

LEGAL ANALYSIS OF THE ROLE OF THE REGIONAL ASSEMBLY IN THE MONITORING OF NOTARIES AFTER AMENDMENT OF LAW NO. 2/2014

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Abstract: Notaris, a specialized position appointed by the state, must adhere to the law in its activities. An institution is responsible for implementing and overseeing notaries in a specific region (district/city) to ensure that notaries do not violate their duties. Thus, establishing a Regional Supervisory Council is essential to act as the vanguard in conducting guidance and supervision of notaries. The research methodology employed is juridical-empirical, with a descriptive analysis specification. The findings reveal that the role of the Regional Supervisory Council in guiding and overseeing notaries in Semarang Regency is based on Ministerial Regulations and decisions, and its actions are grounded in the Notary Law, specifically Article 70 of Law No. 2 of 2014, an amendment to Law No. 30 of 2004 concerning the Position of Notary Public. Challenges faced by the Regional Supervisory Council for Notaries in executing its authority are twofold. Internally, there are constraints related to minimal budgeting, limited supporting facilities, and the busy schedules of each official. Externally,

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challenges include several notaries lacking permanent offices, the coexistence of signboards for Land Deed Officials with notaries, which should be separate, and the disorganized arrangement of notarial protocols.

Notaris merupakan jabatan khusus dari negara dituntut untuk tunduk pada undang-undang dalam kegiatannya, terdapat suatu badan yang mempunyai kewenangan dan kewajiban dalam melaksanakan dan pengawasan notaris di daerah (Kabupaten/kota) agar notaris tidak melakukan pelanggaran dalam menjalankan tugas jabatannya maka perlu adanya Majelis Pengawas Daerah sebagai garda depan dalam melaksanakan Pembinaan dan Pengawasan terhadap notaris Metode dalam penelitian ini adalah yuridis empiris, spesifikasi yang digunakan bersifat deskriptif analisis (1). Hasilnya, peran Majelis Pengawas Daerah dalam pembinaan dan pengawasan notaris di wilayah Kabupaten Semarang dalam menjalankan tugas mengacu pada Peraturan Menteri, keputusan menteri dan untuk dasar tindakannya mengacu pada undang-undang jabatan notaris pada Pasal 70 Undang-Undang No 2 Tahun 2014 perubahan atas Undang-Undang No 30 Tahun 2004 Tentang Jabatan Notaris Kendala yang di hadapi oleh Majelis Pengawas Daerah Notaris dalam melaksanakan kewenangannya. bersifat intern meliputi: anggaran yang minim, sarana penunjang yang terbatas dan kesibukan masing-masing pengurus. lalu yang bersifat ekstern adalah beberapa Notaris yang belum mempunyai kantor tetap, masih terdapat papan nama Pejabat Pembuat Akta Tanah (PPAT) dengan Notaris, yang seharusnya tandanya dipisah dan protokol notaris yang tidak tertata rapi.

Keywords: Regional Supervisory Council; Notary; Semarang Regency.

INTRODUCTION

Legal actions or legal events in society, both public and civil, in order to guarantee order, certainty and legal protection require authentic written evidence regarding actions, agreements, stipulations and legal events made before or authorized officials (Darus & Luthfan, 2017) which complies with the provisions of Article 1868 of the Civil Code which reads an authentic deed is a deed in the form determined by law made by or before a public official who is authorized to do so at the place where the deed was made (Handayani et al., 2019) officials authorized to make authentic deeds are called notaries.

According to Law Number 2 of 2014 concerning amendments to Law Number 30 of 2004 concerning the Office of a Notary, Article 1 number 1 states that a Notary is a public official authorized to make authentic deeds and has other authorities as referred to in this law or based on other laws. (Umbara, 2014) with this basis, the person who is appointed as a Notary must have the enthusiasm to serve the community where the functions and roles of the Notary will become increasingly complex and develop inseparable from legal services and products that have value and weight that the Notary can be accountable to him.

It can be said that the position of Notary is a position of trust. This position of trust given by law and society requires that a person who works as a Notary is responsible for carrying out this trust as well as possible and upholding legal ethics, dignity for the nobility of his position, if that trust is violated either in making a deed intentionally or unintentionally. If it is intentional, the Notary is obliged to take responsibility for it because the

Notary is not subordinated to anyone except by laws and regulations, decency, and public order. Which is supported by the norms and values that grow in society and the professional ethics that apply within the environment of the notaries themselves. Independence from the independence of a notary, although not regulated specifically as impartiality, is considered by itself to be an essential feature and characteristic that must exist in this position so that the notary can carry out his position perfectly (Tirana, Abubakar, and Handayani 2019)

Considering that the role and authority of a Notary is very important for the flow of law in social life, the behavior, and actions of a Notary in carrying out the functions of authority are vulnerable to abuse which can cause harm to the community, so that institutions for fostering and supervising Notaries need to be made effective. These institutions are the Notary Supervisory Council, Notary Honorary Council, and Notary Honorary Council. The three institutions have different authorities as stated in the legal regulations governing them in accordance with the 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 Articles of the Notary Supervisory Board Provisions -This provision is one of the efforts to anticipate weaknesses and deficiencies in the supervisory system for Notaries, so it is hoped that in carrying out their professional positions, Notaries can further improve the quality of service to the community

Even though notaries are required to comply with the notary's position law and notary's code of ethics, there are still many phenomena that

occur in society. In fact, several areas based on the provisions of the General Legal Administration Directorate General of the Ministry of Law and Human Rights have been closed for notary formation considering the comparison ratio of notary formations is considered very crowded. The rapid growth of notaries, as reported on online legal sites, can lead to new problems that lead to unfair competition and violations of the notary's code of ethics. In this case the relation is the Notary's actions that deviate from the applicable provisions.

For example, the Regional Notary Honorary Council of Central Java Province, carried out inspection activities on 3 (three) Notaries to follow up on requests for approval from Law Enforcement Officials to summon Notaries to provide information and/or to take photocopies of minuta deed in the context of investigating alleged criminal acts. As for the Notaries who attended to fulfill the summons for examination, a total of three people came from Kudus Regency (1 Notary), Surakarta City (1 Notary), and Magelang City (1 Notary). In addition, there is 1 Notary from Kudus Regency who has been duly summoned 2 (two) times but still attends today's examination. (Jateng 2020)

The role of the Regional Assembly in monitoring notaries after the amendment of Law No. 2/2014 is a complex issue. Firmaniar (2020) emphasizes the importance of notaries complying with the law, while Chusana (2021) highlights the challenges faced by the Regional Supervisory Council in carrying out its supervisory duties. Farah (2018) discusses the legal protection of notaries under the amended law, suggesting the need for special training and an independent Notary Publicity Council. Yuliarti

(2018) explains that the Regional Supervisory Council cannot improve the professionalism of a notary in the region of because they found many violations of the code of conduct. Lahay (2020) description the lack of infrastructure due to the combination in 1 Supervisory Council at the regional level has implications for less effective and maximum supervision and guidance for notaries in Gorontalo Regency, and Aulia (2019) emphasizes the Notary Supervisory Board must be guided by existing regulations so they can carry out their positions properly (Chusana, Gunarto, and Setyawati 2021; Farah, Sukmaningsih, and Gunarto 2018; Firmaniar and Djajaputra 2020; Lahay 2020; Yuliarti and Purnawan 2018). These studies collectively underscore the need for effective supervision and legal protection of notaries, with a focus on the challenges and potential solutions in the post-amendment legal landscape.

Based on the example above, the notary can avoid legal problems that can bring down the notary institution as a public trust, especially in Semarang Regency. So, the presence of the regional supervisory board is required to be able to provide optimal legal guidance and protection for Notaries in a preventive or curative manner in carrying out their duties. Referring to this, the discussion that will be raised What is the role of the Regional Supervisory Council in fostering and supervising notaries in the Semarang Regency area according to Law No. 2 of 2014 amendment to Law No. 30 of 2004 concerning the Position of Notary and What are the constraints faced by the Regional Notary Supervisory Board in exercising their authority.

METHOD

The research method used in discussing the problemstudy This is method approach juridical empirical (Susilo and Suseno 2019). Juridical empirical is a legal research method that seeks to see the law in a real sense or can be said to see, researching, How it works law in community (Efendi and Ibrahim 2018), then to be applied to the research problem, namely the role of the Regional Supervisory Council in the guidance and supervision of notaries in the Semarang Regency area according to Law No. 2 of 2014 amendments to Law No. 30 of 2004 Concerning the Position of Notaries and the obstacles faced in exercising their authority so that the presentation stems from on the principles and theories and doctrines as well as legislation (Moor Ahmad Shamsul bin Abd. 2011), which applies according to Roescoe Pound "Law as a toll of social engineering" law functions as a means of social engineering where comprehensive statutory regulations can create effective protection of the rights of citizens who must follow existing developments, including following world developments. According to Lawrence M. Friedman argued that the effectiveness and success of law enforcement depends on the combination of 3 components (Mashdurohatun, Susilo, and Bawono 2021). Law will play a good role when the three subsystem aspects which are structure, substance and legal culture interact with each other and play a role according to their functions, so that the law will work in harmony and balance.

RESULT AND DISCUSSION

The Role of the Regional Supervisory Board

In carrying out the guidance and supervision of the Regional Supervisory Board, the Semarang Regency carries out preventive activities which are supervision carried out before implementation, this means that supervision has been carried out since it was still a plan. Through this understanding preventive supervision is intended to avoid possible mistakes and curative supervision is carried out in the form of suspension, postponement, and cancellation, with the intention of correcting if an error occurs and evaluation can be carried out. Suspensions and cancellations are made if they conflict with higher laws and regulations. including coaching activities carried out referring to Ministerial Regulations, ministerial decrees and for the basis of action referring to the notary office law. In Chapter IX Supervision, the first part of Article 68 reads: The Supervisory Board as referred to in Article 67 paragraph (2) consists of regional supervisory council; regional supervisory council; and central supervisory council.

The membership of the Regional Supervisory Council consists of elements as referred to in Article 67 paragraph (3), namely nine people, consisting of three government elements; Notary organizational elements of three people; and three expert/academic elements in Semarang Regency which were strengthened in the appointment procedure in Article 10 of the 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 Appointments and Dismissals, and Budget of the Notary Supervisory Board which reads: (1) members of the regional supervisory council as referred to in article 4 consist of: three people from

elements of the government proposed by the head of the legal services and human rights division at the regional office within the regional office and/or from the local regional government; three people from elements of the notary organization proposed by the regional management of the Indonesian Notary Association; and three) people came from experts/academicians who were proposed by the dean of the law faculty or the head of the local law high school appointed by the Head of the Regional Office; (2) If a district/city does not have a law faculty or law high school as referred to in paragraph (1) letter c, the Head of the Regional Office on behalf of the Minister may appoint experts/academicians from other regions; (3) the proposal as referred to in paragraph (1) is carried out by each element based on the request of the Head of the Regional Office within a maximum period of 30 (thirty) Days from the date the request is received.

Article 12 reads: (1) Members of the Regional Supervisory Council as referred to in Article 5 consist of three people from government elements, including head of regional office, head of legal services and human rightsdDivision at the regional office, and one person from the government element proposed by the head of the regional office, three people from elements of the Notary Organization proposed by the Regional Management of the Indonesian Notary Association; and three people came from experts/academicians who were proposed by the dean of the law faculty or the head of the local law high school appointed by the Head of the Regional Office; (2) the Head of the Regional Office and the Head of the Legal Services and Human Rights Division at the Regional Office as referred to in paragraph (1) letter a number 1 and number 2 because of their ex officio

position are members of the Regional Supervisory Council; and (3) the proposal as referred to in paragraph (1) is carried out by each element based on the request of the Director General within a maximum period of thirty Days from the date the request is received

The structure of the members of the Regional Supervisory Council is based on the Decree of the Central Java Ministry of Law and Human Rights Regional Office Number: W13.2021.KP.12.25 TAHUN 2021 on October 13, 2021, among others, is as follows:

Table 01 - members of the Regional Supervisory

a. Triyono	Faculty of Law, Diponegoro University
b. Adhi Budi Susilo	Faculty of Law, Ngudi Waluyo University
c. Rochmani	Faculty of Law, Stikubank University
d. Listina Aryani	Semarang Regency Government
e. Budi Yuliarno	Kapas Ambarawa
f. Maksud	Ambarawa Prison
g. Asharinuha	District Notary Semarang
h. Rika Bidi	District Notary Semarang
i. Nani Ekawati D.S.	District Notary Semarang
j. Yacob Kingkin Kamandanu	MPD Secretary
k. Damuri	MPD Secretary Staff

Where the authority of the Regional Supervisory Council is as in the table 01: convene a hearing to examine allegations of violations of the Notary's Code of Ethics or violations of the performance of a Notary's office, examine the Notary Protocol periodically 1 (one) time in 1 (one) year or at any time deemed necessary, grant permission to leave for a period of up to

six months, appoint a Substitute Notary Public by taking into account the recommendation of the Notary concerned, determine the storage place for Notary Protocols which at the time of handover of Notary Protocols are 25 (twenty five) years old or more, 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), receive reports from the public regarding alleged violations of the Notary's Code of Ethics or violations of the provisions of this Law, and prepare and submit the reports referred to in letters to the Regional Supervisory Council.

With obligation: record in the register book included in the Notary Protocol by mentioning the date of inspection, the number of deeds and the number of private documents that were legalized and made since the date of the last inspection, make minutes of inspection and submit them to the local Regional Supervisory Council, with copies to the Notary concerned, the Notary Organization, and the Central Supervisory Council, keep the contents of the deed and the inspection results confidential, receive certified copies of the list of deeds and other lists from the Notary and keep them confidential, examine the public's report against the Notary and submit the results of the inspection to the Regional Supervisory Council within 30 (thirty) days, with copies to the reporting party, the Notary concerned, the Central Supervisory Council, and the Notary Organization, and submit an appeal against the decision to refuse leave.

In order to carry out and improve performance according to the provisions contained in Article 81 which reads "Further provisions regarding procedures for appointing and dismissing members, organizational structure

and work procedures, and procedures for examining the Supervisory Council are regulated by Ministerial Regulation" Law Number 2 of 2014 concerning Amendment to Law Number 30 of 2004 concerning the Position of Notary Public, the Republic of Indonesia Minister of Law and Human Rights Regulation Number 16 of 2021 concerning Organizational Structure and Work Procedures, Procedures for Appointment and Dismissal, as well as the Budget of the Notary Supervisory Board is found in Chapter III Procedures for Appointment and Dismissal of Members, section eight of Article 27 which reads: "The Supervisory Board has the authority to fostering and supervising notaries and conducting examinations of alleged violations of behavior and performance of notary positions, administration which does not require the approval of the Supervisory Board meeting, administration which requires the approval of the Supervisory Council meeting; and routine inspection." In Article 28 which reads: "The administrative authority of the Supervisory Board is carried out by the chairman, deputy chairman, or one member who is authorized based on the decision of the Supervisory Council meeting." In Article 29 which reads: "The authority of the Regional Supervisory Council which is administrative in nature which does not require the approval of the Regional Supervisory Council meeting as referred to in Article 27 letter b includes: grant a Notary leave permit for a period of up to 6 (six) months, determine a substitute Notary by taking into account the proposal of the Notary concerned, receive reports from the public regarding alleged violations of the Notary's code of ethics or violations of provisions in the Law, keep the contents of the deed and the inspection results confidential, receive certified copies of the list of deeds and other lists

from the Notary and keep them confidential, record in the register book included in the Notary Protocol by mentioning the date of inspection, the number of deeds and the number of private documents that were legalized and made since the date of the last inspection, and prepare and submit a report to the Regional Supervisory Board.”

In addition to the authority referred to in paragraph (1), the Regional Supervisory Council has the authority to issue a statement consisting of administrative information on the transfer of the Notary's work area, which includes: Notary conduite certificate, a statement regarding Notary leave, a statement stating that the Notary concerned has completed all of his obligations as a Notary in accordance with the provisions of the laws and regulations governing the position of a Notary, a statement regarding the number of notarial deeds; and certificate of Notary Protocol holder. A administrative statement of notary term extension, which includes recommendation letter for extending the Notary's term of office, and certificate of Notary Protocol holder. The certificate as referred to in paragraph (2) is valid for 1 (one) year from the time it is stipulated.

Article 30 reads: “The authority of the Regional Supervisory Council which is administrative in nature which requires the approval of the Regional Supervisory Council meeting as referred to in Article 27 letter c includes: holding a hearing to examine allegations of violations of the Notary's code of ethics or violations of the performance of a Notary's office; examine the Notary Protocol periodically 1 (one) time in 1 (one) year or at any time deemed necessary; determine the storage place for Notary Protocols which at the time of handover of Notary Protocols are 25 (twenty five) years

old or more; appoint a Notary who will act as the temporary holder of the Notary Protocol who is appointed as a state official; make minutes of inspection and submit them to the local Regional Supervisory Council, with copies to the relevant Central Supervisory Council, Notary Organization, and Notary Public; and examine the public's report against the Notary and submit the results of the inspection to the Regional Supervisory Council within a period of 30 (thirty) Days, with copies to the Central Supervisory Council, Notary Organization, the Notary concerned, and the reporting party.

After the supervision mentioned above, the Regional Notary Supervisory Board of Semarang Regency organizes evaluation and development of notaries throughout Semarang Regency which is a process, manufacture, method of development, renewal, efforts and actions or activities carried out efficiently and with good results (Syukurullah 2022). According to Ahmad Taneh, coaching is the assistance of a person or group of people aimed at a person or group of people through coaching so that they can develop skills and abilities for the creation of the expected desires (Manullang et al. 2022) which is carried out at the Dharma Satya Building, Regional Secretariat Complex, Semarang Regency. To 141 notaries with an agenda from the chairman of the Regional Supervisory Council

According to Triyono, it is intended to follow up on the results of examinations with notaries in Semarang Regency. According to him, evaluation and guidance have been regulated in statutory regulations, that every year the MPD must conduct an examination of all notaries in its working area (Suryono 2020) to be more "Professionalism must always be

maintained in providing services to the community. Don't let the notary get into trouble from the task he is carrying out."

According to Lawrence M. Friedman argued that the effectiveness and success of law enforcement depends on the combination of 3 components (Mashdurohatun 2016) the legal system that can be described, the legal structure is the part that gives form and limits to all parts of law enforcement agencies, so a good legal structure will not work well if it is not supported by the existence of legal substance (rules, norms and human behavior that are in a good system, as well as good legal substance, the benefits will not be felt if it is not supported by a good structure.

Furthermore, if the structure and substance are not supported by legal culture, which is an atmosphere of social thought and social power that determines how the law is used, avoided, or misused by society. The law interacts with each other and plays a role according to its function, so that the law will work in harmony and balance according to its function. (Susilo and Suseno 2019)

Obstacles faced by the Notary Regional Supervisory Board

In carrying out its authority the role of the Regional Supervisory Council. Theoretically, it originates from laws and regulations which are obtained through three ways, namely attribution, delegation, and mandate. This is seen from the opinions of experts, ten Berger, as quoted by Ridwan, argued that the way an authority is given and exercised by government organs, there are three kinds of sources of authority, namely attribution, delegation, and mandate. Willem Konijnenbelt (Konijnenbelt 2022) also has the same opinion as Berger that there are three kinds of sources of authority

(Munawaroh 2021) namely the granting of government authority by legislators to government organs. Some legislators are original and some are delegated (Wijianto 2022)

In simple terms, the level of public compliance with the law is an indicator of the functioning of the law. In Semarang Regency alone there are 141 Notaries spread across several locations. In carrying out supervision and coaching of Notaries in Semarang Regency which is carried out by the Regional Supervisory Board of Semarang Regency, the implementation does not always run smoothly according to what is regulated in the Law on Notary Positions, Regulations and Ministerial Decrees concerning Notary Supervision, as for the obstacles to supervision of Notaries in Semarang Regency, among others: in Semarang Regency there are still several Notaries who do not have a permanent office; there is still a nameplate for the Land Deed Making Officer (PPAT) with the Notary, where the sign should have been separated; lack of legal awareness of several Notaries in Semarang Regency, especially administrative disorder in submitting the Notary's monthly reports to the Notary's report; in holding a hearing to examine alleged violations of the Notary Code of Ethics or violations of the implementation of the position of a Notary, the Ministry of Law and Human Rights did not provide a budget for transportation to report the BAP to the MPW so that it was not optimal in handling inspections and reporting; when carrying out an inspection of the Notary Protocol periodically 1 (one) time in 1 (one) year or whenever deemed necessary, the budget from the Ministry of Law and Human Rights is very minimal for inspection official travel and is usually taken when there is a report, besides that there is still a Notary

whose BAP is not ready at the specified time, so the MPD has to wait for the filling to complete; where the Notary is less able to manage the time between Notary activities and examination time; notaries were also found not to be neat in making Notary Protocols and sometimes the Notary Protocols had not been copied in the Protocol book and were still written in pencil or with a correction-pen; completeness of facilities and infrastructure that still needs to be added, for example the Secretariat office is currently still attached to the Ambarawa Class IIA Lapas, Semarang Regency, obstacles encountered when carrying out supervision are that there are still many Notaries who neglect to collect monthly reports, or submit reports not on time so that the Notary Regional Supervisory Board has difficulty in recording and recapitulating the Notary Protocol; and obstacles that were also encountered in the implementation of supervision were that the Notary was not ready to be examined, there was a Notary who had just moved and was still cleaning up, so the inspection process did not go smoothly.

The steps taken by Semarang Regency to overcome these obstacles include: provide guidance and assistance to notaries who do not yet have an office; give a warning to notaries who still combine PPAT and notary nameplates; the MPD Semarang Regency in terms of imposing sanctions on a notary who violates the position of a notary is only in the form of a verbal warning and records it in the minutes of the notary's examination to be reported to the Regional Supervisory Council; if in the Notary's examination conducted by MPD Semarang Regency there are members who cannot attend for certain reasons, then they can be replaced by other members who are still in the member structure.

CONCLUSION

In carrying out the guidance and supervision of the Regional Supervisory Board, the Semarang Regency carries out preventive activities which are supervision carried out before implementation, this means that supervision has been carried out since it was still a plan. Through this understanding preventive supervision is intended to avoid mistakes that might occur, and curative supervision is carried out in the form of suspension, postponement and cancellation, with the intention of correcting if an error occurs and evaluation can be carried out which evaluation is carried out after supervision and constraints have been identified. faced by the Regional Supervisory Council of Semarang Regency do: provide guidance and assistance to notaries who do not yet have an office; Give a warning to notaries who still combine PPAT and notary nameplates; The MPD Semarang Regency in terms of imposing sanctions on a notary who violates the position of a notary is only in the form of a verbal warning and records it in the minutes of the notary's examination to be reported to the Regional Supervisory Council; If in the Notary's examination conducted by MPD Semarang Regency there are members who cannot attend for certain reasons, then they can be replaced by other members who are still in the member structure. [W]

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