

Authority of the Notary Regional Supervisory Board in Law Enforcement Against Violations of The Implementation of Notary Positions

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Abstract

This research aims to examine the jurisdiction of the notary regional supervisory board, as well as the consequences imposed by law enforcement for violations of notary position implementation in West Nusa Tenggara. This study employed normative legal research. Normative research frequently conceptualizes law in terms of what is expressed in statutes and regulations. The conceptual and legal approaches were applied in this investigation. The study's findings indicated that the Notary Regional Supervisory Board's authority in enforcing notary position violations includes the capacity to discipline notaries who commit violations while performing their duties with verbal reprimands and written reprimands. The enforcement of penalties imposed by the Notary Regional Supervisory Board against notary position infractions in West Nusa Tenggara. Sanctions imposed by the West Nusa Tenggara Notary Regional Supervisory Board have been effective in enforcing the law against violators of the Notary Position's execution. The West Nusa Tenggara Notary Regional Supervisory Board imposes verbal reprimands and written reprimands on notaries who violate the Position, specifically in the making of deeds that are not in compliance with the parties' demands and incriminate one of the parties.

Keywords: Supervisory Board Authority, Notary, Sanctions for Violations, Implementation of Notary Positions

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1. Introduction

Rapid social growth has also resulted in the development of legal relations in society, resulting in a function for a Notary that is extremely complicated and frequently inconsistent with applicable requirements. As a consequence, it would be difficult to properly define the Notary's duties and responsibilities. However, a Notary's role is to control the legal connections between parties who unanimously request the services of a Notary in writing and legitimately. From the Notary's primary function, it's clear that he has a difficult job because he's responsible for providing the greatest service possible to the community.

Having a notary code of ethics helps to ensure that the notary profession may be practiced professionally with a focus on intellectual abilities, reasonable and critical arguments, and preserving moral principles. Professional code of conduct for notaries is enforced and implemented by the Indonesian Notary Association (also known as INI) as an organizational association for notaries.

Complying with all applicable laws and regulations is a notary's responsibility. The notary is needed to exercise caution in order to ensure that he or she performs his or her duties honestly, trustworthy, and impartially. Most of the items in the Notary Department's code deal with the establishment of notaries and the delegation of a notary's powers and responsibilities.

As the foundation for the development of the Notary Code of Ethics, the existing rules, norms, and living regulations or mutually agreed upon by individuals in associations, as well as the Law Number 30 of 2004 concerning the Position of a Notary, served as the inspiration. The relevance of a notary code of ethics is intended to ensure that the notary profession can be carried out professionally with motivation and orientation on intellectual talents, as well as the ability to argue rationally and critically and defend moral ideals, among other things.

When it comes to notaries, the Supervisory Board is a body that has the authority, as well as the obligation, to provide direction and supervision. The existence of a Notary's supervision is meant to ensure that a Notary's performance of his or her duties is guided by and adheres to the rules and regulations governing the position of a Notary. Notaries, in the course of carrying out their duties and positions, are required to adhere to and operate under the laws and regulations governing the Notary Position, which means that they must adhere to and operate under all of the provisions of the laws and regulations governing the Notary Position.

The Supervisory Board and the Honorary Council evaluate the notary's practice to ensure that he or she does not disregard his or her nobility and dignity, break general norms, or make any other blunders when performing the duties of a notary. Consequently, the Honorary Council or the Supervisory Board of the notary must have a process in place to ensure that the notary's actions are constantly monitored.

Due to the high number of violations committed by notaries, the Supervisory Board and Honorary Council

must step up their efforts to foster notaries and sanction those who commit violations, both behavioral and position-related violations, since there are currently numerous violations engaged by notaries.

The issue that faced in the West Nusa Tenggara region was that there were 2 (two) cases of a notary who denied the code of ethics in the course of making a deed. The first case involved a notary who was domiciled in his working area in East Lombok Regency who committed a violation when carrying out his duties as a notary in the course of making a deed in which the contents of the deed made by the notary were detrimental to one of parties. Second, a notary with a work area that includes the Central Lombok Regency commits a violation when preparing the deed of land sale and purchase agreement, which is the subject of the second complaint. Only the first of the two cases that have been sanctioned has received a written warning, but the other one has only been reported to the authorities and has not yet been reviewed by the West Nusa Tenggara Notary Supervisory Board.

The sanctions imposed by the notary regional supervisory board on a notary who break the rules will have an effect on both the notary who committed the violation and the notary who did not commit the infringement. The punishments imposed on a notary who commits a violation are sufficiently effective that the notary who commits the violation will refrain from repeating the fault.

As a general official who is permitted by law to make a deed in an effort to avert difficulties in the community, the notary is an essential part of the Supervisory Board's role in upholding the law in the internal notary. Authentic deeds and other authority as intended by this law or other laws are also indicated in Article 1 of Law No. 2 of 2014 concerning Amendments of Law No. 3 of 2004 Concerning Notary Positions.

Article 15 of Law No. 2 of 2014 designates a Notary as a general official tasked with the creation of legitimate deeds in order to provide parties with legal clarity and prevent conflicts. Whenever a notary fails to adhere to current laws and regulations, he or she will be punished in accordance with the inaugural he or she made. Article 7 paragraph (2) reads that "Notaries who break the regulations may be subject to sanctions in the form of: written warning; temporary stop; respectful dismissal; or a disrespectful dismissal." This means that notaries who violate the rules are not necessarily punished. Sanctions may be levied on notaries who break the code of ethics with knowledge of their actions.

The West Nusa Tenggara Notary Regional Supervisory Board has imposed sanctions on notaries who violate the notary code of ethics in the performance of their responsibilities, as specified in Article 73 paragraph (2) of Law No. 2 of 2014 amending Law No. 30 of 2004 on Notary Positions (Fonna et al., 2022). However, each notary who committed an offense while performing his notarial duties gets reinstated. As a result of the foregoing, numerous notaries commit violations of the code of ethics governing the execution of deeds. Thus, the goal of this study is to examine the jurisdiction of the notary regional supervisory board and the consequences imposed by law enforcement for notary position breaches in west Nusa Tenggara.

2. Literature Review

2.1 Authority Theory

According to The Big Indonesian Dictionary (abbreviated as KBBI), personal authority is "the ability to make judgments, to order, and to assign responsibility to others." In a broad sense, authority refers to the right of an individual to operate within specified parameters that are accepted by other members of a particular organization.

Authority is the right to act or to direct others to act or not act in order to accomplish particular aims. Oftentimes, authority is tied with power. Effective organizations must make prudent use of authority. Authority is utilized to accomplish the authorized party's goals. As a consequence, authority is frequently synonymous with power (Ridwan, 2021).

2.2 Legal Effectiveness Theory

According to Lawrence M. Friedman, the effectiveness and success of law enforcement are highly reliant upon three facets of the legal system: the legal structure, the legal substance, and the legal culture (Hutabarat et al., 2022). Legal structure refers to law enforcement officials, legal substance refers to legislative instruments, and legal culture refers to a society's living law (Ridwan, 2021).

The legal system is composed of current legal institutions charged with the responsibility of enforcing existing legal instruments. The structure of a law is a pattern that demonstrates how the law is applied in accordance with its explicit requirements. This framework demonstrates how courts, legislators, and legal institutions and process's function and operate.

Soerjono Soekanto outlines 5 (five) elements affecting the efficacy of judicial proceedings, which include: (Soekanto, 2004)

- 1) The legal factor;
- 2) Law enforcement factors;
- 3) Factors of facilities and facilities that support law enforcement
- 4) Community factors; and
- 5) Cultural factors.

2.3 Concept of Authority

The notion of authority originates with the state's attributes, specifically the presence of a power endowed with authority. Miriam Budiardjo says in his book that power is typically expressed through relationships in which one party rules and the other party is ruled "the rule and the ruled" (Deliarnoor, 2015).

In terms of authority, it can be achieved in three ways: by attribution, mandate, or punishment, all of which are defined in Article 11 and subsequently in the definition of 3. The authority is defined in Article 1 numbers (22), (23), and (24) of Law Number 30 Year 2014 on Government Administration, which specifies the authority, notably:

- a. Attribution is the process by which the 1945 Constitution of the Republic of Indonesia or the Act confers authority on Government Agencies and/or Officials.
- b. Delegation is the transfer of authority and accountability from a higher Government Agency and/or Official to a lower Government Agency and/or Official by means of a delegation.
- c. When a higher government agency or official grants authority to a lesser government agency or official, the original mandate bearer retains full control over the situation.

2.4 Law Enforcement Concept

Essentially, the act of utilizing various legal instruments to impose legal punishments to ensure compliance with the provisions of the law can be defined as law enforcement in broad.

Basically, when we deal regarding law enforcement, we are referring to the enforcement of abstract notions and ideas. The goal of law enforcement is to bring these ideals to realization (Rahardjo, 2009).

2.5 Notary concept

No. 2 of 2014 amending No. 30 of 2004 on the Notary Position contains the following definition of "notary" in Article 1 point 1: "A notary is a public official who is authorized to make an authentic deed and has other powers as specified in this law or other laws"

2.6 Regional Supervisory Board Concept

It is the responsibility and authority of the Regional Supervisory Board (hence referred to as MPW) to provide direction and supervision to notaries throughout the territory.

3. Methodology

The type of research used in this research is normative legal research. In this study, the legal materials used consisted of legal materials in the form of:

- 1) Primary Legal Materials, namely legal materials consisting of statutory regulations or written regulations that contain legal norms and are made and determined by the State and Judges' Decisions which have binding legal force (*inkracht*). The primary legal materials used in this research are:
 - a) a1945 Constitution of the Republic of Indonesia.
 - b) Law of the Republic of Indonesia Number 2 of 2014 concerning Amendments to Law Number 30 of 30 of 2004 concerning the Position of Notary
 - c) Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number M.02.PR08.10 of 2004 concerning Procedures for Appointment of Members, Dismissal of Members, Organizational Structure, Work Procedures and Procedures for Examination of the Notary Supervisory Board.
 - d) Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number: M.01-HT.03.01 of 2006 concerning "Terms and Procedures for Appointment, Transfer and Dismissal of Notaries".
 - e) Minister of Law and Human Rights Regulation Number 61 of 2016 concerning "Procedures for Imposing Administrative Sanctions Against Notaries".
 - f) Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 15 of 2020 concerning "Procedures for Examination of the Supervisory Board of Notaries".
 - g) Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number: M-01.HT.03.01 of 2003 concerning Notary.
 - h) Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number: M.39-PW.07.10 of 2004 concerning "Guidelines for the Implementation of the Duties of the Notary Supervisory Board".
- 2) Secondary legal materials, namely legal materials that provide explanations of primary legal materials, research results, text books, scientific journals, newspapers, internet news, can also be in the form of official documents of state institutions or institutions.
- 3) Tertiary legal materials, namely those that provide instructions and explanations for primary legal materials and secondary legal materials, namely in the form of dictionaries, encyclopedias.

The approach method used in this research is the conceptual approach and the statute approach. Legal Materials Collection Techniques in the form of literature. After the legal materials obtained are in accordance with the legal material collection techniques above, then legal material processing and analysis is carried out, in this preparation the legal materials obtained and analyzed using qualitative analysis are compiled and presented in the form of a series of sentences describing the research results.

4. Result and Discussion

4.1 Authority of The Notary Regional Supervisory Board in Law Enforcement against Violations of The Implementation of Notary Positions

4.1.1. Authority of the Notary Territory Supervisory Board

According to UUJN, the Notary Supervisory Board is a body charged with the authority and responsibility of establishing and supervising notaries. Accordingly, the Supervisory Board is a component of the government's supervisory function, as the Minister is also empowered to convene a Supervisory Board. The UUJN regulates the Supervisory Board, which is divided into 3 (three) sections: the Local Supervisory Board, the Region Supervisory Board, and the Central Supervisory Board. Each of the three sections has a defined jurisdiction to carry out government supervision responsibilities.

Article 70 of the UUJN provides that one of the Local Supervisory Board's authority shall convene a session to investigate claims of violations of the Notary Code of Ethics or of the Notary Office's implementation. The Local Supervisory Board is empowered to supervise in accordance with the UUJN, while the Notary Honorary Council is empowered to enforce the provisions of the Notary Answer Code of Ethics. This is in harmony with Article 83(1) of the UUJN, which states that the Notary Organization is responsible for establishing and enforcing the Notary Code of Ethics.

The Local Supervisory Board also has the authority to inspect the Notary Protocol on a periodic basis, once a year, or at any time considered necessary; to grant leave permission for a period of up to six months; to determine the Substitute Notary Public by considering the Notary's proposal; and to grant leave permission for a period of up to six months (Yusliana et al., 2021). Determine the location of storage for Notary Protocols that are 25 (twenty five) years or older at the time of handover; Appoint a temporary Notary Protocol designated as a governmental officer; Receive public allegations of alleged violations of the Notary Code of Ethics or this law's provisions and create and submit reports to the Regional Supervisory Board.

The Supervisory Board's authority is also regulated in the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia No. 16 of 2021 concerning organizational arrangements and work procedures, appointment and dismissal procedures, and the budget of the Notary Supervisory Board. The Supervisory Board's electability is regulated beginning with Article 27:

Article 2

“The Supervisory Board has the authority to:

- a) Guidance and Supervision of Notaries as well as conducting examinations of alleged violations of the behavior and implementation of the Notary's position;
- b) administration which does not require the approval of the Supervisory Board meeting;
- c) administration which requires the approval of the Supervisory Board meeting; and routine checks.”

“The administrative authority of the Local Supervisory Board which does not require the approval of the Local Supervisory Board meeting as referred to in Article 27 letter b which includes:

- a) grant notary leave permission for a period of up to 6 (six) months;
- b) determine a substitute Notary Public by taking into account the proposal of the Notary concerned;
- c) receive reports from the public regarding alleged violations of the Notary's code of ethics or violations of provisions in the law;
- d) keep the contents of the deed and the results of the examination confidential;
- e) receive a copy that has been legalized from the list of deeds and other registers of the Notary and keep it secret;
- f) record in the register which is included in the Notary Protocol by mentioning the date of examination, the number of deeds and the number of private documents which were legalized and made since the date of the last examination; and
- g) prepare and submit reports to the Regional Supervisory Board.

In addition to the authority as referred to in paragraph (1), the Local Supervisory Board has the authority to issue a certificate consisting of:

- a) Information on the administrative transfer of the Notary's work area, which includes:
 - a. Letter Notary conduit statement;
 - b. Certificate of Notary leave;
 - c. A certificate stating that the Notary concerned has completed all his obligations as a Notary in accordance with the provisions of the laws and regulations governing the position of a Notary;

- d. Statement letter regarding the number of Notary deed; and
- e. Certificate of Notary Protocol holder.
- b) Information on the administrative extension of the Notary's term of office, which includes:
 - a. Certificate of recommendation for extension of the notary's term of office; and
 - b. Certificate of Notary Protocol holder.

The certificate as referred to in paragraph (2) is valid for 1 (one) year from the date of stipulation.”

“The administrative authority of the Local Supervisory Board that requires approval from the Local Supervisory Board meeting as referred to in Article 27 letter c includes:

- a) Hold a trial to examine the alleged violation of the Notary's code of ethics or violations of the implementation of the Notary's position;
- b) Conduct inspections of the Notary Protocol periodically 1 (one) time in 1 (one) year or at any time deemed necessary;
- c) Determine the place of storage of the Notary Protocol which at the time of handover of the Notary Protocol is 25 (twenty five) years old or more;
- d) Appoint a Notary who will act as the temporary holder of the Notary Protocol who is appointed as a state official;
- e) Make an inspection report and submit it to the local Regional Supervisory Board, with a copy to the Central Supervisory Board, Notary Organizations, and the Notary Public concerned; and
- f) Examine the public report against the Notary and submit the results of the examination to the Regional Supervisory Board within a period of 30 (thirty) Days, with a copy to the Central Supervisory Board, the Notary Organization, the Notary concerned, and the reporting party.”

“The administrative authority of the Regional Supervisory Board that does not require approval from the Regional Supervisory Board meeting as referred to in Article 27 letter b includes:

- a) grant notary leave permission for a period of more than 6 (six) months up to 1 (one) year;
- b) set notary substitute by taking into account the proposal of the Notary concerned;
- c) receive reports from the public regarding alleged violations of the Notary's code of ethics or violations of provisions in the law, in the event that the Local Supervisory Board has not yet been formed;
- d) submit the decision on the results of the examination to the Notary concerned with a copy to the Central Supervisory Board and the Notary Organization; and
- e) submit an appeal to the Central Supervisory Board against the imposition of sanctions and refusal of a Notary's leave.

In addition to the authority as referred to in Paragraph (1), the Regional Supervisory Board has the authority to issue a certificate based on the certificate issued by the Local Supervisory Board as referred to in Article 29 Paragraph (2).

The certificate as referred to in paragraph (2) consists of:

- 1) administrative information on the transfer of the Notary's work area which includes:
 - a. notary conduite certificate; and
 - b. certificate of notary leave.
- 2) a letter of recommendation for the extension of the notary's term of office.

The certificate as referred to in paragraph (3) is valid for 1 (one) year from the date of stipulation.”

“The administrative authority of the Regional Supervisory Board that requires approval of the Regional Supervisory Board meeting as referred to in Article 27 letter c includes:

- a) hold a session to examine and make decisions on public reports that can be submitted through the Local Supervisory Board;
- b) summon the reported Notary Public for examination of the report as referred to in letter a;
- c) examine and decide on the results of the examination of the Local Supervisory Board;
- d) give sanctions both verbal warnings and written warnings; and
- e) propose the imposition of sanctions against the Notary to the Central Supervisory Board in the form of:
 - a. temporary suspension for 3 (three) months up to 6 (six) months; or
 - b. dishonorable dismissal.”

“The administrative powers of the Central Supervisory Board that do not require approval from the Central Supervisory Board meeting as referred to in Article 27 letter b include:

- a) grant notary leave permission for a period of more than 1 (one) year;
- b) determine a substitute Notary Public by taking into account the proposal of the Notary concerned;
- c) stipulate a Notary holding a Notary Protocol to be appointed as a state official;
- d) receive reports from the public regarding alleged violations of the Notary's code of ethics or violations of provisions in the law, to be forwarded to the competent Local Supervisory Board; and
- e) submit the results of the examination and decision to the Minister and the Notary concerned with a copy to the Regional Supervisory Board and the concerned Local Supervisory Board as well as the Notary

Organization.

In addition to the authority as referred to in Paragraph (1), the Central Supervisory Board has the authority to issue a certificate based on the certificate issued by the Regional Supervisory Board as referred to in Article 31 Paragraph (3).

The certificate as referred to in paragraph (2) consists of:

- a) administrative information on the transfer of the Notary's work area which includes:
 - a. notary *conduite* certificate; and
 - b. certificate of notary leave
- b) a letter of recommendation for the extension of the notary's term of office.

The certificate as referred to in paragraph (3) is valid for 1 (one) year from the date of stipulation.

“The administrative authority of the Central Supervisory Board that requires approval of the Central Supervisory Board meeting as referred to in Article 27 letter c includes:

- a) hold a hearing to examine and make decisions at the appeal level against the imposition of sanctions and refusal of a Notary's leave;
- b) summon the reported Notary Public for examination as referred to in letter a;
- c) impose sanctions on temporary dismissal; and
- d) propose the imposition of sanctions in the form of honorable or dishonorable dismissal to the Minister.”

Concerning the Supervisory Board's authority (Local, Regional, and Central), there is one authority that needs to be clarified in accordance with applicable law, namely on the Supervisory Board's report if it discovers a criminal act while conducting an examination of a Notary, the Supervisory Board will report it to the competent authorities as specified in Article 32 Paragraphs (1) and (2) of the Ministerial Regulations. The article's substance has designated the Notary Supervisory Board as a reporter of illegal crimes (Habib, 2014).

At the moment, the government, in this case the Ministry of Law and Human Rights of the Republic of Indonesia, has issued a new regulation governing the supervision of Notaries, namely the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia No. 15 of 2020 on the Examination Procedures for the Supervisory Board of Notaries. The Examining Council is responsible for enforcing this regulation regarding the application of punishment upon Notaries.

If we refer to the provisions mentioned above, namely Article 20 paragraph (1) and paragraph (2) of the Minister of Law and Human Rights Number 02 of 2004 states that:

- 1) In conducting an examination of a Notary, the Chairperson of the Notary Supervisory Board shall form a Local Examining Council, Regional Examining Council, and Central Examining Council from each element consisting of 1 (one) chairman and 2 (two) members of the Examining Council;
- 2) The Regional Examination Board and the Central Examination Board have the authority to examine and decide on the reports received.

The Examining Council is a team formed by the Local Supervisory Board. The Investigating Council is authorized to conduct an examination of the reported Notary Public, then submit a report to the Local Supervisory Board. Subsequently, the Local Supervisory Board makes a report to be forwarded to the Regional Supervisory Board. Furthermore, the Regional Supervisory Board will examine the Notary concerned (by forming an Examining Council at the regional level), if proven, the Regional Supervisory Board will impose sanctions. If the Notary does not agree or makes an appeal with the decision of the Regional Supervisory Board, the Notary concerned can file an objection to the Central Supervisory Board (by forming an Examining Council at the central level).

Referring to the provisions of Article 73 of the UUJN, it is determined that the Regional Supervisory Board has the authority to impose sanctions on Notaries and Article 77 of the UUJN determines that the Central Supervisory Board has the authority to impose sanctions. However, according to Regulation of the Minister of Law and Human Rights Number 15 of 2020 stipulates that the authority to impose sanctions on Notaries lies with the Examining Council Article 1 point (4) Ministry of Law and Human Rights Number 15 of 2020 is contrary to UUJN, and it is necessary for Notary organizations to submit this to the Ministry of Law and Human Rights. Republic of Indonesia.

It is said to be attribution authority because the authority of the Notary Regional Supervisory Board is given authority by the Notary Position Act Article 73 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 in regards with Notary Positions, the Regional Supervisory Board Notary is a legal entity that has the authority and obligation to carry out the guidance and supervision of a notary.

4.2 Implementation of Sanctions Implemented by The Regional Supervisory Board in Law Enforcement Against Violations of The Implementation of Notary Positions in Notary in Nusa Tenggara Barat

Notaries must always follow the UUJN and the Notary Code of Ethics when carrying out their responsibilities and positions. The term ethics is derived from two Latin terms, *mores* and *ethos*, and is used to refer to politeness and human morals. Ethics, like morals, is etymologically described as ideals and conventions that

guide persons or communities in regulating their behavior (Herlien, 2013).

The Regional Supervisory Board has a role in the application of sanctions against Notaries who violate the implementation of office duties, as regulated in the UUJN. This is because as the function of the Notary Supervisory Board itself is a body that has the authority and obligation to carry out guidance, supervision of Notaries and the provision of sanctions.

In practice, Notary who break the code of ethics have thus far faced consequences. As was the case in East Lombok Regency, a Notary committed a breach in preparing the deed, in which this client objected to the contents of the notary's deed. As a consequence, the Supervisory Board for the West Nusa Tenggara Notary Region issues a formal warning to a notary who violates the law.

Additionally, a notary in West Lombok breached the code of ethics while doing his duties. Where the client entrusts the notary with 4 (four) certificates of property rights. However, without the client's agreement and presence in front of the notary and the parties to sign the Sale and Purchase Deed, the notary executed a Sale and Purchase Deed and transferred the names of the 4 (four) client's property rights certificates. As a result of the notary's violation of the code of ethics, the notary falsified documents, which bringing harm to his client (Apriliansi et al., 2019). Consequently, the Supervisory Board of the West Nusa Tenggara Notary Region may issue a written warning to a notary who violates the rules.

There have been no temporary suspensions or dismissals of notaries for infractions thus far. Sanctions are explicitly defined in the Notary Code of Ethics, however they have not been imposed in practice.

The Local Supervisory Board assists the West Nusa Tenggara Regional Supervisory Board in carrying out its duties by obtaining information on notaries who have committed infractions while doing their duties. The Regional Supervisory Board summons and initiates an examination of the notary who commits a violation based on the information. The Regional Supervisory Board may impose punishment on a notary who violates the law based on the results of this assessment. As previously stated, the West Nusa Tenggara Regional Supervisory Board will impose 3 (three) types of sanctions against Notaries.

As for membership of the Supervisory Board of the West Nusa Tenggara Notary Region is regulated in Article 67 Paragraph (3) of the UUJN which reads:

“The Supervisory Board as referred to in Paragraph (2) consists of 9 (nine) persons, consisting of the following elements:

- a) Government as many as 3 (three) people;
- b) 3 (three) notary organizations; and
- c) 3 (three) experts or academics.”

Based on the Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number: AHU-65.AH.02.07. 2021 concerning the First Amendment to the Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number: AHU-14.AH.02.07. 2021 concerning the Appointment of the Regional Supervisory Board for the Period of 2021 to 2024 West Nusa Tenggara Province. Stipulated on December 3, 2021, 9 (Nine) Members of the Supervisory Board for the Notary Region of West Nusa Tenggara Province consisting of 3 (three) elements, namely:

- a) Government as many as 3 (three) people, including:
 - a. Haris Sukanto, A.K.S., S.H., M.H (Chairman)
 - b. Dr. Harniati, S.H., LL.M. (Vice Chairman)
 - c. Yudi Adrianto, S.H., M.H. (Member)
- b) There are 3 (three) notary organizations, including:
 - a. H. Muhammad Aroman, S.H. (Member)
 - b. H. Eddi Hermansyah, S.H. (Member)
 - c. Maudy Margareta Rarung, S.H., M.H. (Member)
- c) 3 (three) experts or academics, including:
 - a. Dr. H. Kaharuddin, S.H., M.H. (Member)
 - b. Dr. H. Djumarddin, S.H., M. Hum. (Member)
 - c. Dr. H. Lalu parman, S.H., M. Hum. (Member)

So far, the West Nusa Tenggara Regional Supervisory Board has implemented sanctions against Notaries who commit violations in carrying out their positions. The West Nusa Tenggara Regional Supervisory Board only gives a verbal warning and a written warning.

Generally, sanctions/penalties can be divided into 3 (three) types, which include:

1) Civil Sanctions

Civil sanctions are penalties that are applied in the event of an error that occurs as a result of a default or unlawful conduct. If the person concerned only has the power of proof in the form of a deed under the hand or a deed null and void, a portion of this sanction in the form of reimbursement of costs, compensation, and interest will be received by the Notary or the requests of the appearers (Rustam & Suwardiyati, 2021).

If it turns out that the parties recognizes a deed that violates certain provisions referred to in Article 84 of

the UUJN, then the deed in question still has perfect evidentiary power and is binding on the parties. Thus, determining that the Notary deed is degraded into the power of proof as an underhand deed is within the scope of the assessment of evidence (Saputro et al., 2021).

The deed is degraded, meaning that the rank, quality, morale, decline, decline, or it can also be placed at a lower level in this case is interpreted as a decrease in the deed.

Sanctions related to the deed of degradation of the strength of proof and the cancellation of the notary deed are stated in several articles in Law Number 2 of 2014 including Article 41, Article 44 paragraph 5, Article 49 paragraph 4, Article 50 paragraph 5, Article 51 paragraph 4 which states that resulting in a deed only having the power of proof as an underhand deed and can be a reason for the party suffering losses to demand reimbursement of costs, compensation, and interest from a notary.

Compensation in civil law refers to Article 1365 of the Civil Code, where the plaintiff is returned to its original state before the loss caused by the defendant. In civil law, losses include material losses, namely losses that can be calculated in money and immaterial losses, namely losses that cannot be assessed in a definite amount.

If there is a legal problem regarding the deed and it can be proven in court, that is, there are aspects stated in the deed that are not true, then the deed made only has the power of proof as an underhand deed or the deed is null and void (Rustam & Suwardiyati, 2021). For a notary, of course, a notary as an official authorized to make a deed will be subject to civil sanctions in the form of compensation. This is in line with if there are parties who feel aggrieved as a direct result of a Notary deed, then the person concerned can file a civil lawsuit against the Notary.

2) Criminal sanctions

Criminal sanctions are an *ultimum remedium*, which is a last resort if sanctions or other legal remedies do not work or are deemed ineffective. A notary is sentenced to criminal sanctions (cumulatively) which are *condemnatoir* (punitive) or punishing.

A criminal act is an act which is prohibited by a legal rule and is subject to criminal punishment, provided that at the same time it is remembered that the prohibition is shown to an act, namely a condition or event caused by the behavior of a person, while the threat of punishment is imposed on the person who caused the incident (Hakim, 2020).

This sanction is outside the context of the UUJN, because it is based on a Ministerial Decree. Criminal sanctions are the last step, if sanctions or other legal remedies are not enforced. For a Notary who commits a criminal act, the Minister can dismiss him on the grounds that the Notary has been proven guilty and is subject to imprisonment, which is regulated in the Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number: M-01.HT.03.01 of 2003 concerning Notary Article 21 paragraph (2) sub b, namely "The Notary is proven guilty directly related to his position or other criminal acts with a penalty of 5 (five) years in prison".

Notaries can be subject to criminal sanctions, in addition to having to meet the elements of violations listed in the UUJN and the Code of Ethics, notaries must also meet the criminal elements regulated in the Criminal Code. A notary who falsifies his deed can be subject to criminal sanctions as regulated in Article 264 of the Criminal Code, because Article 264 of the Criminal Code is a forgery of letters that is aggravated because the object of this forgery contains a high value of trust.

A notary can also be punished if he commits a criminal act in the form of forgery, either intentionally or unintentionally (lack of accuracy) or is known by the notary concerned, so that he is subject to criminal sanctions. If a notary commits a crime in the form of a crime, then the notary may be named a suspect and a defendant and if there are legal facts that have been proven before the trial to have committed a crime committed by a notary, then he may be sentenced to imprisonment, all of which can be followed by detention against a notary.

3) Administrative Sanctions

The notary world recognizes the existence of administrative sanctions, this is also recognized in the Law on Amendments to the UUJN, that apart from being subject to civil sanctions, administrative sanctions can also be imposed.

The definition of sanctions in state administrative law is a tool of power that is public law, used by the government as a reaction to non-compliance with obligations that exist in state administrative law norms.

Administrative Sanctions are law enforcement instruments in the Law on Notary Positions, including preventive measures (supervision) and repressive measures (implementation of sanctions). Preventive measures are carried out through periodic inspection of the notary protocol and the possibility of administrative violations in the implementation of the notary position according to the Notary Position Act. While repressive measures are carried out through the imposition of sanctions by:

- a) Regional Supervisory Board, in the form of verbal warning and written warning, and has the right to propose to the Central Supervisory Board in the form of temporary dismissal from 3 (three) months to 6 (six) months or dismissal with disrespect;

- b) Central Supervisory Board, in the form of temporary dismissal, and has the right to propose to the minister in the form of dishonorable dismissal;
- c) Minister, in the form of respectful dismissal and dishonorable dismissal.

Of the three sanctions above, the West Nusa Tenggara Regional Supervisory Board only has the authority to impose or apply administrative sanctions as stipulated in Article 5 of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 16 of 2016 concerning Procedures for Imposing Administrative Sanctions against Notaries. The provision states that the West Nusa Tenggara Regional Supervisory Board may impose a written warning sanction to a notary who has committed a violation.

Furthermore, there are 3 (three) types of sanctions imposed by the Regional Supervisory Board to a notary who commits a violation, namely:

1) First Written Warning Sanctions

Sent to a notary who violates one of the provisions contained in Article 5 Paragraph (1) Regulation of the Minister of Law and Human Rights of the Republic Number 16 of 2016 concerning Procedures for Imposing Administrative Sanctions against Notaries, for example the notary concerned does not perform his position in real terms. If this is done by a notary, the Regional Supervisory Board will give the first written sanction that the notary can carry out his position in real accordance with the order of the law, which is 60 days after the notary is sworn in. The grace period given by the Regional Supervisory Board to carry out its position is 14 days. However, if this is not done, the notary may be given a second written warning.

2) Second Written Warning

If the first written warning is not heeded and implemented by the Notary for a period of 14 days, the Regional Supervisory Board will impose a second warning. Within a period of 14 days, the notary is given the opportunity to resolve the problem, such as carrying out real obligations. However, if the first written warning sanction is also not heeded and implemented by the Notary, then he or she will be given a second warning sanction. If this is not done, the notary may be given a third written warning.

3) Third Written Warning Sanctions

Is a sanction imposed on a notary who does not heed, both the first written warning and the second written warning. If the notary does not submit this matter, the Regional Supervisory Board proposes to the Central Supervisory Board to temporarily suspend the notary.

Based on the interview results from the sanctions above, the West Nusa Tenggara Regional Supervisory Board only gave the first written warning to a Notary who violated his position in carrying out his office. After being given the first written sanction against a Notary who commits a violation, he no longer commits a violation which causes the Notary to be given a second and third written sanction.

The following presents the application of sanctions by the Supervisory Board of the Province of West Nusa Tenggara for notary violations that occurred between 2019 and 2021.

Table 1 Application of Sanctions by MPW of West Nusa Tenggara Province for Notary Violations

No	Work Area	Decision		MPW			Period			Amount
		Verbal Warning	Written Warning	2019	2020	2021	2019	2020	2021	
1	Mataram City	-	√	3	-	-	-	-	-	3
2	West Lombok Regency	√	√	2	-	1	-	-	-	3
3	Central Lombok Regency	-	-	-	-	-	-	-	-	0
4	East Lombok Regency	-	√	1	-	-	-	-	-	1
5	North Lombok Regency	-	-	-	-	-	-	-	-	0
6	West Sumbawa Regency	-	-	-	-	-	-	-	-	0
7	Sumbawa Regency	-	-	-	-	-	-	-	-	0
8	Dompu Regency	-	-	-	-	-	-	-	-	0
9	Bima Regency	-	-	-	-	-	-	-	-	0
10	Bima City	-	-	-	-	-	-	-	-	0
Total										7

Source: Interview with The Secretary of The Supervisory Board for the West Nusa Tenggara Region.

Based on the table, the application of sanctions by the Region Supervisory Board (MPW) of West Nusa Tenggara Province to notaries for violating 7 (seven) Notaries, so far they have been given administrative sanctions in the form of verbal warnings and written warnings, but based on the results of interviews with the Secretary of the Supervisory Board of the Notary Region of West Nusa Tenggara Province for verbal reprimand sanctions are not effective, while written sanctions are in the form of a letter of warning from a notary who commits a violation that does not justify repeating his actions.

Of the 7 (seven) violations above, there are several violations committed by a notary, of which 1 (one) verbal warning is imposed on a notary who commits a violation in storing the deed that has been made in the form of a deed and 5 (five) written warning sanctions handed down to a notary who commits a violation in the

making of the contents of the deed, embezzlement and falsification of documents.

The imposition of administrative sanctions is also regulated in the Law on Notary Positions, also based on the Decree of the Minister of Law and Human Rights of the Republic of Indonesia, in this case the provisions in the Law on Notary Positions related to sanctions that are directly included in the articles of obligation in carrying out notary duties. Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number M.39-PW.07.10 of 2004, namely:

- 1) Regarding the authority of the Local Supervisory Board, the authority is not to impose any sanctions on a notary. Although the Local Supervisory Board has the authority to receive reports from the public and from other notaries and convene hearings to examine allegations of violations of the Notary's Code of Ethics or violations of the implementation of the Notary's position; but not given the authority to impose any sanctions, but the Local Supervisory Board is only authorized to report the results of the trial and examination to the MPW with a copy to the reporting party, Notary and Law Number 2 of 2014 concerning the Position of Notary Article 77 point d concerned, Supervisory Board Center, and Organization (Article 71 letter e UUJN).
- 2) Regarding the authority of the Regional Supervisory Board to impose sanctions, in Article 73 paragraph (1) letter e of the UUJN, that MPW has the authority to impose sanctions in the form of verbal warnings and written warnings, but in Ministerial Decree number 2 point 1 it determines that the Regional Supervisory Board is also authorized to impose (all) sanctions as stated in the UUJN.
- 3) Regarding the authority of the Central Supervisory Board (MPP), namely regarding the imposition of sanctions in Article 77 letter c of the UUJN stipulating that the MPP has the authority to impose sanctions on temporary dismissal. This kind of sanction is a waiting period for a certain period of time before other sanctions are imposed, such as a dishonorable discharge from the position of a notary or honorary discharge from the position of a notary. Other sanctions The Central Supervisory Board is only authorized to propose sanctions in the form of dishonorable dismissal to the Minister.

Concerning the process for the execution of administrative sanctions, which is carried out directly by the sanctioning agency are enforced as a preventive measure (supervision) through periodic inspection of notary protocols and possible violations in the execution of notary positions and repressive measures (implementation of sanctions), which is carried out by the West Nusa Tenggara Regional Supervisory Board through the use of verbal or written reprimands, as well as the right to propose to the Central Supervisory Board. The Central Supervisory Board thereafter issues a temporary dismissal and has the authority to submit a recommendation to the minister in the form of disrespectful dismissal. The Minister may then dismiss the Notary with respect or with a disrespectful dismissal on the recommendation of the Central Supervisory Board.

5. Conclusion

5.1 Conclusion

The authority of the Notary Territory Supervisory Board is regulated in Article 73 paragraph (1) of the UUJN concerning the authority of the Notary Territory Supervisory Board, pursuant to Law Number 2 of 2014 amending Law Number 30 of 2004 concerning Notary Positions. Which entails the following: (a) convening a session to examine and decide on public reports submitted through the Regional Supervisory Board; (b) summoning the reported Notary Public to conduct an examination of the reports received; (c) granting leave of more than six months to one year; (d) reviewing and deciding on the Regional Supervisory Board's decision imposing a sanction in the form of an oral or written warning; and (e) proposing sanctions as (1) in the form of a temporary notification lasting three to six months; or (2) in the form of a dismissal with contempt. Article 32 establishes the Notary Regional Supervisory Board's responsibility over law enforcement. The Regional Supervisory Board's administrative powers, as specified in Article 27 letter c, include the following: a. convene a session to examine and decide on public reports submitted through the Local Supervisory Board; b. summon the reported Notary Public for examination of the report as specified in letter a; c. examine and decide on the results of the examination of the Local Supervisory Board. d. gives sanctions both verbal warnings and written warnings; and e. propose sanctions against Notaries to the Central Supervisory Board in the form of: 1. temporary dismissal for 3 (three) months to 6 (six) months; or 2. dishonorable discharge.

Sanctions imposed by the Supervisory Board of the West Nusa Tenggara Notary Region have been effective in enforcing the law against violators of the Notary Position's implementation. The Supervisory Board for the West Nusa Tenggara Notary Region has been tough with notaries who break the law, issuing verbal and written warnings. The Supervisory Board for the Notary Region of West Nusa Tenggara issues a verbal and written warning to a notary who violates his position by preparing a deed that is not in compliance with the parties' request and thereby implicates one of the parties.

5.2 Suggestion

Based on findings and discussion above, the following suggestions can be taken into account:

- 1) It is hoped that the West Nusa Tenggara Notary Regional Supervisory Board's authority over the notary who

commits this violation would be defined once more in its guidelines. The Regional Supervisory Board's jurisdiction is not just included in the Notary Position Act; rules must be enacted to define its authority in sanctioning notaries who commit infringements while performing their duties.

- 2) It is expected that the West Nusa Tenggara Regional Supervisory Board will employ even tougher supervision of notaries who commit infringements while performing their duties. To serve as a deterrent to notaries who conduct violations, legal counseling is frequently provided about the sanctions that will be granted or enforced if the notary commits violations while doing his duties. Due to the existence of legal counseling, the notary will reconsider committing violations while doing his obligations.

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