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A Review Of Notary Positions: Submission Of Notary Protocols Aged 25 Years Or More In Medan City

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ABSTRACT
The storage of Notary Protocols that are not submitted by Notaries to the Regional Supervisory Board is not in accordance with the provisions in Article 63 paragraph (5) of the UUJN, that Notary protocols that have exceeded a period of 25 (twenty five) years or more must be submitted to the Regional Supervisory Board. This paper discussed a formulation of the problem in this study is responsibility of notaries for notary protocols that are 25 years old or more and the application of Article 63 paragraph (5) of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notaries in the process of submitting notary protocols; also impact on notaries who do not submit notary protocols that are 25 years old or more as regulated in Article 63 paragraph (5) of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notaries. This study uses an empirical legal method with a statutory and conceptual approach. Data were obtained from interviews with notaries in Medan City, as well as legal document studies. The analysis was conducted qualitatively with the aim of examining notary protocol issues, combining legal theory with field data, and drawing deductive conclusions. The results of the study found that notary protocols that are 25 years old or more are regulated in Article 63 paragraph (5) of the UUJN which requires notary protocols to be submitted to the MPD in accordance with the authority of the MPD in Article 70 letter e of the UUJN, where in its implementation it is carried out through an inventory mechanism, making a list of protocols and minutes of handover, but is constrained by limited storage space, damaged protocol conditions, incomplete documents and lack of coordination, so that if the notary does not submit the protocol, administrative sanctions can be imposed in accordance with Article 85 of the UUJN in the form of verbal or written warnings, temporary dismissal, honorable or dishonorable dismissal which can affect the credibility and professionalism of the notary.

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INTRODUCTION

Notary as a public official is an extension of the minister who is appointed and dismissed by the Minister of Law and Human Rights, tasked with providing services to members of the public who require their services in making written evidence, especially in the form of

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authentic deeds in the field of civil law. The existence of a Notary is none other than the implementation of the legal aspect of evidence so that in carrying out their duties and obligations they must be in accordance with the applicable Laws and Regulations.[1] Article 1 number 1 of Law Number 2 of 2014 concerning the Position of Notary Public hereinafter referred to as (UUJN) states that a Notary Public is a public official who is authorized to make authentic deeds and has other authorities as referred to in this Law or based on other Laws. Notary Public is a position that has been regulated in the Laws and Regulations. Notary Public as one of the professions in the legal field is tasked with providing legal services and creating certainty, order, and legal protection in society. In order to carry out these duties, Notaries are responsible for matters relating to evidence that can clearly determine a person's rights and obligations as a legal subject in society.

Notary Protocols as a collection of documents that constitute state archives, must be kept and maintained properly by Notaries under any circumstances before being submitted to the Regional Supervisory Board. Submission of Notary Protocols is regulated in Article 63 paragraph (5) of the UUJN which stipulates that: "Notary Protocols from other Notaries which at the time of submission are 25 (twenty five) years old or more are submitted by the Notary receiving the Notary Protocol to the Regional Supervisory Board."[3]However, the provisions in the UUJN do not regulate how long a notary can store and maintain the protocol of another notary, this is because Article 63 paragraph (5) of the UUJN only regulates the time for submission of the notary protocol from another notary which at the time of submission is 25 (twenty five) years old or more which is submitted by the notary receiving the notary protocol to the Regional Supervisory Council.

The problem that then occurred was when the Regional Supervisory Board did not have a place to store Notary protocols, so that Notary protocols that exceeded a period of 25 (twenty five) years, should have been submitted to the Regional Supervisory Board, but were still stored in the Notary protocol storage room, in the office where the Notary worked.

The storage of Notary Protocols that are not submitted from the Notary to the Regional Supervisory Board is not in accordance with the provisions explained in Article 63 paragraph (5) of the UUJN, that Notary protocols that have exceeded a period of 25 (twenty five) years or more must be submitted to the Regional Supervisory Board. Notary Protocols that are the responsibility of the Regional Supervisory Board are now still stored at the relevant Notary's Office together with other Notary Protocols. This means that the provisions of Article 63 paragraph (5) UUJN states that: "Notary Protocols from other Notaries which at the time of submission are 25 (twenty five) years old or more are submitted by the Notary receiving the Notary Protocol to the Regional Supervisory Council."

The regulation cannot be implemented properly, because the Government does not facilitate the need for a storage place for Notary Protocols which is the responsibility of the Regional Supervisory Council, but the regulation in the UUJN regarding the storage place for Notary Protocols that exceed a period of 25 (twenty five) years, has been stated to be the responsibility of the Regional Supervisory Council. Meanwhile, Article 70 letter e of the UUJN mandates that the MPD has the authority to determine the storage place for Notary Protocols which at the time of handover of the Notary protocol are 25 (twenty five) years

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old or more. This regulation indicates that the MPD must store every Notary protocol that is 25 (twenty five) years old or more. The MPD as a supervisor has the policy to determine where the Notary protocol is stored. The provisions of This article does not provide clarity regarding how the MPD carries out its duties in determining the storage location.

The existence of a Notary in carrying out his authority is important for society and the state. The authority of a notary in making authentic deeds or other deeds cannot be carried out by other officials or legal professions, so that in carrying out his profession, a Notary is required to work correctly and professionally. In carrying out his position, one of the obligations of a Notary is to make deeds in the form of minutes of deeds and store them as part of the Notary Protocol, as regulated in Article 16 paragraph (1) letter b of the UUJN. In the explanation of the Article, it is explained that the obligation to store minutes of deeds as part of the Notary Protocol is intended to maintain the authenticity of a deed by storing the deed in its original form, so that if a Notary retires or dies, it is still stored through the Notary Protocol.

Article 1 number 13 of the UUJN states that the Notary Protocol is a collection of documents which are state archives which must be stored and maintained by a notary. The Notary Protocol is also a document which is a state archive which must be stored and maintained by a notary before being submitted to the Regional Supervisory Council, because each sheet of the stored document has full force in written evidence, and contains other information which requires the approval of a notary as a collection of information whose authenticity can be accounted for. Deed authentic made by or before a Notary, will be kept properly as the original deed, so that the parties or parties are only given a copy deed to be used as written evidence. If it happens in the future dispute between the parties, then a copy of the deed that has been provided can be be sufficient evidence in a trial before a judge.

Literature Review

Theoretical Framework

A theory is a set of ideas that develops while trying its best to meet certain criteria, although it may only provide a partial contribution to a more general theory.[11]According to M. Solly Lubis, he stated that theory is: A framework of thought or points of opinion, theory, thesis regarding a case or problem that is used as theoretical comparison material, which may or may not be agreed upon, which is used as input in creating a framework of thought in writing.

This research uses normative legal research, namely research conducted by examining library materials or secondary data alone, related to the problem in this study, and therefore the theoretical framework is directed specifically at legal science. The function of theory in this study can be used for the process of compiling, making some thoughts or predictions based on the findings and predicting the possibility of symptoms that arise and presenting them in the form of explanations and statements from the knowledge obtained from existing writings and documents.

Sudikno Mertokusumo gave the opinion that legal theory is a branch of legal science that discusses or analyzes, not just explaining or answering questions or problems, in a

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critical manner. law and positive law by using only the synthesis method, it is said critical because the questions or problems of legal theory are not sufficiently answered automatically by positive law because it requires argumentation or reasoning. Furthermore, Satjipto Rahardjo said that: "legal theory is a follow-up to efforts to study positive law, at least It is in this order that we clearly reconstrict the presence of legal theory.

Theory of Legal Certainty

The theory of legal certainty plays a very important role, especially when discussing the notary's responsibility for the protocol that has been in effect 25 years or more. Legal certainty, as stated by Gustav Radbruch, is one of the fundamental objectives of law, together with justice and benefit. In relation to notarial protocols, legal certainty is a crucial basis for ensuring that important documents contained in the protocol are kept safe its integrity and can be accessed when needed, even after the expiration of quite a long time.

Certainty itself is said to be one of the goals of law. If Viewed historically, discussions regarding legal certainty the discussion that has emerged since the idea of separation of powers from Montesquieu. Social order is closely related to certainty in law, because order is the essence of certainty itself. Order causes people to be able to live with certainty so that they can carry out activities necessary for community life.

In order to clearly understand legal certainty itself, the following will be explains the understanding of legal certainty from several experts. Gustav Radbruch put forward 4 (four) basic things. Which related to the meaning of legal certainty, namely: First, that the law is positive, meaning that positive law is legislation. Second, that the law is based on facts, meaning that it is based on reality. Third, that facts must be formulated in a clear way so as to avoid errors in interpretation, in addition to being easy to implement. Fourth, positive law must not be easily changed. Gustav Radbruch's opinion is based on his view that legal certainty is “certainty about the law itself. Legal certainty is a product of law or more specifically of legislation”. Based on his opinion, according to Gustav Radbruch, the law Positive laws that regulate human interests in society must always be obeyed even if the positive law is unfair. Opinions regarding legal certainty were also expressed by Jan M. Otto, namely that legal certainty in certain situations requires:

1. There are clear, consistent and easily accessible legal regulation issued by state authorities;
2. That the governing bodies implement these legal regulation consistently and also submit to and obey them;
3. That the majority of citizens in principle agree with the content of the rules and therefore adjust their behavior to those rules;
4. That independent and impartial judges (courts) apply these legal rules consistently when they resolve legal disputes; and
5. That the court's decision is concretely implemented.[25]

The five conditions put forward by Jan M. Otto show that legal certainty can be achieved if the legal substance is in accordance with needs of society. Legal rules that are able to create certainty. Law is law that is born from and reflects the culture of society This kind of legal certainty is what is called legal certainty. in fact (realistic legal certainly), namely

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requiring harmony between the state and the people in orienting themselves and understanding the legal system.

Obligation to Keep Notary Protocols Before Reaching the Age of 25 Year.

Article 1 paragraph 13 of the UUJN states that the Notary Protocol is a collection of documents that constitute a State archive that must be stored and maintained by a Notary in accordance with the provisions of laws and regulations. The protocol must be maintained and guarded properly by the Notary concerned or by the Notary Holding the Protocol, and will remain valid as long as or as long as the Notary's position is still needed by the State. As the notary protocol as a state archive is also not regulated in detail in the UUJN, for example regarding the type of archive, so that if this is allowed to continue, it will cause legal uncertainty regarding the authenticity of the notary protocol and can eliminate public trust in the legal protection that has been stated in the notarial deed.[69]

The storage and maintenance of the Notary Protocol continues even though the Notary concerned has retired or even died. The Notary Protocol is submitted to another Notary as the Notary Protocol Holder. Article 62 of the UUJN regulates the reasons underlying the submission of the Notary Protocol. More Article 62. UUJN states that submission of Notary Protocols is carried out in the event that Notary Public:

1. Die ;
2. His term of office has ended;
3. Ask for it yourself;
4. Unable spiritually and/or physically to carry out duties
5. Continuous position as a Notary for more than 3 (three) years
6. Appointed as a state official;
7. Change of job area;
8. Temporarily suspended; or
9. Dishonorably discharged.

Explanation of Article 62 UUJN, it is stated that the Notary Protocol consists of:

1. Minutes of Deed are the original notarial deed, which is part of the notarial protocol.

The deeds made by the Notary during a month are bound into a book containing no more than 50 (fifty) deeds. If the number of deeds exceeds 50 deeds, then the excess deeds are made in a new book. On each book cover, the number of deeds made is recorded with a serial number, month and year of making the deeds. The deeds that have been bound in one book are called a bundle of deed minutes.

Generally, the minutes of a deed are called authentic deeds that have met the requirements of authenticity of a deed if the deed is prepared, read by a Notary in front of the parties present in the presence of at least 2 (two) witnesses and signed at that time by the parties present, witnesses and the Notary. The minutes of the deed which are part of the Notary Protocol and part of the Notary administration are State archives that must be stored, guarded and maintained by the Notary in the best possible manner.

2. Deed Register Book (*Reportorium*).

The Deed Register Book is a book containing serial numbers, monthly numbers indicating deeds each month, the number of deeds made by the Notary. The deed register

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book before being used, must first be submitted by the Notary to the Notary Regional Supervisory Board to be approved for use.

Private Deed Register Book

A deed made privately and signed by the relevant parties before a notary is called legalization. The private deed that is legalized is a deed that is made by the parties themselves, but the signing of the parties is done before a Notary. The purpose is to ensure that the person who signs is truly the person concerned because they signed before a Notary. Therefore, the contents of the private deed are more binding on the parties because the Notary guarantees that the parties have truly signed it. before a Notary. And in general terms, that letters signed by a person then the contents of the letter bind the people who sign it.

The absence of provisions on depreciation in the UUJN also raises questions about the efficiency of long-term storage and management of notary protocols, especially considering the increasing volume of documents over time. These differences indicate the need for harmonization between the UUJN and the Archives Law, especially in the context of notary protocol management.

This harmonization effort is important to ensure that notary protocols, as part of the state archives, are managed with standards equivalent to other important archives, while still paying attention to the specificity of the notary profession and the confidentiality of the documents they handle. Furthermore, this analysis also underlines the importance of developing more detailed guidelines and standard operating procedures for the management of notary protocols, which will help bridge the gap between the two laws and provide clearer guidance for notaries in carrying out their obligations regarding archive management.

Procedures for Preparing the Submission of Notary Protocols Aged 25 Years or More

Subekti expressed his opinion regarding the meaning handover. Handover, which is often also called “levering” or “overdracht”, has two meanings. First, an act in the form of mere transfer of power (feitelijke levering). Second, a legal act aimed at transferring ownership to another person (juridische levering).

Submission of Notary Protocol to Notary appointed as the holder and custodian of Notary Protocol is an obligation regulated in the Notary Law (UUJN). Based on Article 62 UUJN, submission of Notary Protocol is carried out in the event that Notary dies, his/her term of office has ended, asks for his/her own leave, is mentally and/or physically unable to carry out his/her duties as Notary continuously for more than 3 (three) years, is appointed as a state official, changes office area, is temporarily dismissed, or is dishonorably dismissed. Furthermore, Article 63 paragraph (2) UUJN emphasizes that submission of Notary Protocol is carried out with minutes of submission of Notary Protocol signed by the submitter and the recipient of Notary Protocol. This shows that the appointed Notary has a legal obligation to receive the protocol.

The obligation to accept this Notary Protocol is not only based on a statement of willingness at the time of registration, but is an integral part of the Notary's professional responsibilities as regulated by law. This provision aims to ensure the continuity of storage

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and management of important documents contained in the Notary Protocol, so that the legal interests of the parties related to the deeds remain protected. The meaning of the statement letter is that it is willing to accept the Notary Protocol from another Notary. So there is no reason for another Notary appointed by the Regional Supervisory Board as the recipient of the Protocol to accept and maintain the Protocol. Appointment of the recipient Notary

Protocols due to the death of the Notary who made the deed, and also for Notaries who are temporarily suspended for more than 3 (three) months are carried out by the Regional Supervisory Board. When the authority is given, the Notary will be responsible for the transfer of the protocol, including the Notary who receives the Notary's protocol.

The submission of Notarial Protocols is specifically regulated in the Notary Law (UUJN). Article 63 paragraph (5) of the UUJN stipulates that: "Notarial Protocols from other Notaries who at the time of submission are 25 (twenty five) years old or more are submitted by the Notary receiving the Notarial Protocol to the Regional Supervisory Board." However, submission of Notarial Protocols can occur before the 25-year period under certain conditions. Notarial Protocols are submitted to another Notary appointed by the Regional Supervisory Board, not directly to the MPD. This submission is carried out within a maximum period of 30 (thirty) days by making a report on the submission of Notarial Protocols signed by the submitter and the recipient of the Notarial Protocol, in accordance with Article 63 paragraphs (1) and (2) of the UUJN. Thus, the UUJN has clearly regulated when and under what conditions Notarial Protocols must be submitted, both to other Notaries and to the Regional Supervisory Board, without having to wait for the 25-year period.

Submission of notary protocols that are 25 years old or older to the Regional Supervisory Council (MPD) is an important step in maintaining the integrity and security of legal documents that have significant historical and legal value. This process not only ensures protection to the notary protocol that has been around for quite some time, but also facilitates more organized access for interested parties. The MPD, as the institution tasked with receiving the protocol, has a great responsibility in managing and preserving these important documents.

Submission of notary protocols that have reached the age of 25 years or more requires careful and thorough procedures. The notary receiving the protocol must ensure that all documents to be submitted have been properly inventoried, including a list of deeds, legalized private letters, and other supporting documents. This process also involves a thorough examination of the physical condition of the documents, to ensure that the submitted protocols are in good condition and complete. This is important to maintain the validity and evidentiary value of these documents in the future.

The transfer of notary protocols to the MPD also carries significant legal implications. With the transfer of storage responsibility to the MPD, there is also a transfer of authority in terms of providing copies or excerpts of deeds included in the protocol. The MPD must have an adequate system to manage requests for copies or excerpts of deeds from authorized parties, while maintaining the confidentiality of the contents of the deeds as mandated by

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law. This requires the MPD to have adequate infrastructure and human resources in carrying out its new duties as the custodian of notary protocols.

The submission of notarial protocols that are 25 years old or more is specifically regulated in Article 63 paragraph (5) of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary (UUJN). This paragraph states that: "Notarial protocols from other Notaries that are 25 (twenty five) years old or more at the time of submission are submitted by the Notary receiving the Notarial Protocol to the Regional Supervisory Board." This provision aims to ensure that documents that are quite old can be stored and managed better by institutions that have more adequate facilities and capacity for long-term preservation. The MPD, as the institution appointed to receive notarial protocols that are 25 years old or more, is expected to have a more comprehensive system and procedure to maintain the physical integrity and information security of these documents.

Submission of notary protocols that are 25 years old or more is not only an administrative process, but also an effort to preserve important legal documents and protect the interests of all parties related to the deeds in the long term. Submission of notary protocols that are 25 years old or more to the MPD also opens up opportunities for historical and legal research. These documents can be a valuable source of information for historians, legal researchers, and academics who want to study the development of notary practices and the socio-economic dynamics of society over a certain period of time. Therefore, the MPD also needs to consider how facilitating access for scientific purposes without compromising the principles of confidentiality and protection of personal data inherent in the notary protocol.

METHOD

The existence of a state institution or agency must of course be based on laws and regulations or determined by the law itself. Likewise, the existence of a Notary must be based on applicable laws and regulations. A Notary is a State official who has the authority regulated in Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary.

A notary is a public official who is authorized to make authentic deeds and has other authorities as referred to in this law or based on other laws. So it can be understood that a notary is a public official who is specifically authorized by law to make authentic evidence (having perfect evidentiary power.

GHS Lumban Tobing expressed the opinion that a notary is a public official who is solely authorized to make authentic deeds regarding all acts, agreements and determinations required by a general regulations or those who are interested are required to state it in an authentic deed, guarantee the certainty of its date, keep the deed and provide the grosse, copy and quotation, all as long as the making of the deed is not also assigned or excluded to an official or other person.[77]Meanwhile, according to Colenbrunder, a notary is an official who is authorized to, at the request of those who order him to record everything

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that is experienced in a deed and to witness in the deed regarding the condition of an item shown to him by his client.

The position of Notary is a position of trust that is legally, morally and ethically responsible to the state/government, society, relevant parties (clients) and professional organizations, so that the quality of a Notary must be improved through education, knowledge, understanding and deepening of knowledge and codes of ethics.79In carrying out his/her position, apart from having the authority to make authentic deeds, a Notary also has obligations, one of which is to make deeds in the form of deed minutes and store them as part of the Notary Protocol, as regulated in Article 16 paragraph (1) letter b UUJN-P.

The obligation to keep minutes of deeds as part of the Notary Protocol, is intended to maintain the authenticity of a deed by keeping the deed in its original form, so that if there is a Notary who retires or If a person dies, the deed remains stored in the Notary Protocol. This storage obligation does not only apply to minutes of deeds made by and/or before a Notary as explained above, but also applies to other Notary Protocols received by the Notary, either because the other Notary has died, his term of office has ended, or for other reasons as regulated in Article 62 of the UUJN.

In storing the Notary Protocol, a careful process is required, so that the Notary Protocol is not scattered, lost or damaged. Notaries in carrying out their duties and positions have a term of office/retirement limit, where this term of office ends when the Notary is 65 years old, and can be extended to the age of 67 (sixty seven). The end of this term of office is in line with the transfer of the collection of documents that are State archives. Notaries who enter retirement are required to notify the local Regional Supervisory Board regarding the end of their term of office. This is because the Notary who retires must submit Notarial Protocols to the Notary Receiving the Notarial Protocol which is then submitted to the Regional Supervisory Board, to be stored in a predetermined place.

Regarding the Notary Protocol regulated in Article 62, Article 63, Article 64 and Article 65 of the UUJN. Article 62 states that the Notary Protocol must be submitted in certain situations, such as when the term of office has ended. The Notary Protocol as explained in Article 63 of the UUJN has some important provisions:

1. Article 63 paragraph (1) states that the submission of the Notarial Protocol must be carried out within a maximum of 30 (thirty) days by making a report on the submission of the Notarial Protocol which is signed by the person submitting and the person receiving the Notarial Protocol.
2. Article 63 paragraph (2) stipulates that in the event of an occurrence as referred to in Article 62 letter a, the submission of the Notary Protocol is carried out by the Notary's heir to another Notary appointed by the Regional Supervisory Council.
3. Article 63 paragraph (3) states that in the event of the following: referred to in Article 62 letter g, submission of the Protocol Notary Public carried out by a Notary to another Notary appointed by the Regional Supervisory Board if the temporary suspension is more than 3 (three) months.
4. Article 63 paragraph (4) stipulates that in the event of an occurrence as referred to in Article 62 letter b, letter c, letter d, letter f, or letter h, the submission of the

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Notarial Protocol is carried out by the Notary to another Notary appointed by the Minister upon the recommendation of the Regional Supervisory Council.

5. Article 63 paragraph (5) states that a Notary Protocol from another Notary which at the time of submission is 25 (twenty five) years old or more is submitted by the Notary receiving the Notary Protocol to the Regional Supervisory Council.

Notary Protocol is submitted to maintain confidentiality of the certificate And its existence, so that if at some point it is needed for a purpose, it can be easily searched and found. Implementation of Notary Protocol storage based on the opinion ofChairmanRegional Supervisory Board of Notaries of Medan City, its existence, so that if at some point it is needed for a purpose, it can be easily searched and found. Implementation of Notary Protocol storage based on the opinion ofChairmanRegional Supervisory Board of Notaries of Medan City, explains that the storage of Notary Protocols is 25 years old as referred to in Article 63 UUJN has not been implemented to date This. The Notary Protocol is still stored at the Notary Receiving the Protocol. This problem according toChairmanRegional Supervisory Board of Medan City Notaries become a problem that needs special handling, which becomes The reason why Article 63 is not implemented is because there is no storage place or an office adequate for storing the Notary Protocols.

RESULT

Implications for the Security and Long-Term Preservation of Notary Protocols.

Implications for long-term security and preservation of the protocol notary is one of the most significant consequences of the failure to implement Article 63 paragraph (5) of the UUJN. This provision is basically designed to ensure that important legal documents that are more than 25 years old can be stored and maintained with higher and more consistent standards. However, when the implementation of this article is hampered, various risks and challenges arise in maintaining the security and sustainability of notary protocols.

Notary offices are generally not designed or equipped to store very large volumes of documents for very long periods of time. As a result, these protocols may be stored in less than ideal conditions, such as rooms that are humid, too hot, or susceptible to other environmental disturbances. These suboptimal storage conditions can accelerate the physical deterioration of documents, especially given the nature of paper and ink that are susceptible to degradation over time.

The physical security of the protocol is also a major concern. The notary's office may not have a security system sophisticated enough to protect these important documents from the risk of theft, fire, or natural disaster. Unlike storage facilities managed by the Regional Supervisory Council (MPD) which should have higher security standards, individual notary offices may be more vulnerable to various security threats.

Another aspect to consider is consistency in document care and preservation. Each notary may have different methods and standards for maintaining old protocols, which can result in variations in the quality of preservation between notary offices. This is in contrast to a centralized system that should be able to establish and enforce uniform preservation standards based on best practices in archive management. Furthermore, when protocols

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remain scattered across notary offices, the risk of loss or damage due to changes in office ownership or the retirement of a notary is higher. In situations where a notary retires or passes away, without a well-functioning handover system, there is a risk that old protocols may not be handled properly during the transition, potentially resulting in the loss of important documents.

MPD basically appoints a notary who is still active to store the protocol of a notary who has died or retired himself, but in reality many notaries are reluctant to accept it. Sometimes the notary is reluctant to accept it on the grounds of a lack of adequate space to store the protocol from another notary, especially if the notary has died.

The world has been in office for a long time and has many protocols.106Basically, a notary who is appointed to receive another notary's protocol may not refuse, because the availability of space is a responsibility that must be fulfilled by a notary. A notary has an obligation to sign a statement letter when appointed as a notary based on Article 2 paragraph (2) letter (m) of Ministerial Regulation Number 62 of 2016. The letter contains a statement that he is willing to receive another notary's protocol if necessary, but there are still notaries who refuse to receive another notary's protocol.

The availability of storage space for the protocol is the responsibility of the heirs. This is one of the responsibilities of the protocol provider that must be realized, that the availability of space is very important to support the storage of notary protocols, especially if the number of protocols is very large. Heirs as protocol providers in the event of a notary's death must know and be aware of what are their obligations as heirs of a notary. There are still many heirs who do not know their obligations, one of which is regarding the provision of this place and related to the debts and obligations of the notary that are inherited by his heirs.

The notary who has received the protocol is responsible for maintaining the notary protocol transferred to him. He is also authorized to issue Grosse Akta, Copy of Akta, or Excerpt of Akta as regulated in the provisions of Article 64 paragraph (2) UUJN. The notary who receives the protocol is obliged to maintain the notary protocol transferred to him as if it were his own protocol, so that adequate space and good administration are needed so that the deeds he has are neatly arranged and can be easily found when needed.

Another challenge arises when it comes to the long-term preservation and restoration of damaged documents. This process requires specialized and often expensive expertise, which may be beyond the capabilities or priorities of individual notary offices. As a result, documents requiring special care may not receive the attention they need, accelerating their degradation and potentially losing valuable legal information.

From a technological perspective, the lack of a centralized storage system also hampers efforts to digitize and create digital backups for these legacy protocols. Digitization can be a critical step in long-term preservation, allowing access without having to deal with fragile physical documents excessively. However, large-scale digitization efforts are difficult when protocols are spread across multiple locations with varying storage standards. Progressive legal theory emphasizes that law must be viewed as a dynamic, not static, institution that is continuously in the process of achieving the goal of justice and social

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welfare. In this context, the failure to implement Article 63 paragraph (5) of the UUJN should not be seen merely as a failure of implementation, but rather as an opportunity to make legal breakthroughs that are more responsive to the needs of society and developments of the times.

The progressive approach invites us to look beyond structural and bureaucratic constraints, and to seek creative solutions that can meet the primary purpose of notarial protocol storage, namely maintaining the security, preservation, and accessibility of important legal documents. This may involve reinterpreting existing legal provisions or even reformulating policies that are more adaptive to the realities on the ground. Furthermore, progressive legal theory encourages the active participation of all stakeholders in finding solutions. This means involving not only the MPD and notaries, but also the community, academics, and other legal practitioners in formulating a more holistic approach to notarial protocol management.

The challenges arising from the non-implementation of these provisions should be seen as a momentum to make a paradigm shift in the management of legal archives. This may involve innovation in storage methods, the use of digital technology for preservation and accessibility, and the development of more effective and participatory oversight mechanisms. This progressive approach aims not only to address short-term problems, but also to build a more adaptive and sustainable system. in maintaining the integrity and availability of historical legal information that is crucial to the legal system and society as a whole.

Impact on Accessibility and Searchability of Historical Legal Documents

Impact on accessibility and searchability of historical legal documents is a serious consequence of the failure to implement Article 63 paragraph (5) of Law Number 2 of 2014 concerning the submission of notary protocols that are 25 years old or more. When these protocols remain scattered across various notary offices instead of being centralized in the Regional Supervisory Council (MPD), various significant challenges arise in terms of access and tracing of these important legal documents.

Notarial deeds have perfect evidentiary power in civil lawsuits, but if they violate certain provisions, their evidentiary value will be degraded to having evidentiary power as a private deed. A notary who is proven to have made a mistake resulting in the deed he made only having evidentiary power as a private deed or the deed being null and void by law will cause losses to the client or other parties. Therefore, the notary can be held accountable for his mistake and is required to provide compensation, costs, and interest to the parties who suffer losses. According to the theory of Robert B. Seidman and William J. Chambliss on the system of how law works in society, when a notary carries out his duties in the notary field, the notary's position is as a law enforcer, while when the notary is liable, the position of a notary as one who is subject to the law when dealing with those who apply sanctions.

The power inherent in an authentic deed is perfect (volledig bewijskracht) and binding (bindende bewijskracht), which means that if the evidence in the form of an authentic deed is submitted and meets the formal and material requirements and the opposing evidence presented by the defendant does not reduce its existence, it is simultaneously attached to

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the power of perfect and binding proof (volledig en bindende bewijskracht). Thus, the truth of the contents and statements contained therein becomes perfect and binding on the parties regarding what is stated in the deed. It is also perfect and binding on the judge so that the judge must use it as a perfect and sufficient factual basis for making a decision on the settlement of the disputed case.

It is not impossible for a notary to make a mistake that results in a violation of his/her position. In relation to notarial errors, the term beroepsfout is used. Beroepsfout is a special term that refers to errors, these errors are made by professionals with special positions. These errors are made in carrying out a position. However, the term error in this case is objective in the sense that the term error in the context of beroepsfout is aimed at professionals in carrying out their positions. To examine the meaning of error in beroepsfout, we can refer to the definition Melita Trisnawati and Suteki, "Legal Protection for Notaries Receiving Protocols in the Event of Violation of Notarial Deeds by Notaries Providing Protocols Who Have Died", Notarius, Volume 12 Number 1 (2019), p. 34. errors in general, especially in criminal law. In addition to the definition of objective error, there are also specific requirements to be able to argue that a notary has been guilty in carrying out his/her duties. The definition of errors in general can be found in the field of criminal law. In criminal law, a person who is found guilty must meet the following elements: able to take responsibility; intentional or negligent; no excuse.

A notary does not only gain theoretical knowledge, but also practical knowledge with technical and theoretical skills, then a notary is certain to have the ability, even it is proper for a notary to understand the value and consequences of making a deed. Likewise, with the provision mentioned above, a notary is also considered capable of realizing that the act is not permitted according to the public's view. Whether or not a person is able to determine the intention in carrying out the act can be influenced by age factors, for example, the age of not being an adult, the person's condition is placed under guardianship, or because there is pressure from outside himself, he is in a forced state and cannot do otherwise. This is in line with Koeswadji's opinion, that as a result of an error in carrying out his duties, a notary can be caused by a lack of knowledge of onvoldoende kennis, lack of experience of onvoldoende ervaring and lack of understanding of onvoldoende inzicht Keeping the minutes of the deed is the obligation of a notary, so the notary should keep the notary protocol (which contains the minutes of the deed) himself and not let the notary protocol be held by his employees. This is because the notary protocol is a collection of documents that are state archives that must be stored and maintained by the notary. However, the problem is when a notary dies and his protocol is transferred to another notary, what if a dispute arises involving the deed.

The lack of a centralized system creates a major obstacle in the process of searching and accessing historical documents. When notarial protocols remain in individual notary offices, there is no central database or catalog system that can be used to track the whereabouts of a particular document. As a result, parties who need access to old documents, such as heirs, legal researchers, or parties involved in legal disputes, must go through a complicated and time-consuming search process. They may need to contact

Jurnal Ekonomi
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multiple notary offices one by one, which is not only inefficient but also potentially results in incomplete or inaccurate searches.

Consequences for the Job Administration and Supervision System Notary Public

The consequences for the notary administration and supervision system due to the failure to implement Article 63 paragraph (5) of Law Number 2 of 2014 have broad and profound implications. This provision, which regulates the submission of notary protocols that are 25 years old or more to the Regional Supervisory Council (MPD), was actually designed to strengthen the notary administration and supervision system. However, when its implementation is hampered, various consequences arise that affect the effectiveness and integrity of the system.

The inability to implement a centralized protocol submission system has resulted in fragmentation in the notary administration system. As legacy protocols remain scattered across notary offices, the MPD faces difficulties in conducting comprehensive and systematic supervision. This leads to inefficiencies in the administrative process, where the MPD has to deal with many different locations and storage systems, instead of having centralized access to all relevant protocols.

This situation creates significant challenges in terms of standardizing administrative practices. Without a centralized system, each notary may develop different methods of administering and storing protocols. This diversity can make it difficult for the MPD to apply consistent standards in the supervision and evaluation of notarial practices, especially with regard to long-term protocol management.

Another important aspect is the impact on the MPD's ability to conduct routine audits and checks. When protocols are spread across multiple locations, the audit process becomes more complex, time-consuming, and expensive. The MPD may not have sufficient resources to regularly check the condition and completeness of the protocols in each notary office, especially for documents that are more than 25 years old. As a result, potential violations or non-compliance in protocol management may go undetected or be identified too late.

The inability to implement a centralized submission system also affects the effectiveness of handling notary violation or malpractice cases. Without direct access to legacy protocols, the MPD may have difficulty conducting a thorough investigation into long-term notary practices. This can hinder the MPD's ability to take appropriate and timely corrective or disciplinary action.

Keeping minutes of deeds that are part of the notary protocol is an obligation of a notary. However, the problem that will arise is when a notary refuses to keep and accept protocols from other notaries on the grounds of fear of being held responsible for possible disputes in the future related to the notary protocol he received. Regarding the refusal which is an obligation of a notary in carrying out his position, if the notary refuses the obligation to accept the notary protocol, it will have legal consequences for both the notary himself and the parties who have an interest in the notary protocol because it can be categorized as an unlawful act by the notary in carrying out his position.

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This situation also has an impact on the system's ability to adapt to technological developments. An effective administration and supervision system in the digital era requires the integration of sophisticated information technology. However, without the implementation of a centralized protocol submission system, efforts to adopt modern technological solutions become more difficult and less effective. This can result in the notary administration and supervision system lagging behind in terms of efficiency and analytical capabilities compared to other sectors of the legal system.

Another consequence to consider is the impact on the transparency and accountability of the notary profession as a whole. A centralized protocol submission system should increase transparency by allowing for better monitoring of notarial practices over the long term. Without this, there may be a perception of a lack of transparency in the profession, which could affect public trust in the notary system.

Progressive law teaches that law should continue to evolve to serve the interests of humanity, not the other way around. In the context of the inability to implement an effective notary protocol submission system, the progressive approach encourages us to look beyond the limitations of the existing system and seek creative solutions that center on the primary purpose of law: justice and the welfare of society.

Rather than viewing the non-implementation of these provisions as failures, progressive law demands that they be viewed as opportunities for breakthroughs. For example, rather than focusing on the physical delivery of the protocol, a hybrid system could be explored that combines decentralized storage with centralized access through digital technology. This could involve developing a digital platform that allows notaries to upload summaries or metadata of their protocols, while still retaining the physical document, but with enhanced storage and security standards.

Progressive legal theory also emphasizes the importance of active participation of all stakeholders. In this case, solutions to strengthen the notary administration and supervision system do not always have to be top-down, but can emerge from collaboration between notaries, MPD, academics, and technology practitioners. This could involve the formation of a cross-sector working group tasked with developing innovative solutions for notary protocol management and access.

Progressive law encourages us to reconsider the concept of "supervision" itself. Instead of the traditional supervision model that tends to be reactive, it can develop a collaborative and proactive supervision system. For example, the implementation of a peer review system among notaries, or the development of a real-time feedback mechanism from users of notary services. With a progressive approach, the challenges in implementing a notary protocol submission system can be seen as a catalyst for the transformation of the notary system as a whole. It is not only about compliance with the law, but more on how to create a system that is more adaptive, transparent, and effective in serving the needs of the community.

Progressive legal theory reminds us that law must always be placed in its social context. Therefore, the solutions developed must consider not only the legal and administrative aspects, but also the social and ethical impacts. This could involve, for

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https://ejournal.seaninstitute.or.id/index.php/Ekonomi

example, the development of mechanisms that ensure the accessibility of notarial protocols for the purposes of historical research or the protection of community rights, while maintaining the confidentiality of sensitive information. Thus, through the lens of progressive law, the challenges in implementing the notarial protocol submission system can be used as momentum to revolutionize the notarial administration and supervision system, creating a system that is more responsive, adaptive, and oriented towards the interests of the community.

CONCLUSION

The responsibility of a notary for notarial protocols that are 25 years old or more is regulated in Article 63 paragraph (5) of the UUJN which requires notarial protocols from other notaries to be submitted by the receiving notary to the Regional Supervisory Council, Article 70 letter e of the UUJN which gives the MPD authority to receive the protocol, and UUJN which orders the MPD to submit it to the Regional Archives, where this series of processes is part of the notary's responsibility in maintaining and preserving notary protocols in accordance with applicable legal provisions. The implementation of Article 63 paragraph (5) of the UUJN in the process of handing over notary protocols that are 25 years old or more is carried out with a mechanism whereby the notary receiving the protocol is required to carry out an inventory and identification of the notary protocols that have reached the age of 25 years, then make a list of protocols and minutes of handover which are signed by the notary receiving the protocol and the Regional Supervisory Council (MPD), after which the MPD will verify and check the completeness of the notary protocol, however in its implementation obstacles are often encountered such as limited storage space, damaged or poorly maintained protocol conditions, incomplete protocol documents, and lack of coordination. between the notary and the MPD which results in the handover process being hampered, so that better standardization of procedures is needed to overcome these obstacles. .The impact on notaries who do not submit notarial protocols that are 25 years old or more as regulated in Article 63 paragraph UUJN can be subject to administrative sanctions in the form of verbal warnings, written warnings, temporary dismissal, honorable dismissal, or dishonorable dismissal as regulated in Article 85 of UUJN, this can also affect the credibility and professionalism of notaries in carrying out their duties because they have violated the obligations stipulated by law, and has the potential to cause problems in terms of proving deeds in the future because notary protocols are state archives that must be maintained and their authenticity maintained.

REFERENCES

Adjie, Habib. Indonesian Notary Law. PT. Refika Aditama, Bandung, 2022.

Ali, Achmad. Unveiling the Veil of Law (A Philosophical and Sociological Study). Mount Agung Shop, Jakarta, 2016.

Apeldoorn, Van. Introduction to Legal Science. Pradnya Paramita, Jakarta, 2000.

Atmasasmita, Romli. Integrative Legal Theory: Reconstruction of Development Legal Theory and Progressive Legal Theory. Genta Publishing, Yogyakarta, 2012.

Bungin, Burhan. Qualitative Research: Communication, Economics, Public Policy, and Other Social Sciences. Kencana, Jakarta, 2009.

Cahyadi, Antonius and Manullang, E. Fernando M. Introduction to the Philosophy of Law. Kencana Prenada Media Group, Jakarta, 2014.

Darus, M. Luthfan Hadi. Notarial Law and the Responsibilities of the Notary Office.

UII Press, Yogyakarta, 2017.

Friedman, Lawrence M. American Law An Introduction. Translated by Wishnu Basuki. Tatanusa, Jakarta, 2013.

Fuady, Munir. Unlawful Acts. First Printing. Citra Aditya Bakti, Bandung, 2002.

Hajar M. Models of Approach in Legal and Fiqh Research. UIN Suska Riau, Pekanbaru, 2015.

Herdiansyah, Haris. Qualitative Research Methods for Social Sciences. Salemba Humanika, Jakarta, 2010.

Koentjaraningrat. Introduction to Anthropology. Aksara Baru, Jakarta, 2001.

Kusuma, Mahmud. Delving into the Spirit of Progressive Law: Paradigmatic Therapy for Weak Indonesian Law. Antonylib and LSHP Indonesia, Yogyakarta, 2009.

Lubis, M. Solly. Philosophy of Science and Research. CV. Mandar Maju, Bandung, 2001.

Manullang, E. Fernando M. Legism, Legality, and Legal Certainty. Kencana Prenada Media, Jakarta, 2017.

Margono. Principles of Justice, Benefit and Legal Certainty in Judges' Decisions. Sinar Grafika, Jakarta, 2021.

Marzuki, Peter Mahmud. Legal Research. UI Press, Jakarta, 2010.

Mertokusumo, Sudikno. Indonesian Civil Procedure Law. Liberty, Yogyakarta, 2008.

Mertokusumo, Sudikno. Understanding the Law: An Introduction. Liberty, Yogyakarta, 2014.

Muhammad, AbdulKadir. Law and Legal Research. PT. Citra Aditya Bakti, Bandung, 2004.

Nachrawi, Gunawan and Agung, I Gusti Agung Ngurah. Legal Theory. CV Cendekia Press, Bandung, 2020.

Prodjodikoro, R. Wirjono. Unlawful Acts Viewed from the Perspective of Civil Law. Mandar Maju, Bandung, 2000.

Purba, Hasim and Purba, Muhammad Hadyan Yunhas. *Basics of Legal Knowledge*. Sinar Grafika, East Jakarta, 2019.

Rahardjo, Satjipto. Progressive Law Urgency and Criticism. Epistema Institute and Public Relations, Jakarta, 2011.

Rasjidi, Lili and Putra, IB Wyasa. Law as a System. Rosdakarya Youth, Bandung, 2011.

Rifa'i Abubakar. Introduction to Research Methodology. Press UIN Sunan Kalijaga, Yogyakarta, 2021.

Ruslan, Rosady. Public Relations and Communication Research Methods. Rajawali Pers, Jakarta, 2003.