

Legal Reform Urgency: A Critical Analysis of Notary Officials Convicted More Than Once with Imprisonment Sentences Below Five Years

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ABSTRACT

A Notary in Indonesia is a public official appointed by the Minister of Law and Human Rights of the Republic of Indonesia. Its function is crucial in ensuring certainty, order, and legal protection in the realm of civil law. In carrying out their duties, a notary is obliged to maintain the integrity and dignity of their profession by avoiding violations stipulated in the Notary Office Law and Code of Ethics. Administrative sanctions can be imposed on a notary who violates the rules, such as written warnings, temporary suspension, honorable discharge, and dishonorable discharge. Finally, dishonorable discharge can be applied when a notary faces the threat of imprisonment for five years or more. However, if the threat of imprisonment is less than five years, the notary still has the opportunity to resume their profession after serving the sentence. The issue arises when the Notary Office Law does not provide clear provisions regarding the imposition of penalties if a notary faces a criminal threat of less than five years more than once. This situation creates a legal norm vacuum and ambiguity in the role of the Notary Supervisory Board in determining sanctions against notaries who commit such violations.

Keywords: Notary, Criminal Acts, Notary Supervisory Board

INTRODUCTION

Indonesia is a legal state that adheres to the principles of Pancasila and the 1945 Constitution of the Republic of Indonesia (UUD NKRI 1945) to ensure certainty, order (benefit), and justice as legal protection in all fields. Article 28D (1) of the 1945 Constitution of the Republic of Indonesia asserts that, "Everyone has the right to recognition, guarantees, and fair legal certainty as well as equal treatment before the law." In connection with the role of a Notary in helping to create legal certainty and protection for the community, it is preventive in nature to prevent legal problems by regulating authentic deeds made in their presence related to legal status, rights, and obligations of individuals in the law, and so on, which function as the most perfect evidence in court in the event of disputes over related rights and obligations. (Sjaifurrachman, 2011)

Law is an existence in the aspect of state administration and regulates the behavior of society, which is a principle that must operate in harmony. Professor Van Kan stated that law encompasses all provisions that regulate the rules of living in society compellingly to protect and safeguard the interests of each individual in society. (R. Soersono, 2015)

The application of law in a country must be continuous and should not be separated from the interests of society and the government. Law serves as the foundation for state administration, and the behavior of society is a consequence of the existence of law, which represents a form of power in a country. The concept of a legal state is a fundamental assumption in the creation of state power, assuming that law has its own existence as the highest authority that is considered to accommodate every aspect within it. (Jazim Hamidi & Mustofa Lutfi, 2010).

The evolving dynamics of issues within society continually present new challenges that the law has yet to address. This results in law being demanded not only as a social control mechanism but also requiring a role as social engineering to contribute to the realization of social welfare, facilitated through government efforts. The aspect of social welfare corresponds to the concept of a welfare state or commonly interpreted as a "night watchman state." According to Piet Thoenes, in the concept of a welfare state, the government becomes a sponsor to provide collective social care guarantees. (I Dewa Gede Atmaja, 2015).

In a legal state, there is a separation of powers divided into three branches: Executive, Legislative, and Judicial. The judicial branch has several sub-parts that play a role in the creation of good law. Judges play a role in enforcing existing laws, lawyers assist seekers of justice, and with the development of economic, social, and legal life, the existence of a Notary becomes crucial in community life. The Notary's position as one of the functionaries is to serve as an official providing legal advice and, notably, playing a role in creating documents to serve as strong evidence in legal proceedings. (Endang Sri Martini, 2011).

In the interactions within society, both in terms of legal actions among individuals, it is necessary to establish a legal relationship to have legality. One of the functions of the law is to provide legal certainty in community life. The existence of the position of a Notary is crucial and needed by the wider community, considering the Notary's function as a Public Officer who creates written evidence in the form of authentic deeds. In every case, whether civil or criminal, evidence is essential. Proof is something that must absolutely exist, so the success or failure of a plaintiff or defendant depends on the validity of the evidence presented to the court. The stronger the evidence, the stronger a judge's belief in the truth of a case. One form of evidence is a deed, where an authentic deed or document can be considered the most perfect form of evidence.. (Baharudin, 2014).

The Notary profession, which is a public office, is granted authority by law and appointed by an authorized institution to perform tasks not delegated to other officials related to the creation of public deeds or agreements. Deeds created by a notary are authentic deeds with perfect probative force. The concept of an authentic deed is a document made by a public official with the authority to record and explain an event or action witnessed by the public official creating the deed. (Oemar Moechtar, 2017). What is contained in a notarial deed includes the interests of the parties, enabling the notarial deed to guarantee the civil rights of an individual as a legal subject. (Boty, 2017). In fulfilling the role of a notary, there is an inherent responsibility related to the evidence that can clearly determine the rights and obligations of legal subjects.. (Eko, 2019)

A Notary, in carrying out their duties and responsibilities, is obliged to adhere normatively to the legal regulations related to all actions that will be documented in a deed. (Soesanto, 1982) Acting in accordance with the applicable legal rules will undoubtedly provide legal certainty to the parties involved, indicating that the deed created before or by the notary complies with the prevailing regulations. Therefore, in the event of any issues, a notarial deed can serve as a guide for the parties involved. (Otodisoerjo & Soegondo, 1993)

The position of a Notary, entrusted as a public official, comes with a unique authority exclusive to a Notary. This authority is stipulated in Law No. 2 of 2014 Concerning Notary Positions, Article 1, number 1, as amended by Law No. 30 of 2014

Concerning Notary Positions, which states, "A Notary is a public official authorized to create authentic deeds and has other authorities as referred to in this Law or based on other laws." (Tunggal, 2006).

A Notary plays a crucial role in providing certainty, order, and legal protection in the realm of civil law, as emphasized in the considerations of letter b of Law Number 2 of 2014 Regarding Amendments to Law Number 30 of 2004 Concerning the Position of Notary. This is stated as follows: "To ensure certainty, order, and legal protection, authentic written evidence is needed regarding the circumstances, events, or legal acts carried out through a specific office.

The authority of a Notary is further clarified in Article 15, paragraph 1, of the Notary Law, which states, "A Notary has the authority to create authentic deeds regarding all acts, agreements, and determinations required by the laws and regulations and/or desired by those concerned to be stated in an authentic deed, ensuring the certainty of the date of the deed's creation, preserving the deed, providing originals, copies, and excerpts of the deed, all of which as long as the creation of the deed is not also assigned or exempted to another official or person designated by the law." (Perdata, 1945).

Recognizing the importance of the Notary profession, the role of a Notary must be monitored more comprehensively. This oversight is carried out by the Ministry of Law and Human Rights (Kemenkumham), which has the authority to appoint and dismiss Notaries. In overseeing Notaries, the Minister establishes regional supervisory councils, regional supervisory boards, and a central supervisory board to monitor Notaries and the execution of their duties

The authority of these supervisory boards is outlined in the Minister of Law and Human Rights Regulation Number 19 of 2019 concerning the Requirements and Procedures for the Appointment, Leave, Transfer, Termination, and Extension of the Term of Office of Notaries (Hukum & Indonesia, 2019). This regulation contains important functions to grant the authority held by supervisory boards to carry out guidance and supervision of Notaries. This is clearly stated in the Minister's regulation.

The imposition of penalties on a Notary for violating obligations, prohibitions, and provisions stipulated in the Notary Law, as well as the Notary Code of Ethics, may result in administrative sanctions, including written warnings, temporary suspension, honorable discharge, and dishonorable discharge. (Buko, 2017).

Dishonorable discharge is applied to a Notary who violates the provisions outlined in Article 12 and Article 13 of Law No. 2 of 2014 concerning the Position of Notary. These articles state: (Sinuhaji et al., 2015)

A Notary can be dishonorably discharged from their position by the Minister upon the recommendation of the Central Supervisory Board if:

- a. Declared bankrupt based on a court decision that has obtained legal force.
- b. Remains under continuous guardianship for more than 3 years.
- c. Engages in actions that demean the honor and dignity of the Notary profession.
- d. Commits a serious violation of the duties and prohibitions of the Notary position.

Furthermore, in Article 13 of Law Number 2 of 2014 amending Law Number 30 of 2004 concerning the Position of Notary, it is explained that "a Notary shall be dishonorably discharged by the Minister due to imprisonment based on a court decision that has obtained legal force for committing a criminal act punishable by imprisonment for 5 (five) years or more."

A Notary, in the course of their duties, is obligated to uphold the dignity and honor of their profession. If a Notary is sentenced to imprisonment for less than five years, they have the opportunity to resume their profession as a Notary, subject to a reinstatement procedure by the Ministry of Law and Human Rights. This is because when sanctions are imposed on a Notary, they are given an opportunity to defend themselves before the Minister imposes the sanction. The legal basis for not dismissing a Notary if they are threatened with imprisonment for less than 5 years is found in Article 10, paragraph 2 of Law No. 30 of 2004 on the Position of Notary, stating that a temporarily dismissed Notary can be reinstated by the Minister after the temporary dismissal period ends.

However, there is a regulatory gap in the Notary Law regarding the imposition of penalties if a Notary receives a criminal threat of less than 5 years for the second time. This phenomenon occurs due to the absence of regulations in the Notary Law regarding sanctions if a Notary is sentenced to imprisonment for less than five years more than once. The Notary Law focuses solely on regulating dishonorable dismissal if a Notary is threatened with imprisonment for 5 years or more. Committing an unlawful act for the second time emphasizes that a Notary does not experience a deterrent effect and does not feel guilty during the first period of punishment. This creates ambiguity and the absence of legal provisions for the supervisory boards in determining penalties for a Notary who is threatened with imprisonment for less than five years more than once.

The lack of legal regulation regarding a Notary sentenced to imprisonment for less than five years more than once results in a lack of juridical certainty in determining the sanctions imposed on a violating Notary. The existence of legal certainty requires legal regulation efforts in legislation made by authorized and authoritative parties, so that these regulations have juridical aspects that can ensure the certainty that the law functions as a rule that must be obeyed.

Based on the above description, a new issue arises regarding Notaries who have been threatened with imprisonment for less than five years and resumed their duties, but for the second time face the same threat of imprisonment for less than 5 years. There is a legal norm vacuum in Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2014 Concerning the Position of Notary. The legal vacuum in the Notary Law regarding the imposition of penalties if a Notary receives a criminal threat of less than 5 years for the second time prompts the author to address this issue in the form of research with the title "Legal Reform Urgency: A Critical Analysis of Notary Officials Convicted More Than Once with Imprisonment Sentences Below Five Years".

METHOD

This research employs a normative juridical research method, also known as doctrinal research, which utilizes legal and conceptual approaches. In the writing process, the author utilizes normative law based on normative gaps. The research study revolves around the examination of normative gaps. Penelitian ini menggunakan metode penelitian yuridis normatif atau disebut dengan penelitian doktrinal, yang menggunakan pendekatan perundang-undangan dan pendekatan konseptual, dalam penulisan penulis menggunakan hukum normatif berangkat dari kekosongan norma. Kajian penelitian dari kekosongan norma. (Efendi & Ibrahim, 2018) This is caused by the absence of regulation in the Notary Law regarding the imposition of penalties if a

Notary receives a criminal threat of less than 5 years for the second time. This phenomenon occurs because there is no provision in the Notary Law regarding sanctions when a Notary is sentenced to imprisonment for less than five years more than once. The Notary Law only focuses on regulating dishonorable dismissal if a Notary is threatened with a prison sentence of 5 years or more.

The research sources include primary legal sources examining the Notary Law, secondary legal sources studying various literature comprising publications on law through official documents such as textbooks, legal journals, and opinions of legal experts relevant to the legal issues discussed. Tertiary legal material consists of books, journals, theses, and non-legal websites still related to the research topic (Nurcholis et al., 2022). This study refers to the legislative regulations on the Position of Notary Number 2 of 2014 concerning Amendments to Law Number 30 of 2014 concerning the Position of Notary. The writing technique used is through document study with the collection of legal materials and the analysis of legal issues using deductive thinking. Additionally, the legal material used includes primary legal sources consisting of norms, legal principles, and regulations in line with this research.

RESULTS AND DISCUSSION

A Notary, in carrying out their duties and obligations, must adhere to the obligations and refrain from prohibitions stipulated in the law. A Notary has the responsibility to uphold their duties, honor, and dignity as a public official tasked with creating authentic deeds.

A Notary who violates the regulations in the law or the code of ethics will face sanctions. Those who commit violations will be subject to sanctions commensurate with the violation committed by the Notary. Sanctions, as defined by Philipus M. Hadjon, are a tool of public legal power used by authorities as a reaction to non-compliance (Habib Adjie, 2013).

Sanctions initially were only of one kind, namely criminal sanctions, in the form of penalties related to life and health. With the development of legal knowledge, civil sanctions emerged, accompanied by the development of civil law. There is a difference between criminal law and civil law, namely in their sanctions (Jimly Asshidiqie & Ali Safa'at, 2012).

Sanctions serve as legal tools to ensure law enforcement and encourage individuals or society to comply with established legal regulations. If a Notary commits a violation, whether it be a breach of the code of ethics or the Notary Law, sanctions can be imposed.

The imposition of sanctions on a Notary is typically based on the existence of demands, which may arise from:

- a. The distinctive legal relationship between the Notary and the Appearing Parties takes the form of unlawful acts.
- b. Inaccuracy, lack of precision, and imprecision in:
 - a) Administrative techniques in creating deeds not based on the law;
 - b) Determination of various legal rules not based on the specific expertise and general legal knowledge. (Maryadi et al., 2017)

Notaries can also face criminal sanctions, as discussed earlier regarding criminal sanctions (Nandika, 2021). The basis for imposing criminal sanctions on a Notary includes:

- a. Originating from Criminal Law itself, including forgery, fraud, complicity,

instigation, or assistance in corrupt practices, money laundering, or other criminal acts. Other criminal acts are as explained in the previous discussion.

- b. Originating from the minimum standard of service. This is derived from the Law, Implementing Regulations, other Regulations, Code of Ethics, and also from provisions of civil law, for example, provisions on the validity of agreements regulated in Article 1320 and Article 1868 of the Civil Code.

To prove the fulfillment of these conditions for punishment, evidence and proof tools are required. Valid proof tools are regulated in Article 184 of the Criminal Procedure Code (Rangga, 2010) consisting of:

- a) Witness statements;
- b) Expert testimony;
- c) Letters (deeds);
- d) Indications;
- e) Statements from the defendant.

Based on Article 183 of the Criminal Procedure Code, it is explained that a judge may not impose a criminal penalty on someone unless, with at least two valid items of evidence, the judge is convinced that a criminal act has indeed occurred and that the defendant is guilty of it. This ensures the establishment of truth, justice, and legal certainty.

The juridical construction applied in cases of civil liability for the material truth of a deed made by a Notary is the concept of an unlawful act regulated by Article 1365 of the Civil Code. This unlawful act has active and passive aspects. The active aspect in this context refers to the intentional actions of an individual that cause harm to another party. In other words, the act is an active action performed with the intention or purpose of creating detrimental consequences to another party.

In this context, the unlawful act encompasses more than just a violation of actions that should be taken but also includes various actions that substantially contradict legal principles. This reflects the broadening meaning of the unlawful act in the context of modern law and the development of more inclusive legislative institutions.

Although there are administrative, civil, or ethical sanctions based on the Notary's professional code, in some cases, legal actions or violations committed by a Notary can be considered criminal acts. This indicates the complexity of determining the appropriate type of sanction depending on the situation and the violation committed. Nevertheless, generally, the laws regulating the Notary profession do not specifically address criminal sanctions against Notaries.

The limitations that serve as the basis for criminally prosecuting a Notary generally relate to the formal aspects of the Notary deed, which should be based on the UUJN (Notary Profession Law). If it is proven that the Notary violates these formal aspects, the sanctions that can be imposed may include civil or administrative penalties, depending on the type of violation or the sanctions stipulated in the Notary's professional code. Prosecuting a Notary criminally based on these considerations without conducting a comprehensive investigation or providing substantial evidence to identify the elements of fault or intent of the Notary is an action without a strong legal basis and cannot be justified.

In cases of criminal actions against a Notary, there should be clear and in-depth evidence of intent or significant violations of the formal aspects in the Notary deed.

Criminal prosecution against a Notary cannot be carried out solely based on suspicion or without strong evidence of specific elements of wrongdoing.

The importance of having a legal basis and strong evidence in prosecuting criminal actions against a Notary is to uphold justice and legal integrity, as well as to protect the rights of Notaries who also have complex professional responsibilities.

In this case, there is a legal vacuum where there is no regulation in Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning Notary Regulations, as well as the Notary Code of Ethics and the Minister of Law and Human Rights Regulation No. 19 of 2019 concerning the Requirements and Procedures for the Appointment, Transfer, Termination, and Extension of the Term of Office of a Notary (Ayumi, 2022). It is known that in carrying out their duties as a Notary. Based on Articles 12 and 13 of UUJN, a Notary is prohibited from engaging in acts that degrade the honor and dignity of the Notary's position, committing serious violations and being sentenced to imprisonment for 5 years or more (Napouling, n.d.). These regulations do not address how to deal with a Notary sentenced to imprisonment below five years because it can be said that the Notary has degraded the honor and dignity of their position. A Notary sentenced to imprisonment below five years cannot be subject to Articles 12 and 13, namely dismissal without honor because these articles cannot reach a Notary sentenced to imprisonment below five years, and the Notary can resume their duties. However, what about a Notary sentenced to imprisonment below five years more than once? This Notary has not only degraded the dignity and honor of their position but also did not experience the deterrent effect of the previous sentence. This issue also undermines public trust in the Notary profession because an official who is uniquely authorized by the law to provide legal certainty for the legal relationships of the community approaching them turns out to be an official who has been sentenced to imprisonment more than once.

The consequence of the absence of legal norms related to situations or conditions that are not regulated is the occurrence of legal uncertainty (*rechtsonzekerheid*) or uncertainty about legislation in society, which can have even more severe consequences leading to legal chaos (*rechtsverwerking*). In the sense that when something is not regulated, it is allowed, but when there are clear and regulated procedures, it does not mean it is prohibited.

The lack of regulations governing Notaries who have been sentenced to imprisonment below five years more than once will cause problems in the future when a person in the community uses the services of a Notary who has been sentenced to imprisonment below five years more than once, and the status of the Notary is unclear, whether they have been temporarily suspended or dismissed without honor. This affects the strength of the deeds they create in performing their duties.

The absence of regulations regarding sanctions for Notaries sentenced to imprisonment below five years more than once does not affect the authenticity of their authentic deeds. However, the necessity to regulate sanctions for these Notaries is intended to further support the clarity of their profession. If these rules are stipulated in the Law, it will clarify that in the event of a legal issue, their status as a public official will not be doubted by judges or lawyers because they have been sentenced to imprisonment below five years more than once.

As previously explained, Notaries who violate regulations can be subject to sanctions specified in the Notary Law. The sanctions provided in the Notary Law include written warnings, temporary suspension, honorable dismissal, and dismissal

without honor.

A Notary who commits a criminal act may be subject to sanctions. Before imposing sanctions on a Notary, the process must adhere to the Criminal (Azyati, 2015). The stages involved in this process include:

- a. Occurrence of a criminal act.
- b. Investigation stage by the police.
- c. Prosecution stage by the public prosecutor.
- d. Examination stage in court by a judge.
- e. Execution stage of the court decision by the public prosecutor and correctional institution.

Penitentiary law, or the Law of Execution of Criminal Sanctions, provides regulations explaining how a judge's decision is implemented for someone with a convicted status. The execution of criminal sanctions can take place once there is a court decision. In criminal law, three concepts exist:

- a. Criminal act/offense.
- b. Criminal liability or fault.
- c. Punishment.

Based on these concepts, a Notary proven to commit a criminal act must be held accountable for their actions. A Notary committing an offense will face criminal sanctions according to the nature of their actions.

A Notary sentenced to imprisonment based on a court decision can be subject to sanctions specified in the Notary Law. The sanction discussed in this research is the dishonorable discharge.

A Notary may face a dishonorable discharge sanction by the Minister if the Notary has been sentenced to imprisonment based on a final court decision for committing a criminal act punishable by imprisonment for 5 (five) years or more. Actions that can incur a threat of 5 (five) years or more in prison include forgery of authentic deeds, acts that demean the honor and dignity of the Notary, such as theft, adultery, and the misuse of narcotics (Cahyanti et al., 2018).

If a Notary violates their obligations by either neglecting their duties or engaging in activities outside the boundaries permitted by the law, the duties of a Notary are tasks that must be fulfilled and are obligatory for the Notary.

A Notary must be aware of and fulfill their duties in accordance with existing regulations. When a Notary has fulfilled their obligations, they are entitled to their rights. The obligations of a Notary are not solely regulated by the Notary Law; a Notary also has other obligations. Other obligations of a Notary are related to the Notary's oath, which includes a commitment to maintain the confidentiality of the contents of deeds and information obtained during the execution of their duties as a Notary.

As a public official, a Notary should be restricted from certain prohibitions that should not be violated. Every Notary must be aware of and understand the prohibitions that they are not allowed to violate. When a Notary violates the prohibitions stipulated in the Notary Law, they may face sanctions according to the specified provisions.

A Notary who engages in actions as mentioned in the explanation of Article 12 letters (c) and (d), such as demeaning honor and dignity and committing serious violations of duties and prohibitions, may be subject to criminal sanctions with a penalty threat of less than 5 (five) years or more than 5 (five) years.

The matter of dishonorable dismissal is also regulated in Article 13 of the Republic of Indonesia Law Number 2 of 2014 concerning Amendments to Law Number

30 of 2004 concerning Notary Position, which reads as follows:

"A Notary is dishonorably dismissed by the Minister because they are sentenced to prison based on a court decision that has obtained legal force because they committed a criminal act punishable by imprisonment of 5 (five) years or more." Article 13 explains that a Notary who is threatened with imprisonment for 5 (five) years or more can be directly dishonorably dismissed by the Minister. (Reysando et al., 2019).

When looking at the differences, Article 12 of the Republic of Indonesia Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Position states that a Notary can be dishonorably dismissed by the Minister upon the recommendation of the Central Supervisory Council, while Article 13 of the same law explains that a Notary can be directly dishonorably dismissed by the Minister if they have been sentenced to 5 (five) years or more.

During the imposition of sanctions in the Notary Law, a Notary who is threatened with a prison term of less than five years can be temporarily suspended but not dishonorably dismissed. This is because the Notary Law does not regulate the dishonorable dismissal sanction when a Notary is threatened with a prison term of less than five years. This regulation allows the Notary to resume their duties after serving their sentence, although the imprisonment threat is less than five years, but they have damaged the image of a Notary, violating the provisions in the Notary Law, Code of Ethics, and the Notary's oath.

Article 13 of Law Number 30 of 2004 concerning the Position of Notary stipulates that a Notary is not dishonorably dismissed except for criminal acts with a threat of imprisonment of 5 (five) years or more. From an ethical perspective, any criminal act, regardless of the threatened punishment, diminishes the trust of the public, especially the trust of the State that assigns the duty to create authentic deeds to the Notary (Napouling, n.d.).

If a Notary is sentenced to a criminal act with a threat of imprisonment of less than 5 (five) years, but the law does not specify the imposition of sanctions for a Notary sentenced to a criminal act with a threat of imprisonment of less than 5 (five) years, it provides an opportunity for the Notary to be reinstated.

The clarification of this issue is due to Article 3 letter (h), which states that "Has never been sentenced to imprisonment based on a court decision that has obtained legal force because of a criminal act punishable by imprisonment of 5 (five) years or more."

This article explains that a person can become a Notary if they have never been sentenced to a criminal act with a threat of imprisonment of 5 (five) years or more. Based on this, there is an opportunity for a Notary to regain their position as a Notary.

The importance of the dignity and honor for the image of a Notary, if a Notary is sentenced but the threat of punishment is less than five years and can still become a Notary, contradicts the obligation of a Notary stated in Article 16 paragraph (1) letter (a) of the Republic of Indonesia Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary and several provisions in Article 3 of the Code of Ethics (PRABOWO, 2021).

The relationship between the Notary Position Regulation and the Notary Code of Ethics lies in the provisions of the Notary Position Regulation and the imposition of sanctions for violations of both. Both aim to ensure that a Notary can perform their duties as best as possible."

This issue emphasizes that the law has not provided legal certainty in regulating sanction provisions in the law. In the previous discussion regarding Theoretical and Conceptual Frameworks, it was explained that the goals of the law include Legal Certainty, Justice, and Utility, as expressed by legal philosopher Gustav Radbruch..(Hakim, 2017). Lon L. Fuller, in his book "The Morality of Law", (A'an Efendi et al., 2021), explains the Theory of Legal Certainty, stating that legal uncertainty occurs when there is a failure to establish rules or laws, resulting in each issue being decided ad hoc or temporarily.

In the context of this research, a Notary who violates Article 12 and is sentenced to a punishment with a threat of less than five years cannot be directly subjected to Article 12 or Article 13 of the Republic of Indonesia Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary. This is because the imposition of sanctions for a Notary threatened with a punishment of less than five years is not yet regulated in the Notary Position Law, so clear rules are needed.

The imposition of sanctions aims to uphold the good name of the Notary profession. A Notary is a law school graduate who understands the law. Based on this, the application of dishonorable dismissal sanctions for a Notary threatened with a punishment of less than five years more than once is crucial.

The regulation of sanctions for a Notary threatened with a punishment of less than five years more than once is necessary to improve sanctions related to crimes committed by Notaries. Therefore, Notaries as public officials should avoid committing crimes with a punishment threat of less than five years.

If a Notary is sanctioned with a penalty of less than five years, the provisions found in Article 13 of the Notary Code of Ethics may apply(Ayuningtyas, 2020). The wording of Article 13 of the Code of Ethics is as follows:

"Without prejudice to the provisions governing the procedures or steps for members and imposition of sanctions in stages, then, in relation to a member of the association who has violated Law Number 30 of 2004 concerning the Position of Notary and has been declared guilty and criminally convicted based on a legally binding court decision, the Central Management is obliged to temporarily dismiss them as a member of the association with a proposal to the congress for their permanent dismissal from the association"

In practice, a Notary who has been sanctioned with a penalty of less than five years is only temporarily dismissed from their membership. Thus, a Notary who has been sentenced to less than five years still has the opportunity to resume their duties.

Ideally, regulations regarding sanctions for a Notary who has been convicted with a threat of punishment of less than five years more than once should be stipulated in the Republic of Indonesia Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary. If there are clear rules in this law, it will provide legal certainty for Notaries who have committed violations. A Notary who has been convicted with a threat of punishment of less than five years more than once has undermined the honor and dignity as a public official, and the previous conviction did not have a deterrent effect. This is because the Notary has violated not only the provisions of the Notary Code of Ethics but also the provisions of the Notary Position Law. Therefore, specific regulations regarding sanctions for a Notary who has been convicted with a threat of less than 5 (five) years more than once must be applied in accordance with the provisions of the Notary Position Law.

It should be noted that a Notary who commits violations as described in Article 12, if threatened with a criminal sanction of less than 5 (five) years, cannot be directly subjected to Article 12 or Article 13 of the Republic of Indonesia Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary. This is because the imposition of sanctions for a Notary threatened with a criminal penalty of less than five years is not yet regulated in the Notary Position Law, thus requiring clear rules.

CONCLUSION

Legislation serves as the foundation for society in the context of governance. Legislation is intended to explain the authorities, prohibitions, rights, and what is allowed and prohibited in the actions of society, including state officials. Notaries are public officials who fall under the regulations of legislation regarding the limitations of authority and the sanctions imposed if a Notary violates or engages in actions contrary to the legislation. Sanctions for Notaries are outlined in UUJN Article 13, where Notaries face sanctions such as written warnings, temporary suspension, honorable dismissal, and the highest level, dishonorable dismissal. Notaries can be dismissed dishonorably if they degrade the honor and dignity of the Notary position or are threatened with imprisonment for five years or more. However, the issue arises when dealing with a Notary who faces a threat of imprisonment of less than five years more than once, indicating a clear violation of the honor and dignity of the Notary position. Therefore, formulating regulations related to sanctions for a Notary facing a threat of imprisonment of less than five years more than once should be explicitly stated in UUJN and the Notary Code of Ethics to provide legal certainty for Notaries who violate these rules.

There is a legal vacuum regarding the imposition of sanctions on a Notary facing a threat of imprisonment of less than five years more than once. The principle of clarity in formulating legislation emphasizes the importance of clarity in discussing a legal object as a whole. Therefore, there is a need for the formulation of regulations in the Notary Position Law and the Notary Code of Ethics regarding the dishonorable dismissal sanction.

Acknowledgment

A Notary is a profession that authenticates legal events occurring within society in the form of authentic deeds, encompassing all agreement acts and provisions required by legislation. Therefore, a Notary, in carrying out their duties, is expected to uphold the honor and dignity in the eyes of society. Thus, if a Notary has faced a threat of imprisonment of less than five years more than once, it signifies a degradation of the honor and dignity of the Notary. Even though leniency was granted for the first occurrence of a threat of imprisonment of less than five years, if a Notary faces such a sanction repeatedly, there is a need for a dishonorable dismissal sanction. This ensures legal certainty for the Supervisory Board in enforcing regulations.

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