



Legal Protection Against Notary Employee who Acts as Witness in Making Deed

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Abstract

The main problem of this study is how the form of legal protection against notary employee who acts as witness in making deed according to the Law of Manpower and what the form of legal protection against notary employee who acts as witness in making deed according to the provisions of civil law and criminal law. The method used in this study is a normative juridical approach. In addition, this is an analytical descriptive study which will be analyzed qualitatively. The discussion results of this study found that Law No. 13 of 2003 concerning Manpower does not regulate legal protection against notary employee who acts as witness in making deed in the event of legal problem. However, it provides legal protection in the form of guaranteeing the basic rights of worker and guaranteeing equality and treatment without discrimination on any basis. According to the provisions of civil law, until now there are no rules governing legal protection against notary employee who acts as witness in making deed in the trial process. However, in the context of criminal law, regarding general protection of witness with the existence of Law No. 31 of 2014 concerning Amendment to Law No. 13 of 2006 concerning Protection of Witness and Victim, notary employee who acts as witness in making deed will also obtain protection of personal, family and property security.

Keywords: Legal Protection Witness In Making Deed; Notary

Introduction

The profession in the area of law is a profession that continues to grow in accordance with the development of society. Similarly, the notary profession, as one of the legal professionals in Indonesia, has increasingly complex roles and functions.

A notary, as a public official appointed by the Minister of Law and Human Rights of the Republic of Indonesia, has the attributive authority by the state to carry out these roles and functions. A notary, in another definition, is an extension role of a country where the state has given trust to a notary to carry out part of the state's duties, especially in the civil law area.

As a guide and protector, so that the notary in carrying out his/her position continues to run on the corridor, it uses regulations from Law on Notary Position No. 2 of 2014 concerning Notary Position as a reference. A notary is a public official authorized to make authentic deeds and other authorities referred to in Law on Notary Position.

Based on the philosophical foundation, the establishment of Law on Notary Position No. 2 of 2014 concerning Notary Position is the realization of legal certainty, order and legal protection with the core truth and justice through a notary deed for which the notary must be able to provide legal certainty to the public using notary services.¹

In living the life, the community, which requires legal certainty, requires a public service sector that is currently growing as the community needs for services. This also has an impact on increasing demand in notary services. The role of the notary in the service sector is as an official authorized by the state to serve the public in the area of civilization, especially the making of authentic deeds. As stated in Article 1 paragraph (1) Law on Notary Position No. 2 of 2014 concerning Notary Position as follows:

“Notary is a public official authorized to make authentic deeds and has other authorities as referred to in this Law or under other Laws”.²

The other authorities of notary refer to what are regulated in the Law on Notary Position. As stated in Article 15 paragraph 2, notary is authorized to:

- a. Validate the signature and determine the certainty of the date of the private deed by listing it in a special book;
- b. Compile private deed letters by listing it in a special book;
- c. Make a copy of the original private deed in the form of a copy containing a description of what was written and explained in the deed;
- d. Validate the compatibility of the copy with the original letter;
- e. Provide legal counseling related to making deed;
- f. Making deed related to land; or
- g. Make a deed of auction report.³

The notary is also authorized to provide legal counseling about making authentic deeds to the general public. Thus, the community will get legal protection and legal certainty. In the realm of notary law, in the legalization of a notarial deed, there are 2 types of witnesses; i.e. *attesterend* witness and instrumental witness.⁴ Instrumental witness is a witness who must be present in making a deed; in this case the reading and signing of a deed. Meanwhile, *attesterend* witness is the party who introduce an appearer to a notary because the appearer does not have an identity or he/she has dubious identity; yet, notary must include them in the deed.

In making a notarial deed, the presence of a witness is one of the legal requirements for a deed. Witness who attended, witnessed, and signed the deed is instrumental witness.

Witnesses participate in the making of the deed and that is why they are called instrumental witness. They carry out their duties by affixing their signatures, giving testimony of the truth that will be carried out and fulfilling the formalities required by the Law contained in a deed and witnessed by the witnesses. Therefore, the witnesses of the instrument must be present in making the deed; i.e. in reading and signing the deed.

The task of the instrumental witness is:

- a. In the *partij* deed, the instrumental witness must be present at the making of the deed; in this case the reading and signing (*verleijden*) of the deed. In their presence, they can testify that the deed

¹ Bureau of Public Relations and Foreign Relations. Hasbullah, *Notary and Legal Certainty Guarantee*, (www.wawasanhukum.blogspot.com, accessed on March 20, 2018).

² Article 1, paragraph 1, *Law on Notary Position No. 2 of 2014 concerning Notary Position*.

³ “Law on Notary Position No. 2 of 2014 concerning Notary Position,” *State Gazette of the Republic of Indonesia of 2004 No. 117, Supplement to the State Gazette of the Republic of Indonesia No. 4432*, Article 15, paragraph 2.

⁴ Tan Thong Kie, *Notarial Study: All About the Practice of Notary*, Ichtar Baru, Jakarta, 2007, page 647.

has correctly fulfilled the formalities determined by Law, i.e. before it is signed by the parties. After the deed is read by the notary to the parties, then they all sign it; all processes are carried out before the instrumental witness.

b. Instrumental witness also signs the deed.

Based on the nature and position as a witness, the witness also listens to the reading of the deed, witnesses the act or reality that is stated by the deed, and signs the deed. At that time, the witness does not need to understand what is read from the deed. In addition, they are also not obliged to store the contents of the deed in their memory.

Generally, the instrumental witness is a notary employee who works at the notary's office. In addition to assisting the task of a notary, notary employee also has a considerable role in assisting performance in carrying out their duties and obligations as stipulated in Law on Notary Position No. 2 of 2014. Notary and notary employee need each other, so that the skills and expertise of notary employee need to be improved continuously; for instance, through planning a broader training program to be able to help the work of notaries optimally. In carrying out the work, employee who works in the notary's office carries out their duties on the orders of their superiors; in this case, the orders from the notary. Therefore, notary employee is part of the workforce or workers in the notary's office.

As a witness for a notarial deed, the instrumental witness, who is usually a notary employee, has considerable responsibility, especially in the legalization of a notary deed. An instrumental witness must be present at the legalization of a notarial deed. In this case, the responsibility of the instrumental witness is to witness whether a notarial deed has made the preparation, reading, and signing of the parties carried out before the notary; as required by law as a condition for the authenticity of a deed.

The instrumental witness' responsibility in this case is not only limited to witnessing the notarial deed, but they are not responsible for the contents of the deed. The witness does not need to understand what is read from the deed and also, they are not obliged to keep the contents of the deed in their memories.⁵

Notarial deed, which has been legalized and signed or in other words has become an authentic deed, has been a binding and complete evidence and applies to the parties, their heirs, and all people who have the right of what is contained in the deed (Article 1870 and Article 1871 of the Civil Code).

Authentic deed is complete (binding) evidence which means that the truth of the content written in the deed must be recognized by the judge. In this case, the deed is considered true as long as no other party can prove the opposite.⁶

In other words, the perfect authentic deed can still be aborted if another party can prove the opposite. Therefore, notarial deed may be disputed in the future so that it enters the case in court. It of course requires witnesses, including instrumental witness or witness of the deed.

As explained above, most instrumental witness in notarial deed is notary employee. The notary employee can only testify to their responsibility in carrying out the tasks given by the notary. They, as instrumental witnesses, of course are not responsible for the contents of the deed. The notary remains responsible for the contents of the deed if in the future the deed is disputed in the trial. In making a deed, it is the notary who is dealing directly with the parties in the deed.

Meanwhile, the witness of the deed, which includes notary employee, is only responsible to the extent of witness who witnesses the legalization of the deed. The witness of the deed, or notary employee, is only responsible for the deed formalities limited to those assigned by a notary that includes knowing the typing of the deed, matching identity, data and documents relating to the parties in the deed, witnessing the reading and signing of a deed, and signing the deed.

In the field, what often happens is that notary employee who acts as witness to the deed is treated as witness who sees an incident of a criminal act. They are given in-depth questions about the contents of

⁵ *Ibid*, page 170.

⁶ Teguh Samudera, *Law of Proof in Civil Procedure*, Alumni, Bandung, 2004, page 49.

the deed, the suitability of the parties in the deed, the presence of the parties in signing the deed and other in-depth questions. Basically, it is clear that the instrumental witness is only a witness in the formality of making a deed not a witness in a criminal act. Regarding this general situation, it is clear that notary employee who acts as witness to the deed does not receive legal protection in Law on Notary Position; meanwhile, the legal actions that they do is included in the notarial area.

Since it relates to the making and reading of notarial deed, the protection of instrumental witness, that the majority of which is notary employee, should be regulated in Law on Notary Position or rules that specifically regulate it.

One case in point is the role of notary employee or instrumental witness against notarial deed in a case No. 67/Pdt.G/2014/PN.Pbr in Pekanbaru City Court. ID, who worked as an employee at the office of Notary PS in Pekanbaru City who was a witness in the court of Notary PS. In this case, PS committed a criminal act of falsifying an authentic deed. This case began when Nurbaini and Mardiana collaborated in the landfill project. The agreement between them was in the form of loan of IDR 600 million to Nurbaini by Mardiana with the guarantee of a land certificate. From the results of the agreement, Mardiana had received a profit sharing of IDR 50 million. In the midst of the collaboration, Sale and Purchase Agreement on collateral land suddenly appeared. This was surprising because Nurbaini felt that she never sold it. Suspicion of the Sale and Purchase Agreement was then reported to the Riau Regional Police's Directorate General of Criminal Investigation. In handling the report, the signatures listed in the Sale and Purchase Agreement were alleged to be false. This was confirmed from the results of the Medan Forensic Laboratory test. Based on ID's information, a notary employee who acted as a witness, ID testified in court about the whole process of making a deed, matching the faces of the parties with the photograph of their identity card, signing and other details for several hours. In fact, what we know is that the instrumental witness is limited to witnessing the formality of making a deed not becoming a criminal witness.

The absence of legal protection that specifically regulates legal protection for notary employee who acts as witnesses of this instrument is interesting to be discussed in this paper. The action of the notary employee as an instrumental witness or other people who are present as witnesses to the deed are included in the scope of notary. However, the Law on Notary Position, which is the only legal umbrella for notary, apparently has not clearly regulated it. Based on the above description, the author is interested in revealing this in the form of research with the following titles: "LEGAL PROTECTION AGAINST NOTARY EMPLOYEE WHO ACTS AS WITNESS IN MAKING DEED"

Research Method

Research is a scientific activity related to analysis and construction carried out methodologically, systematically and consistently. Methodologically means that it is in accordance with a particular method. Systematically means that it is based on a system. In addition, consistently means that it does not contain contradictory matters in a particular framework.⁷ To facilitate the implementation of this research, in order to obtain satisfactory results, a method is needed. The form or type of research used in this study includes:

1. Research Approach

The research approach to be used in this study is a normative juridical approach,⁸ i.e. the approach applied according to the main legal material by examining theories, concepts, principles of law and legislation related to this research.

⁷ Soerjono Soekanto (b), *Introduction to Legal Research*, Third Print, Jakarta, Universitas Indonesia, UI-Press, 2010, page 42

⁸ Zainuddin Ali, *Legal Research Method*, Second Print, Sinar Grafika, Jakarta, 2010, page 30.

2. *Research Design*

This study applies descriptive analytical design,⁹ i.e. a form of research that aims to describe the applicable legislation that is associated with legal theories and the practice of implementing positive law, which will later be linked to the problems examined in this scientific work.

3. *Data Type and Source*

This scientific work is normative juridical research which is then followed by reviewing legal materials which are secondary data. Secondary data is data obtained from library materials (library data). Secondary data consists of explanations and instructions for primary data from various literatures.

4. *Legal Material*

It is binding legal material, especially in the notarial area.

- a. The primary legal materials used are legislation that has relevance to the research title that the author chooses and other regulations that support the completeness of this paper, which include:
 - 1) Law No 2 of 2014 concerning Amendment to Law No. 30 of 2004 concerning Notary Position;
 - 2) Civil Code;
 - 3) Criminal Code;
 - 4) Notary Code of Ethics;
- b. Secondary legal material is legal material that provide information relating to the contents of primary legal material and their implementation.
 - 1) Scientific articles;
 - 2) Books relating to the problem under research;
 - 3) Scientific conference paper;
 - 4) Thesis and dissertation;
- c. Tertiary legal material is a legal material that provides guidance and explanation of primary legal material and secondary legal material; for instance, dictionary.

5. *Data Processing and Analysis Technique*

After obtaining all the data needed in this study, a conclusion will be drawn. It is then compiled and analyzed qualitatively by analyzing, interpreting, drawing conclusions in accordance with the issues discussed and describing them in the form of sentences.¹⁰

⁹ Suharmisi Arikunto, 1992, *Research Procedure*, Eight Print, PT Rineka Cipta, Jakarta, page 52.

¹⁰ Mardalis, *Research Method: A Proposal Approach*, Fifteen Print, Bumi Aksara, Jakarta, 2010, page 83.

Research Results and Discussion

1. Legal Protection of Notary Employee Who Acts as Witnesses in Making Deed According to the Law of Manpower

In the context of legal protection for workers, Zainal Asikin¹¹ mentioned that legal protection for workers is very necessary considering its weak position. Furthermore, it is stated that legal protection from the power of the employer will be carried out if the laws and regulations in the field of labor which require or force employers to act as stated in the legislation are actually carried out by all parties; since legal enforcement cannot be measured juridically only, but also measured sociologically and philosophically.

The position of worker, especially notary employees, can be seen from 2 (two) aspects, i.e. juridical and social-economic perspectives. From a juridical perspective, based on Article 27 of the 1945 Constitution, the position of worker (notary employee) is the same as a notary; however, in social-economic perspective, the position of the two is not the same in which the position of the notary is higher than the worker (notary employee). The high and low level of position in this work relationship results in an intimidated relationship. So, the notary tends to be arbitrary to worker (notary employee). In terms of social economics, worker needs legal protection from the state for possible acts of abuse from employers. The form of protection provided by the government is by making regulations that bind to notary and worker (notary employee).

The position of worker (notary employee) is legally been fixed. Thus, worker (notary employee) is subject to Law No. 13 of 2003 concerning Manpower along with other implementing regulations.

The purpose of Law of Manpower is to implement social justice in the area of employment which is carried out by protecting worker against the power of the employer. Basically, the legislation in the area of employment applies to all workers without differentiating their status.

Law No. 13 of 2003 concerning Manpower regulates the rights and obligations of a worker in carrying out their work. It functions to protect and limit the status of the rights and obligations of worker toward employer in accordance with human dignity.

Worker rights as stipulated in Law No. 13 of 2003 and other labor legislation include:

- a. Basic rights in work relationship.
- b. Basic rights to social security and occupational safety and health.
- c. Basic rights of workers for wage protection.
- d. Basic rights of workers for restrictions on work time, rest, leave and holidays.
- e. Basic rights to make a Cooperation Agreement.
- f. Basic right to strike.
- g. Basic rights specifically for female workers.
- h. Basic rights of workers to get protection for termination of employment.

In the context of Law No. 13 of 2003 concerning Manpower, every worker has the same rights under the law including notary worker who acts as witness in making deeds or the worker who does not. The right is to get protection while carrying out the work. There are 3 forms of fulfillment of normative rights to worker or employee who work at the notary office including wage protection, social security protection, and occupational safety and health protection:

- a. Wage protection
- b. Social security protection

¹¹ Zainal Asikin, *Op. Cit.*, page 15.

c. Occupational safety and health protection

Based on what has been described above, in Law No. 13 of 2003 concerning Manpower, it has been stated that labor relationship occurs between employer and worker/ laborer based on work agreement that has the elements of employment, wage, and order. Work relationship shows the position of both parties which basically describes the rights and obligations of workers to the employer, as well as the rights and obligations of the employer to workers, which is a consequence of the existence of a labor relationship.

It is said that the relationship between notary and notary employee is a relationship between superiors (employer) and subordinates (worker). In this case, Law No. 13 of 2003 concerning Manpower does not regulate legal protection against notary employee who acts as witness in making deed; yet, Law No. 13 of 2003 concerning Manpower, for worker who in this case is notary employee, only refers to protection to guarantee the basic rights of worker and guarantee equality and treatment without discrimination on any basis. The rights of worker include the right to develop work competencies, the right to worship according to their religion and beliefs, the right to receive wages or income in accordance with human dignity, the right to obtain protection, welfare, health and safety.

2. *Legal Protection of Notary Employee Who Acts as Witness in Making Deed According to the Provisions of Civil and Criminal Laws*

Legal protection is a form of service that must be provided by the government to create a sense of security for every citizen. Based on the 1945 Constitution of the Republic of Indonesia, the state is responsible for the protection of human rights. This is stated in Article 281 paragraph (4) of the 1945 Constitution of the Republic of Indonesia which reads: "Protection, promotion, enforcement and fulfillment of human rights are the responsibility of the state, especially the government." In addition, the basis of witness and victim protection is stated in Article 28G paragraph (1) which reads: "Everyone has the right to personal, family, honor, dignity and property protection under his/her authority, and has the right to security and protection from the threat of fear of doing or not doing something as human right."

Legal protection is created due to a collection of people called community in a particular group. Every individual in the community has different interests and all try to fulfill their interests. Law has a big role as a rule to regulate human behavior to fulfill their interests. The existence of a law is expected to prevent conflicts of interest between one individual and another. Satijipto Raharjo argued that:¹²

Legal protection means to provide protection for human rights that are violated by others; in this case, the protection is given to the community so that they can utilize all the rights given by law.

As described in the previous chapter, the witness is a person who provides information before the trial by fulfilling certain conditions regarding an event or situation that he or she sees, hears and experiences as evidence of the occurrence of such an event or situation. This is mentioned in article 171 paragraph (2) of *Herzien Inlandsch Reglement* (HIR) and article 308 paragraph (2) of *Rechtreglement voor de Buitengewesten* (RBG) which states that an opinion or suspicion of a person who is thoughtfully obtained is not considered a testimony. Principally, witness evidence is a statement from a witness that he/she know from something what he/she saw, heard or experienced him/herself that he submitted as an event.

Based on the above information, related to the clarity regarding the testimony, the witness in the case in court will be legally accepted as evidence with the fulfillment of legal requirements as a witness, in which the witness principally must know directly about what he/she saw, heard or experienced the incident witnessed in the court .

In civil procedural law, witness evidence is a proof in the second order to be considered by the judge after the authentic evidence (Article 1866 of the Civil Code).

¹² Satijipto Raharjo, *Jurisprudence*. PT Citra Aditya Bhakti, Bandung, 2000, page 9.

In practice, in carrying out the position and authority in making a deed, a notary is assisted by a notary office employee who then among those becomes witness the deed. This notarial deed witness is a witness who participate in the process of making a deed (instrument); therefore, they are called instrumental witness. The making of the deed, in this case, is witnessing the process of reading and explaining the contents of the deed by the notary to the parties until the parties in the deed affix their signature. The instrumental witness also signed the deed and gave testimony about the truth and fulfillment of the formalities required by Article 38 Law on Notary Position No. 2 of 2014 concerning Notary Position. This is what is then called a comparison in the deed.

Based on the nature and position as a witness, instrumental witness also listens to the readings of the deed, witnesses the act or reality being stated by the deed, and signed the deed. These instrumental witness does not need to understand what is read from the deed. In addition, they are not obliged to keep the contents of the deed in their memories and also not responsible for the contents of the deed.

Legal problems in a civil court hearing involving notarial deed, the notarial deed that has been legalized or signed has a role as authentic evidence. In fact, according to Article 1870 jo. 1871 of the Civil Code, notarial deed which has authentic power no longer requires other evidence as proof because the authentic deed is the perfect evidence for both parties or heirs and all people who have the right of what is contained in the deed. Authentic deed is complete (binding) evidence which means that the truth of the things written in the deed must be recognized by the judge; in this case, the deed is considered true as long as no other party can prove the opposite.¹³

The existence of witnesses is regulated in the Civil Procedure Code, i.e. Article 164 to Article 172 the Ninth Chapter of HIR stb.1941 No. 44, which regulates witness in a case examination in the trial process for civil cases which is the authority of the District Court. Besides, it is also stated in the RBG stb. 1927 No. 227 concerning the witness in the fourth chapter concerning the procedure for adjudicating civil cases in the first level is the authority of the District Court and the fifth chapter concerning evidence in civil cases.

The position of instrumental witness is clearly in a weak position so they need protection, especially because of threats and coercion. However, in the Law on Notary Position, there is not a single article governing the protection of the witness in the legalization of the deed. This is different from the protection of a notary as a witness which is clearly stated in the Law on Notary Position by the existence of the right of renunciation. However, none of the provisions in Law on Notary Position regulates legal protection of notary employee who witnesses the legalization of the deed presented as a witness in the trial.

Unlike the provisions of civil law, the position of witnesses in the criminal justice process occupies a key position, as seen in Article 184 of the Criminal Procedure Code. As the main evidence, the impact is certainly significant when a case does not obtain a witness. The importance of the witness's position in the criminal justice process has begun since the beginning of the criminal justice process. It must be acknowledged that the disclosure of violations of law is based largely on information from the public. Likewise, in the subsequent process, at the prosecutor's level until finally in court, witness testimony as the main evidence is the judge's reference in deciding whether or not a defendant is guilty.

Article 1 paragraph (26) of the Criminal Procedure Code states that a witness is a person who can provide information for the interests of investigators, prosecutors and judiciary about a criminal case that he/she heard, saw, and experienced by him/herself.¹⁴ The witness is also a valid evidence.

The witness in a legal event is important; therefore, in criminal procedural law, witness evidence is the main evidence (Article 184 of the Criminal Procedure Code). Based on its role, the deed witness can act as a witness as referred to in the Criminal Procedure Code bearing in mind that the deed witness is a witness who deliberately witnesses the process of notarial deed making.

¹³ Teguh Samudera, *Law of Proof in Civil Procedure*, (Bandung: Alumni, 2004), page 49.

¹⁴ H. M. Kamaluddin Lubis, *The Law of Proof of Criminal and Civil Procedure in Theory and Practice*, (Medan: 1992), page 18.

Based on the nature and position as a witness, the witness also listens to the reading of the deed, witnesses the act or reality stated from the deed and signs the deed. A witness does not have to understand what is read and also has no obligation to keep the contents of the deed in their memory. However, witness is obliged to know what constitutes legal actions in it. So, if a dispute on the deed occurs, the investigator can ask for information regarding legal actions in the deed or matters relating to the reading of the deed before a notary. It is, for instance, the presence or absence of the parties when reading the deed or whether or not there is any information about the identity of the parties given to the notary.

Protection of witness is generally regulated in the Criminal Procedure Code article 117 paragraph 1, which states that the statements of suspect and or witness to investigator are given without pressure from anyone and/or in any form. Pressure from anyone should not be carried out on the person being asked for information; even pressure or coercion carried out by investigators, both the Republic of Indonesia Police investigator and Civil Servant Investigator. The threat is not only prohibited, a civil servant who arbitrarily uses his/her power to force others to do something will be threatened with criminality.

Article 5 paragraph (1) letter a of the Witness and Victim Protection Law states that “obtaining protection for personal, family and property security, and free from threats relating to testimony that will be, is, or has been given”. It proves that in giving testimony at the trial, the witness will be guaranteed safety by law and given protection not only personally, but his/her family and property are also included in the protection of the Witness and Victim Protection Institution.

By having protection from the Witness and Victim Protection Agency, the protection strengthens rights or obtains rights as witness, namely:

Obtaining protection for personal, family and property security, and be free from threats relating to testimony that will, is, or has been given:

- a. Participating in the process of selecting and determining the form of security protection and support;
- b. Giving information without pressure;
- c. Getting a translator;
- d. Being free from trapping questions;
- e. Getting information about the progress of the case;
- f. Getting information about court decisions;
- g. Getting information when the convict is released;
- h. Getting a new identity;
- i. Getting a new residence;
- j. Obtaining replacement for transportation costs as needed;
- k. Getting legal advice; and/or
- l. Obtaining temporary living expenses until the protection deadline ends.

The protection against the witness, as stipulated in Law No. 31 of 2014 concerning Amendments to Law No. 13 of 2006 concerning Protection of Witness and Victim, is a guarantee of legal protection for witness including the witness from notary employee. Thus, it is expected to be able to create a conducive situation so that witness participation will increase. If there is no longer a sense of concern or threat by a particular party, the witness from the notary employee will eventually give a true testimony and not give a testimony that he/she does not know for sure.

Conclusions

Based on the results of the research and discussion above, it can be concluded as follows:

1. The relationship of a notary to a notary employee is basically a relationship between the two parties; i.e. between employer (notary) and worker (notary employee) with an agreement in which the worker ties him/herself to the employer to work with a salary. In addition, the employer (notary) states his/her ability to hire worker by paying wages. In this case, Law No. 13 of 2003 concerning Manpower does not regulate legal protection against notary employee who acts as witness in making deed. However, Law No. 13 of 2003 concerning Manpower for workers, which in this case is a notary employee, only refers to protection to guarantee worker's basic rights and guarantees equality and treatment without discrimination on any basis.
2. According to the provisions of civil law, until now, there are no rules governing legal protection against notary employee who acts as witnesses in making deed in the trial process. However, in the context of criminal law, protection of witness is generally regulated in article 117 paragraph 1 of the Criminal Procedure Code which states that the statements of suspect and/or witness are given to investigators without pressure from anyone and/or in any form. Regarding Law No. 31 of 2014 concerning Amendment to Law No. 13 of 2006 concerning Protection of Witness and Victim, a notary employee who acts as a witness in making deed also receives protection for personal, family and property security, and is free from threats relating to testimony that will, is, or has been given.

Suggestions

Furthermore, the suggestions that can be given based on the above conclusions, related to legal protection against notary employee who acts as witness in making deed, are as follows:

- a. Regulations regarding the protection of instrumental witness should be included in articles of Law No. 2 of 2014 concerning Notary Position or by making special legislation governing rights and legal protection against the instrumental witness.
- b. It requires a collaboration between the notary public through the Notary Supervisory Board and the investigator party, in this case the Police of the Republic of Indonesia, regarding the regulation of legal treatment and protection against instrumental witness; especially in relation to notarial deed that is exposed to a case and in the process of investigation and trial. Thus, investigators can understand the real function of the instrumental witness. Thus, there are no mistakes in carrying out their duties as state apparatus that safeguard and protect the community.

Based on the above conclusions, the author provides the following suggestions:

- a. It is recommended that the notary who is still active to give each other confirmation and coordination with fellow notaries to help each other in completing everything related to the notary protocol, and provide understanding to the family and employees about the notary protocol. Thus, even though the notary concerned died, the notary protocol could still be resolved.
- b. It is suggested to the Regional Supervisory Board to disseminate the notary protocol and submit the notary protocol that died to the notary who is still active and to the community, and to be proactive in conducting guidance and supervision to the notary. The firmness of the Regional Supervisory Board regarding the notary protocol must still be carried out if a notary dies but the protocol has not been submitted to another notary within 30 (thirty) days. In this case, the Regional Oversight Board has the authority to take and transfer the deceased the notary protocol to implement the provisions of the Law as well as the moral obligation to the notary protocol for the benefit of society at large.
- c. It is suggested to the organization of Indonesian Notary Association in the local area to coordinate with the Regional Supervisory Board related to the notary protocol that has not been

submitted by the heirs to the notary recipient of notary protocol, and encourage the Regional Supervisory Board to immediately exercise its authority in taking the notary protocol which is abandoned or not yet delivered.

- d. It is recommended to the Ministry of Law and Human Rights of the Republic of Indonesia specifically to pay attention to the delegation of authority in the issuance of Decree concerning the appointment of notary recipient of notary protocol to the Head of Regional Office of the Ministry of Law and Human Rights, so that delay in issuing Decree regarding appointment of notary recipient of notary protocol does not occur and legal certainty for the notary recipient of the notary protocol to issue a copy of the original deed contained in the protocol received by the notary recipient of the notary protocol can be realized.

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