, which could potentially result in criminal legal consequences for the notary concerned. Therefore, notaries are obliged to carry out their duties based on a professional code of ethics. In general, the position of a notary is regulated in Law Number 30 of 2004 concerning the Position of Notaries, which has been updated through Law Number 2 of 2014, and based on the guidelines contained in the Notary Code of Ethics prepared by the Indonesian Notary Association (INI) in 2005 and updated in 2015.



Keywords: Violations, Ethics, Notary, Profession

1. INTRODUCTION

Notaries have the authority which is one of the professions that play a role As a public official, notaries have an important role in various aspects of legal and social life of the community to produce legal security for the community and support law enforcement.

This profession emerged as a result of interaction between communities that continue to develop to fulfil their needs.

In its capacity, Notaries have a preventive role to avoid legal problems that are often overcome through the issuance of authentic aka, which functions as a strong means of written evidence. Aka this contributes significantly in resolving conflicts if there is a dispute in the future. The position of notaries in Indonesia is regulated in Law Number 2 of 2014, which is a revision of Law Number 30 of 2004 concerning Notary Positions (hereinafter referred to as UUJN).

A notary is a public official who is authorised to compile an authentic deed, as long as the making of the aka is not included in the authority of other public officials.

The manufacture of authentic aka is generally regulated by laws and regulations to ensure the certainty of law, order, and public protection. As a public official who is given authority based on the law, the notary is expected to carry out his duties in accordance with the applicable provisions.

In addition to being bound by the Notary Office Act (UUJN), Notaries must also follow the moral standards set by their professional organisations, such as the Indonesian Notary Association (INI) or other similar organisations. This code of ethics serves as a moral and professional guideline for notaries in carrying out their duties, Notaries are often faced with various problems, ranging from conflicts between fellow Notaries, to agreements that are difficult to reach between the parties in the preparation of agreements. If these issues are not handled wisely and outside the legal line, the perception that the Notary only functions as a deed maker can arise. The stigmatisation that considers Notaries as ordinary employees is a phenomenon that is difficult to look down on. This view is getting stronger, especially if the Notary's actions do not reflect compliance with applicable laws.

With the formal legality possessed, the Notary should be able to create order in society, not interfere with existing legal norms and codes of ethics. The role of Notaries is very important in national and global life, because they are authorised by law to compile authentic documents and other official documents. Therefore, Notaries are expected to also be subject to various applicable regulations, as well as applying Notaries in Indonesia must apply the code of ethics set by the Indonesian Notary Association (INI), which aims to maintain integrity, professionalism, and public trust in the notary profession. Two important versions of the code of ethics in this context are the 2005 INI Code of Ethics and the 2015 INI Code of Ethics

In addition to having authority, notaries also have obligations and prohibitions that must be obeyed. The authority of a notary in carrying out his duties and positions is regulated in Article 15 paragraph (1) to paragraph (3) of the UUJN, while his obligations are regulated in Article 16 paragraph (1) of the UUJN.

The prohibition for notaries is regulated in Article 17 paragraph (1) of the UUJN. Based on Article 16 paragraph (1), the notary must act fairly, independently, honestly, responsibly, and professionally without taking sides or being influenced by any party.



This rule aims to increase public trust in notaries. This trust is getting stronger because the public knows that there is a guarantee of legal certainty to protect their interests. In addition, this rule also functions as a means of social control in community life.

2. RESEARCH METHOD

This research uses a normative-juridical method, namely an approach carried out through literature study by analyzing various secondary data. Secondary data analyzed includes statutory regulations, scientific journals, research or study results, as well as other secondary sources. This research adopts a deductive method, which begins by drawing conclusions from general principles and then summarizing them into more specific issues. This method is very useful in analyzing various legal instruments that regulate the code of ethics of notaries in Indonesia, including aspects of supervision and legal settlements related to violations of the code of ethics.

The approach used in this research is a statutory approach. In this approach, the author analyzes all regulations that are relevant to the legal problems studied. The aim of this approach is to research and evaluate the effectiveness of the implementation of the regulation of the notary code of ethics in Indonesia, as well as how the mechanism for monitoring and legal resolution of violations of the code of ethics works.

Secondary legal materials used include statutory regulations, books, scientific papers, as well as research results that are relevant to the research object. Secondary data collection can also be done through legal articles or other scientific articles available on the internet as supporting sources to complete research data. The data obtained from this research will be analyzed qualitatively, namely with a holistic, in-depth and comprehensive approach to the library data. The use of qualitative methods is based on the characteristics of the data which are diverse and have differences in each type, making it difficult to carry out quantitative research. This method allows for more in-depth analysis and is flexible in understanding the data comprehensively.

Notary is a very noble legal profession (*nobile officium*), which has a close relationship with humanitarian aspects. A deed made by a notary can become a legal basis that regulates the status of a person's property, rights and obligations. As a noble profession, notaries must maintain noble professional morality, which requires clarity, high moral strength, integrity and good behavior. both inside and outside their official duties.

Discussions about ethics cannot be separated from moral philosophy related to integrity and behavior, which originates from the conscience of each individual. In the context of the notary profession, professional ethics play an important role in the formation of personal character and morals, which must be reflected in all notary actions and behavior. Therefore, it is hoped that the application of the notary code of ethics can create notaries who have integrity, are professional, uphold honor and dignity, and play an active role in social life. footnote

3. RESULTS AND DISCUSSION

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a. How to Resolve Violations of Professional Ethics in Notary Practice

The philosophy behind both codes of ethics. This notary has a duty and is to maintain the honor and dignity of the notarial profession, which is very important in carrying out its duties, because the notary plays a role as a public official who has a big responsibility in providing legal certainty through making authentic deeds covering various aspects, including Notary obligations, prohibitions, sanctions, and other provisions. Thus, enforcement of the code of ethics functions as a control mechanism for the implementation of professional ethical values. This code of ethics is also a self-regulatory tool supervised by an Honorary Council which has a supervisory structure at regional, regional and central levels.

Efforts to increase the honesty and integrity of Notaries are very important to support and encourage better government policies in integrating licensing services through electronic systems or online single submission (OSS). To carry out their duties as public officials well, Notaries need preventive and curative guidance and supervision, so that they can continue to improve their professionalism and quality of work in order to create legal certainty and protection for all parties who receive their services.

Article 67 paragraph (1) UUJN explains that the institution responsible for supervising Notaries is the Supervisory Board formed by the Ministry of Law and Human Rights, which consists of the Regional Supervisory Board (MPD), Regional Supervisory Board (MPW), and Central Supervisory Board. Council (MPP). I Gede A. B. Wiranata mentioned eight factors that can reduce the morality of the legal profession, including abuse of the profession, commercialization of legal activities, lack of social awareness, continuity of the justice system, influence of position, consumerist lifestyle, and faith factors. and family harmony.

Sanctions for notaries who ignore their dignity and duties are regulated in various provisions, including:

1. Article 8 paragraph (1) of Law Number 30 of 2004 concerning the Position of Notaries regulates the dismissal of Notaries from their positions with respect;
2. Article 38 to Article 69 of the Minister of Law and Human Rights Regulation Number 25 of 2014 which regulates the conditions and procedures for appointment, transition, dismissal and extension of the term of office. Notaries who violate the code of ethics can be subject to sanctions that lead to criminal acts, which are divided into two forms:
3. Civil legal responsibility, if the Notary makes a mistake due to default as intended in Article 1234 of the Civil Code or an unlawful act as regulated in Article 365 of the Civil Code which causes losses to clients or other parties;
4. Criminal legal liability, if the Notary commits an act that is prohibited by law or commits an unlawful act either intentionally or through negligence, which also results in loss to another party.

Apart from responsibilities in the fields of civil and criminal law, Notaries can also be subject to sanctions in the field of administration and professional code of ethics which can lead to disciplinary action. According to Article 6 paragraph (1), sanctions for violations of the code of ethics can be in the form of:

1. Reprimand
2. Warning



3. Temporary suspension of membership in an association
4. Dismissal from association membership
5. Dismissal in a dishonorable manner from association membership

What Are The Violations That Violate The Code Of Ethics In Notary Practice

In the legal world, the Notary profession has a very crucial role, thanks to its authority and responsibility in providing authentic deed making services. Deeds made in writing by this Notary have legal consequences that are their full responsibility. Therefore, Notaries must uphold the Notary Code of Ethics and the Law on Notary Positions in carrying out their duties. As a legal service provider, Notaries function to guarantee clear legal protection for their clients. In carrying out its functions, he is obliged to be responsible for all legal consequences that may arise from the legal products it produces. Notaries also function as public officials who are obliged to prioritise the client's interests over personal interests.

One of the important attitudes that a Notary must have is professionalism. This means that the Notary must carry out his duties responsibly, prioritise the client's interests over personal interests, and be fair to all his clients regardless of the condition. Thus, Notaries not only maintain their honour and dignity as a public official, but also contribute in creating legal certainty through the products they produce. A Notary in addition to having a professional attitude also needs to prioritise his conscience in providing legal services to his clients. In carrying out its duties, Article 16 Paragraph (1) of the Notary Position Act (UUN) regulates several obligations that must be fulfilled by the Notary, which are as follows:

1. Behave trustworthy, meticulous, honest, impartial, independent, and protect the interests of all parties involved in legal acts;
2. Storing Deed News as part of the Notary protocol;
3. Include documents and fingerprints in the Deed Event News;
4. Publish a copy of the deed;
5. Provision of services in accordance with the applicable legal provisions;
6. Maintain the confidentiality of all information regarding the deeds made;
7. Binding deed made within one month;
8. Make a list of protest deeds;
9. Compiling a list of will needs;
10. Send a list of will deeds;
11. Write the daftar of the will at the end of each month;
12. Have a hat or stamp;
13. Mention the deed in front of two witnesses;
14. Allowing Notary candidates for internships.

On the other hand, if a Notary engages in unprofessional behaviour, such as falsifying client data, making a deed that benefits one of the parties, or providing false information to the client, this can be a dangerous signal for his reputation. The client has the right to report the action to the Honour Board which can give sanctions in accordance with the Notary's code of ethics. Not infrequently, the despicable act can also be reported to the police for follow-up on more serious legal issues. Therefore, the ethics and behaviour of a Notary in carrying out his duties are very important as a guideline.

In accordance with Article 17 Paragraph (1) of the UUN, there are prohibitions that must be considered by the Notary, including:

- A. Carrying out tasks outside the work area;



- B. Leaving the work area without a clear reason for more than seven consecutive days is a serious violation in the context of the notary profession
- C. Concurrently as a Civil Servant (PNS);
- D. Concurrently as a state official;
- E. Function as an advocate;
- F. Concurrently as the leader of a State-Owned Enterprise (BUMN), Regionally Owned Enterprise (BUMD), or a private company;
- G. Concurrently as a Land Deed Making Officer (PPAT) or Auction Official outside his work area;
- H. Become a substitute Notary;
- I. Me. Performing other work that is contrary to religious norms, decency, and decency

From the explanation above, the implementation of the notary code of ethics is very crucial. Because, the enforcement of the code of ethics is the main foundation to maintain the commitment and integrity of a Notary. The consistent application of a code of ethics will reflect compliance with ethical principles in this profession. This is the only thing that can maintain and Holding the intellectual qualities of a notary is very important to ensure that they can provide the best service to the community. Intellectual qualities include the knowledge, skills, and professional attitudes necessary to properly carry out the duties of a notary.



Picture1. Notary Office



List of Interviews with Mr. Abdul Aziz Manurung S.H.,M.Kn as the owner of the Notary office.

1. In carrying out its duties, a notary must comply with several basic principles that are the foundation of ethics and professionalism in their profession?

Answer: The basic principle has been regulated in Law No. 30 Year 2004 About the position of Notary. Among them are Independence and impartiality, Confidentiality, Legality, Professionalism, Honesty and Integrity, Responsible duty, Fair service.

2. Is there a case of violation of the Code of Ethics in Notary Practice here, and if there is a violation, what is it like?

Answer: This Notary Office is an individual office, so even if there is, you are the one who did it yourself, but thank God it has never been caught and hopefully it will never be caught, and if it is for any violation, it can also be seen in the Notary Position Law which is like you said earlier, maybe what is done is Doing excessive promotion, Siding with one of the parties, Abuse of authority, Administrative Violations.

3. Are there any sanctions that are usually given to the notary for violating the code of ethics?

Answer: The sanction may be in the form of reprimand, suspension, and the worst of the revocation of membership in professional organisations.

4. CONCLUSION

In the legal world, the Notary profession has a very crucial role, thanks to its authority and responsibility in providing authentic deed making services. Deeds made in writing by this Notary have legal consequences that are their full responsibility. Therefore, Notaries must uphold the Notary Code of Ethics and the Law on Notary Positions in carrying out their duties. As a legal service provider, Notaries function to guarantee clear legal protection for their clients. In carrying out its functions, he is obliged to be responsible for all legal consequences that may arise from the legal products it produces. Notaries also function as public officials who are obliged to prioritise the client's interests over personal interests.

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Picture 2. Photos Together

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