

PRESSING AMANDEMEN UUJN-P CONTEMPLATE NOTARIES IN THE GLOBALIZATION ERA

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**PRESSING AMANDEMEN UUJN-P
CONTEMPLATE NOTARIES IN THE GLOBALIZATION ERA**

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ABSTRACT

⁷ Law Number 2 of 2014 concerning amendments to Law Number 30 of 2004 concerning the Position of Notary (hereinafter referred to as UUJN-P) needs to be changed, along with the development of technology and information that cannot be dammed by anyone. Change is a child of its era. Notaries as the front line in development in Indonesia need to adapt to the development of information technology, so that the characteristics of globalization include fast, cheap services that can be part of the notary service system in Indonesia as a public official. The rapid development of technology requires changes to the UUJN-P that are accommodative to the dynamics of community development. Globalization, which is marked by legal ³¹ents with measurable certainty, is an opportunity for notaries in Indonesia to be more skilled in making authentic deeds that do not reduce the elements of certainty for the parties, object certainty and certainty of the legal status of the parties who need the services of a notary. The first problem in this study is why changes to the UUJN-P are urgently needed? Second, what is the position of a notary in the era of globalization? ³ The research method used is normative juridical, using primary, secondary and tertiary legal materials through a historical approach, a conceptual approach and a statutory approach as well as a futuristic approach. Based on this approach, an analysis of legal arguments was carried out with the interpretation of legal interpretation. The ³⁶ults showed that the Amendment to the UUJN-P urges that notaries in Indonesia can exist in the era of globalization, as during the Covid-19 pandemic, which has provided great lessons for changes in notary office services in Indonesia. Indonesia. The era of globalization requires notaries in Indonesia to be skilled in using the right technology and information, so that urban technology groups must quickly adapt to global needs and challenges that are fast, cheap and have measurable legal certainty.

Keywords: *Amendment of UUJN-P, Notary, Globalization*

A. Background

Notaries are the heart of the formal legal system, so Daniel S. Lev portrays the role of notaries in a country's legal system, therefore notaries are ²⁸gulated, tested and licensed by the state with more stringent accuracy than advocates (Daniel S. Lev *Law and Politics in Indonesia Continuity and change*, p. 311). Daniel S. Lev's thoughts prove that from the past the function and existence of a notary has colored the development life of an Indonesian state so that its presence is an office of public trust.

Notaries in Indonesia are the embodiment of Indonesia as a legal state that develops law towards Continental Europe, where written law is the spirit and heart in the state law of Pancasila, the state is here to provide guarantees of protection in legal certainty.

The increasingly tense period of the spread of covid-19, where the need for digital deed is increasingly evident, that there must be an alternative given by law to certain circumstances that require the public to only allow making deeds online. The big lesson of covid 19 proves the importance of technology and information for conducting electronic transactions, both signing and digitally making and processing notary professional services. The vacancy of the UUJN-P needs an immediate solution.

² Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary (hereinafter referred to as UUJN-P) was promulgated on January 15, 2014 State Gazette Number 2014-5491. Supplement to the State Gazette of the Republic of Indonesia Number 3. UUJN-P consists of XII Chapter 92 Articles. Urge for further changes.

¹⁷ Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary. The UUJN was first amended in 2014 meaning that at the age of 10, the UUJN underwent its first amendment and Law Number 2 of 2014, which is now 17 years old.

The 27-year journey of UUJN in Indonesia. Rapid adjustments and developments require changes to the UUJN-P, in accordance with the development of existing juridical, philosophical and sociological factors, juridical factors including developments in technology transfer law, information technology law, statutory law and public services as well as government administration which is growing towards protection, and guarantee of certainty, justice and legal benefit. The development of globalization that demands the acceleration of services and the disappearance of economic, social and cultural barriers has made legal developments change and even infiltrate the issue of state philosophy in the form of global, universal laws with increasingly sophisticated and fast-paced digital technology standards.

The number of notaries reached 17,856 and even in 2021 1,000,000 (one thousand) notaries were inaugurated in 514 districts/cities, with 5 million deeds made (Suara.com). It is certain that the number of notaries will continue to increase, due to the increasing number of notarial study program managers, both public and private, in universities in Indonesia.

The development of technology and informatics has had a major impact on the development of Notary law in Indonesia, especially the role and function of notaries in the digital era and the roadmap to build a notary work system in Indonesia that is so unique and distinctive, namely on the one hand as a public official who is subject to the bureaucratic system of government in Indonesia, and on the other hand as a professional who is subject to notary professional ethics regulated and determined by professional organizations in this case is the Indonesian Notary Association (INI) in the structure of the central, regional and regional levels.

The increasing number of notaries every year as well as prospective notaries who continue to grow and develop due to university graduates who cannot be dammed. It is recorded that there are

more than 35 universities in Indonesia that have developed Master of Notary programs, both public and private, becoming a new colour in the competition and development and supervision of notaries in Indonesia. It seems that the concept of a substitute notary must also be refined.

UUJN-P as the main basis for notary arrangements in Indonesia, was made on the condition that the number and problems of notaries were still very simple. It is not as complex as the legal events that are happening now. This can be found from several things in the UJN-P, including: the existence of a substitute notary, such a long notary leave of up to 25 years, the centralized organization of a single notary as well as the development and supervision of a notary who has not been systemized. in the development of notaries in the future. Likewise, the cybernotary arrangement which has not yet had a place in the UJN-P urges a review of the UJN-P in the future.

B. Research Methods

³ The research method used is normative juridical, using primary, secondary and tertiary legal materials through a historical approach, a conceptual approach and a statutory approach as well as a futuristic approach. Based on this approach, an analysis of legal arguments was carried out with the interpretation of legal interpretation.

C. Discussion

Indonesian Notaries are public officials whose positions are required by the public in legal actions. The existence of Notaries as public officials authorized to make authentic deeds is confirmed in Article 1868 of the Civil Code, with many notaries being brought before the courts and supervisory boards due to public complaints.

The problems above are caused by the weakness of ²⁰ the UJN-P and the notary code of ethics that have not been able to foster a notary professional performance climate as a basis for providing broad powers with less support for the work system and the notary development and supervision system that is less integrated due to legal developments and changes in society. alone.

Changes to a law can be caused, among others, because it is outdated, obsolete and not in accordance with the development of community needs that continue to increase. Change is a child of its era, thus the change in the UJN-P becomes a strategic part of the national legislation program in Indonesia, so that the role and function of a notary in the future can be maximized, especially in the link between public officials and professional notaries.

Changes to the law can occur due to philosophical or sociological factors or juridical factors undergoing changes so as to bring consequences to changes in substance in order to adapt to changes in existing conditions.

Law Number 2 of 2014 concerning UJN-P has regulated and confirmed the duties and functions of Notaries as public officials. This means that UJN-P gives very large authority to Notaries, even notaries who are on leave are essentially still able to exercise their authority, even though a substitute notary has been appointed, but a substitute notary can still use the attributes of a

notary on leave. It can even be said that the notary profession is very strategic in development and human welfare to be protected by various kinds of legal events that may occur in the future.

As a notary public official³⁷ by law, he is given the authority to make authentic deeds and other authorities, thus the integrity of the notary in working and carrying out his profession is demanded, so that the deed made by the notary really minimizes various things that harm the parties.

A paranoid notary as described by Habib Adjie (Habib Adjie, Notary World Glance & PPAT, 2009 Mandar Maju Bandung, . 107) shows that being a notary is not only required to have knowledge in the field of law but also to have strong and courageous talents in facing various possibilities because Many notaries have been named suspects, based on the investigators, the deed he made fulfills the criminal element either as participating in or assisting in falsifying letters.

² Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions guides notaries to become General Officials as well as notaries with integrity who are full of thoroughness and foresight in seeing problems, whether the parties seriously need legal certainty guarantees or are just tricks or modus operandi for tricking an act that is contrary to the terms of the agreement itself, as stipulated in Article 1320 of the Civil Code, namely agreeing, being competent, a certain thing, because it is lawful.

¹⁸ It is strengthened by article 1869 of the Civil Code that a deed which cannot be treated as an authentic deed, either because it is not authorized or incompetent of the public official concerned or because of a defect in its form, has the power as a handwritten note when signed by the parties. Notary skills are the key words to avoid legal entanglement. This means that an authentic deed can only be achieved with the skills of a notary in following legal developments and community needs.

The demands of a professional notary are real and non-negotiable, especially in the era of globalization, the mode of legal action and legal defects are like two sides of a coin, so that notaries, the public and even the government must be very serious in regulating and managing notaries as a form of coaching, and supervision of notary public officials

For the government to conduct guidance and supervision of notaries also has the risk of being tested in court, against regulations made by the government which should uphold legal norms, so that the position of the government to foster and supervise notaries through various legal products is very full to be able to test the authority, procedures and the substance it regulates.

The continuous rolling of regulations aimed at notaries as public officials who often clash or conflict both vertically and horizontally poses a threat to legal certainty plus an opportunity for the public to test them in court, so that in the future both notaries and the government will face more capable people, against the law.

²⁰ After making a notarial deed. The position of a notary as a public official is faced with a very strict government administration and has the risk of being temporarily suspended or permanently dismissed. All of these provisions certainly have a noble vision, namely avoiding notaries for acts against the law or contrary to the law

Based on these provisions, notaries are workers who are super careful and super independent and super honest to be able to carry out the notary profession which is very proud because only notaries are trusted by the state to use the Garuda symbol as a symbol of the state's presence in every legal action needed by the community.

As soon as the deed is completed, the notary will be ²⁹ faced with very successive government administration issues, registering with the online system of the Ministry of Law and Human Rights until a decision ^{is} issued related to the reason the deed was made, to save minutes and other types of notary authority as regulated in Article 15 UUJN- P.

Making a deed, legalization, registration under the authority of a notary will greatly affect the work of a notary in law enforcement circles, it's time for the notary's dignity to be spared from various administrative sanctions, civil sanctions to criminal sanctions. For this reason, prospective notaries and law students must uphold the law for the progress and welfare of the Indonesian nation and state.

The urgency of changing the UUJN-P, as in 2014 when the UUJN was first refined with several important things including:

The first change of UUJN to UUJN-P is related to:

- Strengthening of notary requirements, including the existence of a doctor's and psychiatrist's certificate and extension of the internship period from 12 months to 24 months
- Additional obligations, prohibition of concurrent positions, and reasons for temporary dismissal of a notary
- Imposition of obligations to prospective notaries who are holding
- Adjustment of the imposition of sanctions applied ¹¹ certain articles, among others in the form of a statement that the deed in question only has the power of proof as an underhand deed, verbal warning/written warning or claim for compensation.
- The distinction between changes that occur in the contents of the deed, both absolute and relative
- Establishment of a notary honorary council
- Strengthening and affirmation of the notary organization, affirmation to use Indonesian as the official language in making authentic deeds
- Strengthening the function, authority and position of the supervisory board.

Urge further changes of UUJN-P are:

- The position of a substitute notary who is no longer relevant to the increasing number of notaries
- The position of the notary organization is not singular, so that the ego of a one-man-show professional organization will no longer occur.

- Strengthening the notary supervisory body which is permanent is not an ad hoc as it is today.
- Strengthening notary supervisors as an internal administrative justice institution, a place for public complaints
- The position of the notary's leave for a long period of time which is no longer relevant
- The term of office of a notary, due to the office and administration of the notary office continuing even though the notary is on leave
- Sanctions against notaries must be clear and measurable, especially in the form of verbal sanctions to sanctions for dismissal of a notary
- Cybernetical, related to electronic signatures and electronic deeds, as well as electronic protocol management
- 2-year internship that must be connected with stakeholders
- risks to the notary as a public official and as a professional.

Based on the theme of the changes above, the urge to change the UUJN-P can be said to be not only an internal problem but also an external problem that makes the notary profession as the spearhead of the realization of Indonesia as a state of law, it is necessary to get clearer affirmation of standards and professional values as an profession glorious.

¹⁵ **D. Conclusion**

Based on the description above, it can be concluded as follows

1. Urging for Changes to the ¹⁸UUJN-P, because both juridically, philosophically and sociologically the UUJN-P is no longer in accordance with legal developments in Indonesia and the development of society as well as the development of globalization which urges the acceleration of technology and information to be very fast. Juridically, changes in legislation in Indonesia are increasing, philosophically in the era of globalization, legal values put forward universal law and international standards, sociologically, changing needs and interests of the community in developing business towards a global economy.
2. Notaries in the Globalization era are notaries who are integrated with the technology system, so that the existence of a notary office which has been controlled by notary staff has changed with an integrated system control, so that the safety of the digital system must be controlled by a notary who is millennial, technologically literate and masters the world language.
3. Notaries as public officials on the one hand and notaries as professionals on the other hand demand organizational development related to a code of ethics that can shape the character of a notary as a noble profession.

E. Suggestion

1. To the community, it is necessary to strengthen notaries as public trust positions in economic, social and cultural development in Indonesia
2. To the business world to always make an authentic deed in every agreement needed so that guarantees of certainty and protection as perfect evidence can be realized. And submit a complaint to the notary supervisory board for the decisions and actions taken by the notary
3. The government needs to provide guidance to notaries more intensively, because notaries are the driving force of the national economy
4. The state needs to complete the material for the UUJN-P as soon as possible

References

- Adjie, Habib, 2011, *Majelis Pengawas Notaris Sebagai Pejabat Tata Usaha Negara*, Bandung, PT. Refika Aditama.
- Adjie, Habib, 2013, *Kebatalan Dan Pembatalan Akta Notaris*, Bandung, PT. Refika Aditama.
- Adjie, Habib, 2014, *Merajut Pemikiran Dalam Dunia Notaris dan PPAT*, Bandung, PT. Citra Aditya Bakti.
- Adjie, Habib, 2015, *Penafsiran Tematik Hukum Notaris Indonesia : Berdasarkan Undang-Undang Nomor 2 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 30 Tahun 2004 Tentang Jabatan Notaris*, Bandung, PT. Refika Aditama.
- Adjie, Habib. 2017. *Sanksi Perdata dan Administratif Terhadap Notaris Sebagai Pejabat Publik*. Bandung. Refika Aditama.
- Daniel S. Lev, 1990, *Hukum dan Politik di Indonesia*, Jakarta LP3ES
- Edmon Makarim, 2003, *Kompilasi Hukum Telematika*, Raja Grafindo Persada, Jakarta.
- Fakih, Mansour, 2013, *Runtuhnya Teori Pembangunan Dan Globalisasi*, Yogyakarta, Insis Press bekerjasama dengan Pustaka Pelajar, Yogyakarta.
- G.H.S. Lumban Tobing, *Pengaturan Jabatan Notaris*, Erlangga, Jakarta, 1999
- Ghofur Anshori, Abdul, 2009, *Lembaga Kenotariatan Indonesia : Perspektif Hukum dan Etika*, Yogyakarta, UII Press Yogyakarta.
- H. Budi Untung, *Visi Global Notaris, Ang 1*, Yogyakarta, Tahun 2002 .
- Habib Adjie, *Hukum Notaris Indonesia*, PT Refika Aditama, Bandung, 2008
- Habib Adjie, *Hukum Notaris Indonesia, Tafsir Tematik Terhadap UU No. 30 Tahun 2004 tentang Jabatan Notaris*, Refika Aditama, Bandung, Tahun 2008 dan 2009 .
- Habib Adjie, *Sanksi Perdata dan Administratif Terhadap Notaris Sebagai Pejabat Publik*, Refika Aditama, Bandung , Tahun 2008 .
- Habib Adjie. 2015. *Penafsiran Tematik Hukum Notaris Indonesia Berdasarkan Undang- Undang Nomor 2 Tahun 2014 Tentang Perubahan Undang-Undang Nomor 30 Tahun 2004 Tentang Jabatan Notaris*. PT. Refika Aditama, Bandung.
- Habib Adjie. *Hukum Notaris Indonesia Tafsir Tematik Terhadap UU No 30 Tahun 2004 Tentang Jabatan Notaris*. PT Refika Aditama. Bandung.
- Herlien Budiono. 2013. *Dasar Teknik Pembuatan Akta Notaris*. PT. Aditya Bakti. Bandung.
- Herlien Budiono. 2013. *Kumpulan Tulisan Hukum Perdata di Bidang Kenotariatan Buku Kedua*. PT Citra Aditya Bakti. Bandung.
- Nomensen, Sinamo, *Filsafat Hukum, Dilengkapi dengan Materi Etika Profesi Hukum*, PT. Permata Aksara, Jakarta, 2014.

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- ¹⁰ Pengurus Pusat Ikatan Notaris Indonesia, 2008, Jati Diri Notaris Indonesia: Dulu, Sekarang, Dan Di Masa Datang, Jakarta, PT. Gramedia Pustaka.
- Peter Mahmud Marzuki, Batas-Batas Kebebasan Berkontrak, Yudika, Fakultas Hukum Universitas Airlangga, Volume 18, Nomor 3, Tahun 2003
- Pramudya, Kelik & Widiatmoko, Ananto, 2010, Pedoman Etika Profesi Aparat Hukum : Hakim, Jaksa, Polisi, Notaris dan Advokat, Yogyakarta, Pustaka Yustisia.
- Prasetyo, Teguh & Purnomosidi, Arie, 2014, Filsafat, Teori, dan Ilmu Hukum : Pemikiran Menuju Masyarakat yang Berkeadilan dan Bermartabat, Jakarta, PT. RajaGrafindo Persada.
- ³³ Sjaifurrachman, (2011), Aspek Pertanggungjawaban Notaris dalam Pembuatan Akta, Mandar, Bandung.
- ¹³ Tan Thong Kie, Buku I Studi Notariat Serba-Serbi Praktek Notaris, cet. 2, (Jakarta: PT. Ichtiar Baru Van Hoeve, 2000).
- ⁸ Tan Thong Kie, Studi Notariat, Serba Serbi Praktek Notaris, Ichtiar Baru Van Hoeve, Tahun 1994

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