

August 29th 2018

THE 4th INTERNATIONAL AND CALL FOR PAPER

Legal Construction and Development in Comparative Study
The Role of Indigenous and Global Community in Constructing National Law

IMAM AS SYAFEI BUILDING
Faculty of Law, Sultan Agung Islamic University
Jalan Raya Kaligawe, KM. 4 Semarang, Indonesia

UNISSULA PRESS

ISBN. 978-602-5995-94-1

August

29th

2018

The 4rd PROCEEDING

“Legal Construction and Development in Comparative study (The Role of Indigenous and Global Community in Constructing National Law)”

IMAM AS SYAFEI BUILDING

Faculty of Law, Sultan Agung Islamic University

Jalan Raya Kaligawe, KM. 4 Semarang, Indonesia

Diterbitkan oleh :
UNISSULA PRESS

ISBN. 978-602-5995-94-1

The 4rd PROCEEDING

“Legal Construction and Development in Comparative study (The Role of Indigenous and Global Community in Constructing National Law)”

Reviewer:

Prof. Dr. H. Gunarto, S.H., S.E., Akt., M.Hum

Dr. Hj. Anis Mashdurohatun, S.H., M.Hum

Prof. Henning Glaser

Prof. Dr. I Gusti Ayu Ketut Rachmi Handayani, MM

Prof. Shimada Yuzuru

Prof. Associate Dr. Dr. Ahmad Zaharudin Sani

Dr. Hilaire Tegnan

Editor :

Dr. Amin Purnawan.,S.H.,CN.,M.Hum

Dr. Hj. Widayati.,S.H.,M.H

Dr. Hj. Sri Endah Wahyuningsih, S.H., M.Hum

M. Abdul Hadi.,SE

Hak Cipta © 2016, pada penulis

Hak Publikasi pada penerbit UNISSULA PRESS

Dilarang memperbanyak, memperbanyak sebagian atau seluruh isi dari buku ini dalam bentuk apapun, tanpa izin tertulis pada penerbit.

Hal i-xii, 1-447

Cetakan Pertama Tahun 2018

Penerbit UNISSULA PRESS

Jl. Raya Kaligawe Km. 4 Semarang 50112

PO BOX 1054/SM,

Telp. (024) 6583584, Fax. (024) 6594366

ISBN. 978-602-5995-94-1

INFORMATION OF THE CONFERENCE AND CALL PAPER

UNISSULA
WORLD CLASS ISLAMIC UNIVERSITY
SULTAN AGUNG ISLAMIC UNIVERSITY

Welcome to Participants on

THE 4th INTERNATIONAL AND CALL FOR PAPERS

"Legal Construction and Development In Comparative Study"
The Role of Indigenous and Global Community in Constructing National Law

29-30 August 2018

IMAM AS SYAFEI BUILDING
Faculty of Law, Sultan Agung Islamic University
Jalan Raya Kaligawe, KM. 4 Semarang, Indonesia

INVITED SPEAKERS :

- 1. Prof. Henning Glaser
Thammasat University, Thailand
- 2. Dr. Hilaire Tegnau, LL.M.
Faculty of Law, Sorbonne University
- 3. Prof. Shimada Yuzuru
Nagoya University, Japan
- 4. Prof. Dr. Topo Santoso, S.H., M.H.
Indonesia University (UI), Indonesia
- 5. Dr. Hj. Sri Endah Wahyuningsih, S.H., M.Hum
Sultan Agung Islamic University, Indonesia

Organized by : Faculty of Law Sultan Agung Islamic University (UNISSULA) Semarang-Indonesia
www.fh.unissula.ac.id

UNISSULA
WORLD CLASS ISLAMIC UNIVERSITY
SULTAN AGUNG ISLAMIC UNIVERSITY

THE 4th INTERNATIONAL AND CALL FOR PAPERS

29-30 August 2018

"LEGAL CONSTRUCTION AND DEVELOPMENT IN COMPARATIVE STUDY"
The Role of Indigenous and Global Community in Constructing National Law

INVITED SPEAKERS :

- 1. Prof. Henning Glaser
Thammasat University, Thailand
- 2. Dr. Hilaire Tegnau, LL.M.
Faculty of Law, Sorbonne University
- 3. Prof. Shimada Yuzuru
Nagoya University, Japan
- 4. Prof. Dr. Topo Santoso, S.H., M.H.
Indonesia University (UI), Indonesia
- 5. Dr. Hj. Sri Endah Wahyuningsih, S.H., M.Hum
Sultan Agung Islamic University, Indonesia

IMAM AS SYAFEI BUILDING
Faculty of Law,
Sultan Agung Islamic University
Jl. Raya Kaligawe, KM. 4
Semarang, Indonesia

Organized by : Faculty of Law UNISSULA Semarang-Indonesia
www.fh.unissula.ac.id

This Conference And Call Paper was held by the Faculty of Law, Sultan Agung Islamic University (UNISSULA) Semarang, on:

Day : Wednesday

Date : August 29th 2018

Time : 08:00 - 15:00 pm

Place : Imam As Syafei Building

Faculty of Law, Sultan Agung Islamic University

Jl. Raya Kaligawe Km. 4 PO. BOX.1054 Telp. (024) 6583584

Fax. (024) 6582455 Semarang 50112

**COMMITTEE OF THE 4th INTERNATIONAL CONFERENCE
AND CALL FOR PAPER**

“Legal Construction and Development in Comparative study (The Role of Indigenous and Global Community in Constructing National Law)”

Responsible Person	: Prof. Dr. H. Gunarto.,S.H.,SE.,Akt.,M.Hum	(Dean)
Advisory	: Dr. Hj. Widayati.,S.H.,MH Arpangi.,S.H.,M.H	(Vice Dean I) (Vice Dean II)
Chairwoman	: Dr. Hj. Anis Mashdurohatun,S.H,M.Hum	(Head of PDIH)
Secretary	: Dr. Hj. Sri Endah Wahyuningsih,S.H,M.Hum	(Secretary of PDIH)
Treasurer	: Anita.,S.S.,M.H	
Drafting Team	: Dr. H. Amin Purnawan.,SH.,CN.,M.Hum H Dr. Hj. Aryani Witasari.,S.H.,M.H Dr. H. Umar Ma’ruf.,S.H.,Sp.N.,M.Hum Dr. Hj. Sri Kusriyah.,S.H.,M.Hum	
Secretariat and Supplies		
Division		
Coordinator	: M. Abdul Hadi.,SE	
Member	: Slamet Ariyanto Dyan Teguh Aryanto, Amd M. Ngaziz.,S.H.,M.H A.J Pamungkas.,S.Psi.,S.H.,M.Kn	
Publication and		
Documentation Division	: Nailul Mokorobin.,S.Psi	
Member	Agus Prayoga	
Consumption Division : Shinta Pratiwi		
Member	Siti Pardiyah Marsela Dinda Amalia.,S.Kom	
General Assistant	: Riswanto	
Security	: Rohmani	
Driver	: Ismail Irwanto	

PREFACE

Assalamu'alaikum, Wr. Wb

First of all, let's say Thanks to Allah, who has been giving us guidance, happiness, healthy, and mercy, so we can finish this conference proceeding without any obstacles. Praise and salutation upon our prophet Muhammad saw the last messenger, the best figure of this universe; the person who was able to save us from Jahiliyah era.

We would like to extend our thanks to the invited speakers: **Prof. Henning Glaser from Thammasat University, Prof. Shimada Yuzuru from Nagoya University, HilaireTegnan, Ph.D from Sorbone University, Prof. Topo Santoso From Indonesian University, and Dr. Sri Endah Wahyuningsih, S.H., M.H from Sultan Agung Islamic University.**

This was our fourth International conference and call for paper held by Faculty of Law, Sultan Agung Islamic University. This annual conference tries to gain any information and studies done by academician and practitioner in the concerned field to be discussed as guidelines to exchange and talk about views on the most important recent on Legal Construction and Development focusing on The Role of Indigenous and Global Community in Constructing National Law happens in both developed and developing countries and its role in shaping a good future, and to discuss the challenges and practical aspects in integrating competition law enforcement and guidelines to develop legal state in accordance with the diversity of all countries around the world. We hope this conference brings benefit for both participants and our faculty.

We are pleased to have your critique, suggestion and correction in order to make us better. Finally, we do thanks to all who helped this conference. May Allah guide us to always develop useful knowledge for human being.

See you in our fifth International and call for paper next year.

Wassalamualaikum, Wr. Wb

Semarang, August 31th 2018

Chairman of the Committee,



Dr. Anis Mashdurohatun, S.H., M.Hum
NIDN : 06-02105-7002

GREETING FROM THE DEAN OF FACULTY OF LAW

As-salamu'alaikum Wr. Wb.

Thank to Allah is an absolute act that we must say after conducting the International Conference and Call for Paper by theme : “Legal Construction and Development in Comparative study (The Role of Indigenous and Global Community in Constructing National Law)” which was held by Faculty of Law Sultan Agung Islamic University (UNISSULA) Semarang, on August 29th 2018.

This conference tried to reviews different theories of legal development focusing on The Role of Indigenous and Global Community in Constructing National Law in order to highlight their similarities and differences. In the field of law, the substance of the discussion does not lie in 'whether the law is traditional because of the heritage of the past or not', but on the meaning of justice contained in the law. Often in discussing legal matters, we are caught up in the understanding of law in a procedural sense, not a law in a substantive sense-that satisfies the sense of justice. So it is not realized, there is a reduction of the meaning of the law substantively (which meets the sense of justice) becomes law procedurally. Especially when human life enters the era of globalization characterized by modern, as well as loaded with contemporary challenges and issues.

Globalization, in general people understand it is a process in the life of mankind to a society that covers the whole globe. This process is possible and facilitated by advances in technology, especially communication and transportation technology. Such understanding is not much different from the understanding of globalization as a process that refers to "a single interdependent world in which capital, technology, people, ideas, and cultural influences flow across borders". With such understanding, we are gradually going to live in a one world where individuals, groups and nations become more interdependent. In the global human society there will be patterns of social relationships that are different from before. And that too is a portrait of social life not found before.

Therefore, to discuss more about legal construction and development, Faculty of Law, Sultan Agung Islamic University was confidence to conduct a conference by the theme “Legal Construction and Development in Comparative study (The Role of Indigenous and Global Community in Constructing National Law)” focusing on the development of law in both developed and developing countries and its role in shaping a good future.

Finally, we thank to the presenters, article senders, and comittee who had contributed in this event, so that this international seminar ran well.

Wassalamu'alaikum Wr. Wb.

Semarang, August 31th 2018

Dean,

A handwritten signature in black ink, consisting of a long, sweeping horizontal line that curves upwards at the right end, ending in a small arrowhead.

Prof. Dr. Gunarto, SH, SE, Akt, M.Hum
NIDN.062004670

TABLE OF CONTENTS

Front Page	i
Information of the International Seminar	ii
Committee Composition	iv
Preface	v
Greeting From The Dean Faculty of Law	vi
DEVELOPMENT OF THE CONSTITUTION AND CONSTITUTIONALISM IN JAPAN: TRADITIONALISM VERSUS MODERNISM (FIRST DRAFT, PLEASE NOT QUOTE WITHOUT THE CONSENT OF THE AUTHOR)	
Shimada Yuzuru	1
COMPARATIVE LAW, LEGAL REFORM AND LEGAL POLICY: HOW TO HANDLE ECONOMIC CRIMES IN GLOBALIZATION ERA?	
Topo Santoso	13
THE IMPLEMENTATION OF FLEXIBILITY PUNISHMENT PRINCIPLES IN ISLAMIC LAW IN THE RENEWAL OF INDONESIA'S CRIMINAL CODE	
Sri Endah Wahyuningsih.....	24
THE ROLE OF INDIGENOUS AND GLOBAL COMMUNITY IN DEVELOPING NATIONAL LAW IN FRANCE	
Hilaire Tegnau.....	34
INDIGENOUSNESS AND THE GLOBAL IN THE CONSTRUCTION OF MODERN STATE AND LAW IN THAILAND	
Henning Glaser.....	41
THE ROLE OF INVESTIGATOR IN CRIMINAL OFFENCE COMMITTED BY SOMEONE INDICATED BY MENTAL DISORDERS	
Kadek Pande Apridya Wibisana.....	56
EFFECTIVENESS OF NARCOTIC ADDICT REHABILITATION SHARE TO SUPPRESS CRIME NARCOTICS (STUDY IN LOKA REHABILITATION OF THE NATIONAL NARCOTICS AGENCY RIAU ISLANDS PROVINCE)	
Alwan Hadiyanto.....	64
THE IMPACT OF GLOBALIZATION ON THE PREVENTION AND THE SUPPRESSION OF AIRCRAFT HIJACKING IN INDONESIA	
Adya Paramita Prabandari, Agus Pramono, Supanto.....	81

THE COUNTERMEASURES OF THE PROLIFERATION OF RADICALISM IN INDONESIA IN THE NATIONAL SECURITY PERSPECTIVE Airlangga Surya Nagara, Isharyanto, Hartiwiningsih	89
THE 1945 CONSTITUTION OF THE REPUBLIC OF INDONESIA: THE BASIS OF THE HIGHEST NORMATIVE ARRANGEMENT OF MASS ORGANIZATIONS IN INDONESIA Elizabeth Ayu Puspita Adi, I Gusti Ayu Ketut Rachmi Handayani, Supanto.....	96
INVESTIGATION PROCESS OF FIDUCIARY CRIMINAL ACT IN SPECIAL CRIMINAL UNIT, POLRESTABES OF SEMARANG CITY Bambang Purwanto	102
REINFORCEMENT OF REGIONAL REGULATION ON ERADICATION OF PROSTITUTION CONDUCTED BY SATPOL PP, BATANG REGENCY Bibet Wiwia Reno	111
ADULTERY LEGAL REVIEW IN ISLAMIC CRIMINAL LAW AND INDONESIAN CRIMINAL LAW Fahri Sundah	121
IMPOSITION OF SANCTIONS ON INVESTIGATORS WHO COMMIT VIOLENCE IN THE INVESTIGATION PROCESS AT KUDUS POLICE STATION Fenny Wulandary	133
EFFECTIVENESS OF THE IMPLEMENTATION OF THREATS OF ADDITIONAL CRIMINAL SANCTIONS TO RETURNS THE STATE FINANCIAL LOSSES IN CORRUPTION CRIMINAL ACT Kasmanto.....	143
LEGAL'S ROLE POLITICS AND THE EFFECT OF POLITICAL PARTIES IN GOVERNMENT (Legal Politics of the Role and Interest of Political Parties in Government) Moureta Vitria Loreent.....	153
THE EFFECTIVENESS OF LEGAL ENFORCEMENT ON BLESPEMNY OF RELIGION IN CIREBON POLICE AREAS Mustamid.....	160
ACHIEVING ETHNICS ORIENTED BUSINESS THROUGH LAW ENFORCEMENT Syafudin Makmur	169
LEGAL PROTECTION FOR DEBTORS IN SELLING OF IMMOVABLE GUARANTEED OBJECTS BELOW THE MARKET PRICE IN INDONESIAN POSITIVE LAW Redy Handoko.....	186

A MALAYSIA OF CITIZENS: ETHNICITY, MEMBERSHIP AND POLITICS OF MERGER	
O. Argo Victoria.....	194
THE DOCTRINE OF PUBLIC POLICY AS A GROUND FOR THE ANULLMENT OF ARBITRAL AWARD IN INDONESIA	
Anang Shophan Tornado, Yati Nurhayati , Ifrani	204
RECONSTRUCTION OF SAVING FINANCIAL STATE LOSSES IN HANDLING CRIMINAL ACTION IN INDONESIA THROUGH JUSTICE-VALUE BASED	
Bastian Lubis	211
IMPLEMENTATION OF RISK MANAGEMENT ON SHARIA BANKING	
Faisal	222
CRIMINAL POLICY TOWARDS INSULTING AND DEFAMATION THROUGH SOCIAL MEDIA BASED ON JUSTICE VALUE	
Gomgom TP. Siregar.....	236
IMPLEMENTATION OF THE CORRECTIONAL SYSTEM IN INDONESIA BASED ON JUSTICE VALUE	
Syawal A Siregar.....	244
COMMUNITY PARTICIPATION IN THE SETTLEMENT OF CHILDREN CONFLICT WITH LAW THROUGH DIVERSION BASED ON JUSTICE VALUE	
Muhammad Ansori Lubis.....	251
GOVERNMENT OFFICIAL DISCRETION POLICY IN DECIDING PUBLIC POLICY BASED ON JUSTICE VALUE	
Mhd. Taufiqurrahman	262
COMPLETION OF BAD CREDITS IN BANKING FINANCIAL INSTITUTIONS BASED ON JUSTICE VALUE	
Muhammad Yasid	268
AUTHORITY OF YUDISIAL COMMISSION IN ENHANCING JUDGE CODE OF ETHICS BASED ON JUSTICE VALUE	
Maurice Rogers	277
NON-CASH PAYMENT SYSTEM IN ECONOMIC SYSTEM IN INDONESIA BASED ON JUSTICE VALUE	
Jonner Lumban Gaol	284
LEGAL ENFORCEMENT TOWARDS THE VIOLATION OF SPATIAL LAW IN SET BACK BUILDING (GSB) BASED ON JUSTICE VALUE	
Darwin Sinabariba.....	294

RECONSTRUCTION OF SALES RIGHTS OWNERSHIP BASED ON JUSTICE IN PUBLIC MARKETS MANAGED BY REGIONAL COMPANY IN CITY MARKET, MEDAN REGIONAL	
Novi Juli Rosani zulkarnain	300
PROVISION OF SANCTIONS ON THE APPLICABILITY OF DECREASING PERMIT ESTABLISHING BUILDING BASED ON THE JUSTICE VALUES	
Paterson Hasiholan Pardomuan Sibarani	309
LEGAL POLICY ON THE DYNAMICS OF DEMOCRACY IN INDONESIA BASED ON THE VALUE OF JUSTICE AND LEGAL CERTAINTY	
Arifin Sihombing.....	320
LEGAL PROTECTION ON CHILD VICTIMS OF PEDOFILIA IN INDONESIA BASED ON JUSTICE VALUES	
Sarma Siregar	329
THE SETTLEMENT OF BUSINESS DISPUTES IN ELECTRONIC TRANSACTIONS (E-COMMERCE) BASED ON JUSTICE VALUES	
Sarman Sinaga.....	346
POLICY OF COSMETICS DISTRIBUTION IN INDONESIA BASED ON JUSTICE	
Ria Sintha Devi	365
THE PROBLEMS IN MULTIPARTY SYSTEM IN THE INDONESIAN PRESIDENTIAL GOVERNMENT SYSTEM	
Widayati and Winanto.....	381
LEGAL ENFORCEMENT OF LAND FUNCTION CONVERSION (CASE STUDY IN KUNINGAN DISTRICT)	
Haris Budiman.....	391
CONSTRUCTION WORK CONTRACT IN GOVERNMENT BASED VALUE OF BENEFIT	
Herwin Sulistyowati, Sumarwoto	399
STUDY OF LAW NO. 11 OF 2008 CONCERNING ELECTRONIC INFORMATION AND TRANSACTIONS IN PROTECTING THE TRADE MARKET THROUGH ELECTRONICS BASED ON THE DEVELOPMENT OF CYBER CRIME IN INDONESIA VIEWED FROM THE PERSPECTIVE OF FREEDOM OF CONTRACT	
Putri Maha Dewi, Setiono, M. Hudi Asrori S	415
JURIDICAL REVIEW OF THE IMPOSITION OF ADDITIONAL PENALTIES FOR PERPETRATORS OF CORRUPTION IN INDONESIA	
Sumarno	425
REFORM OF LEGAL EDUCATION AS AN EFFORT TO PREVENT CORRUPTION	
Yasmirah Mandasari Saragih, Ariansyah	433

SOCIOLOGICAL JURIDICAL REVIEW OF THE CHILD COMMITTING THEFT CRIME AT THE DEMAK STATE COURT	
Achmad Sulchan, Bambang Agus Rianto	449
FUNCTIONALIZATION THE CUSTOMARY INSTITUTION AS LAW ENFORCEMENT EFFORTS IN WEST SUMATERA	
Otong Rosadi, Fitriati Fitriati	457
THE VERIFICATION OF CLOSE CIRCUIT TELEVISION (CCTV) STANDING IN INDONESIA POSITIVE LAW PERSPECTIVE AND ISLAMIC VALUES	
Ira Alia Maerani, Nuridin Nuridin.....	464
COMPARATIVE STUDY OF GUARANTEE LAWS ACCORDING TO ISLAMIC LAW AND CIVIL LAW IN POSITIVE LAW IN INDONESIA	
Lathifah Hanim, Aryani Witasari, Peni Rinda Listyorini.....	470
EXISTENCE AND FORMULATION OF REGIONAL LAWS ON INTELLECTUAL PROPERTY PROTECTION OF TRADITIONAL COMMUNITY IN INDONESIA	
Ariy Khaerudin.....	477
RISK OF THE USE OF FOREIGN WORKER	
Rahmatsyah Rahmatsyah.....	484
OVERVIEW THEORY OF LEGAL PROTECTION AGAINST THE DRIVER RESPONSIBILITY PARTNERS (PARTNERS PT. GO-JEK INDONESIA) UNDER LAW NO. 8 OF 1999 ON CONSUMER PROTECTION	
Aryani Witasari, Wahyu Ibnu Musthofa	492
ANALYSIS OF THE INDONESIAN CRIMINAL CODE ARTICLE NO. 359 IMPLEMENTATION ON MEDICAL MALPRACTICE CASE (Case Study on the Supreme Court Verdict No.: 365-K/Pid./2012)	
Mohammad Abdul Hakam	499
RECONSTRUCTION OF THE PROVISIONS OUTSOURCING	
Muhammad Andri	507
THE ROLE OF INDIGENOUS PEOPLES AND CUSTOMARY LAW IN THE DEVELOPMENT OF NATIONAL LAW THE PARADIGM OF PANCASILA	
Lathifah Hanim, MS. Noorman.....	515
THE ANALYSIS OF LEGAL PROTECTION ASPECTS FOR WOMEN AS VIOLENCE’S PERPETRATOR BASED ON JUSTICE VALUE	
Hadjar Handokojati	522
THE WEAK OF THE REGIONAL REPRESENTATIVES IN MAKING LAWS	
Herlina Hanum Harahap.....	530

REVIEW THE PRODUCTIVITY OF THE PEOPLE'S REPRESENTATIVE IN MAKING LAWS	
Muhammad Ridwan Lubis	538
HONEST AND FAIR GENERAL ELECTIONS TO ORGANIZE THE LAW	
Kasmudin Harahap	545
REGULATION FOR THE POLITICAL PARTY FUNDING IN INDONESIA	
Sudimun Sudimun	552
REGULATION OF CORRUPTION IN INDONESIA	
Danial Syah	559
LAND REDISTRIBUTION ARRANGEMENTS AND ITS CHALLENGES	
Raja Induk Sitompul.....	567
MANAGEMENT OF POLITICAL PARTIES FOR PREVENTION OF CORRUPTION	
Muhammad Evin Barus.....	574
STRENGTHENING THE CORRUPTION ERADICATION COMMISSION TO ILIMINATE CORRUPTION CRIMINAL ACTION	
Tajuddin Noor	580
LEGAL CODIFICATION RELEVANCE WITH THE NATIONAL LEGAL SYSTEM	
Khomaini Khomaini	588
DRAFT LAW ON CRIMINAL CODE AND LEGAL DEVELOPMENT IN INDONESIA	
Syaiful Khoiri Harahap.....	595
DYNASTIC POLITICAL TRADITION IN CONSTITUTION	
Ahmad Rusly Purba.....	602
RULES FOR ERADICATION OF TERRORISM AND STATE SECURITY	
Elawijaya Alsa.....	608
REFORM OF THE IMPLEMENTATION OF PROTECTION AND RECOVERY RAPE VICTIM'S CHILD RIGHTS	
Fatin Hamamah, Teguh Prasetyo, Anis Mashdurohatun.....	614
JUSTICE REPOSITIONING IN THE LEGAL POLITICS OF HEALTH INSURANCE	
Himawan Purwo Handuto, Teguh Prasetyo, Maryanto Maryanto	621
RECONSTRUCTION OF EFFECTIVE YEAR AUTOMATIC VEHICLE TAX PAYMENT TERMS	
Sami'an Sami'an	628

MORALITY AS A BASE IN POLITICS AND LEGAL ENFORCEMENT COMES FROM THE VALUES THAT LIVING IN THE SOCIETY (Reconstruction in Thinking and Behavior) Andi Aina Ilmih.....	634
LEGAL PROTECTION OF INDUSTRIAL DESIGNS BASED ON LAW NUMBER 31 OF 2000 CONCERNING INDUSTRIAL DESIGN Ali Ashadi.....	642
STUDY ON THE LEGAL PHILOSOPHY OF MARRIAGE LAW NUMBER 1 OF 1974 Bagus Gani Setiana.....	647
THE GOVERNOR GENERAL OF THE NETHERLANDS 'POLITICS OF LAW TO APPLY EUROPEAN LAWS TO PRIVATE PEOPLE (TOEPASSELIJK VERKLARING) Bambang Rudi Hartoko.....	653
THE LEGAL POLITICS OF THE RELIGIOUS JURISDICTION IN INDONESIA Bobby A. Rachman	659
ANALYSIS OF NOTARY OBLIGATIONS IN REPORTING TAX PAYMENTS AS TAXABLE ENTREPRENEURS Fani Pratama.....	663
THE ROLE OF THE CODE OF CONDUCT TO IMPROVE THE PROFESSIONALITY OF THE NOTARY Damar Dwi Kuncoro	667
THE LEGALITY OF MAKING NOTARY ACTIONS USING ELECTRONIC MEDIA Yodha Dhia Hogantara.....	671
EXISTENCE OF NOTARY DECTS RELATED TO THE PROCEDURE OF PAILIT PROPERTY RESERVATION Fikrina Setyo Rini.....	675
COMPARISON STUDY OF THE ROLE OF NOTARY IN THE PERSPECTIVE OF ISLAMIC LAW AND POSITIVE LAW IN RELATIONSHIP WITH SERVICE TO THE COMMUNITY Ardiansyah Alrawi.....	684
ROYA MECHANISM OF LAND RIGHTS AS COLLATERAL FOR BANKING BANKS BANNED BY AUCTION OFFICERS BECAUSE THEIR CREDITS ARE PROBLEMS Ade Alfriyan Rumrijono.....	689

THE ROLE OF LAND ASSET OFFICERS ON THE INSTALLATION OF LIABILITY RIGHTS WITH THE NAME OF THE DEAD OF THE WORLD OF DECLARATION OF DECLARATION OF DECLARATION PROCEDURES TO THE HERITAGE EXPERT	
Indana Fawaizah.....	694
ROLE OF NOTARY IN PROVIDING LEGAL PROTECTION AGAINST HOME OWNERSHIP CREDIT CONSUMERS THROUGH STANDARD AGREEMENTS	
Muhammad Muamal	699
IMPLEMENTATION OF PROPORTIONALITY PRINCIPLES IN MAKING NOTARY OF COLLABORATION AGREEMENT BY NOTARY	
Ahmad Tsekhudin	704
LEGAL ASPECTS OF AUCTION CONCERNS AS ASSETS AUTHENTIC IN THE EXECUTION AUCTION OF LIABILITY RIGHTS	
Etik Kuswanti	709
GOVERNMENT REGULATION IMPLICATIONS CONCERNING PPAT OFFICES TOWARD PPAT AREAS / WORKING AREAS	
Angga Wisnu Firmansyah	714
NORMATIVE STUDY OF DISTRIBUTION LAND STATUS FOR BUSINESS RIGHTS	
Daniel Budi Hardwianto.....	721

ANALYSIS OF NOTARY OBLIGATIONS IN REPORTING TAX PAYMENTS AS TAXABLE ENTREPRENEURS

Fani Pratama

fani.pratama90@gmail.com

Students of Master of Notarial Law, Faculty of Law, Univeristas Islam Sultan Agung

ABSTRACT

National Development is an ongoing activity that aims to improve the welfare of the people, one of the sources of state revenue is taxes. It is undeniable that the 70% contributor and one of the pillars of national income comes from tax revenue from. Taxes have a very vital role in a country, without taxing state life will not work well.

Infrastructure development, education costs, medical expenses, subsidized fuel oil (BBM), payments for state employees and construction of public facilities are all financed from taxes. The more taxes collected, the more facilities and infrastructure that will be built. Therefore, taxes are the spearhead of a country's development. Payment of taxes is a manifestation of state obligations and the participation of taxpayers to directly and jointly carry out tax obligations for state financing and national development.

As a person who plays a role as a tax contributor, namely as a Taxable Entrepreneur, a Notary is considered to often accept clients who come to get legalization from deeds and documentation that are valid before the law. Besides being demanded to be able to explain the legal consequences of his services, notaries also need to convey that what is done because of the notary's services there will be aspects of taxes that will arise, among others, are taxes.

Keywords: Tax, Notary, Notary as a Taxable Entrepreneur

A. INTRODUCTION

Notary is a public official whose sole authority is to make an authentic deed regarding all actions, agreements and decisions required by a general regulation or by an interested party to be stated in an authentic deed, guarantees the certainty of the date, keeps the deed and gives grosse .,¹

From the explanation of the importance of taxes as a source of state income, we know that who are the tax subjects. One of them is a notary, a notary is a public official who has the authority to make authentic deeds and other powers.²

One of the requirements to be appointed as a notary is an Indonesian citizen. Every Indonesian citizen is required by regulations to obey and comply with the applicable regulations where one of them pays taxes. According to the provisions of Law Number 36 of 2008, any additional economic capacity received or obtained by the taxpayer to become tax object. A Notary as an Indonesian Citizen who is also obtained for his services in making deeds and other work of a Notary in accordance with the authorities regulated in law. That way before the fulfillment of tax rights and obligations by a Notary who is also an obedient Citizen. and subject to the applicable regulations, the person concerned must have a Taxpayer Identification Number (hereinafter referred to as NPWP).

Based on the description noted, the formulation of the problem can be submitted as follows:

¹ GHS Lumban Tobing, *Peraturan Jabatan Notaris*, Erlangga, Surabaya, 1983, p.31

² Indonesia, Law on the Position of Notary Public, No. .30 of 2004, LN. 11Y7 of 2004, TLN No.4432, art. 1 (1).

1. How is the implementation of reporting on tax payments by a Notary as a Taxable Entrepreneur, based on Law Number 42 of 2009 concerning the third Amendment to Law Number 8 of 1983 concerning VAT and PPnBM (UUPN)?
2. What are the obstacles experienced by the Notary when reporting tax payments according to Law Number 42 of 2009 concerning the third Amendment to Law Number 8 of 1983 concerning PPN and PPnBM (UUPN)?

B. DISCUSSION

1. Implementation of reporting tax payments by a Notary as a Taxable Entrepreneur

As it is well known that a Notary is a public official, whereas in this case a public official is a notary public official who has the authority to make an authentic deed. The criteria for a public official in question is that he meets the following requirements in accordance with the prevailing laws and regulations. Regulation of the Position of Notary in Indonesia (Reglement op het Ambt in Indonesiae) Ordonantie January 11, 1860, Stb 1860 Number 3 which was later repealed by Law Number 30 of 2004 concerning the Position of Notary is a law which explicitly regulates that a Notary is a public official. Since the position of a notary is a position of trust, thus giving birth to the obligation to keep all what his client tells him in his office is secret, in general there is a legal obligation to speak, that is, when summoned as a witness. Summons of a notary in the capacity as a witness to explain an authentic deed that it produces sometimes still rely on the conscience of public and special interests which must still be considered.³

In addition, Notary services that are categorized as legal services are subject to Value Added Tax, namely recording underhanded letters. Especially regarding legal services, which are described in detail in Article 1 point 7 of the Decree of the Directorate General of Taxes Number KEP-05 / PJ / 1994 has stated that legal services are included as taxable services, while what is meant by legal services according to this regulation are:

- a. Lawyer Services
- b. Notary Services / PPAT;
- c. Law Banyuan Institution Services;
- d. Tax Consultant Services;
- e. Other Legal Services.

Thus, it is clear that the pattern or method of applying this VAT tax, that is, is only about the added value of the transaction that occurs, so that there is no double tax imposition. Confirmed as a Taxable Entrepreneur Every Taxpayer is obliged to register himself at the Office of the Directorate General of Taxes whose work compulsory includes the residence or domicile of the Taxpayer and to which will be given a TIN.

- a. Law Number 16 Year 2000 concerning Amendments to Law Number 6 Year 1983 Concerning General Provisions and Tax Procedures.
- b. Decree of the Directorate General of Taxes Number KEP-27 / pj / 1995 dated March 23, 1995 concerning the period of registration and service for business activities as well as procedures for registering taxpayers and confirming taxable entrepreneurs.
- c. Decree of the Director General of Taxes Number KEP-150 / PJ / 1999 concerning Amendment to KEP-27 / PJ / 1995
- d. Decree of the Director General of Taxes Number KEP-515 / PJ / 2000 dated December 4, 2000 concerning Registration for Certain Taxpayers.

³ Kapolri, **Kedudukan dan Fungsi Akta Otentik Fungsi aktaNotaris Sebagai Alat Bukti** (April-Juni2003) p.71

In the case of Value Added tax collection by Notary Services, the requirements that must be had are:

- a. Have a Taxpayer Number
- b. Confirmed as a taxpayer and registered as a Taxable Entrepreneur at the Office of the Directorate General of Taxes in his working area.

Whereas the ownership of NPWP which is the tax identity which contains business data that will provide information to the Directorate General of Taxation regarding the business in terms of its position, regarding the function of the NPWP itself, which is considered capable of providing information about the identity of the taxpayer, to maintain order in tax payers and to meet tax obligations.⁴

2. Constraints faced in tax collection on Notary services

Obstacles that generally occur that must be faced by tax authorities are the lack of transparency or openness with the notary concerned to do bookkeeping related to the delivery of taxable services and also the lack of transparency in reporting and clear tax accounting administration. Where the notary provides documents that support the submission of Taxable Services, because so far what has happened is that the notary has never made detailed and specific VAT and PPnBm tax books so that tax calculations are easily cross-checked by the tax authorities even though the calculation system has been carried out independently by the notary concerned.

C. CLOSING

1) Conclusion

Based on the analysis and discussion that has been put forward by the author, the following conclusions are drawn:

- a. The tax burden given to notaries as taxable entrepreneurs is only imposed on those notaries with a gross turnover of more than Rp. 600,000,000 (Six Hundred Million Rupiahs) while those whose turnover is below the nominal value above are not subject to VAT (Value Added Tax).
- b. There are only obstacles regarding technical problems such as bookkeeping that must be carried out by the Notary as a taxpayer, but the Notary is not automatically equipped with the ability to book taxation so that the Notary feels that the tax reporting referred to by the tax party only makes it difficult for the Notary Public. And the confirmation of the Notary as a taxable entrepreneur is also not completely approved by all Notaries because the inauguration of the Notary as a Taxable Entrepreneur will invalidate the definition of a Notary as a General Officer.

REFERENCES

A. Books

GHS Lumban Tobing, SH, 1979, Regulation of Position Notary, Esa Group, Erlangga: Jakarta.

⁴ Directorate General of Taxes of Indonesia

Liberty Pandiangan, 1993, "Value Added Tax", PT Rineka Cipta: Jakarta

B. Legislation

Law Regarding Notary Position No. 30 of 2004, LN. 117 of 2004, TLN No. 4432

Government Regulations Concerning Implementation of Law said that Baznas is still struggling to achieve this. The president, he said, noted this, in fact it actually increased the country's tax revenue. However, he did not explain why this happened. Wednesday, 22 December 2004. Baznas Suggests Zakat to Reduce Tax Obligations, *Republika Online*: [http // www.republika.co.id](http://www.republika.co.id) Saturday, 16 October 2004.