The Role of The Notary Honorary Assembly in Law Enforcement Following The Change of Article 66 of Law No. 30 of 2004 on Notary Positions
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Abstract
The role and function of the Notary has experienced very rapid progress other than because of the very high community needs but also awareness of legal certainty related to an engagement. Notaries in carrying out their duties and positions are bound by the rules of office and are also bound by a code of ethics as a guide to the behavior of the Notary profession. This supervision is carried out by institutions that have been given the mandate based on applicable laws. The data used are secondary data and primary data as a complement to secondary data. The method used in this research is the normative juridical approach. The research results obtained by the Notary Honorary Council have a role in the supervision, guidance and protection of the notary public. Enforcement of law includes the role of supervision carried out by giving approval or rejection of the summon of the Notary and photocopy of a notary deed due to a request from the investigator or judge.

Keywords: Role, Notary Honor Council, Law Enforcement

Introduction
The law serves as a means of community renewal and community preservation so that the law needs to be built in a planned way so that the law as a means of community renewal can run in a harmonious, balanced, harmonious manner and in turn, the life of the law reflects justice, social benefit, and legal certainty. (Tedjosaputro, 1994)

Notary professions are born and developed rapidly in Indonesia because in addition to notary professions support national development that is growing in line with the development in the field of business but also smooth and legal certainty which is the authority of the notary but also comparable to the quality
and undeniable quantity for the quantity of deed making by the notary. Article 1 point 1 of Law No. 2/2014 on notary departments (Statute Sheet No. 5491), states that notaries are the only public officials authorized to make authentic deed and other authority as referred to in this law.

A notary is a public office when linked to Article 1868 of the Civil Code stating that an authentic deed is a deed made by or before a public official authorized for it. It did not elaborate on who the general official was. Therefore Article 1 number 1 UUJN explains that the only official who can make this authentic deed is a Notary. This regulation if not excluded the deed is the authority of other public officials. Other public officials who can also make an authentic deed are Judges, Civil Records Officers, and so on. UUJN is the basis of the implementation of duties and positions so that notaries are bound by their rights and obligations or their duties. It says "Notary Organization is a professional organization of notary positions in the form of..." Because notary in addition to a position, it is a profession that requires a rule that restricts the ethics of the profession with the criminal domain referred to as the Notary Code of Conduct. (Adjie, 2008)

Notary is a work in the field of law that is officium nobile or noble profession because of its close relationship with society. This makes notary a profession that is required to have quality in order to achieve the creation of a quality deed also with the aim of achieving notary functions in society. The duties and positions given to notaries require a good personality in the Notary that can be mentioned as a personality that shows professionalism. Professional attitudes are not something that is academic and can be learned in formal schools, but rather a life attitude that is carried out over and over again and becomes a way of life in society. This attitude becomes an ingrained trait in the Notary personally and is a factor that supports the creation of quality deeds.

Notary profession has a responsibility to the community, therefore it is necessary an institution or organization that can become a society, conduct supervision while also be able to protect (protection) to the Notary itself and be able to maintain and protect the dignity of notaries both as a position and as a profession that always in contact with the community.

The essence of supervision of duties and positions is that all rights and authorities and obligations given to the Notary in carrying out its duties as mandated in the basic rules of other relevant provisions. This is done not only based on the law but also based on the moral and ethics of the profession to ensure the protection of the law and legal certainty for the community. Thus, there needs to be a continuous monitoring mechanism for notaries in carrying out their duties.
and positions, both preventive and repressive towards the implementation of notary duties. The importance of maintaining professional Notary conduct carried out by the Notary Supervisory Panel, mentioned in Article 67 paragraph (1) of Law No. 30 of 2004 that the supervising Notary is the Minister. In connection with the implementation of such supervision, the Minister formed the Supervisory Assembly. The Board of Trustees consists of 9 (nine) people, consisting of elements, the government as many as 3 (three) people, notary organizations as many as 3 (three) people, and experts/academics as many as 3 (three) people.

Article 66 paragraph (1) of Law No. 30 of 2004 mandates that the authority related to the copy of minuta notary deed is carried out by the Regional Supervisory Assembly (MPD) based in the district or city. Article 66 reads as follows:

(1) For judicial proceedings, investigators, prosecutors, or judges with the consent of the Local Supervisory Panel authorized:
   a. take a copy of minuta deed and/or letters attached to Minuta Deed or Notarial Protocol in the storage of Notary; Dan
   b. call on the Notary to be present in the examination relating to the deed he made or the Notary Protocol which is in the storage of the Notary.

(2) The collection of copies of minuta deed or letters as referred to in paragraph (1) letter a, made news of the submission event."

Notary as a public official in carrying out its duties, obligations, and authority obtains full legal protection from Article 66 paragraph (1) of Law No. 30 of 2004, in which the collection of documents in the storage of notaries cannot be arbitrarily carried out by investigators, prosecutors or judges in a process of examination for legal purposes. *(Aditya, 2010)*

The issued Decision of the Constitutional Court (MK) No.49/PUU-X/2012 dated March 23, 2013, then since that date Article 66 paragraph (1) UUJN No. 30 of 2004 is declared to have no legal force and no longer valid. The provision stipulated in the case of the collection of documents stored by notaries in its protocol, and the summons of notaries to be presented in a vetting process relating to the deed made by him, which under Article 66 paragraph (1) of the UUJN above shall obtain approval from the MPD, since March 23, 2013, is no longer his duty and position. The notary shall keep secret all content relating to the deed he made as a form of professionalism. For judicial proceedings, notary deed used as a means of proof must obtain permission from authorized institutions officially. The institution is given the authority to request a copy of minuta deed and make a summons to the Notary related to the deed in the proceedings. Not only that, notary summonses for judicial proceedings in both his or her status as a witness and a suspect are all
made with the consent of the institution. The authority to call and take minuta this deed is as long as it relates to the deed made by the Notary.

In 2014, after the enactment of The Notary Department Law No. 2 of 2014 as a change to Law No. 30 of 2004 Article 66 paragraph (1) was changed to thus:

"For judicial proceedings, investigators, prosecutors, or judges with the consent of the Notary Honorary Tribunal authorized:

a. take a copy of minuta deed and/or letters attached to Minuta Deed or Notarial Protocol in the storage of Notary; Dan
b. call on the Notary to be present in the examination relating to the Notary Deed or Protocol that is in the storage of the Notary."

The repeal of the provision stipulated in Article 66 paragraph (1) of UUJN No. 30 of 2004 which is the legal protection of the Notary in carrying out its duties and authority as a public official. More specifically related to the deed he made in the event of an alleged criminal act against the deed. (Ismail, 2010) The revocation of Article 66 paragraph (1) of UUJN No. 30 of 2004 has legal consequences for the procedure of retrieving documents that are in the storage of notaries in its protocol, including in the process of summoning notaries to be presented as witnesses both as witnesses and suspects in a criminal case examination by police investigators, prosecutors, and judges in the proceedings in the court. Besides, the Verdict of MK No.49-PUU/X/2012 also caused legal consequences to the duties and authority of the Notary Regional Supervisory Assembly. (Bachtiar, 2008)

Research Problems

Based on the background description of the above problem, the following problem formulation can be taken:
1. What is the role of the Notary Honorary Assembly after the change of Article 66 of Law No. 2 of 2014 as a change in Law No. 30 of 2004 on notary office?
2. How are law enforcement of notary duties and positions after the change of Article 66 of UUJN by the Notary Honorary Assembly?

Research Method

This study uses a type of normative juridical research. Research into normative juridical law or literature has 3 (three) approaches applied in this study, among others: Statute approach and analytical approach. The data used in this study is secondary data and primary data as a complement to secondary data. While the data analysis techniques used are qualitative normative.
Discussion

1. **The role of the Notary Honorary Assembly after the change of Article 66 of UUJN Law No. 2 of 2014 on notary positions.**

   Notaries as public officials have a legal presence and position recognized by law and have authority guaranteed and protected by law through the Law of notaries office. Besides, notary position as a position of trust given by the government that appointed it through the Minister of Law and Human Rights and the position of trust given by the wider public who use its services is also a position that performs the duty of the state in making and storing authentic deeds that are also state documents. Although notary is not a state official, notary has the duty and authority to serve the public in certain cases, as well as the duties of state officials. Therefore, notaries as public officials also carry out the authority of the government. *(Adjie, 2008)*

   The rapid development of notaries in the community makes the government in this case the Ministry of Law and Human Rights carry out supervision by providing guidance and constantly updating regulations that are following the law to avoid losses done by the community to improve the performance of notaries in carrying out their duties and positions. The Law of the Notary Department stipulates that when a Notary in the office is proven to be a violation, then the Notary may be penalized, in the form of civil sanctions, administration, and code of conduct of the Notary office, those sanctions have been regulated both in the UUJN and from the code of conduct without any arrangement of criminal sanctions against the Notary. In practice, it is found the fact that a legal action or violation committed by a Notary may be punishable by administrative or civil sanctions or the code of conduct of a Notary position, but then withdrawn or qualified as a criminal offense committed by the Notary. The qualification relates to aspects such as: *(Adjie, 2009)*

   A. The certainty of the day, date, not, year, and time facing;
   B. Parties (persons) facing the Notary;
   C. Facing signatures;
   D. The copy of the deed does not comply with the minuta of the deed;
   E. A copy of the deed exists, without a deed being made; Dan
   F. Minuta deed is not signed in full but minuta deed is issued.

   These aspects if proven to be violated by the Notary, then to the Notary can be punished civil or administrative sanctions or those aspects impose restrictions that if proven can be used as a basis for dropping administrative witnesses and civil
sanctions against notaries, but it turns out that on the other hand such restrictions are pursued or resolved criminally or used as a basis to criminalize the Notary with qualifications as a criminal offense committed by the Notary.

Notaries may be held criminally liable for deeds made by him based on what he sees, witnessed, and experiences in committing a deliberate or negligent legal act if the Notary causes harm to others. The criminal accountability of a Notary must fulfill the elements that are to commit a crime, can be held accountable, by will or ineligibility and there is no forgiving reason. A man who feels harmed by the establishment of an authentic deed can report the parties and notaries to the investigators.

The Notary Honorary Assembly is a body that has the authority to carry out construction and supervision to notaries and obligations to give approval or rejection for investigation and judicial process, for the taking of copies of minuta deed and notary summonses to be present in examinations related to the Deed or notary protocols that are in the storage of notaries.

The active role of the Notary Honorary Assembly has been mentioned in Article 66 paragraph (1) of UUJN No. 2 of 2014 that reads:

(1) For judicial proceedings, investigators, prosecutors, or judges with the consent of the Notary Honorary Assembly authorized:

A. Take a copy of minuta deed and/or letters attached to minuta akta or Notary protocol
B. Calling a Notary to be present in an examination relating to the notary deed or protocol that is in the storage of the Notary
C. The authority of the Honorary Assembly of the Notary Region based on the decision of the meeting of the Honorary Assembly of notary regions which includes examining the Notary requested approval to the Honorary Assembly of the Notary of the investigating territory, the public prosecutor, or judge, who secondly gives consent to the collection of copies of minuta deed and/or letters attached to minuta deed or Notary protocol in the storage of Notary and gives approval or rejection of the consent request of the notary summons present in the investigation, prosecution and judicial process relating to the notary deed or protocol that is in the storage of notary.

Based on the intended in Regulation of the Minister of Law and Human Rights No. 7 of 2016 that the Honorary Assembly of the Notary region has the function of conducting coaching to maintain the dignity and honor of the Notary in carrying out the profession of his office and providing protection to the Notary concerning
the notary obligation of the Notary obligation to keep the contents of the Deed confidential.

The role of coaching performed by the Notary Honorary Assembly to notaries is to conduct the introduction or socialization of the devoured duties and functions of notaries to always comply with the regulations. While in protecting notaries in carrying out their profession in question is to provide protection as long as it is related to the duties and functions of notaries in the manufacture of a deed. Protecting by the Notary Honorary Assembly here does not protect the guilty Notary but protects that the Notary in connection with his duty to keep the contents of the deed confidential and maintain the dignity of the Notary profession. The role of the Notary Honorary Assembly as a whole is as a body that supervises notaries so that notaries in carrying out their duties and positions must be based on following the laws and regulations governing the notary position. So the Notary in carrying out his duties and positions always adheres to the laws and regulations governing the office of Notary. The role of the Honorary Assembly of notaries as a whole is as a body that supervises the Notary so that the Notary in carrying out his duties and positions must be based on following the laws and regulations governing the notary position. So that notaries in carrying out their duties and positions always stick to the laws and regulations governing notary positions.

In addition to the supervisory role, the Notary Honorary Assembly is a body that provides protection to Notaries. Protection is to provide space or opportunity to provide an explanation or clarify the deed made in order to carry out its duties and positions. The Notary Honorary Tribunal will assess the deed as a product of notary law in question in criminal cases. The Tribunal will issue a recommendation containing consent so that the troubled Notary deals directly with the investigation process or the examination in court for information.

The role of the Notary Honorary Assembly, basically aims to maintain the dignity and honor of the Notary in carrying out his duties and positions. Because in carrying out the duties and positions of notaries must comply with the prevailing laws and regulations and the code of conduct of notary professions.

2. Law enforcement of notary duties and positions following the change of Article 66 of UUJN by the Notary Honorary Assembly.

Law enforcement has a very broad meaning covering preventive and repressive aspects, compatible with the condition of Indonesia whose government elements are active in raising public legal awareness. (Hamzah, 2005)
Based on this, the type of law enforcement can be divided into 2 (two) as follows:

1. Preventive Law Enforcement

Preventive enforcement means active oversight of compliance, to regulations without direct incidents involving concrete events that lead to the notion that the rule of law has been violated. Important instruments in preventive law enforcement are counseling, monitoring, and use of supervising authority.

2. Repressive Law Enforcement

It is a countermeasure function that is poured in the form of dispute resolution or recovery of damages caused by the risk of actions that have previously been established in the planning of the action. (Edoria, 2005) The Notary Honorary Assembly performs preventive and repressive law enforcement functions. Preventive law enforcement is law enforcement before a violation or is referred to as a precaution. Repressive law enforcement conducted by the Notary Honorary Assembly is to conduct an examination of the Notary based on the application submitted by investigators, prosecutors, and judges.

Repressive enforcement related to the Notary Honorary Assembly will be conducted after a report submitted by investigators and prosecutors, police or prosecutors, and judges in the proceedings to be asked for information and/or requested a photocopy of minuta files. The Chairman of the Honorary Assembly of notary regions in examining notaries formed a panel of examiners consisting of 3 (three) members consisting of each element of the notary honorary assembly of the region namely 1 (one) chairman concurrently a member plus 2 (two) members assisted by a secretary. The form of the examiner assembly is carried out no later than 5 (five) business days since the receipt of the report from the investigator.

After any reporting submitted by investigators, prosecutors, or judges are made a notary summons by a letter signed by the chairman of the Honorary Council of notary regions no later than 5 (five) days before the examination. In urgent circumstances, it can be done by facsimile and/or email and then followed by a summons. Notaries must comply with the call of the Inspector's Assembly and must not be represented. The application for approval and collection of minuta deed or notary protocol and notary summons is made by investigators, prosecutors, or judges to present in the examination related to the deed or protocol of notary that is in the storage of notary submitted to the Chairman of the Honorary Assembly of notary territory by the working area of the Notary concerned.
The application submitted to collect the deed minuta is submitted in writing in Indonesian and the copy is submitted to the Notary concerned, containing the name of the Notary, the address of the Notary office, the deed number, and/or letter attached to the minuta file or notary protocol in the storage of notary and the subject matter of the suspected case. The Chairman of the Notary Regional Honorary Assembly shall provide an answer in the form of approval or rejection of the application within a period of no later than 30 (thirty) business days from the date of receipt of the application. If it passes from 30 (thirty) days later the Notary Honorary Assembly is deemed to receive a request for approval.

The next preventive effort carried out by the Notary Honorary Assembly is to conduct development and supervision in the territory of the Province in the place of the regional office. The Honorary Assembly of the Central Notary also conducts the construction of the duties and functions of the Notary Honorary Assembly of the region based on the approval of the Honorary Assembly of the Central Notary. Making preventive efforts, the Notary Honorary Assembly is assisted by the regional supervisor and the regional supervisor to socialize and introduction regarding the role of the Notary Honorary Assembly along with the function of coaching in accordance with the prevailing regulations.

Granting consent to investigators, prosecutors, or judges for the benefit of the judicial process in the summons of notaries is carried out in the case of:

1. The establishment of suspected criminal acts relating to minuta deed and/or letters attached to minuta deed or Notary protocol in the storage of Notary;
2. Not yet lost the right to sue based on the provisions of expired in the legislation in the field of criminal law;
3. The denial of the validity of the signature of one or more parties;
4. The alleged reduction or addition of minuta deed;
5. The suspected notary performs a date regression (antidatum).

Against the examination conducted to the Notary, the Chairman of the Honorary Assembly of the Notary Region formed a panel of examiners consisting of 3 (three) persons who were dissatisfied from each element of the Notary Honorary Assembly. The examiner's assembly consists of 1 (one) Chairman and 2 (two) members with the help of a secretary. Members of the examiner's panel then examine and give consent or approval to the request of investigators, prosecutors, or judges related to the taking of copies of minuta deed and letters attached to the minuta deed and/or Notary protocol in the storage of notaries.

If a Notary is criminally in contact and threatened with criminal sanctions for example a qualified Notary makes a false letter or falsifies a letter, as if the letter
is genuine and not forged namely Article 263 paragraph (1) of the Criminal War, forgery of the letter and the forgery has been done in the authentic deed of Article 264 paragraph (1) number (1) of the Criminal War, listing false information in an authentic deed article 266 paragraph (1) of the Criminal War. Notary authority is to make a deed and not make a letter, thus it must be distinguished between letter and file. The letter means a letter in general that is made to be used as a means of proof for a particular purpose in accordance with the wishes or intentions of its author who is not bound by a particular rule, while an authentic deed is made with the intention of having the perfect evidentiary power made before the official who is authorized to make it and bound to the specified form. Thus the meaning of the letter in Article 263 paragraph (1) of the Civil War is not mutantist mutandis as an authentic deed, so it is not appropriate if the Notarial deed is given treatment as a letter in general.

The statements or statements and wishes of the parties described before the Notary are the basic material for the Notary to make the deed according to the wishes of the parties facing the Notary, without any information or statements and the wishes of the parties it is impossible for the Notary to make a deed. Even if any allegedly false statements or information are included in the authentic deed, it does not cause the deed to be false. For example, in an authentic deed is entered a description based on a marriage certificate shown to a Notary or Id Card (KTP) from the original physical observation. If it is proven that the marriage certificate or fake ID card does not mean that the Notary inserts or includes false information into the Notarial deed in accordance with Article 263 paragraph (1) number (1) of the Civil War and Article 264 paragraph (1) of the Civil War. Materially falsehood of such matters is the responsibility of the party concerned.

If so far because there are several things that put the Notary in a position as a criminal, indicating the absence of parties who do not understand what and how and notary positions in the National legal system, placing the Notary as a convicted or criminalized Notary indicates that other parties outside the Notary, such as the police, prosecutors and other courts or legal practitioners have an incomprehension of notary world mastery. (Adjie,2009)

Criminal sanctions are a remedium ultimum if sanctions or efforts in other branches of law are deemed unable to resolve the issue. Therefore, its use should be limited if there are other means, do not use criminal law. (Sudarto,1997)

Examination of violations committed by notaries should be conducted a holistic-integral examination, looking at the outward, formal, and material aspects of the Notary deed and the implementation of notary duties and positions in
accordance with the authority of the Notary, in addition to based on the rule of law governing the violations committed by notaries also need to be combined with the reality of Notary practice. Preventive and repressive law enforcement performed by the Notary Honorary Assembly is a role mandated by law as a function of supervision and coaching. All forms of supervision and coaching carried out by the Notary Honorary Assembly are carried out to maintain the dignity of notary positions.

There are some exceptions to the examination related to the examination of notaries, namely if the deed submitted to the Tribunal is the deed of the Pejabat Pembuat Akta Tanah (PPAT) even though it is a double position of the Notary but cannot be carried out an examination to the Notary because the object is not the authority of the Notary Honorary Assembly. The notary whose name is submitted to the Notary Honorary Assembly is not always a guilty Notary, but a notary who has problems with the legal product he made that is the deed. Notaries examined by the Notary Honorary Assembly will only be asked for clarification on the deed he made and the Honorary Tribunal issues recommendations as witnesses, suspects, or defendants either at the level of investigation or in the advance examination of the trial.

The Notary Honorary Assembly has a coaching function to the Notary reported in connection with the deed. In relation to the notary's call for clarification, the Notary Honorary Tribunal is not protecting the guilty Notary but is exercising its functions in terms of properly and properly supervising the notary's performance and maintaining the dignity of the Notary's own position. The Notary Honorary Assembly holds a role other than in repressive but also preventive functions, namely supervised development to the regions. Supervision is done by socialization, introduction, or workshop. The Regional Supervisory Council in the element of the regional supervisory and the Regional Supervisory Council as the element of the regional supervisor.

Often in the region, a Notary is asked for information for investigative purposes without going through the mechanisms carried out by the Notary Honorary Assembly but through the Regional Supervisory Assembly. The response to be given by the Notary is to reject and advise investigators to apply to the Notary Honorary Assembly. On the other hand, the application can only be made by the Investigator or the judge, otherwise it cannot report the Notary to the Notary Honorary Assembly.
Conclusion

Based on the above research can be drawn as follows:

1. Article 66 of Law No. 2 of 2014 as a Change to Law Number 30 of 2004 on the Notary Department states that the Notary Honorary Assembly is a body that has a role to carry out construction for notaries. and the obligation to give consent or rejection in the case of, first, the examination to be present in connection with the summons of notaries related to the Deed or Notary Protocol that is in the storage of the Notary for the benefit of investigation and judicial proceedings. Second, the collection of copies of minuta deed that are in the storage of notaries.

2. The Notary Honorary Assembly has the authority to conduct preventive and repressive law enforcement of the implementation of notary duties and positions. The role of the Notary Honorary Assembly is preventively carried out by conducting counseling or introduction to areas related to the institution of the Notary Honorary Assembly with duties, roles, and authority as a function of notary coaching. The role of the Notary Honorary Assembly is repressive by conducting an examination of the Notary after reporting from an investigator or judge.

3. The existence of the Notary Honorary Assembly upholds the notary's obligations in the case of the Notary shall keep the contents of the Minuta Deed made in connection with his/her position. That role also means the Notary Honorary Assembly minimizes administrative, civil to criminal violations by providing recommendations given to investigators.

4. The Notary Honorary Assembly with all of the above roles as a body under the supervision of the Minister of Law and Human Rights conducts guidance to the Notary to maintain the dignity and honor of the Notary in carrying out his duties and positions to always comply with the laws and codes of conduct that apply in the organization.

Suggestions

Based on this study, the authors provide the following advice:

1. The increasing number of Notaries from year to year, there needs to be a better service than the Notary to maintain public confidence in the dignity and dignity of the Notary profession. It is expected that the Notary Honorary Assembly as an institution that plays a role in the enforcement of the law against notaries suspected of criminal acts better including also conducting socialization and counseling related to the institution of the Notary Honorary Assembly.
2. There needs to be a separation between the chairman of the authority of the Regional Notary Supervisory Assembly and the Honorary Assembly of notaries. Although the position is the same in the Regional Office of the Ministry of Law and Human Rights of the Province it is better to separate it so that there is no possible overlapping of authority. The solution that can be offered is to relinquish one of the positions as Chairman of the Notary Honorary Assembly or Chairman of the Notary Regional Supervisory Board and be replaced with an element from the other member namely from an expert/academic or from a Notary.

References


