

Implementation of disrespectful dismissal sanction for notary in Indonesia

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Abstract

The purpose of this writing to find out the forms of notary actions which in carrying out their duties and positions are classified as criminal acts and how the discharge of the notary disrespectful because of imprisonment based on a court decision which had permanent legal force according to Notary Law. Type of this research is normative juridical research that is prescriptive. Based on results of the research Notaries in carrying out their duties and positions making deeds classified as criminal acts regulated in articles in the Criminal Code which regulates criminal acts of letter forgery. Dismissal of notarial notification under article 13 Law of the Republic of Indonesia Number 2 year 2014 About Changes To The Law Number 30 year 2004 about Position Of Notary may be executed if there are reports from the public or the injured party to the Notary Supervisory Board.

Keywords: notary, criminal sanctions, dismissal with disrespect

1. Introduction

Every human being basically has both interests and interests, while the interests themselves are demands of individuals or groups that are expected to be fulfilled. In an effort to fulfill its interests, humans are faced with various things. Today, almost all human actions are regulated by law. Starting from humans born to death, the law touches all aspects of human life both public and private. Humans always need or need other humans to interact. In these interactions, there is often a legal relationship between one human being and another, where the rights and obligations brought by each individual sometimes cause their own problems and result in friction of interests. In order not to clash with each other's interests with other interests, the rule of law is formed which can limit people's freedom of behavior.

The Republic of Indonesia as a legal state based on Pancasila and the 1945 Constitution of the Republic of Indonesia guarantees certainty, order and legal protection for every Indonesian citizen. Therefore, an authentic written evidence is needed regarding actions, agreements, stipulations, and legal events made before or by authorized officials. In practice, in making and implementing an agreement that gives birth to a contract (engagement), problems are often found (Asnawi, 2017)^[6]. It is the duty of the State to provide legal protection and to legalize or ratify the rights and obligations of each individual who make or hold an engagement through a legal profession as a state organ other than an institution that is notary in making certain types of documents commonly referred to as deeds. The deed is a deliberate article made for proof. If the deed is made before the notary then the deed is said to be a notarial deed, or an authentic deed, or a notary deed. An deed is said to be authentic if it is made before an authorized officer. That authentic deed has a legal role in regulating transactions that occur in the life of the community (The, 2017)^[26].

Notary is called a nobile official because the notary profession is very closely related to humanity (Muin, 2018)^[16]. Notary as a public official who is authorized to make a deed containing formal truth in accordance with what the parties notify the notary. The authority of the notary as referred to in Article 15 Law Of The Republic Of Indonesia Number 2 year 2014 About Changes To The Law Number 30 year 2004 about Position Of Notary with its profession as an authentic deed maker accompanied by the development of rapid and dynamic needs of the community has increased the intensity and complexity of legal relations which certainly requires certainty, order and legal protection with truth and justice (Wirahutama, Novianto, & Saptanti, 2018)^[28]. According to Subekti, what is called a deed is a writing that is solely made to prove something or an event, therefore a deed must always be signed (Subekti, 1996)^[23]. According to Sudikno Mertokusumo, the so-called deed is a signature letter which contains events which are the basis of a right / strike made intentionally for proof. So that the creation of the Notarial Deed can be used as proof in a legal dispute used as a tool to recall the events that have occurred, so that it can be used for the benefit of proof (Mertokusumo, 1998)^[15].

Proof is needed because of the denial or denial of the opposing party or to justify a right that is a dispute is a legal act that supports the right (Mertokusumo, 1998)^[15]. The authentic deed as a Notary product in a courtesy proof is categorized as a letter of evidence. As set out in Article 1 number 1 Law Of The Republic Of Indonesia Number 2 year 2014 About Changes To The Law Number 30 year 2004 about Position Of Notary, regarding the Notary Deed that Notary is a general officer, authorizing to make an authentic and authorized deed other as referred to in this Act or under other laws.

The existence of a Notary as a General Officer is based on the Notary Position Act which sets out the signs for a "move" by a Notary (Adjie, 2012)^[1]. Therefore, in carrying

out their duties and positions, the Notary must adhere to the laws and regulations that govern them because every violation committed by a notary has legal sanctions. Notaries in carrying out their duties and positions must have strong morals and uphold the principle of prudence. Legal profession especially Notary is a profession that demands the fulfillment of moral values and development. Moral value is a force that directs and underlies noble deeds, therefore Notaries are required to have strong moral values (Supriadi, 2008) ^[25]. Even so, the notary is also an ordinary human being who is not free from mistakes both intentional mistakes made and because of his negligence. As an ordinary human being, a Notary can also be subject to sanctions and legal liability, either civil responsibility, administrative responsibility, or criminal responsibility. In his book, Habib Adjie added that the sanctions are intended so that the notary can act properly so that the Notary product is an authentic deed that can provide protection and legal certainty to those who need it.

Today, the increasing number of notary professions that reach 16,000 throughout Indonesia, the more complex the problems that arise as well as violations committed by notaries. In Renvoi magazine, (Renvoi, 2017) ^[9] Issue 11.167.XIV April 2017, based on data from the Directorate General of General Administration of Law there are 189 cases of notaries who face problems that make their positions threatened with revocation by the Ministry of Law and Human Rights. The Directorate General of Administration of Public Law added that the 189 people who were in trouble were going to be checked again for their level of error in making the deed intentionally and knowing that they violated Law Of The Republic Of Indonesia Number 2 year 2014 About Changes To The Law Number 30 year 2004 about Position Of Notary in making the deed. If it is proven that they know that what they are doing in making a deed is a violation of the law, then the Appointment Decree as a Notary will be revoked. In other words the Notary was dismissed from his position as a Notary and may not practice anymore. Based on these data, the problematic notary must account for his actions and get sanctions according to the level of violations committed, both violating the provisions stipulated in the Law Of The Republic Of Indonesia Number 2 year 2014 About Changes To The Law Number 30 year 2004 about Position Of Notary, the Code of Ethics and in the Criminal Code.

In connection with legal violations committed by Notaries, the Notary as a public official can be subject to criminal sanctions, both based on articles on forgery of letters and other articles relating to his position as a Notary, even sentenced to imprisonment if the action is proven and fulfill the elements of criminal acts contained in the alleged articles. Not only criminal sanctions, a Notary who is proven guilty of a criminal act is also inseparable from the sanction of dismissal with disrespect by the Minister for his profession as a notary based on Article 13 Law Of The Republic Of Indonesia Number 2 year 2014 About Changes To The Law Number 30 year 2004 about Position Of Notary. The aforementioned problems have been carried out by similar legal research, the first is legal research written by Pramesworo Sunaryo in 2015, with the title of Notary Criminal Liability in Authentic Deed Falsification (Study of Criminal Verdict Strengthened by the Republic of Indonesia Supreme Court Number: 1014K / Pid / 2013) (Sunaryo, 2015) ^[24]. Based on the results of the study it can be

concluded that the deed made by a Notary of responsibility is entirely in the Notary, if it fulfills the elements of a criminal act then the Notary must be liable in a criminal manner.

On the deed of the party to the Notary cannot be blamed or sentenced because he did not know of the lies and falsehood. The legal consequences of a Notary sentenced to criminal sanctions in the falsification of authentic deeds are that the Notary concerned is permanently dismissed disrespectfully by the minister with the proposal of the Central Supervisory Board in the case of a criminal act that is punishable by imprisonment for 5 (five) years or more. However, in the study, it has not yet explained the forms of notary actions which in carrying out their duties and positions are classified as criminal acts and the application of notary sanctions with disrespect based on Article 13 Law Of The Republic Of Indonesia Number 2 year 2014 About Changes To The Law Number 30 year 2004 about Position Of Notary.

Based on the description as stated above, this study will discuss criminal offenses that are often associated with assignments and notary positions so that it implies the dismissal of a notary with disrespect, as well as how to disrespect a notary because he was sentenced to prison based on a court decision permanent law according to the Notary Position Act. This study uses the theory of work of the Law according to Lawrence Meir Friedman, who divides the legal system into three (3) components, namely: (1) The substance rule of the law includes all written and unwritten rules, both legal material and formal law; (2) Structure of the law, covering legal institutions, legal apparatus and law enforcement systems. Legal structures are closely related to the justice system carried out by law enforcement officials, in the criminal justice system, the application of law enforcement is carried out by investigators, prosecutors, judges and advocates; and (3) legal culture, is an emphasis in terms of culture in general, habits, opinions, ways of acting and thinking, which direct social power in society (Friedman, 1975) ^[10].

2. Methods

The type of research used in this study is normative juridical research. In terms of its nature, this study is prescriptive in that it studies the purpose of law, the values of justice, the validity of legal rules, legal concepts, and legal norms. The approach used in this research is the law approach (state approach) and conceptual approach (conceptual approach). According to Peter Mahmud Marzuki, the law approach is carried out by examining all laws and regulations relating to legal issues being addressed. The case approach is carried out by examining cases related to legal issues that have become permanent court decisions (Hadi, 2000) ^[13]. In this study, the authors attempted to analyze the imposition of criminal sanctions on notaries in carrying out their duties as public officials which implicated disrespectful dismissal as a notary, after which the authors identified, reviewed, analyzed and made comparisons between the collected data so as to provide a clear picture about the problems studied.

In this study the author uses secondary data types, namely data obtained from official documents, books related to the object of research (Salim & Nurbani, 2014) ^[20] with sources of primary and secondary legal material. This study uses the technique of analyzing legal sources with deductive logic. According to Johnny Ibrahim, quoting Bernard Arief

Shidarta's opinion, deductive logic is a technique to draw conclusions from general things into individual cases.

3. Result and Discussion

Notary in running his job is obliged to provide legal advice in relation to the deed to be made by or before him. The advice is the things that need to be corrected or avoided in order not to reap a good deal for the client / face-to-face as well as the security of his own notaries (Mulyoto, 2010) [17]. Notary is a public official who has the duty and obligation to provide legal services and consultation to the people in need (Setyowati, 2016) [21]. Each notary public must do three things. First, they must follow their respective state notary statutes. Second, they must abide by the heightened standards of the Model Notary Act and the guidelines to be established in the Revised Model Notary Act. Last, they must always remember that they are public officials' performing functions vital to the stability of both domestic and international commerce and obligated to uphold the public trust reposed in them (Gnoffo, 1997) [12].

As an ordinary human being in carrying out his duties and position, a Notary may also make a mistake regarding the professionalism of his duties and position, therefore in making authentic deeds, the Notary must pay attention to the terms of the provisions of an authentic deed, besides relying on legislation also in the Code Ethics Notary (Dewi, Pranoto, & Sulistyono, 2015) [9]. Every act that violates the law certainly must undergo the process of investigation, investigation, and trial and other legal processes, both civil and criminal. Related to such matters, often these problems are included in the realm of criminal law, as well as the Civil Code. This legal dispute certainly does not only have implications for the Notary who made the deed, but also can have implications for the deed itself. Some notaries who have undergone a Criminal Case because they were charged with committing acts as stipulated in the Criminal Code including:

1. The case of Ninoek Poernomo SH who was charged with article 263 paragraph (1) of the Criminal Code,
2. The case of Tjondro Santosa Notary in Surakarta City was charged with Article 264 (1) of the Criminal Code in the primary indictment of Article 264 (1) of the Criminal Code in the primary indictment, in conjunction with Article 266 paragraph (1)) juncto Article 56 paragraph (2) of the Criminal Code.
3. The case of San Smith SH Notary in Medan City Article 266 paragraph (1) of the Penal Code juncto Article 56 paragraph (1) to (1) of the Criminal Code.
4. The case of Gerardine Supiah, SH Notary in Surabaya charged with Article 266 paragraph (1) with the imprisonment of imprisonment for a maximum of 7 (seven) years juncto Article 55 paragraph (1) to the Criminal Code

From the aforementioned cases, investigators in the police, as well as the Prosecutor / Prosecutor have the opinion that the Notary is based on the evidence and information obtained, the notary commits a criminal act as regulated in the Criminal Code as evident in the indictment of the Prosecutor / Prosecutor as it turns out in the indictment of the Prosecutor / Prosecutor. Thus, if observed then the criminal acts regulated in the Criminal Code are often associated with the duties and authorities of notary in

carrying out his position as a notary is as follows:

1. Article 263 paragraph (1) and paragraph (2) of the Criminal Code About Letter Falsification
2. Article 264 of the Penal Code on the Forgery of the Penalties shall be compounded
3. Article 266 of the Criminal Code concerning Sending Incorporation of False Notes into the Authentic Authority
4. Article 55 of the Criminal Code
5. Article 56 of the Criminal Code
6. Article 242 of the Criminal Code on Fake Oaths and False Notes

So it is known that the position of notary is inseparable from the law in this case the criminal law. Because in essence a notary is only ordinary people who in carrying out duties and positions could have made mistakes.

A notary must cling to the principles of prudence, thoroughness and vigilance in carrying out his duties and positions. So if there is a notary who is entangled in law then in the court process, the public prosecutor must prove that the notary is truly proven intentionally and consciously commits a crime, and fulfills the elements in the articles as stipulated in the Criminal Code. A crime is a wrong not only against the individual victim but also against the society (Bhardwaj, 2017) [8]. Notaries must also pay attention to the substance of the deed so as not to conflict with the applicable law (contractual stage), because with the realization of these two legal objectives the benefits can be felt by the parties and other interested parties (Heriawanto, 2018) [14]. While the Notary in the case of a suspect or defendant in a criminal case, must prove that he is not guilty of violating the articles charged with him by providing evidence in court proceedings both written evidence, electronic evidence (cctv recordings or voice recordings), witness statements, and expert information so that the evidence can prove the opposite as in the case of Notary Tjondro Santoso, SH and the Case of Notary Gerardine Supasiah, SH who can prove that he did not do the deed against him.

The notary can only be made as a suspect or defendant if the notary is based on the initial evidence found, the Notary intentionally makes a deed that does not comply with the procedures and procedures stipulated by the Law requested by the adjudication, while the notary himself knows that the admitters are not eligible - the legally binding legal obligation to be proved in court. This indicates that the notary does not adhere to the Notarial Deed (Law Of The Republic Of Indonesia Number 2 year 2014 About Changes To The Law Number 30 year 2004 about Position Of Notary) Law and the Code of Ethics of the Notary Profession. Thus, penalization against a notary may be made by limitation, if (Anshori, 2009) [5]:

1. There is a legal act from the Notary to the formal aspects of the deed intentionally, full of awareness and conviction and it is planned that a deed made before a Notary or by a notary jointly (agreed) to serve as a basis for committing a crime;
2. There is legal action from a Notary in making a deed before or by a Notary which if measured by Law Of The Republic Of Indonesia Number 2 year 2014 About Changes To The Law Number 30 year 2004 about Position Of Notary is not in accordance with Law Of

The Republic Of Indonesia Number 2 year 2014 About Changes To The Law Number 30 year 2004 about Position Of Notary, and;

3. The act of Notary is also inappropriate according to the authorized institution to assess the act of a notary, in this case the Notary Supervisory Board (MPN) or the Notary Honorary Board (MKN) or the Board of Honor Notary.

As explained in an article written by Milena Trgovcevic Prokic said that: "Domestic law determined by a general provision that the court may with its decision to entrust the process or taking certain actions to notary public and give the court discretion right to decide which processes and activities will entrust to a notary public. In our law, the action of the notary is not regulated by court order, this matter will be determined by the judicial and public notarial rules and after the amendment of many laws, for example, the Law on Extrajudicial Procedure, Code of Civil Procedure, Heritance Act, The Law on Mortgage, Company Law and others (Prokic, 2011) [18].

In criminal law there is a doctrine, namely *Actus Reus Non Facit Reum Nisi Mens Sit Rea* is something that does not make or place someone to be guilty or suspect or accused of being guilty but accompanied by wrong intentions (which does not make a defendant guilty without a guilty mind). This doctrine is a general opinion of legal experts who argue that an act is considered to have violated the law and can be subject to criminal sanctions, must be fulfilled two elements at once, namely the existence of elements of actus reus (physical element) and mens rea (mental element). This doctrine confirms that actions and intentions are equally present to make a criminal act. Every act is categorized as criminal offense, and can be subject to criminal sanctions for the perpetrators, if they fulfill the following elements:

a. The elements of action include

1. Fulfill the formulation of criminal acts stipulated in the Law;
2. Unlawful;
3. There is no justification for eliminating the illegal characteristics of his actions;

b. Elements of people (actors) include

1. Able to be responsible;
2. Intentional or negligent and;
3. There is no forgiving reason, which can eliminate errors on a non-criminal basis without error;

Whether or not a person is convicted, or to prove the element of an offense, evidence is needed and legal evidence consists of:

4. Witness testimony
5. Expert information
6. Letter;
7. Instructions and
8. Description of the defendant.

The Criminal Procedure Code or abbreviated as KUHAP has set a system of verification in criminal cases with a system of proof of law negatively, which requires that to determine the fault of someone the defendant must meet 2 (two) conditions, namely: a. At least there are two valid proofs and b. Based on the legitimate evidence, the judge was convinced that the defendant was guilty. In proof of

criminal known the term that reads "no criminal without error" (*Geen straf zonder schuld*)", thus to determine a person's error in a crime is absolutely necessary proof. If in proof of a criminal case, the accused Notary who was charged with the articles mentioned above has been found guilty of violating the articles in the Criminal Code as charged, then the Notary must carry out sanctions / punishments as in the Judge's decision. The basis for determining the degree of lawlessness in a criminal law of a Notary besides being able to originate from the criminal law itself can also come from the provisions of the Notary Position Law, the Code of Ethics and also from Civil Law provisions regarding the validity of an agreement.

The Act of Notary Position does not regulate criminal sanctions relating to the duties and positions of Notaries, thus if a crime occurs relating to the position of Notary then refer to the Criminal Code or other Material Criminal Law. Fundamental principles or principles in Criminal Law, where a person can be convicted or cannot be convicted, not because of his position or position but his actions. In the era of modern society, a Notary cannot take shelter that a notary cannot be held accountable for legal reasons. Notary is only the media for the birth of a Notary deed and not a Notary deed, and whether or not a Notary is prosecuted must be seen on a case-by-case basis. based on his actions. In addition to criminal sanctions, a Notary who is proven to violate the provisions stipulated in the Notary Position Law can be disrespectfully discharged from his position as a Notary by the Minister of Law and Human Rights at the suggestion of the Central Notary Supervisory Board. Not only that, a Notary who commits actions that undermine the dignity of the position of a Notary also has the effect of dismissing the Notary with disrespect.

The imposition of criminal sanctions on Notaries by Courts that have permanent legal force with the threat of imprisonment of more than 5 (five) years or more, may imply dishonor of the Notary. If examined and interpreted in more detail, in Article 13 UUJN there are conflicting sentences in the Notary sentence that are dishonorably dismissed because they are sentenced to imprisonment based on a court decision that has permanent legal force with the next sentence which is due to criminal acts threatened with imprisonment 5 (five) years or more. The meaning of a decision that has legal force remains a decision that has taken all legal remedies that are permissible under the rule of law, and such a decision must be executed by the prosecutor (Adjie, 2013) [2].

The meaning of the threat which states the intention or intention or means to be feared, warned, implies that the threat is limited to intentions or intentions or estimates, becomes something that is uncertain or will be implemented, so that it is not necessarily punishable by imprisonment for 5 (five) years because it is still a threat. Therefore, court decisions that have permanent legal force as referred to in Article 13 UUJN are not a threat but constitute a legal certainty because the Court Decision is absolute. The inconsistency of terms and words in Article 13 of the UUJN becomes a debate and a problem when applied in practice. In addition, it relates to the application of Article 13 of the UUJN to the Notary who commits a criminal offense related to his duties as a public official only or covers other criminal acts that are not related to his duties and position as a public official. This means that the law has not provided legal certainty in regulating the provisions of

Article 13 UUJN. According to Lon L. Fuller, legal certainty theory in his book entitled "The Morality of Law, there is legal uncertainty if there is conformity with one of the eight principles below, namely (Fuller, 1969)^[11]:

- a. Failure to form rules or laws, so that each issue is decided on an ad hoc / temporary basis
- b. Failure to publish or introduce legal rules to the public, or at least to interested parties who are expected to learn about the rules.
- c. Not allowed to make retroactive rules.
- d. Failure creates rules that are understandable.
- e. Cannot make rules that contradict each other.
- f. It may not be possible to make rules that include requirements that are beyond the ability of the party concerned.
- g. Change of rules quickly, causing confusion on legal subjects.
- h. Failure to harmonize rules with implementation in the field.

Whereas based on the data presented by the Directorate General of Public Law Administration of the Ministry of Law and Human Rights delivered in the National Seminar held by the West Java Regional Committee of the Indonesian Notary Association, that 189 Notaries were threatened with dismissal from their positions because they deliberately violated provisions in the UUJN. The proven notary may be disrespected disrespectfully by the Minister (in this case the Minister of Law and Human Rights of the Republic of Indonesia) if proven to violate the provisions contained in the UUJN. Thus it is clear that the provisions in Article 13 of the UUJN are no longer a threat but are sanctions that must be implemented and enforced.

Problems that arise with the entry into force of the Notary Position Law, namely who is authorized to determine the Notary's fault in carrying out his position or in the actions of his profession? Can the Investigator, Public Prosecutor or Judge determine or conclude a Notary's mistake in carrying out his position? The Notary Position Act has given birth to a new institution known as the Notary Supervisory Board consisting of the Regional Supervisory Board, the Regional Supervisory Board and the Central Supervisory Board where each of them has their respective duties, authorities and responsibilities. One of the authorities of the Notary Supervisory Board is to examine, decide and impose sanctions on Notaries who violate the Notary Position Law and or Notary Code of Ethics.

Based on the articles described earlier, the Notary as a public official can be subject to criminal sanctions, both based on articles on forgery of letters and other articles relating to his / her position as a Notary, and even imprisoned if the action is proven and fulfilling the elements of criminal acts contained in the articles alleged. In practice criminal law is followed by the definition of "normative errors" which means to prove the wrongdoing of the perpetrator to be used "size" from outside the perpetrator, namely how "should" people have to do based on "measure" that is common in the community (Tongat, 2008)^[27]. Not only criminal sanctions, Notaries who are proven guilty of committing a crime cannot be separated from sanctions of dismissal with disrespect by the Minister for his profession as a notary based on Article 13 of the Law Of The Republic Of Indonesia Number 2 year 2014 About Changes To The Law Number 30 year 2004 about Position Of Notary as

follows: permanent legal force because of committing a crime that is threatened with imprisonment of 5 (five) years or more.

Regarding the dismissal of a Notary with disrespect because of a sentence of imprisonment based on a court decision that has obtained permanent legal force for committing a criminal offense that is threatened with imprisonment of 5 (five) years or more as stipulated in Article 13 of the Law Of The Republic Of Indonesia Number 2 year 2014 About Changes To The Law Number 30 year 2004 about Position Of Notary Notary if he is a suspect then it must be seen as a "person" so that it is equal to the law. Based on the theory of the operation of law by Lawrence Meir Friedman, the structure of law covers legal institutions, legal apparatus and law enforcement systems. Regarding the dismissal of a disrespectful Notary is the authority of the Minister of Law and Human Rights of the Republic of Indonesia so that it is not the authority of the Regional Supervisory Board (Majelis Pengawas Daerah). Regional Supervisory Board (Majelis Pengawas Daerah) is only authorized to carry out checks on the Notary protocol and supervision of violations committed by Notaries and receive reports from the public notary service users if the Notary conducts an act that is detrimental to the community.

The dismissal procedure is preceded by reports from the public or parties who feel disadvantaged by attaching a Court Decision that has permanent legal force to the Regional Supervisory Board. Based on the reporting, the Regional Supervisory Board held a hearing to examine suspected violations of the Notary Position and made and submitted the inspection report to the Regional Supervisory Board (Majelis Pengawas Wilayah) within 30 (thirty) days with copies to the party reporting, Notary concerned, Supervisory Board Center (Majelis Pengawas Pusat) and Notary Organization. After the report is received by the Regional Supervisory Board, a meeting is held by calling the reported Notary to conduct an examination of decision making on public reports that have been submitted through the Regional Supervisory Board and proposing sanctions against the reported Notary to the Central Supervisory Board regarding the dishonorable discharge.

The Central Supervisory Board is based on reports from the public or on proposals or recommendations from the Regional Supervisory Board and the Regional Supervisory Board to hold a meeting by calling the reported Notary for examination and making a decision in the appeal against disrespectful sanctions. Examinations in the Central Supervisory Board session are open to the public and the reported Notary has the right to defend themselves in the Central Supervisory Board's session.

In Regional Supervisory Board (Majelis Pengawas Daerah) examinations cannot be distinguished between Notaries as objects or deeds as objects. If Regional Supervisory Board (Majelis Pengawas Daerah) places a Notary as an object, the Regional Supervisory Board (Majelis Pengawas Daerah) means that it will examine the actions or actions of the Notary in carrying out his office duties, which in the end will lead Notaries to qualifications participating or assisting in the occurrence of a criminal act. Of course this kind of action cannot be justified because of a very deviant thing for a Notary in carrying out his office duties to participate or help to do or suggest in a deed for the occurrence of a criminal act with the parties / viewers. In this connection there is no legal rule that justifies Regional Supervisory

Board (Majelis Pengawas Daerah) taking action and conclusions that can qualify Notaries to participate or help commit a crime together with the parties / viewers. Habib Adjie adds that Regional Supervisory Board (Majelis Pengawas Daerah) is not a breaker institution to determine a Notary in such qualifications (Adjie, 2009) [3]. The result of the decision to dismiss the disrespectful notary is conveyed to the Minister of Law and Human Rights along with other Notary stipulations as the protocol holder stipulated within a period of no later than 30 (thirty) days from the date the court decision has permanent legal force.

The Central Supervisory Council then proposed another Notary as the protocol holder to the Minister of Justice and Human Rights within a period of no later than 30 (thirty) days from the date of the decision of termination. A notary dismissed from his office and a Notary appointed as a protocol holder shall deliver the protocol handing over to the Regional Supervisory Board within a period of at least 14 (fourteen) days from the date the decision is received. The Notary Supervisory Council has the authority as provided in the Law Of The Republic Of Indonesia Number 2 year 2014 About Changes To The Law Number 30 year 2004 about Position Of Notary and is final in deciding on a matter related to carrying out the duties of a notary public with the most mild sanctions to the heaviest sanctions of dismissal with disrespect as Notary.

The procedure for dismissal of a notary is disrespectful because he is sentenced to prison based on a court decision that has obtained permanent legal force for committing a criminal offense threatened with imprisonment of 5 (five) years or more, clearly stipulated in Law Of The Republic Of Indonesia Number 2 year 2014 About Changes To The Law Number 30 year 2004 about Position Of Notary Indonesia Number 25 of 2014 concerning Terms and Procedures for Appointment, Transfer, Dismissal, and Extension of Term of Office of Notaries. But in its implementation it has not been fully implemented. Habib Adjie argues in the May 2017 issue of *Renvoi Magazine*, the issue of May 2017, that the dismissal and dismissal of 189 Notaries who were in trouble was only data from the Ministry of Law and Human Rights of the Republic of Indonesia alone. Until now there has been no recording conducted by the Ministry of Law and Human Rights of the Republic of Indonesia.

Relation to Article 13 of the Law Of The Republic Of Indonesia Number 2 year 2014 About Changes To The Law Number 30 year 2004 about Position Of Notary, a notary who has been convicted of a prison sentence pursuant to the Court's Decision which has the legal force can still be dismissed as a notary if there is a report from the public or the injured party to the Regional Supervisory Council. If there is no report then the provisions in Article 13 of Law Of The Republic Of Indonesia Number 2 year 2014 About Changes To The Law Number 30 year 2004 about Position Of Notary in other words can not be executed. Nevertheless, Notaries are not to be caught up in and stuck on legal issues, it requires careful consideration, always obeying any existing rules and not abandoning the provisions of pre-arranged rules.

Regulations regarding criminal sanctions must be strictly regulated in Law No. 30 of 2004 concerning Notary Position, to prevent the occurrence of errors both personal and concerning professionalism of the Notary. Law Number 30 of 2004 concerning Notary Position must regulate the authority and temporary dismissal of Notaries in the status

of suspects and defendants, because the number of Notaries is too much, so that violations can not be avoided in making deeds. Sanctions in Law of the republic of Indonesia Number 2 year 2014 About Changes to the law number 30 year 2004 about Position of Notary should have a deterrent effect so that no Notary makes a mistake intentionally, and the Notary must also be more careful about his authority to make a deed. The exercise of the authority of a Notary in making deeds must pay more attention to details regarding the formal aspects, so that errors which then indicate a crime can be minimized. Besides that, supervision of the performance of Notaries carried out by parties with authority must be further enhanced because it affects the moral aspects of the Notary Position itself in society in general (Bachtiar, Muhadar, & Ilyas, 2014) [7].

In Article 84 and Article 85 Act No. 2 year 2014 concerning amendments to Law No. 30 year 2004 concerning Position of Notary, it is stipulated that when a Notary in performing his official duties is proven to have committed a violation, the Notary may be subject to sanctions, in the form of civil sanction, administration, and code of ethics of Notary, and the sanctions have been arranged in such a way as before in the Regulation of the Notary Position. However, the UUJN (Notary Law) and the Code of Ethics of the Notary Position does not regulate the existence of criminal sanctions against the Notary. In practice, it may be found the fact that a notary does legal action or violation, he/she actually be subjected to administrative or civil sanctions or a code of ethics for the position of a Notary, but the violation is qualified as a criminal act committed by a Notary Public. The qualification relates to aspects such as certainty of day, date, month, year and time, party (who is the person) who faces Notary, signature facing, copy of deed not in accordance with the Minuta deed, copy of deed, without minutes of deed and Minuta deed is not signed in full, but the minutes of deed are issued (Silalahi, 2018) [22].

In addition, if the Notary is found guilty of a criminal offense in accordance with the charges in the articles of the Criminal Code and sentenced to criminal sanctions against the Notary regarding the deed he made, this could have other consequences for the deed made by him. If a Notary has been proven to take part in committing a crime of forgery of a letter or deed made, the deed is deemed to be a deed whose proof value is the same as an underhanded deed, and can be requested for a deed in a separate legal claim. Then the deed after it has been decided null and void, is no longer valid or the strength of proof is deemed as a deed under the hand.

Associated with legal theory seen from the substance according to Lawrence M. Friedman, the implementation of the dismissal of a disrespectful Notary based on Article 13 of the Law Of The Republic Of Indonesia Number 2 year 2014 About Changes To The Law Number 30 year 2004 about Position Of Notary has not been effectively implemented because there are still notaries who violate and are subject to criminal sanctions but cannot be dismissed. Some of the factors that influence it are from their own legal factors, namely Law Of The Republic Of Indonesia Number 2 year 2014 About Changes To The Law Number 30 year 2004 about Position Of Notary which in this case Article 13 Law Of The Republic Of Indonesia Number 2 year 2014 About Changes To The Law Number 30 year 2004 about Position Of Notary. There is a dualism of interpretation relating to the article being a problem regarding the

implementation of Article 13 Law Of The Republic Of Indonesia Number 2 year 2014 About Changes To The Law Number 30 year 2004 about Position Of Notary Besides the community factor, namely the environment in which the law applies or is applied in this case the community of Notary service users has not clearly understood the article. In addition, the supervision function of the Regional Supervisory Board (Majelis Pengawas Daerah) itself is still not effective and has encountered several obstacles including.

1. Regional Supervisory Board (Majelis Pengawas Daerah) after being inaugurated does not yet have guidelines or guidelines / operational guidelines for Regional Supervisory Board (Majelis Pengawas Daerah) Supervision of Notaries, so that the understanding in translating Law Of The Republic Of Indonesia Number 2 year 2014 About Changes To The Law Number 30 year 2004 about Position Of Notary is not the same between one Regional Supervisory Board (Majelis Pengawas Daerah) and another.

2. In the Regional Supervisory Board (Majelis Pengawas Daerah) Examination

- a. Notaries (reported) do not provide objective information, instead do denial or defend the truth.
- b. Lost by invitation to Regional Supervisory Board (Majelis Pengawas Daerah) examination for various reasons
- c. Submitting a monthly report by a Notary to Regional Supervisory Board (Majelis Pengawas Daerah) was disobedient (especially by senior Notaries).
- d. Regarding Notary leave permission, there are some who apply but there are some who do not ask permission to leave and do not appoint a replacement Notary.
- e. Notary who makes mistakes repeatedly, the follow-up is not done explicitly

4. Conclusion

Notaries in carrying out their duties and positions in making deeds are classified as a criminal act as stipulated in the Criminal Code concerning criminal acts of letter forgery, namely Article 263, Article 264 concerning Counterfeit Letter which is aggravated, Article 266 of the Criminal Code concerning Ordering False Information into Authentic Deed, Article 242 The Criminal Code regarding False Oaths and False Descriptions, Article 55 and Article 56 of the Criminal Code and can be subject to criminal sanctions if there are elements of oversight, deliberation and neglect, full of awareness and conviction and planned that deeds made before a Notary or by a notary together (agree) to be used as a basis for committing a crime.

Procedure for giving sanctions for dismissal of Notaries with disrespect due to imprisonment based on court decisions that have permanent legal force based on Article 13 Law Of The Republic Of Indonesia Number 2 year 2014 About Changes To The Law Number 30 year 2004 about Position Of Notary regulated in the Terms and procedures for Dismissal of Notaries with disrespect is regulated in Part Three Regulation of the Minister of Law and Human Rights Republic of Indonesia Number 25 of 2014 concerning Terms and Procedures for Appointment, Displacement, Dismissal, and Extension of Term of Office of Notaries, as amended cannot be optimally implemented because there are differences of opinion between Regional Supervisory Board (Majelis Pengawas Daerah), Regional Supervisory

Board (Majelis Pengawas Wilayah) and Supervisory Board Center (Majelis Pengawas Pusat), besides Article 13 Law Of The Republic Of Indonesia Number 2 year 2014 About Changes To The Law Number 30 year 2004 about Position Of Notary can be implemented if there are reports from the community and the aggrieved party to the Regional Supervisory Board are then forwarded to the Regional Supervisory Board to the Central Supervisory Board which is reported to the Minister of Law and Human Rights of the Republic of Indonesia then forwarded to the Regional Supervisory Board to Majelis Central Supervisors reported to the Minister of Law and Human Rights of the Republic of Indonesia.

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