

## RECONSTRUCTION OF LEGAL PROTECTION FOR NOTARIS ON UNFAIR COMPETITION PRACTICE IN THE NOTARY POSITION LAW BASED ON JUSTICE VALUES

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### ABSTRACT

*This study aims to analyze the implementation, to find out the problem, and to construct a new legal theory in Law Number 2 Year 2014 on the Amendment of Law Number 30 Year 2004 regarding Notary Position related to the importance of providing legal protection for notary based on the value of justice in order to prevent unhealthy competition between notaries. The method used in this research was doctrinal or normative law research. The result of this research is Implementation of legal protection for notary to unfair competition that happened in the practice of notary position still far from expectation. The philosophical reconstruction of legal protection for notary in the UUJN as a balanced legal protection is based on the value of justice for the holder of office. It can be realized by balancing the fulfillment of individual basic rights as the holder of the position with the human rights and basic rights of individual as citizen through the establishment of legal regulation and or law enforcement based on the value of justice and Pancasila with the aim of respecting the dignity and dignity of office in accordance with its essence.*

Keywords: Reconstruction, Legal protection for a notary, Unfair competition practice, justice

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### Background

Globalization as a new form of capitalism expansion<sup>1</sup>. The life of nation and state cannot be separated from the existence of people or society with interaction between individuals in it and the need for regularity of the interaction. These three things, namely the people, interaction and regularity of interaction are the background of the founding of a country and the life of a nation. One area of law that governs interaction between individuals within a society is the private or civil law field. Legal relationship is one element of a civil engagement. This can be observed from the notion of engagement ("*verbinten*") that is a legal relationship between two or more persons located within the property field. In which one party is entitled to the achievement and the other must fulfill that achievement<sup>2</sup>. An engagement can be born through an agreement ("*overeenkomst*") or by law ("*wet*"). The treaty provides the largest portion and plays an important role in the occurrence of a civil law relationship, since the birth of the agreement is based on the fundamental or essential principle of the contract law which is the principle of "freedom of contract", as regulated in Article 1338 paragraph (1) Book of Civil Code which reads:

"All lawful agreements are valid as legislation to those who make them."

Notary as a position requires the person appointed to take office. The essence of a notary's office is a continuous position, meaning that an individual who is appointed as a notary is expected to be referred to run his office continuously until retirement. A notary holds two sides—rights and obligations—within himself. In addition to carrying the rights and duties as a public official namely the state representatives in civil affairs, an individual outwardly, a notary is also a human being whose nature is the creation of Allah SWT who have natural human rights that human rights, including the right to live a decent, the right to obtain justice and the right to legal protection and to be treated fairly by taking into account the positions held.

Based on existing data, up to May 26, 2014, notaries in Indonesia amounted to 9,732 people<sup>3</sup>. Based on data from the Directorate General of Legal Administration of the Ministry of Justice and Human Rights of the Republic of Indonesia, up to January 2016, the number of notaries in Indonesia reached 15,000 spread throughout Indonesia. From all 423 notaries who have received the appointment letter as a notary, they have not reported for taking the oath, have not reported the existence of their office and have not yet activated the Legal Administration System (SABH). Of the 15,000, only about 8,000 notaries are active in SABH, the remaining approximately 6,577 are not active in SABH<sup>4</sup>. According to Yualita Widyadhari, CIIB, SH, MKn who previously

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<sup>1</sup>Anis Mashdurohaturun & M. Ali Mansyur, *Product Capabilities Dynamic on Industrial Design Carved Wood in Small and Medium Enterprises (SMES) Jepara Furniture in Promoting the Protection of Intellectual Property Rights*, International Journal of Applied Engineering Research ISSN 0973-4562 Volume 12, Number 19 (2017) pp. 8217.

<sup>2</sup>Badrulzaman, Mariam Darus et.al. 2001. *Kompilasi Hukum Perikatan*. Bandung :Penerbit Citra Aditya Bakti. Cetakan I. page. 1.

<sup>3</sup>Universitas Islam Indonesia. *Rasio Jumlah Notaris Di Indonesia Dinilai Masih Timpang*. melalui [www.uui.ac.id](http://www.uui.ac.id). 26 May 2014.

<sup>4</sup>Notariesdigest. *Tenaga Notaris Kurang Merata di Wilayah Indonesia*. melalui [notariesdigest.com](http://notariesdigest.com). 28 Januari 2016.

served as General Secretary of Central Board of Indonesian Notaries Association, and currently serves as Chairman of Central Board of Indonesian Notary Association for the period 2016 - 2019 said that: "Of 15,000 notaries, 75 percent of notaries in Indonesia are on the Java Island<sup>5</sup>". Still according to YualitaWidyadhari, CIIB, S.H., MKn, until October 2016 the number of notaries in Indonesia reached 17,000<sup>6</sup>. The phenomenon of the accumulation of the number of notaries on the Java Island, coupled with the phenomenon of the accumulation of the number of notaries in major cities or towns of provinces or towns adjacent to provincial cities. It resulted in high levels of competition between notaries. It can be said to be fierce and tend to be unhealthy. In addition, the growth of new notaries each year reaches 1,000 (one thousand) to 1,500 (one thousand five hundred).<sup>7</sup> The above-mentioned "denial" in the researcher's analysis is a symptom of liberalization in the practice of notary public. This may undermine the nature of the notary's office, which in turn may reduce or even undermine the honor and dignity of the notary office which is the position of attribution granted by the state under the UUJN.

This study aims to determine the implementation, to find out the problem, and to construct a new legal theory in Law No. 2 of 2014 on Amendment to Law No. 30 of 2004 on the Notary's position relating to the importance of providing legal protection for notary-based on justice value in order to prevent unhealthy competition between notaries. The method used in this research was doctrinal or normative law research.

### Research methods

This research is a kind of doctrinal or normative law research. Data collection in this study used literature study or document study, direct observation or participant observation, and interview. The researcher processed and analyzed research data by using deductive logic with the help of syllogism.

### The Implementation of Legal Protection for Notary in Notary Position Law Against Unfair Competition Practices.

Unhealthy competition in the practice of notary office can affect the life of a notary as a person or a notary as a holder of office. The concept of equality of rights and opportunities in economic access and/or income is related to the first principle of the theory of justice as the fairness of John Rawls, which gives equal rights and opportunities to the widest freedom of the broadest, equal freedoms to everyone<sup>8</sup>. In other words is the same freedom for everyone to gain access to wealth, income, food, protection, authority, power, dignity, rights and freedom<sup>9</sup>. Such equal opportunities and freedoms should be protected by the principal social institution of law.<sup>10</sup>

The disparities in the distribution of the number of deeds in turn will lead to socioeconomic disparities or the difference principle<sup>11</sup> or sharp welfare differences among notaries. The disparity resulted in a fair equality of opportunity (fairness of opportunity<sup>12</sup>) or justice in the execution of a notary office further away from the moral ideals of UUJN. The number of notaries in Indonesia up to October 2016 has reached 17,000 people<sup>13</sup>. Based on previous data from the Directorate General of Legal Administration of the Ministry of Justice and Human Rights of the Republic of Indonesia up to January 2016, the number of notaries in Indonesia reached 15,000. Of the total, 423 notaries who have received the appointment letter as a notary have not reported for taking the oath, they have not reported the existence of their office and have not yet activated the Legal Administration System (SABH). Of the 15,000, only about 8,000 notaries are active in SABH, the remaining approximately 6,577 are not active in SABH<sup>14</sup>. Based on the data, it is estimated that 46.6% (forty six point six percent) of the total number of notaries in Indonesia is inactive.

Implementation of legal protection in UUJN and its implementing regulations relating to equality of rights and opportunities in economic access and/or income and related to justice in the execution of a notary has not been regulated clearly. Although UUJN has given moral message to build a healthy competition in the practice of notary, but according to researcher analysis, the existing provisions are considered not yet effective, even in some cases precisely trigger the birth of unhealthy competition in the practice of notary public. As a result, the number of notaries that many, not exactly meet the needs of society to the notary

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<sup>5</sup>*Ibid.*

<sup>6</sup>Description delivered by YualitaWidyadhari, CIIB, S.H., MKn, in his speech as Chairman of the Central Executive of Indonesian Notaries Association at the Regional Conference of Indonesian Notaries Association of South Kalimantan Regional Board on October 8, 2016 at Golden Tulip Hotel Galaxy Banjarmasin.

<sup>7</sup>RisetHukum Online. *Ini Kisi-Kisi RancanganPermenkumhamUjiKompetensiNotaris*, melalui hukumonline.com. 5 Juli 2016.

<sup>8</sup>Tanya, Bernard L. et.al. 2013 (edisi revisi). *TeoriHukum, StrategiTertibManusiaLintasRuangdanGenerasi*. Yogyakarta :Genta Publishing. Cetakan IV. page. 86.

<sup>9</sup>*Ibid.* page.87.

<sup>10</sup>*Ibid.* page. 121.

<sup>11</sup>*Ibid.* page. 87.

<sup>12</sup>*Ibid.*

<sup>13</sup>Description delivered by YualitaWidyadhari, CIIB, S.H., MKn, in his speech as Chairman of the Central Executive of Indonesian Notaries Association at the Regional Conference of Indonesian Notaries Association of South Kalimantan Regional Board on October 8, 2016 at Golden Tulip Hotel Galaxy Banjarmasin.

<sup>14</sup>Notariesdigest. *TenagaNotarisKurangMerata di Wilayah Indonesia*. melalui notariesdigest.com. 28 Januari 2016.

services, but it opens the opportunity to birth unhealthy competition in the practice of notary. A large population does not necessarily require the services of a notary public.<sup>15</sup>

Legal protection of a notary in the UUJN is not only against the risks of enforcement of legal issues that can ensnare notarization but also legal protection of a notary in order to live adequately in proportion to the risk of his position. UUJN should be able to reorganize the socio-economic disparities that occur so as to provide reciprocal benefits<sup>16</sup> for every notary, both for the lucky and the unlucky. According to the researcher's analysis, the implementation of legal protection in the UUJN and its implementing regulations relating to equal rights and opportunities, as well as the same freedom, should be afforded protection by a major social institution, namely law<sup>17</sup>. Although UUJN has given moral message to build healthy competition in the practice of notary, but according to researcher analysis, the existing provisions are considered not effective yet, even in some cases precisely trigger the birth of unhealthy competition in the practice of public notary.

#### **Problems of Implementation of Legal Protection for Notary to Unfair Competition Practices.**

Liberalism is a self-centered ideology. The notion of liberalism views man as a *homo economicus*<sup>18</sup> or an economic being that is a creature who only pursues his self-interest by choosing alternatives that maximize benefits for himself<sup>19</sup> or a creature that behaves like a "utility maximizing machine" or a machine that works to maximize profit and only think of his own interests<sup>20</sup>. The idea of liberalism is the understanding that its expansion has penetrated to various parts of the world, including the state of Pancasila law.

The legal system of notarization in Indonesia and in the Netherlands shares the same notch of the Latin Notary School. However, since the Indonesian state embraces the Pancasila Legal System, the notion of liberalism cannot be applied in the legal state of Pancasila. Therefore, the legal system of notary in Indonesia must adopt the Notary of Latin Notary which has the characteristic of Indonesia-is characterized by Pancasila as the philosophy and ideology of the state. Based on the basis of thinking, then UUJN and its implementatio regulation must be prepared with guided philosophy and state ideology that is Pancasila.

Capitalism in the economic field is the accumulation of private property<sup>21</sup> by ignoring the morality of office and social justice, which Adam Smith mentions in his book "The Wealth of Nations<sup>22</sup>" as "the accumulation of capital<sup>23</sup>." The accumulation of private property without regard to the moral aspect in the exercise of office and social justice will result in inequality and economic inequality or sharp welfare among the notaries. Inequality and this gap, according to the researcher's analysis is a manifestation of injustice in the notary's office.

Based on the analysis of the researcher, the "main key" to the occurrence of unhealthy forms of competition mentioned above is the morality of positions that are not built, maintained properly. With the background of the need for high operational costs for the notary's office, then with the "main key" open the opportunity for the practice of "tariff war"<sup>24</sup>. In order to be able to carry out the "deed manufacturing" practices that are prosecuted due to the existence or effect of "tariff war", the various unhealthy ways or forms of competition mentioned above have the potential to be exercised. Based on the above analysis, the researcher considers that healthy competition in the practice of notary office needs to be built in a notary system in Indonesia based on the values of the ideology and ideology of the Indonesian nation, namely Pancasila.

#### **Reconstruction of Legal Protection for Notary to Fair Value-Based Competition Practices.**

The concept of legal state (*Rechtstaat*) relates to the concept of state function, which in the concept of a state of law, the function of the state is to guarantee the implementation of national and state life in accordance with or under the laws of the state and guarantee justice to its citizens<sup>25</sup>. How the state performs its functions is influenced by its ideology. Within the framework of the

<sup>15</sup>Darori, Muhammad Irnawan. 2014. *Hukum Kenotariatan*. Yogyakarta : Genta Publishing. Cetakan I. page. 63. mengutip dari Bagir Manan. 1992. *Dasar-Dasar Perundang-Undangan Indonesia*. Jakarta : Ind-Hill Co. page. 44.

<sup>16</sup>S, Salim H dan Nurbani, Erlies Septiana. 2014. *Penerapan Teori Hukum Pada Penelitian Disertasi Dan Tesis (Buku Kedua)*. Jakarta : Penerbit RajaGrafindo Persada. Cetakan II. page. 31.

<sup>17</sup>*Ibid*. page. 121.

<sup>18</sup>Fakih, Mansour. 2013. *RuntuhnyaTeori Pembangunan danGlobalisasi*. Yogyakarta : Insist Press bekerjasama denganPustakaPelajar. Cetakan VIII. page. 167.

<sup>19</sup>Blackburn, Simon. 2013. *Kamus Filsafat*. Yogyakarta :Penerbit Pustaka Pelajar. Terjemahan The Oxford Dictionary of Philosophy-Oxford University Press. Cetakan I. page. 410.

<sup>20</sup>Kristeva, Nur Sayyid Santoso. 2015. *Kapitalisme, Negara Dan Masyarakat*. Yogyakarta:PenerbitPustakaPelajar. Cetakan I. page. 193 - 194.

<sup>21</sup>Fakih, Mansour.*Loc.Cit*.

<sup>22</sup>Kristeva, Nur Sayyid Santoso, *Op.Cit*. page. 1.

<sup>23</sup>Fakih, Mansour. *Op.Cit*. page. 47.

<sup>24</sup>Nugroho, Susanti Adi. 2014, *Hukum Persaingan Usaha Di Indonesia*. Jakarta : PenerbitKencana Prenadamedia Group. CetakanII. page. 223.

<sup>25</sup>Muntoha. 2013, *Negara Hukum Indonesia PascaPerubahan UUD 1945*. Yogyakarta :PenerbitKaukabaDipantara. Cetakan I. page. 1.

Pancasila legal state function, the state is required to extend its responsibility to the socio-economic problems facing the masses in order to achieve social welfare<sup>26</sup>, not least the notary.

The management of the notary system should be integrated through planning<sup>27</sup> management, organizing<sup>28</sup>, conducting and actuating<sup>29</sup> as well as controlling<sup>30</sup>. Manifestation of legal protection for the notary is implemented through UUJN. However, based on the researcher's analysis of the UUJN articles, it is judged not to provide adequate legal protection and justice for the notary, especially with regard to the problems that arise in the practice of notary positions mentioned above.

Progressive UUJN reconstruction that can be done by the government can be described as follows:

1. In the field of planning, it is done by mapping the needs of notaries in each city or district for each period through accurate research.
2. In the field of organizing, it is done by developing a system or pattern of partnerships between stake holders, between the Ministry of Justice and Human Rights of the Republic of Indonesia in charge of the notarization with the Indonesian Notary Association, involving the Notary Association of Indonesia in the discussion of policies related to field of notarial, and build system or pattern of partnership between internal stake holder that is between Indonesian Notary Association, Notary Supervisory Council and Honorary Council of Notary as a synergy in order to build system of notarial Indonesia.
3. In the field of execution and coaching (actuating), it is done by cooperating with Indonesian Notary Association to hold training (up grading) in notary field or other fields related to notary field and cooperation with Notary Supervisory Council and Honorary Board of Notary held coaching to the notary periodically.
4. In the field of supervision or controlling, it is done by using the data of the notarial deed making process submitted by all notaries in Indonesia to the Directorate General of General Law Administration at the Ministry of Justice and Human Rights of the Republic of Indonesia.

Referring to the basic principles or provisions of the UUJN, the Ministerial Regulation shall further be made as a further implementation of the UUJN. In addition, the existing Ministerial Regulations and other regulations arising from the discretionary authority of the government are also being reconstructed in accordance with the spirit and spirit of legal protection in UUJN by promoting the concept of equilibrium based on the value of justice based on Pancasila. The value of justice in question is the quality or the quality of justice in essence of justice as appropriateness or equity<sup>31</sup> or justice as fairness<sup>32</sup> which is based on the orientation of social justice. Reconstruction of legal protection shall be conducted based on and/or taking into account the balance of equity based on the value of justice for the notary in its two positions namely notary as the holder of the position with the basic rights and notary as an individual citizen with human rights and basic rights.

#### RECONSTRUCTION TABLE OF NOTARIS LAW

No	Reconstructed Article	Weaknesses	Reconstruction Result
1	CHAPTER II APPOINTMENT AND TERMINATION NOTARY PUBLIC First part Appointment Section 2 Notary is appointed and dismissed by the Minister.	Based on Article 2, every graduate of a Notary who has fulfilled the requirements of appointment to become a notary public, including having apprenticed 24 (twenty four) consecutive months at a notary office, may be directly appointed as a notary public. The number of graduates of the Master's Degree of Notary annually (reaching 1,000 to 1,500), which will be	CHAPTER II APPOINTMENT AND TERMINATION NOTARY PUBLIC First part Appointment Section 2 Notary is appointed and dismissed by the Minister.  Part Three Gaps Article 14 A (1) Notarial notes shall be governed by the following provisions: a. Junior Notary Candidate, with requirements and obligations under the following stages: 1. Indonesian citizen; 2. fear God Almighty; 3. a law degree graduate and a graduate level

<sup>26</sup>Ibid, page. 7.

<sup>27</sup>Syafiie, Inu Kencana. 2014, *Ilmu Pemerintahan*. Jakarta: Penerbit Bumi Aksara. Cetakan II. page. 126.

<sup>28</sup>Ibid.

<sup>29</sup>Ibid.

<sup>30</sup>Ibid.

<sup>31</sup>Sumaryono, E. *Op.Cit.* page. 133.

<sup>32</sup>Kusumohamidjojo, Budiono. 2016. *Teori Hukum. Dilema Antara Hukum Dan Kekuasaan*. Bandung : Penerbit Yrama Widya. Cetakan I. page.294.

		<p>followed by the number of new notaries who will practice, plus the lack of new notary experience with only an internship experience (not a notary experience) in addition to potentially giving birth to a notary who is less professional, also has the potential to give birth to unhealthy competition in the practice of notary public. Therefore, it is deemed necessary to make the pattern or system of notary publication to be more professional and open the opportunity for the absorption of the master degree graduates of the notary to be able to run the office and obtain a decent living. Based on the pattern of notary publication, notary candidates are required not only to undergo the apprenticeship but also to undergo the placement of work as a junior notary in a notary office that has been practicing. Furthermore, after undergoing apprenticeship and work placement as a junior notary, a new notary may choose to practice independently or join another notary (either a fellow new notary or an old notary) by forming a civil union in the form of a Notary Joint Office. Notary will be arranged in the additional article (reconstruction), namely: Part Three Gaps Article 14 A</p>	<p>of two notary levels; 4. physically and spiritually healthy expressed by a health certificate from a physician and a psychiatrist; 5. not being a civil servant, a state official, an advocate or not taking other positions which by law are prohibited to be categorized as notary; 6. has never been imprisoned by a court decision that has obtained permanent legal force for committing a criminal offense punishable with imprisonment of 5 (five) years or more; 7. undergoing a full-time internship at one or more notary offices recommended by the Regional Board of the Indonesian Notary Board for at least 2 (two) years after graduating from the stratum two notary, proven by the Certificate of Apprentice of Junior Notary Candidate issued by the Regional Executive of Indonesian Notaries Association ; 8. During the apprenticeship, junior notary candidates are required to attend training on notary code of ethics, notary office rules, legal entity administration system, deed making techniques, office administration, employees and finance, held by the Regional Executive Board of Indonesia Notary in cooperation with the Regional Board, evidenced by training certificates in each training area issued by the Regional Board of the Indonesian Notary Association; 9. pass a notary code of ethics examination conducted by the Central Board of the Indonesian Notaries Association in cooperation with the Regional Board; 10. registered as an Extraordinary Member. b. Junior Notary, on condition, authority and obligation to undergo the following stages: 1. be at least 26 (twenty six) years old; 2. have and remain eligible and have undergone the stages in the candidate level of Notary Junior; 3. to undergo a work placement at a notarial office recommended by the Regional Board of the Indonesian Notary Board for a minimum of 4 (four) years, proven by Certificate of Notary Notarial Notarized by the Regional Executive of Indonesian Notaries Association; 4. is authorized to provide legal consultations relating to the notarial field within the scope of the notary office in which the Junior Notary works. c. Notary Public, with requirements, authority and obligation to undergo the following stages: 1. minimum age 30 (thirty years); 2. has and remains eligible and has undergone the stages as a candidate for Notary Junior and Notary Junior; 3. apply to be a notary in two ways: a. practicing independently; b. join other notaries by forming a civil union in the form of a Notary Public Offices, in two ways: 1. joining a practicing notary; 2. join a new notary. 4. appoint an oath of office as a notary. (2) New notaries who will practice</p>
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			<p>independently or form a civil union shall apply to the Minister for appointment to become a notary by attaching a petition concerning the city or district to be the plan of establishment of a notary office.</p> <p>(1) (3) Further provisions regarding the apprenticeship of candidates for Junior Notary and work placement of a Notary Junior as referred to in paragraph (1) letter a and b shall be regulated by Ministerial Regulation.</p>
2	<p>Article 3 The requirement to be appointed as a notary as referred to in Article 2 is:</p> <p>a. Indonesian citizens; b. fear God Almighty; c. at least 27 (twenty seven) years old; d. physically and spiritually healthy as expressed by a health certificate from a physician and a psychiatrist; e. certified law graduates and graduates of stratum two levels of notary; f. has undergone an apprenticeship or has apparently worked as a notary employee within a period of at least 24 (twenty four) consecutive months at the notary's office on his or her own initiative or on the recommendation of the notary organization upon graduation of the two notary strata; g. not being a civil servant, a state official, an advocate or not taking other positions which by law are prohibited to be categorized as notary; and h. has never been imprisoned by a court decision that has obtained permanent legal force for committing a criminal offense punishable with imprisonment of 5 (five) years or more.</p>	<p>The requirement of appointment of a notary under Article 3 is for a new notary without going through a notary notification procedure as proposed by the author. These requirements are considered incomplete in order to form and create a more professional new notary and in the effort to give birth and build a healthy competition in the practice of notary public.</p>	<p>Article 3 The requirement to be appointed as a notary as referred to in Article 14 A paragraph (2) is:</p> <p>a. Indonesian citizens; b. fear God Almighty; c. is at least 30 (thirty) years old; d. physically and spiritually healthy as expressed by a health certificate from a physician and a psychiatrist; e. certified law graduates and graduates of stratum two levels of notary; f. has undergone a full-time internship at one or more notary offices recommended by the Regional Board of the Indonesian Notary Board for at least 2 (two) years after graduating from the stratum two notary, proven by the Certificate of Apprentice of Junior Notary Candidate issued by the Regional Board of the Indonesian Notary Association; g. not being a civil servant, a state official, an advocate or not taking other positions which by law are prohibited to be categorized as notary; and h. has never been imprisoned by a court decision that has obtained permanent legal force for committing a criminal offense punishable with imprisonment of 5 (five) years or more. i. has attended training on notary code of ethics, notarial office rules, Legal Administration System, deed making techniques, office administration, employees and finance, held by the Regional Executive Board of Indonesia Notary in cooperation with the Regional Board, as evidenced by the training certificates in each field of training issued by the Regional Executive Board of the Indonesian Notaries Association; j. has passed the notary code of ethics examination conducted by the Central Executive Board of the Indonesian Notaries Association in cooperation with the Regional Board as evidenced by the certificate of graduation issued by the Central Executive Board of the Indonesian Notary Association; k. has served on the notary office recommended by the Regional Board of the Notary Board of Indonesia for a minimum of 4 (four) years, proven by Certificate of Notary Notice of Junior Notary issued by the Regional Executive of the Association of Indonesian Notaries; l. applying for appointment to a notary by enclosing a petition concerning the city or district which is the plan to open a notary office;</p>

			a. m. and other requirements stipulated in the Ministerial Regulation relating to the appointment of a notary.
3	<p>The second part Obligations Article 16 (1) In performing his / her position, a notary shall:</p> <p>a. to act as trustworthy, honest, thorough, independent, impartial and guarding the interests of the parties concerned in legal action;</p> <p>b. make the deed in the form of minuta deed and keep it as part of the notary protocol;</p> <p>c. to attach letters and documents and prints to the minuta deed;</p> <p>d. issuing a deed certificate, a copy of the deed or a deed certificate based on the deed min.</p> <p>e. to provide services in accordance with the provisions of this law, unless there is reason to reject it;</p> <p>f. keep everything secret about the deeds it has made and all information obtained for the deed in accordance with the oath or promise of office, other than the law of deciding otherwise;</p> <p>g. binding the deed he made in 1 (one) month into a book containing no more than 50 (fifty) deeds, and if the number of deeds can not be contained in one book, the deed can be bound into more than one book, and record the amount of deed minuta, month and year of manufacture on the cover of each book;</p> <p>h. make a list of the protest deeds against non-payment or receipt of securities;</p> <p>i. make a list of deeds in respect of the testament in the order of time of the deed of each month;</p> <p>j. sending a list of deeds as referred to in letter j or a list of zilch regardless of will to the center of the list of testaments to ministries conducting legal affairs within 5 (five) days of the first week of each subsequent month;</p> <p>k. record in the repertorium the date of delivery of a will list at the end of each month;</p> <p>l. has a seal or seal containing the emblem of the Republic of Indonesia and in the circle enclosing the relevant name, position and place of position;</p> <p>m. read the deed before the adjudication attended by at least 2 (two) witnesses or 4 (four) special witnesses for the making of the deed of testament under the hand, and signed at the moment by the witnesses, witnesses and notaries;</p> <p>a. n. receive apprenticeship of notary candidates.</p>	<p>There is no more lawful legal arrangement in order to prove the fulfillment of the "facing elements" in the signing of notarial deeds. The proof does not mean to doubt the authenticity of a notarial deed (which has been fulfilled from the obligation to read the deed in the presence of tampering in accordance with the letter m), but rather addressed in the framework of internal needs among notaries namely in order preventing unhealthy competition in the practice of a notary's office whose source originates from a "neglect of facing elements" that has the potential for the birth of a "manufacturing deed" practice. In addition, the obligation to attach to the minutes of deeds in the form of letters and documents and fingerprints on a separate sheet (letter c) unlocks the potential risks in the form of: letters and fingerprint documents tucked or lost or held at the same time as the signing of the deed. Therefore, based on a more precise authors analysis is to include a fingerprint on the deed minuta.</p>	<p>The second part Obligations Article 16 (1) In performing his / her position, a notary shall:</p> <p>a. to act as trustworthy, honest, thorough, independent, impartial and guarding the interests of the parties concerned in legal action;</p> <p>b. make the deed in the form of minuta deed and keep it as part of the notary protocol;</p> <p>c. embeds letters, documents and encloses fingerprints against minus deeds;</p> <p>d. issuing a deed certificate, a copy of the deed or a deed certificate based on the deed min.</p> <p>e. to provide services in accordance with the provisions of this law, unless there is reason to reject it;</p> <p>f. keep everything secret about the deeds it has made and all information obtained for the deed in accordance with the oath or promise of office, other than the law of deciding otherwise;</p> <p>g. binding the deed he made in 1 (one) month into a book containing no more than 50 (fifty) deeds, and if the number of deeds can not be contained in one book, the deed can be bound into more than one book, and record the amount of deed minuta, month and year of manufacture on the cover of each book;</p> <p>h. make a list of the protest deeds against non-payment or receipt of securities;</p> <p>i. make a list of deeds in respect of the testament in the order of time of the deed of each month;</p> <p>j. sending a list of deeds as referred to in letter j or a list of zilch regardless of will to the center of the list of testaments to ministries conducting legal affairs within 5 (five) days of the first week of each subsequent month;</p> <p>k. record in the repertorium the date of delivery of a will list at the end of each month;</p> <p>l. has a seal or seal containing the emblem of the Republic of Indonesia and in the circle enclosing the relevant name, position and place of position;</p> <p>m. read the deed before the adjudication attended by at least 2 (two) witnesses or 4 (four) special witnesses for the making of the deed of testament under the hand, and signed at the moment by the witnesses, witnesses and notaries;</p> <p>n. receiving apprentices of junior notary candidates;</p> <p>o. receive placement of junior notary work.</p> <p>a. p. to attach to the deed mine in the form of documentation photo of the deed signing containing the photo of the tap and notary and to include the date, month and year of signing the deed;</p>
4	<p>Article 22 (1) Notary office formation shall be determined by:</p>	<p>The average number of deeds made by and / or before the notary</p>	<p>Article 22 (1) Notary office formation shall be determined by:</p>

	<p>a. business activities; b. population and / or c. average number of deeds made by and / or before the notary every month.</p> <p>(2) Notary office formation as referred to in paragraph (1) is a guideline to determine the category of region.</p> <p>(3) Further provisions concerning the formation of notary positions and the determination of regional categories as referred to in paragraph (1) and paragraph (2) shall be regulated by a Ministerial Regulation.</p>	<p>every month does not always reflect the real need for formation of a notary office in an area, if not pay attention to the level of equity. Based on the results of the author's research, there are notaries with a large number of deeds but there is an unnatural tendency when associated with the fulfillment of the "facing" element. The number of such deeds dominates with a sharp portion or percentage compared to other notaries in an area. Such dominant dominance may be caused by unhealthy competition which may be "tariff war", "deed manufacturing" and "neglect of facing elements". Therefore, the average parameter of the number of deeds as the basis for determining the formation of a notary office should consider the level of equity. It is necessary to formulate the ratio of the number of notaries in a region that is transparent and always updated including by considering the level of the viability of a notary public.</p>	<p>a. business activities; b. total population; c. the average number of deeds made by and / or before the notary every month, taking into account the level of equity.</p> <p>(2) Notary office formation as referred to in paragraph (1) is a guideline to determine the category of area and ratio of the number of notaries in a region.</p> <p>(1) (3) Further provisions concerning the formation of the notary office, the determination of the category of area and the determination of the ratio of the number of notaries to a region as referred to in paragraph (1) and paragraph (2) shall be regulated by Minister Regulation.</p>
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### Conclusion

Equitable and fair value judicial protection for the holder of office can be realized by balancing the fulfillment of individual basic rights as the holder of office with human rights and basic rights of individual as citizen through the establishment of law rule and or law enforcement based on the value of justice based on Pancasila with the purpose of respecting the dignity and dignity of office in accordance with its nature.

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