

LEGAL EDUCATION FOR NOTARY POSITION IN INDONESIA

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Abstract

This study aims at finding models of legal policy of Indonesian Government in determining the Education of Notary Position in Indonesia. Notaries in Indonesia are assigned by the state to exercise certain authorities under the law. To occupy the position, education becomes an important requirement. According to the Act Number 2 Year 2014 on the Amendment of the Act Number 30 Year 2004 on the Position of Notary, the Notary candidate must have earned Master Degree on Notary. Education for candidates of Notary has experienced significant dynamics from the colonial until the reform era in accordance with the underlying legal policies of its time. The research showed that the education for the position of Notary in Indonesia changed from time to time and still needs improvement. Thus, legal reform on the education for Notaries needs serious attention from any parties so that the existence of Notaries in Indonesia meets their portion and proportion with respect to the concept, law and the ideals of the Indonesian National law.

Keywords: Education, notary position, legal policy.

1. Introduction

Notary in the world has evolved according to the needs of the community of law. Based on its role in the world, Notary is basically classified into two; functional notary and professional notary. Both kinds of Notaries are used in practice in some countries with the two schools, namely; Latin Notary and Anglo-Saxon Notary. Latin notary adopted by countries that follow civil law (civic law system) while the Anglo Saxon notary adopted by countries that embrace Case Law (common law system). Official term that is used for Notaries under the system of civil law system is a Notary. Latin Notary carried by legal experts (jurists). There are additional procedures for that, starting from the special education, exam, up internships that must be taken. German, Italian, Spanish, Portuguese, Greek, Dutch, French as well as countries in Asia and Africa which had been colonized are strongly influenced by the Dutch colonial Corpus Iuris Civilis known in the tradition of civil Law.

The Secondly type of notary is Common Law Notary, which are the notary in the UK and Scandinavia. The characteristic is, the deed is not in a certain form, not appointed by an officer or ruler. The deed issued by the Notary of this type is not an authentic act which has the strength of evidence that is perfect. So it is not strong enough to be used as evidence in the trial. The term used is a Public Notary. To serve as a public Notary is not always required to have an additional special education or apprenticeship. USA, UK, Ireland, Australia, New Zealand, Canada except Quebec as well as some Asian and African countries that had become the colony are using the Common Law tradition. Singapore and Malaysia are following the Common Law system as well. According to *wetboek burgerlijk*, Indonesian put notaries as public officials. It is an influence on the education system that is used to prepare the candidate of notary.

Legal education in Indonesia is a combination of education which come from countries that follow the common law system and civil law. Starting

from an idea about the development of education in Indonesia, especially legal education. There is a profession and / or positions that can not be separated from a legal education that is Notary. As presented by [1] that Higher education law with the diploma title of S-1, S-2 and S-3 has been able to draw up an education system that conceptually able to face the challenges of the needs of legal experts in PJP II. On the other hand, the higher education law with a non-title track, which is educational specialist (sp) and "continuing legal education" still requires thought and development. In fostering higher education system law can not be separated or separate from the legal assessment activities and cooperation with the legal profession.¹ Notary is an office that exists almost in all countries in the world. The assortment of well known names and jobs related to writing skills, such as notarius, tabellio, tabularius, Scriba, scrinarius (those that keep the storage area where the deed is stored), curialis and scriptor². Its function is different in each country in accordance with the legal system that is used. Indonesia puts Notary as a public official. In Indonesia Notary belonging to an office that has a high prestige. In general had the authority a deed.

Article 1868 Book of Civil Law Act states: "An authentic deed is a deed made in the form prescribed by law or before the competent public authority for it and where the deed was made". There is the phrase "public officer" who has the task of creating an authentic certificate of character and certain criteria specified by law. Authentic deed made by public officials is a deed that has the strength of evidence that is perfect. A public official in question is a Notary.

Primer regulation about a Notary in Indonesia is regulated in the Law No. 2 of 2014 on the Amendment of Act No. 30, 2004, concerning Notary (hereinafter referred to UUJN-P), a notary

¹Mardjono Reksodiputro, Tahap-Tahap Pembinaan Sistem Pendidikan Hukum Dalam Pembangunan Jangka Panjang Kedua (PJP II), Jurnal Hukum dan Pembangunan, Tahun 1995, No. 4 Tahun XXV, hal.291.

²JCH Melis, bewerkt door AHMSanten, BCMWaaier, De Notariswet, WEJ Tjeenk-Willink, Zwolle, 1991, p. 3.

is a public official who is authorized to make the deed authentic and authorized other referred to in this Act or under any other laws.

Based on to the authentic definition of 'Notary', the implied meaning that the notary is a profession which, when classified is included in the practical legal bearers who certainly has the duties and authority of its own based on the legislation.³

The formation of a Notary in Indonesia basically to meet the legal needs of the community in the form of agreements, determination, and actions that require legal evidence authentically. Legal product in the form of a deed of Notary is a crystallization of the civil law / private. Notaries can also provide legal advice to penghadap all the advice given does not show partiality to anyone / neutral, except siding only to laws and or regulations. Deed made an elaboration or accomodation wishes of the parties who appear before them as a public official who has the authority of the State.

Nowadays the existence of Notaries can already be found in every corner of the cities in Indonesia. The total number of Notary in Indonesia has reached more than 17,000 notaries who spread across the districts and cities in Indonesia with the number of districts / cities throughout Indonesia ranges from 500s. This amount is inadequate and uneven distribution in accordance with the needs of the community.

The function of Notary in Indonesia is not just a rubber stamp or scribe, but a legal official who will ensure that the legal act arises justice and the rule of law. Notary in Indonesia is one of the occupational and professionals coveted by someone who had received a legal education.

As an official position, a notary has the characteristics that are unique and distinctive. Notary distinctiveness lies in the preparation of a person who will serve as a Notary, and the source of authority for obtaining the Notary as an office. This official positions created by the rule of law for the purposes and functions of the particular (specific authority) and are sustainable as a

³Agus Setiawan, Notaris yang Melakukan Rangkap Jabatan sebagai Dosen, Dialogia Iuridica: Jurnal Hukum Bisnis dan Investasi Volume 9 Nomor 2 April 2018, hal.62

permanent work environment.⁴ Notary is an institution created by the state. Position is a country fittings, which are included in the study of constitutional law. This official position is very close to power. By a constitutional law powers not granted to the acting (people), but given to the office (work environment). In order for this official position to run the office subsequently this official position should be held by the other legal subjects which is a specific individual.

If there is an official position without any officers, then this official position can not be functional.⁵ Notary conduct their duties and their functions within the legal framework that has been set. Notary figure is a figure of official positions that require goodwill, good faith, morals and ethics in every step of its work. Notary integrity is expected, impartiality becomes a measure of performance, including how the level of trust and satisfaction of clients is the benchmark for professionalism ideal position.

To achieve the ideal figure of notary, there are five determinants whose relationship can not be separated from one another, namely: the provision of education, personnel education providers, the quality of the material or the material, the quality of the "raw materials" of the students who sign up, the system and method of teaching, education and training.⁶ Education is the main requirement. Widodo said that the quality of a notary is mainly dependent on the college where he was studying. That's the main thing. If the law college is not good, certainly it will have an impact on its graduates.⁷ In order to become a notary in Indonesia it should be carried out through a series of educational process, namely legal education.

Legal education in Indonesia since before the

⁴Habib Adjie, 2014 *Hukum Notaris Indonesia (Tafsir Tematik Terhadap UU No.30 Tahun 2004 tentang Jabatan Notaris)*, Bandung : Reika Aditama, p. 15

⁵Ibid, p.11

⁶Central Board Indonesian Notary Association, 2008, *Jati Diri Notaris Indonesia(dulu, sekarang dan di masa akan datang)*, Jakarta: PT. Gramedia Pustaka, p.159-160..

⁷<https://hukum.tempo.co/read/1062029/indonesia-masih-kekurangan-notaris>

independence era until the reformation era have had a significant dynamics. Currently the academic requirement to become a Notary according to Article 3 UUJN is a lawyer and a graduate degree in undergraduate level two notaries. As well as legal education that according to [2] "Law education in Indonesia is believed to have undergone several reforms since introduced during the Dutch colonial occupation. Initially the only legal education was secondary education upper secondary education level with *Rechtsschool* established in 1908. In 1924, the level of legal education was increased to higher education equivalent to university. The establishment of *Rechtshogeschool* marked this increase".⁸

In his capacity as an official position, Notary in Indonesia is very unique and specific among other positions. So that the educational basis is essential in the process of generating a Notary official position. Notaries educational output is taken into account for direct entry into the real world of work in a position that will be appointed. The competence of graduates is very important. This implies that the government needs to have a strategy of competency that is hybrid, which has the basis of knowledge and also at the same time possesses professional skills. As in American, the legal education leads to prepare the graduates become practitioners, if indeed Notary is prepared to work practically. Seeing that legal education in Indonesia is given the influence of the two major legal systems in the world.

"The other purpose of this invitational session was to provide an opportunity for US legal educators to seriously Consider how they can collaborate with East Asian law schools. There is an undeniable and increasing trend among US law schools to look at East Asia as a major supplier of Reviews their students, particularly subject to Reviews their LL.M. Programs. However, the leading law schools in East Asia more or less share the common global trends toward professional and legal education. Since legal education in the US

⁸Hikmahanto Juwana, *Reformasi Pendidikan Hukum di Indonesia*, *Jurnal Hukum dan Pembangunan*, vol. 35 No. 1, tahun 2005, hal. 1

is almost completely professional and leading law schools in the US are rapidly expanding Reviews their Programs to prepare students for legal careers global, US law schools should Consider Reviews those East Asian law schools as potential partners for collaboration. "⁹

Education pursued by Notary candidates is a Bachelor of Law and Master of Notary. Master of Notary is an appropriate title naming Decree as decided by the Minister of Research, Technology and Higher Education (Kemenristekdikti) 257 / M / OPT / 2017 on the Name of Program In Higher Education (Kepmenristekdikti Name Major) is an implementation of Article 5 of Regulation Menristekdikti 15 Year 2017 concerning Naming a Program on College.

Currently there are 39 public and private universities which organized notary education. Most students who get an education master aims to become a notary public notary.

Education for Notaries in Indonesia is constantly changing. Starting from of the lack of formal education for prospective Notaries, further more there was an examination of the state as a measure of competence, to the courses. Later on, there was the commencement stages of specialist training notaries who entered the law school which is to date should be entered into the graduate level of the Master of Notary. Such conditions happen because of the statement of the law. To date, the policy is constantly changing.

The setting of the notary office has started since 1860 with the enactment of the Notary Regulation. The changes to regulations concerning Notary continues towards the aspired stage. Providing education to the notary is generally carried out by universities in charge of implementing higher education. In line with the aim of state to educate the nation, then it should be the citizen's right to get an education and the opportunity that has been provided by the state. including the education of notary. According to Article 1, point 1

⁹Setsuo Miyazawa, Innovations in East Asian Law Schools and Collaborative Possibilities for US Law, the Asian Journal of Law and Society, 3 (2016), p.210 doi: 10.1017 / als.2016.53

in Higher Education Act, education is a conscious and deliberate effort to manifest the atmosphere of teaching and learning so that the learners are actively developing the potential to possess the religious spiritual strength, self-control, personality, intelligence, noble characteristic, and necessary skills for themselves, the nation and the state. To date, the Notary educational dynamics in Indonesiapun have always been in ups and downs condition.

Because Notary is a tool needed by society and the state to form the institution, the government needs to have a strategy in preparing the forum of notary education. The regulatory changes is necessary to contain a political and a legal politic. Due to implementing the Notary education that produce the necessary rules that ultimately determines the performances institutions associated with the notaries. The rules are intended to form the Act, the Decree of the President, the decision of the Minister and others. The rules are called laws. Products notary law in the field of professional work affects the Notary office.

As the law states, of course, every action of a position should be based on the law. Laws are created through a democratic process. Changes, revocation and improvements in the field of notarial law have an impact on how Notaries perform their duties and functions in Indonesia. Changes era, circumstances, legal requirements and power has changed the rules are necessary, this is called the politics of law.

Political law is "legal policy" or the official line (of policy) about the law that will be enforced either by making new laws and with the replacement of the old law, in order to achieve the objectives of the state ". Political law is a selection of the laws to be repealed or not enforced, all of which are intended to achieve the country's goal as stated in the Preamble of the 1945 Constitution. ¹⁰ Legal education in Indonesia is strongly influenced by politics. Political law is a necessity in the determination of appropriate education for prospective notary officials. According to

¹⁰Mahfud MD, 2012, Politik Hukum di Indonesia, Jakarta : Rajawali Pers, p. 1

Eddy Asnawi, Political law is the policy of state officials about what is the criterion to judge anything. This policy can be associated with the formation of law, law enforcement or law enforcement itself.¹¹

As a position that is acquired on the basis of skills that is acquired through the education and has also undergone a series of processes that have experienced the political dynamics, then on this basis, the authors are interested in analyzing about the political education law Notary in Indonesia.

2. Discussion

2.1. Political Concept of Law Notaries

Political concept of law arise in the entity that matters is not the law also affects the law. Influenced by elements of the economic, political, legal and cultural study of Notary political inroads in the study of law. There is a desire to go on a law that is accommodating. So that legal policy or official policy line on the existence of a Notary agencies can be accomplished in accordance with the needs of the present situation.

The source of notary law is basically and mostly coming from the colonial law. The colonial law or Dutch and French law is enacted to avoid a legal vacuum regarding Notaries in Indonesia at the time. Of course it is not a national law *rechtidea* of Indonesia. The establishment of this colonial law was not much reflect justice either. While the notary institution with a notary office was formed by state to provide the legal needs of Indonesian citizens. The underlying law for Notary office has been experiencing more improvement. No doubt the politics of law flows in the presence of a Notary in Indonesia. As the facts that are experienced in the working practices of Notary in Indonesia today, is in the terms of making a notarial deed regarding sharia agreement that is not available in the colonial law.

This fact certainly encourages the changes of legislation on notaries in Indonesia. One legal theory that should be quoted in here, the statement

¹¹Kartono, Political Law Review Judicial in Indonesia, Jurnal Dinamika Hukum, Vol. 11 2011, p. 17.

of Lawrence Meir Friedman which explains that the success of law enforcement depends on three things: the substance of the law, the legal structure / legal institutions and legal culture. Therefore, in order to ensure legal certainty for the presence of a notary sharia, then UUJN ideally should contain clauses notary sharia. It is very possible, either through legislation or Shariah UUJN at least through an amendment to the existing UUJN. Islamic law is the legal system of a living and evolving in accordance with the dimensions of people's lives, as well as being a means of controlling society.¹²

As a state law, all relating to the implementation of state and government should be based on law. In the country there is a law of the state whose actions fittings must be based on law. Laws can be shaped legislation forming process through a democratic process. If so, then the formation of legislation containing the political process. Law in its broadest sense is not only the shape of the legislation. Politics is very close to power. The implementation of the government of a country can not be separated from power. So between countries, power, politics and law to blend into one.

[3] explained that politics of law is the basic policy direction, form, and content of the law to be formed.¹³ Notary concept in this paper is expressed as a position to experience the sense that the tides. Substantive and philosophical understanding need to be absorbed so that the presence of a Notary in Indonesia in accordance with the command of the functions, powers and portions under Indonesian law. In the Dutch colonial era Notary Public office can only be carried out by the European group. The underlying law is rooted *Notariswet* (Netherlands), which is also an incomplete interpretation of the Act XI of France from 25 ventose that never applies in the

¹²Deny K Yusup, Peran Notaris Dalam Praktik Perjanjian Bisnis Di Perbankan Syariah (Tinjauan Dari Perpektif Hukum Ekonomi Syariah) AL-ADALAH Vol. XII, No. 4, Desember 2015, hal. 708.

¹³Padmo Wahyono, 1986, Indonesia Negara Berdasarkan Atas Hukum, Jakarta: Ghalia Ondonesia, Cet II, p.160.

Netherlands.

First Notary in Indonesia is Melchior Kerchem. In the deed of appointment as a Notary contains an instruction that outlines areas of work and mandates, namely to perform his duties in the city Jacatra to the public interest. During the 16th century, Notary regarded as "employees" of Oost Ind. Compagnie. Dibuatpun deed restricted, and there is a ban on the manufacture of certain deeds, if violated, the penalty is the loss of the job.

2.2. Notary Education Developments in Indonesia

Notary Start to Indonesia in the 17th century, in the days of the Republic der Verenigde Nederlanden". Regulations governing the notary office in Indonesia was initially set up with 2 (two) Reglement ie from 1625 and Reglement of the Year 1765. In 1860 enacted Notary Reglement known as Rule Notary, the Notary Wet equivalent force in the Netherlands, which is still used for Notaries in Indonesia before the enactment of legislation the new Notary. Ventosewet ever applicable in the Netherlands was never valid. In a book entitled Regulation of Notary, GHS. Lumban Tobing stated that in effect is the old rule of "Republiek der Verenigde Nederlanden". So that the position of Notary in Indonesia at that time equal to that during the Government Notary Vereenigde Republiek der Nederlanden. Being in Holland itself by Decree dated November 8, 1810 and dated March 1, 1811.

After Indonesia's independence August 17, 1945, a vacancy occurred because of Notary appointed Notary earlier had returned to his country as a result of Indonesian independence. Then the government appointed a deputy Notary and receive protocol notaries who left Indonesia at the time. 1950 mengadakan Government Notary exam as stipulated in Article 13 of Regulation Notary (PJN). On 13 November 1954 the Government of the Republic of Indonesia issued Law No. 33 Year 1954 and Deputy Vice Notary Notary meantime.

In Reglement Notary no rules regarding Notary Public Education, but their rules regarding notary exam. Notary appointments be based on educational criteria which only scholars Netherlands

law school graduate or graduate (diploma) certain of the Dutch school in Indonesia. The state exams organized by the Department of Justice, namely Exam Part I, II, and III to the basic education of at least MULO (junior high school now) or have obtained candidate degree from the Faculty of Law Notary in Jakarta. That exam that assess the proficiency and skills of the candidate Notary. Less attention so that their knowledge of the government. With the government holding courses and training for Indonesian citizens in the legal field.

Actually, public legal education has existed in Indonesia with Rechtsschool establishment in 1908, and then in 1924 became Rechtshogeschool. Notary candidates who take the exam in the State in general have followed the law schools. Legal education in the colonial times is needed to fill positions in government, as expressed by Soetandyo Wignjosoebroto,

"The Dutch Colonial Government Introduced legal education in Indonesia to fill an administrative need; namely, to fill the legal bureaucratic positions from the ranks of indigenous citizens. It was hoped that graduates of this newly Introduced legal education of the judges would Become landraad or legal officers in the offices of the Dutch Colonial government.¹⁴

Until finally these courses are under the Faculty of Law, which in 1970 held courses Notary Specialist. In 2000 issued Regulation No. 60 which allows organizers to be a program specialist Master of Notary notary. Following the policy, on October 6, 2004 the government established the Act No. 30 of 2004 concerning Notary. This was the beginning of the Republic of Indonesia has laws governing the Notary office, which is made on the basis of the philosophical, social and juridical ideals based on national law. Including education as a condition of becoming a notary included. Master's level education for notaries should not consider the law in theory.

The law student who Merely takes a variety of pure theory courses, and Learns that "practition-

¹⁴Hikmahanto Juwana, 2006, Legal Education Reform in Indonesia, Asian Journal Comparative Of Law..

ers [a] re sell outs," will be woefully unprepared for legal practice. That student will lack the basic doctrinal skills: the capacity to analyze, interpret and apply cases, statutes, and other legal texts. More Generally, the student will not understand how to practice as a professional. He or she will have gained the impression that law practice is necessarily grubby, materialistic, and self-interested and will not understand, in a concrete way, what means professional practice.¹⁵

Notaries education has changed into a hybrid academic education. Article 3 UUJN stated requirements to be appointed as a Notary as referred to in Article 2 are:

A citizen of Indonesia.

Devoted to God Almighty.

Be at least 27 (twenty seven) years.

Healthy physically and spiritual represented by a health certificate from a doctor and psychiatrist.

Licensed lawyer and graduated with the tittle master of notary.

Has undergone an internship or manifestly has worked as an employee of the Notary within the least in 24 (twenty four) months the Notary office on their own initiative or on the recommendation of the Organization after graduating from strata two notaries.

Does not the status as civil servants, state officials, lawyers, or not being in office another by law prohibited from concurrently with the office of the Notary and

Not been sentenced to imprisonment by a court decision that has obtained permanent legal force for committing a criminal offense punishable by imprisonment of five (5) years.

Requirement prior to the enactment UUJN difference is in the internship. According Notary Reglement no regulation is set about internships (workstage). Although in practice there is Bijblad appointment that "advocate" to give priority to candidates who have experience working period (internship) at least 1 year and desired by the

Head of the Department at the time. While apprenticeship under Act No. 30 of 2004 for 1 year in a row after graduating Master of Notary, after the entry into force of UUJN apprenticeship to 2 years in a row.

Notary education through master level courses notaries have divided on the subject "magister" and typical subjects notary. After graduating master's, candidate notaries are obliged to follow predetermined apprenticeship law. There is an assumption that says that graduates master notaries in Indonesia at this time are not skilled in carrying out his position as a Notary, called unprofessional. Because it is a legal education in Indonesia is not a master notary scored education Notary candidate. But it is education that provides academic field experience coupled with a typical course notaries. After the master then someone wanting to become notaries add the notary experience through internships. This indicates that the internship program into a series of processes that must be carried out with earnest if you want to become a Notary Public. Material apprentice obtained through their professional organizations, namely the Indonesian Notary Association (INI). Candidates can choose their own notary office wanted to keep getting recommendations from the Organization Notary. This internship is very important function is to align theory that can perform under the course with practice run a Notary Public. Internships are the responsibility of professional organizations on the output that has been generated from the program Master of Notary. Indonesian Notary Organization disebit with Indonesian Notary Association (INI).

Legal education in order to produce a Notary currently experiencing conditions that are at a crossroads. There are parties agree that the education of prospective Notaries enter into the magistrery (hybrid), there are those who agree that education should be entered into the Notary professional education.

Legal education in Indonesia has for a long time not distinguished between academic and professional legal education. Distinction between the two types of education is important and it is important that this distinction is made. This impor-

¹⁵Harry T. Edwards, *The Growing Disjunction Between Legal Education And The Legal Profession*, Michigan Law Review, HeinOnline - 91 Mich. L. Rev. 37 1992-1993, p. 38

tance derives from the fact that students studying law in its academic form are Neither Certain Immediately to nor will they apply this in practice.¹⁶

In Indonesia there is an Indonesian National Qualifications Framework (KKNI) that is used to organize and develop education in Indonesia. KKNI has basic Government Regulation No. 8 of 2012 on KKNI. The application of Article 29 of Law 12/2012 of Higher Education and the Presidential Decree No. 8 of 2012 on KKNI forth in Regulation of the Minister of Education and Culture of the Republic of Indonesia Number 73 Year 2013 concerning the application of Indonesian National Qualifications Framework for Higher Education. KKNI a qualification level that aims to generate competencies required work experience with the recognition of qualifications. Competency-based education curriculum. Master groups into the level 8. The graduates are graduates with academic qualifications is not a profession. This has been a debate in Indonesia related with the competence of its graduates.

Ministry authorities will still be concocting how ideally education for prospective notary in the middle of the massive needs of the community and competition uncontrolled globalization. There inharmonious regulations involving education, higher education and education of the legal profession in particular.

Notary in Indonesia is also an intellectual who has a big responsibility. According to [4] Notary is a group of people who have the advantage of the scientific potential. Scientific potential was too great, and will become a social waste if only used for carrying out its mission, namely to make evidence in the form of authentic deed. Notary its potential must be maximized by giving the responsibility to the Notary's role in efforts to improve the legal knowledge society. Such responsibility certainly does not need to be questioned, because in harmony with the characteristics of the legal profession carrier must have the soul of devotion.¹⁷

¹⁶ibid

¹⁷Muhammad Afef Budi, Peranan Notaris dalam Pen-

At the end of the year 2017 the Government of Indonesia through the Ministry of Justice and Human Rights establishes a new mechanism to become a notary. Namely by requiring the appointment after graduating Exam Exam Notary Code (Uken). It is intended to improve the quality of candidates Notary in Indonesia suspected of decline. According to the common law Dirjwen Administration (AHU) kulaitas decline of education geared notary present. On the official website of Directorate General of Ahu to be a Notary Public, at the beginning of 2018, there are new rules that have graduated Master of Notary, the Notary Code of Ethics Exam, Exam Pre Extraordinary Members (ALB) as a condition of exams Uken. The tests were based on the Regulation of the Minister of Justice No. 62 Year 2016 on the Amendment of Law and Human Rights Minister Regulation No. 25 Year 2014 Catra requirements and procedures of appointment, transfer, dismissal and prolonged tenure Notaries and Ministry of Law and Human Rights No. 25 Year 2017 regarding the Exam Appointment of Notary. Uken minimal material consists of 10 materials, namely:

Institutional organization and the Ministry of Law and Human Rights.

Appointment of Notaries, Notary transfer, extension of tenure of Notaries, Notary dismissal, supervision and oversight of Notary.

Agreements named and not named.

Establishment and amendment limited liability company, foundations, and associations.

Collateral material and individual guarantees.

Registration fiduciary.

Civil inheritance law and probate.

Bankruptcy.

Legalization and

waarmeking.¹⁸

In addition, during the past two years of internship, the candidate notary in Indonesia must

didikan Hukum bagi Masyarakat, Jurnal Advokasi, Tahun 2016, p. 285

¹⁸Norman EdwinElnizar, <http://www.hukumonline.com/berita/baca/1t5a5ca66054da6/jalan-panjang-dan-b-erliku--kini-menjadi-notaris-harus-lulus-4-ujian-khusus> accessed on January 27, 2018

collect points earned from seminars held if the Indonesian Notary Association (INI). At the beginning of 2018 there was a discourse for a moratorium on graduate studies notary by the ministry of Justice and Human Rights. With the aim to improve education for Notaries in Indonesia, together with related elements.

2.3. Notary Concept as a Position

In epistemology indeed a dilemma in terms of a sense Notary office or a profession. Especially since the issuance of Notary Act No. 30 of 2004 which stated jointly that the Notary is an office at the same profession. On the fact that the positions of the profession is a very different thing. In the letter c UUJN preamble stated "that notaries as public officials who run professional in providing legal services to the public, need protection and guarantees in order to achieve legal certainty". Philosophically means that the appointment of a Notary is intended to ensure legal certainty. Legal certainty itself is one of the purposes of the law. Notary in his post by the state emblem is an eagle. It has a meaning that the state is delegating a task to a position, to carry out specific tasks. As stated in Government Regulation No. 43 of 1958 LN 1958-71; TLN, 1636) on the use of State Emblem in Article 7 paragraph (1), namely: "Cap positions with the state emblem in it is only allowed to stamp the post of president, vice president, secretary, chairman of the House of Representatives, the chairman of the Constituent Assembly, Ketu national council, the chairman of the Court General, Financial Supervisory council, the regional head of the level of regents, and Notary Public. There is no profession in Indonesia by a state symbol in performing their duties unless the Notary. Until the phrase "office" worth pinned after the phrase "Notary". The consequences on the state emblem has an important meaning. State provides symbol because it assumes that the notary is an office in the country. State is the organization of office, not professional organizations. Although as an office in Indonesia Notary not like the government officials in New York.

"The Notary Public holds a trusted role in our

legal and commercial systems. As a government officer, the Notary is typically involved in the initial stages of many critical situations as well as routine. Integrity and good judgment are vital qualities of an effective Notary public"¹⁹

Notary in Indonesia also plays as acting state, but not a salaried government employees and help the government administration. Notary in Indonesia patterned latin with affected civil law tradition. Keberdaan different notarisnyapun seperti notary in countries with a common law system, known as Notary Public. Notary public is considered as a public officer who is confirmed by Article 137 of the New York Executive Law²⁰ : "In all the courts within this state the certificate of a Notary public over his signature, shall be received as presumptive evidence of the facts contained in such certificate; Provided, that any interested person as a party to a suit may contradict, by other evidence, the certificate of a Notary Public. "

[5] stated that as such Notary acts carry out some tasks of the State in the field of civil law.²¹ Position Notaries in national legal systems are as positions that may be authorized by the state. According to [6], the Notary appointed by the Government, as an organ of the state is not merely for the sake of the Notary itself, but for the benefit of the wider community.²²

In implementing the Notary office has oversight conducted by a tribunal. Supervision of the Notary not only addressed in Compliance with the code of conduct, but also a wider concept that is to be notarized in performing his respective duties meet the requirements set by legislation in the interests of the communities it serves.²³ Assembly which oversees the Notary in Indonesia called the

¹⁹ Alfred E. Piombino, Notary Public Hand Book, principle, Practices and case, New York, 1998, P. 1

²⁰ Teks tersebut diumumkan oleh Consolidated Laws Services (taken from Law 1951), CA Kraan, De Authentieke deed, Gouda Quint BV, Arnhem, 1984, p. 155.

²¹ Habib Adjie, 2008, Hukum Notaris Indonesia, Tafsir Tematik Terhadap UU No. 30 Tahun 2004 tentang Jabatan Notaris, Refika Aditama, Bandung, P.14.

²² Emma Nurita 2012, Cyber Notary, (Pemahaman Awal Dalam onsep Pemikiran), cetakan kesatu, Refika Aditama, Bandung, 2012, p.2

²³ Valentine Phebe Mowoka, Pelaksanaan Tanggung

Supervisory Council area (MPD). The agency was created by the Government (Ministry of Justice) domiciled in the district or city. MPD is the only institution authorized to conduct supervision, inspection and sanctions against notaries in the district / city. On top of this institution and the Regional Supervisory Council Supervisory Council of the Center. Monitoring carried out based on the code of ethics created by the Notary Public Notary Association. In Indonesia called Indonesian Notary Association (INI). In each country different Notary practices as well as organizations that shelter, as in America there is an organization that represents the history of the birth of his National Notary organization.

"In perhaps his most famous and trenchant observation about the American people, the French social analyst Alexis de Tocqueville commented in 1840 that Americans are inveterate joiners and, Whenever two or more are randomly thrown together, they are more Likely than not to discover a mutual interest and start an organization. Considering the keenness of de Tocqueville's insight, it is remarkable that 318 years passed between the appointment of the first common law Notary public in the American colonies and the launching of what would Become the first national organization of English-speaking American notaries".²⁴ Notary organizations protect each member based on the rules and code of ethics. In performing its duties and responsibility, Notary in Indonesia overseen by a body called the Supervisory Council of Notaries (MPN).

For the regional level pengaws Regional Assembly (MPD). When checks or request information from the Notary, the MPD should be objective, meaning that the MPD should be put on notarial deed as an object of examination of statements or statements of the parties, instead of putting the subject of a Notary as an object of inspection, so the procedure or procedures deed should be used

Jawab Notaris Terhadap Akta Yang Dibuatnya, *Lex et Societatis*, Vol. II / No. 4 / May / 2014, p. 64

²⁴Milton G. Valera, *The National Notary Association: A Historical Profile*, *The John Marshall Law Review*, P-971, 1997

as benchmarks for inspection the.²⁵

There will never be state or in this case has delegated profession or professions that had been made by the government to be implemented by certain people. Regulations governing the Notary has the phrase: Regulations Notary, Law Notary, Notary Code.²⁶ Code of conduct Notary able to materialize when the integrity of the building up since the Notary candidates received his legal education period.

3. Conclusion

Special education for prospective notary is very important and affects performance in running the office. It turns out that obliging UUJN Master of Notary as a requirement to become a notary in Indonesia is still not sufficient to educate a Notary positions. It was proven that government policies are still hesitant to place education Master of notary as an academic or professional education. Other facts show that the process of apprenticeship for 24 months after graduation Master of notary not guarantee uniform skills and experience for the legal needs and work experience candidate for Notary. Notary as an office in Indonesia experienced many callings for the judicial process, there is a witness, the examinee, even as a suspect. Well-educated notary Notary comes from specialist level, or from kemagisteran. While the notary is a tool of the state in charge of making the evidence. Due to the general rule (*openbaar gezaag*) which gave power to it.

The role of the Organization Notary great impact on the performances Notary in Indonesia. Not merely Ministry of Justice as one of the users of the Master program notaries provide a less positive assessment on individual work Notary office due to his education. Program organizers are required together with the organization Notary Notary office. Synergies can be a formula of the

²⁵Aryani Witasari, *Mpd Bukan Advokat Para Notaris Berdasarkan Undang-Undang No.30 Tahun 2004 Tentang Jabatan Notaris*, *Jurnal Hukum*, Vol XXVIII, No. 2, December 2012, p. 892.

²⁶Habib Adjie 2009, *Meneropong Khazanahan Notaris dan PPAT Indonesia (Kumpulan Tulisan tentang Notaris dan PPAT)*, Bandung :citra Aditya Bakti, p.3

material required in accordance competencies expected. Provision of real experience for prospective Notaries become an important and uniform throughout Indonesia. With regard to the provisions of the underlying higher education in Indonesia.

4. Suggestion

This study provides suggestions that education should be a notary in Indonesia still have the magistracy level. This is necessary because with this level, students are given a learning experience related to philosophical jurisprudence that is needed in the office of the Notary, if graduates want to become a Notary notary master. Not only dogmatic understanding only. After graduation, a Master of Notary if it wants to become a Notary should continue in the form of formal education, Notary Professional Education. Proof of educational outcomes in the form of certificates or diplomas professionalism. This institution has not been provided by the government. Governments need to provide them in the middle of a notary public discourse moratorium.

Notary office for placement should not by choice, but by government decree. Usually with the clause "would be placed anywhere in the entire territory of the Republic of Indonesia". This has become typical of an office as an organ having a special duty.

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