



Journal Homepage: -www.journalijar.com

INTERNATIONAL JOURNAL OF ADVANCED RESEARCH (IJAR)

Article DOI:10.21474/IJAR01/16239
DOI URL: <http://dx.doi.org/10.21474/IJAR01/16239>



RESEARCH ARTICLE

LEGAL PROTECTION FOR A NOTARY SUSPECTED OF VIOLATING THE CODE OF ETHICS

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Manuscript Info

Manuscript History

Received: 10 December 2022
Final Accepted: 14 January 2023
Published: February 2023

Key words:-

Legal Protection, Code of Ethics,
Notary

Abstract

This study aims to analyze the existence of legal protection against notaries who are suspected of violating the code of ethics and to prove whether legal protection against notaries who are suspected of violating the code of ethics is effective. The results of this study show that there are already regulations regarding legal protection for notaries who are suspected of violating the code of ethics regulated in the Notary Office Law and the notary code of ethics in the form of self-defense and administrative legal remedies. Legal protection for notaries suspected of violating the code of ethics cannot be said to be effective because administrative appeals cannot be made. The sanctions given by the Regional Supervisory Board are only in the form of a written warning to Banyumas and Purbalingga Notaries. The sanction is relatively light so that the notary does not need to exercise his other rights in the form of an administrative appeal.

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Introduction:-

Society and law are two aspects that are not separated. Society lives law with values, ideas, concepts, besides that society also lives law with method donate public For operate law. Legal only can run like mix hand human. Good as organizing group law, as well they are obligatory operate provision law That alone, with thereby come in aspect behavior or man into the law [1]. Like like A train the fire and the tracks where the trains fire is community and rail his is law That alone.

Rule of law principle ensure certainty, order, and protection core law truth and justice every deeds and relationships law Good both public and civil must done based on provision regulation legislation. Although, in "law agreement" (verbintenins) applies on the law of "freedom contract" as arranged in the law book law civil Article 1338 Paragraph (1), which states: "all contract (agreement) made in a manner legitimate apply as Constitution for they made it", however the legality still need validation and/ or subtraction the deal to in deed notary in order to have strength guarantee law certainty, order, and protection law core truth and justice [2].

Become a Notary Public must can give certainty law in society indeed _ use service from a Notary. Authority Specified notary in Article 15 paragraph (1) of the Law Number 2 of 2014 concerning Position Notary Public is make deed authentic about all deeds, agreements and decrees required by regulations legislation and/ or as desired by the interested parties For stated in deed authentic, guarantee certainty date making Deed, keep Deed, give grosse, copy, and quote deed, everything That throughout making deed That not assigned or excluded to other officials or

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other people determined by law. Furthermore, set certainty date making letter under hand with register in book special (legalization).

Through deed Notary Public flow can give certainty law to the requesting community service service from somebody Notary Public. That alone deed the notary in UUJN provisions Article 1 number 7 mentions that “ deed Notary Public is deed authentic created by or in front of Notary Public according to prescribed form and procedure in the Constitution this ”. Deed made Notary Public own strength perfect proof No as in the deed brought hands. Deed below is deed made by interested parties themselves without help official general whereas deed authentic is product A much needed notary society for creation something legal certainty [3].

Remember importance role Noary in life public as mentioned above, then Noatic in implementation duties and positions always must supervised not harm society. supervision Notary Public in UUJN Article 67 confirms that supervision Notary Public carried out by the Minister, namely the Minister of Law and Human Rights. But in carry out supervision, the Minister establishes Assembly Supervisor Local notary _ called Assembly Regional Supervisor (MPD), in the Province called Assembly Regional Supervisor (MPW), at the center called Assembly Central Supervisor (MPP). Each MPN member comes from from : 3 people from element government, 3 people from element notary, and 3 elements from academics.

According to Space in his book Protection of the Law Alone is all rights owned and granted _ to every subject law sober regulation applicable law[4]. Terminology Legal protection or legal remedies are actually better known as procedural law technical terms. The substance of legal protection is essentially the same, namely providing guarantees of protection to those who have normative rights.

In his book Achmad Ali quoted by Salim H, S and Erlies Septiana Nurbani who argues that law enforcement can be effective if[5]:

1. The relevance of the rule of law to the needs of the target people;
2. Clarity of the formulation of the substance of the rule of law, so that it is easily understood by people who are the target of the law;
3. Optimal outreach to all people who are targeted by law;
4. The law should be prohibitive, not obligatory. In general, prohibitor laws are easier to implement than mandatory laws;
5. The sanctions that will be threatened in the law must be matched with the nature of the law that is violated, a sanction that is appropriate for a particular purpose, may not be for other purposes. The sanctions that are threatened must be proportional and possible to be implemented.

Based on the results of interviews with the MPD secretaries of Banyumas and Purbalingga districts, information was obtained that in the period 2017 to 2021 as many as 9 public reports were submitted to the MPD secretariat of Banyumas and Purbalingga districts, of which 4 reports were reports of alleged violations of deed made by a notary then 4 other reports were allegations of violations of the code of ethics and 1 report in 2019 the report was not followed up by the MPD because the report was not the domain of the MPD but the realm of the PPAT.

Existence law is needed For respect and principles law must be held in high esteem. Principles or principles in law function as protection public. However on the other hand no can rule out rights from expected violator code ethics. That myself. rights What just what it should be obtained by the alleged notary do offender code ethics in every stages enforcement penalty the ? Enforcement process law That Alone must put forward principle same treatment _ in front of law (equality before the law) is mandatory considered No guilty until exists his faults and strengths law remain (presumption of innocence) so protection law must give justice, certainty, order, benefit and peace that must be obtained by all subject law without except for the suspected Notary do violation code ethics. With many case report the then that becomes question : how protection law for alleged notary _ do offender code ethics ?. And How effectiveness protection law for the notary did offender code ethics?

ResearchMethod:-

The author's research location will thorough are in the District Banyumas and Purbalingga, where will focus on the Work area Notary Public Regency Banyumas and Purbalingga with reason that Already do observation introduction with findings exists object study form report public to Assembly notary regional supervisor Regency Banyumas and Purbalingga.

Study This is studyjuridical sociological characteristic descriptive possible analysis _ interpreted as procedure solving investigated problem _ with describe / describe circumstances subject / object research (an institution, society and others) at the time Now based on visible facts as exists without mean take conclusion in a manner general[6].

Method deep data collection writing This are:

Studies document, that is method get data about something problem with browse and learn regulation legislation, books, literature , journals , articles Good print as well as online as well other related ingredients with research . Interview (interview), method data collection with use ask answer.[7].

Deep data collection study This is with method do interview deep with informant member Assembly Notary Regional Superintendent regency Banyumas and Purbalingga , from element Government , Academics , Notary .

ResultsandDiscussion:-

Legal protection for a notary suspected of violating the code of ethics

Based on history, notary is a State officials / officials general can appointed by the State for do internal state duties service law to society to achieve certainty law as official maker deed authentic in matter civil . Article 1 of the Law Position Notary, who stated that “ notary is official authorized general For make deed authentic and authoritative other as intended in Constitution this ”.

Task Notary Public is konstar connection law between the parties in form written and a certain format , so that is something deed authentic . He is maker strong document in a legal process [8].code of conduct Notary Public load material elements about obligations, prohibitions , exclusions and sanctions that will dropped if proven a Notary Public violate code ethics . In code ethics it also regulates about procedures enforcement code ethics dismissal as member Bond Indonesian Notary.

Principle code ethics Notary Public is ethics managing executor implementation gift professional services by a notary to society . ethics regulated service implementation gift professional services by a notary to user service are : 1) do authority Notary Public in Article 15 of the Law position notary 2) do obligation in Article 16 paragraph (1) letter a Law position notary [9]

Principles in the code ethics Notary Public are :

- 1) arrange internally regarding : _
 - a. ethics personality notary ;
 - b. ethics do / carry out task position ;
 - c. ethics relationship with fellow notaries ;
 - d. ethics supervision .
- 2) give rule ethics regulated service implementation gift professional services by a notary to public as user services .

If Notary Public in operate duties and positions do violation to provision code ethics so subject to penalty form penalty administration that is form reprimand, warning , dismissal temporary dismissal from membership , and termination No respect . Sanctions given _ to the notary did offender code ethics No is dismissal from position from position Notary Public do it dismissal from membership association (organization) ties Indonesian Notary.

Based on results interviews conducted by the authors in the District Banyumas and Purbalingga from 2017-2019 Assembly _ The Regional Supervisor received 4 reports violation related guess offender code ethics . Article 70 of the Law Position Notary Public give authority to Assembly Supervisor area For organize hearing For inspect exists guess offender code ethics Notary Public or violation implementation position notary.

Assembly Regional Superintendent is called as gate First inspection Notary Public Because Assembly supervisor inspection and control area _ implementation duties and positions Notary Public following behavior Notary Public as arranged in the Decree of the Ministry of Law and Rights basic human No. M.39-PW.07.10 of 2004 which mentions team examiner only is in the assembly regional supervisor .

Frequent violations _ done District notary _ Banyumas and Purbalingga among others:

- a) Report public related with assumptions about nature neutral , that is There is trend sided with one party ;
- b) Installation Notary Nameplate _ No in accordance rules , like size No same , gift accessories form light decoration and color besides black and white ;
- c) Give stamp blank For signed filled client _ akath the client No know it .
- d) Making very old deed ;
- e) Notary Public more Lots use time outside office ;
- f) Withhold file client not to move notary ;
- g) Notary Public do data falsification making deed .

Violation of the Code of Ethics Notary who is the realities on the ground matter This caused by many factor exists competition among _ Notary Public as consequence more many Notaries in the Banyumas and Purbalingga areas , weak socialization about code ethical and not optimal supervision carried out by the organization profession Notary and other That exists trend behavior For ignore to code ethics . So that it can be said that code ethics Not yet held with effective , then the MPD itself is also not Can give penalty Because authority only limited give supervision .

According to Space in his book Protection of the Law Alone is all rights owned and granted _ to every subject law sober regulation applicable laws [10]. Terminology Legal protection or legal remedies are actually better known as procedural law technical terms. The substance of legal protection is essentially the same, namely providing guarantees of protection to those who have normative rights .Constitution position Noatras and the Code of Ethics Notary Public Alone Already give protection law that is with exists effort defense self and effort administrative.

Defense self

In matter defense self according to Imarotun Assembly Inner Regional Superintendent matter know , fine on notification / report / complaint nor on observation myself , that exists a The notary take place stay inside _ area the law do things that can imposed enforcement , then the MPD will do steps For researching the truth . So before truly called For asked MPD description with careful see Formerly is complaint the Already appropriate filed to MPD then . validity reports / notifications / complaints No just based on incoming reports , determination _ nope something report depend MPD assessment after form Assembly examiner Then call Notary Public reported and gave chance For explain what really is happen in the reported case by the reporter .

Based on Article 71 letter e Law Invite Position Notary Public Assembly Regional Superintendent is obliged inspect report public to Notary and deliver results inspection theto Assembly Inner Territory Superintendent time 30 (three twenty) days , with copy to the reporting party , the notary concerned , the Assembly Central Supervisor and Organization Notary . Related with report the according to Imarotun Noor Hayati After Assembly Regional Superintendent delivers results inspection form Minutes to _ Assembly Territorial Superintendent , accordingly Article 74 paragraph (2) Law Invite Position Notary UUJN Notary who is subject to penalty position entitled For defend self in inspection in hearing Assembly Territorial Superintendent .

As for term time chance defend self given in time 14 (four twelve) days after date received letter recorded containing _ announcement from Assembly Superintendent , if has past time 30 (three twenty) days since date delivery letter No accepted news whatever from The notary concerned , Notary the considered No use right the law For defend self . The consequences Assembly Territory Supervisor can take decision prosecution although based on notification / report / complaint or based on observation Assembly Regional Superintendent only . Delivery defense self made in a manner written and if Notary Public want it He can attach letter evidence and statements party - phak certain reinforcement _ his defense . Draft kind there is in institution criminal procedural law . Criminal procedural law know principle presumption No guilty (Presumption of innocent) , that somebody No can considered guilty until moment proven otherwise .

TajudinNasution Also justify will exists principle presumption No who was guilty before exists decision delivered by the Assembly Central Superintendent then No can consider violation code ethics That truly has happen then the MPD is obligated For uphold tall honor honor and dignity summoned notary _ For hearing ethics at the MPD level .Defense dition done in a manner independently by a notary with No given right For bring advisor law Because according to the MPD that was reported is behavior deviating notary and or _ product deed drawn up by a notary like case inspection done profession doctor For First time calling so must attend _ by the doctor concerned

Effort administrative

Appeals can be done by a notary when get decision drop sanctions by the Assembly Notary Regional Supervisor. Notary Public in develop duties and positions must based on conditions Article 16 and neither with do deed prohibited law _ as in Article 17 UJNP, then supervision will carried out by the Minister against performance Notary . In do supervision to performance Notary Public in carry task as well as his position , the Minister establishes Assembly Supervisor Notary . Assembly Supervisor Notary Public the will do supervision to behavior or deed Notary Public during operate position .

Article 1 point 6 UJNP, referred to Assembly Supervisor Notary Public is is an authorized body as well as his obligations do supervision in a manner periodically as well as construction to Notary Public so that Notary Public That No will deviate from position in accordance with standard code ethics Notary . this _ same match with definition Assembly Supervisor Regulated notary _ in Article 1 point 2 Regulation of the Minister of Law and Rights Fundamental Man Republic of Indonesia Number 40 of 2015 concerning Arrangement Organization , Appointment Procedures Member , Dismissal Members and Working Procedures Assembly Supervisor define Assembly Supervisor Next notary _ called Assembly Supervisor as an all body action require do coaching and supervision to Notary Public in accordance with vision mission from Assembly Supervisor That alone .

Effectiveness Legal protection for a notary suspected of violating the code of ethics

Effectiveness means influence / effect success or efficacy / efficacy [11]. In Black Law Dictionary the word " effectiveness " comes from from the word effect , which means : To do; to produce, to make; to bring; to pass; to execute; accomplished [12]. (translatfree : influence , work , make , carry , pass , execute , apply , finish) . something attitude follow behavior law considered effective , if action behavior other party towards the desired goal , meaning the other party obey law .

Discuss about effectiveness law , then invalid if No discuss especially firstabout norm law normative (law in book) is already legal in reality (law in action) [13] , because without compare suitability between objective he made norm law with existing reality in the field so No Possible For arrange level effectiveness law. Effectiveness law is indicator effectiveness in the sense of accomplishment target or goals that have been determined previously which was A measurement Where a target has achieved according to what was planned [14].

Code of conduct Notary Public characteristic essential for a Notary Public in operate position that is Must be trustworthy, honest , thorough , independent and not side , as well operate interest related parties in deed law, This emphasized in Article 16 paragraph 1 letter a UJN.

Soerjono Soekarno put forward that effectiveness law can rated with know attitude follow or linked behavior direct with objective rule law [15] In his opinion , the law will effective if attitude actions that occur in the field in accordance with objective established law , so need exists test to norm law .

Based on study effectiveness code ethics notary by the Assembly Notary Regional Superintendent Regency Banyumas there is no sam opinion between results interview with Assembly Regional Supervisor , in principle effective nope something set _ in law This can use reject measuring effectiveness law according to Lawrence M. Friedman put forward that effective and successful nope enforcement law depends at three element system law, that is structure law (structure of law), contents law (substance of law) as well culture law (legal culture) [16].

The legal structure is the party that forms and implements the law. The legal structure in this case includes the executive, legislative and judicial bodies as well as related institutions, such as the Attorney General's Office, the Police and the Courts. In this factor, the role of legislators and law enforcers is paramount in making every rule of law effective in society. Law enforcement is expected to realize values or legal principles that contain justice, benefits and legal certainty. Law enforcement is not only an authority contained in all articles alone, but has become an obligation for everyone.

Legal substance includes norms, regulations and laws. In this factor it can be seen whether the law is on target or not, so it is clear that the scientific factor is a determinant of the effectiveness of the law.

Legal culture includes views, habits and behavior and society regarding the thought of values and awards and the applicable legal system. The legal culture tries to reach out about how it is, whether the law is violated or obeyed by

the community. People can violate or comply with a rule because the community really knows about the rule and really understands the purpose of the law or the community violates the law because the community is not aware of the existence of the law itself. Many factors influence legal culture, including education, poverty, unemployment, human interaction and so on.

Lawrence M. Friedman [17] gives illustration that if "system law" is likened For produce something goods , then position of " substance law " is likened as goods what is produced and " structure law " is likened as machines manager goods . Whereas "culture law" is likened as those who run operate machines and obligations For turn on, run and turn off machine this so you can determine Good bad results the goods it produces .It means when the "substance" of law positive Already good and true in a legitimate sense and reflects a sense of justice society , " structure the law " yes adequate so final is how " culture law the people " ie all holder role start maker law , society that becomes target arrangements and apparatus the law will apply penalty law positive the . Product law No in a manner absolute can walk myself, like new human _ born so need encouragement For Keep going can Keep going growing and needing exists supervision For still is at on the right path, use avoid possible deviations damage root law or root life .

Based on theory on What when connected with effectiveness protection law alleged notary _ do offender code ethics , then writer analyze that :

Structure law

Code of Ethics Notary Public give appeal morality to its members in carry out task in the field . Appeal such , though moral , a professional be reminded For do profession without pressure , coercion or pretense . Implementation of professional morals is something that is sublime Where member group profession or member public can do control through formula code ethics profession, is it? member group profession has fulfil obligation the professional in accordance with code ethics profession .Government or public No need mix hand For determine How should member group Notary Public carry out his obligations. Code of Ethics Notary can prevent misunderstanding and conflict Code of Ethics Notary who Good is reflecting member moral values group Notary Public themselves and those in need service the profession concerned.

Because that in matter enforcement code ethics notary , integrity and commitment must become the stakes are on his wake image profession Notary Public That alone . Enforcement code ethics interpreted as ability community Notary and the organization For impose obedience on provisions ethics for its members, processing guess happening violation code ethics and action offending member the conditions listed inside. To protect and maintain the quality of its members, a organization Notary Public must notice competence intellectuals of its members so that more Good Again quality service to society [18].

Enforcement code ethics alone in the body Notary Public there are 2 institutions that can organize hearing ethics namely :

1. Based on Article 70 letter a Law Assembly Number 30 of 2004 Supervisor area authorized organize hearing For check exists guess violation code ethics or violation position Notary .
2. Based on Statutes of the Association Indonesian Notary Article 12 Honor Council is also given authority For inspect on guess violation provision code ethics Notary .

No There is criteria certain distinction guess like what then become realm in inspection ethics between Assembly Supervisor Notary Public with the Honors Council Notary , however When the report or exists guess violation code ethics is conveyed to MPD then No can be completed by DKN or otherwise .

Examination and drop level sanctions First carried out by the Regional Honorary Council and the Honorary Council It 's the area then will disconnect about proven or nope violation code ethics as well as drop penalty to the offence after hear statement and defense himself when in honorary council _ area proven exists violation code ethics so DKD session at the same time as determinant to penalty violation ethics the . Penalty as listed in Article 6 of the Code of Ethics Notary Public that is form reprimand , warning , dismissal temporary dismissal and dismissal with No respect from membership association . Supervision and implementation code ethics done with method as following:

1. on the rate firstly by the Regional Association Board Indonesian Notary and Regional Honor Council .
2. At the level of appeal by the management of the Association Area Indonesian Notary and Regional Honor Council ;
3. on the rate finally by the Management Bond Indonesian Notary and Central Honorary Council.

Assembly Supervisor Authorized notary do coaching and supervision to Notary Public as well as inspection to guess violation behavior and execution position Notary Public divided become some of the areas include :

1. Assembly Regional Supervisor
2. Assembly Territorial Superintendent
3. Assembly Central Superintendent

Every third area level Assembly supervisor the assisted by the secretary will help assembly supervisor Notary Public For help matters required by the assembly supervisor . Different with DKN that from regional level already Can determine penalty Assembly Regional Superintendent only can dig descriptions from party the reported party and which reporter later made The following Minutes will be presented to Assembly area supervisor.

As for the guidelines in implementation hearing ethics carried out by the Assembly Supervisor Notary there is in Regulation of the Minister of Law and Rights Fundamental Man Republic of Indonesia Number 15 of 2020 concerning Examination Procedures Assembly Supervisor To Notary.

Substance law

kindly juridical and ideological, agency enforcer law and apparatus enforcer Indonesian law is One unity integrated system _ in build mission enforcement law . although enforcement law in a manner principle is one , however in a manner substantive enforce law , settlement case enforcement law will involve whole integrity personality enforcer law enforcement officers enforcer law involved. Success or No it worked something seller law Actually Already expanded drjsk regulation law run That made .

Legal norms apply prioritize empirical approach with prioritize a number of choice of recognition criteria (recognition theory), acceptance, facility law. matter This showing that justice No only got in court but also growing thrive in the code area ethics.

Culture law

Notary Public in operate profession must based on the law , but also must keep and hold firm iliai-moral values the profession . As official general , a Notary Public must hold firm principle caution because responsible answer a Notary Public to the deed he made is lifetime live . Notary Public in run profession ysgdrductiondrngsn applicable regulations _ naturally No will meet problem law . However If Notary Public No heed rules so Of course Already Certain will face to face with law .

Key word is on maintenance pattern character integrity , for can build obedience _ code ethics applicable law . this is public proper notary works on layers system culture ., so There is latency integrity that affects the dignity of notaries . layer culture on THIS should be develop ethics profession competent notary maintain pattern integrity notary .

Bond Indonesian notary who became forum for members later notary _ between Assembly The Regional Superintendent and the Regional Honor Council are in the closest layer with member Notary Public the can each other synergize For do supervision to later notary _ always evaluated development to exist renewal in the enforcement code ethics . So that No only emit sanctions that don't There is effect but Can together give solution for sanctions to code ethics can effective run .

Third element system law on can become indicator that protection law to alleged notary _ do violation code ethics Not yet fully implemented _ optimally , either from side regulation nor execution from regulation code ethics That alone

Conclusion:-

Based on the field data analyzed, the researcher found legal protection for notaries suspected of violating the code of ethics. This protection is regulated in the Regulation of the Minister of law and human rights M.02.PR.08.10 of 2004 which has been revoked by the Regulation of the Minister of law and human rights number 40 of 2015 concerning organizational structure, procedures for appointing members, dismissing members, and working procedures of the supervisory board, namely in the form of legal remedies for self-defense and administrative appeals for legal remedies.

Legal protection for notaries who are suspected of violating the code of ethics in Banyumas and Purbalingga Regencies cannot be said to be effective because administrative appeals cannot be implemented, notaries who are suspected of violating the code of ethics do not want to use their rights in the form of administrative legal remedies because the sanctions given are considered light so Notaries do not need to use their other rights to carry out administrative legal efforts.

Acknowledgment:-

The author would like to thank those who have helped and supported in the preparation of this journal. To sources from notaries and academics in the Regional Supervisory Board of Banyumas and Purbalingga districts. In addition, special thanks are shown to the supervising lecturers and the entire academic community of the Notary Masters Program at Jenderal.

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