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Legal Certainty in Ease of Doing Business in The Era of Industrial Revolution 4.0 related to The Notary Profession

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Abstract. *The start of the Industrial Revolution 4.0 brought many changes to the world. This is an era in which the practice of automation and data exchange, as well as the use of internet technology, cloud computing, and cognitive computing will color various sectors of human life, including the realm of the profession. All changes inevitably bring two things: challenges and opportunities. Obstacles that have been found due to changes that have occurred through the Industrial Revolution 4.0 for the notary profession, notaries must always be updated about laws and regulations, and understand technology and can take advantage of digital technology to make authentic certificates. The research method in this writing is normative juridical by analyzing legal materials in the form of Law Number 2 of 2014 concerning the Position of Notary through literature study. For a notary, it is time to see the impact of the Industrial Revolution 4.0 as a challenge and opportunity for the sustainability of the notary profession*

Keywords: *Industry 4.0; Legal certainty; Notary.*

1. Introduction

Notary based on Article 1 number 1 of the Law of the Republic of Indonesia Law of the Republic of Indonesia Number 2 of 2014 regarding amendments to Number 30 of 2004 concerning the Position of Notaries (UUJN) states that a Notary is a public official who has the authority to make authentic deeds and have other authorities as intended in this Law or based on other laws.

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January, 2021 Article 15 paragraph (2) UUJN describes the authority of a notary. These powers include: validating signatures and determining the exact date of letters under hand by registering them in a special book; record letters under hand by registering in a special book; make copies of original letters under the hand in the form of copies containing descriptions as written and depicted in the letter concerned; validate the suitability of the photocopy with the original letter; providing legal counseling regarding the making of deeds; make deeds relating to land; or make a deed of auction minutes.

In the era of industrial revolution 4.0, there is no profession that has not been touched by the impact of digitalization, including the notary profession. Notaries must be prepared to face the challenges and demands of changes starting in companies and registration procedures that have shifted to electronic format and online transmission. Technological advances of the last two decades have had a major impact on the way notaries conduct transactions and interact with public authorities and state institutions. This innovative concept questions the role of notaries in an almost completely digital business environment.

In connection with the development of digitalization, every innovation that is part of the digital hype cycle requires conscious reflection to question whether transactions without the help of a trusted third party really guarantee legal certainty and consumer protection. Whether advances in the field of information technology can affect the function of notaries in carrying out their profession will affect the position of Latin (civil law) notary in anticipating the challenges faced and has turned them into ease of doing business in the era of industrial revolution 4.0.

2. Research Methods

The method used in this research is the Normative Law research method, with a descriptive analytical legislative approach. Namely analyzing openly and providing an objective picture regarding legal certainty in the ease of doing business in the era of industrial revolution 4.0 related to the notary profession by analyzing legal materials in the form of Law Number 2 of 2014 concerning the Position of Notaries. The data collection technique used is library research, namely data and information collected from written materials such as reading books, journals, scientific articles and laws related to this research problem.



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3. Results and Discussion

3.1. The Existence of Civil Law Notaries in the 4.0 Era

The industrial revolution 4.0 has had a changing impact on the industrial world or world of work, including the legal profession, one of which is notary. The development of science and technology must be addressed carefully and wisely by notaries, for example in the industrial revolution 4.0 which can help speed up and facilitate administration, archiving and delivery data.¹

In the Industrial Revolution 4.0, computers and robots are used as a basis which is now connected to the internet in a shared network. Early part in the industrial revolution 4.0 is the "Internet of Things". Computers are getting smaller and more sophisticated and smartphones allow people to connect with the outside world. The second part, namely technological advances which then create all kinds of new sensors and all the ways to utilize the information produced from these sensors and record it for 24 hours. It can be said that a new phenomenon is the almost complete disappearance of private life because all people's movements or activities can be monitored in the control center. The third part of the industrial revolution 4.0 is Cloud Computing, namely computers can carry out complex calculations. The fourth and biggest part is Machine Learning, namely machines that are able to learn, are aware that they have made mistakes and make appropriate corrections to improve subsequent results.²

Judging from history, a notary is a public official appointed by the Minister of Law and Human Rights to carry out and carry out the roles and functions determined by the state to provide public services to the community in order to achieve and create legal clarity relating to civil matters in his capacity. as an official who makes authentic deeds. What is meant by an authentic deed as stated in Article 1868 of the Civil Code is a deed made in a form determined by law or before a public official authorized to do so in the place where the deed was made.

Article 1 of Law Number 2 of 2014 concerning the Position of Notary Public states that Notary Public is a public office that acts in making authentic deeds as well has other duties as stated in the relevant regulations. Can be stated.

¹ Tedjosaputro, Liliana. (2019) Hukum Jabatan Notaris dan Relevansinya dalam Kehidupan Masyarakat, Semarang : CV.AGUNG, p. 5

² Dikdik M. Arief Mansur dan Elisaris Gultom. (2015). Cyber Law dan Aspek Hukum Teknologi Informal, Bandung : Refika Aditama. p. 46



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that the function of a notary is to determine the legal relationship between the parties involved in written form and a certain format, so that it becomes an authentic deed. A notary is a powerful document maker in a legal process.

From the development of the industrial revolution, attempts have been made to keep up with developments in digitalization and utilize it for the beta world. Several professions, practitioners and notaries in the field of Continental law have carried out routine monthly reports digitally. Even though it is said that its use is still limited in the notarial field, it has at least raised the question of whether supercomputers will be able to replace human capabilities in the future.

In terms of legal certainty regarding the ease of doing business in the industrial revolution 4.0 era related to the notary profession, there are several things that must be paid attention to. Namely:³

1. In order for business actors to be able to run their companies and start doing business, several things are needed which cannot be avoided, namely the need for capital, expertise in the field they wish to run and formal equipment in the form of a business entity. In Indonesia, there are known forms of business entities, namely those with legal entities and those without legal entities. Deeds of establishment for certain forms of business require assistance from a notary, including assistance in requesting approval as a legal entity from the government, while for companies that are not legal entities, registration with the relevant agency is sufficient. Apart from determining the form of business entity, complete business permits and other documents are required. After completing this procedure, business actors can start doing business legally. The challenges faced by entrepreneurs are speed, timeliness and legal certainty in equipping themselves and saving costs which will be an opportunity to be able to compete properly and correctly.
2. An authentic deed made by a notary has the strength of external evidence, formal and material evidence so that it can become the strongest and most complete evidence. The power of proof of a notarial deed which guarantees legal certainty will be dealing with digitalization challenges related to the use of supercomputers in and the process or part of the process of making a notarial deed using a computer/internet network still has the characteristics of an authentic deed and perfect evidentiary power.

³ Aris Yulia, Profesi Notaris di Era Industrialisasi dalam Perspektif Transendensi Pancasila , Jurnal Law & Justice, Volume 4, Nomor 1, 2019, p. 6

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3. Cyber notary. As with any technological advancement, legislation is expected can provide facilities for new paradigms along with advances in the field of information technology. This evolution is especially important with regard to electronic communications in the field of commerce, including electronic correspondence (e-mail). The World Wide Web and Electronic Data Interchange (EDI) have succeeded in supporting communication, especially among business people who originally communicated conventionally through writing. The provisions of Article 15 paragraph (3) UUN state that another authority of a notary is to certify transactions carried out electronically, although it is not explained further whether what is meant is the same as a cyber notary. At least what is meant is electronic documents. Lastly, there is Regulation of the Minister of Communication and Information of the Republic of Indonesia Number 11 of 2018 concerning the Implementation of Electronic Certification.

4. Online trading has been carried out in stock exchange and retail business activities. Electronic transactions are also known in the notarial world, namely the Legal Entity Administration System (SABH) relating to applications to obtain a decision to ratify a limited liability company (PT) through the Ministry of Law and Human Rights electronically. Notaries are taking on new roles and responsibilities, for example by supporting the authorities in detecting and handling money laundering cases. The notary's obligation is to report it to the Financial Transaction Reports Center (PPATK) via an online application or known as the Gathering Reports & Information Processing System (GRIPS) with the notary's obligation to register on the site <https://grips.ppatk.go.id>, related with suspicion of criminal acts of money laundering and criminal acts of terrorism, including the principle of identifying the beneficial owners of corporations related to these criminal acts. In terms of accelerating and increasing capital and business investment (Law Number 25 of 2007 concerning Capital Investment), the government of the Republic of Indonesia has implemented an Electronically Integrated Business Licensing service called Online Single Submission (OSS). Including the convenience provided to internal business actors carrying out business and/or activities that are given in the form of approval stated in the form of a letter/approval or fulfilling conditions and/or commitments.

5. When making an authentic deed electronically, you must be really careful and careful in making it, because electronic deeds have weaknesses in terms of proof, because virtual deeds are very vulnerable to changes, being faked or can be made by parties who are not in fact



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parties. those who have an interest but seem to act and behave like the party who is actually in the right.⁴

3.2. Development of the Role of Notaries in Indonesia

The implementation of the Notary profession is determined by statutory regulations relating to the duties, authority and prohibitions on notaries carrying out their positions. Apart from statutory regulations, there is also a Notary Code of Ethics which describes the moral norms regarding behavior that is applied and must be followed by notaries in carrying out their profession. In connection with advances in the field of information technology, artificial intelligence will continue to develop and have an impact on notaries in carrying out their positions. The practice and procedures for making authentic deeds emphasize preventive justice which creates and maintains legal certainty in the interests of society and avoids prosecution. The influence of advances in information technology on the position of notary in the future

1. Legal Politics.

Applicable laws and regulations must not be set aside, but must be seen as a tool that must be used to create order and legal certainty for society. Legislation must be implemented by political decisions or from statutory regulations that are part of legal politics. The state works through its institutional organs, with the task and function of drafting legislation to make it a reality. In this way, the government, which is part of state institutions, is able to put pressure and direct what kind of legal and legal political system should be selected and developed. Indonesia is a country of laws, so politics should be follow the law and not vice versa. One indication of what and how a country's legal politics is can be found and revealed in the Constitution.

2. Legal Awareness

In order for humans to be able to maintain their lives, they are faced with having to fulfill their basic needs regarding their body, ratio and feelings. Apart from these basic needs, there are also psychological needs, for example the need to advance science, a sense of security, legal certainty and justice. Legal awareness expresses itself in belief in the deepest truth of thought. Through psychic means, recognition of the truth of a rule can be generated, which is shown by

⁴ A.M.Ramli, Kekuatan Akta Elektronik Sebagai Alat Bukti Pada Transaksi E-Commerce Dalam Sistem Hukum Indonesia, Media Notariat, April-Juni 2003, Tahun XVIII, p.19

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trust in the policy of the rule maker. If this right does not exist, it cannot be said that there is legal awareness. Accepting and obeying orders or prohibitions from authorities is not the same as accepting the truth. In principle, legal awareness must be realized or implemented by the authorities, who should capture this awareness as it grows in society and express it in statutory regulations. Forming and making regulations must be implemented based on perceived standards so that they underlie a sense of justice that is in line with the demands of society's needs.

In all legal systems that require authentic form for certain legal acts, it shows that the deed has perfect evidentiary value and power. The main mission of a notary is to prepare evidence with the aim of not only being legal but also having economic value. It is a fact that in determining the veracity of information, identification, skills and authority to carry out legal actions intended by the parties can only be obtained and determined by a notary. Apart from this, technological advances have been utilized in the world of notaries with online registration systems such as SABH, OSS and GRIPS which support and speed up notary access to information. Information and communication technology has significantly helped the speed and quality of notary services. Much protocol-based work has been taken over by information systems that make notarial work cost-effective.

Legal politics and legal awareness will determine to what extent the influence of progress in the field of information technology will be implemented in the form of legislation. The use of high-level technology with automation and digitalization should be able to provide added value for speed and legal certainty to society in line with the demands of society's needs. Lawmakers with their legal politics without ignoring people's legal awareness regulate further progress in digitalization without changing the nature of the notary's office, the procedures for making notarial deeds and the characteristics of authentic deeds.

4. Conclusion

Business actors need guarantees of legal certainty, legal peace, speed and cost savings in obtaining the necessary letters/deeds and permits related to the type of company. The development of information technology and electronic transactions using computers, computer networks, and/or electronic media does not eliminate the position and function of the Latin Notary (civil law) on the grounds that jurisdictions that practice instrument authentication place emphasis on preventive justice, avoiding litigation, creating speed and accuracy. as well as maintaining legal certainty as a public interest, which can be justified economically. Notaries are required to anticipate these challenges so as to turn them into

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opportunities for ease of doing business. Several significant things in the context of ease of doing business in the 4.0 era: a) That Cyber notary, in the case of a notary who carries out the functions of his position and authority, can be helped by demands for accelerated service delivery ideas; b) That electronic transactions using computers, computer networks, and/or other electronic media must maintain the main principles of the role of interacting directly with citizens, providing a safe legal structure for transactions and the necessary supervision; c) That the guarantee of legal certainty, legal peace, speed and cost-effectiveness in obtaining letters/deeds and necessary permits related to the type of company for business actors is a challenge faced so that it becomes an opportunity in doing business. d) That every innovation that is part of the digital cycle requires conscious reflection to question whether transactions without the help of a trusted third party really guarantee legal certainty and consumer protection. e) That the role of notaries (Latin) or civil law in the future in Indonesia is determined by legal politics and legal awareness in the determination of law makers regarding the nature of the notary's office, the procedures for making notarial deeds and the characteristics of notarial deeds.

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