THE PRACTICAL OF PUBLIC NOTARY POSITION AND ETHICAL CODE IN BANGLADESH

TESIS

By:

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Study Program : Notary

MASTER PROGRAM (S2) NOTARIAN (M.Kn)

FACULTY OF LAW

SULTAN AGUNG ISLAMIC UNIVERSITY

SEMARANG

2023

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THESIS

Submitted to fulfil one of the exam requirements
to obtain the title Master of Notarial Degree (M.Kn.)

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MOTIVATION PAGE

In the realm of legal systems, the position of notaries serves as a crucial pillar in upholding justice and maintaining the integrity of legal transactions. As Bangladesh continues to evolve and navigate through complex legal challenges, it becomes imperative to examine the role of notaries and their adherence to ethical codes in the country. Thus, the thesis proposal titled "Notary Position and Ethical Code in Bangladesh" endeavors to shed light on this critical aspect of the legal landscape.

By delving into the intricacies of notarial practices and the ethical principles that underpin their responsibilities, this research aims to contribute valuable insights that can enhance the efficiency, transparency, and trustworthiness of legal affairs in Bangladesh. Through an in-depth exploration of this topic, the study aspires to empower policymakers, legal practitioners, and the wider society to make informed decisions that will strengthen the foundation of justice and ethical conduct in the nation's legal domain.

The teachings from the aforementioned Quranic verses are deeply rooted in Islamic values, emphasizing the importance of spending in the way of Allah and embodying ethical conduct. Public notaries, being professionals in their field, are called upon to uphold high ethical standards and moral principles. Just as believers are urged to spend a portion of their wealth in the path of Allah, public notaries should be guided by principles of fairness, justice, and integrity in their professional conduct.

The parable mentioned in Surah Al-Baqarah serves as a powerful reminder that acts of giving and ethical conduct are not only spiritually rewarding but can also yield bountiful outcomes. By adhering to ethical codes and upholding the principles of the notarial profession, public notaries in Bangladesh can create a positive impact on society, just as a seed multiplies and yields abundant harvest.

It encourages individuals to recognize that even in the face of challenges and uncertainties, acts of giving and adherence to ethical principles can bring about positive transformations, symbolized by the appearance of a rainbow after a storm.

In the context of the thesis on the practical application of the public notary position and ethical code in Bangladesh, these teachings serve as a guiding light, inspiring public notaries to fulfill their professional responsibilities with fairness, justice, and integrity. By adhering to these principles, notaries can contribute to the strengthening of justice and ethical conduct in the legal domain of Bangladesh.

Through the research conducted in this thesis proposal, a better understanding of notarial practices and ethical principles can be gained, leading to enhanced legal practices that foster trust and transparency in legal transactions. It is hoped that the outcomes of this study will contribute positively to the legal landscape in Bangladesh, ensuring that the nation continues to progress with a strong foundation of justice and ethical conduct.

PRIVATE PAGE

I extend my profound dedication of this thesis to those beloved individuals who have illuminated my life amidst the challenges it presents, steadfastly remaining a permanent presence within it. Despite the geographical distances that may separate us, their unwavering encouragement and fervent prayers have served as an unwavering beacon of light, guiding me through every stride of this academic pursuit. I extend my special thanks and heartfelt gratitude to:

I humbly dedicate this thesis to the cherished individuals who have graced my life with their unwavering love and support. May Allah SWT bless them with His guidance and shower them with His benevolence. As I embark on this academic endeavor, I earnestly pray to Allah for continued guidance, recognizing that His assistance shall lead us to the right path.

May Allah graciously accept our endeavours to perform good deeds, and may this thesis serve as a source of benefit, contributing to the collective body of knowledge for both the author and the esteemed readers. May it stand as a testament to the pursuit of knowledge and the unwavering faith in the guidance of Allah SWT.

FOREWORD

.

In the name of Allah, the Most Gracious, the Most Merciful. All praise and thanks are due to Allah, the owner of the universe, whose unwavering support and guidance have been instrumental in the completion of this thesis titled "The Practical Application of the Public Notary Position and Ethical Code in Bangladesh." With utmost humility and gratitude, prayers and salutations are forever extended to our beloved Prophet Muhammad (SAW), his noble family, esteemed companions, and all believers until the Day of Judgment.

The primary purpose of this thesis is to fulfill the requirements for the attainment of the Mkn degree in the Notary Masters Program at Sultan Agung Islamic University, Semarang. Throughout the arduous journey of researching and writing this thesis, the authors have been fortunate to receive invaluable guidance, instructions, suggestions, and unwavering support from various individuals who have played a significant role in its completion. It is with deep appreciation and respect that the author would like to express gratitude to the following:

First and foremost, the author would like to acknowledge the profound guidance and blessings bestowed by Allah, without whom this endeavor would not have been possible. The author acknowledges the countless moments of inspiration and strength granted by the Almighty, enabling the successful completion of this research.

The author extends heartfelt gratitude to the thesis advisor, [Name], whose expertise, wisdom, and continuous support have been invaluable throughout the research process.

Their insightful guidance, constructive feedback, and scholarly inputs have significantly enhanced the quality of this thesis.

The author would also like to express sincere appreciation to the members of the thesis committee, [Names], for their meticulous examination of this work and their valuable suggestions and recommendations. Their expertise and critical evaluation have contributed immensely to the refinement of this thesis.

Special thanks are due to the faculty members of the Notary Masters Program at Sultan Agung Islamic University, Semarang, for their dedication to nurturing and cultivating knowledge. Their commitment to excellence in education has laid the foundation for the author's academic growth and intellectual development.

The author is indebted to the esteemed scholars, researchers, and authors whose works have formed the theoretical framework and foundation of this thesis. Their groundbreaking research and insightful contributions have been instrumental in shaping the direction and scope of this study.

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The author would like to express sincere thanks to the participants who generously shared their time and insights during interviews, surveys, or other data collection methods. Their willingness to contribute to this research has enriched the study and provided valuable perspectives.

Heartfelt appreciation is extended to family members, friends, and loved ones for their unwavering support, understanding, and encouragement throughout the thesis journey. Their belief in the author's abilities has served as a constant source of motivation and inspiration.

Last but not least, the author would like to thank all individuals who, in one way or another, have provided assistance, encouragement, and support during the course of this research. Their contributions, no matter how small, have played a significant role in the completion of this thesis.

In conclusion, the completion of this thesis would not have been possible without the blessings and guidance of Allah, the support of the academic community, the expertise of the thesis advisor and committee members, the contributions of participants, and the unwavering encouragement from family and friends. The author remains profoundly grateful to each and every individual who has played a part in this journey of knowledge acquisition and scholarly exploration. May Allah bless them all abundantly.

Bangladesh, 24 August 2023

Researcher,

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ABSTRACT

The contrasting nature of the civil law and common law legal systems governing Notaries raises questions about the organizational structure of Notary jobs in Indonesia and Bangladesh. In Indonesia's Civil Law system, both Law No. 2 of 2014 Jo and Law No. 30 of 2004 pertain to the role of the Notary Public. This study aims to achieve two primary objectives: Conduct a comparative analysis of the qualifications required to become a Notary and the extent of a Notary's authority in both countries. Analyze the legal frameworks and systems governing the position arrangements and codes of ethics for Notaries in Bangladesh and Indonesia. This research methodology employs an explanatory research typology alongside a normative juridical approach. The thesis requirements necessitate an analytical descriptive focus on the qualifications for individuals aspiring to become notaries and the respective roles and powers they hold in both Indonesia and Bangladesh. To ensure comprehensiveness, this qualitative study draws information from primary and secondary sources, utilizing data collection methods such as interviews and documentation.

In Bangladesh, the appointment of Notary Public differs from the public registration process found in other countries. Notaries are directly elected by the Kingdom through the Ministry of Justice in each State/Federal Territory. The prerequisites for becoming a Notary Public in Bangladesh involve being a qualified Law graduate who has become an advocate or counselor, appointed by the State Attorney General under the Ministry of Justice & Prosecutors' Office. There is no specific requirement for additional education within a certain timeframe. Comparatively, the Notary Law in Bangladesh exhibits significant differences from the Indonesian Notary Law (UUJN), which applies nationwide. The dissimilarities can also be observed in the powers and responsibilities conferred upon Notaries. Unlike Indonesia, where a unified Notary Law governs the entire country, Bangladesh has distinct notary legislation in each state, federal region, and federation, tailored to address their unique demographics and requirements.

This study further explores the innovative aspects of the Notary Public system in Bangladesh, particularly its response to technological advancements through the Cyber Notary & Digitalization World system, facilitating the use of Electronic Deeds. Additionally, the international contract system in Bangladesh adopts a comprehensive and flexible approach, attentively accommodating clients' preferences while simultaneously adhering to various aspects of international law. Keywords: Notary Public; International; Comparison; Situation; Power

Keywords:*International; Notary Public; Comparison; Condition; Authority.*

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PIG

INTRODUCTION

A. BACKGROUND

In general, there are two types of notary schools, namely notaries in civil law countries and notaries in common law countries. Civil law state notaries are called Latijnse Notariat, and Notaries in Commow Law countries are generally called Public Notaries. Both are positions, but have different functions and authorities.

Civil law notaries (Latijnse Notariat) originated in Northern Italy in the 11th or 12th century, extending across mainland Europe through Spain to the countries of Central America and South America. The countries that are not included in this notary stream are the United Kingdom, including the Commonwealth of Nations and most of the Scandinavian countries. Although in these countries the term 'Notary' is also known, this term has a different meaning than the notary Latijnse.[1]

Common Law notaries come from England, history records that at the beginning of the 13th century there were several Notaries who were assigned to make various deeds, especially wills, examining witnesses, taking oaths and so on.[2]. This Notary System later too

[1] GHS Lumban Tobing, Notary Office Regulations, (Jakarta: Erlanga, 1996), p. 3-4.
[2] Komar Andasasmita, Notary I Regulations of Position, Code of Ethics and Association of Notaries/Notaries, (Bandung, West Java Indonesian Notary Association, 1991), p. 14-15

enforced in former colonial countries, such as Singapore, Malaysia, Canada, Australia, New Zealand, India, and the United States.

*Latijnse Notary*appointed by the general authorities for the benefit of the general public and receive fees (honorarium) from the general public who use their services[3]. Notaries serve the interests of the general public, by exercising some of the powers of the State in the field of private law by making authentic deeds that have perfect evidentiary power. Notary profession is increasingly needed in line with the development of business activities or business activities in a place. In addition, the population is also the basis for determining the Notary Position Formation[4] in Indonesia. Indonesia, a country with a Civil Law legal system, has a land area of 1,910,931 square kilometers[5], and a population of 273,879,750 people[6], currently there are 11,630 people[7] Notaries scattered all over the country.

The number of Notaries is very different from Bangladesh, a developed country which is one of the busiest business centers in the world. Malaysia adheres to a different legal system from Indonesia, namely Common Law

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[3] Lumban Tobing, op. cit., p. 3-4.

[4] Article 1 point 12 UUJN. Notary Position Formation is the determination of the number of Notaries needed in a Notary's position area. Article 22 point 1 UUJN. Notary Position Formation is determined based on: a. business world activities; b. total population; and/or the average number of deeds drawn up by and/or before a notary every month.

[5] Indonesian Central Bureau of Statistics, Development of Several Main Indonesian Socio-Economic Indicators, August, 2011. Downloaded fromhttp://www.bps.go.id/booklet/Booklet_Agustus_2011.pdf on May 02, 2012.

6 https://www.google.co.id/search?q=nomor+penduduk+indonesia+2022 accessed on the 2nd April 2022

[7] Ibid.

area of 1,47,570 km²,

This significant difference in system regarding Notaries raises questions regarding the arrangement of Notary positions in Bangladesh. In Indonesia, the position of Notary is regulated in the Law, namely Law Number 30 of 2004 concerning the Position of Notary. Like wise with Bangladesh, the position of a Notary is regulated in the Notaries Public Act 1959 (Revised 1973) in the Laws of Malaysia.

As an honorable profession, a Notary in carrying out his duties and authorities is subject to the Law and also pays attention to the Notary Code of Ethics established by professional organizations. The code of ethics is the moral principles attached to a profession that are arranged systematically. The Indonesian Notary Code of Ethics was prepared by the Indonesian Notary Association,

Seeing from the background above, the researcher is interested in conducting research and writing a thesis with the title, " The Practical of Public Notary Position and Ethical Code in Bangladesh ".

B. PROBLEM FORMULATION

Based on the things that have been described above, the problems to be raised in writing this thesis are as follows:

1. What is the Condition of Notary Office in Bangladesh ?
2. What is the legal system adhered to/used in setting the Code of Ethics for the Notary Profession in Bangladesh?
3. What is a comparative/comparative study of the position and code of ethics of notaries in Indonesia and Bangladesh?

C. RESEARCH PURPOSES

1. To Explain the Conditions of Notary Office in Bangladesh.
2. To analyze the legal system adhered to/used in setting the Notary Professional Code of Ethics in Indonesia and in Bangladesh
3. To find a comparative/comparative study of the position and code of ethics of notaries in Indonesia and Bangladesh.

D. USES OF RESEARCH1.

Theoretically

The results of this study found a new theory in the field of law, especially " The Practical of Public Notary Position and Ethical Code in Bangladesh " which is expected to be a positive contribution to scientific contributions in the field of Law, especially Knowledge of Notaries Internationally.

2. Practically

The results of this research are expected to be useful for developing legal political thinking about " The Practical of Public Notary Position and Ethical Code in Bangladesh " which is expected to be a positive contribution in efforts to increase understanding of the International Legal System which uses two (2) different systems Civil Law and Common Law in terms of Notary which can be a contribution of thought in determining policies and legislation for the government in order to realize the goals of the State in accordance with the preamble of the 1945 Constitution.

E. THEORETICAL FRAMEWORK

1. Progressive Law Theory as Grand Theory

According to Satjipto Rahardjo, progressive law enforcement is implementing the law is not just the black and white words of the regulations (according to the letter), but according to the spirit and deeper meaning (to very meaning) of the law or law. Law enforcement is not only intellectual intelligence, but with spiritual intelligence. In other words, law enforcement is carried out with full determination, empathy, dedication, commitment to the suffering of the nation and accompanied by the courage to find other ways than what is usually done.[9]

[9]Satjipto Rahardjo, 2009, Law Enforcement A Sociological Review, Genta Publishing, Yogyakarta, h. xiii

The history of political configurations in Indonesia shows that there have been ups and downs and alternating ups and downs between democratic and authoritarian. With the logic of economic development being its top priority, the New Order period displayed an authoritarian-bureaucratic character. The New Order appeared as a strong state that overcame various forces that existed in society and had an interventionist character. In such a configuration the people's political rights are subject to pressure or restrictions.[10]

The reform agenda that is demanded by the community is how to fulfill a sense of justice in society. But in reality, the measure of society's sense of justice is not clear. According to Supreme Court Justice Abdul Rachman Saleh, the sense of justice that the judges are demanding must be able to fulfill it is not easy. This is because the measure of the sense of justice in society is not clear.[11]

Basically human life cannot be separated from law. Throughout the history of human civilization, the central role of law in efforts to create an atmosphere that allows humans to feel protected, coexist peacefully and maintain their existence in the world has been recognized.[12]

Justice is the essence or essence of law. Justice can not only be formulated mathematically that what is called fair is if someone

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[10] *Op. city,*Mahfud MD, h. 345

[11] Arman further argued that in making a decision the judge must prioritize a sense of justice. However, the community's sense of justice, as demanded by some people to be met by judges, is not easy. Not because the judges were not willing, but because the measurement of the community's sense of justice was not clear. Satya Arinanto, 2008, Human Rights in Political Transitions, Center for Constitutional Law Studies, Faculty of Law, University of Indonesia, Jakarta, h. 340

[12] Johnny Ibrahim, 2005, Theory and Methodology of Normative Legal Research, Bayumedia, Surabaya, p.1

get the same share as everyone else. Likewise, justice is not sufficiently interpreted by the symbol of numbers as written in the Criminal Code sanctions, for example the numbers 15 years, 5 years, 7 years and so on. Because justice actually lies behind something that appears in that number (metaphysical), philosophically formulated by law officers/judges.[13]

In any legal system anywhere in the world, justice has always been the object of pursuit, especially through the judiciary. Justice is fundamental to the functioning of a legal system. The legal system is actually a structure or equipment to achieve a mutually agreed upon concept of justice.[14]

Formulating the concept of progressive justice is how to create substantive justice and not procedural justice. As a result of modern law which pays great attention to procedural aspects, Indonesian law is faced with two major choices between courts which emphasize procedure or substance. Progressive justice is not justice that emphasizes procedural justice but substantive justice.

The damage and decline in the pursuit of justice through modern law is caused by a procedural game which raises the question "is the court seeking justice or victory?". Court processes in countries that are very laden with procedures (heavly proceduralized) carrying out procedures properly are placed above everything, even above

[13]Andi Ayyub Saleh, 2006, Legal Contemplation Tour in "Law in Book and Law in Action" Towards Legal Discovery (Rechtsvinding), Yarsif Watampone, Jakarta, h. 70
[14]Satjipto Rahardjo, 2006, Dissecting Progressive Law, Kompas Book Publishers, Jakarta, h. 270

substance handling (accuracy of substance). Such a system provokes insinuations of trials without truth.[15]

In order to make substantive justice the core of courts that are administered in Indonesia, the Supreme Court plays a very important role. As the pinnacle of the judiciary, it has the power to encourage courts and judges in this country to realize this progressive justice.

Judges are an important factor in determining that courts in Indonesia are not a game to win, but seek truth and justice. Progressive justice is increasingly far from the ideals of "quick, simple, and low-cost trials" if it allows trials to be dominated by procedural "games". The court process which is called a fair trial in this country should have the courage to be interpreted as a trial where the judge is in active control to seek the truth.[16]

The study of the relationship between political configuration and the character of legal products produces the thesis that every legal product is a reflection of the political configuration that gave birth to it. This means that every legal product content will be largely determined by the vision of the dominant group (the Ruler). Therefore, every effort to produce responsive/populist laws must start from democratization efforts in political life.[17]

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[15] *Ibid*, h. 272
[16] *Ibid*, h. 276
[17] *Op. city*,Mahfud MD, h. 368

The presence of progressive laws is not something that is accidental, not something that was born without a cause, and also not something that fell from the sky. Progressive law is part of a process of searching for the truth that never stops. Progressive law which can be viewed as a concept that is seeking identity, departs from the empirical reality of the workings of law in society, in the form of dissatisfaction and concern with the performance and quality of law enforcement in the Indonesian setting of the late 20th century.

It is Satjipti Rahardjo's concern about the legal situation in Indonesia. Legal observers clearly say that the condition of law enforcement in Indonesia is very apprehensive. In the 1970s there was already the term "judicial mafia" in the legal vocabulary in Indonesia, in the new order the law had shifted from social engineering to dark engineering because it was used to maintain power. In the reform era, the world of law is increasingly commercialized. According to Satjipto Rahardjo, the essence of the decline above is the increasing scarcity of honesty, empathy and dedication in carrying out the law, then Satjipto Rahardjo asked the question, what is wrong with our laws? How to solve it?.[18]

The big agenda of progressive legal ideas is to place humans as the main centrality of all discussions about law. With progressive legal wisdom invites to pay attention to human behavior factors. Therefore, the progressive law posits a mix of factors

[18] Faisal, 2010, Breaking Through Legal Positivism, Rangkang Education, Yogyakarta, h. 70

rules and behavior of law enforcement in society. This is where the importance of understanding the notion of progressive law, that the concept of "the best law" must be placed in the context of holistic integration in understanding human problems.

Thus, the notion of progressive law does not merely understand the legal system on a dogmatic nature, but also aspects of social behavior on an empirical nature. So that it is expected to see humanitarian problems as a whole orientated to substantive justice.

a. Law as a Dynamic Institution

Progressive law rejects any notion that legal institutions are an institution that is final and absolute, whereas progressive law believes that legal institutions are always in the process of continuing to be (law as a process, law in the making). This assumption is explained by Satjipto Rahardjo as follows:

Progressive law does not understand law as an absolute institution in the end, but is determined by its ability to serve humans. In the context of such thinking, law is always in the process of continuing to be. Law is an institution that continuously builds and transforms itself towards a better level of perfection. The quality of perfection here can be verified into the factors of justice, welfare, concern for the people and others.

other. This is the essence of "law that is always in the process of becoming (law as a process, law in the making).[19]

In such a context, the law will appear to be always moving, changing, following the dynamics of human life. As a result, this will affect our way of judging, which will not just be stuck in the rhythm of "legal certainty", the status quo and law as the final scheme, but a legal life that always flows and is dynamic both through changes in laws and in the legal culture. . When we accept law as a final scheme, law no longer appears as a solution to humanitarian problems, but humans are forced to fulfill the interests of legal certainty.

b. Law as the Teaching of Humanity and Justice

The basic philosophy of progressive law is an institution that aims to deliver people to a just, prosperous life and make people happy.[20] Progressive law departs from the basic assumption that law is for humans and not the other way around. Based on that, the birth of law is not for itself, but for something broader, namely; for human dignity, happiness, welfare and human glory. That is why when there is a problem in the law, it is the law that must be reviewed and corrected, not humans who are forced to be included in the legal scheme.

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[19] *Ibid*, h. 72

[20] Mahmud Kusuma, 2009, Exploring the Spirit of Progressive Law; Paradigmatic Therapy for Weak Law Enforcement in Indonesia, Antony Lib in collaboration with LSHP, Yogyakarta, h. 31

The statement that law is for humans, in the sense that law is only a "tool" to achieve a just, prosperous and happy life for humans. Therefore, according to progressive law, law is not the goal of humans, but law is only a tool. So that substantive justice must take precedence over procedural justice, this is solely in order to present law as a solution to humanitarian problems.

c. Law as an Aspect of Regulation and Behavior

Progressive legal orientation rests on regulatory and behavioral aspects (rules and behavior). Regulations will build a positive legal system that is logical and rational. While the behavioral or human aspects will drive the rules and systems that have been built. Because of the assumption built here, that law can be seen from the social behavior of law enforcers and their people.

By placing the behavioral aspect above the regulatory aspect, it is thus the human and humanitarian factors that have passionate elements such as compassion, empathy, sincerity, dedication, commitment, dare and determination. determination).

Satjipto Rahardjo quoted Taverne as saying, "Give me good prosecutors and judges, so even with bad regulations I can make good decisions." Prioritizing (human) behavior over laws and regulations as a starting point for the paradigm of law enforcement,

will lead us to understand law as a process and a humanitarian project.[21]

Prioritizing behavioral (human) and human factors over regulatory factors means shifting mindsets, attitudes and behavior from the legalistic-positivistic level to the whole (holistic) humanity, namely humans as individuals and social beings. In this context, every human being has an individual responsibility and social responsibility to provide justice to anyone.

d. Law as the Teaching of Liberation

Progressive law posits itself as a "liberating" force ie

break free from legalistic-positivistic types, ways of thinking, principles and legal theory. With this characteristic of "liberation", progressive law prioritizes "objectives" rather than "procedures". In this context, to enforce the law, creative, innovative steps are needed and if necessary carry out "legal mobilization" or "rule breaking".

Satjipto Rahardjo gave an example of progressive law enforcement as follows. The actions of Supreme Court Justice Adi Andojo Soetjipto on his own initiative tried to dismantle the atmosphere of corruption within the Supreme Court. Then, with courage, Supreme Court judge Adi Andojo Sutjipto made a decision by ruling that Mochtar Pakpahan had not committed treason against the highly authoritarian Suharto regime. Next, is the court decision

[21] *Ibid*, p. 74

Benyamin Mangkudilaga did something high in the Tempo case, he fought against the Minister of Information who sided with Tempo.[22]

The paradigm of "liberation" referred to here does not mean that it leads to acts of anarchy, because whatever is done must still be based on "the logic of social decency" and "the logic of justice" and not solely based on "regulation logic". This is where the progressive law upholds morality. Because conscience is placed as the mover, driving force as well as controlling the "liberation paradigm". In this way, the paradigm of progressive law that "law is for humans, and not vice versa" will make progressive law feel free to seek and find the right format, thoughts, principles and actions to make it happen.

2. Authority Theory as Middle Theory

Conceptually, the term authority or authority is often equated with the Dutch term "bevoegdheid" (which means authority or power). Authority is a very important part of governance law (administrative law), because the new government can carry out its functions on the basis of the authority it has obtained. The legitimacy of government actions is measured based on the authority regulated in laws and regulations. Concerning authority can be seen from the State Constitution which gives legitimacy to Public Agencies and State Institutions in carrying out their functions. Authority is the ability to act

[22] *Ibid*, p. 75

granted by applicable laws to carry out legal relations and actions.[21]

The principle of legality is one of the main principles which is used as the basis for every administration of government and statehood in every rule of law country. In other words, every administration of government and statehood must have legitimacy, namely the authority granted by law.

Thus, the substance of the principle of legality is authority, namely an ability to carry out certain legal actions.

Hassan Shadhily clarifies the translation of authority by providing an understanding of "delegation of authority". Delegation of authority is the process of handing over authority from a leader (manager) to his subordinates (subordinates) accompanied by the emergence of responsibility

responsible for performing certain tasks. The process of delegation of authority is carried out through the following steps: determining the tasks of subordinates

[21]SF. Marbun, State Administrative Court and Administrative Efforts in Indonesia, Liberty, Yogyakarta, 1997, p. 154.

[22]Dictionary Compilation Team-Center for Development and Language Development, Big Indonesian Dictionary, Balai Pustaka, Jakarta, 1989, p. 170.

the; transfer of authority itself; and the emergence of obligations to perform tasks that have been determined.[23]

I Dewa Gede Atmadja, in interpreting the constitution, describes as follows: "According to the Bangladeshi constitutional system, authoritative authority and persuasive authority are distinguished. Authoritative authority is determined constitutionally, whereas persuasive authority is not explicitly constitutional authority.[24]

The authoritative authority to interpret the constitution rests with the MPR, because the MPR is the body that forms the Constitution. On the other hand, the persuasive authority to interpret the constitution in terms of its sources and legally binding powers is exercised by: Formation of laws (called authentic interpretation); Judges or judicial powers (called jurisprudential interpretation) and jurists (called doctrinal interpretation).

An explanation of the concept of authority can also be approached through an examination of the sources of authority and the concept of justification for acts of governmental power. The theory of sources of authority includes attribution, delegation, and mandates.[25]

Prajudi Atmosudirdjo argues about the notion of authority in relation to authority as follows: "Authority is what is called formal power, power that comes from Legislative Power (given by law) or from Executive/Administrative Power.

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[23] *ibid.*,p. 172.

[24] Dewa Gede Atmadja, Interpretation of the Constitution in the Context of Legal Dissemination: The Implementation Side of the 1945 Constitution Purely and Consistently, Speech by an Introductory Professor in the Field of Constitutional Law at the Faculty of Law, Udayana University, 10 April 1996, p.2.

[25] *Ibid.*

Authority is power over a certain group of people or power over a certain area of government (or field of affairs), while authority only concerns certain parts. Within authority there are powers. Authority is the power to carry out a public legal action.[26]

Indroharto argued that authority is obtained by attribution, delegation, and mandate, each of which is explained as follows: Authority obtained by "attribution", namely the granting of new government authority by a provision in the legislation. So, here a new government authority was born/created. In the delegation, there is the delegation of an authority that already exists by the TUN Agency or Position which has obtained a governmental authority in an attributive manner to another TUN Agency or Position. So, a delegation is always preceded by an attribution of authority. In the mandate, there is no granting of new authority or delegation of authority from one TUN Agency or Position to another.[27]

This is in line with the opinions of several other scholars who put forward this attribution as the creation of (new) authority by the whatever which is given to a state organ, both existing and newly formed for that purpose.

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[26] Prajudi Atmosudirdjo, State Administrative Law, Ghalia Indonesia, Jakarta, 1981, p. 29.

[27] Indroharto, Attempts to understand the Law on State Administrative Court, Pustaka Harapan, 1993, Jakarta, h. 90.

Without distinguishing technically regarding the term of authority And authority, Indroharto argues in a juridical sense: the notion of authority is the ability granted by laws and regulations to cause legal consequences.[28]

Attribution (attributie), delegation (delegatie), and mandate (mandaat), by HD van **Wijk/Willem Konijnenbelt**formulated as follows:[29]

1. Attributes: toekenning van een bestuursbevoegdheid door een weigever aan een bestuursorgaan;
2. Delegatie : overdracht van een bevoegheid van het ene bestuursorgaan aan een ander;
3. Mandaat : een bestuursorgaan laat zijn bevoegheid names hem uitoefenen door een ander.

Stroink And **Steenbeek** as quoted by ridwan, put forward a different view, as follows: "That there are only 2 (two) ways to obtain authority, namely attribution and delegation. Attribution with regard to the handover of new authority, while the delegation concerns delegation of authority that already exists (by the organ that has obtained authority attributively to other organs; so logically delegate always preceded by attribution). Regarding the mandate, not discussed about transfer of authority or delegation of authority. In terms of mandate no there is a change in any authority (in the formal juridical sense), which There is only internal relations.[30]

Philipus M. Hadjonsaid that: "Every government action is required to be based on authority

[28] *Ibid*, p. 38.

[29] HD van Wijk/Willem Konijnenbelt, Hoofdstukken van Administratief Recht, Culemborg, Uitgeverij LEMMA BV, 1988, p. 56

[30] Ridwan, HR, State Administrative Law, UII Pres, Yogyakarta, 2003, h. 74-75.

> legitimate. This authority is obtained through three sources, namely attribution, delegation, and mandate. Attributional authority is usually outlined through the division of state power by the constitution, while delegation and mandate authority are powers that originate from "delegation".[31]

Authority consists of at least three components that is influence, legal basis, and legal conformity. The influence component is that the use of authority is intended to control the behavior of the subject law, the basic component of law is that authority must be appointed basis law, and the legal conformity component contains standards authority, namely legal standards (all types of authority) as well as special standards (for certain types of authority).[32]

a. Delegation of Authority Theory with Attribution

Attribution (division of legal power) created an authority. The way that is usually done to complete the organs of government with government rulers and their powers are through distribution.

In this case the legislator determines the ruler of the government new government and gave it a new governing body authority, both to existing organs and those formed in that opportunity.

For attribution, it can only be done by legislators orsinil (former of the Constitution, legislature legislature in the formal sense,

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[31] Philipus M. Hadjon, The Normative Function of Administrative Law in Creating Clean Government, Speech Acceptance of the position of Professor in Law at the Faculty of Law, Airlangga University, Surabaya, 1994, h. 7.

[32] Philipus M. Hadjon, Structuring of Administrative Law, Faculty of Law Airlangga University, Surabaya, 1998. h.2.

crown, as well as the organs of the general court organization), while the legislators who are represented (crown, ministers, government organs authorized for that and have something to do with government power) are carried out jointly.

Attribution of authority occurs when the delegation of power is based on the mandate of a constitution and is set forth in a government regulation but is not preceded by an article in the law to be regulated further.

b. Delegation of Authority Theory with Delegates

The word delegation (delegatie) means delegation of authority from higher officials to lower ones. Such surrender is considered unjustifiable other than by or based on legal authority. With delegation, there is a delegation of authority from one government agency or official to another government agency or official.

Delegates are always required to have a legal basis because if the delegation wants to withdraw the authority that has been delegated, it must be with the same laws and regulations. The authority obtained from the delegation can also be sub-delegated to the sub-delegator. For subdelegates this applies the same as the provisions of the delegation. Authority obtained from attribution and delegation can be mandated to people or subordinate employees if the organ or official who officially obtains the authority is unable to carry out the authority himself.

According to Heinrich Triepel, delegation in the sense of public law is intended as a legal act of holding a state authority. So, this delegation is a shift in competence, relinquishment and acceptance of authority, both of which are based on the will of the party handing over that authority. The delegating party must have some authority, which it does not currently use. Meanwhile, those who receive the delegation also usually have some authority, now they will expand what has been delegated.[33]

c. Theory of Delegation of Authority with Mandates

The word Mandate (mandate) implies an order (opdracht) which in the association of law, both the granting of power (lastgeving) and full power (volmacht). The mandate regarding control authority is defined as the granting of power (usually in conjunction with an order) by a government apparatus that confers this authority on another, who will exercise it on behalf of the first government's responsibilities.

In the mandate there is no creation or delegation of authority. The main feature of the mandate is a form of representation, the mandatory acts on behalf of the person represented. It's just that the mandate, still has the authority to handle his own authority if he wants it. The mandate giver can also give any instructions to the mandate that is deemed necessary. The mandate giver is fully responsible for the decisions taken based on

[33] Heinrich Triepel, in Sodjuangon Situmorang, Model for the Distribution of Government Affairs between the Government, Provinces and Districts/Cities. Dissertation, PPS FISIP UI, Jakarta. 2002. p. 104.

mandate. So, legally-formally that is basically not mandatory someone else from the mandate giver.

3. Law Enforcement Theory as Applied Theory

Law enforcement in Dutch is called rechtstoepassing or rechtshandhaving and in English law enforcement includes macro and micro meanings. Macro in nature includes all aspects of community, nation and state life, while in the micro sense it is limited to the process of examination in court including the process of investigation, investigation, prosecution up to the implementation of criminal decisions that have permanent legal force.[23]

Law enforcement as a process which is essentially the application of the board of directors which involves making decisions that are not strictly regulated by the rule of law but has elements of personal judgment (Wayne La-Favre). Conceptually, the essence and meaning of law enforcement lies in the activity of harmonizing the relationship of values that are spelled out in solid principles and attitudes as a final stage of the elaboration of values, to create, give birth to and maintain social peace.[24].

On the basis of this description, it can be said that disruption to law enforcement may occur if there is a mismatch between the "trinity"

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[23]Chaerudin, Syaiful Ahmad Dinar, Syarif Fadillah, 2008. Strategy for Prevention and Law Enforcement of Corruption Crimes, Refika Editama, Bandung, h. 87

[24]Soerjono Soekanto, 2012, Factors Affecting Law Enforcement, PT. Rajagrafindo Persada, Jakarta, p. 5.

the values, rules and behavior patterns of the disorder occur when there is a mismatch between paired values, which are transformed into confusing rules, and patterns of undirected behavior that disturb the peace of social life[25].

Law enforcement is a government effort to create justice in people's lives. However, law enforcement that has been carried out to date is very contrary to the actual principles of law enforcement. People who are supposed to get legal protection of their rights instead feel oppressed.

The phenomenon that considers the law has not been able to fully provide a sense of security, fairness and certainty needs to be scrutinized carefully. From this phenomenon arises the expectation that the law can be affirmed firmly and consistently, because legal uncertainty and a decline in legal authority will give birth to a legal crisis.[26].

According to Mastra Liba there are 14 factors that affect the performance of law enforcement namely[27]:

1) The constitutional system that places the "attorney general" parallel to the ministers
2) Inadequate legal system
3) Natural resource factor (HR)
4) Factors of interest attached to the implementing

   apparatus; a. Personal interests

[25] *Ibid*

[26] Chaerudin, Syaiful Ahmad Dinar, Syarif Fadillah, 2008. Op.Cit, h. 55

[27] Rena Yulia, 2010. Victimology (Legal Protection Against Crime Victims), Graha Ilmu, Yogyakarta, h. 85

b. Group interests

c. State political interests

5) *Corspgeits*in institutions

6) Strong pressure on law enforcement officials

7) cultural factors

8) religious factor

9) The legislature as a "legislative institution" needs to maximally encourage and set good examples in law enforcement

10) Government political will

11) leadership factor

12) Strong network of criminal cooperation (organize crime)

13) The strong influence of collusion "in the soul of retired law enforcement officials"

14) Utilization of weaknesses in laws and regulations

Law enforcement does not merely mean the implementation of legislation, even though in reality in Indonesia the trend is this way, so that the notion of law enforcement is so popular. In addition, there is another tendency that interprets law enforcement as the implementation of judge's decisions. However, such opinions have a weakness if the implementation of laws or judge's decisions disturbs peace in social life. Based on this explanation, it can be concluded that the essence of law enforcement actually lies in the factors that influence it, these factors

has a neutral meaning so that the positive and negative impacts lie in the content of these factors. The factors that influence law enforcement are[28]:

1) The legal factor itself
2) Law enforcement factor
3) Facility factors or facilities that support law enforcement
4) The community factor is the environment in which the law applies and is applied
5) Cultural factors, namely as a result of work, creativity, and feelings based on humanity in social life

The purpose of law enforcement is in line with the purpose of the law itself, namely

to achieve certain desired results and the purpose of law is an effort to realize the achievement of order and justice. An impossible order will be realized, if the law is ignored. Public awareness and compliance with the law not only affect order and justice, but play a role in shaping the legal culture of a society because it regulates behavior.[29]

Law enforcement as a process, is essentially the exercise of discretion concerning making decisions that are not strictly regulated by the rule of law, but have an element of personal judgement. Conceptually, the essence of law enforcement lies in activities

[28] Soerjono Soekanto, Op.Cit, h. 7-8.

[29] Soerjono Soekanto. Factors Influencing Law Enforcement. Grafindo King. Jakarta. 1983. p. 7

aligning the value relationships embodied in solid principles and attitudes as a series of final stages of value elaboration, to create, maintain and maintain social peace. The conception which has a philosophical basis requires further explanation so that it will appear more concrete[30].

Humans in social life basically have certain views about what is good and what is bad. These views are always manifested in certain pairs, for example there is a partner with a value of peace, a pair of public interest values with personal interest values and so on. In law enforcement, these values need to be harmonized. The matched pair of values requires concrete elaboration because values are usually abstract. Concrete elaboration occurs in the form of legal rules, which may contain orders for prohibitions or permissibility. These rules become guidelines or benchmarks for behavior or attitudes that are considered appropriate or appropriate[31].

Law enforcement is a process to make legal wishes come true. The so-called legal will here is none other than the thoughts of the legislature which are formulated in legal regulations. That rule of law. The formulation of the thoughts of lawmakers as outlined in legal regulations will also determine

[30] *Ibid*.h. 6

[31] Satjipto Raharjo. Law Enforcement as a Sociological Review. Genta Publishing. Yogyakarta. 2009. h. 25

how law enforcement is carried out[32]. Law enforcement functions as the protection of human interests. In order for human interests to be protected, the law must be implemented. The implementation of the law can take place normally, peacefully, but it can also occur due to violations of the law. In this case the law that has been violated must be upheld. It is through law enforcement that the law becomes a reality. In upholding the law there are three elements that must be considered, viz[44]:

a. Legal certainty (*rechtssicherheit*):

The law must be implemented and enforced. Everyone hopes that the law can be enacted in the event of a concrete incident. How the law is what must apply, basically it cannot deviate: fiat justicia et pereat mundus (even though the world will collapse, the law must be upheld).

That is what legal certainty wants. Legal certainty is a justifiable protection against arbitrary actions, which means that someone will get something that is expected in certain circumstances.

b. Benefits (zweckmassigkeit):

The community expects benefits in implementing or enforcing the law. Law is for humans, so the implementation of law or law enforcement must provide benefits or uses for society. Do not let

[32]Sudikno Mertokusumo. Know the Law. Liberty Yogyakarta. Yogyakarta. 1999., p.145

Precisely because the law is implemented or enforced, there is unrest in society.

c. Justice (gerechtigkeit):

The community is very concerned that in implementing or enforcing the law justice is considered. In the implementation and enforcement of the law must be fair. Law is not synonymous with justice. The law is general, binding on everyone, generalizing. Whoever steals must be punished: whoever steals must be punished, without discriminating against who stole. On the other hand, justice is subjective, individu

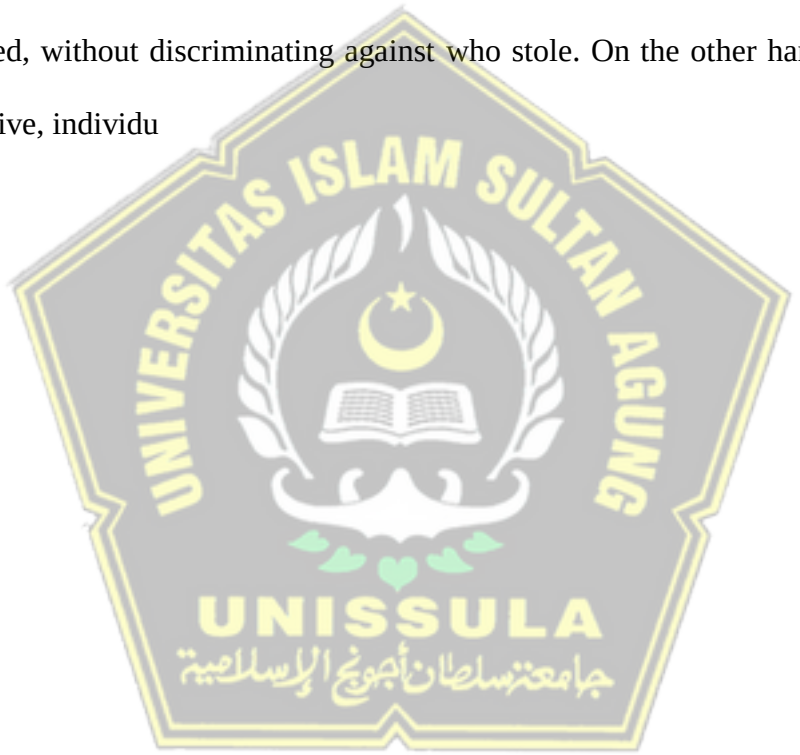


Table 1. List of UINL Members[37]

Continent	Country
Europe (36)	Albania, Andorra, Armenia, Austria, Belgium (FR/NL), Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Estonia, France, Germany, Greece, Georgia, Hungary, Italy, Latvia, Lithuania, London (UK), Luxembourg, Macedonia (FYROM), Malta, Moldova, Monaco, Netherland, Poland, Portugal, Romania, Russia, San Marino, Slovakia, Slovenia, Spain, Switzerland, Turkey, Vatican.
America (22)	Argentina, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, El Salvador, Ecuador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Puerto Rico, Uruguay, Venezuela.
Africa (18)	Algeria, Benin, Burkina Faso, Cameroon, Central Africa Republic, Chas, Congo, Gabon, Guinea, Ivory Coast, Mali, Mauritania, Mauritius, Morocco, Niger, Senegal, Togo, Tunis.
Asian (4)	China (People's Republic), Indonesia, Japan, Republic of Korea.

[37] Source: http://www.uinl.org downloaded April 24, 2022

In contrast to the Latijnse Notary, the Public Notary system originated in England and was enforced in former colonial countries such as the United States, India, Pakistan, Malaysia, Singapore, Hong Kong, Australia, New Zealand and several countries in Africa. In its development, each country has its own legislation regarding this institution.

Tan Thong Kie in his book Notary Studies and Miscellaneous Notary Practices makes a conclusion about public notaries which is written as follows[38]:

1. A notary public in England is not appointed by the Government but by the Archbishop or a person authorized by him.
2. Theoretically according to common law everyone can write a letter in a legal environment (legal writing) and whether a document is valid or not depends on the qualification (title or degree) of the author.
3. Courts in England do not add value to a notarial writing. What is important for the English court is the seal or witness (witnesses) which can confirm that the contents of the deed are true according to the will of the parties.
4. The English court held that a deed made by a notary did not prove the facts written in the deed.

[38]Tan Thong Kie, Notary Studies and Miscellaneous Notary Practices, Cet.1, (Jakarta: PT. Ichtiar Baru Van Hoeve, 2007), p. 623-624.

The book also mentions the differences in how Notaries work in civil law and common law countries in the way of issuing documents, namely:

In civil law countries, a notary issues copies which are authentic copies only signed by a notary, while notaries in common law countries issue duplicate originals signed by all parties, witnesses and notaries. According to Peter Steinm, the British courts accepted duplicate originals as primary evidence rather than copies, even though authentic copies[39].

b. Position of Notary in Indonesia

Before entering into the material regarding the Office of a Notary in Indonesia, here are a few things you need to know:

Information:

- Area: 1,910,931 square kilometers (land)
- Total Population: 273,879,750 people (2022 census)
- Legal System: Civil Law or Continental Europe
- Capital: Jakarta (Moved Archipelago)
- Dialing code: +62
- Currency: Rupiah
- Number of Notaries: 17,856 people spread across 514 regencies/cities
- President: Ir. H. Joko Widodo

The position of Notary has been known in Indonesia long before Indonesia's independence. The first person to be appointed as a Notary in Indonesia was Merchior Kerchem, a secretary from the 'college van schepenen' who was appointed on August 27, 1620. Since the entry of the Notary in Indonesia

until 1822, the Notary was only governed by two rather detailed regulations, namely 1625 and 1765[41].

Provisions regarding Notaries in Indonesia were then regulated in the inskturtie voor de Notarissen in Netherlands Indie with Staatbaad Number: 11 of 1822, which was issued on March 7, 1822. 38 (thirty eight) years later the Dutch Government felt the need to adjust the regulations regarding positions Notary, and therefore a Notary Regulation was issued on July 1, 1860. In this rule the notary's definition reads as follows: "Notary is a public official who is the only authorized to make authentic words regarding all actions, agreements, and stipulations required by a public regulation or by interested parties to be stated in an authentic deed, guarantee the certainty of the date, save the deed and provide groose, copies and excerpts,everything as long as the making of the deed is okay, a general rule is not also assigned or excluded to officials or other people.[42]

After Indonesia's independence, the Government of the Republic of Indonesia issued various legal regulations regarding the Office of a Notary, including:

1. Government Regulation Number 11 of 1949 concerning Notary Oaths/Promises;

[41] Lumban Tobing. op. cit., Hal. 15-16.

[42] Article 1 Regulation of Notary Public in Indonesia (1860) (Reglement op het Notaris-ambt in Indonesie) (Ordinance of 11 January 1860) S. 1860-3, mb. 1 July 1860 (TXVIII-25.)

2. Circular Letter of the Minister of Justice of the Republic of Indonesia United Number JZ/171/4.BN50-53, dated May 22, 1950 concerning Oaths/Pledges for Notaries appointed in the Jakarta area can be made before the Chief Justice of Jakarta;
3. Law Number 33 of 1954 concerning Representative Notaries and Provisional Notary Representatives (State Gazette 1954-101);
4. Circular Letter of the Supreme Court of the Republic of Indonesia Number 2 of 1984 concerning Procedures for Supervision of Notaries.
5. Joint Decision of the Chief Justice of the Supreme Court of the Republic of Indonesia and the Minister of Justice of the Republic of Indonesia Number KMA/006/SKB concerning Procedures for Supervision, Enforcement and Defense of Notaries;
6. Decree of the Minister of Justice of the Republic of Indonesia Number M.04-HT.03.10 of 1998 concerning the Development of Notaries;
7. Decree of the Minister of Justice of the Republic of Indonesia Number M.05-HT.03.10 of 1998 concerning Appointment and Transfer of Notary Work Areas;
8. Law Number 30 of 2004 concerning the Position of Notary (hereinafter referred to as UUJN).

UUJN consists of 13 (thirteen) chapters and 92 (ninety-two) articles,

the details are as follows :

Chapter I. General Provisions

Chapter II. Appointment and Dismissal of

Notaries Chapter III. Authorities, Obligations,

and Prohibitions.

Chapter IV. Place of Position, Formation and Position Area of Notary.

Chapter V. Leave of Notary and Alternate Notary.

Chapter VI. Honorarium

Chapter VII. Notarial Deed

Chapter VIII. Retrieval of Minutes of Deed and Summons of

Notary Chapter IX. Supervision

Chapter X. Notary Organization

Chapter XI. Sanctions Provisions

Chapter XII. Transitional Provisions.

Chapter XIII. Closing.

The definition of Notary as stated in UUJN reads as follows: "Notary is a public official authorized to make authentic deeds and other authorities as referred to in this Law."[43] Other authorities referred to in the meaning above will be discussed in other sub-sections in this thesis.

a. Requirements to Become a Notary in Indonesia

The requirements to become a Notary Public are as follows[44]:

1) Indonesian citizens;

2) Fear of God Almighty;

[43] Article 1 point 1 UUJN
[44] Article 3 UUJN

3) At least 27 (twenty seven) years old;
4) Physically and mentally healthy;
5) Graduated with a law degree and graduated from the notary degree;
6) Has undergone an apprenticeship or has actually worked as a Notary's employee for 12 (twelve) consecutive months at a Notary's office on his own initiative or on the recommendation of a Notary Organization after graduating from notary degree; And
7) Does not have the status of a civil servant, state official, advocate, or is not currently holding other positions which are prohibited by law from having concurrent positions as a Notary.
8) Prospective Notaries are also required to take the Code of Ethics Examination organized by the Indonesian Notary Association.

The notary is appointed and by the Minister[45], in this case the Minister of Law and Human Rights. The following is a checklist of documents that must be completed by a notary candidate to submit an application for appointment of a notary to the Ministry of Law and Human Rights.

Table 2. Document Checklist for Notary Appointment[46]

No	Information
1	Photocopy of Identity Card legalized by the issuing Agency or by a Notary.

[45] Article 2 UUJN
[46] Notary Office, Terms of Appointment of Notary Public, download fromhttp://notary-office.com/?p=77 on May 1, 2012.

2	Photocopy of marriage book/marriage certificate legalized by the relevant agency issued or by a notary, for those who are married.
3	Photocopy of Bachelor of Law education diploma and Specialist education Notary or photocopy of Bachelor of Law education diploma and education Master of Notarialism authorized by the university emit.
4	Photocopy of certificate of technical training for notary candidate which is legalized by Director of Civil Directorate General of General Legal Administration.
5	Photocopy of birth certificate/birth certificate legalized by the agency concerned issue or by a Notary.
6	Photocopy of code of ethics certificate held by Notary Organization ratified by a Notary.
7	Photocopy of certificate of apprenticeship or actual work as an employee at the Notary's office for 12 (twelve) consecutive months enrolled after graduating from Notary Specialist or Masters education Notary.
8	Original local police record certificate.
9	Original certificate of physical health from a government hospital doctor or private hospital.
10	Original certificate of spiritual/mental health from a government hospital doctor or private hospital.

11	Original statement letter sufficiently stamped stating that the applicant does not have the status of a civil servant, state official, advocate, leader or employee of a State-Owned Enterprise, Regional-Owned Enterprise, Private-Owned Enterprise, or currently holding other positions which are prohibited by law to be concurrently with the position of Notary.
12	Original statement letter sufficiently stamped stating that the applicant is willing to be placed throughout the territory of the Republic of Indonesia.
13	Original statement letter sufficiently stamped stating that the applicant is willing to become a holder of another Notary protocol, either due to moving, retiring, passing away, serving as a state official, resigning, or being temporarily dismissed.
14	4 (four) recent color photographs of 3x4 size.
15	Original curriculum vitae made by the applicant using the form provided by the Ministry of Law and Human Rights of the Republic of Indonesia.
16	Mailing address, telephone/cell phone/facsimile number of the applicant and e-mail (if any).
17	Postage Stamps whose value corresponds to the cost of postage postage.
18	Taxpayer Identification Number (NPWP).

Before taking up his position, Notary Public must say oath/promise according to religion before the Minister or appointed official[47]. The Notary's Oath consists of 5 (five) paragraphs which read as follows:

- That I will obey and be loyal to the Republic of Indonesia, Pancasila, and the 1945 Constitution of the Republic of Indonesia, the Law on the Position of Notary Public and other laws and regulations.
- That I will carry out my position in a trustful, honest, thorough, independent, and impartial manner.
- That I will maintain my attitude, behavior, and will carry out my obligations in accordance with the professional code of ethics, honor, dignity and my responsibilities as a Notary.
- That I will keep the contents of the deed and information obtained in the exercise of my position confidential.
- That I, in order to be appointed to this position, either directly or indirectly, under any name or pretext, have never and will not give or promise anything to anyone.[48]

b. Duties and Authorities of Notaries in Indonesia

The notary has the authority to make authentic deeds regarding all actions, agreements and provisions required by laws and regulations

[47] Article 4 UUJN
[48] Ibid.

and/or what is desired by interested parties to be stated in an authentic deed, guarantee the certainty of the date of making the deed, keep the deed, provide groose[49], copies and excerpts of the deed, all of that as long as the making of the deed is not also assigned or exempted from other officials or other people determined by law.[50]

In addition to making a deed, a Notary also has the authority to do the following:[51]

1) Validate the signature and determine the certainty of the date of the letter under the hand by registering it in a special book.[52]
2) Book private letters by registering them in a special book.[53]
3) Make copies of the original letters under the hand in the form of a copy that contains a description as written and illustrated the greeting of the letter in question.[54]
4) Validate the compatibility of the photocopy with the original letter. In notarial law, it is stated with "This photocopy is in accordance with the original".
5) Provide legal counseling in connection with the making of the deed.
6) Make deed relating to land.

[49] Article 1 number 11 UUJN: Grosse deed is a copy of the deed for acknowledgment of debt with the head of the deed "FOR JUSTICE BASED ON THE ONE ALMIGHTY GOD", which has executive power.
[50] Article 15 UUJN
[51] Article 16 UUJN
[52] In notary law it is called Legalization.
[53] In notary law it is called Warmarking.
[54] In notary law it is called Copy Collatione.

7) Make a deed of minutes of the auction.

3. Position of Notary in Bangladesh

Before entering into the theory regarding the Office of a Notary in Bangladesh, here are a few things about Bangladesh that you need to know first:

Figure 2. Map of Bangladesh

Information:

*)Bangladesh, to the east of India on the Bay of Bengal, is a South Asian country marked by lush greenery and many water ways territories in Southeast Asia.

- Area: 1,47,570 km²
- Capital: Dhaka
- Legal System: Common Law
- Dialing code: +88
- Currency: Taka

- Total population: 169.4 million (2022)
- Prime minister: Sheikh Hasina

In general, there are two types of notary schools, namely notaries in civil law countries and notaries in common law countries. Civil law state notaries are called Latijnse Notariat, and Notaries in Common Law countries are generally called Public Notaries. Both are positions but have different functions and

authorities. Civil law notaries (Latijnse Notariat) originated in Northern Italy in the 11th or 12th century, extending across Europe through Spain to Central and South America. The countries that are not included in this notary stream are the United Kingdom, including the Commonwealth of Nations and most of the Scandinavian countries. Even though in these countries the term 'Notary' is also known, this term has a different meaning than the meaning of Latijnse Notariat. Common Law notaries come from England, history records that at the beginning of the 13th century there were several Notaries who were assigned to make various deeds, especially wills, examining witnesses, taking oaths and others. This Notary System was then also implemented in former colonial

countries, such as Singapore, Malaysia, Canada, Australia, New Zealand, India,

and the United States. Latijnse Notaryappointed by the general authorities for the benefit of the

general public and receive fees (honorarium) from the general public who use their services 3. Notaries serve the interests of the general public, by exercising some of the powers of the State in the field of private law by making authentic deeds that have perfect evidentiary power. Notary profession is increasingly needed in line with the development of business activities or business activities in

a place. WHEREAS it is expedient to provide for and to regulate the profession of notaries in Bangladesh. NOW, THEREFORE, in pursuance of the Proclamation of the seventh day of October, 1958, and in exercise of all powers enabling him in that behalf the President is pleased to make and promulgate the following Ordinance.

The Government may appoint any legal practitioners or other persons who possess such qualification as may be prescribed, as notaries for the whole or any part of Bangladesh. The person should have professional experience for at least five years. There is no system of examinations to appoint notaries in Bangladesh, and any qualified person can make an application to that end in prescribed form.

Such memorial addressing the competent authority should be countersigned by at least ten persons such as representatives of the magistrates, bankers, merchants and dignitaries of the areas in which the applicant deserves to practice as notary.

No Court shall take cognizance of any offence committed by a notary in the exercise or purported exercise of his functions under this Ordinance save upon

complaint in writing made by an officer authorised by the Government by general or special order in this behalf.

In our country, licensed legal practioners do the work of attesting important documents through notary public. As per the rules of the Notaries Ordinance 1961 and Notaries Rules 1964, any lawyer with at least seven years of

practice or anyone who has a working experience of minimum five years in the judicial sector or anyone who has been involved in legislative drafting at

governmental level, is eligible to qualify as a notary. However, the government is empowered to employ anyone as a notary, as long as he meets the eligibility

criteriaSeeing from the background above, the researcher is interested in conducting research and writing a thesis with the title, "The Practical of Public

Notary Position and Ethical Code in Bangladesh". The notary public comes into play for the attestation of documents like

land registration documents, promissory notes, bills of exchange, bottomry and respondentia bonds, translated documents or Ids, buying of cars, issuing of

divorce letters, character certificates, certificates of academic qualification, death certificates, birth certificates, application for citizenship in other countries and so

on. The Negotiable Instrument Act, 1881 define the law relating to promissory notes, bill of exchange and cheques which were enacted and came into force on the first day of March 1882. Section 138 of the Negotiable Instrument Act empowered the government to appoint any person by name or by virtue of his office to be a notary public under this Act.

The Notarial Ordinance 1961 and the Notarial Rules 1964, promulgated by the Pakistan Government, are mostly followed in appointment of notary public, ascertaining their powers, functions, remunerations etc. Before the promulgation of Notarial ordinance, there were notaries public who were appointed by the Master of Faculties in England.

How to continue of Public Notary in Bangladesh?

Obtain a law degree: To become a notary public in Bangladesh, need to have a law degree from a recognized university. Pursue a Bachelor of Laws (LLB) or Master of Laws (LLM) degree to fulfill this requirement.

Gain practical experience: After completing your law degree, need to gain practical experience in the legal profession. can work as an apprentice with an experienced lawyer or join a law firm to gain practical experience.

Apply for a notary public license: Once have gained the required practical experience, can apply for a notary public license with the Ministry of Law, Justice and Parliamentary Affairs.

will need to submit your educational and practical experience certificates along with your application.

Pass the notary public exam: After your application is approved, you will need to pass the notary public exam. The exam tests your knowledge of the law, legal procedures, and notarial practices.

Get appointed as a notary public: After passing the exam, you will be appointed as a notary public by the government of Bangladesh.

Renew your license: Your notary public license needs to be renewed every three years. To renew your license, you need to submit a renewal application along with the required fees.

Note that the process of becoming a notary public in Bangladesh may vary based on the jurisdiction and specific requirements of the Ministry of Law, Justice and Parliamentary Affairs.

What is the legal system adhered to/used in setting the Code of Ethics for the Notary Profession in Bangladesh?

The legal system adhered to/used in setting the Code of Ethics for the Notary Profession in Bangladesh is primarily the statutory and regulatory framework governing notary publics as provided for in the Notaries Ordinance of 1961 and the Notaries Rules of 1962.

Under the Notaries Ordinance, the government of Bangladesh is empowered to appoint and regulate notaries public who are authorized to authenticate and certify documents and transactions for use both domestically and internationally. The Notaries Rules, on the other

hand, provide a set of guidelines for notaries public regarding the procedure for application, appointment, suspension and revocation of notarial authority, as well as a code of conduct that includes ethical standards for notaries public.

The Code of Ethics for the Notary Profession in Bangladesh is largely based on these statutes and regulations, which set out the legal framework within which notaries public must operate. The Code of Ethics for the Notary Profession in Bangladesh provides additional guidance on ethical principles and standards that notaries public must adhere to in order to maintain their professional integrity and ensure the reliability and credibility of their notarial acts.

Overall, the legal system in Bangladesh provides a clear framework for notary publics, including a Code of Ethics that is designed to maintain the integrity of the profession and ensure that notaries public act in accordance with the highest ethical standards.

What is a comparative/comparative study of the position and code of ethics of notaries in Bangladesh?

A comparative study of the position and code of ethics of notaries in Bangladesh can be conducted by examining the legal framework and practices of notaries in other countries and comparing them to the situation in Bangladesh. Here are some key points that can be explored in such a study:

Legal framework: A comparative study of the position and code of ethics of notaries in Bangladesh can begin by examining the legal framework governing notaries in other countries. This includes the legislation and regulations that establish and regulate the notarial profession, as well as the scope of their authority and responsibilities.

Appointment and qualifications: The process of appointing notaries in Bangladesh can be compared with other countries to determine the criteria for qualification and the selection process. The educational and experiential requirements for becoming a notary in Bangladesh can be compared with those of other countries.

Code of ethics: A comparative study can also examine the code of ethics that governs the behavior of notaries in Bangladesh, and how it compares to codes of ethics in other countries. This includes examining the ethical principles that govern notarial acts, the responsibilities of notaries to maintain confidentiality and impartiality, and the consequences of violating ethical standards.

Role and responsibilities: A comparative study can also examine the role and responsibilities of notaries in Bangladesh, and how they compare to those in other countries. This includes examining the scope of their authority to authenticate and certify documents, and their role in preventing fraud and ensuring legal compliance.

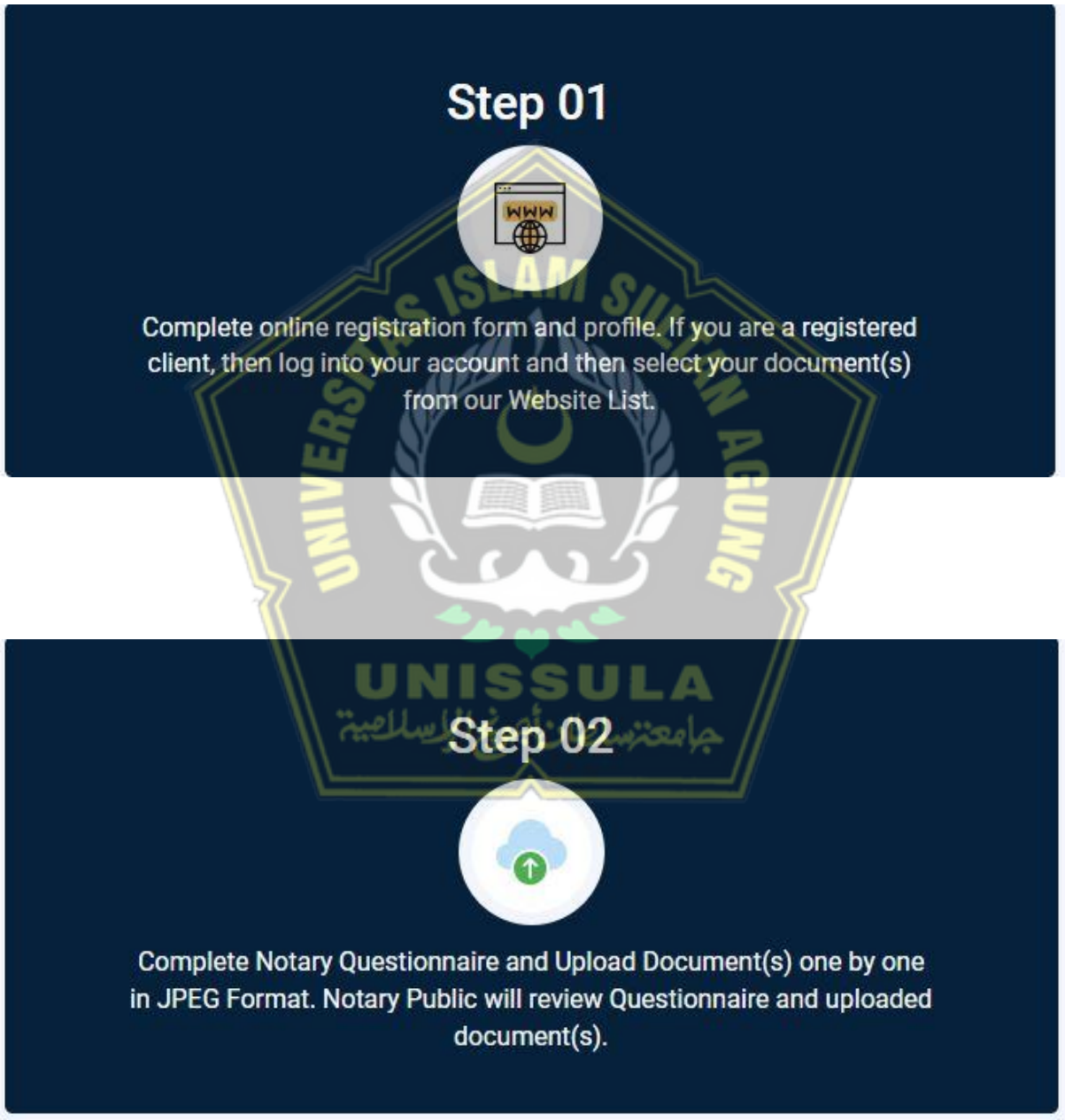
Professional development: Finally, a comparative study can examine the opportunities for professional development and continuing education available to notaries in Bangladesh, and how they compare to those in other countries.

Overall, a comparative study of the position and code of ethics of notaries in Bangladesh can provide valuable insights into the strengths and weaknesses of the current system, and identify areas for improvement and reform.

IMPORTANCE / NECESSITY OF NOTARIZED DOCUMENTS:

Notary service is often required especially by institutions such as Embassies, Foreign Immigration Departments, Banks, Schools, Colleges, Universities, Boards, Government or Private Sectors and so on. Now you can notarize document such as Academic Documents,

Marriage Documents, Birth Certificate, Death Certificate, NID, Business or Commercial Documents, Property Documents, and More in just few minutes from anywhere in the world. The Highly Considerable feature of our notarybd.com innovative web platform is that there is no need for you to go anywhere. You have to fulfill just 6 easy steps.



Step 03

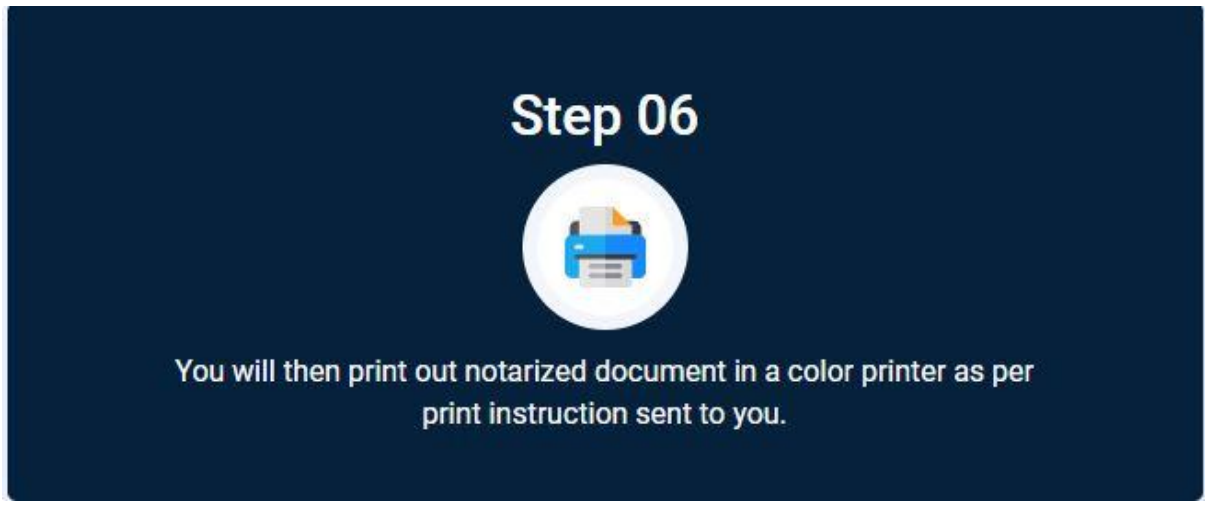
After review is completed, if you are eligible, place your order and pay online for Document Notarization Service.

Step 04

Notary Public do verify online transaction and payment status.

Step 05

If transaction and payment are successful, Notary Public then affix to the document(s) his / her electronic notary seal and Digital signature issued by Certifying Authority (CA) of Bangladesh and then deliver you the notarized document to your online account and e-mail.



Example of Lease Agreement:

Example-1:

LEASE AGREEMENT

This DEED OF LEASE AGREEMENT is made on this 27th Day of July, TWO THOUSAND TWENTY-TWO of the Christian Era, but it will get retrospective effect from 1st Day of July, TWO THOUSAND TWENTY-TWO of the Christian Era.

BETWEEN

Mr. Md. Sabbir Ahmed, Son of Md. Delwar Hossain Chowdhury, Legal Representative by the owner of Daffodil Tower-4 having his present address at 102/1 Shukrabad, Mirpur Road, Dhaka 1207, N.I.D: 2691648043908 hereinafter referred to as the **'LESSOR'** (Which expression, unless repugnant or contrary to the context, shall mean and include its heirs, legal representatives, executors, successors-in-interest, assignees and nominees) OF THE FIRST PARTY.

AND

AMAR SECURITIES represented by its COO, Compliance, Md Monir Hossain**,** having his present address at, 64/3 Lake circus, Kalabagan, Kalabagan, Mirpur Road, Dhaka-1205. NID no. 2695046949080 **'LESSEE'** (Which expression, unless repugnant or contrary to the context, shall mean and include its heirs, legal representatives, executors, successors-in-interest, assignees and nominees) OF THE SECOND PARTY.

Whereas the LESSOR is the Legal Representative by the owner of Daffodil Tower-4 and absolutely seized and possessed of or otherwise well and sufficiently entitled to the demised premises at the 1st Floor of the Daffodil Tower-4, 102/1 Shukrabad, Sherebangla Nogor Dhaka-1205.

Whereas the LESSOR has agreed to grant to the LESSEE 1st Floor of Total 2786 square feet of the premises and the LESSEE has agreed to accept from the LESSOR the aforesaid area of space in the 1st Floor for rent subject to the terms and conditions hereinafter contained.

NOW THE AGREEMENT WITNESSETH AND THE PARTIES HERETO MUTUALLY AGREE AS UNDER.

1. In consideration of the rent hereinafter received and the convents and conditions hereinafter contained in this Lease Agreement for lease of the 1st Floor situated at Address: 102/1 Shukrabad, Sherebangla Nagar, Dhaka-1205.

2. Notwithstanding anything contained in this agreement, the execution date of this deed of rent shall be deemed to have come into effect from 1st day of July 2022 for the 1st Floor of the "Daffodil Tower-4" demised premises.

3. The monthly rent of the demised premises shall be TK. **1,50,000/- (**In word: One lac fifty thousand taka) only. The said amount shall be paid as rent to the Lessor on or before 5th day of each calendar month.

4. After every year, the monthly rent shall be increased by 10% (Ten percent).

5. The LESSEE shall pay minimum (06) Six months' rent **Tk. 9,00,000/- (Nine lac) taka** Only as security deposit to the LESSOR as rent advance, and the same amount shall be refunded to the 2nd party upon expiry or termination of the lease agreement.

6. The Lease Agreement May be extended if necessary for any further period on mutual agreement and the rent will be fixed on the basis of the market rate.

7. If the LESSEE / LESSOR desires to terminate this agreement or vacate the premises before expiry of the contract period, the desiring party must serve 06 (Six) months advance notice to the other party.

Provided that, if the termination necessary due to violation of any terms and condition by the LESSEE then the LESSOR shall serve 02 (Two) months advance Notice.

8. The LESSEE shall pay **all service charges** from 1st July 2022 which may be recalculated time to time by the building management authority.
9. If the LEASSE fail to pay monthly rent for 02 (two) subsequent months the termination

Clause will be automatically active and effective from the first month.

10. THE LESSEE THEREBY AGREES:

a. To pay the Monthly rent & service charge as per terms and condition for the demised premises within 5th day of each calendar month.

b. To pay the Electrical, utility and other charges as per consumption and thereafter provided the original bill copy to the LESSOR.

c. To keep the interior and stair case of the demised Premises clean, tidy and in good order and condition and for such maintenance the LESSEE may incur such expenses that may be required.

d. To deliver the vacant and peaceful possession of the demised premises to the LESSOR in good and tenable condition on the expiry of this rent agreement or on the expiry of the renewed period.

e. To permit the LESSOR or his representative at any reasonable time and upon prior appointment to entreat "1st party/Legal Representative" Demised Premises for purpose of viewing & inspecting the state of the Demised premises.

f. Not to let out or sublet or hand over possession of the demised premises or any part thereof to any third party.

g. The LESSEE will use the demised premises for official purpose only (for the authorized persons). No storage / warehousing will be allowed at any condition.

h. To take away/remove all machinery, tools, furnishing and all other installation and belongings from the "1st party/Legal Representative" Premises as soon as the term of this agreement is terminated.

i. To make all minor repair / renovation and maintenance with the consent of the LESSOR for keeping the demises Premises as good and useable condition.

j. To pay back for damage/ reshape cost to the LESSOR if any furniture, resources of the demise premises damaged or reshape by Lessee.

k. The premises should be used only as Signatory person's office as mentioned in this agreement.

l. Without prior written consent of the LESSOR no other office/third party involvement should not be allowed.

m. The LESSE must provide the NID/Passport and office users' (maximum 40 persons) full information to the LESSOR within seven working days.

n. The LESSE must ensure proper utilization of the resources and abide by the rules of the agreement while using the premises.

11. THE LESSOR HERBY AGREES:

a. The LESSOR should carry out all the construction work;
b. To keep the demised Premises including roof, walls drain, apparatus in good and serviceable condition.
c. Not to make the LESSEE liable any taxes, duties or fee which could not be imposed upon the LESSEE by reasons or any immunity or any connection.
d. To allow LESSEE to fix and install machinery (as per agreement) for office purpose.
e. To keep in good order and condition all the plaster on the wall and ceilings of the demised premises and to paint the external surface every three years.
f. The LESSOR guarantees regular and un-interrupted supply of water and electricity unless it is caused by breakdown in the main supply or causes beyond the LESSOR"S control.
g. The LESSEE as well as the LESSOR do hereby irrevocably commit themselves not to dispute or raise any objection to the agreed amount or rent and the terms and conditions of these issues throughout the lease period.

12. That the LESSEE shall carry out all repairs and maintenances as are considered necessary to him at his own cost which in no circumstance could be claimed from the LESSOR. The LESSEE shall not make any addition or alternation to the premises and shall not make any repair that is likely to cause structural damage to the building and causing any inconvenience to neighbors.

13. That the LESSEE shall not make any structural additions, alteration or demolition to the demised premises or any part thereof without the written consent from the LESSOR except improvements and temporarily partitioning of rooms etc. with light materials other than concrete or bricks.

14. At the time of termination of the lease agreement and handing over peaceful possession to the LESSOR, the LESSEE shall clear all dues of electricity conservancy, telephones and other charges up to at the time of termination of the lease agreement.

15. If any dispute or difference arises from this agreement or on the interpretation of any provision of this agreement, the matter shall be referred to two arbitrators, one from each party appointed by mutual consent of both parties and both parties agree not to seek recourse from any court including the Rent Controller and may resolve the dispute or difference through arbitration under the Arbitration Act 2001.

16. LESSOR will show zero tolerance in taking alcohol, drugs and any other toxic substances. Smoking will be restricted in the workplace.

17. In case of any Illegal business movement is found and observed any mentioned protocol breaking, LESSOR authority may take any type of decision against the second party & the refundable security deposit will not provide to LESSEE.

18. For security purpose the LESSEE will keep the duplicate office keys to the designated Building security.

19. LEASSOR will not provide car parking facility to LESSEE at demised premises.

20. That the LASSEE shall be liable for eviction if the LESSEE violates any of the above-mentioned terms and conditions.

SCHEDULE OF THE PROPERTY

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"Daffodil Tower-4" 1st Floor with 2786 square feet at C.S Plot No. 308 S.A plot No. 305, R.S plot No. 455, City jorip plot No. 921 of Khatin CS No. 176, S.A Khatian No. 172 R.S Khatian no. 265, Mohanagar Jorip Khatian- 411, under Shukrabad Mouja, Sub-registry office- Dhanmondi, District: Dhaka.

IN WITNESS WHEREOF the LESSOR and the LESSEE have hereinto respectively put their signature and seals in presence of witnesses on the day, month and year above written.

Witnesses:

……....

Signature of the LESSOR (1st party)

1.----------

2. ---------- ----------

Signature of the LESSEE (2nd party)

3.----------

Example-2

LEASE AGREEMENT

This DEED OF LEASE AGREEMENT is made on this 1st Day of DECEMBER, TWO THOUSAND TWENTY-ONE of the Christian Era.

BETWEEN

Mr. Md. Sabbir Ahmed, Son of Md. Delwar Hossain Chowdhury, Legal Representative by the owner of Daffodil Family Tower having his present address at 102/1 Shukrabad, Mirpur Road, Dhaka 1207, N.I.D: 2691648043908hereinafter referred to as the **'LESSOR'** (Which

expression, unless repugnant or contrary to the context, shall mean and include its heirs, legal representatives, executors, successors-in-interest, assignees and nominees) OF THE ONE PART.

AND

SHENZHEN HAOQINGNIAN TECHNOLOGY Co, LTD. represented by its Director Mr. LiZheng**,** having his present address at No.081, Liji Village, Wangjun Administrative Village, Qiandian Town, Dancheng County, Henan Province, China, Chinese NID no. 412726198512306254 And Passport no. E31890722 here in after referred to as the **'LESSEE'** (Which expression, unless repugnant or contrary to the context, shall mean and include its heirs, legal representatives, executors, successors-in-interest, assignees and nominees) OF THE OTHER PART.

Whereas the LESSOR is the Legal Representative by the owner of Daffodil Family Tower and absolutely seized and possessed of or otherwise well and sufficiently entitled to the demised premises at the Flat 13A & 12A Floor of the Daffodil Family Tower and Address: Plot No. 367 (Old) 11 (New), Road No. 29 (Old) 14 (New), Dhanmondi, Dhaka-1205.

Whereas the LESSOR has agreed to grant to the LESSEE North side of the Flat 13A & 12A Floor of the premises and the LESSEE has agreed to accept from the LESSOR the aforesaid area of space in the Flat 13A & 12A for rent subject to the terms and conditions hereinafter contained.

NOW THE AGREEMENT WITNESSETH AND THE PARTIES HERETO MUTUALLY AGREE AS UNDER.

21. In consideration of the rent hereinafter received and the convents and conditions hereinafter contained in this Lease Agreement for lease of the Flat 13A & 12A Floor situated at Address: Plot No. 367 (Old) 11 (New), Road No. 29 (Old) 14 (New), Dhanmondi, Dhaka-1205.

Page no. 5/1

22. Notwithstanding anything contained in this agreement, the execution date of this deed of rent shall be deemed to have come into effect from 1st day of December 2021 for the Flat 13A & 12A, of the "Daffodil" demised premises.

23. The monthly rent of the demised premises shall be TK. **2,20,000/- (**In word: Two Lac Twenty Thousand Taka) only. The said amount shall be paid as rent to the Lessor on or before 5th day of each calendar month.

24. After every year, the monthly rent shall be increased by 10% (Ten percent).

25. The LESSEE shall pay minimum (02) two months' rent **Tk. 4,40,000/- (Four Lac Forty Thousand Taka)** Only as security deposit to the LESSOR as rent advance, and the same amount shall be refunded to the 2nd party upon expiry or termination of the lease agreement.

26. The Lease Agreement May be extended if necessary for any further period on mutual agreement and the rent will be fixed on the basis of the market rate.

27. If the LESSEE / LESSOR desires to terminate this agreement or vacate the premises before expiry of the contract period, the desiring party must serve 03 (Three) months advance notice to the other party.

Provided that, if the termination necessary due to violation of any terms and condition by the LESSEE then the LESSOR shall serve 02 (Two) months advance Notice.

28. The LESSEE shall pay **Tk. 0**/- (Zero Taka) from 1st December 2021 only as service Charges which may be recalculated time to time by the building management authority.

29. If the LEASSE fail to pay monthly rent for 02 (two) subsequent months the termination

Clause will be automatically active and effective from the first month.

30. THE LESSEE THEREBY AGREES:

o. To pay the Monthly rent & service charge as per terms and condition for the demised premises within 5th day of each calendar month.

p. To pay the Electrical, utility and other charges as per consumption and thereafter provided the original bill copy to the LESSOR.

q. To keep the interior and stair case of the demised Premises clean, tidy and in good order and condition and for such maintenance the LESSEE may incur such expenses that may be required.

r. To deliver the vacant and peaceful possession of the demised premises to the LESSOR in good and tenable condition on the expiry of this rent agreement or on the expiry of the renewed period.

s. To permit the LESSOR or his representative at any reasonable time and upon prior appointment to entreat "1st party/Legal Representative" Demised Premises for purpose of viewing & inspecting the state of the Demised premises.

t. Not to let out or sublet or hand over possession of the demised premises or any part thereof to any third party.

u. The LESSEE will use the demised premises for official purpose only (for the authorized persons). No storage / warehousing will be allowed at any condition.

v. To take away/remove all machinery, tools, furnishing and all other installation and belongings from the "1st party/Legal Representative" Premises as soon as the term of this agreement is terminated.

w. To make all minor repair / renovation and maintenance with the consent of the LESSOR for keeping the demises Premises as good and useable condition.

x. To pay back for damage/ reshape cost to the LESSOR if any furniture, resources of the demise premises damaged or reshape by Lessee.

y. The premises should be used only as Signatory person's office as mentioned in this agreement.

z. Without prior written consent of the LESSOR no other office/third party involvement should not be allowed.

aa. The LESSE must provide the NID/Passport and office users' (maximum 40 persons) full information to the LESSOR within seven working days.

bb. The LESSE must ensure proper utilization of the resources and abide by the rules of the agreement while using the premises.

31. THE LESSOR HERBY AGREES:

h. The LESSOR should carry out all the construction work;

i. To keep the demised Premises including roof, walls drains, apparatus in good and serviceable condition.

j. Not to make the LESSEE liable any taxes, duties or fee which could not be imposed upon the LESSEE by reasons or any immunity or any connection.

k. To allow LESSEE to fix and install machinery (as per agreement) for office purpose.

l. To keep in good order and condition all the plaster on the wall and ceilings of the demised premises and to paint the external surface every three years.

m. The LESSOR guarantees regular and un-interrupted supply of water and electricity unless it is caused by breakdown in the main supply or causes beyond the LESSOR"S control.

n. The LESSEE as well as the LESSOR do hereby irrevocably commit themselves not to dispute or raise any objection to the agreed amount or rent and the terms and conditions of these issues throughout the lease period.

32. That the LESSEE shall carry out all repairs and maintenances as are considered necessary to him at his own cost which in no circumstance could be claimed from the LESSOR. The LESSEE shall not make any addition or alternation to the premises and shall not make any repair that is likely to cause structural damage to the building and causing any inconvenience to neighbors.

33. That the LESSEE shall not make any structural additions, alteration or demolition to the demised premises or any part thereof without the written consent from the LESSOR except improvements and temporarily partitioning of rooms etc. with light materials other than concrete or bricks.

34. At the time of termination of the lease agreement and handing over peaceful possession to the LESSOR, the LESSEE shall clear all dues of electricity

conservancy, telephones and other charges up to at the time of termination of the lease agreement.

35. If any dispute or difference arises from this agreement or on the interpretation of any provision of this agreement, the matter shall be referred to two arbitrators, one from each party appointed by mutual consent of both parties and both parties agree not to seek recourse from any court including the Rent Controller and may resolve the dispute or difference through arbitration under the Arbitration Act 2001.

36. LESSOR will show zero tolerance in taking alcohol, drugs and any other toxic substances. Smoking will be restricted in the workplace.

Page no. 5/4

37. In case of any Illegal business movement is found and observed any mentioned protocol breaking, LESSOR authority may take any type of decision against the second party & the refundable security deposit will not provide to LESSEE.

38. For security purpose the LESSEE will keep the duplicate office keys to the designated Building security.

39. LEASSOR will not provide car parking facility to LESSEE at demised premises.

40. That the LASSEE shall be liable for eviction if the LESSEE violates any of the above-mentioned terms and conditions.

SCHEDULE OF THE PROPERTY

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"Daffodil Family Tower" Flat-13A & 12A Floor at Plot No. 367 (Old) 11 (New), Road No. 29 (Old) 14 (New), under the layout plan of Dhanmondi Residential Area, prepared by the, Ministry of Works, within the District: Dhaka, P. S.: Dhanmondi, Sub-Registry Office: Dhanmondi, Mouza: Dhanmondi Residential Area, Dhaka.

IN WITNESS WHEREOF the LESSOR and the LESSEE have hereinto respectively put their signature and seals in presence of witnesses on the day, month and year above written.

Witnesses:

……....

Signature of the LESSOR (1st party)

1.----------

2. ---------- -- ----------

Signature of the LESSEE (2nd party)

a. Requirements to become a Notary Public in Bangladesh

Notaries in Bangladesh are appointed by the Minister of Justice (Minister of Justice) and people who want to become a notary in Malaysia have to become lawyer

(Lawyer) in advance and authorized by the Public Prosecutor

according to the provisions, "A notary public is a lawyer authorized by the Attorney

Generals". under the Sharia Court. Requirements to become a Notary in

Bangladesh are as follows:

1) Bangladesh Citizen
2) Adult, min. 25 years
3) Derived from Advocates
4) Undergo an internship for min.1 year after passing the exam organized by the ministry.
5) Appointed by Common Attorney

In addition, there are provisions regarding people who are prohibited from becoming Notary, namely:[74]

1. People who have been sentenced to prison. Exceptions for those who have served a prison sentence of up to two years and have finished serving their sentence or have been released.
2. People who have been sentenced to bankruptcy or who have not been reinstated.
3. People who have been dismissed as government employees.

There is something unique in Bangladesh, for Judges, Prosecutors and Lawyers can be appointed as Notaries without having to go through exams and apprenticeships. The Minister can also appoint anyone who has qualified experience in the field of law and has the same academic background as legal professionals in general to become a Notary.[55].

b. Duties and Authorities of a Notary in Bangladesh

The notary's duty is to serve requests from interested parties for:

1) Make a notarial deed regarding legal actions and civil rights.
2) Ratify the documents made under the hand, and also ratify the articles of association.
3) Determine the certainty of the date of the document.
4) Validate digital documents.

In carrying out their duties, a notary has two main functions, namely:[77]

55 John Owen Haley, The Spirit of Japanese Law, Athens, GA: University of Georgia Press, 1998 downloaded fromhttp://law.wustl.edu/wugslr/issues/volume1/p573Port.pdf

1. Preventing legal disputes, namely by preparing notarial deeds based on clear evidence and helping to prevent disputes from occurring in the future.

2. Solve legal problems. Notarial deed that meets certain conditions has the power of execution and can be enforc

Notary laws Bangladesh:

WHEREAS it is expedient to provide for and to regulate the profession of notaries in Bangladesh; NOW, THEREFORE, in pursuance of the Proclamation of the seventh day of October, 1958, and in exercise of all powers enabling him in that behalf the President is pleased to make and promulgate the following Ordinance:-

(1) This Ordinance may be called the Notaries Ordinance, 1961.

(2) It extends to the whole of Bangladesh.

(3) It shall come into force on such date as the Government may, by notification in the official Gazette, appoint.

Definitions2. In this Ordinance, unless the context otherwise requires,-

(a) "instrument" includes every document by which any right or liability is, or purports to be, created, transferred, modified, limited, extended, suspended, extinguished or recorded;

(b) "legal practitioner" means any advocate or attorney of the Supreme Court 2[* * *] or any pleader authorised under any law for the time being in force to practise in any Court of law;

(c) “notary” means a person appointed as such under this Ordinance: Provided that for a period of six months from the commencement of this Ordinance it shall include also a person who, before such commencement, was appointed a notary public by the Master of Faculties in England, and is, immediately before such commencement, in practice as a notary in any part of 3[in the territory now comprised in Bangladesh];

(d) “prescribed” means prescribed by rules made under this Ordinance;

(e) “Register” means a Register of Notaries to be maintained under section 4.

3. The Government, for the whole or any part of 4[Bangladesh], may appoint as notaries any legal practitioners or other persons who possess such qualifications as may be prescribed.

. (1) The Government shall maintain, in such form as may be prescribed, a Register of the notaries appointed by 5[the] Government and entitled to practise as such under this Ordinance.

(2) Every such Register shall include the following particulars about the notary whose name is entered therein, namely:-

(a) his full name, date of birth, residential and professional address;

(b) the date on which his name is entered in the Register;

(c) his qualification; and

(d) any other particulars which may be prescribed.

48. (1) A notary may do all or any of the following acts by virtue of his office, namely:-

(a) verify, authenticate, certify or attest the execution of any instrument;

(b) present any promissory note, hundi or bill of exchange for acceptance or payment or demand better security;

(c) note or protest the dishonour by non-acceptance or non- payment of any promissory note, hundi or bill of exchange or protest for better security or prepare acts of honour under the Negotiable Instruments Act, 1881, or serve notice of such note or protest;

(d) note and draw up ship's protest, boat's protest or protest relating to demurrage and other commercial matters;

(e) administer oath to, or take affidavit from, any person;

(f) prepare bottomry and respondantia bonds, charter parties and other mercantile documents;

(g) prepare, attest or authenticate any instrument intended to take effect in any country or place outside Bangladesh in such form and language as may conform to the law of the place where such deed is intended to operate;

(h) translate, and verify the translation of, any document from one language into another;

(i) any other act which may be prescribed.

(2) No act specified in sub-section (1) shall be deemed to be a notarial act except when it is done by a notary under his signature and official seal.

Power to make rules:

15. (1) The Government may, by notification in the official Gazette, make rules to carry out the purposes of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the qualifications of a notary, the form and manner in which applications for appointment as a notary may be made and the disposal of such applicants;

(b) the certificates, testimonials or proofs as to character, integrity, ability and competence which any person applying for appointment as a notary may be required to furnish;

(c) the fees payable for appointment as a notary and for the issue and renewal of a certificate of practice, and exemption, whether wholly or in part, from such fees in specified classes of cases;

(d) the fees payable to a notary for doing any notarial act;

(e) the form of Registers and the particulars to be entered therein;

(f) the form and design of the seal of a notary;

(g) the manner in which inquiries into allegations or professional or other misconduct of notaries may be made;

(h) the acts which a notary may do in addition to those specified in section 8 and the manner in which a notary may perform his functions.


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I. RESEARCH METHOD

To find answers to questions in this research problem, the following research framework is compiled:

1. Research paradigm

The paradigm used in this study is the constructivism paradigm. The constructivism paradigm is a paradigm that is almost the antithesis of the notion that places observation and objectivity in discovering a reality or science. This paradigm views social science as a systematic analysis of socially meaningful action through direct and detailed observation of social actors concerned with creating and maintaining or managing their social world.

This paradigm states that (1) the basis for explaining life, social events and humans is not science in a positivistic framework, but in the sense of common sense. According to them, common knowledge and thoughts contain the meaning or significance that individuals give to their experiences and everyday life, and this is the beginning of research in the social sciences; (2) the approach used is inductive, running from the specific to the general, from the concrete to the abstract, (3) science is idiographic not nomothetic, because science reveals that reality is displayed in symbols through

descriptive forms; (4) knowledge is not only obtained through the senses because understanding of meaning and interpretation is far more important; and (5) knowledge is not value-free. The value-free condition is not something that is considered important nor is it possible to achieve it.

According to Patton, constructivist researchers study the various realities constructed by individuals and the implications of these constructions for their lives with others. In constructivism, each individual has a unique experience. Thus, research with such a strategy suggests that any individual's way of looking at the world is valid, and there needs to be respect for that view.

2. Types of research

The research in writing this thesis is a qualitative research. Writing aims to provide an overview of a society or a particular group of people or an overview of a symptom or between two or more symptoms. Furthermore, this study seeks to explain the postulates studied in full according to the findings in the field[56].

[56] Altherton & Klemmack in Irawan Soehartono, 1999, Social Research Methods A Research Technique for Other Social Welfare, Bandung, Teenagers Rosda Karya, h. 63

3. Research Approach and Typology

This research approach uses a normative juridical approach with a research typology, namely explanatory research. This typology aims to describe or explain the arrangements for the Notary Office in Indonesia to be compared with those for the Notary Office in Bangladesh,as well as to explain the similarities and differences regarding the arrangements for the Notary Professional Code of Ethics in Indonesia and Bangladesh.

4. Research Data Sources

Source of data used in this research is[57] :

b. Primary Data, is data obtained from statements and information from respondents directly obtained through interviews and observation. In this case, the data obtained from the " The Practical of Public Notary Position and Ethical Code in Bangladesh"

c. Secondary Data, is an indirect source that is able to provide additional and strengthening of research data. Secondary data sources were obtained through documentation and literature studies with the help of print and electronic media. In addition, secondary data sources can be archives and various

[57]L. Moleong, 2002, Qualitative Research Methods, PT Young Rosdakarya, Bandung, h. 34-35

appropriate additional data sources. Source of secondary data namely:

a. Primary Legal Materials

Hasan[58], primary legal materials are materials obtained or collected by researchers from existing sources. Material Primary law is obtained from literature, documentation studies or from previous research reports. So that the primary legal material in this research can be obtained through records, archives, and documents other documents that can be used as primary information. As for The primary legal materials in this research are;

1) Law (UU) No. 2 of 2014. Amendments to Law Number 30 of 2004 concerning the Position of Notary;
2) Government Regulation/PP No. 21 of 2015 concerning Procedures for Registration of Fiduciary Guarantees and Fees for Making Fiduciary Guarantee Deeds;;
3) Permenkumham No. 2 of 2016 concerning Submission of Applications for Legal Entity Approval and Approval of Amendments to the Articles of Association and Submission of Notifications of Amendments to the Articles of Association and Changes to Foundation Data;

[58] *Ibid.*

5) Permenkumham No. 3 of 2016 concerning Procedures for Submitting Applications for Legal Entity Authorization and Approval of Amendments to the Association's Articles of Association;

6) Permenkumham No. 7 of 2016 concerning the Honorary Council of Notaries;

7) *Notary Public (Fees) Rules 1954. A commissioner for oaths is a person appointed by the Chief Justice under section 11 of the Court of Judicature Act 1964;*

8) *166],*etc. b. Secondary Legal Materials

Secondary legal materials are legal materials obtained directly from the results of interviews obtained from sources or informants who considered to have the potential to provide relevant information.In

In this study, secondary legal materials were obtained through interviews with informants who are relevant to the research problem[59].

c. Tertiary Legal Materials

Tertiary legal materials are legal materials obtained from dictionaries, Encyclopedia etc. considered to have the potential to provide relevant information relevant[60].

[59] *Ibid.*, h. 37-38
[60] *Ibid.*, h. 39

5. Data Collection Methods

Data collection methods are ways or strategies to obtain the data needed to answer questions. Data collection techniques aim to obtain data in a way that is appropriate to research so that researchers will obtain complete data both orally and in writing. In this study, researchers used several data collection techniques, namely observation, interviews and documentation.

a. Observation

Observation is a way of collecting data by involving the relationship of social interaction between researchers and informants in a research setting (observation of research objects in the field). Observation is done by observing and recording all events. This method aims to find out the truth or facts in the field[61].

Observations made by researchers are in the form of direct and indirect observation and recording. The researcher uses non-participant observation, that is, the researcher only directly observes the state of the object, but the researcher is not active and is directly involved.

b. Interview

Interviews are data collection by asking a number of questions verbally to be answered verbally as well. Interview is

[61]L. Moleong, 2002, Qualitative Research Methods, PT Young Rosdakarya, Bandung, h. 125-126

a form of communication between two people involves someone who wants to get information from someone else by asking questions based on a specific purpose.[62]

Interviews are broadly divided into two, namely structured interviews and unstructured interviews. Structured interviews are often also referred to as standard interviews, in which the composition of the questions has been predetermined with the answer choices provided. Unstructured interviews are flexible, the composition of the questions and the wording of each question can be changed during the interview, according to the needs and conditions during the interview[63].

c. Documentation

Documentation is a data collection technique that is not directly addressed to research subjects, but rather as supporting data that is needed by researchers. Documentation can be in the form of published documents or personal documents such as photos, videos, diaries and other notes. Documentation carried out by researchers is all forms of written and unwritten documentation that can be used to complement other data.[64]

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[62] *Ibid.*
[63] *Ibid.*
[64] H. Nawawi, 1995, Social Field Research Methods, Gadjah Mada University Press, Yogyakarta, p. 54

6. Research sites

This research took locations in 2 places, namely the city of Semarang, Indonesia and in the Dhaka, Bangladesh which is active and has many notarial activities, land data collection, making of authentic deeds etc. so it is interesting to study. This research was conducted from March 2023-April 2023.

7. Research Instruments

The instrument used in this study was the researcher himself who was directly involved in the research. In qualitative research, the researcher is the key instrument. In this study, the research instrument was the researcher himself (the writer) who was directly involved in the research. The researcher as the main instrument is the researcher who plans, collects, and interprets the data. In interpreting the data, the researcher needs to validate the instrument itself (in this case the researcher himself) which is done by validating the capabilities possessed, by increasing understanding of material related to research, namely about Management of Change. This understanding is increased by reading reference books related to the Management of Change. Another effort was made by discussing with colleagues. In addition to validating research instruments, researchers also need to validate research methodology. validation of the research methodology is carried out by increasing understanding of the method used

used by reading references and preparing everything before going into the field or improving the methods used during research in the field. Improvements made by researchers are by improving interview guidelines that will be submitted to informants. In collecting data, the researcher conducted interviews and direct observations using tools for data collection in the form of interview guides, notebooks, tape recorders and observation devices during the research process.[65].

9. Sampling Technique

[65]Burhan Bungin. Qualitative Research Data, (Jakarta: PT Raja Grafindo Persada, 2008). h. 64

The sampling technique in this study was purposive sampling and Snowball sampling. Purposive sampling is a sampling technique with certain considerations, namely the person who is considered to know the most about what is being studied. Snowball sampling is a method of taking a sample from a population. Where snowball sampling is included in the non-probability sampling technique (samples with unequal probabilities). This sampling method is specifically used for community data from subjective respondents/samples, or in other words the sample objects we want are very rare and clustered in a set

10. Data Analysis Techniques

Qualitative data analysis is the process of searching for, and systematically compiling data obtained from interviews, field notes and documentation by organizing data into categories, describing them into units, synthesizing them, compiling them into patterns, choosing names that are important and what will be studied and draw conclusions so that they are easily understood by themselves and others. The steps taken according to Miles and Huberman are as follows[67]:

a. Data collection

[66] *Ibid.*, h. 204
[67] Suharsimi Arikunto, Research Procedure, (Jakarta: PT Rineka Cipta, 2002), h. 206

The data and information obtained from the informants by means of interviews, observation or documentation are put together in a research note in which there are two aspects, namely a description note which is a natural record containing what was heard, experienced, recorded, seen, felt without any responses from researchers to the phenomena that occur. The second is a reflection note, namely a note containing the impression of the message, comments and interpretations of the researcher about the phenomenon he is facing, this note is obtained from the results of interviews with various informants.

b. Data reduction

Data reduction is a selection process, focusing attention on simplification steps, abstracting and transforming raw data that emerges from written records in the field. Data reduction in this study was carried out by selecting, making summaries or brief descriptions, classifying to further sharpen, emphasize, abbreviate, remove parts that are not needed, and organize data so that conclusions can be drawn appropriately.

c. Data Presentation

Presentation of data is intended to facilitate researchers in viewing research results. The amount of data obtained makes it difficult for researchers to see an overview of the results of the research and the process of drawing conclusions, because the results of the research are still in the form of independent data.

d. Conclusion

The final step in qualitative data analysis is drawing conclusions. Drawing conclusions is an attempt to find or understand the meaning of regular patterns, clarity, causality or propositions.

Data analysis with an interactive model described by Milles And Huberman as follows.

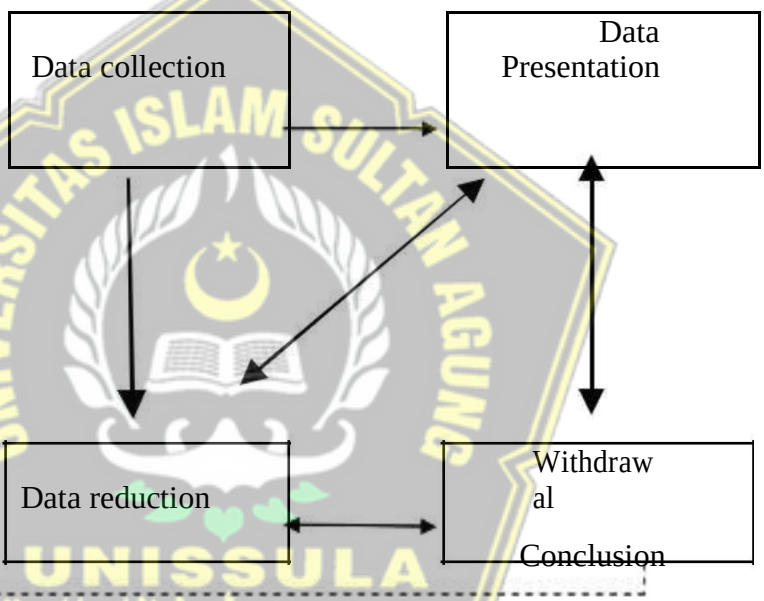

Chart 2. Milles and Huberman's Interactive Analysis Model

11. Data Validation Techniques

The effort to validate the data is by using data triangulation techniques. The triangulation technique is used to check the correctness and interpretation of the data. According to Moleong, triangulation is a technique for checking the validity of data that utilizes something other than that for the purpose of checking or as a comparison of the data. Testing the validity in this study is by

using source triangulation technique. Source triangulation can be achieved by road[68]:

1) Comparing the observed data with the interview data.
2) Compare what people say in public with what people say in private.
3) Compare what people are saying about the research situation with what is being said all the time.
4) Comparing a person's situation and perspective with various people's opinions and views.
5) Comparing the results of interviews with the contents of related documents.

J. WRITING SYSTEM

As befits a standard scientific report in the form thesis, this report explains technically and procedurally. it is for get a clear picture of the material that is the subject of thesis writing and to make it easier for readers to learn the order of writing this, the researchers compiled a systematic writing.[69]

The discussion of this thesis is divided into five chapters, each chapter consisting of sub chapters namely:

CHAPTER I Introduction, which contains the background of the problem, problem formulation,

Research Objectives, Purpose of Research, Conceptual Framework, Framework Theory, Research Originality, Thinking Framework, Research Methods,

[68] *Ibid.*
[69] L. Moleong, Op. cit, p.49

Writing system. From the background of this problem, there will be discussions that will become the study or review of this thesis.

CHAPTER II Literature Review, this chapter discusses the Position of Notary, Position of Notary in Bangladesh, Requirements to Become a Notary, Duties and Authorities

Notaries, Notary Deeds, Fees for Making Notary Deeds, Notary Organizations, Notary Supervision.

CHAPTER III Research Results, this chapter will explain the Comparison of Notary Offices in Indonesia and Bangladesh Notary Appointment Requirements, Age, Education, Apprenticeship, Oath, Security Deposits, Prohibitions, Duties and Authorities of Notaries, Notary Office Areas, Notary Offices, Notary Retirement Age in Indonesian and Bangladesh

CHAPTER IV Analysis, discusses Comparison of Notary Codes of Ethics in Indonesia and Bangladesh, Regarding Notary Clients, Regarding the Cost of Making Notary Deeds, Regarding Confidentiality, Regarding Publication/Promotion, Regarding

Fellow Notaries, Concerning Competition, Concerning Organizations/Associations, Concerning Supervision and Sanctions and Strengths/Disadvantages Found in Comparative Studies.

CHAPTER V Closing, contains Conclusions, Suggestions and Implications of Thesis Study.

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Notary Office, *Notary Appointment Requirements*, downloaded fromhttp://notary-office.com/?p=77 on May 1, 2012.

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Law (UU) No. 2 of 2014. Amendments to Law Number 30 of 2004 concerning the Office of a Notary.

Government Regulation/PP No. 21 of 2015 concerning Procedures for Registration of Fiduciary Guarantees and Fees for Making Fiduciary Guarantee Deeds.

Regulation of the Minister of Law and Human Rights (Permenkumham) No. 1 of 2016 concerning Procedures for Submitting Applications for Legal Entity Approval and Approval for Amendments to the Articles of Association and Submission of Notifications for Amendments to Articles of Association and Changes to Limited Liability Company Data for Amendments to Permenkumham No. 4 of 2014 concerning Ratification, Amendments to the Articles of Association (AD) and Changes to Company Data.

No. 2 of 2016 concerning Submission of Applications for Legal Entity Approval and Approval of Amendments to the Articles of Association and Submission of Notifications of Amendments to the Articles of Association and Changes to Foundation Data.

No. 3 of 2016 concerning Procedures for Submitting Applications for Legal Entity Authorization and Approval of Amendments to the Association's Articles of Association.

No. 7 of 2016 concerning the Honorary Council of Notaries

Legal Profession Act 1976 [Act 166].

Notaries Public Act 1972 in Laws of Bangladesh


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