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Reformulation of Notary Authority as a General Officer of the Authentic Deed

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ABSTRACT

The Notarial Statutes (UUJN) state that the Notary Public is a "public official" but does not explain in detail the number of public officials, so that it does not occur in multi-year. Based on the problem of government function theory, that is, the function of the Notary Society as a public official. There are many legal products that are notoriously specific, such as the Notification of the Cooperative (NPAK) in the form of a narrowing of the authority of the general public. With the narrowing of the authority of the Notary, even the function of the Notary is not effective. The purpose of this research is to find out and formulate legal reform reforms about the notification of the authority of the Notary Public as a general stakeholder in the making of an authentic. This research is a normative legal research with a legal, conceptual and historical approach. The results of the study indicate that the legal arrangement of the Notification of the Government's authority as a general stakeholder in the making of authentic items needs to be reformed. For that it is necessary to reformulated the article that governs the notary authority as General officer, contained in the law of the notary office to return the notary office as a only general official authorized to make the deed authentic.

Key Words: UUJN, Notary, authentic deed, Reformulation, Arrangement.

JEL classification: K00, K23, K40, K42.

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1. Introduction

The notary office was born because the community needed his, not a post that was deliberately created then recently socialized to the community. For this background, a notary public is appointed as

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a general officer serving the Community. "Notary born since ancient Roman times, originated in northern Italy, later flourished in France, from France to the Netherlands, and from the Netherlands finally to Indonesia" (Indonesian Notary Public, 2008).

The notary office is essentially as a general officer assigned by General Power to serve the needs of the public to an authentic proof tool that provides legal certainty in the field of civil law. So long as the authentic proof tool is still required by the legal system in Indonesia, the notary office will still need the existence in the community.

According to Tan Thong Kie (2007):

"Every society needs a person (figure) whose information is reliable, trustworthy, whose signature and seal provide strong guarantees and evidence, an impartial expert and an unimpeachable advisor (onkreukbaar or unimpeachable), who shuts up, and makes a agreement that can protect it in the days to come".

In the law of the notary Department (UUJN) in article 1, figure 1, it is explained that "notary is a general official authorized to make an authentic deed and have other powers as referred to in this law or other laws. UUJN does not explain in detail the meaning of the general officer, so that there is a blur of meaning or obscurity that creates multiple interpretations.

Referring to the provisions of article 1868 of the Civil Code there is the understanding of public officials and authentic deeds. The contents of this article are translations of Burgerlijk Wetboek "an authentic deed is a deed made in the form prescribed by law by or in front of the public official authorized for that at the place the deed was made". However, the understanding of these public officials, both in the Law of Notary Position (UUJN) and the Civil Code (Civil Code) does not explain clearly. Based on the problem of government function theory, that is the function of the Notary Society as a public official. The pledge is set in the form of a statute that is intended to be related to certain functions as a permanent working environment.

In the development of the world of Notaries in Indonesia, as mentioned above, the term Notary Cooperative Deed Maker (NPAK) appears. However, what needs to be understood is that the Notarial Cooperative Deed (NPAK) is not a new position. A new position such as a Notary was born in the form of a law, not in the form of Ministerial regulations or Ministerial decrees (Adjie, 2013). The Deed of Establishment of a Cooperative is not the authority of a public official such as the Notary of the Cooperative Deed (NPAK), but it remains the authority of the Notary and keeps the Notary public. Just to understand what and how the legal basis and the Cooperative deed are, the Notaries need to attend training not certification (Harris & Lenny, 2017).

Decree of the Minister of Cooperatives which states such matters above has undermined the existence of the Notary Public General At the position of Notary cannot be affixed to other positions, for example Notary Maker of Cooperative Deed (NPAK) (Sjaifurrachman & Habib, 2011). And also there is no need to create a new position for certain legal actions, it is sufficient and there is a Notary Public General who has the authority to make an authentic deed regarding all deeds of the agreement, and the determination required by statutory regulations. The only legal products that are notoriously specific, such as NPAK, can be in the narrowing of the authority of Notaris as a general stakeholder in the making of authentic goods. With the narrowing of the authority of the Notary, even the function of the Notary is not effective (Muri, et al. (2018). The notification of the authority of the General Government as a general component of the authenticity will be narrowed down which will eventually result in further decline.

The notary public also has other powers that are governed by the laws. This is the authority that will be determined then based on other legal rules that will come later (*ius constituendum*). Pursuant to the authority, if the notary has taken action beyond its authority, the deed made by the notary is not legally binding or unenforceable (non-executable), And the parties or those who feel harmed by a notary action acting outside of his authority as a notary public can be sued in a civil state court (Khairandy, 2017).

There is a legal problem about setting notary as a public official as explained in the Law of Notary Office (UUJN) in article 1 Figure 1. What is the understanding of the General office, the law of the notary Office (UUJN) does not explain in detail, the eventual blurring of meaning or obscurity to cause multiple interpretations. When referring to the provisions of article 1868 of the Civil Code (civil law) of

the authentic deed made by or in the presence of authorized general officers, nor does it explain the understanding of the General officer (Suryahartati, 2018).

In the synchronization of legislation between UUJN which regulates the notary as a general officer of the Authentic Deed and the decree of the Cooperative minister that governs the notary deed of co-operative (NPAK), Thus giving rise to the uncertainty of the legal position of the Notary Department (UUJN) whose arrangement is wider than the notary authorized to make an authentic deed of all the deeds, agreements, and assignments required by the legislation and the decision of the Minister of Cooperatives whose regulation is more narrow than certain notary who have a certification from the Cooperative ministry that could be a notary deed cooperative deeds.

Based on the fact that there were a number of problems that prompted the writer to carry out research aimed at analyzing and formulating reformulation of notary authority as a general officer of the authentic deed.

Throughout the author's knowledge, there have been several studies discussing the arrangement of notarial Authority as a general officer of the authentic deed that is among the research conducted by Yano Mahendra (2017) discussing the meaning of prohibition of other jobs contrary to the consciences in the notary office as a general officer. Then the research of Didi Santoso (2009) which discusses the responsibilities of notary in the making of deed that contains two legal acts (analysis of the decision MA No. 1440. K/PDT/1996). The research of Umar Ma'ruf (2015), which focuses on legal review of notarial position and function as an authentic deed General officer. The novelty of the research researchers do this is that researchers want to formulate the rule of law on setting the notary authority as a general officer and to restore the dignity of the notary office as the only public official authorized to create an authentic deed. The notary is constructed as a general officer who conducts public service in making an authentic deed in general about all the conduct of the assignment that is required by the laws and regulations.

2. Research method

This type of research in the writing of this law is normative law research. Normative legal research can also be called a research on doctrinal law. In this research, often the law is codified as what is written in the laws and regulations (law in book) or the law that is codified as the rule of the norm which is a benchmark of public behaviour to what is deemed appropriate. But indeed the law can also be conceptualized as what is in the act (law in action) (Efendi & Ibrahim, 2016).

Researchers use approaches aimed at obtaining information from different aspects of legal issues as a basis for the footing to give arguments to the study, they are a statutory, conceptual and historical approach. Legal materials used in this study are primary, secondary and tertiary legal substances. The primary legal material consists of the Staatsblad 1860 number 3 on the regulation of notary office in Indonesia (Reglement op het Notaris-ambt in Indonesie), Law number 30 of 2004 concerning notary Office, Law No. 2 of 2014 on the amendment of Law Number 30 year 2004 concerning notary Public. Secondary legal materials consist of all publications relating to notarized law which is not an official document. Tertiary legal materials consist of a large dictionary of Bahasa Indonesia, English Dictionary and Legal Dictionary and Black's Law Dictionary (Soerjono & Soekanto, 2010).

The collection of legal materials is done by document study techniques or literature studies as well as Internet searching. The analysis of legal materials is done using historical interpretation techniques, based on the history of the law. The author investigates the intent of the establishment of a notary legal department then analyzes it using a qualitative analysis method that provides an overview or description of the findings obtained, and therefore the author better prioritize the quality.

3. Results and discussion

The authority of the Notaris in the Indonesian legal system is quite extensive, it only makes an authentic all the time, but also the authority to the extent. Notarized authority has been determined in article 15 of Law No. 2 of 2014 concerning the amendment to law number 30 of 2004 about the notary public which covers to make:

1. Authentic Deed

An authentic deed is a deed made by or faced notary. An authentic deed made by Notary, covering all the deeds; the agreement; Determination that is expected by the regulation; and / which is obeyed by those with an interest in being confirmed in authentic deed (Ayu, 2014).

2. Guarantee the Date of the Deed

The date written in deed is the momentum created at that deed (Salim, 2016).

3. Save the Deed (protokol Notary)

Put the deed in a safe place so as not to be damaged (Mido, 2018).

4. Giving grosse

Submit a copy of the debt recognition deed to the right to receive.

5. Copy of the Deed

Cpy of the deed is a copy word of the entire deed and at the bottom of the copy of the listed phrase "given as a copy of the same sound".

6. Deed Quotation

Deed quotation is a word quotation of a or some part of the deed and at the bottom of the quoted phrase "given as a quotation".

7. Approved Under-hand Deeds

Approved Under-hand deeds is deed to be signed and notarized in front of a notary or authorized official.

8. Waarmeking

Letter by registering in a special book, called gewarmeken. Deed under the hand that is posted is a deed that has been signed on the day and date referred to in the deed by the parties, and the signature is not in front of the notary/ authorized official.

9. Make a copy from original letter under the hand

Make a copy of the original letter under the hand, conducting or working on a copy of the original letter under the hand by the parties. The copy, contains the description as written and depicted in the letter in question.

10. Legalization match photocopy with the original letter

Legalization match photocopy with the original letter, which is related to the process, way or deed validating photocopy matches with the original letter. Legalization is an act to acknowledge, approve, and confirm that the photocopy is in accordance with the original letter.

11. Legal Education

Legal Education, is efforts to convey information or lighting to the public or to the parties about the laws relating to the notary public and its authority.

Notarized authority is not only governed by law No. 2 of 2004 on the amendment of law number 30 of 2004 about the notary public, but also regulated in other statutory regulations. This Legislation, covering the code of civil law, Law No. 25 of 1992 about cooperative, Law no. 40 of 2007 about Limited Liability Company, Law No. 16 of 2001 about Foundation jo. Law No. 28 of 2004 on the amendment of law number 16 of 2001 about foundation, Law No. 41 of 2004 about waqf, Law No. 12 of 1995 jo Law number 1 of 2009 about Flight.

The authority of Notaries in the Indonesian Civil Code, which includes the agreement on marriage was made in Notaries deed; submission of receivables deed on behalf and other goods that are not bodied; sale deed; Grant deed; deed of loading or the transfer of unmoving goods; separation deed of treasures of wealth and wills or testament.

In the government system, a notary position as a general officer is one of the State organs that received the mandate from some of the duties and authority of the State in order to provide services to the general public in the field of civil. This means that notary public is expected to help improve the function of the Government to provide services to the community in making authentic deed, but the problem of the community itself is not notary minded.

The land deed is a deed made in advance and in front of the competent officer, relating to the surface of the earth or the coating on it. The arrangement of authorized officers to make the land deed is determined:

1. Article 15 (2) letter f Law Number 2 of 2014 concerning the Change in the law number 30

of 2004 concerning notary position; and

2. Legislation that relates to Agraria.

Although in a juridical, especially article 15 paragraph 2 letter f of Law No. 2 of 2014 concerning the amendment of Law number 30 year 2004 about the notary office determined that the notary authorized to make the land deed, but empirically the authority can not be implemented because it is the authority of the Land Deed official (PPAT). So that the notary can make the deed of land, then the notary must meet the requirements that have been determined and should take the PPAT exam conducted by the Ministry of Agrarian and Spatial/Agency national land to obtain permission as PPAT.

Meanwhile, the arrangement of the competent authorities to make the land deed was determined in the legislation governing agrarian regulations. Legislation as follows:

1. Law Number 5 of 1960 concerning the Arrangement of the Agrarians Principles.
2. Law Number 4 of 1996 concerning rights on land and objects relating to land.
3. Government Regulation No. 40 of 1996 concerning use rights, building rights, and land wear
4. Government Regulation Number 24 of 1997 concerning the Land Registration.
5. Government Regulation Number 37 of 1998 concerning the Officer of land deed maker Jo. Government Regulation Number 24 of 2016 concerning the Change of Government Regulation Number 37 in 1998 concerning the rules of land deed officer.
6. Regulation of the head of national land agency Number 1 of 2006 about on the provisions of government regulation No. 37 of 1998 concerning the rules of land deed officer.

authority to make a treatise on the auction, i.e. notary. The proving power of the auction treatise is perfect. The perfection of the deed of Notariil as a means of evidence, it must be seen what is not necessary or assessed or interpreted otherwise, other than that written in the deed. There are three kinds listed in the treatise of auctions that include,

1. event news,
2. officials and
3. the power of manufacture.

The news of the show is conceptualized as a "letter of evidence made by a notary of what it is supposed to do, known, or cared for and witnessed about the occurrence of a direct deed or event". Auction Conceptualized:

"Sale of goods that are open to the public with a written and/or verbal price quote that is increasing or declining to achieve the highest price preceded by an auction announcement." Goods that have been auctioned, to be made the auction treatise. The auction treatise is an auction-event news made by the auction officials who are authentic deeds and have a perfect proof of strength".

Notary is a general official authorized to make authentic deeds. The granting of authority to the notary is the implementation of some of the state's duties in this case the government to make an authentic tool of evidence as a form of providing protection to communities in need. The granting of authority to the notary is the implementation of article 1868 BW, where lawmakers must make a statutory regulation to appoint general officers authorized to make authentic deeds and therefore notaries are appointed as such officials. Other than the authority to create an authentic deed, notary is also assigned to register and validate the letters made under the hands. The notary also provides legal advice and describes the law to the parties concerned.

According to G.H.S Lumban Tobing (1996), according to the fact that the notary task together with the development of the time has also developed as it is now, the firm notary as according to the law and the notary according to the actual and the task to be run, which is laid down to it by law, very different from the task that is imposed on him by the community in practice, so it is difficult to give a complete definition about task and notary's work. The main authority of notary is to make authentic deeds. The authenticity of the notarial deed is sourced from UUJN where the notary is used as a general officer (*openbaar ambtenaar*), so that the deed made by the notary in his position obtained the nature of the authentic deed as referred to in article 1868 BW.

As a tool of the strongest and most important written evidence, what is expressed in notarial deed must be accepted, unless the interested party can prove the contrary satisfactorily before the court proceeding. Notary function beyond the creation of authentic deeds is set for the first time comprehensively in the legislation.

Hereinafter Sudikno Mertokusumo (2002), in the case of proof contains some sense that is:

1. Proves in a logical sense, means to provide absolute certainty, because it applies to everyone and does not allow evidence of opponents
2. Proves in a conventional sense, meaning it gives certainty but not absolute certainty but rather the relative certainty.

The Civil Code itself provides a setting about the power of an authentic deed. It is governed by article 1888 of the civil code whose contents say that the power of proving a proof is in the original deed. The original actor in this context of course that is intended is according to notarial deed, therefore precisely editorial in article 1888 of civil law paragraph 2 which says that if the original deed is present, then the copy and summary is only trustworthy, the copy and the summary in accordance with the original, which always shows its (Darus, 2017).

Pursuant to article 1888 of civil Law, it is easy to understand when in examination. If there is an indication of untruth on a copy of the deed shown at the trial as a means of evidence, because the copy is only considered authentic when it is true. In other words, a copy of the deed is authentic rated when the word-for-word in accordance with the authenticity of its actors stored in the relevant notary protocol.

Subekti (1980) argues that authentic features have the following characteristics:

1. The writing, intentionally made at any time to be made evident, and a proof of the circumstances as states in the writing made and declared by the authorized officer.
2. A text until there is evidence to the contrary, assumed to be derived from competent authorities.
3. Provisions of the legislation that must be fulfilled, the provisions govern the Ordinance of manufacture, at least contains the provisions of the date, the place of deed made copies, names and positions of officials who make.
4. An official appointed by the state and has an independent nature and work and is impartial in the conduct of his office.
5. The statement or fact of the action referred to by the official is the legal relationship within the field of private law.

Based on the original source, there is a difference in the value of proof force inherent in each type of deed. So even though the three types of evidence (authentic deed, deed under the hands, and unilateral deed/unilateral confession) are equally different and classified in a clump, But the power of proving inherent in each deed is not the same. Different from each other according to the shape specifications. However, it is possible on all three types of deeds will be attached to the value of proof force that is just the same weight, if certain conditions are fulfilled (Harahap, 2013).

The function is to prove that there is a thing or event mentioned in the deed. It to distinguish between authentic deed and the deed under-hand. Sudikno Mertokusumo said, the deed funtion is:

1. Deed can have a formyl function, which means that for its complete or perfect (not the right) a legal act, must be made a fact, so that it is a formyl requirement for a legal act.
2. The deed also has a function as a means of evidence. So it is clear that the deed was made from the original deliberately to evidentiary later on. While the written nature of a covenant in the form of deed does not make the agreement, but only to be used as a tool for the daily evidence (Mertokusumo, 2002).

Basically not the same value of proving power inherent in the authentic deed with the deed under hand or unilateral deed, because the law itself distinguishes it. As a result of the differing values, influencing the minimum limits that each of these types of deeds must fulfill:

1. The value of strength and the minimal evidence of authentic deed.

The strength value of the evidence (bewijskracht) is stipulated in article 1870 of the Civil Code and in the 285 RBG article.

The value of evidence which is attached to it is:

- a. The power of proof is perfect (volledig bewijskracht); and
- b. The strength of the evidence that follows (bindende bewijskracht).

So that if the proposed evidence qualifies for formil and material and the evidence of the opponent submitted defendant does not diminish its existence on the authentic deed as well as inherent the strength of the perfect evidentiary and binding (volledig en bindende bewijskracht).

The contents and statements contained therein:

- a. Perfect and binding to the parties as about what called the deed;
- b. Perfect and binding to the judge so that the judge should make it as a perfect basis for fact and enough to take the decision to resolve the disputed cause (Harahap, 2013).

2. Minimum limit of authentic deed proof.

The minimum extent of proof of the deed is authentic enough in itself, therefore the value of the proving force inherent in the deed is perfect and binding. Basically, the authentic deed can stand alone without the need for support or assistance from other evidence tools. Thus the authentic Act stands alone, the authentic Act of itself according to the law has reached the minimum threshold of proof. The perfect and binding power of proving and minimum limits can be turned into evidence of written beginnings.

The value of a perfect proof of proving strength and binding as well as the minimum limit may change due to:

- a. Against evidence of opposing (tegenbewijs);
- b. The evidence posed by the adversary is thus equal and perfect, so as to be able to shake the existence of the authentic deed in question. So that thus, the value of strength and the minimum limit of the evidence is changed to:

- 1) Not perfect and not binding;
- 2) The perfect strength and binding degenerate into the preliminary evidence of writing, therefore the minimum limit of its evidences becomes degenerate, so it can no longer stand alone. The authentic deed is only assisted and supported by at least one of the other evidence.

Deed as an authentic deed has the power of proof value (Adjie, 2015):

1. Outward (uitwendige bewijskracht)

External ability notarial Deed is the deed itself proves its validity as an authentic deed (*acta publica probant sese ipsa*). If viewed from the outside (birth) as an authentic deed and in accordance with the rules of law that has been determined regarding the terms of the authentic deed, then the deed is valid as an authentic deed until proven otherwise it means that until any one proves that the deed is not an outwardly authentic deed. In this case the burden of proof is on the party that denies the abdication of notarial deed. Parameter to determine notarial deed as authentic deed, i.e. the signature of the notary in question, both in the Minuta and copy and the initial deed (from the title) to the end of the deed.

2. Formal (formele bewijskracht)

Notarized deed must provide assurance that such events and facts in the deed are actually done by notarized or explained by parties facing at the time stated in the deed in accordance with the procedure specified in the making of the deed. To prove the truth and certainty about the day, date, month, year, o'clock (time) facing, and the parties facing, officers and the signature of the parties/the appearers, witnesses and notary, and prove what is seen, witnessed by the notary (on the Deed of office/News of the event), and records the information or statements of the parties/pengap (on the parties deed).

3. Material (materiele bewijskracht)

is a certainty about the material of a word, that what is in the deed is a legitimate proof of the parties who make the act of Atay those who have the right and apply to the public Unless there is evidence otherwise (tegenbewijs). Remarks or statements are poured/contained in the Office deed (news of the event), or the description or the parties given/delivered before the notary (deed party) and the Parties shall be judged correctly said that then poured in the deed valid as the right or any person facing a notary who then his information is poured in the deed should be judged correctly said. If it turns out the statement/description of the complainers to be untrue said, it is the responsibility of the parties themselves. Notarized regardless of such matters, thus the content of notarial deed has the certainty of the truth, to be valid proof for the parties and their heirs and their right recipients.

These three aspects are the perfection of notarial deed as an authentic deed and any person bound by the deed. If it can be proved in a court proceeding, that there is one aspect is not correct, the deed is only to have the strength of proof as a deed under the hand or the deed is degraded the power of the evidence as a deed that has the power of proof as a deed under the hands. In the practice of making notarial deed the third aspect can not be separated one aspect with other aspects. But it must

be seen in its entirety as a form of proving judgment on the tentativity of notarial deed. The value of proof is to be examined and some criminal and civil litigation decisions that correspond to all three aspects.

The profession of the notary is the form of trust that is legally entrenched in law, ethics to the state/Government, the Community, the parties concerned and the professional organization, so that the quality of a notary public must be increased through education, knowledge, understanding, and deepening of science and code of conduct (Anand, 2014). The notary profession is a profession that demands ability and intelligence. A notary as legal advice to the public may not be able to carry out its duties if it does not have a strong legal knowledge (intellectual intelligence). A notary as an official who uphold integrity must have a high spiritual intelligence that frames the actualisation of intellectual and emotional intelligence lies in the true and the correct realm.

Notary is a work with special skills that demands extensive knowledge and high responsibilities to serve the public interest and the main task of notary is to make in writing and authentic legal relations between the parties who need a notary service. Should pay attention to the so-called profession behavior that has the following elements:

1. In carrying out his profession, a notary should have a strong moral integrity
2. A notary should be honest with the client or yourself (intellectual honesty). He must know the boundaries of his ability, not give promises just to please his clients, or to keep the client willing to use his services
3. Should be aware of the boundaries of its authority. He must adhere to the prevailing legal provisions on how far he can act and what can and what should not be done
4. Even if one's skills can be utilized as a straightforward endeavor to earn money, but in carrying out his profession it should not be driven solely by the consideration of money. And not merely create a formal evidence of pursuing legal certainty, but ignoring the sense of justice

Notary is a state apparatus that is as general official one appointed by the state/Government to fulfill the needs of the people in the law of the community, the product results is a written proof tool in the form of authentic deed. Until now most of the society still asks for the services of notary public for the personal benefit of the client or because the law requires to use the service notary by demanding simplicity, simplicity, and excessive service that may not be suitable or can violate the law of the notary Office (UUJN), the code of ethics can even harm other people or countries.

Nowadays many notaries do not realize and understand their functions and tasks, for his weak faith, the faded idealism because he looked at his position as an entrepreneur who has a surprising material/profit not in his devotion to the country and society and practising his knowledge in executing the office of general officials representing countries that have independent nature and have noble character for law enforcement in the field of civil law and has social functions. Law enforcement in the form of truth material/content deed along with technical deed that should be obeyed by the community, especially those who served as professional notary for the benefit of the nation and state. For the realization of a notary (ideal) then the position demands spiritual intelligence (SQ), Intelligence Intelligence (IQ), and Emotional Intelligence (EQ), which is good and true. Beside there is a firmness in supervision and guidance from the country/Government through the Supervisory Assembly notary (Prajitno, 2015).

The main purpose of coaching and supervision of the notary is to prevent the occurrence of the problem Daei deed made by and in his presence, with the ultimate objective is to facilitate the purpose, assisting the task of investigators and courts to select the dispute caused by the notarial deed can be continued to the level of justice or not. In addition to the input from the honorary Board established by the Indonesian notary public to give his opinion on the conduct and employment of the notary.

Notary as a position will remain and the deeds made in front of or by a notarized who have been retired will remain recognized and stored as continuity by a notary of its protocol holders. The sense of the position must be held continuously can be applied to the notary, even if a person has retired from his position as a notary, or by stopping someone as a notary, then stop his position as a notary public (Adjie, 2013).

Notary in his duties is limited by the related notary biological age, so that in terms of accountability to the deed that has been made in the presence and by the notary, whether the liability is limited by the age of the notary concerned or by the deed itself. Restricted age of notary or for any

other reason, is the limit for the notary can not do any authority. Age limit or for any other reason it does not apply to provisional officers of notary Public, substitute notary and special substitute notary.

A notary, in carrying out his position has a moral responsibility towards profesiny. According to Paul F. Camanisch in Luthfan Hadi Darus (2017) states that the profession is a moral society that has the ideals and values shared. Professional groups have their own powers and special responsibilities. As a profession, this group has a reference called the Professional Code of ethics. Violation of the notary office will ultimately create accountability for professional developers, whether it is responsible for administration or to compensate civil liability, even further notary can be liable criminally when a notary public violates the criminal code in carrying out its duties and positions.

Based on the UUJN stipulated that when the notary in the conduct of his office proved to be infringing, the notary shall be liable by means of sanctioned or sentenced, civil sanction, administrative sanctions, criminal sanctions, notary code of ethics or a combination of sanctions. Sanctioned sanctions have been arranged in order to be governed in the rules of the notary Public (PJN) and now UUJN and the Code of Ethics Department notary. In the practice of being found, that a legal action or offence committed by a notary could actually be subject to administrative or civil sanction or code of ethics, but later withdrawn or qualified as a criminal act committed by a notary (Adjie, 2013).

By law, the notary is granted authority under the law of notary Office. If the provision is not heeded, then it will result in the law, the deed made by the notary may be the deed under the hands and the deed may be canceled or void by notary Legal is the general officer who is the sole authority to create an authentic deed of all the deeds, agreements and assignments required by a general rule or by an interest to be expressed in an authentic deed. There is a notary because of community needs, the notary public should serve the community wholeheartedly to reach the fair, prosperous, and prosperous society in the nation and state.

4. Conclusion

In the government system, notary is one of the Government's stands that carries out the function of government, especially the function of the service in making authentic deeds to society. A post such as a notary is born in the form of legislation, not in the form of ministerial regulation or ministerial decree. For example, the deed of establishment of cooperatives is not the authority of public officials such as notary deed Maker (NPAK), but remains a notary and permanent authority that makes the deed is notarized.

In a notary office can not be attached to other departments and also do not need to create a new position for certain legal acts, sufficient and there has been a notary public office authorized to create an authentic deed of all actions, agreements, and assignments required by the laws and regulations. The rule of law regarding the arrangement of notary Authority as a general officer of deed authentic must be reformulated, so clear and complete govern who is meant by general officers, to the extent of the authority of the general officers and places where he is authorized, as well as the form of an authentic deed determined by law.

Position of notary as a general official is one of the organs of the country that has the mandate of some of the duties and authority of the State in order to provide services to the general public in the field of civil. This means that the existence of a notary is expected to help improve the function of the Government to provide services to the community in the creation of authentic deeds, but the problem itself is not notary public minded.

The relevance of the use of the theory of legislation in this study, used in understanding the nature and function of the legislation as a basis for governance, as well as describing the authority of the establishment of legislation. Not close in the context of statutory theory alone, but using principles relating to the establishment of legislation as contained in Law No. 12 of 2011 on the establishment of legislation.

References

- Adjie, H. (2013). *Sanksi Perdata dan Administratif Terhadap Notaris Sebagai Pejabat Publik*, Bandung: Refika Aditama.
- Anand, G. (2014). *Karakteristik Jabatan Notaris di Indonesia*. Sidoarjo: Zifatama Publisher.

- Atmaja, Y.M.T. (2017). Makna Larangan Pekerjaan Lain Yang Bertentangan Dengan Kepatutan Dalam Jabatan Notaris Sebagai Pejabat Umum. Jember: Fakultas Hukum Program Studi Magister Kenotariatan Universitas Jember.
- Ayu, I. A.W.A. (2014). Kedudukan Notaris yang Menjalankan Jabatannya dalam Bentuk Perserikatan Perdata, Kertha Pertiwi Jurnal Ilmiah M.Kn Univeritas Udayana, Volume 07, hlm.47.
- Darus, L.H. (2017). Hukum Notariat dan Tanggungjawab Jabatan Notaris. Yogyakarta: UIIPress.
- Doni, U.M. (2015). Tinjauan Hukum Kedudukan Dan Fungsi Notaris Sebagai Pejabat Umum Dalam Membuat Akta Otentik. Jurnal Pembaharuan Hukum, Vol. 2 No. 3, 299-309. DOI: <https://dx.doi.org/10.26532/jph.v2i3.1507>
- Efendi, J. & Johnny Ibrahim. (2016). Metode Penelitian Hukum Normatif dan Empiris. Jakarta, Kencana Prenadamedia Group.
- Harahap, Y. (2013). Hukum Acara Perdata, Jakarta: Sinar Grafika.
- Harris, F. & Leny Helena. (2017). Notaris Indonesia, Jakarta: Lintas Cetak Djaja.
- Indonesian Notary Public. (2008). Jati Diri Notaris Indonesia. Jakarta: Gramedia.
- Khairandy, R. (2017). Hukum Notariat dan Tanggung Jawab Jabatan Notaris. Yogyakarta, UII Preess.
- Kie, T.T. (2007). Studi Notariat & Serba-Serbi Praktek Notariat, Jakarta: Ichtiar Baru van Hoeve.
- Kitab Undang-Undang Hukum Perdata (Burgerlijk Wetboek voor Indonesie), Pasal 1868.
- Lumban Tobing, G.H.S. (1996). Peraturan Jabatan Notaris. Jakarta: Erlangga.
- Mertokusumo, S. (2002). Hukum Acara Perdata Indonesia, Yogyakarta: Liberty.
- Mido, M.T.C., Nurjaya, I.N., & Safa'at, R. (2018). Tanggung Jawab Perdata Notaris Terhadap Akta yang di Bacakan oleh Staf Notaris di Hadapan Penghadap. Lentera Huum, 5(1), 156-173. DOI: <https://doi.org/10.19184/ejllh.v5i1.6288>
- Muri, D.P.D., Prayogo, G. and Arif, F. (2018). The Rights and Obligations of Notaries According to Indonesian Law Concerning Notary Position, International Journal of Mechanical Engineering and Technology, 9(8), 875-881. <http://www.iaeme.com/IJMET/issues.asp?JType=IJMET&VType=9&IType=8>
- Prajitno, A.P. (2015). Pengetahuan Praktis Tentang Apa dan Siapa Notaris di Indonesia. Surabaya: Putra Media Nusantara.
- Salim, HS. (2016). Penerapan Teori Hukum Pada Penelitian Disertasi, Jakarta: Raja Grafindo Persada.
- Santoso, D. (2009). Tanggung jawab Notaris Dalam Pembuatan Akta Yang Memuat Dua Perbuatan Hukum (Analisis Putusan MA Nomor 1440.K /PDT/1996). Semarang: Fakultas Hukum Universitas Diponegoro.
- Sjaifurrachman & Habib Adjie. (2011). Aspek Pertanggungjawaban Notaris dalam Pembuatan Akta, Bandung: Mandar Maju.
- Soekanto, S. and Mamuji, S. (2010). Penelitian Hukum Normatif Suatu Tinjauan Singkat. Jakarta, Raja Grafindo Persada.
- Subekti. (1980). Pokok-Pokok Hukum Perdata, Jakarta: Intermedia.
- Suryahartati, D. (2018). Legal Education For Notary Position In Indonesia. Journal of Advances in Social Science and Humanities, 4(12), 442-452. DOI: <https://doi.org.10.15520/jassh412377>