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The Roles of Notary in Living Environment Conservation

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Abstract

Humans as one of the objects of life face increasingly complex problems leading to a prosperous life. Humans in life towards prosperity in society need a Notary in making a deed. Notary is a legal profession, so the Notary profession is a noble profession (Nobile officium), considering that the notary profession is very closely related to humanity. This study aims to know and understand the role of the notary in Living Environment conservation. This study uses normative legal research methods, with sources of legal materials such as primary legal materials, secondary legal materials and tertiary legal material. Notary is a public official who is authorized to make an authentic deed and has other authority as referred to in this Law or based on other laws. While the Living Environment is a number of objects and conditions that exist in the space we occupy that affect our lives. This Living Environment includes dynamic (biotic) and static (abiotic). The role of a notary in Living Environment conservation is very important, remembering the duties and functions of a notary in the community primarily on making a deed, and a notary in carrying out his profession must pay attention to Living Environment conservation (especially the Living Environment on land) considering the notarial deed has implications on the Living Environment such as land deeds, and so on, which are beneficial to the community.

Keywords: Conservation, Living Environment, Notary Public

1. INTRODUCTION

Notary is a legal profession or called as noble profession (Nobile officium) because the notary profession is very closely related to humanity (Anshori, 2009). Every deed made by and/or before the notary public may become a legal reason for transferring a right to an object or can cause a person's rights or obligations. Mistakes in notarial deeds can result in the loss of one's rights or the burden of someone on certain obligations. Thus, the task of a notary is very hard, including making / designing / concocting a legal event that occurs in an authentic deed to be in accordance with the wishes of the community based on applicable legal

provisions and not cause disputes in the future. So that, it seems so central to the position of a notary in social life, therefore, a notary must be a professional one.

The Living Environment is an absolute part of everyone's life (Siahaan, 2006). Humans breathe and get light because there is air and sun, as well as human needs by finding food, drinking, making houses, bathing, and take shelter are from the Living Environment (Siahaan, 2006). Furthermore, processing a production, making buildings, creating transportation, nuclear reactors, creating Apollo to the moon, communicating in long distances (up to hundreds of thousands of

kilometers), processing information through telematics systems and so on are due to the availability provided by the Living Environment (Rangkuti, 2005). Bearing in mind the importance of the benefits and functions of the Living Environment for living things, especially human beings on earth, it is felt necessary to conserve the Living Environment that is sustainable for the life of mankind.

In addition, to the conservation and control of pollution and Living Environment damage requires the collaboration of Living Environment experts from various scientific disciplines to work together to examine the factors that hinder or encourage coaching development and Living Environment development in the State of Indonesia. Based on the description above, it appears that the duties of a notary in making a deed, in the global era with the increasingly rapid activity of cross-border countries, Indonesia as an archipelagic country (Sudini, 2015) that is very concerned about the Living Environment (both land, sea and air) is related to human life in earth, it is deemed necessary that a notary deed in Indonesia is made Living Environmentally friendly or in other words a notary deed must pay attention to Living Environment conservation so that the notary deed is able to protect the Living Environment to be sustainable, while also being able to create justice, ensure legal certainty and make peace for the wider community in Indonesia. Based on the description above, this current study aims to know and understand the role of the notary in Living Environment conservation.

2. METHOD

This study was designed in normative legal research methods. That is, a process to find the rule of law, legal principles, and legal doctrines to address the legal issues at hand (Marzuki, 2009). With the normative legal research method, it can be determined that the types of approach used are the statutory approach and

conceptual approach. Normative legal research, through library research (library research) in this paper used sources of legal materials, such as primary legal materials, secondary legal materials and tertiary legal materials. Collection of legal materials, can be done by starting an inventory, classification, reading, recording, and systematizing the legal materials used in writing this scientific work. Furthermore, after all legal materials, both primary, secondary and tertiary legal materials have been collected, a qualitative - descriptive analysis is carried out. That is, an analysis is carried out by means of exposure in the form of a description of a sentence in order to obtain an appropriate conclusion, correct, logical and scientific in accordance with the problems made.

3. RESULTS AND DISCUSSION

General Study of Notary Public

According to the provisions of Article 1 number (1) of Law Number 2 of 2014 concerning amendments to Law of the Republic of Indonesia Number 30 of 2004 concerning the Position of Notary (hereinafter abbreviated to UUJN-P). (LN. 004-117, TLN No. 4432), states that Notary is a public official who is authorized to make an authentic deed and has other authorities as referred to in this Law or based on other laws. Based on this definition, it can be understood that the main authority of a notary is to make an authentic deed, therefore all deeds made by or before a notary are authentic deeds. Duties and Functions of Notaries and Land Titles Registrar as follows.

- a. Book the letters under the hand by registering in a special book (waarmerking)
- b. Make a copy of the original letter under the form of a copy containing the description as written and described in the relevant letter
- c. Validating a photocopy match with the original letter (legalized)

- d. Provide legal counseling in connection with the making of the deed
- e. Make an auction treatise deed
- f. Correcting written errors and/or typos contained in the signed minutes of the deed, by making an official report and giving notes on the original minutes of the deed stating the date and number of the corrected official report, and the copy is sent to the parties (Article 51 UUJN).

Notary obligations, according to Article 16 of the law of notary position, include:

- a. Acting honestly, thoroughly, independently, impartially and protecting the interests of parties involved in legal actions;
- b. Make a deed in the form of a minuta deed and save it as part of the Notary protocol, the notary guarantees its validity; the notary is not required to save the minutes of the deed if the deed is made in the form of the original deed;
- c. Take out the grosse deed, copy of the deed and citation based on the deed minuta;
- d. Must provide servants in accordance with the provisions in the law of notary position, unless there is a reason to refuse them. Referred to as reasons for rejecting it are reasons: 1) which makes the notary take sides; 2) those who make a notary benefit from the contents of the deed; 3) Notary has blood relations with the parties; and 4) the deed requested by the parties violates immorality or morals;
- e. Keep everything confidential about the deed he made and all information obtained for making the deed in accordance with the oath/position;
- f. The obligation to keep confidential is to keep everything related to the deed and other documents to protect the interests of all parties involved;
- g. Binding deeds that are made in one month into 1 book/bundle which contains no more than 50 deeds, and if the number is more than it can be bound in other books, recording the number of minutes of the deed, month and year of its making on the cover of each book. This meant that the official documents were authentic;
- h. Binding the deeds that are made in one month into 1 book/bundle which contains no more than 50 deeds, and if the number is more than it can be bound in other books, recording the number of minutes of the deed, month and year of its making on the cover of each book; this is intended that official documents which are authentic require security both on their own act and on their contents to prevent irresponsible misuse;
- i. Make a list and deed of protest against non-payment or receipt of securities;
- j. Make a list of deeds relating to the will according to the elaboration of the time of making the deed every month and send the list of intended deeds or the list of null deeds to the List of Testament Centers of the Department of Justice and Human Rights no later than the 5th of each month and report to the regional supervisory assembly no later than the 15th of each the month;
- k. Noting in the repertorium the date of sending a list of wills at the end of each month;
- l. Having a stamp containing the Republic of Indonesia's state symbol and the space enclosing it, writing the name, position and place of residence concerned;

- m. Read out the deed before the parties, attended by at least 2 witnesses and signed at that time by the parties, notaries and witnesses;
- n. Receive a notary candidate internship

Prohibition of Notary Position According to the law of notary position (Article 17) Notary is prohibited:

- 1. Running a position outside the area of the office;
- 2. Leave his office for more than 7 consecutive working days without a valid reason;
- 3. Concurrently serving as a civil servant;
- 4. Concurrently serving as a state official;
- 5. Concurrently acting as an advocate;
- 6. Concurrently serving as a leader or employee of a BUMN, BUMD, or private business entity;
- 7. Concurrently acting as an official of the land deed outside the area of notary position;
- 8. Become a substitute notary public;
- 9. Conducting other professions that are contrary to religious norms, decency or propriety that can affect the honor and dignity of the position of notary public;
- 10. The notary is only domiciled in one place in the city/regency, and has an obligation to hold the position of the entire Province of the province from his domicile;
- 11. Notary public has only 1 office, may not open branches or representatives and is not authorized to regularly carry out positions from outside the place of domicile, which means that all deed-making must be carried out at the Notary's office except for making certain deeds;

- 12. The notary public can assist the civil union, in this case establishing an office with a notary public, while still observing his independence and neutrality in carrying out the position of notary public;
- 13. Each notary is placed in an area based on notary formation. The notary formation is determined by the Minister of Law and Human Rights, taking into account the notary's proposal and organization.

The Role of Notaries in Living Environment Conservation

Notary profession in making a Deed is very necessary in the community relating to certain legal events. In addition to avoiding errors and deeds made by a legal defect Notary and others, a notary in the implementation of his profession must pay attention to and implement the precautionary principle properly and based on the principle of good faith. Thus, the Deed of the product of a notary can be useful in accordance with the needs of the community. Furthermore, on the other hand, the deed made by a notary, especially the deed relating to land, appears to have an impact on the Living Environment universally. This happens, considering that land is a Living Environment on land for human beings and other creatures on earth.

Then the deed made by a Notary has implications for the Living Environment that can affect the Living Environment, in the form of good and healthy influences as well as bad and/or unhealthy effects on the Living Environment due to changes in land use (land) in the community caused by the Notarial Deed. A deed produced by a notary public can change the function of the land in the community.

The types of Deed that can be made by a Notary in the community include: a deed of land that is subject to the provisions of the regulations from the State Land Agency as well as taking into

account the provisions in the field of Agrarian Affairs as well as provisions in the spatial field or the Law on spatial planning in Indonesia and other fields of deed, which are beneficial to society.

Furthermore, speaking of the Living Environment, Indonesia has full and absolute sovereignty and is exclusive to land, sea (water) and air (Sudini, 2017). Furthermore, the term Living Environment used in this study is a translation of the term "Environmen" in English or "L'Living Environment" in French, "Umwelt" in German, "Milliu" in Dutch, "Alam sekitar" in languages Malaysia, "Kapiligiran" in Tagalog. The term Living Environment is technically meant by the Living Environment or more fully the human Living Environment.

According to article 1 point (1) of Law No. 32 of 2009 concerning Living Environment Protection and Management, the Living Environment is a unitary space with all objects, power, conditions, and living things, including humans and their behavior, which affect nature itself, sustainability life, and the welfare of humans and other living things. Prof. Emil Salim explained that in defining the Living Environment in general, is defined as all objects, all objects, conditions and influences contained in the room occupied and affect living things including human life. Otto Soemarwoto, in this case defines the Living Environment as a number of objects and conditions that exist in the space we occupy that affect our lives. The Living Environment here includes the dynamic (biotic) and the static (abiotic). The dynamic Living Environment includes the areas of humans, animals and plants.

Between humans and the Living Environment there is a reciprocal relationship. Humans affect the Living Environment, and vice versa humans are affected by the Living Environment. Humans are in the Living Environment and humans are inseparable from the Living Environment. Human existence occurs in part because of the characteristics of

human offspring and in part because of its Living Environment.

The interaction between human beings and their Living Environment has formed interdependence. The Living Environment is formed by the interaction between the Living Environment and humans. Humans and the Living Environment have a dynamic relationship.

Changes in the Living Environment will cause changes in human behavior to like themselves and new conditions. Changes in human behavior will subsequently also cause changes in the Living Environment. The existence of a circular dynamic relationship between humans and their Living Environment, we can say "only in a good Living Environment, humans can develop optimally, and only with good people the Living Environment can develop to the optimal level." The importance of Living Environment conservation for subsequent survival, with methods of Living Environment conservation and based on science and religion. Based on the description above, it can be said that the importance of maintaining and conserving the Living Environment as a place for humans and other living creatures to be able to develop optimally and sustainably. So it is very necessary to conserve the Living Environment itself.

Thus it can be said that, the word *pelestarian* comes from the word "*lestari*" which means it remains as it was in its original state, unchanging, enduring. Then get additional information and suffixes, it becomes *pelestarian* which means the process, method, act of preserving, protection from destruction and damage, preservation, conservation, management of natural resources that guarantees their wise use and guarantees the harmony of their supplies while maintaining and improving the quality of values and its diversity.

Legal Basis for Living Environment Conservation

Efforts to protect the Living Environment are our responsibility as human beings. In this case, efforts to protect the Living Environment are not only the responsibility of the government, but the joint responsibility of the government and the public. In its implementation, the government has issued several policies that can be used as legal umbrella for government officials and the community in acting to conserve the Living Environment. Some of the policies that have been issued by the government include the following:

1. The 1945 Constitution, Article 33 paragraph (3) which states: "The land, water and natural resources contained therein are controlled by the state and used for the greatest welfare of the people"
2. UU no. 22/2001 concerning oil and natural gas which clearly states that the position of the business in the exploitation and trade of oil and gas is an effort to pursue profit.
3. UU no. 4 of 2009 concerning Mineral and coal mining.
4. Law No. 4 of 1982, the Living Environment is a spatial unit with all objects, forces, conditions, and living things, including humans and their behavior that affect the continuity of life and the welfare of humans and other living creatures.
5. Law Number 4 of 1982 concerning Basic Provisions for Living Environment Management.
6. Decree of the Minister of Industry Number 148/11/SK/5/1985 concerning Safeguarding of Toxic and Hazardous Materials in Industrial Companies.
7. Indonesian Government Regulation (PP) Number 29 of 1986 concerning Living Environment Impact Analysis
8. Establishment of the Living Environment Management Agency in 1991
9. Law No. 23 of 1997 where it has been stated:
 - a) Achieving harmony, suitability and balance between humans and the Living Environment;
 - b) The realization of Indonesian people as Living Environmentists who have attitudes and actions to protect and foster the Living Environment;
 - c) Ensuring the interests of present and future generations;
 - d) Achieving the sustainability of Living Environment functions;
 - e) The controlled use of resources wisely;
 - f) Protected the Unitary State of the Republic of Indonesia against the impact of businesses and/or activities outside the territory of the country that cause Living Environment pollution and/or damage.

Table 1. Law Related to Living Environment Conservation

	Law	Concerning:
1.	Law No. 5/1960	Basic Agrarian Regulations
2.	Law No. 1/1973	Indonesian Continental Foundation
3.	Law No. 5/1983	Indonesia's Exclusive Economic Zone
4.	Law No. 5/1984	Industry
5.	Law No. 17/1985	Ratification of the UN Convention on the Law of the Sea
6.	Law No. 5/1990	Conservation of Living Natural Resources and Their Ecosystems
7.	Law No. 16/1992	Animal, Fish and Plant Quarantine
8.	Law No. 5/1994	Ratification of the Convention on Biological Diversity

9.	Law No. 41/1999	Forestry
10.	Law No. 22/2001	Oil and gas
11.	Law No. 7/2004	Water resources
12.	Law No. 31/2004	Fishery
13.	Law No. 26/2007	Spatial planning
14.	Law No. 27/2007	Management of coastal areas and small islands
15.	Law No. 17/2008	Cruise
16.	Law No. 18/2008	Waste management
17.	Law No. 4/2009	Mineral and Coal Mining
18.	Law No. 10/2009	Tourism
19.	Law No. 18/2009	Animal Husbandry and Health
20.	Law No. 32/2009	Protection and management of the Living Environment
21.	Law No. 30/2009	Electricity
22.	Law No. 41/2009	Protection of sustainable agricultural food land
23.	Law No. 45/2009	Amendments to Law Number 31/2004 concerning fisheries

Efforts of Living Environment Conservation

The development objective in addition to shaping the Indonesian people as a whole is also overcoming and maintaining natural resources and the Living Environment to remain sustainable. For that the community must:

- a. Keeping it from damaging the Living Environment
- b. Memelihara dan mengembangkan agar sumber daya alam tetap tersedia
- c. Maintain and develop it, so natural resources remain available
- d. Usability must be seen within optimal limits
- e. Does not reduce the ability and sustainability of other natural resources
- f. And the choice of using natural resources for future preparation

As for efforts to preserve the Living Environment, including:

1. Rehabilitation of critical land

Rehabilitation of critical land is carried out by means of land management and cultivation, irrigation systems, cropping patterns, eradication of pests and weeds, water pollution and so on. For areas prone to erosion, especially in riverbank areas, the slopes of the mountains are carried out by means of isolated planting, reinforcing plants and

cropping patterns from open land to contour model land.

2. Forest land rehabilitation

Rehabilitation of forest land due to lading patterns separated from cultivators. Forest area issuance, socialization of rules, prohibitions and sanctions to all communities, both entrepreneurs who have the right to aviation forests and traditional communities living near the forest.

3. Prevent Water Pollution

- a. Protect water systems by rehabilitating protected forests, preventing forest destruction, forest expansion, preventing erosion for areas with high rainfall, preservation of soil. Protecting rivers from waste pollution, household and industrial waste. Making rain water infiltration for dense residential areas.
- b. Oversee sewage disposal systems into the sea, poison fishing systems and marine reef protection. Example: along the northern coast of Java, around Krakatau, the Malaka Strait, *Mentawai* Islands.

4. Prevent Air Pollution

- a. Especially industrial estates and big cities in Java, Sumatra and

Kalimantan, pollution levels of factories and motor vehicles have been monitored

- b. Di Jakarta pada Tahun 2005 telah diberlakukan pelarangan merokok di tempat umum, yang melanggar sanksinya sangat keras yakni dapat didenda hingga Rp. 50.000.000 atau hukuman kurungan hingga enam (6) bulan
- c. In Jakarta in 2005, a ban on smoking in public places was implemented, those who violate the sanctions are very harsh, which can be fined up to Rp. 50,000,000 or a prison sentence of up to six (6) months
- d. Likewise, motor vehicle that emit a lot of smoke are also prohibited in certain places in urban areas. All of this is done so that our Living Environment will not be increasingly damaged.

Considering the description above, it can be said that the role of a notary in conserving the Living Environment, especially the Living Environment on land, is very important and urgent. This is because the Deed made by a Notary Public has implications for the Living Environment, which can affect the Living Environment, in the form of a good and healthy effect as well as a bad and/or less of healthy effect on the Living Environment due to changes in the function of land in the public due to the Notary Deed (Sudini, 2016).

4. CONCLUSION

Based on the research result, it can be concluded that the role of a notary in Living Environment conservation is very important, remembering the duties and functions of a notary in the public primarily in making a deed, and a notary in carrying out his profession must pay attention to the Living Environment conservation (especially the Living Environment on land) considering that deeds made by notaries have implications for the Living Environment such as deeds

of land plots, etc., which are beneficial to the community. Through this study, researcher recommended for the Notary in carrying out the duties and functions of the Notary or the Notary profession must pay attention to and implement the precautionary principle as regulated in the Law on Notary Position, so that Notaries avoid mistakes in carrying out their duties and functions or profession. Then, humans as part of community life have many interests in life, including the interest of the Notary to fulfill the necessities of a good and prosperous life, should have the honesty and certainty of definite and firm documents, if they ask for help from a Notary to meet the needs of life in the main community relating to the making of a deed by a notary.

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