Problems Of Law Enforcement Of The Notary Code Of Conduct In The Digital Age

Achmad Shodiq
Universitas Narotama, shodiq_npa@yahoo.com
Nynda Fatmawati Oktarina
Universitas Narotama, nynda_f@yahoo.com

Abstract
This study proposes to analyze the problems faced by notaries in implementing the code of ethics in the digital era and what are the problems in enforcing the notary code of ethics in the digital era. This research is normative juridical research. Legislative, conceptual, and case approaches were applied to this research using descriptive and qualitative analysis. The results show that the digitalization era, which is dominated by social media platforms, can be an opportunity for notaries to simplify their performance. On the other hand, this also opens up new potential for notaries to take actions that violate the code of ethics. That is why the existence of the Notary Supervisory Council is important to carry out supervision and action against notaries who violate the code of ethics. The problem that has been experienced in the context of law enforcement of the notary code of ethics is that so far, NSC seems to work half-heartedly so that many notaries do not heed the warnings or sanctions given when they are found to have violated the Notary Code of Ethics.

Keywords: digital era; ethics code; law enforcement problems; notary

Introduction
The legal profession is an honorable profession or Nobile Officium and is very influential in the state order. One of the professions in the field of law is a notary, who is the main pillar in upholding the rule of law to carry out the national legal development strategy. The professionalism and high integrity of each of these law enforcement officers are necessary according to their main duties, functions, and authorities, which have been regulated in the Act.

Notaries, as one of the pillars of national law enforcement, in carrying out their profession in addition to being based on the law, must also uphold the ethical values of the profession. The notary is a legal profession. Thus the notary profession is a noble profession (Nobile Officium). This is because the Notary profession is very closely related to humanity. After all, the deed made by a notary can be the legal basis for the status of one's property, rights, and obligations. Mistakes on a notarial deed can cause a person's rights to be revoked or someone's burden to an obligation. Violations committed by a notary can cause the loss of
integrity and noble values of his profession as a state official. For this reason, notaries must adhere to professional ethics in carrying out their duties and authority.

Furthermore, in carrying out their duties and authorities, the notary is under the umbrella of the law that regulates his behavior in carrying out his obligations, namely in the form of Law of the Republic of Indonesia No. 30 of 2004 concerning the Position of a Notary (Law No 30/2004.), and Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of a Notary (Law No 2/2014). These two laws replace the provisions of the Reglement of Het Notary Ambt in Indonesia (S.1860 No. 3) concerning the Regulation of Notary Positions (RNP), which is no longer according to legal developments and community needs. The Law No 30/2004 jo. Law No 2/2014 is expected to provide legal protection, both to the public and to the notary itself, and is expected to be better than the previous legislation. In the Law No 30/2004 jo. Law No 2/2014, provisions relating to the right of notary denial and supervision of the implementation of the notary's position have been regulated. Notaries are also escorted by the Notary Code of Ethics (NCE) issued by the Indonesian Notary Association (INA), which has been recognized by the state. So in carrying out their profession, notaries must comply with the Law No 30/2004 and NCE.

Ethics is a conception of the good or bad of a person's character or behavior. While morality is a person's good or bad behavior, ethics are ideas and ideals about the desires of human actions or behavior. Ethics of implementation shows good examples, while morals judge the examples set by ethics. Therefore, an ethical person is a person who sets an example of exemplary behavior, while a moral person is a person who acts as an exemplary person. (Michael [n.d.])

Ethics and morals cover aspects of human life in a broad sense, especially in the interactive relationship of humans with fellow humans in their social environment, among others in work and or professional relations, such as the plaintiff with the judge, the lawyer with his client, the prosecutor with the defendant, and the notary with his notary services. The profession is authorized by law. Legal professional workers are public officials in their respective fields. Therefore, the main task of his profession is to provide public services to the community without discrimination based on applicable legal provisions. Legal professionals carry out their professional functions by being equipped with signs. The legal signs (statutory law) and professional ethical and moral signs (professional code of ethics) so that professional responsibilities in carrying out the profession include legal and moral responsibilities. (URGENSI ETIKA PROFESI HUKUM SEBAGAI UPAYA PENEGAKAN HUKUM YANG BERKEADILAN DI INDONESIA | Tardjono | Jurnal Kepastian Hukum Dan Keadilan’ [n.d.])

However, in the current digital era, where technological intelligence is increasingly sophisticated and often used to support the notary profession, technology can be a breakthrough that helps notary work. Technological advances for the notary profession can indeed have a positive impact in facilitating their duties and obligations. On the other hand, they can also become a medium that makes their professional performance despicable. Because lately, many notaries have been caught violating the notary code of ethics on social media, which is an important part of the digital world.
The development of the digital world has changed various aspects of human life, which directly led to the birth of legal changes. This change will impact the performance of the notary in making authentic deeds in the era of information and technology that is so sophisticated. So notaries may be trapped in new phenomena that can ensnare them into legal problems in the future. Some of the problems that may or will be faced by notaries in the current era of information technology development are advertisements on social media, looking for clients on social media, and so on.

Habib Adjie researched the concept of a notary mayantara to face the challenges of competition in the global era. He explained how the concept of a notary mayantara in facing global challenges where a notary mayantara, or cyber notary, carries out his duties and authorities based on information technology. Where the appearers, witnesses, and notaries will only need to use digital signatures, seals, and stamps, as well as digital fingerprints. Regarding the concept or implementation of a notary mayantara in the face of such competition, no fundamental changes have been made to the Law No 30/2004/, which is the basis for Indonesian notaries and other laws and regulations.(Adjie 2018)

Notaries are public officials who have a role in carrying out legal actions according to the law. In carrying out their professions, notaries are required to adapt and keep up with the times. The aim is to be able to face the challenges of Global Competition. In this digital era, the advancement of information technology, which is growing quite rapidly, can backfire or challenge the existence of notaries and notary candidates who will be appointed next because the transactions are using electronic systems or online and are increasingly developing and integrated. This kind of thing will also open up the potential vulnerability of notaries to take actions that violate their professional code of ethics.

Supervision and guidance on the actions and behavior of a notary's position are important, considering that his professional duties are very vulnerable to moral issues and ethical values are restricted with certain signs because it was said at the Conference of the International Commission of Jurists that: "Independence does not mean that the judge is entitled to act in an arbitrary manner". (Oktalina Safitri 2019) The signs that must be remembered and considered in the implementation of the freedom of a notary are the legal rules themselves. Based on the explanation above, the researcher wants to examine the problems faced by notaries in implementing the code of ethics in the digital era. Then, what are the problems with law enforcement of the notary code of ethics in the digital era?

Research Methods

This research is normative juridical research using a statutory, and conceptual approach. Legal materials were collected through literature study and analyzed using qualitative analysis. The results of the study concluded that the analysis used was descriptive analysis with an inductive approach. (Michael 2022)
Results and Discussion

Notary Code of Ethics

In Hook's view, ethics does have general principles, but it requires specificity and must be detailed. Therefore, special codes of ethics are needed for professions that depend on the functions and responsibilities of the profession holder. It is also possible for the code of ethics of one profession to contain regulations that do not apply to the code of ethics of other professions. Although it requires specificity and must be detailed, Koehn cautions that ethical ethics cannot be mechanically detailed to the smallest detail exactly, what must be done by professionals, but must provide general guidelines and set limits on professional behavior. (Kartikasari and others 2021)

Notary Code of Ethics Chapter I Article (2) General Provisions explains that the Code of Ethics is the entire moral code determined by the Indonesian Notary Association, referred to as "association" based on the decision of the Association Congress and/or determined by and regulated in laws and regulations that regulates this matter and applies to and must be obeyed by each and all members of the Association and all people who carry out their duties as a Notary, including Temporary Notary Officials, Substitute Notaries, and Special Substitute Notaries. (Nasution 2020)

In the amendment to the Notary Code of Ethics for the Extraordinary Congress of the Indonesian Notary Association in Banten in May 2015, several provisions related to the Notary Code of Ethics were explained, which include obligations, prohibitions, exceptions, and sanctions. In Article 3 of the CEN, it is explained that notaries are required to have good morals, character, and personality; respect and uphold the dignity of the notary position; protect and defend the honor of the association; be honest, independent, impartial, trustworthy, fellow, and full of responsibility based on the laws and regulations and the contents of the notary's oath of office; improving the knowledge and professional expertise that has been owned is not limited to legal and notarial knowledge; prioritizing service to the interests of society and the state; providing services for making deeds and other authorities for people who can't afford it without collecting an honorarium; establish one office at the domicile, and the office is the only office for the notary concerned in carrying out his daily duties; install 1 (one) nameplate in front of/in the office environment with a size of 100 cm x 40 cm, 150 cm x 60 cm or 200 cm x 80 cm; attend, participate and actively participate in activities organized by the association; respect, obey, and implement the rules and decisions of the association; respect, obey, and implement the rules and decisions of the association; paying association fees in an orderly manner; paying funeral money to help the heirs of a deceased colleague; implement and comply with all provisions regarding the honorarium set by the association; running a notary position in his office unless there are certain reasons; creating an atmosphere of kinship and togetherness in carrying out official duties and daily activities as well as treating colleagues well, respecting each other, appreciating each other, helping each other, and always trying to establish communication and ties of friendship; treat every client who comes well and does not differentiate their economic status and/or social status; and make a deed within a reasonable amount to carry out the laws and regulations, particularly the Law on the position of a notary and the code of ethics.
In addition to the obligations mentioned above, Article 4 of the CEN explains that Notaries are prohibited from have more than one office, either a branch office or representative office; installing a nameplate and/or writing that reads “Notary/Notary Office” outside the office environment; conducting publications or self-promotion, either individually or jointly, by stating the name and position, using print and/or electronic media in the form of a) Advertisements; b) Congratulations; c) Condolences; d) Acknowledgments; e) Marketing activities; f) Sponsor activities, both in the social, religious and sports fields; cooperating with service bureaus/persons/legal entities, which essentially act as intermediaries to find or get clients; signing a deed whose preparation process has been prepared by another party; sending minutes to clients to sign; try and make every effort to get someone to transfer from another notary to him. Whether the effort is directed at the client in question or through the intermediary of another person; forcing the client by withholding the documents that have been submitted and/or applying psychological pressure with the intention that the client continues to make a deed to him; carry out efforts, both directly and indirectly, that lead to the emergence of unfair competition with fellow notaries; set the honorarium for the client in a lower amount than the fee set by the association; intentionally employing people who are still employees of other notary offices without prior approval from the notaries concerned, including accepting jobs from employees of other notary offices; to vilify and/or question the notary partner or the deed made by him. If a notary encounters and/or finds a deed made by a colleague which turns out to contain serious errors and/or endangers the client, the notary must notify the relevant colleague of the error he made in a way that is not patronizing but rather to prevent unwanted things from happening to the client in question or to the colleague; not performing obligations and violating the prohibition as referred to in the Code of Ethics by using electronic media, including but not limited to using the internet and social media; forming an exclusive peer group to serve the interests of an agency or institution, moreover closing the possibility for other notaries to participate; use and include titles that are not according to applicable laws and regulations; make a deed that exceeds the reasonable limit whose amount limit is determined by the honorary council; and participate in an auction to get a job/deed.

What can be applied to the notary profession regarding existing professional ethics is to be responsible and not violate the rights of other people or other parties. The role of ethics becomes more important to perfect humans and life. Notaries who pay attention to ethics will immediately comply with applicable regulations, but the opposite will happen if the notary only pays attention to and obeys the laws and regulations. Take notary may violate professional ethics that violates other rights. (Yunita Laytno and Setiabudhi 2019)

The basic difference between the notary code of ethics and other professional codes of ethics is in the preparation of the laws and regulations. Notary code of ethics compiled by INA and also regulated in Law No 30/2004. Meanwhile, other professional codes of ethics are regulated and determined by the organization concerned. The difference lies in the implementation and enforcement of the sanctions imposed. The notary professional code of
ethics regulates penalties in the notary position regulations and applies to notaries who violate them.

The spirit used by the notary code of ethics is respect for human dignity in general and the dignity of a notary in particular. Based on this, it can be concluded that the notary profession must have the following characteristics: independent, impartial, selfless, rational, and refers to objective truth, upholding solidarity with fellow notaries.

The Problem of Implementing the Notary Code of Ethics in the Digital Age

Codes of ethics are moral principles inherent in a profession and are compiled systematically. The professional code of ethics is a norm that is set and accepted by professional groups, which directs or gives instructions to its members on how they should act and, at the same time, guarantees the moral quality of the profession in the eyes of the community. The general principles formulated in a profession will vary from one another. The code of ethics functions: As a means of social control, preventing interference from other parties, preventing misunderstandings and conflicts, and as a control, whether members of professional groups have fulfilled their obligations. The objectives are: to uphold the dignity of the profession, safeguard and maintain the welfare of the members, increase the service of the members, improve the quality of the profession and organization, improve services, strengthen the organization, avoid unfair competition, establish close relationships with members, and set standards.

Notaries are obliged to obey the norms that are important in law enforcement, namely: humanity, justice, propriety, and honesty, and implement the code of ethics as it should be. In practice, sometimes it does not go well and even causes problems. Its application sometimes encounters obstacles, especially in today's digital era, where opportunities to violate notary ethics are increasingly wide open, especially on social media platforms.

Chapter I Article 3 of the Notary Code of Ethics explains that "organizational discipline is the compliance of members to the rules and decisions of the association." The importance of a Notary's discipline in carrying out his duties is to always comply with the regulations of the Notary Code of Ethics and Law No 30/2004. The Notary Code of Ethics is the entire moral code determined by the Association of Indonesian Notary Associations (INI). It must be obeyed by all members of the association and other people who hold the position of a Notary, both in the implementation of office and daily life. Notaries really need to know and understand the code of ethics, which regulates any actions that can be said to be a violation of the code of ethics and the sanctions imposed if they violate the code of ethics. The existence of a Notary code of ethics is a logical consequence of a Notary profession.

Every Notary has been bound by an oath to obey and obey the Law. This is stated in Article 4 paragraph (2) Law No 30/2004, concerning the position of a Notary whose contents are "The oath/promise, as referred to in paragraph (1), reads as follows I swear/promise: that I will obey and be loyal to the Republic of Indonesia, Pancasila and the 1945 Constitution of the Republic of Indonesia, the Law on Notary Positions and other laws and regulations. That I will carry out my position in a trustworthy, honest, thorough, independent, and impartial manner. That I will maintain my attitude, and behavior, and will carry out my obligations according to the professional code of ethics, honor, dignity, and my responsibilities as a notary. That I will keep the contents of the deed and information obtained in the execution of my
position confidential. That I can be appointed to this position, directly or indirectly, under any name or pretext, has never and will not give or promise.”

The implied message of the article is that a notary must uphold the rules determined by the Indonesian Notary Association (INI) and carry out all the regulations that have been attached since a person was appointed and sworn in as a notary. Therefore, a notary must support himself from the applicable regulations. So even if there is a violation, then it is the ethical responsibility of the notary related to the moral norms, which are the standard for the notary. (Ramadhan, Ajeng Fitrah. Permadi 2019)

Notaries who have been active in the professional world for a long time take full responsibility for the notary professional ethics that they already know and are capable of. However, in the vortex of millennials and digitalization, there is a critical eroding of the sense of professional ethical responsibility. It is not easy to implement the notary profession in the Indonesian state. If the implementation of ethics is not carried out according to the rules, the ethics and professionalism of the notary will be questioned by the public.

This is where the challenge for the notary profession is to realize and balance skills, knowledge, and attitudes. Realizing that the 21st century is a phase full of digitalization, the absorption of socialization by the public must be fully assisted by the notary profession. This is done so that the ethics of the notary profession runs properly, does not cause doubts by the public, but rather fosters a foundation of trust between the notary profession and the community. This is an important point as a provision for the smooth implementation of notary professional ethics in the current era of the industrial revolution 4.0.

As in social media, several pages can be used by notaries, such as Osialisa, Blogspot, Kaskus, WordPress Scribd, Multiply, Yahoo, Facebook, Twitter, Path, and others. Many of us meet notaries who have blogs or other social networking pages. They also include their names and positions to attract public attention. For example, Kaskus is the largest buying and selling forum in Indonesia. In Kaskus, they can publish advertisements, journals, and media publications and even provide a room for discussion and consultation, which will be responded to directly. This is done to attract the public's attention. More people can see the information provided by the Kaskus. Not a few notaries also use Kaskus as a place to promote themselves. Things like this violate the law on the notary code of ethics, namely that notaries are prohibited from promoting themselves in print and electronic media. As regulated in Article 4 Paragraph (3) of THIS Code of ethics, which contains a Notary, it is prohibited to conduct publications or self-promotion, either individually or collectively, by including their name and position, using print and/or electronic media, in the form of: advertisements, congratulations, condolences, thanks, marketing activities, sponsorship activities, both in the social, religious, and sports fields.

Violations of the code of ethics committed by a notary occur due to several factors, a) Economic factors, there is an urgent economic need; b) The factor of misunderstanding, the existence of different misinterpretations of the code of ethics; c) Competition factor, the quality of notary professionals meeting in the same close area, causing unhealthy competition and
seizure of clients; d) Moral factors, low moral socialization; e) Family factors, the emergence of family problems should be separated from professional problems because it is highly expected that the notary profession can carry out its duties without involving regional or family relations.

**The Problem of Law Enforcement of the Notary Code of Ethics in the Digital Age**

The digital world is currently experiencing rapid development. Even the majority of the population of the State of Indonesia currently has social media accounts, active and not. With this social media, everyone can interact with other people worldwide, whether they know or don't know in the real world.

Every social media account owner usually includes several identities so they can be recognized. (Sumarjyanto and others 2020) This identity can involve many things, such as name, address, occupation, and position. So that every social media account owner will be easily recognized by others. Likewise, notaries who have social media accounts will include these identities in their respective accounts. So, indirectly social media becomes a promotional event for notaries, even though the code of ethics of the notary profession is. They are forbidden to make advertisements other than in front of their offices.

The relationship between ethics and the legal profession is professional ethics as an attitude of life, in the form of a willingness to provide professional services in the field of law to the community with full involvement and expertise as a servant. To carry out duties in the form of obligations to the community who need legal services accompanied by careful reflection. Therefore, in carrying out the profession, there are basic rules in the form of professional ethics, namely as follows: (Imanda 2020)

a. The profession must be seen as a service. Therefore the nature of "selflessness" is the hallmark of developing the profession.

b. Professional service in prioritizing the interests of justice seekers refers to noble values.

c. Professional development must always be oriented toward society as a whole. Competition in the service healthily takes place to ensure the quality and improvement of the quality of professional bearers.

To monitor and implement this code of conduct, the INA Honorary Council was formed to examine and decide whether alleged violations of this code of ethics are internal or not related to the direct public interest. Supervision is the observing stage in implementing all organizational activities to ensure that all work being carried out goes according to a predetermined plan. The organizational device that regulates/manages law enforcement issues and oversees the Notary profession carrying out the said task is the Honorary Council, an institution established by INA organization in carrying out supervision within the scope of the Notary Code of ethics. Meanwhile, the Honorary Council cooperates and coordinates with the Supervisory Council to carry out efforts to enforce the code of ethics based on the scope of the Law No 30/2004 and the Notary Code of ethics as mandated in Article 67 paragraph (2) and paragraph (3) of the Law No 30/2004.

The Notary Supervisory Council and the Notary Honorary Council, as enforcers of the Notary Code of Ethics, also have a fairly heavy task, namely having a mandate to ensure that the Notaries understand and implement the Code of Ethics consistently. In addition, it also contributes to the existence, honor, and nobility of the profession of a Notary in society. If the
Supervisory Council and the Honorary Council cannot enforce the code of ethics as mandated by the organization, its credibility as an institution that enforces the code of ethics will be underestimated by others. With supervision, law enforcement problems related to violations of the notary code of ethics in the digital world have been greatly helped. However, the supervision and functions that have been given to the supervisors are not yet perfect and still need improvement, or we can call the supervision that is not yet strong. Weak supervision is also due to the constraints within the scope of supervision and the notary itself. (‘PENEGAKAN HUKUM TERHADAP NOTARIS YANG MEMPROMOSIKAN DIRI MELALUI MEDIA SOSIAL | Jurnal Hukum Adigama’ [n.d.])

On the other hand, the existence of the Notary Supervisory Council (NSC) is very important, namely to supervise and foster notaries. Meanwhile, the duties of the Notary Supervisory Council, as stated in the Law on Notary Positions, include, among others, supervising the implementation of the notary position, including conducting examinations and hearings and imposing sanctions for notaries who commit violations. However, there are still some weaknesses in the existence of the NSC, including: (Suradiyanto and Warka 2015)

a. Lack of socialization with parties related to the notary profession to the community, academics, Polri, and notaries.

b. Lack of monitoring process. There may be a limited operational budget. That is adequate to conduct a review and guidance of the notaries under their authority.

c. There is a limited time for each NSC member due to their busy lives as academics, notaries, and civil servants in related agencies.

d. Lack of coordination between members of the Notary Supervisory Council.

Thus, the notary code of ethics enforcement is intended as a monitoring tool for the values of the code of ethics implementation. The code of ethics becomes self-regulation which is supervised by the Honorary Council with three levels, namely regional, regional and central. So that an effort to improve the honesty and integrity of a notary is very much needed to support a policy from the government to integrate licensing services electronically or online single submission (OSS).

Conclusion

The era of digitalization, which is dominated by social media platforms, can be an opportunity for notaries to simplify their performance. On the other hand, it also opens up new potential for Notaries to take actions that violate the Notary's code of ethics. For this reason, the existence of the Notary Supervisory Council is important to supervise and take action against notaries who violate the code of ethics. The problem that has been experienced in the context of law enforcement of the notary code of ethics is that so far, NSC seems to work half-heartedly so that many notaries do not heed the warnings or sanctions given when they are found to have violated the Notary Code of Ethics.

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