

Juridical Analyst Supervision Function of the Notary Supervisory Board in the City of Baubau

D,Andara¹, S. Aburaera² and H. Baharuddin²

¹ Legal Studies Program, Faculty of Law, Universitas Muhammadiyah Buton, Jl. Betoambari No. 36 Kota Baubau, 93721, Indonesia.

² Universitas Muslim Indonesia

E-mail: darojatunandara@umbuton.ac.id

Abstract. Notaries as public officials who carry out the profession in providing legal services to the public, need to get protection and guarantees in order to achieve legal certainty. This study aims: (1) To determine the implementation of notary supervision conducted by the Notary Regional Supervisory Board in the City of Baubau (2) To determine the factors that influence the implementation of notary supervision by the Regional Notary Supervisory Board of the City of Baubau. This study uses an Empirical Juridical approach that seeks to link prevailing legal norms with reality in society, the authors conduct research with analytical descriptive research that is to reveal the real problem or situation, to reveal the facts of the research so as to provide an objective picture. The results of the study show that (1) The implementation of notary supervision by the Notary Supervisory Board in the City of Baubau by making efforts to guide, supervise the notary, that supervision as a preventive and curative activity, preventive activities carried out are activities that include authority administrative, regulate procedural procedures and notary protocols, while curative regulates the taking of suspected violations. (2) Factors influencing the implementation of notary supervision by the Regional Supervisory Board of Baubau City, namely in carrying out their functions and duties, human resources are not yet maximal, supporting infrastructures are still limited, budgets are still very minimal, coordination between management is still low. weak, lack of legal awareness from several notaries, especially administrative order.

Keywords: Oversight, Regional Notary Supervisory Council

1. Introduction

The law in society functions to create and maintain security and order. The role of law in regulating people's lives has been known since people know the law itself, because the law was made to regulate human life as social beings. According to N.G. Yudara that the notary as a public official, is one of the state organizations that is equipped with legal authority to provide public services to the community, especially in making authentic deeds as perfect evidence regarding legal actions in the civil field [1].

Notaries as public officials who carry out the profession in providing legal services to the public, need to get protection and guarantees in order to achieve legal certainty. The Republic of Indonesia is a constitutional state based on the Pancasila and the 1945 Constitution which guarantees certainty, order and legal protection

for every citizen. Provisions on the position of notary are regulated in Act Number 30 of 2004 concerning Notary Position which is then amended by Law Number 2 of 2014 concerning Amendment to Law Number 30 of 2004 concerning Notary Position [2].

Article 1 number (1) of the Law of Notary Position states that a notary is a public official authorized to make an authentic deed and has other authority as referred to in this law or based on other laws. The position of a notary is a position of trust, so the nobility and dignity of the notary office must be maintained, both when carrying out their duties and the behavior of the notary's life as a human being which directly or indirectly influences the dignity of the notary public. The position of a notary public officer, in the sense that the authority that is in the notary has never been given to other officials, as long as that authority does not become the authority of other officials in making authentic deeds and other authorities, then that authority becomes the authority of a notary public [3].

Theoretically, an authentic deed is a letter or deed that was intentionally deliberately formally made for proof. Whereas dogmatically based on Article 1868 of the Civil Code, authentic deed is a deed in the form determined by law and made by or before public officials in power for that in the place where the deed was made, as stipulated in Article 1868 of the Civil Code. One public employee or official authorized to make an authentic deed is a notary. The notary is authorized to make an authentic deed, in addition to that the notary is also authorized to legalize or record the deeds made under the hand in accordance with other authorities set forth in the Notary Position Act. A continuous oversight mechanism for notaries in carrying out their duties and positions is very much needed, both for preventive and curative supervision of the implementation of notary duties. The supervision mechanism is carried out on the basis of the prevailing laws and regulations [4].

Notaries in carrying out their duties and authorities and obligations must always uphold integrity and morals that can be accounted for, because the results of their work in making a deed or maintaining the notary protocol are very important for the verification process in the court or outside the court, namely as authentic evidence perfect and binding, in the sense that the truth of the things written in the deed must be recognized by the judge, that deed is considered to be true as long as the truth is that no other party can prove otherwise.

Authentic deed is a deed in the form determined by the law, made by or in front of public officials in charge for that at the place the deed was made, as regulated in Article 1868 of the Civil Code. One public employee or official authorized to make an authentic deed is a notary. The notary is authorized to make an authentic deed, in addition to that the notary is also authorized to legalize or record the deeds made under the hand in accordance with other authorities set forth in the Notary Position Act. A continuous oversight mechanism for notaries in carrying out their duties and positions is very much needed, both for preventive and curative supervision of the implementation of notary duties. The supervision mechanism is carried out on the basis of the prevailing laws and regulations.

There are two types of notary documents in the form of notarial deed, there are two types, namely:

- a. Party deed (partij-akten), i.e. the form of words made for evidence which contains information given by the parties to the Notary.
- b. Deed of official report (Relativity) is a form of deed made for evidence by (the parties) of an action or reality that occurred before a Notary [5].

Before the entry into force of the Notary Position Law, based on Staatblad Year 1860 No. 3 regarding the Notary Position Regulation, the implementation of the supervisory and fostering duties of the notary public is the duty and authority of the supervisory judge domiciled in the District Court in collaboration with the Supreme Court and the Department of Justice.

However, over time, in order to improve the quality and quantity of notaries, a new regulation was issued that applies to notaries, namely Law Number 30 of 2004, State Sheet Number 117, Supplement to State Gazette Number 4432 regarding Notary Position. With the enactment of this law, the authority of the District Court as a notary supervisor ends and is then replaced by a new supervisory institution called the Notary Supervisory Council established by the Department of Law and Human Rights.

Since the promulgation of the Law of Notary Position, in principle the authority to conduct oversight and guidance of notaries, is the minister who is currently the Minister of Law and Human Rights. Then the authority is mandated to the Notary Supervisory Council.

The Notary Supervisory Board as referred to above is divided in stages depending on the duties and authorities of each, which consists of:

1. Regional Supervisory Council, formed and domiciled in regencies or cities;
2. Regional Supervisory Council, formed and domiciled in the provincial capital;
3. Central Supervisory Council, formed and domiciled in the State capital.

Notary Supervisory Board, not only has the authority to conduct oversight and examination of notaries, but also has the authority to impose certain sanctions on notaries who have been proven to have violated the law regarding the notary's position regulations [6].

Supervision of a notary is carried out by involving several elements, namely the expert from the academic element, the government element, and from the notary element itself. The purpose of establishing the Notary Supervisory Board in each city or district is intended to improve services and legal protection directly for the public notary services users.

Based on the description above, it is necessary to dig deeper about everything related to the duties and authorities as well as the obligations held by the Notary Supervisory Council, especially the Regional Supervisory Council, including among others efforts to foster and supervise the notary public in the implementation professional notary position.

Based on the background of the problem that has been described above, then a problem can be formulated that will be examined, as follows: (1) How is the implementation of notary supervision carried out by the Notary Regional Supervisory Board in the City of Baubau?; (2) What are the factors that hinder the implementation of notary oversight by the Notary Regional Supervisory Board in Baubau City?

2. Literature Review

In Article 1 number (6) of the Notary Position Act, it is explained that the Supervisory Council is a body that has the authority and obligation to carry out guidance and supervision of notaries, which according to Article 68 paragraph (1) of the Supervisory Council consists of the Regional Supervisory Council, Regional Supervisory Council and the Central Board of Trustees [7].

Notaries are presented to serve the interests of the people who need evidence in the form of authentic deeds according to the request to the Notary. So that without a community who needs a Notary, the Notary is useless. Even so, it does not mean that the agency that supervises Notaries will not violate any violations conducted by a Notary Public, because although the supervision is carried out by the Notary Supervisory Board, however strict the supervision by the Notary Supervisory Board is, it is not easy to carry out such supervision. This is returned to the Notary himself with awareness and full responsibility in the duties of his office following or based on the rule of law applies [8].

Through an authentic deed it can be clearly stated the rights, obligations and guarantees of legal certainty of the parties that are expected to avoid disputes. Even though according to the practice of legal relations there is still a chance of disputes, but with the authentic deed as the strongest and most complete written evidence, the legal process of dispute resolution can be resolved with legal certainty [9].

3. Methods

Approach method used is the Empirical Juridical approach, is an approach from the point of view of the rules and implementation of regulations that apply in the community, carried out by examining secondary data first, then proceed with conducting research on primary data in the field. The research specifications in this paper are analytical descriptive research. Descriptive research, limited to trying to express a problem or situation or event as it is, so that it is merely to reveal the facts. The results of the study emphasized on giving an objective picture, about the actual state of the object being investigated, namely the factors which hindered the Regional Supervisory Council in carrying out notary oversight in its area.

This research is a descriptive analytical study. Descriptive research, limited to trying to express a problem or situation or event as it is, so that it is merely to reveal the facts. The results of the study emphasized on giving an objective picture, about the actual state of the object being investigated, namely the Implementation of Supervision and the factors that hampered the Regional Supervisory Council in carrying out notary supervision in its area.

Sources of data in this study are primary data obtained directly from research in the field and secondary data collected from library materials and documents that support this research [10]. In addition to deepening primary data interview techniques were used with respondents consisting of the Chairperson and members of the Baubau City Notary Regional Supervisory Board.

Data obtained from the results of the study were then analyzed using the Qualitative Method which emphasizes more on the analysis of deductive and inductive inference processes as well as on the dynamics of the relationship between phenomena observed using scientific logic. Done based on the discipline of law by

paying attention to the facts in the field. Then grouped, linked and compared with legal provisions relating to Supervision of Notaries by the Regional Supervisory Council of the City of Baubau [11].

4. Results and Discussion

4.1. Implementation of Notary Supervision by the Notary Supervisory Board in the City of Baubau

The task of the Notary Regional Supervisory Board of the City of Baubau is to supervise and guide Notaries in the City of Baubau and surrounding areas, including Buton Regency, North Buton Regency, Muna Regency, Wakatobi Regency, Central Buton Regency and South Buton Regency. In accordance with the provisions of Article 67 of Law Number 2 of 2004 concerning amendments to Law Number 30 of 2014, the regulation of the Minister of Law and Human Rights Number: M.02.PR.08.10. In 2004, the Notary Supervisory Board of the City of Baubau in carrying out the functions of the Notary Supervision, namely:

4.1.1 Coaching

In achieving an ideal coaching effort, in principle coaching is very dependent on how the guiding principle is carried out. Implementation of coaching must be in accordance with the needs and objectives to be achieved through these activities. Therefore the efforts taken. Regional Notary Board of Trustees in conducting guidance must be done carefully, and carefully so that it is right on target.

Results of an interview with Indah Kusuma Dewi, date. He is a member of the Baubau Municipal Notary Supervisory Board (MNSB) from the academic element, explaining that coaching is an effort in the form of actions and activities that are carried out efficiently and effectively with the hope that the coaching that is carried out can produce better than the notaries who are fostered and will cause satisfaction with the community towards the service system of a notary public. So the coaching is done in order to maintain the professionalism of the notary in carrying out the position and notary behavior.

The results of the interview with the Chairman of the Regional Notary Supervisory Board of Baubau City, La Ode Muh. Taufik described some of the efforts made by the Notary Supervisory Board of the City of Baubau in the context of fostering and supervising notaries:

The Baubau Municipal Notary Supervisory Board conducts dissemination of notaries under its authority. The purpose of this socialization is so that the parties related to the notary profession can better understand the existence of the Notary Supervisory Institution, regarding the authority in maintaining the enforcement of the Notary Ethics Code and the implementation of the Notary's duties to comply with established regulations, so that the public as a notary service user does not some are harmed and the notary's activities are in accordance with the established corridor. Provide guidance and counseling on the need for legal awareness for Notaries to always obey and comply with the Law of Notary Position as well as other laws and regulations regarding the position of Notary. The guidance to the notary himself is carried out by the Notary Supervisory Board, while supervision

of the Notary Public is the delegation of the Minister of Law and Human Rights to the Notary Supervisory Council. Guidance and supervision needs to be done because the notary's office is vulnerable to violations, and this must be carried out programmatically.

4.1.2 Supervision

Based on interviews with La Ode Muh. Taufik, Chairperson of the Baubau City Notary Regional Supervisory Board that supervision of notaries in Baubau City is held periodically once a year and is given a schedule to all members of the Baubau City Notary Regional Supervisory Council adjusted to the supervision budget of the Ministry of Law and Human Rights of the Sulawesi Province Southeast, considering the location of the supervision that is far apart even between islands, and to facilitate the process of monitoring the notary then a Whats App group is created that involves all the components that exist and can be used as a forum for discussion, if there are problems encountered in the field. According to the legal umbrella, the existence of the Notary Supervisory Board is an order of the notary position of the Notary Supervisory Board having the obligation and authority to carry out supervision of the notary public so that it is important to strengthen the institutional notary Supervisory Council, including in the City of Baubau, especially since the number of notaries has increased in the last year. MNSB also has the obligation and authority to follow up the findings to be examined and to investigate the process of further inspection in the field until the execution of the decision of the Notary Supervisory Board.

List of Notaries in the City of Baubau

1. Nita Mirawati, SH., M.Kn
2. Baharillah Mouna, SH ... M.Kn
3. Hamid Prioegi, SH
4. La Ode Muhammad Taufik, SH
5. Puspita Mustikasari, SH., M.Kn
6. Musnawir, SH
7. Andi Muhammad Kasim, S., SH.
8. Nur Syamsi Mustafa, SH., M.Kn.
9. Muhammad Ramadhan Makmur M., SH., M.Kn.
10. Aril Alfian Lanae, S.H., M.H.

List of Notaries in Muna Regency

1. Ahmad Yani Kalimuddin, SH
2. Ary Guntoro, SH., M.Kn
3. Emy Astuti, SH

List of North Buton Regency Notaries

1. Handri Jufri, SH., M Kn.

List of Wakatobi Regency Notaries

1. Inalis Veranica Ritonga, SH., M.Kn

List of Buton Regency Notaries

1. Nasrin, SH., M.Kn.

The number of notaries under the supervision of the Baubau City Regional Notary Supervisory Board is highest in Baubau City then Muna Regency, Buton

Regency, North Buton Regency and Wakatobi Regency. The number of notaries in the City of Baubau and its surroundings based on the results of the study can be seen in Table 1.

Table 1. Notary Data Existing in the City of Baubau in 2019

No.	The Region	Notary Public	Land Titles Registrar	Notary Public and Land Titles Registrar	Amount
1.	City of Baubau	-	-	10	10
2.	Buton Regency	-	1	-	1
3.	Buton Tengah Regency	-	-	-	0
4.	Buton Utara Regency	-	-	1	1
5.	Muna Regency	-	-	3	3
6.	Wakatobi Regency	-	-	1	1
	Amount				16

Source: Baubau Municipal Notary Supervisory Council 2019

Caption: Land Deed Making Officer (LDMO)

Based on the table above, the number of notaries under the Supervision of the Regional Notary Supervisory Board of Baubau City is the most in the City of Baubau then Muna Regency and other Regencies of 1 (one) person, geographically the City of Baubau with other districts is very far apart and even different islands in carrying out the supervision of the Notary Supervisory Board in the City of Baubau going well this can be seen from the absence of major violations committed by the notary public in the City of Baubau, but the implementation of supervision outside the City of Baubau is still ineffective. This is indicated by the discovery of alleged violations of the Code of Ethics, i.e. found alleged violations of discipline.

Table 2. Data of the Baubau Municipal Notary Supervisory Council 2018-2021 Period

No.	Name	Position
1.	Wahyu Prasetyo, Bc.Ip.,S.Sos	Regional office of the Ministry of law and human rights
2.	Arifuddin , Bc.Ip.,S.Sos	Regional office of the Ministry of law and human rights
3.	Arief Budianto Gavover, SIP,M.H.	Regional government
4.	H.Hamid Prioegi, S.H	Notary Organization
5.	La Ode Muh Taufik , S.H.	Notary Organization
6.	Emi Astuti, SH., M.Kn	Notary Organization
7.	La Ode Bunga Ali,S.H.,M.H.	Academics
8.	Indah Kusuma Dewi, S.H.,M.H.	Academics
9.	Dinna Dayana Ld. Malim, S.H.,M.H.	Academics

Source: Baubau Municipal Notary Supervisory Council 2019

Based on the above table that the Members of the Baubau City Notary Supervisory Board numbered 9 people, consisting of 3 elements from the government, 3 elements from the Notary and 3 elements from Academics.

Article 1 number 1 of Law Number 2 of 2014 concerning Notary Position explains that a notary is a public official who is authorized to make an authentic deed and has the authority other as intended in this law or under other laws.

The notary has the authority to make an authentic deed regarding all deeds, agreements and stipulations required by legislation and/or that is desired by the interested parties to be stated in an authentic deed, guaranteeing the certainty of the date of making the deed, keeping the deed, giving the grosse, copy and quotation of the deed, all this as long as the making of the deed is not also assigned or excluded to other officials or other people determined by law.

Notary Deed, hereinafter referred to as Deed, is an authentic deed drawn up by or before a notary according to the form and procedure stipulated in this law (Article 1 number 7 of the Law on Notary Position). In accordance with the provisions outlined above, the main task of the Notary is to make an authentic deed, that the Notary as a public servant performs part of the duties of the State and is therefore very important for the notary in assuming his position to provide services to the public and for the sake of community interests.

4.1.3. Preventive, Repressive and Curative Oversight

Implement supervision that is preventive, repressive and curative, that is to prevent or crack down on violations in the event of a violation of the notary office and to provide guidance to the notary himself.

The Baubau City Notary Supervisory Council in carrying out its supervision is by making efforts as a preliminary step to do preventive supervision, namely by coaching the notary public to conduct socialization, legal counseling, curatively namely the Notary Supervisory Board making an appeal or reprimand to the notary public actions that are not in accordance with the provisions of the Law of Notary Position. Then make a repressive effort that is in accordance with what is regulated in Article 13 of the Law of Notary Position, which regulates the taking of acts of alleged violations committed by a notary. The Chairperson of the Baubau City Notary Supervisory Board explained that the supervision carried out was based on what had been stipulated in the Notary Position Law, and in accordance with the understanding of supervision of Article 1 number 5 of Permen Number M.02.PR.08.10 of 2004.

The function of the Baubau City Notary Supervisory Council is that all rights and authorities as well as its obligations granted to the notary public in carrying out their office duties as provided by applicable laws and regulations, are always carried out above the prescribed path not only in legal channels, but on moral grounds and ethics for the sake of achieving legal protection and legal certainty.

4.2. Factors That Hinder the Supervision of the Notary Regional Supervisory Board of Baubau City

In carrying out supervision and fostering of notaries in the City of Baubau and surrounding areas conducted by NRSB of the City of Baubau, the implementation has not been able to run smoothly according to what is stipulated in the Law, State Ministerial Decree, or Ministerial Decree on Notary Supervision,

as for the obstacles faced by the City of Baubau NRSB in implementing oversight functions of the Notary in the City of Baubau, including:

4.2.1. Human Resources

Resources are an important factor that must be owned by the organization in order to implement policies properly. The resources referred to here are human resources, budget resources, and infrastructure resources. These three components actually go hand in hand in implementing policies. George C. Edwards III, stressed that without adequate resources will affect the implementation of policies. Furthermore according to him that these resources are human resources and financial resources. In George Edwards III's perspective, the presence of human resources as an implementor or implementer of the contents of the policy. Therefore the existence of adequate human resources is crucial to the implementation of the Baubau City Notary Supervisory Board policy in the perspective of human resource development.

The results of an interview with La Ode Muh Taufik, as Chairperson of the Baubau City Notary Supervisory Board, still experience limitations in terms of Human Resources the steps taken in dealing with this matter were made a group washapp (WA) to facilitate communication among NRSB members, such as inviting meetings, discuss various matters concerning supervision both before the supervision is carried out and after the supervision is carried out. Also concerns the mastery of information technology that has not been maximized as well as, administrative order, or instructions such as the procedure for notary examination is not uniform, although there are instructions for implementation in the Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number M-39-PW.07.10 Year 2004.

The results of an interview with Indah Kusuma Dewi, a member of the Baubau City Notary Supervisory Board from the academic element, explained that geography is very far and limited by the sea (different islands) especially with less funding, making it less effective because it requires a very long time because must cross by sea transportation. The Baubau Municipal Notary Supervisory Council is still seeking or improving the terms of Human Resources (HR) or improving, because it is only 5 years old and of course there are many things that need to be addressed, in order to improve the performance of the implementation of supervision of notaries in the City of Baubau.

4.2.2 Infrastructure Facilities

Some of the obstacles or obstacles faced by the Baubau City Notary Supervisory Board in terms of infrastructure include:

1. In terms of facilities and infrastructure, the City of Baubau NRSB does not yet have a permanent and representative Secretariat office
2. The government budget for the Baubau City NRSB operations in carrying out its oversight and guidance functions is not sufficient to support NRSB activities.
3. Lack of community participation in reporting suspected Notary violations due to limited access. This can be seen from the lack of reports from the public that entered the City of Baubau NRSB

4. Not a few members of the City of Baubau NRSB who come from elements of the Government that are mutated, so that in carrying out the notary examination is not optimal.
5. Provisions in the Law of Notary Position as well as laws and regulations that do not regulate the authority of the NRSB in providing sanctions against Notaries who violate the position of Notary Public resulted in the NRSB especially the City of Baubau having no direct enforcement power.

The steps taken by the Regional Notary Supervisory Board in Baubau City to overcome these obstacles include:

1. Infrastructure, especially the office of the Baubau City NRSB Secretariat, temporarily borrowed the room in the Notary Office LM Taufik, S.H.
2. Making a commitment or agreement in the form of coordination from the members of the City of Baubau NRSB to spend and choose the right time together to conduct an examination and supervision of the Notary.
3. Provide socialization and open access to the public who want to report all forms of violations of the regulations regarding the notary.
4. MPD of Baubau City in terms of giving sanctions to Notaries who violate the position of Notary Public only in the form of verbal reprimand and recorded it in the minutes of the Notary examination to be subsequently reported to the Regional Supervisory Council.
5. If in the notary examination conducted by the City of Baubau NRSB there are members who cannot attend for some reason, then it can be replaced by other members.

All activities of the development of guidance, preventive, repressive and curative supervision carried out by the Baubau City Notary Supervisory Board are in accordance with existing regulations, including the Law of Notary Position, Permen Number M.02.PR.0810. Year 2004, Ministerial Decree Number: M.39-PW.07.10 Year 2004, Minister Number: M.03.HT.03.10 Year 2007, and Notary Ethics Code. and the factors that influence the function of the implementation of notary supervision by the Baubau City Notary Supervisory Board, it is hoped that they can be handled properly so that it will realize the implementation of effective supervision and guidance.

5. Conclusion

Based on this description, the authors draw conclusions as follows: (1) Implementation of Notary Supervision by the Notary Supervisory Board of the City of Baubau, namely carrying out efforts to guide and supervise the notary public in his area, That supervision is as a preventive and curative activity, where Preventive activities carried out are activities that include administrative authority, for example activities that are more set about procedural procedures and notary protocols. While the curative activities carried out relating to regulations governing the taking of actions against alleged violations committed by notaries of the Law and the Code of Ethics. (2) Factors that hamper the implementation of notary supervision by the Baubau City Notary Supervisory Board, namely: Inadequate human resources, supporting infrastructure which is still limited by a budget that is still very minimal, coordination between management is still weak due to the busy work of each

members, so that the implementation of the supervision of the Baubau City Notary Supervisory Assembly has not been able to run effectively.

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