

Thesis proposal

**THE FUNCTION OF A NOTARY POSITION IN THE
LEGAL CONTRACT IN BANGLADESHI INDUSTRY**

Supervisor: Dr. Achmad Arifullah, S.H., M.H.



Arranged by:

Mousume Akter Misty

NIM: 21302200116

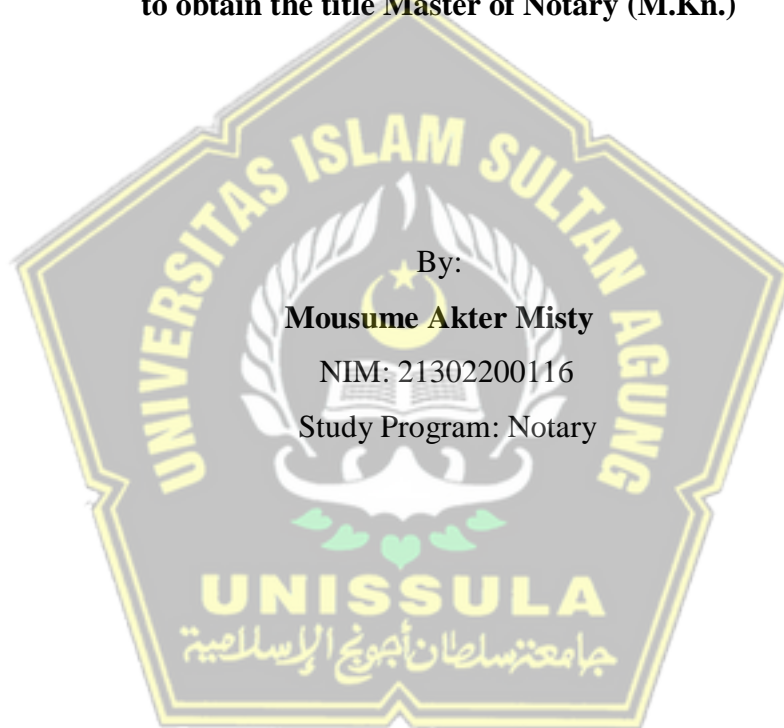
**MASTER PROGRAM (S2) NOTARIAN (M.Kn)
FACULTY OF LAW
SULTAN AGUNG ISLAMIC UNIVERSITY SEMARANG**

2024

**THE FUNCTION OF A NOTARY POSITION IN THE
LEGAL CONTRACT IN BANGLADESHI INDUSTRY**

THESIS

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



By:

Mousume Akter Misty

NIM: 21302200116

Study Program: Notary

MASTER PROGRAM (S2) NOTARIAN (M.Kn)

FACULTY OF LAW

SULTAN AGUNG ISLAMIC UNIVERSITY

SEMARANG

2024

**THE FUNCTION OF A NOTARY POSITION IN THE
LEGAL CONTRACT IN BANGLADESHI INDUSTRY**

THESIS

By:

MOUSUME AKTER MISTY

NIM: 21302200116

Study Program: Notary

Approved by;
Advisor
Date: 17th February, 2024

Dr. Nanang Sri Darmadi, SH, MH
NIDN: 0615087903

Acknowledged,
Head Department of Master of Notarial Law (M.Kn)



Dr. Nanang Sri Darmadi, SH, MH
NIDN: 0615087903

**THE FUNCTION OF A NOTARY POSITION IN THE LEGAL
CONTRACT IN BANGLADESHI INDUSTRY**

THESIS

By:

MOUSUME AKTER MISTY

NIM: 21302200116

Study Program: Notary

Has been defended in Front of a Board of Examiners

In February 28th, 2024

As stated Test Team Chairman,



Dr. Nanang Sri Darmadi, SH, MH

NIDN: 0615087903

Member



Dr. Achmad Arifullah

NIDN: 0620046701

Member



Dr. Dahniarti Hasana

NIDN: 8954100020

Know,

Head of Notary Master's Program (S2) (M.Kn)



Dr. Nanang Sri Darmadi, SH, MH

NIDN: 0615087903

STATEMENT OF AUTHENTICITY OF THESIS

I, the undersigned below,

Name: **MOUSUME AKTER MISTY**

NIM.: 21302200116

Study Program: Master of Notary

Faculty/Program: Law/Master's Program

I hereby declare, in all seriousness and without imitation of other people's work, that my thesis, "THE FUNCTION OF A NOTARY POSITION IN THE LEGAL CONTRACT IN BANGLADESHI INDUSTRY," is entirely original to me. According to accepted practices for writing scientific papers, quotations from other people's thoughts and works are cited appropriately.

I am willing to accept consequences for my actions if it is later demonstrated, or can be demonstrated, that this thesis contains elements of plagiarism and other imitations that are considered to be against the rules.

Bangladesh, February 17, 2024

That state,



MOUSUME AKTER MISTY
21302200116

**STATEMENT OF CONSENT OF PUBLICATION OF SCIENTIFIC
WORKS**

I, the undersigned below,

Name: MOUSUME AKTER MISTY

NIM.: 21302200116

Study Program: Master of Notary

Faculty of Law

Hereby submitting a scientific work in the form of a thesis with the title:

"THE FUNCTION OF A NOTARY POSITION IN THE LEGAL CONTRACT
IN BANGLADESHI INDUSTRY"

And agree that it becomes the property of Sultan Agung Islamic University and gives non-exclusive royalty-free rights to be stored, transferred, managed in databases, and published on the internet or other media for academic purposes as long as it still mentions the name of the author as the owner of the copyright.

I make this statement in earnest. If, in the future, it is proven that there is a copyright or plagiarism infringement in this scientific work, then all forms of lawsuits that arise will be borne by me personally without involving the Sultan Agung Islamic University.

Bangladesh, February 7, 2024

That state,



MOUSUME AKTER MISTY
21302200116

MOTIVATION PAGE

In the name of Allah, the Most Benevolent and Gratitude. The verses from the Quran mentioned above are a powerful reminder to believers of the significance of allocating a portion of their wealth to follow Allah's path. The only way to genuinely achieve perfection and virtue is through giving. As stated in Surah Al-Baqarah (2:267), believers are urged to allocate a portion of the results of their good efforts and a portion of what Allah has bestowed upon them from the earth.

Surah Ali Imran (3:92) contains a verse that highlights the importance of giving even more. It states that true virtue cannot be attained until one gives up something they value. This verse serves as a reminder that the only way to achieve true righteousness and spiritual development is through selfless deeds of giving, even if those deeds require giving up cherished possessions.

A deep parable is presented in Surah Al-Baqarah (2:261) to show the benefits of spending in Allah's way. In the path of Allah, those who invest their wealth are likened to a seed that bears seven ears, each of which holds one hundred seeds. Due to His infinite wisdom and knowledge, Allah, who is All-Wise and All-Knowing, multiplies the rewards for those whom He chooses. This verse is a potent call to action for believers to practice charity because it promises them abundant and far-reaching rewards.

The quote from Love Heaven-Malaysia offers a beautiful analogy, reminding believers of the miracles and wonders created by Allah. It highlights that just as Allah can cause the sun to disappear and bring forth thunder and lightning, He can

also create a rainbow, a symbol of beauty and hope. This serves as a reminder that giving in Allah's way can have amazing and mind-blowing results and that His power and blessings are beyond human comprehension.

People who work as public notaries must adhere to strict moral and ethical standards. The author wants to highlight how crucial it is to apply moral principles with Islamic roots to public notary work in Bangladesh by utilizing the lessons found in these verses. Public notaries should act with justice, equity, and integrity in mind, just as believers are required to use part of their wealth for the service of Allah.

Surah Al-Baqarah mentions a parable that is a potent reminder that giving and moral behavior are not only spiritually fulfilling but also have the potential to produce abundant benefits. Public notaries in Bangladesh have the potential to positively influence society by following ethical codes and upholding the profession's core values; this is similar to how a seed grows and produces an abundant harvest.

In the context of the thesis on the function of a notary position in the legal contract in Bangladeshi industry, these teachings serve as a guiding light, inspiring public notaries to fulfill their professional responsibilities with fairness, justice, and integrity.

Notaries play a vital role in preserving the integrity of legal transactions and upholding justice in the domain of legal systems. Examining the function of

notaries and their adherence to ethical codes in Bangladesh is crucial as the nation develops and negotiates difficult legal issues. In order to clarify this important facet of the legal system, a thesis proposal titled "The Function of a Notary Position in the Legal Contract in the Bangladesh Industry" was created. This research seeks to provide important insights that can improve the effectiveness, transparency, and reliability of legal affairs in Bangladesh by exploring the complexities of notarial practices and the ethical principles that guide their responsibilities. equity and moral conduct in the nation's legal system.

The goal of the thesis, "The Function of a Notary Position in the Legal Contract in the Bangladesh Industry," is to investigate and evaluate notaries' importance and function in relation to legal contracts in the Bangladeshi market. The thesis examines several notary functions, including the legal framework that governs them, the roles and responsibilities of notaries, their impact on the enforceability and validity of contracts, and the overall effectiveness of notary services in Bangladesh, with the goal of ensuring legal compliance and protecting the interests of contracting parties.

In addition, the thesis probably looks at how notary services have changed historically in Bangladesh, any laws or rules governing their practice, and any shortcomings or potential improvements to the current setup. Through thorough research, analysis, and possibly case studies or empirical data, the thesis may attempt to further our understanding of the role notaries play in facilitating

contractual transactions and enhancing the security and legal certainty of business operations in the Bangladeshi industry.

DEDICATION PAGE

I dedicate this thesis to the cherished individuals who continually grace my life during its difficult times and to those who consistently offer their support and prayers, no matter how far we are apart. I sincerely thank and express my sincere gratitude to:

- My heartfelt gratitude to my dear parents, who have nurtured me from afar, tirelessly offering sincere prayers and unwavering support, both morally and materially. I am deeply thankful for all the sacrifices you have made and for your enduring patience.
- I extend my gratitude to all my lecturers and teachers who imparted knowledge and guided me in completing this thesis.
- Throughout my graduation journey, my Indonesian friends have been a huge source of support and have helped me to complete the degree.
- I sincerely dedicate this thesis to the people I love and who have supported and loved me no matter what, enriching my life. May the Almighty provide them with direction and show them His kindness. As I begin this academic journey, I humbly ask Allah for ongoing direction, knowing that with His help, the correct path will become clear to us.

May Allah accept our sincere efforts to carry out good deeds, and may this thesis be a useful addition to the body of knowledge for the author and honorable

readers alike. May it stand as a testament to the pursuit of knowledge and unwavering faith in the guidance of Allah SWT.

FOREWORD

In the name of Allah, the Most Gracious, the Most Merciful,. The universe's owner, Allah, deserves all praise and gratitude for his constant support and guidance, which have been crucial to finishing this thesis on the subject of "The function of a notary position in the legal contract in Bangladesh Industry." Prayers and salutations are forever offered with the deepest humility and gratitude to our beloved Prophet Muhammad (SAW), his noble family, his esteemed companions, and all believers until the Day of Judgment.

This thesis' main goal is to complete the requirements for the Mkn degree in Sultan Agung Islamic University's Notary Masters Program in Semarang. The authors have had the good fortune to receive invaluable advice, instructions, suggestions, and unwavering support from a number of people who have been instrumental in helping them complete this thesis during the difficult process of researching and writing it. The author would like to thank the following people with the utmost respect and gratitude:

The author would first and foremost like to thank Allah for his profound guidance and blessings, without which this endeavor would not have been possible. The author is grateful to God for providing innumerable moments of inspiration and strength that allowed this research to be completed successfully.

The author expresses sincere gratitude to Dr. Nanang Sri Darmadi, SH, MH, her thesis advisor, for her expertise, wisdom, and steadfast support throughout the research process. Their knowledgeable advice, helpful criticism, and scholarly contributions have greatly improved the caliber of this thesis.

Additionally, the author would like to sincerely thank [Names], the members of the thesis committee, for their careful review of this work as well as their insightful comments and suggestions. Their knowledge and insightful analysis have greatly aided in the development of this thesis.

I especially thank the Sultan Agung Islamic University, Semarang, faculty members of the Notary Masters Program for their commitment to fostering and expanding knowledge. The author's unwavering commitment to educational excellence has aided in their intellectual and academic development.

This thesis's theoretical framework and foundation are owed to a number of distinguished academics, researchers, and writers, to whom the author is grateful. Their original research and perceptive comments have greatly influenced the course and extent of this investigation.

Also acknowledged are the staff members and librarians of Sultan Agung Islamic University in Semarang for their important help in locating and acquiring the required materials. It has been impressive how willing and unwaveringly they have supported research endeavors.

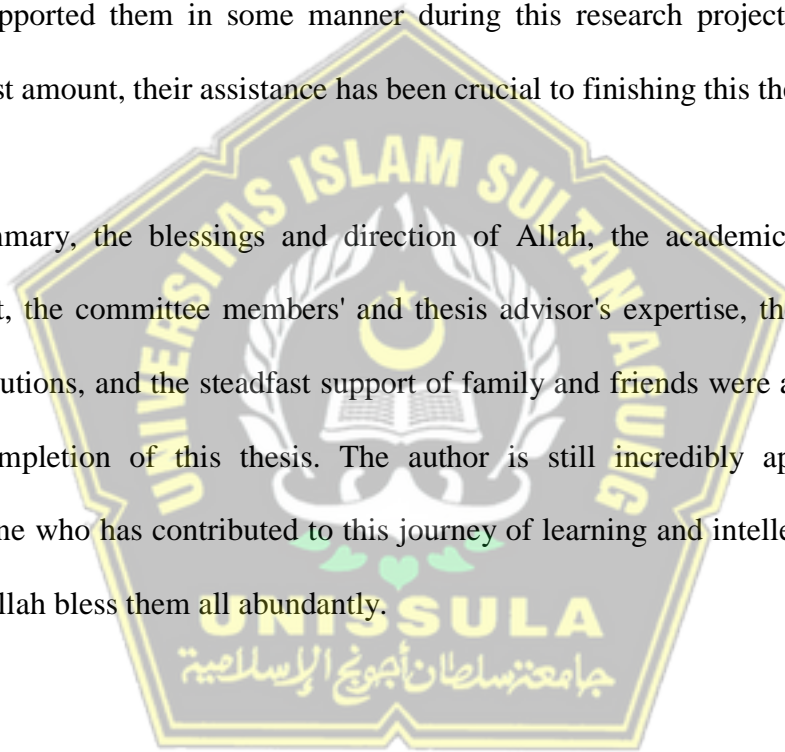
The author sincerely thanks everyone who generously donated their time and insights, took part in surveys, interviews, and other data collection methods. Their

willingness to share their insights and improve the research has made the study richer.

I would like to express my sincere gratitude to friends, family, and loved ones for their constant support, comprehension, and inspiration during the thesis process. Their confidence in the author's skills has been a constant source of encouragement and inspiration.

In conclusion, the author expresses gratitude to everyone who helped, encouraged, and supported them in some manner during this research project. Even in the smallest amount, their assistance has been crucial to finishing this thesis.

In summary, the blessings and direction of Allah, the academic community's support, the committee members' and thesis advisor's expertise, the participant's contributions, and the steadfast support of family and friends were all essential to the completion of this thesis. The author is still incredibly appreciative of everyone who has contributed to this journey of learning and intellectual inquiry. May Allah bless them all abundantly.



Bangladesh, February 17, 2024

Researcher,

Mousume Akter Misty
21302200116

ABSTRACT

The differences between the civil law and common law legal systems that oversee notaries raise questions about how notary positions are organized in Bangladesh and Indonesia. Law No. 2 of 2014 and Law No. 30 of 2004 both discuss the function of the notary public in Indonesia's civil law system. This research seeks to achieve two main goals: The first step is to compare the requirements for becoming a notary public and the extent of their authority in the two nations. The second objective is to examine whether it serves as a critical tool for promoting legal certainty, facilitating commercial transactions, and upholding the rule of law within the country's legal landscape.

The study approach blends an explanatory research typology with a normative juridical approach. In order to ensure comprehensiveness, this qualitative study employs data collection techniques such as documentation and interviews to gather information from primary and secondary sources.

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 the industry deed 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: *International; Notary Public; Comparison; Condition; Author*



LIST OF CONTENTS

COVER PAGE.....	i
TITLE PAGE.....	ii
SUPERVISOR APPROVAL PAGE.....	iii
APPROVAL PAGE.....	iv
STATEMENT OF AUTHENTICITY OF THE THESIS.....	v
PUBLICATION STATEMENT.....	vi
MOTIVATION PAGE.....	vii
DEDICATION PAGE.....	x
FOREWORD.....	xi
ABSTRACT.....	xiv
CHAPTER-1 INTRODUCTION.....	1
A. Background.....	1
B. Problem Formulation.....	5
C. Research purposes.....	6
D. Use of research.....	6
E. Conceptual framework.....	8
F. Theoretical framework.....	11
1. Progressive Law Theory.....	12
2. Authority Theory.....	16
G. Research methods.....	19
1. Research Approach Method.....	19
2. Research Specifications.....	20
3. Type and Source of data.....	20
H. Writing system.....	23

CHAPTER-2 LITERATURE REVIEW

A. General Overview of Notary Positions in Indonesia	25
1. History of Notary.....	25
2. Position of Notary in Indonesia.....	27
3. Requirements to Become a Notary in Indonesia.....	32
4. Duties & Authorities of Notaries in Indonesia.....	39
B. General Overview of Notary Positions in Bangladesh.....	42
1. Position of Notary in Bangladesh.....	42
2. Requirements to Become a Notary in Bangladesh.....	47
3. Power to Make Rules.....	54
4. Duties & Authorities of Notaries in Bangladesh.....	57
C. General Overview of Notary Positions in Countries Adopting the System Civil law and Common Law.....	42
D. Notary Position in Islamic Perspective.....	64

CHAPTER-3 RESEARCH RESULTS AND DISCUSSION

A. How to continue of Public Notary in Bangladesh?.....	74
1. Importance of Notarized Documents.....	76
2. Example of MOU Agreement,Example 1.....	78
3. Example of MOU Agreement,Example 2.....	82
4. Example of MOU Agreement,Example 3.....	92
B. How do the legal prerequisites for becoming a notary differ between Indonesia and Bangladesh?.....	100
C. How does the legal framework surrounding the notary public impact the effectiveness and enforceability of contracts in various sectors of the Bangladeshi industry?.....	112

CHAPTER-4 RESEARCH RESULTS AND DISCUSSION

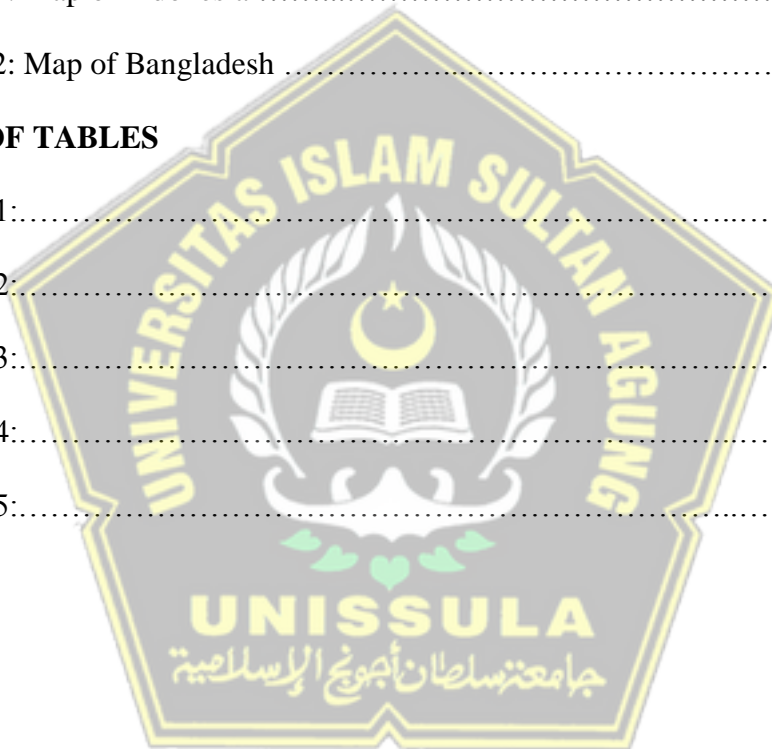
A. CLOSING.....	114
B. SUGGESTIONS.....	115
C. BIBILOGRAPHY.....	119
D. ATTACHMENT.....	121

LIST OF FIGURES

Figure 1: Map of Indonesia	28
Figure 2: Map of Bangladesh	43

LIST OF TABLES

Tables 1:.....	36
Tables 2:.....	60
Tables 3:.....	62
Tables 4:.....	101
Tables 5:.....	104



CHAPTER I

INTRODUCTION

A. BACKGROUND

Notaries public are the oldest and most enduring branch of the legal profession worldwide, dating back to ancient Rome. Originating from the civil institutions of ancient Rome, notaries occupied a prominent position in private and public affairs, substituting common words in official and informal transcripts with a unique shorthand technique. The job of recording statements and transcribing them into official records fell to those skilled in this shorthand, known as notarius.

There are generally two categories of notary schools: those found in civil-law nations and those found in common-law nations. In civil law nations, notaries are termed *Latijnse notariat*, whereas in common law jurisdictions, they are commonly referred to as public notaries. While both positions entail similar titles, their functions and authorities vary significantly.¹

The origins of civil law notaries (*Latijnse Notariat*) can be traced back to Northern Italy during the 11th or 12th century, gradually expanding across mainland Europe and Spain and reaching Central and South American countries. Notably, the United Kingdom, including its Commonwealth nations, and most

¹ Chuasanga A., (Ong) Argo Victoria. (2019). Legal Principles Under Criminal Law in Indonesia and Thailand, *Journal of Sovereign Law*, Vol 2, No 1 (2019) <http://jurnal.unissula.ac.id/index.php/RH/article/view/4218>, see Anang Ade Irawan, Liability of Notary's Heirs as Public Officials for Notarial Deeds Which Cause Losses to the Parties, *Jurnal Lentera Hukum*, Volume 5 Issue 2 2018

Scandinavian countries do not adhere to this notarial tradition. Although these countries use the term 'notary,' its meaning differs from the definition of Latijnse notariat.

²In England, the concept of common law notaries can be traced back to the early 13th century. Historical records indicate that during this time, a number of notaries were appointed to handle a range of legal matters, including the drafting of wills, the examination of witnesses, and the administration of oaths.³ This system of notaries was subsequently adopted in former colonial nations like Singapore, Malaysia, Canada, Australia, New Zealand, India, and the United States.

⁴In order to serve the general public interest, Latijnse notaries are appointed by general authority and are paid a fee (honorarium) by those who use their services.⁵ They play a crucial role in safeguarding the interests of the general public by exercising certain state powers within the realm of private law, particularly in the authentication of deeds that carry substantial evidentiary weight.

² GHS Lumban Tobing, 1996, Notary Public Position Regulations, Erlangga, Jakarta, p. 3-4.

³ Komar Andasmita, 1991, Notary I Position Regulations, Code of Ethics and Association of Notaries/Notaries, Indonesian Notary Association West Java, Bandung, p. 14-15

⁴ Deen, Thaufiq., (Ong) Argo Victoria & Sumain. (2018). Public Notary Services In Malaysia. ACT JOURNAL: Vol. 5, no. 4, 1017-1026. Retrieved from <http://jurnal.unissula.ac.id/index.php/akta/article/view/4135>, see Aga Wigana, Political Directions For Land Law On Land Property Rights For The People, The 5th International Conference and Call for Paper Faculty of Law 2019, Sultan Agung Islamic University

⁵ Lumban Tobing, op.cit., p. 3-4.

⁶Notaries are becoming more and more in demand as more businesses or commercial ventures open up in particular areas. The population size of Indonesia also influences the creation of notarial positions. With a land area of 1,910,931 square kilometers and a population of 273,879,750, Indonesia is a nation under civil law regulation. Presently, there are 17,856 notaries dispersed across the nation.

⁷Bangladesh upholds the notion that it is a nation under law, which means that all elements of the state, the government, and society are obligated to always follow the law. To establish a legal state, it is essential to have legal instruments that regulate fairness and justice in all aspects of people's lives and livelihoods through statutory regulations, while also recognizing the significance of jurisprudence. This highlights the crucial role of legislation in the legal system of Bangladesh. The Republic vests all authority in the people, and any actions carried out on behalf of the people must adhere strictly to the provisions of this Constitution. In Bangladesh, as in many other regions, the concept of notarization likely evolved from these early practices, as societies recognized the need for trusted individuals to authenticate documents and oversee important agreements.⁸

⁶ Article 1 number 12 UUJN. Notary Position Formation is the determination of the number of Notaries required in a Notary's office area. Article 22 number 1 UUJN. Notary Position Formation is determined based on: a. business world activities; b. total population; and/or the average number of deeds made by and/or before a Notary each month.

⁷ Indonesian Central Bureau of Statistics, 2011, Development of Several Main Indonesian Socio-Economic Indicators, Downloaded from http://www.bps.go.id/booklet/Booklet_Agustus_2011.pdf on May 02, 2022.

⁸ <http://bdlaws.minlaw.gov.bd/act-details-308.html>

During the colonial era, British influence introduced formalized legal structures to the Indian subcontinent, including what is now Bangladesh.⁹ Notaries public were appointed to administer oaths, certify documents, and perform other legal functions in accordance with British legal traditions. This period laid the groundwork for the modern notarial system in Bangladesh, shaping its procedures and practices.

Following Bangladesh's independence in 1971, the legal system underwent significant reforms to adapt to the nation's newfound sovereignty. Notaries public continued to play a crucial role in the legal landscape, albeit within the framework of the newly established legal institutions and regulations. The government of Bangladesh recognized the importance of notaries in facilitating commerce, ensuring legal compliance, and promoting transparency in transactions.

¹⁰While the institution of notary public in Bangladesh has a long history and established legal framework, it also faces challenges and opportunities in the modern context. Rapid technological advancements, changing business practices, and evolving legal requirements necessitate continuous adaptation and innovation within the notarial profession. Moreover, ensuring accessibility and efficiency in notarial services remains a priority to meet the needs of a diverse and dynamic society. ¹¹The notary public in Bangladesh reflects a journey of continuity and adaptation, from ancient origins to the present day. As a vital component of the legal infrastructure, notaries play an indispensable role in facilitating commerce,

⁹ Substituted for "Provincial Government", ibid

¹⁰ Ins. by Notaries (Amendment) Act, 1999 (Act No36 of 1999), Sec 4 (w.e.f 17.12.19999)

¹¹ Dhaka University Law Journal

Volume: 33 | Issue: 1 | June 2022

upholding legal integrity, and promoting public confidence in the legal system. With a rich legacy and a commitment to excellence, notaries in Bangladesh continue to serve as guardians of legality and guardians of justice in the nation's legal landscape.

¹²Seeing from the background above, the researcher is interested in conducting research and writing a thesis with the title, "The Function of a Notary Position in the Legal Contract in the Bangladesh Industry.

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. How to continue of Public Notary in Bangladesh?
2. How do the legal prerequisites for becoming a notary differ between Indonesia and Bangladesh?
3. How does the legal framework surrounding the notary public impact the effectiveness and enforceability of contracts in various sectors of the Bangladeshi industry?

C. RESEARCH PURPOSES

1. To explore strategies and frameworks of the public notary system in Bangladesh.

¹² General Economics Division, Planning Commission. Perspective Plan of Bangladesh, 2010-2021: Making Vision 2021, A Reality (Government of the Peoples' Republic of Bangladesh, 2012) 33-34 accessed 4 August 2021.

2. To analyze and compare the legal prerequisites for becoming a notary in Indonesia and Bangladesh, examining differences in educational requirements, examination processes, training programs, and governmental approval procedures to provide insights into regulatory frameworks and potential areas for reform in both countries.
3. To investigate the impact of the legal framework surrounding the notary public on the effectiveness and enforceability of contracts across different sectors of the Bangladeshi industry

D. USES OF RESEARCH

This research can be viewed from interrelated aspects, namely from a theoretical perspective. With this research, the author really hopes that it will provide the following benefits:

1. Theoretically

The results of this study found a new theory in the field of law, especially "The Function of a Notary Position in the Legal Contract in the Bangladesh Industry," which is expected to be a positive contribution to scientific contributions in the field of law, especially knowledge of notaries internationally.

2. Practically

This Notary Law research project seeks to enhance understanding and knowledge across various areas of notary law in the Bangladeshi legal industry, which encompasses several critical functions that contribute to the integrity and reliability of legal transactions. This thesis is designed to explore and contribute to the academic and practical aspects of notary public functions. The research aims to delve into several key areas within the realm of notarial law.



E. CONCEPTUAL FRAMEWORK

A conceptual framework serves as the backbone of research, providing a structure and theoretical foundation upon which studies are built and understood.¹³ It offers a conceptual map that guides researchers in organizing their thoughts, developing hypotheses, and interpreting findings. Whether in the social sciences, natural sciences, or humanities, a conceptual framework is indispensable for framing research questions, defining variables, and constructing meaningful interpretations. The conceptual framework is the set of basic concepts related to the concepts contained in the research title, which are described in the research problems and objectives.¹⁴ These basic concepts will be used as guidelines in order to collect data and legal materials needed in this research to answer the problems and research objectives. Basic concepts are usually obtained after searching for legal materials needed in research in the form of a literature review regarding the problems and objectives of this research.¹⁵

¹³ Rusdi Malik, 2000, *The Invention of Religion in Law in Indonesia*, Trisakti University, Jakarta, p. 15.

¹⁴ Paulus Hadisoeparto, et al, 2009, *Guidelines for Writing Research Proposals and Theses*, UNDIP, Semarang, p. 18

¹⁵ Rusdi Malik, 2000, *The Founder of Religion in Law*, Trisakti, Jakarta, p. 15

Here's an outline of the conceptual framework:

1. Legal Framework in Bangladesh:

- Understanding the legal system and regulatory framework governing contracts and notary positions in Bangladesh.
- Examining relevant statutes, laws, and precedents that shape the role of notaries in contractual agreements within the Bangladeshi industry.

2. Role and Function of Notary Public:

- Defining the role and responsibilities of a notary public in Bangladesh.
- Exploring the historical context and evolution of notarial practices in the country.
- Investigating the legal authority, duties, and limitations of notaries in the context of drafting, witnessing, and certifying contracts.

3. Contract Law and Legal Instruments:

- Reviewing the principles and doctrines of contract law applicable in Bangladesh.
- Analyzing the significance of legal instruments such as deeds, agreements, and contracts in commercial transactions.
- Examining the requirements for validity, enforceability, and interpretation of contracts under Bangladeshi law.

4. Functions and Processes of Notarization:

- Identifying the specific functions performed by notaries in the context of contractual arrangements.
- Examining the procedural requirements and best practices associated with notarizing contracts in Bangladesh.
- Investigating the role of notaries in ensuring the authenticity, integrity, and legality of contractual documents.

5. Impact and Effectiveness of Notarial Practices:

- Assessing the impact of notarial practices on the enforceability and validity of contracts in the Bangladeshi industry.
- Analyzing the extent to which notarization enhances transparency, credibility, and legal certainty in commercial transactions.
- Exploring the challenges, loopholes, and potential reforms pertaining to the role of notaries in contract enforcement.
- Stakeholder Perspectives and Empirical Analysis:
 - Incorporating perspectives from legal practitioners, industry stakeholders, and policymakers regarding the function of notaries in contractual relationships.
 - Conducting empirical research, surveys, or case studies to examine the practical implications and perceptions of notarial practices in Bangladesh.

6. Comparative Analysis and Best Practices:

- Drawing comparisons with notarial systems and practices in other jurisdictions or countries with similar legal frameworks.

- Identifying best practices, innovations, or regulatory reforms that could enhance the effectiveness and efficiency of notarial functions in the Bangladeshi industry.

F. THEORETICAL FRAMEWORK

The theoretical framework seeks to apply or explain why particular symptoms or processes occur; however, this theory must be tested by addressing facts that function systematically, logically (rationally), experimentally (actually), and symbolically. Legal theory encompasses the subject matter studied in legal philosophy.¹⁶ The only thing missing from legal theory research is knowledge of what is being studied in doctrinal analysis or normative legal science.¹⁷ A theoretical framework is a framework of thought or points of opinion, theory, or thesis regarding a problem case that is used as material for comparison of writing in the field of law. Another term for a theoretical framework is a framework of thought, points of opinion, theory, or thesis regarding a case or problem that becomes material for comparison or reference in theories in research.¹⁸ There are several theories that the author will use in this thesis, namely:

¹⁶ Otje Salman and Anton F Susanti, 2008. *Legal Theory, Remembering, Collecting and Reopening*, Rafika Aditama Pers, Jakarta, p. 21

¹⁷ Achmad Ali, 2010. *Revealing Legal Theory and Judicial Prudence, Including the Interpretation of Laws*, Postgraduate Program Director at Indonesian Muslim University Makasar, Makasar, p. 18

¹⁸ M. Solly Lubis, 2007, *Philosophy of Science and Research*, Mandar Maju, Bandung, p. 27.

1. Progressive Law Theory

Progressive Law Theory, as a Grand Theory, represents a comprehensive framework that seeks to understand and transform legal systems in the context of societal progress, justice, and human rights. This theory encompasses a broad spectrum of legal scholarship and activism aimed at challenging entrenched power structures, promoting social equality, and advancing democratic governance.¹⁹ Here's an exploration of Progressive Law Theory as a Grand Theory:

1. Foundations of Progressive Law Theory:

Progressive Law Theory is rooted in the belief that law should serve as a tool for social change and justice, rather than merely reflecting and preserving existing power dynamics.²⁰

At its core, Progressive Law Theory challenges conventional legal paradigms by foregrounding issues of social justice, human rights, environmental sustainability, and participatory democracy.²¹

2. Critique of Traditional Legal Approaches:

Progressive Law Theory critiques traditional legal approaches that prioritize formalism, legal positivism, and legal formalism over substantive justice and societal transformation.

¹⁹ <https://ejournal.undip.ac.id/index.php/dlr/article/view/19845/13803>

²⁰ Joyce Appleby; Lynn Hunt & Margaret Jacob, *Telling the Truth about History* (1995).

²¹ Johnny Ibrahim, 2005, *Theory and Methodology of Normative Legal Research*, Bayumedia, Surabaya, p.1

It challenges the notion of law as a neutral and apolitical instrument, highlighting its embeddedness within social, economic, and political contexts characterized by power imbalances and systemic injustices²².

By exposing the limitations and biases of traditional legal frameworks, Progressive Law Theory calls for a more inclusive, responsive, and transformative approach to law and legal practice.²³

3. Focus on Structural Inequality and Social Change:

Progressive Law Theory directs attention to structural inequalities and systemic injustices embedded within legal institutions, policies, and practices.

It seeks to address disparities of power, wealth, and privilege by advocating for legal reforms, institutional accountability, and redistributive policies.²⁴

Through critical analysis and advocacy, Progressive Law Theory aims to dismantle barriers to equality, promote marginalized voices, and create avenues for meaningful social change.

4. Emphasis on Human Rights and Social Justice:²⁵

²² Alan Bullock and Oliver Stallybrass, *The Fontana Dictionary of Modern Thought*(London: Fontana/Collins, 1977).

²³ Walter Nugent, *Progressivism: A Very Short Introduction*(Oxford: Oxford University Press, 2010), 2.

²⁴ Hery Abduh Sasmito, “Ultra Petita Decision of Constitutional Court on Judicial Review (The Perspective of Progressive Law)”, *Journal of Indonesian Legal Studies, JILS Vol. 1 Issue 1, November 2016*, p. 53.

²⁵ ¹⁹
Ibid, h. 72

Human rights and social justice form central tenets of Progressive Law Theory, providing normative foundations for legal activism and advocacy.

It calls for the recognition and protection of civil, political, economic, social, and cultural rights as essential components of a just and equitable society.

Progressive Law Theory emphasizes the importance of legal empowerment, access to justice, and participatory decision-making processes in advancing human rights and social justice agendas.

5. Intersectional Analysis and Legal Pluralism:

Progressive Law Theory adopts an intersectional approach to legal analysis, recognizing the interconnections between race, gender, class, sexuality, ethnicity, nationality, and other axes of identity and power.

It acknowledges the plurality of legal norms, systems, and ²⁶practices existing within diverse cultural, social, and historical contexts.

By engaging with legal pluralism, Progressive Law Theory seeks to challenge hegemonic legal narratives, amplify marginalized perspectives, and promote inclusive forms of legal pluralism grounded in principles of equity and justice.

6. Strategies for Legal Transformation:

Progressive Law Theory encompasses a range of strategies for legal transformation, including litigation, legislative advocacy, grassroots

²⁶ Lawrence M Friedman, 1997, *The Legal System: A Social Science Perspective*, Russel Sage Foundation, New York, pp. 112-113.

mobilization, community organizing, legal education, and alternative dispute resolution mechanisms.²⁷

It encourages interdisciplinary collaboration and coalition-building across diverse social movements, advocacy groups, and academic disciplines.

By combining legal analysis with strategic advocacy and grassroots activism, Progressive Law Theory seeks to mobilize collective action and effect systemic change in legal systems and institutions.

In summary, Progressive Law Theory as a Grand Theory offers a holistic framework for understanding the dynamic interplay between law, power, and social change. It challenges conventional legal paradigms, foregrounds issues of social justice and human rights, and advocates for transformative approaches to law and legal practice. As a dynamic and evolving field of inquiry, progressive Law Theory continues to shape scholarly debates, legal activism, and efforts to build more just and equitable societies.²⁸

²⁷ W Friedmann, 1994, *Teori dan Filsafat Hukum: Idealsme Filosofis dan Problem Keadilan*, Raja Grafindo Persada, Jakarta, pp. 33-34; Friedman L. Wolfgang, 1953, *Legal Theory*, Stevens and Sons Ltd, London, pp. 87-89.

²⁸ Andi Ayyub Saleh, 2006, *Legal Contemplation Tour in "Law in Book and Law in Action" Towards Legal Discovery (Rechtsvinding)*, Yarsif Watampone, Jakarta, h. 70

2. Authority Theory

Conceptually, the phrase authority or authority is frequently associated with the Dutch term "bevoegdheid" (authority or power). Authority is an important component of governance law (administrative law), because the new administration can carry out its tasks based on the authority it has acquired. The legitimacy of government acts is judged in terms of the power granted by laws and regulations. Concerning authority, the State Constitution grants legitimacy to Public Agencies and State Institutions in carrying out their tasks.

Authority is the ability to act.²⁹

The idea of legality is the foundation of the administration of any rule-of-law country, acting as an essential guideline for all governmental and state administrative actions. In essence, it requires that all governmental bodies and state administrations derive their authority from the law, assuring their legitimacy.

Thus, at its foundation, the principle of legality incorporates authority - the ability to carry out specified legal actions sanctioned by law.

The definition of authority in the General Indonesian Dictionary is the same as authority: the right and power to accomplish anything. Hassan Shadhily defines authority as the right or power to issue commands or influence the actions of

²⁹ SF. Marbun, *State Administrative Court and Administrative Efforts in Indonesia*, Liberty, Yogyakarta, 1997, p. 154.

others in order to achieve a desired outcome.³⁰

Hassan Shadhily explains the concept of authority translation by going into the meaning of "delegation of authority." Delegation of authority is the process by which a leader (manager) delegates authority to their subordinates, accompanied by the emergence of responsibility for completing certain tasks. This delegation method involves numerous steps, including specifying the subordinate's responsibilities, delegating authority, and establishing an obligation to do specific tasks.

³¹I Dewa Gede Atmadja, in interpreting the constitution, explained as follows:

"According to the Indonesian constitutional system, there is a distinction between authoritative authority and persuasive authority. Authoritative authority is determined constitutionally, while persuasive authority, on the other hand, is not an explicit constitutional authority."³²

The authoritative authority to interpret the constitution is in the hands of the MPR, because the MPR is the body that formed the Constitution. On the other hand, the persuasive authority of constitutional interpretation in terms of its source and juridical binding power is exercised by: Formation of laws (called authentic interpretation); Judges or judicial authority (called jurisprudential interpretation) and legal experts (called doctrinal interpretation).

33

³⁰ Dictionary Compilation Team-Center for Development and Language Development, Big Indonesian Dictionary, Balai Pustaka, Jakarta, 1989, p. 170.

³¹ *ibid.*, p. 172.

³² 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.

³³ Prajudi Atmosudirdjo, State Administrative Law, Ghalia Indonesia, Jakarta, 1981, p. 29.

3. Philipus M. Hadjon's Theory of Legal Protection

Legal protection is the goal of a law. Legal protection is an activity to protect individuals by harmonizing the relationship between values or rules which are manifested in attitudes and actions in creating order in social interactions between fellow humans.³⁴

According to Philipus M. Hadjon in his book "Legal Protection for the Indonesian People" stated that legal protection in Dutch language legal literature is known as "rechtbescherming van de burgers". This opinion shows that the word legal protection is a translation from Dutch. The word protection implies that there is an attempt to provide rights that the protected party should have in accordance with the obligations that have been carried out.

³⁵Legal protection is something that protects legal subjects through applicable laws and regulations and its implementation is enforced with sanctions. Legal protection can be divided into two, namely:³⁶

a. Preventive Legal Protection

Protection provided by the government with the aim of preventing violations before they occur. This is contained in statutory regulations with the aim of preventing violations and providing signs or limitations in carrying out an obligation.

b. Repressive Legal Protection.

³⁴ Setiono, 2004, Rule of Law (Supremacy of Law), Master of Laws, Sebelas Maret University Postgraduate Program, Surakarta, p. 3

³⁵ Muchsin, 2003, Legal Protection and Certainty for Investors in Indonesia, Master of Laws, Postgraduate Program, Sebelas Maret University, Surakarta, p. 14.

³⁶ Muchsin, 2003, Legal Protection and Certainty for Investors in Indonesia, Master of Laws, Postgraduate Program, Sebelas Maret University, Surakarta, p. 14.

Repressive legal protection is final protection in the form of sanctions such as fines, imprisonment and additional penalties given if a dispute has occurred or a violation has been committed.

G. RESEARCH METHOD

A research method is a scientific activity that is based on a certain meomenon by analyzing it. Apart from that, an in-depth examination of these legal factors isalso carried out, to then try to find a solution to the problems that arise in the relevant symptoms.search methods are procedures for carrying out research.thod, systematics and thinking that aims to study a certain phen T Rehe methods in this research are as follows:³⁷

1. Research Approach Method³⁸

This study uses both a normative juridical approach and an explanatory research typology. The primary goal of this typology is to clarify and outline the organizational structures of Notary Offices in Bangladesh. It also aims to expound upon the parallels and discrepancies among the Notary Professional Code of Ethics formulations across Bangladesh's industrial landscape. Furthermore, it seeks to clarify the similarities and differences between the Notary Professional Code of Ethics formulations

³⁷ Zamaludin Ali, 2016, *Legal Research Methods*, 7th Edition, Sinar Graphics, Jakarta, p.18.

³⁸ Johnny Ibrahim, 2005, *Theory and Methodology of Normative Legal Research*, Bayumedia, Surabaya, p.1

in Bangladesh's various industries. The research methodology used is qualitative, following a constructivist paradigm to thoroughly investigate and interpret the complex legal and ethical frameworks that regulate notarial operations in the described environment.

2. Research Specifications

The research specifications for this thesis are descriptive, intending to offer an overview of the laws applicable to a society or a specific group of people, or descriptions of symptoms, or the relationship between two or more symptoms.³⁹ Additionally, this research aims to comprehensively explain the postulates studied based on findings in the field,⁴⁰ particularly concerning the requirements to become a notary and the Duties & Authorities of Notaries in Indonesia and Bangladesh.

3. Type and Source of data

This type of research data includes primary and secondary data.

a. Primary data⁴¹

Primary data is data obtained directly from the field. Primary data is data obtained through interviews.

³⁹ Faisal, 2010, *Breaking Through Legal Positivism*, Rangkang Education, Yogyakarta, p. 70

⁴⁰ Altherton & Klemmack in Irawan Soehartono, 1999, *Social Research Methods, a Research Technique in Other Social Welfare Fields*, Teen Rosda Karya, Bandung, p. 63

b. Secondary Data

This secondary data source was not obtained directly from the person providing the information, but this data source was obtained through library research, which is a study used to collect information and data with the help of various kinds of materials in the library.⁴² Secondary data consists of:

1) Primary Legal Materials

According to Peter Mahmud Marzuki, primary legal materials are legal materials that are authoritative. Where in this case the primary legal materials consist of statutory regulations, official records, or minutes in the making of statutory regulations.⁴³ The primary legal materials used in this research are:

a) The Constitution of People's Republic of Bangladesh

b) Civil Code

c) The Notaries Ordinance, 1961

⁴² Maman, Rahman, 1999, Research Strategy and Steps, IKIP Semarang Press, Semarang, p.1

⁴³ Soerjono Soekanto and Sri Mamudji, Op.cit., p. 141

- d) Law Number 4 of 1996 concerning Mortgage Rights on Land and Objects Related to Land
 - e) Law Number 42 of 1999 concerning Fiduciary Guarantees
 - f) Government Regulation Number 24 of 1997 concerning Land Registration.
 - g) Presidential Regulation of the Republic of Indonesia Number 48 of 2020 concerning the National Land Agency
 - h) Minister of Finance Regulation Number 213/PMK.06/2020 concerning Instructions for Implementing Auctions.
 - i) Minister of Finance Regulation Number 213/PMK.06/2020 concerning Instructions for Implementing Auctions.
- 2) Secondary Legal Materials

Secondary legal materials, namely legal materials that support and strengthen primary legal materials, provide explanations of existing primary legal materials so that deeper analysis and understanding can be carried out so that there is strengthening of the legal basis resulting in

good legal analysis.⁴⁴ For example, the results of research by related experts, the work of legal experts (relevant books), the results of scientific research (journals, theses, dissertations) and so on.

3) Tertiary Legal Materials

Tertiary legal materials, namely legal materials which are complementary in nature, provide instructions and explanations for primary and secondary legal materials, for example dictionaries, encyclopedias, and so on.⁴⁵

H. Writing System

The systematics for writing a thesis that will be used by the author are as follows:

CHAPTER I INTRODUCTION, Explains the background of the problem, problem formulation, research objectives, benefits of research, conceptual framework, theoretical framework, research methods, and systematic writing.

CHAPTER II LITERATURE REVIEW, This chapter provides a comprehensive overview encompassing Notaries in Indonesia and Malaysia, including the Requirements for Becoming a Notary and the

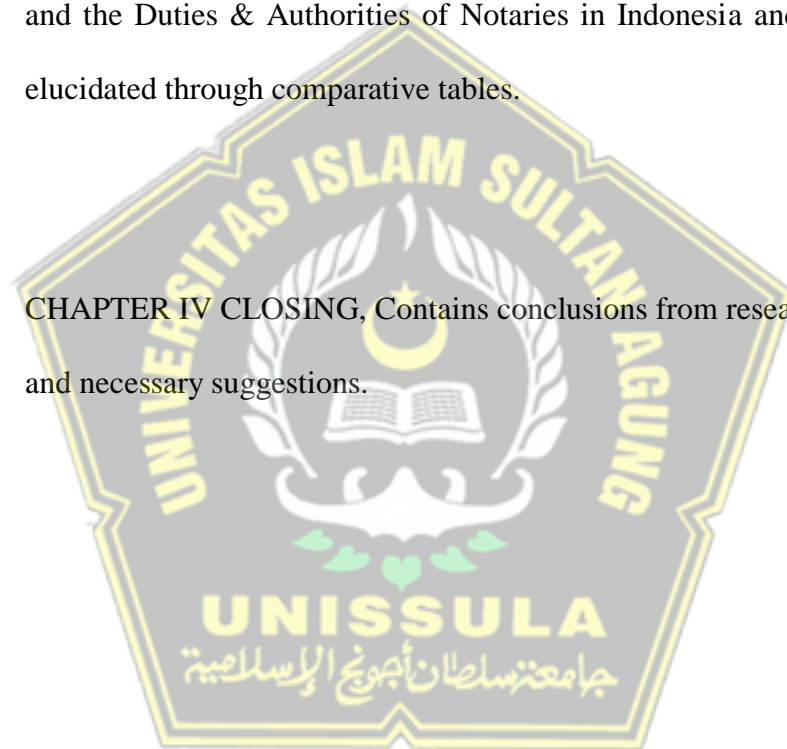
⁴⁴ Soerjono Soekanto and Sri Mamudji, Op.cit., p. 141

⁴⁵ Ibid., p. 12

Duties & Authorities of Notaries in Indonesia and Bangladesh.

CHAPTER III RESEARCH RESULTS AND DISCUSSION, This chapter presents the findings, discussion, and analysis of the data as outlined in the introductory chapter, followed by immediate analysis. The analysis aims to address the problem formulation, specifically the Comparative Law regarding the Requirements for Becoming a Notary and the Duties & Authorities of Notaries in Indonesia and Bangladesh, elucidated through comparative tables.

CHAPTER IV CLOSING, Contains conclusions from research results and necessary suggestions.

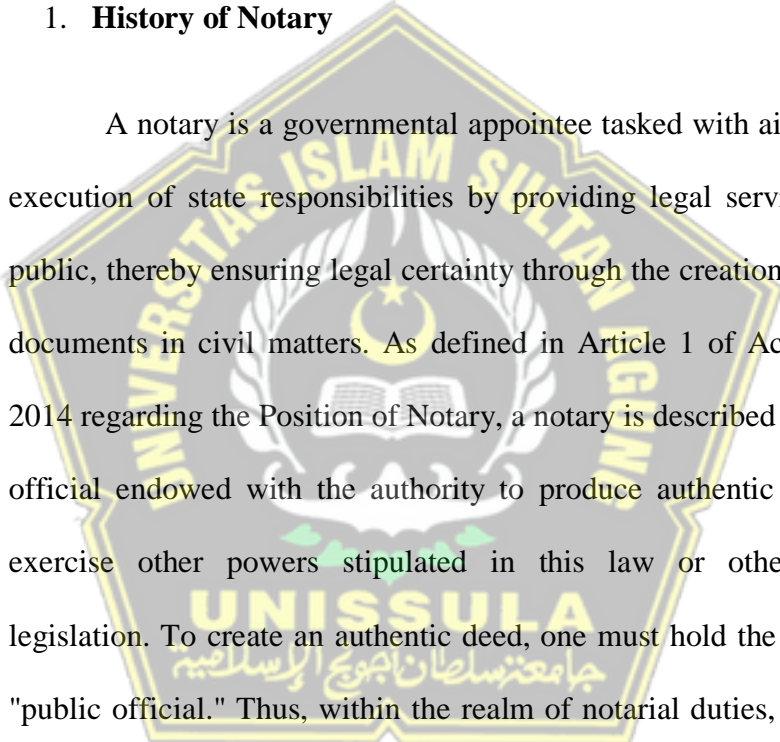


CHAPTER II

LITERATURE REVIEW

A. General Overview of Notary Positions in Indonesia

1. History of Notary



A notary is a governmental appointee tasked with aiding in the execution of state responsibilities by providing legal services to the public, thereby ensuring legal certainty through the creation of official documents in civil matters. As defined in Article 1 of Act No. 2 of 2014 regarding the Position of Notary, a notary is described as a public official endowed with the authority to produce authentic deeds and exercise other powers stipulated in this law or other relevant legislation. To create an authentic deed, one must hold the status of a "public official." Thus, within the realm of notarial duties, significant implications arise from the provisions outlined at the outset of the article.

R. Soegondo Notodisoerjo, "Notaries are public officials of openbare

ambtenaren, because they are closely related to the main authority or duties and obligations, namely to make authentic deeds".⁴⁶

The history of the Notary Public traces back to the III century when its roots can be found in the role of a speech recorder known as scribe, tabellius, or notaries, representing one of the established legal professions.⁴⁷ During the V-VI centuries, the term notarius denoted the personal scribes (secretaries) of monarchs or emperors, as well as court officials engaged in administrative tasks. Notaries were essentially government officials executing their duties solely for official purposes and not for the general public. In contrast, tabelliones, whose responsibilities resembled those of notaries at the time, served the public but lacked the official state authority, thus their documents didn't possess authentic or official status. Notaries introduced to Indonesia primarily hailed from European countries, notably the Netherlands.

Tan Thong Kie in his book *Notary Studies and Miscellaneous Notary Practices* makes a conclusion about public notaries which is written as follows:⁴⁸

1. A notary public in England is not appointed by the Government but by the Archbishop or a person authorized by him.

⁴⁶ Notodisoerjono, R. Soegondo. (1993). *Hukum Notariat di Indonesia Suatu Penjelasan*, Jakarta: Raja Grafindo Persada, p. 8.

⁴⁷ Anshori, Abdul Ghofur. (2010). *Lembaga Kenotariatan Indonesia Persepektif Hukum dan Etika*. Yogyakarta: UII Press, p. 8.

⁴⁸ Tan Thong Kie, *Notary Studies and Miscellaneous Notary Practices*, Cet.1, (Jakarta: PT. Ichtiar Baru Van Hoeve, 2007), p. 623-624.

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 decided that a notary's deed did not establish the facts stated in it.

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.

2. **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:

Figure 1. Map of Indonesia⁴⁹Information:⁵⁰

- 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

⁴⁹ Indonesian Wikipedia⁵⁰ <https://en.wikipedia.org/wiki/Indonesia>

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, 1620.⁵¹ Since the entry of the Notary in Indonesia until 1822, the Notary was only governed by two rather detailed regulations, namely 1625 and 1765.

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, 1860⁵². 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 goose, copies and

⁵¹ Lumban Tobing. op.cit., p. 15-16.

⁵² Ambe J. Njoh, Liora Bigon, Erick O. Ananga, Richard A. Ayuk-Etang, Institutional, economic and socio-cultural factors accounting for gender-based inequalities in land title procurement in Cameroon, *Journal of Public Transportation*, p. 116-125, <https://www.sciencedirect.com/journal/land-use-policy/vol/78/suppl/C>, see E. Herguido Sevillano, JF Lavado Contador, S. Schnabel, M. Pulido, J. Ibáñez, Using spatial models of temporal tree dynamics to evaluate the implementation of EU afforestation policies in rangelands of SW Spain, *Journal of Public Transportation*, p. 166-175, <https://www.sciencedirect.com/journal/land-use-policy/vol/78/suppl/C>

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.

⁵³After Indonesia's independence, the Government of the Republic of Indonesia issued various legal regulations regarding the Office of a Notary, including:⁵⁴

1. 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;
2. Law Number 33 of 1954 concerning Representative Notaries and Provisional Notary Representatives (State Gazette 1954-101);
3. Circular Letter of the Supreme Court of the Republic of Indonesia Number 2 of 1984 concerning Procedures for Supervision of Notaries.

⁵³ Article 1 Regulations on the Position of Notaries in Indonesia (1860) (Regulation op het Notaris-ambt in Indonesia) (Ordinance of 11 January 1860) S. 1860-3, mb. July 1, 1860 (TXVIII-25.)

⁵⁴ Eko Puji Hartono, Akhmad Khisni, "The Role of PPAT in Making the Deed of Transfer of Rights to Land and/or Buildings Formerly of Customary Ownership Related to the Payment of Duty on the Acquisition of Rights to Land and/or Buildings", *Journal Acts* VOL. 5, no. 1, March 2018, see Harnita, et al. "PPAT Responsibilities in Determining the Value of Land and Building Sale and Purchase Transactions in Banda Aceh City", *Udayana Master Law Journal*, Vol. 8 No. September 3, 2019, p. 354-370.

4. 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;
5. Decree of the Minister of Justice of the Republic of Indonesia Number M.04-HT.03.10 of 1998 concerning the Development of Notaries;
6. 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;
7. 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, with the following details:

Chapter I. General Provisions

Chapter II. Appointment and Dismissal of Notaries

Chapter III. Authority, Obligation, and Prohibition.

Chapter IV. Domicile, Formation and Territory of Notary Public.

Chapter V. Notary Leave and Substitute Notary Public.

Chapter VI. Honorarium

Chapter VII. Notarial Deed

Chapter VIII. Taking Deed Minutes and Summoning Notaries

Chapter IX. Supervision

Chapter X. Notary Organization

Chapter XI. Sanction Provisions

Chapter XII. Transitional Provisions.

Chapter XIII. Closing.

The definition of a notary as stated in the UUJN reads as follows: "A notary is a public official who has the authority to make authentic deeds and other authorities as intended in this Law."⁵⁵ Other authorities referred to in the definition above will be discussed in other sub-sections in this thesis.

3. Requirements to Become a Notary in Indonesia

Here are the requirements to become a notary in Indonesia:

- a. Citizenship: Candidates must be Indonesian citizens.
- b. Maturity: Candidates should demonstrate maturity, both legally and mentally. This includes strong legal skills and the ability to make quality decisions.
- c. Clean Record: Candidates must have no criminal record. This requirement is crucial for earning public trust. A clean record helps ensure candidates are less likely to engage in unethical behavior in the future.
- d. Legal Knowledge: Candidates should possess a solid understanding of the law. Notaries serve as representatives of the state, responsible for creating authentic

⁵⁵ Article 1 number 1 UUJN

and valid deeds, as well as educating the public on matters related to deeds, procurement, and other legal issues.

A Notary is appointed and dismissed by the Minister. In Article 3 UUJN it is stated that the requirements for being appointed as a Notary are:⁵⁶

- a) Indonesian citizenship.
- b) Reverence for God Almighty.
- c) Minimum age of 27 (twenty-seven) years old.
- d) Physical and mental health.
- e) Possession of a law degree and a second degree in notarial education.
- f) Completion of a 24-month internship or employment as a notary assistant at a notary's office, either self-initiated or recommended by a Notary Organization, following graduation from the second level of notarial law.
- g) Absence of civil servant, state official, advocate, or other positions prohibited by law from holding the position of Notary Public.
- h) Successful completion of the Code of Ethics Examination administered by the Indonesian Notary Association.

The conditions outlined above are elaborated upon in Article 2, paragraph (1) of the Regulation of the Minister of Law and Human Rights of the Republic of

⁵⁶ Article 3 UUJN

Indonesia Number: M.01-HT.03.01 of 2006 regarding Requirements and Procedures for the Appointment, Transfer, and Dismissal of Notaries (hereinafter referred to as Permenkumham No: M.01-HT.03.01 of 2006). This provision states the following criteria for the appointment of a Notary:

- ⁵⁷a. Citizenship of Indonesia.
- b. Profess belief in God Almighty.
- c. Demonstrate loyalty to Pancasila and the 1945 Constitution of the Republic of Indonesia.
- d. Provide a health certificate from a doctor at a government hospital or private hospital, confirming physical health.
- e. Furnish a health certificate from a psychiatrist from a government hospital or private hospital, verifying spiritual/mental health.
- f. Hold a law degree and complete Notary Specialist education without prior appointment as a Notary Public at the time the UUJN (Notary Law) comes into effect.
- g. Attain a minimum age of 27 (twenty-seven) years.
- h. Attend technical training for Notary candidates organized by the Directorate General of General Legal Administration, Department of Law and Human Rights of the Republic of Indonesia in collaboration with other entities.

⁵⁷ Article 2 UUJN

- i. Complete a 12-month internship or employment as a Notary employee at a Notary office, chosen independently or recommended by a Notary Organization post-education completion as stated in letter f.
- j. Provide a certificate from the Indonesian National Police affirming no involvement in criminal activities.
- k. Submit a written application for appointment as a Notary to the Minister.
- l. Not hold the status of a civil servant, state official, advocate, leader, or employee of State-Owned, Regional-Owned, or Private-Owned Enterprises, or any other position prohibited by statutory regulations from holding the position of Notary Public.

The appointment of a notary is overseen by the Minister, specifically the Minister of Law and Human Rights. Below is a document checklist that aspiring notaries must fulfill when submitting an application for notary appointment to the Ministry of Law and Human Rights.

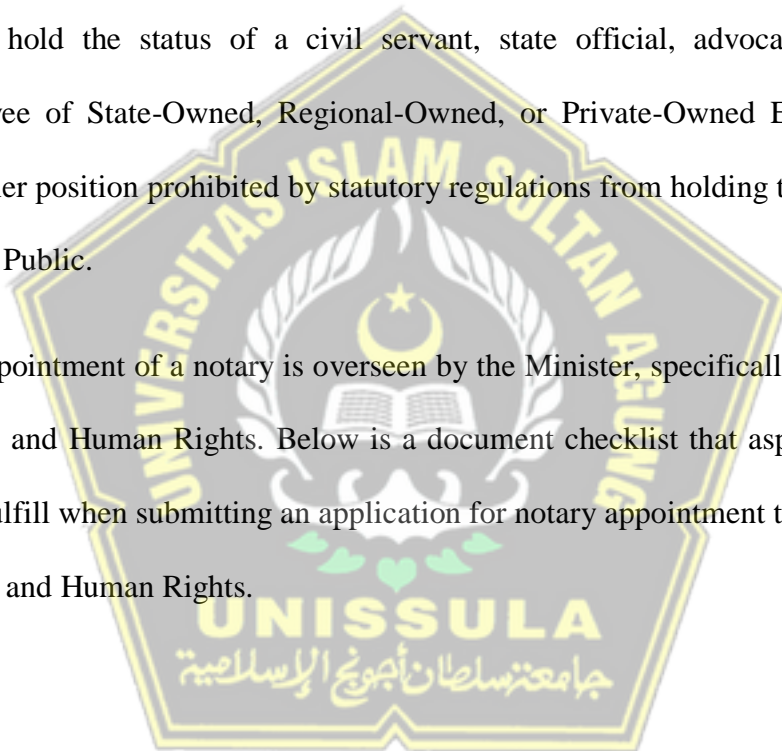


Table 1: Application Document Checklist for Notary Appointment⁵⁸

No	Information
1	Photocopy of National Identity Card authenticated by the relevant agency or a Notary.
2	Photocopy of marriage book/marriage certificate legalized by the relevant agency or a Notary, for married applicants.
3	Photocopy of Bachelor of Law education diploma and Notarial Specialist education, or Bachelor's and Master's in Notary degrees legalized by the issuing university.
4	Photocopy of technical training certificate for notary candidates authorized by the Director of Civil Affairs, Directorate General of General Legal Administration.
5	Photocopy of birth certificate approved by the relevant agency or a Notary.

⁵⁸ Notary Office, *Conditions for Appointing a Notary*, downloaded from <http://notary-office.com/?p=77> on May 01, 2022.

6	Photocopy of code of ethics certificate held by the Notary Organization legalized by a Notary.
7	Photocopy of certificate of internship or work as a Notary's employee for 24 (twenty-four) consecutive months post-graduation from Notary Specialist or Master's education.
8	Original local police record certificate.
9	Original physical health certificate from a government or private hospital.
10	Original spiritual/mental health certificate from a government or private hospital.
11	Original stamped statement confirming the applicant's non-status as a civil servant, state official, advocate, leader, or employee of a State-Owned, Regional-Owned, or Private-Owned Enterprise, or holding another position prohibited by statutory regulations for Notary Public appointment.
12	Original stamped statement letter expressing the applicant's willingness to be stationed in all regions of Indonesia.

13	Original stamped statement letter indicating the applicant's readiness to assume another Notary's protocol, whether due to relocation, retirement, decease, service as a state official, resignation, or temporary dismissal.
14	4 (four) recent color 3x4 photographs.
15	Original curriculum vitae using the Ministry of Law and Human Rights of the Republic of Indonesia's provided format.
16	Applicant's mailing address, telephone/cell phone/fax number, and email (if available).
17	Postage Stamps equivalent to postage costs.
18	Taxpayer Identification Number (NPWP).

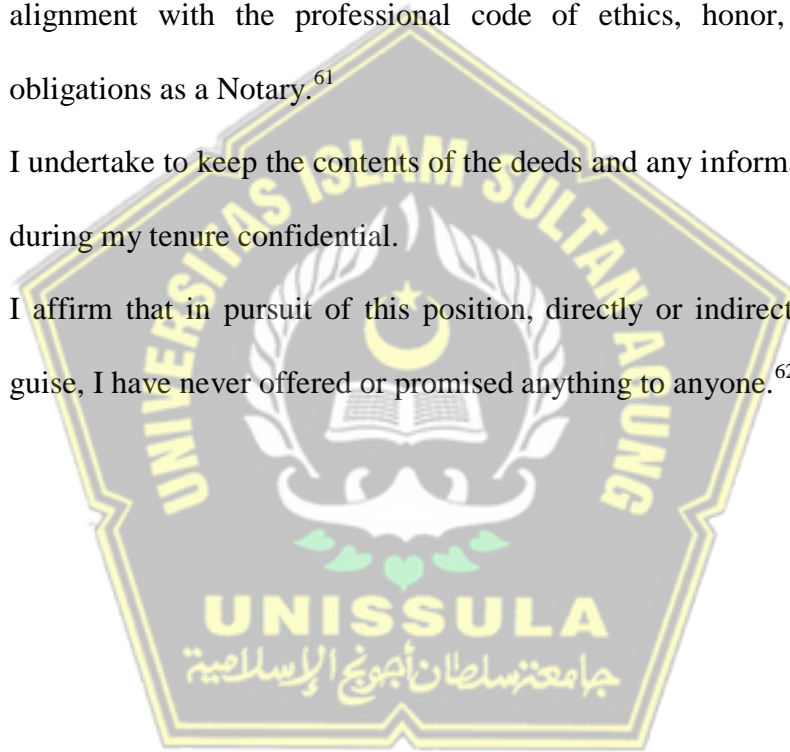
Before assuming the role, a Notary Public must recite an oath or promise according to their religion before the Minister or an appointed official.⁵⁹

The Notary's Oath comprises 5 (five) paragraphs, outlined as follows:⁶⁰

⁵⁹ Article 4 UUJN

⁶⁰ Hunter, Susan & Bulirwa, Elizabeth & Kisseka, Edward. (1993). AIDS and agricultural production. Land use policy. 10. 241-58. 10.1016/0264-8377(93)90018-6, see I Komang

1. I pledge to obey and uphold loyalty to the Republic of Indonesia, Pancasila, and the 1945 Constitution of the Republic of Indonesia, as well as the Law on the Position of Notary Public and all pertinent laws and regulations.
2. I commit to executing my duties with trustworthiness, integrity, diligence, independence, and impartiality.
3. I vow to maintain my conduct, demeanor, and fulfill my responsibilities in alignment with the professional code of ethics, honor, dignity, and obligations as a Notary.⁶¹
4. I undertake to keep the contents of the deeds and any information obtained during my tenure confidential.
5. I affirm that in pursuit of this position, directly or indirectly, under any guise, I have never offered or promised anything to anyone.⁶²



Sujanayasa, Ibrahim R, I Gusti Ketut Ariawan, 2016, "The Position of Instrumental Witnesses for Notarial Deeds in Relation to Article 16 Paragraph (1) of Law Number 30 of 2004 concerning Notary Position", Scientific Journal of the Master of Notary Study Program, p. 289, <https://ojs.unud.ac.id/index.php/ActaComitas/article/view/24960/16193>.

⁶¹ Maolana, Wildan. Opinions of Ibn Qudamah and Imam Mawardi regarding marriage guardians for found children (Laqith). ADLIYA: Journal of Law and Humanity. Vol 12, No 1. 2019. <https://doi.org/10.15575/adliya.v12i1.4487>, see Marina Dhaniaty, 2019, The Position of Instrumentair Witnesses on Notarial Deeds Which Cause Problems in Civil Cases, Journal of Legal and Judicial Media, p.

⁶² Ibid.

4. Duties & Authorities of Notaries in Indonesia

A notary is responsible for ensuring the accuracy of the date the deed was executed, keeping the deed, and delivering a grosse, copy, and quotation of the deed. As long as the deed is executed, it is not assigned or excluded to other officials or individuals as specified by law. The obligations of a person are as follows:

- a. Maintaining trustworthiness, honesty, thoroughness, independence, impartiality, and protecting the interests of all parties involved in judicial proceedings⁶³.
- b. Create and store Deed Minutes as part of the Notary Protocol.
- b. Attach letters, documents, and fingerprints to the Deed Minutes.
- d. Issuing a Deed Grosse, Copy, or Excerpt from Deed Minutes.
- a. Providing services in conformity with Law 30/2004 as revised by Law 2/2014, unless there are reasons to refuse them.
- f. Maintain confidentiality of the Deed and any information gained in compliance with the oath/promise of office, unless otherwise required by law.
- g. Compile Deeds within a month into a book containing a maximum of 50 entries. If the number exceeds this limit, distribute

⁶³ Supriadi. (2008). *Etika Dan Tanggung Jawab Profesi Hukum Di Indonesia*. Jakarta: Sinar Grafika, p. 50

them across multiple books and indicate the number of Deeds, the month, and the year of compilation on each cover.

h. Prepare a registry of Deeds protesting non-payment or non-receipt of securities.

i. Maintain a chronological list of Deeds concerning wills, arranging them according to the month of creation.

j. Submit either a list of Deeds regarding wills or a roster of such Deeds to the central registry of wills at the ministry overseeing legal affairs within five days of the initial week of each subsequent month.

The authority of a notary is outlined in Article 15 of Law 2 of 2014 on the Position of Notary. A notary has the authority to make authentic deeds for all deeds, agreements, and provisions required by statutory regulations and/or desired by interested parties to be stated in authentic deeds, to guarantee the certainty of the date of making the deed,⁶⁴ to store the deed, to provide goose, copies, and quotations of deeds, and to do so as long in the making of the deeds is not also assigned or excluded to other officials or other persons as determined by law. More details are as follows:

⁶⁴ Khoiruddin, M. Wali Mujbir According to Imam Syafi'i (Review of Maqâshid Al-Syari'ah). *Al-Fikra: Islamic Scientific Journal*. Vol 18. No 2. 2019. <https://doi.org/10.24014/af.v18.i2.8760> <https://doi.org/10.24014/af.v18.i2.8760>, Look https://www.researchgate.net/publication/11109790_Forests_to_fields_Restoring_tr_opical_lands_to_agriculture/citation/download

- a. Register the letter in a dedicated book to validate its signature and date.
- a. Privately record letters in a special book.
- b. Make a handwritten copy of the original letter, including the description as written.
- d. Verify the photocopy matches the original letter.
- e. Providing legal advice on drafting deeds.
- f. Create land-related deeds or auction minutes.

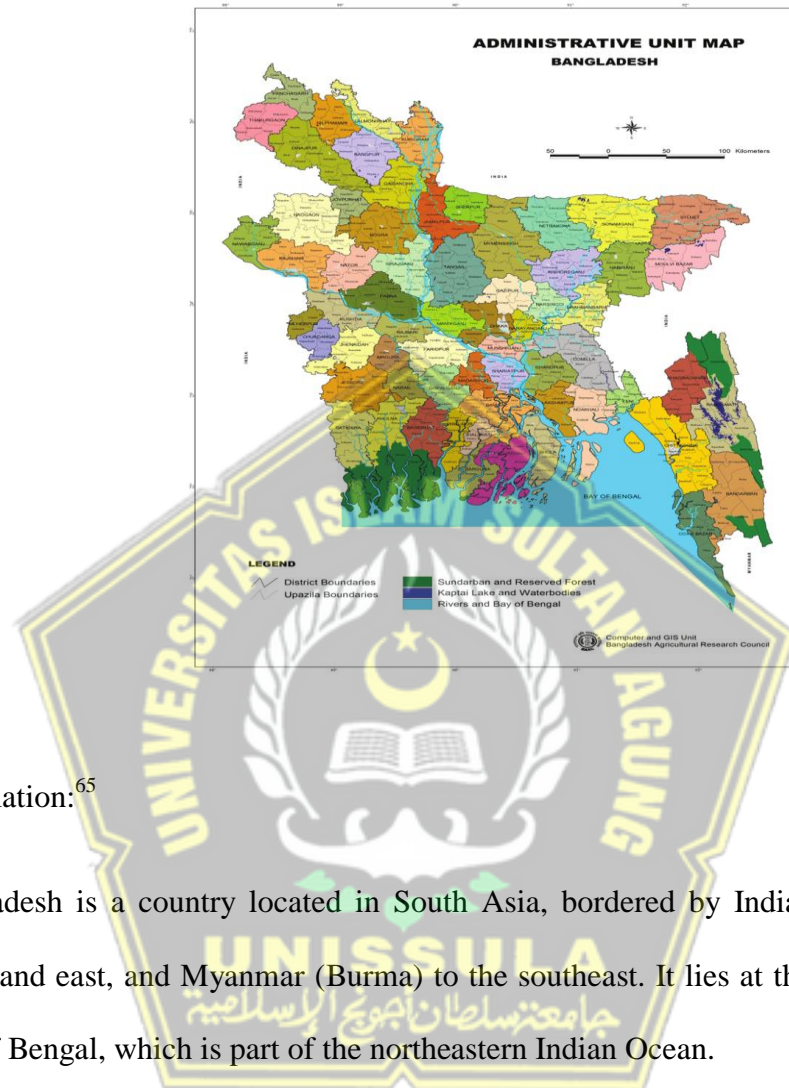
Aside from these authorities, notaries have other powers that are governed by statute.

B. General Overview of Notary Positions in Bangladesh

1. 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:⁶⁵

Bangladesh is a country located in South Asia, bordered by India to the west, north, and east, and Myanmar (Burma) to the southeast. It lies at the head of the Bay of Bengal, which is part of the northeastern Indian Ocean.

- Area: 148,460 km²

- Capital: Dhaka

⁶⁵ https://en.wikipedia.org/wiki/Bay_of_Bengal

- Legal System: Common Law

- Dialing code: +88

- Currency: Taka

- Total population: 169.53 million (2023)

- Prime minister: Sheikh Hasina

A Notary Public is a public official or an individual duly authorized by the government to draft or certify contracts, deeds, and other legal documents, as well as to safeguard bills of exchange and perform other formal legal duties. The appointment of a Notary Public is carried out by the executive or other designated authority in accordance with the laws of the jurisdiction.⁶⁶

The term 'notary,' which is a shortened form of 'notary public,' comprises two morphemes: 'note' and 'ary.' The former is a root, while the latter is an affix derived from the Latin 'nota+arius,' meaning shorthand writer or clerk.⁶⁷

⁶⁶ See Wharton's Law Lexicon, 1976, Reprint Edn. at pp.697,698

⁶⁷ Shorter Oxford Dictionary

The law governing promissory notes, bills of exchange, and cheques is outlined in the Negotiable Instrument Act of 1881, which came into effect on March 1, 1882. Section 138 of the Negotiable Instrument Act grants the government the authority to appoint individuals, either by name or by virtue of their office, as Notary Public under this Act.⁶⁸

The Notarial Ordinance of 1961 and the accompanying Notarial Rules of 1964, promulgated by the Pakistan Government, serve as primary guidelines for the appointment of Notary Public, defining their powers, functions, remunerations, and other related matters. Prior to the enactment of the Notarial Ordinance, Notaries Public were appointed by the Master of Faculties in England⁶⁹.

Notary in Bangladesh is closely linked with its colonial past and the evolution of legal systems in the region. Notaries play a crucial role in legal transactions, witnessing signatures, authenticating documents, and providing impartial verification of agreements.

During the British colonial period, the notarial system in what was then known as Bengal Presidency (which included present-day Bangladesh) was established to facilitate legal and commercial transactions. Notaries were appointed by the British colonial administration and were typically lawyers or legal professionals with expertise in drafting and authenticating legal documents.

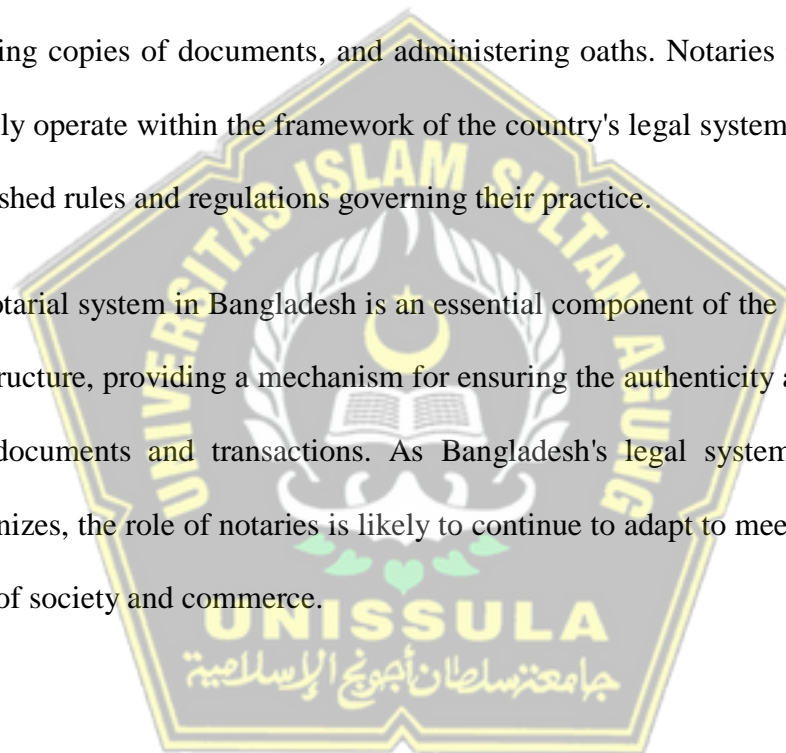
⁶⁸ Subs. by Act No. 25 of 1968, Sec. 2 and Sch, for

⁶⁹ Legal Draftings, Conveincing & Professional Ethics by Dr. Md. Akhteruzzaman

After gaining independence from British rule in 1947, Bangladesh became part of Pakistan and subsequently achieved independence as a separate nation in 1971. During this transition period, the legal system, including the institution of notary, underwent changes to adapt to the new political and administrative context.

In Bangladesh today, the role of notaries continues to be significant in legal and commercial matters. Notaries public are appointed by the government and authorized to perform a range of legal functions, including attesting signatures, certifying copies of documents, and administering oaths. Notaries in Bangladesh typically operate within the framework of the country's legal system and adhere to established rules and regulations governing their practice.

The notarial system in Bangladesh is an essential component of the country's legal infrastructure, providing a mechanism for ensuring the authenticity and validity of legal documents and transactions. As Bangladesh's legal system evolves and modernizes, the role of notaries is likely to continue to adapt to meet the changing needs of society and commerce.



1. Requirements to Become a Notary in Bangladesh

The government is empowered to designate legal professionals or individuals meeting specified qualifications as notaries for Bangladesh, either for the entire country or specific regions. Candidates must possess a minimum of five years of professional experience. Unlike certain jurisdictions, Bangladesh does not require candidates to pass examinations for notarial appointments; any eligible individual may apply in the prescribed format.⁷⁰ This application, endorsed by at least ten individuals representing various sectors such as magistrates, bankers, merchants, and local dignitaries, must be submitted to the competent authority. In contrast, qualifying for notarial appointments in Europe and America typically necessitates passing competitive examinations. Professionals including lawyers, pharmacists, and doctors are eligible to vie for notarial positions. Generally, notaries in Bangladesh are appointed for three-year terms, receiving a certification upon payment of designated fees, authorizing them to practice in specific areas.⁷¹ If a notary already possesses a certificate of practice for a particular area, they may apply for an extension to the government for valid reasons. The government annually publishes a list of notary public appointments in the official gazette. Each notary is required to possess and utilize a seal conforming to the government's prescribed form and design.

⁷⁰ The Constitution of the People's Republic of Bangladesh

⁷¹ https://en.banglapedia.org/index.php?title=Notary_Public

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 practitioners 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 criteria.

⁷²The 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.

An Ordinance to provide for and to regulate the profession of notaries in Bangladesh.

WHEREAS it is expedient to provide for and to regulate the profession of notaries in Bangladesh;

⁷² Substituted for “Provincial Government” *ibid*.
<http://bdlaws.minlaw.gov.bd/act-print-316/section-print-15859>.

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:-

⁷³1. Short title, extent and commencement:

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

(b) It extends to the whole of Bangladesh.

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

2. Definitions: 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];

⁷³ Ordinance NO. XXVI OF 1961

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

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

3. Power to appoint notaries:

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.

4. Registers:

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

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

- I. his full name, date of birth, residential and professional address;
- II. the date on which his name is entered in the Register;
- III. his qualification; and
- IV. any other particulars which may be prescribed.

5. Entry of names in the Register and issue or renewal of certificates of practice:

(a) Every notary who intends to practice as such shall, on payment to the Government of the prescribed fee, if any, be entitled-

- I. to have his name entered in the Register maintained by 6[the] Government under section 4, and

II. to a certificate authorizing him to practice for a period of three years from the date on which the certificate is issued to him.

(b) Every such notary who wishes to continue to practice after the expiry of the period for which his certificate of practice has been issued under this section shall, on application made to the Government and payment of the prescribed fee, if any, be entitled to have his certificate of practice renewed for three years at a time.

6. Annual publication of lists of notaries:

The Government shall, not later than the end of January each year, publish in the official Gazette, a list of notaries appointed by [the] Government and in practice at the beginning of that year together with such details pertaining to them as may be prescribed.

7. Seal of notaries:

Every notary shall have and use, as occasion may arise, a seal of such form and design as may be prescribed.

8. Functions of notaries:

I. 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 dishonor by non-acceptance or non- payment of any promissory note, hundi or bill of exchange or protest for better security or prepare

acts of honor 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 respondent 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.

II. 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.

9. Bar of practice without certificate:

(a) Subject to the provisions of this section, no person shall practise as a notary or do any notarial act under the official seal of a notary unless he holds a certificate of practice in force issued to him under section 5:

Provided that nothing in this sub-section shall apply to the presentation of any promissory note, hundi or bill of exchange for acceptance or payment by the clerk of a notary acting on behalf of such notary.

(b) [Omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).]

10. Removal of names from Register:

The Government may, by order, remove from the Register maintained by it under section 4 the name of the notary if he-

- (a) makes a request to that effect; or
- (b) has not paid any prescribed fee required to be paid by him; or
- (c) is an undischarged insolvent; or
- (d) has been found, upon inquiry in the prescribed manner, to be guilty of such professional or other misconduct as, in the opinion of the Government, renders him unfit to practise as a notary.

11. Construction of references to notaries public in other laws:

Subject to the provisions of section 16, any reference to a notary public in any other law shall be construed as a reference to a notary entitled to practise under this Ordinance.

12. Penalty for falsely representing to be a notary, etc.:

Any person who-

- (a) falsely represents that he is a notary without being appointed as such, or
 - (b) practises as a notary or does any notarial act in contravention of section 9,
- shall be punishable with imprisonment for a term which may extend to three months, or with fine, or with both.

13. Cognizance of offences:

(a) 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.

(b) No magistrate other than a magistrate of the first class shall try an offence punishable under this Ordinance.

14: Reciprocal arrangements for recognition of notarial acts done by foreign notaries:

If the Government is satisfied that by the law or practice of any country or place outside Bangladesh, the notarial acts done by notaries within Bangladesh are recognized for all or any limited purposes in that country or place, the Government may, by notification in the official Gazette, declare that the notarial acts lawfully done by notaries within such country or place shall be recognised within Bangladesh for all purposes or, as the case may be, for such limited purposes as may be specified in the notification.

2. Power to make rules.

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

(b) 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:-

- I. 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;
 - II. 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;
 - III. 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;
 - IV. the fees payable to a notary for doing any notarial act;
 - V. the form of Registers and the particulars to be entered therein;
 - VI. the form and design of the seal of a notary;
 - VII. the manner in which inquiries into allegations or professional or other misconduct of notaries may be made;
 - VIII. 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.
16. Saving of Act XXVI of 1881:

Nothing in this Ordinance affects the provisions of the Negotiable Instruments Act, 1881, or any appointment made in pursuance of section 138 of that Act or the powers of any person so appointed.

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

lawyer.

(Lawyer) in advance and authorized by the Public Prosecutors, 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:

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.

4. Duties and Authorities of a Notary in Bangladesh

In Bangladesh, a notary public plays a crucial role in certifying and authenticating various legal documents and transactions. The duties and authorities of a notary in Bangladesh generally include the following:⁷⁴

- (a) **Administering Oaths:** A notary public in Bangladesh is authorized to administer oaths and affirmations in connection with affidavits and statutory declarations.
- (b) **Attesting Signatures:** Notaries attest to the signatures on documents to certify that the signatures are genuine. This is important for various legal documents such as contracts, deeds, powers of attorney, etc.
- (c) **Certifying Copies:** Notaries can certify copies of original documents as true copies. This is often required for official purposes when original documents cannot be provided.

⁷⁴ Notary Public Rules & Regulation, Power of Atorny Regulations by Md. Anawarul Haque, Advocate Barun Kumar Biswas, Published by Surovi Book Stall.

- (d) **Witnessing Signatures:** Notaries can witness the signing of documents and verify the identity of the signatories. This helps to prevent fraud and ensures the authenticity of the documents.
- (e) **Issuing Notarial Certificates:** Notaries issue notarial certificates or notarial acts to authenticate the actions they have performed. These certificates serve as evidence of the notary's official act.
- (f) **Verifying Identities:** Notaries verify the identities of individuals signing documents by checking their identification documents such as passports, national ID cards, or driver's licenses.
- (g) **Recording Notarial Acts:** Notaries are required to maintain records of all notarial acts performed by them. These records serve as a permanent record of the transactions they have certified.
- (h) **Providing Legal Advice:** While notaries cannot provide legal advice in the same capacity as lawyers, they may offer general guidance on notarial procedures and the requirements for specific documents.
- (i) **Protecting Against Fraud:** Notaries play a critical role in preventing fraud by verifying the authenticity of signatures and identities of individuals involved in legal transactions.
- (j) **Preserving Neutrality and Impartiality:** Notaries must remain neutral and impartial in their duties, ensuring that they do not have any personal interest in the transactions they certify.

It's important to note that the specific duties and authorities of notaries in Bangladesh may be subject to legal regulations and guidelines established by the

government or relevant authorities. Therefore, individuals seeking notarial services should consult with a qualified notary public to understand the specific requirements and procedures applicable to their situation.

C. General Overview of Notary Positions in Countries Adopting the System Civil law and Common Law

There are two types of Notary schools in this world, namely Notaries in Civil Law countries and Notaries in Common Law countries.⁷⁵ Both are positions, but have different duties and authorities. Civil law notaries are called Latin Notaries, while notaries in Common Law countries are generally called Notary Public.

⁷⁶Latijnse Notarythose known today originate from Northern Italy starting in the 11th or 12th century. This notarial system spread throughout mainland Europe and through Spain to Central American and South American countries. The countries that did not take part in this Notarial reception were the United Kingdom and most of the Scandinavian countries.

Latijnse Notaryhas the following characteristics:

1. Appointed by the Ruler (Government).

⁷⁵ Munir Fuady, 2007, *Comparative Legal Sciences*, Bandung: Refika Aditama, p. 32. Civil Law countries are countries with the oldest and most influential and widely used legal systems in the world. The legal system taken as its basis is Roman law, which is then divided into two poles, namely German Roman law, which is adhered to by the German state, and French Roman law, which is adhered to by most European countries and their colonies, such as France, Spain, Italy, the Netherlands, including Indonesia.

⁷⁶ Ibid, Common Law countries are also called Negras with Angle Saxon or Anglo American legal systems, originating from English law, therefore all countries that have been colonized or influenced by England adhere to this legal system, such as the United States, Australia, India, Malaysia, Singapore, and others.

2. Aims to serve the interests of the general public.
3. Receive honoraria from the general public.

Latijnse Notary has an international association called the International Union of Notaries or abbreviated as UINL, founded in 1948 in Buenos Aires, Argentina. UINL is headquartered in Rome, Italy and currently has 80 members listed as follows:⁷⁷

Table 2. List of UINL Members⁷⁸

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, Netherlands, 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.

⁷⁷ Ibid, Common Law countries are also called Negras with Angle Saxon or Anglo American legal systems, originating from English law, therefore all countries that have been colonized or influenced by England adhere to this legal system, such as the United States, Australia, India, Malaysia, Singapore, and others.

⁷⁸ Source: <http://www.uinl.org> accessed on April 24 2022

Africa (18)	Algeria, Benin, Burkina Faso, Cameroon, Central African Republic, Chas, Congo, Gabon, Guinea, Ivory Coast, Mali, Mauritania, Mauritius, Morocco, Niger, Senegal, Togo, Tunis.
Asia (4)	China (People's Republic), Indonesia, Japan, Republic of Korea.

In contrast to Latijnse Notariat, the Public Notary system originated in England and was implemented 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 Notarial Practices* makes a conclusion regarding Public Notary which is written as follows:⁷⁹

1. A Notary Public in England is not appointed by the Government but by the Archbishop or someone who has been authorized by him.

Theoretically, according to Common Law, anyone can write a letter in a legal environment (legal writing) and whether or not the document is valid does not depend on the qualifications (whether or not they have a degree) of the writer.

⁷⁹ Tan Thong Kie, 2007, *Study of Notaries and Miscellaneous Notary Practices*, Cet.1, PT. Van Hoeve's New Ichtiar, Jakarta, p. 623-624.

2. Courts in England do not give added value to writings made notarially. What is important for the English court is the seal and witnesses who can confirm that the contents of the deed are true according to the wishes of the parties.
3. English courts are of the opinion that a deed made by a notary does not prove the facts stated in the deed.

In civil law countries, notaries issue copies which are authentic copies which are only signed by the notary, while notaries in common law countries issue duplicate originals which are signed by all parties, witnesses and the notary. According to Peter Steinm, English courts are more likely to accept duplicate originals as primary evidence than copies, even if they are authentic copies.⁸⁰

From the explanation above, we can group them into a table regarding the Differences in Notary Authority between the Civil Law System and the Common Law System as follows:

Table 3. Differences in Notary Authority between the Civil Law System and the Common Law System

No.	Information	Civil Law System	Common Law System
1.	Use of Terms	<i>Notary</i> or Notary	<i>Notary Public</i>
2.	Education	Carried out by legal experts who must have a Bachelor of Laws and a Master's Degree in Notary Affairs and there are additional	Notary Public comes from a law degree who has become an Advocate and does not always require special education to hold the

⁸⁰ Ibid.

		educational procedures such as internships ranging from special education, exams, to assignment to work areas.	position and is appointed on the authority of the Judicial Council/state
3.	Appointment	Appointed by the Government through the Ministry of Law and Human Rights	In countries that adhere to Common Law, there are two types of advocates, namely attorneys and counselors at law who can be appointed as Notary Public without requiring specific education by the Common Attorney and the Ministry of Justice.
4.	Duties/Authorities	A notary is a public official who has the right to make all authentic deeds, as long as it is not excluded by law and has a monopoly in making authentic notarial deeds in the field of private law even though the notary is not the only official who makes authentic deeds, such as PPAT.	<ul style="list-style-type: none"> - Notary Public has the authority to certify the correctness of the signature or in the event of a money order protest as well as giving advice, compiling documents, especially for the purposes of agreements with foreign countries - In certain countries, the Notary Public's authority does not extend beyond making limited certificates and this authority cannot be expanded. Only as a legalization or determination of certainty of date and signature. - The Notary Public's duties are limited to: to administer oaths and affirmations (taking oaths or promises and making certificates stated that); to take affidavits and depositions (depositions are writings/statements under oath/promise given by a witness); to receive and

			certify acknowledgments (providing information regarding the truth that on a certain date a certain person has signed a document as explained above); to demand acceptance or payment of foreign and inland bills of exchange etc.(makea certificate stating that he has offered on a certain date a money order and protested a payment which for certain reasons has been refused payment a etc.).
5.	Power of Proof	Authorized to produce written evidence in the form of authentic deeds with compelling evidentiary characteristics (een dwingende bewijskracht). Notarial deeds have the power of formal and material evidence, even in certain legal acts they also have executorial power.	There isn't any The difference between an authentic deed and a private deed in Notary Public products only lies in the Chop and legalization.

C. Notary Position in Islamic Perspective

Thought is the 'process' or 'way' of thinking about Islamic law. Development is a thinking process that does not start from point 0 (zero), but there is already capital or materials to achieve perfection. Thinking is sunatullah to answer life's problems, in this case the field of law (Islam) by using common sense. In Islamic law, reason (al-ra'yu) is the third source (tool/method) of Islamic law through

ijtihad, apart from the first and main being the Qur'an and secondly the Sunnah. The Qur'an's recognition of the role of reason in the field of law can be concluded from the content of verse 59 of Surah an-Nisa'. The command to obey ulil-amri in this verse means nothing other than obeying the results of their ijtihad which is carried out seriously. Thus, using reason in religious matters (Islamic law) is a religious requirement.

The Qur'an's recognition of the use of the mind is a gift from Allah which allows humans to intervene in determining the rules of their life, also placing the position of the mind in a more honorable and recognized position, and therefore the ulama dare to appear as mujtahids. There is a demand to use reason. Religious matters are one of the driving factors for the emergence of thinking in Islamic law. Why do religious issues, in this case Islamic law, require the intervention of the human mind, even though Islamic law is God's law? The key word for the main problem is regarding "characteristics of the sources of Islamic law" which is the main problem.

The stable element is found in the teachings confirmed in the Qur'an and the Sunnah of the Prophet Muhammad, while the dynamic element can be developed, it lies in the laws in the formation of which the human mind plays a role, especially Islamic law which in its formation by the Mujtahids was based on 'urf or customs. Therefore, in Ijtihad the main objects of research are the Qur'an and Sunnah in relation to social events, so someone who will carry out ijtihad should first know about the Qur'an and Sunnah.

As a legal institution, Islamic law has its own characteristics which are sui generis (different in type). One of the characteristics of Islamic law is that it has two key terms, namely: (A) Sharia and (B) Fiqh. Sharia consists of the revelation of Allah and the Sunnah of the prophet Muhammad, and fiqh is understanding from the results of human understanding.

In connection with the two key terms of Islamic law above, it can be seen which Islamic laws are purely the revelation of Allah and the Sunnah of the Prophet Muhammad and which laws have been interfered with by human reasoning. For this reason, when viewed from the process of forming Islamic law, ushul fiqh experts draw the line, that sharia is "al-nushush al-muqaddasah" (Islamic teachings which are in no way interfered with by human reasoning power) in the Qur'an and as- Sunnah al-mutawatirah. As for fiqh in terms of ushul fiqh, it is "Understanding or what is understood from 'al-nushush al-muqaddasah'. Sharia is stable (tsabat), while fiqh is dynamic (tathawwur).

In the Islamic world, Abu Hanifah and his students were the first to develop the notarial field. Islam first recognized the term notary, sharia notary is based on the Al-Qur'an and Al-Hadith in addition to the fatwa and ijtihad of the ulama, in contrast to notary which now has its legal sources from the West.

The study of science in the Islamic world covers various fields. Not only is the study of exact sciences developing, but also humanities related to the study of philosophy, history, law or literature. One of the fields that later emerged was notarial and notarial services. This field is related to legal documents or

ratification of agreement documents, deeds and other documents. During the Islamic era, notary documents were made based on law or fiqh which were written in a series of beautiful words and language styles. Thus, this field is not only related to law, but also adab and literature.

There are many terms that appear to refer to this field, according to Georga A. Makdisi in the Cita of Islamic Humanism, these terms show the development of this field in the Islamic world. Islamic literature recognizes several Arabic terms to refer to formal documents or notarial deeds. The basic term is derived from the words *aqad*, *syarth*, and *watsq*. Meanwhile, formal documents are called *al-watsa'iq*, *syuruth* and *uqud*. Meanwhile, the notary who has the authority to make the deed is often referred to as *muwatstsiq*, *watstsaq*, *shabib al-watsa'iq*, or *aqid li al-syuruth*. This term refers to the activities, position or function of a notary. Other terms have also emerged, namely *khaththath al-watsa'iq* or notarial deed writer and *khidmah al-watsa'iq* which means notary services. In the Islamic world, notarial art initially developed in Baghdad, Iraq, in the 8th century. This field was developed by Abu Hanifah and his students, namely Abu Yusuf and Muhammad Ibn Hasan Al-Syaybani. It was not only a number of legal experts who were their contemporaries who helped develop it. Al-Syaybani wrote about notarial deeds in his work *Mabsuth* and *Buku Al-Ashl*. According to Haji Khalifah, a scientist who died in 1657 AD, the first work discussing this was written by Hilal Ibn Yahya Al-Bashri, better known as Hilal Al-Ray. He died in 895 AD.

Hajj Caliph also a list of various works related to the world of notaries. He collected notarial deeds made by jurists belonging to the Hanafi school of thought. He also considered that a notarial deed was a combination of literature and legal practice. The Caliph even made a kind of definition. He said, ilm al-syuruth al-sijillat, is a scientific discipline that examines standardized methods of determination in books or notes or legal decisions of a judge.

In a way that allows users to use it as legal evidence after the death of witnesses involved in a case. According to the Caliph, the content of this discipline contains legal decisions, which are written like literature. So, said the Caliph, the terms used were in accordance with applied law and religious laws. Based on historical records, the western part of the Islamic World began to develop notary after this discipline developed rapidly in the eastern part of the Islamic World.

The life and activities of a notary are widely revealed through biographical works of Muslim writers in the western region. For example, Ibn Al-Fardi in his work Maushul Al-Fardi was a Muslim scholar who died in 1012 AD. In the following period, there was Ibn Basykuwal with his work entitled Shilah, while Marrakusyî wrote Dzayl. In their work, they compiled a collection of notarial deeds as a model for those who wish to study this field. Notarial science is seen as a scientific discipline that has many benefits and is profitable. Many people at that time studied notary publicism, either through education or self-taught because many works were created for this purpose.

As for Surah Al-Baqarah Verse (282) which has the meaning,

“O believers! If you owe debts for a specified time, you should write them down. And let a writer among you write it correctly. Let the writer not refuse to write it as Allah has taught him, so let him write it. And let the person who owes it dictate, and let him be devoted to Allah, his Lord, and let him not reduce anything from it. If the debtor is someone who lacks intelligence or is weak (in his condition) or is unable to dictate himself, then let his guardian dictate correctly. And testify with two witnesses among you. If there are not two male witnesses, then you can have a man and two women among the people you like from the witnesses, so that if one forgets, someone else will remind him. And don't let the witnesses refuse when called. And don't get bored of writing it down, for the deadline, whether (the debt) is small or large. That is more just in the sight of Allah, more strengthens the testimony, and brings you closer to no doubt, unless it is a cash trade that you carry out between yourselves, then there is no sin for you if you do not write it down. And take witnesses when you buy and sell and don't make things difficult for the writer and the witnesses too. If you do (that), then indeed, it is an act of wickedness on your part. And fear Allah, Allah teaches you, and Allah is All-Knowing of everything.”

So this means that the legal subjects are believers, debt and receivable agreements should be made in writing before a Notary/PPAT, the Notary/PPAT may not refuse to write them in the Deed unless there is a reason justified by law for refusing, then there is the requirement for guardians/guardians for people who

are not competent to carry out legal acts, to be attended by two male witnesses or one male witness and two female witnesses, the presence of witnesses in the sale and purchase agreement is confirmation that the Notary/PPAT and the witnesses are not parties to the sale and purchase agreement. This is in line with Article 38 Paragraph (3) letter c of Law (UU) no. 2 of 2014. Amendments to Law Number 30 of 2004 concerning the Position of Notary that the contents of the deed are the will of the parties, not the will of the Notary/PPAT, the Notary/PPAT only states it in a deed. So if the debtor defaults or there is negligence/mistake, the Notary/PPAT cannot be sued.

Then in QS. An-Nisa' Verse (59) which means, "O you who believe! Obey the Messenger (Muhammad) and Ulil Amri (those in power) among you. Then if you differ in opinion about something, then return it to Allah (the Qur'an) and the Messenger (Sunnah), if you believe in Allah and the Last Day. That is more important (for you) and the consequences are better." Thus, Notaries/PPATs are obliged to comply with the regulations set by the government (as Ulil Amri) in this case regarding the Law on Notary Positions and other related regulations. Notaries/PPATs are not authorized to carry out actions outside their area of authority, outside the area that has been determined, in other words, this is carrying out orders from the ulil amri and this is in accordance with what is stated in the Law on the Position of Notaries Article 4.

QS. Al-Ma'idah Verse (1) also means, "O you who believe! Fulfill promises. Livestock is permissible for you, except as will be mentioned to you,

and hunting is not permissible while you are in ihram (hajj or umrah). Indeed, Allah determines the law according to what He wills.” This means that all forms of contracts with various variations and developments are permitted as long as they do not conflict with sharia principles or as long as there are no arguments that prohibit them, such as interest (riba) which is expressly prohibited and what is permitted is a profit sharing system. With this proposition, Notaries/PPATs have a very important role in making sharia deeds by understanding the rules/provisions that apply in Islamic contract law.

From the explanation above, it is clear that the Islamic concept of regulating human legal actions in making agreements, including ultimately regulating who serves as the official who looks after them or records them, can be seen from the Al-Quran, Surah Al Baqarah 282, which, among other things, states: O you who believe! If you owe a debt for a specified payment period, you should write it down to protect each other's rights and to avoid disputes. To make the deed itself, you can look at the Word of God: and witness it with two men, containing the provisions that when carrying out the contract/transaction be attended by 2 (two) male witnesses or 1 (one) male witness and 2 (two) female witnesses are in line with the principle in law: unus testis nullus testis (one witness is not a witness).

Surah An-Nisa verse 58, states: Indeed, Allah commands you to convey a message to those who are entitled to receive it, and when you determine a law between people, you must determine it fairly. This paragraph is very relevant to

the Notary's obligation to be impartial. Notaries are given a mandate from the parties that must be maintained, namely to keep everything regarding the deed confidential in accordance with Article 16 paragraph (1) letter e of the Law on the Position of Notaries. So this paragraph strictly requires the Notary to use mandatory denials to parties who are not interested. A mandate or trust is something that is entrusted by another person to be carried out. Notary is a position of trust.

Seeing the many relevant things between the word of Allah in the Koran and the Notary Profession as regulated in the Law on Notary Positions, it seems UUN must be in synergy with Islamic teachings. Moreover, in the UUN itself it is said that a Notary is a person who is devoted to God Almighty.

The application of the mujahid principle for a Notary as a person who is always serious in carrying out his duties and is full of responsibility, at the same time being a Mujahid, because a Notary must always be able to create a new situation whose origin is uncertain becomes certain, and has a clear legal basis. A notary can be called a mujtahid because the notary profession must always follow developments in science and technology, so it requires a truly in-depth understanding. Technological progress is something that cannot be avoided in life, so notaries cannot be a profession that does not keep up with changes, in this case, notaries must also carry out research on methods of implementing developments in science and technology that do not reduce their role in upholding legal certainty. Mujtahid Principles for a Notary, of course because Notary is a position

of trust. So a Notary must strive to uphold the truth as a transmitter of the Trust even though his duties are full of challenges and temptations.

With more and more Notaries carrying out their duties with an Islamic approach, Islam will help maintain the dignity of the Notary Profession along with statutory regulations and the Professional Code of Ethics.



CHAPTER III

RESEARCH RESULTS AND DISCUSSION

A. How to continue of Public Notary in Bangladesh?

- (a) Obtain a law degree: To qualify as a notary public in Bangladesh, you must possess a law degree from a recognized university. Pursuing a Bachelor of Laws (LLB) or Master of Laws (LLM) degree fulfills this requirement. Following completion of your law degree, acquiring practical experience within the legal profession is essential. This can be achieved through apprenticeship under an experienced lawyer or by joining a law firm to gain hands-on experience.
- (b) Apply for a notary public license: After obtaining the necessary practical experience, you can proceed to apply for a notary public license through the Ministry of Law, Justice, and Parliamentary Affairs. Your application should include your educational and practical experience certificates for review.
- (c) Pass the notary public exam: After approval of your application, you must successfully pass the notary public exam, which assesses your understanding of law, legal procedures, and notarial practices. Following the exam, the government of Bangladesh will appoint you as a notary

public. It is imperative to renew your notary public license every three years. To initiate the renewal process, you must submit a renewal application along with the prescribed fees.

The process of becoming a notary public in Bangladesh may vary depending on the jurisdiction and the specific requirements outlined by the Ministry of Law, Justice, and Parliamentary Affairs.

The Code of Ethics for the Notary Profession in Bangladesh is primarily established based on the statutory and regulatory framework outlined in the Notaries Ordinance of 1961 and the Notaries Rules of 1962.

The Notaries Ordinance grants the government of Bangladesh the authority to appoint and regulate notaries public, enabling them to authenticate and certify documents and transactions for domestic and international use. In contrast, the Notaries Rules offer guidance to notaries public on application procedures, appointments, as well as the suspension and revocation of notarial authority. These rules also include a code of conduct outlining ethical standards for notaries public.

The Code of Ethics for the Notary Profession in Bangladesh is largely derived from these legal statutes and regulations, establishing the framework within which notaries public must operate. It further delineates ethical principles and standards that notaries public must uphold to preserve professional integrity and ensure the reliability of their notarial acts.

In summary, Bangladesh's legal system furnishes a comprehensive structure for notary publics, supplemented by a Code of Ethics aimed at maintaining professional integrity and adherence to the highest ethical standards.

IMPORTANCE / NECESSITY OF NOTARIZED DOCUMENTS:

Notary services are frequently sought after, particularly by institutions like Embassies, Foreign Immigration Departments, Banks, Schools, Colleges, Universities, Boards, Government, or Private Sectors. Now, you can notarize various documents such as Academic Documents, Marriage Documents, Birth Certificates, Death Certificates, National Identification (NID), Business or Commercial Documents, Property Documents, and more within minutes from anywhere in the world. A noteworthy feature of our innovative web platform, notarybd.com, is the convenience it offers - there's no need for you to physically visit any location.

You have to fulfill just 6 easy steps.

Step-01: Complete online registration form and profile. If you are a registered client, then log into your account and then select your document(s) from the website list.

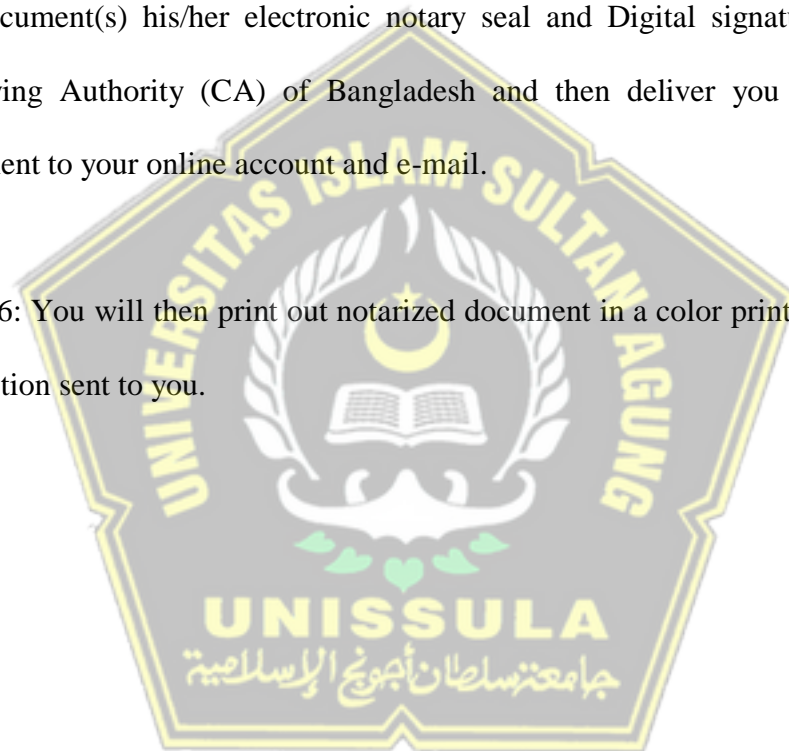
Step-02: Complete Notary Questionnaire and Upload Document(s) one by one in JPEG format. Notary Public will review Questionnaire and uploaded document(s).

Step-3: 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.

Step-06: You will then print out notarized document in a color printer as per print instruction sent to you.



Example-1:**MOU AGREEMENT****MEMORANDUM OF UNDERSTANDING****Between****Sukuna Multiple Campus and Daffodil Polytechnic Institute****1. PURPOSE**

The purpose of this MoU is to develop academic and educational cooperation on the basis of equality

and reciprocity and to promote sustainable partnerships and mutual understanding between Sukuna

Multiple Campus, Morang, Nepal (SMC) and Daffodil Polytechnic Institute, Dhaka, Bangladesh.

Both SMC and DPI may be referred to individually as the “party” or collectively as the “parties”.

2. SCOPE OF ACTIVITIES

SMC and DPI aim to undertake cooperation in areas that may include, but are not restricted to, the

following:

a) Organization and participation in seminars, symposia, short-term academic programs,

academic meetings and trainings

b) Exchange of research and educational materials, publications and academic information

c) Technical exchange

d) Designing and marketing of electronic instruction media, including credit and non-credit courses

e) Joint research activities and academic programmers

f) Exchange of faculty, staff and research scholars

g) Intern Exchange and educational excursion of students

h) Fellowship programmes

i) Scholarship opportunity for the meritorious students

j) Student Exchange for research and study

h) Module exchange for the development

3. ACTIVITY AGREEMENTS

Before any activities may be implemented, the parties shall discuss the relevant issues to the satisfaction of each party and enter into specific activity agreements based on the mutually agreed objectives and outcomes of the activity. Activity agreements will include the following terms:

- a) Elaboration of the responsibilities of each institution for the agreed upon activity
- b) Specific schedules for the activity
- c) Budgets and sources of finances for the activity Campus Stamp DPI Stamp
- d) Detailed management of intellectual property rights and publications
- e) Any other items deemed necessary for the efficient management of the activity

4. COORDINATORS

Each institution shall designate a coordinator to oversee and facilitate the implementation of this MoU. All activities conducted under the auspices of this MoU must have the endorsement of the coordinators. SMC and DPI will synergistically strive for effective coordination through comprehensive collaboration. The coordinators, working with other appropriate administrators at the respective parties, shall have the following responsibilities:

To act as principal contacts for individual and group activities and to plan and coordinate all activities within their institutions as well as with the partner institution. To facilitate cooperation for the purpose of initiation and implementation of any agreed programmes.

To exchange information about faculties, facilities, research, publications and educational resources of the other institution; and

To meet periodically physically or online to review and evaluate past activities and to work out new ideas for future.

5. RENEWAL, TERMINATION AND AMENDMENT

5.1 This MoU shall remain in force for a period of five years from the date of the last signature. This MoU may be extended by the written consent of the parties.

5.2 This MoU may be terminated by either party giving written notice to the other party at least 90 days in advance of the stated termination date. Termination of this MoU shall not affect activities in progress pursuant to specific activity agreements, which shall continue until concluded by the parties in accordance with their terms or as otherwise agreed to by the parties in writing.

5.3 This MoU may be amended only by the written consent of the parties. The following authorized individuals have signed the present MoU on behalf of their respective institutions:

.....

Mr. Arjun Raj Adhikari
Campus Chief
Sukuna Multiple Campus
Sundarharaincha Municipality,
Morang, Nepal.

.....

Mr. K M Hasan
Principal & Executive Director
Daffodil Polytechnic Institute
Mirpur Road, Dhaka 1209,
Bangladesh.

Date : 24 January 2024

Example-02**CONTRACT BETWEEN SICHO AND DAFFODIL****ON****OVERSEAS EMPLOYMENT OF BANGLADESHI WORKFORCE****I. BACKGROUND**

Remittance earnings from overseas workforce is one of the key pillars of Bangladesh's economy. While Bangladesh is still catering largely to the unskilled segment with low value addition, there is great potential to explore the semi-skilled and skilled segments given the demographic dividend the country can count on. What is needed is a conducive and facilitative policy environment as well as business integrity and transparency. Recently SICHO got an offer from a German healthcare facility through its business network which is eager to take Bangladeshi nurses to Germany. SICHO is very interested to effectively explore and further expand such opportunities from a larger national perspective of boosting foreign currency earnings. If Bangladesh can make a welcome entry to

the satisfaction of the German client, this may open up the gate to other European Union (EU) countries and the UK over time for nursing and other services. This encourages SICHO to look for reliable partner to leverage and complement each other's business acumen and strength to seamlessly realize this business opportunity. And Daffodil renders itself as the most competent organization to partner with.

II. ABOUT SICHO

SICHO is one of the leading companies in Bangladesh to provide logistics services to both public and private sectors. Established in 1968, SICHO has integrated most of the critical services needed in infrastructure development in different sectors of the country such as power & energy, on-shore & off-shore port services, contract logistics, multi-modal transportation, jetty design, construction & engineering, SODC and heavy lift cargo mobilization, equipment rental support, etc. Its long list of international clientele include Siemens AG, General Electric(GE), Italian-Thai Development Company, Deugro, PARLYM, Sumitomo Corporation, Hyundai Engineering & Construction, Larsen & Toubro (L&T India), Daewoo Corporation, Travaux Du Sud Ouest (France), Mitsui & Co. Ltd (Japan), Mitsubishi Corporation (Japan), Samsung C&T Corporation, China Communications Construction Company Ltd (CCCCL), China Harbour Engineering Company Ltd (CHEC), China Railway International Group (CRIG), Lafarge, Schlumberger, All Cargo logistics Ltd.,India, COSCO Shipping, China Railway Group Limited

(CRGL), MCC, Bisho Infra Project Ltd (BI), Padma Multipurpose Bridge Project (MBEC), Korea

Development Corporation, Shapoorji Pallonji, and many others while its major domestic clients are Bashundhara Group, Energypac Engineering, Omera LPG, The Civil engineers, Abdul Monem Limited, etc. Thanks to its business relationship with a large number of global brands in trade and logistics, SICHO enjoys a wide network to explore new businesses across continents including overseas employment of Bangladeshi skilled and semi-skilled workforce.

III. ABOUT DAFFODIL

Daffodil Family was founded with a vision to lead Bangladesh's ICT sector and contribute to the field of education at large. Since it started its journey in 1990 it remained committed to its philosophy of providing the best services demonstrating its business excellence and uncompromising professionalism. While ICT remained its core area of business, Daffodil evolved over the years to become the largest education network of the country. Daffodil provides a range of complimentary product and services that include a portfolio of IT services, software, and relevant technologies that solves critical problems for clients and also brought quality education from PG to PG??? level with the objective of preparing the future generation capable of facing the challenges. Daffodil collaborates with clients to help them become high- performance businesses. In the field of development of skilled human resources Daffodil's strategies have seen remarkable success and contributed to creating new job opportunities and thus reducing unemployment problem of the country. Considering the growing

proportion of working age between 15 and 59 years, and taking advantage of demographic dividend, Daffodil initiated skills development initiative to increase productivity inside the country, and looked beyond to meet the skilled and semi-skilled human resources need in the global arena. Daffodil intends to continue its efforts to develop skilled technical human resources for developed as well as developing economies such as Japan, Middle East, South East Asia, USA, United Kingdom, European Union, etc. Daffodil strictly adheres to its business ethics, corporate governance and transparency of operations while complying with the laws and regulations of the country.

IV. THE CONTRACT

Both SICHO and Daffodil, hereinafter mentioned as Parties, agree to enter into a strategic partnership for realizing the business opportunity of overseas employment of skilled and semi-skilled workforce from Bangladesh to countries belonging to European Union and the UK. This Contract lays out the long-term roles and responsibilities of both the parties. The Contract also envisages, in particular, the roles and responsibilities of both the Parties for realizing the immediate opportunity of sending trained Bangladeshi nurses to Germany in section VII of this Contract.

V. ROLES AND RESPONSIBILITIES OF EACH PARTY

Responsibility of Daffodil:

a) Use the license of Global Recruitment Agency (GRA) which is a strategic business unit (SBU) of Daffodil until any other decision is mutually agreed upon.

- b) Will take the main responsibility to liaison with the relevant ministry/agency and will keep SICHO informed on matters of importance.
- c) Daffodil will undertake all necessary steps including promotional activities such as advertisements and other effective forms of communication to attract and enlist Bangladeshi workforce for overseas employment.
- d) Provide language and other required training for willing candidates to ably qualify for overseas employment. Organize all physical and other facilities for such trainings.
- e) Take care of all necessary paperwork towards job placement.
- f) Make travel arrangements including visa and air tickets of the selected candidates.
- g) Provide required orientation of selected candidates regarding overseas employment and brief them about terms and conditions of their employment.

Responsibility of SICHO

- a) All communications with the overseas clients including: a. number of people to be hired in each batch, b. terms and conditions of employment, etc.
- b) Collect job demand letter and power of attorney from client company, authorization of demand letter and power of attorney from Bangladesh embassy in the relevant country and will keep Daffodil informed on matters of importance.
- c) Job placement in coordination/collaboration with SICHO's representative and the client.
- d) Prepare all terms and conditions of employment on behalf of the clients.

e) Make the final selection of candidates for overseas employment in consultation with Daffodil.

f) Together with Daffodil provide required orientation of selected candidates and brief them about terms and conditions of their employment and DOs and DON'Ts to be followed.

g) Will join hands with Daffodil in liaisoning with relevant Govt. ministries/agencies as and when necessary.

VI. SERVICE CHARGE

SICHO and Daffodil will decide the amount of service charge for each candidate based on the following criteria:

a) Total cost per candidate beginning from the recruitment process to the final job placement including post placement monitoring.

b) The type of overseas employment and the total monthly/yearly benefits to the candidate. For example, if any job leads to permanent residency in Europe, the service charge will reasonably be higher; or, the cost of language course varies based on specific language and the time to learn it; or, if access to finance is facilitated for the candidates, this will have a cost to be charged.

VII. ROLES AND RESPONSIBILITIES OF SICHO AND DAFFODIL FOR EMPLOYMENT OF BANGLADESH NURSES IN GERMANY

Responsibilities of Daffodil

a) Daffodil will undertake all necessary steps including promotional activities and other effective forms of communication to attract and enlist Bangladeshi nurses

having graduate degree, both male and female, who are interested to complete a course in German language for overseas employment in nursing profession. The basic selection criteria from the client's end are: a. Graduation degree in nursing, and b. B-1 level proficiency in German language. Experience in nursing service will be an added advantage but not a necessary condition for selection.

b) Daffodil will make all arrangements necessary including hiring of teacher/s, physical facilities such as class rooms to provide training and necessary orientation to the Bangladeshi citizens who are interested in overseas employment.

c) Daffodil will make sure the course does not anyway take more than six months with a reasonable (70%) success rate of students reaching proficiency level B-1.

d) Documentation and other necessary paper work for the candidates run up to the job placement.

h) Make travel arrangements including visa and air tickets of the selected nurses.

e) Liaising with the relevant ministry/agencies to ensure policy/regulatory compliance. Responsibilities of SICHO

a) All communications with the German client and SICHO representative in Germany including: a. number of people to be hired in each batch, b. terms and conditions of employment, etc.

a) Collect job demand letter & power of attorney from client company, authorization of demand letter and power of attorney from Bangladesh embassy in Germany.

- b) Job placement in coordination/collaboration with SICHO's representative in Germany and the client
- c) Prepare all terms and conditions of employment on behalf of the German client in consultation with Daffodil.
- d) Make the final selection of candidates for overseas employment in consultation with Daffodil.
- e) Together with Daffodil will provide required orientation of potential candidates and brief them about terms and conditions of their employment and DOs and DON'Ts to be followed.
- f) Will join hands with Daffodil in liaisoning with relevant Govt. ministries/agencies as and when necessary.
- g) Will decide the fee per candidate in consultation and agreement with Daffodil.
- h) While the first batch of trainees will consist of about 10 nurses, frequency of future training sessions and number of nurses in each batch will be decided based on the demand from the overseas client, and state of local supply of nurses who fulfill the selection criteria.

VIII. FINANCE AND ACCOUNTS

- a) Both Parties will maintain separate books of accounts specific to the business operations pertaining to this Agreement following utmost transparency and business integrity. Each Party will invest as required to perform their assigned roles, and keep records of all expenses incurred for the assigned business purpose.
- b) Each Party will share their quarterly financial report pertaining to the activities under the purview of this Contract.

- c) There will be a joint account operated under joint signature representing each Party where all the incomes will be credited.
- d) At the end of each year, net profit (excluding all expenses, VAT, Tax as applicable) will be shared equally on a 50-50 basis.
- e) Any provisioning will be done on the basis of mutual agreement.

IX. INCLUSION OF ANY THIRD PARTY

If any third party wants to take part, within the purview of this Contract, with Daffodil and SICHO for overseas employment of Bangladeshi workforce under specific business proposition to any specific country, both the Parties will jointly review the business proposition, and if it makes business sense, then they (Daffodil and SICHO) will welcome such entry under a specific separate contract with the third party. However, neither SICHO nor Daffodil shall unilaterally enter into any contract with a third party for overseas employment of Bangladeshi workforce to countries belonging to EU, and the UK. Both Parties also agree to jointly invest in exploring markets in Europe.

X. COMPLIANCE WITH LAWS AND REGULATIONS

Both parties will comply with all relevant laws and regulations of the exporting and importing countries.

XI. DURATION OF THE CONTRACT

Both the Parties agree to make this agreement open ended in view of the nature of the business largely depending on the demand in overseas markets.

XII. INTELLECTUAL PROPERTY RIGHTS.

During the course of this Agreement, it may be necessary for both the Parties to mutually share proprietary information, including trade secrets, industry knowledge, and other confidential information. Neither of the Parties will share any proprietary information to any third Party without prior mutual consent. Each party will treat this Contract confidential and will not share any information thereof without the permission of the other Party.

XIII. AMENDMENTS AND MODIFICATIONS

Both the Parties, with their mutual consent, may consider making any amendment or modification to this Contract if deemed appropriate for its smooth implementation.

XIV. DISPUTE RESOLUTION

Any dispute arising at any point in time, both the Parties will take utmost efforts to resolve amicably or through arbitration.

XV. TERMINATION

Each party can terminate the contract if they wish it so giving at least three months' notice in advance to the other.

XVI. FORCE MAJEURE

In the event, circumstance, or combination thereof beyond the reasonable control of a party, including but not limited to, acts of God, war, terrorism, civil unrest, fire, flood, earthquake, explosion, governmental actions, epidemic, pandemic, or any other similar unforeseen circumstances may affect the ability of either party to fulfill its obligations. Therefore, any deadlines or timeframes under this contract shall be extended for a period equal to the duration of the Force Majeure Event.

Signed on behalf of CICHO

Signed on behalf of Daffodil

Witnesses:

Example-03

MEMORANDUM OF UNDERSTANDING

(MoU)

BETWEEN

**DAFFODIL COMPUTERS LIMITED (DCL)
BRAIN STATION 23 (BS23)**

AND

SERVICENGINEBPO (SEBPO)

UNISQUILA
جامعة سلطان أبجويج الإسلامية

FOR

“Developing a Consortium for Marketing, Sales and

Software Testing Services”

24 October 2022

Agreement of Cooperation

THIS MEMORANDUM OF UNDERSTANDING (MoU) IS MADE ON

DATED OF 25 OCTOBER 2022

AMONG

**DAFFODIL COMPUTERS LIMITED (DCL), LOCATED AT 64/3, LAKE
CIRCUS, KALABAGAN, DHAKA-1205, BANGLADESH,**

**BRAIN STATION 23 (BS23), LOCATED AT 8TH FLOOR, 2 BIR UTTAM
AK KHANDAKAR ROAD, DHAKA-1212, BANGLADESH.**

AND

**SERVICENGINEBPO (SEBPO), LOCATED AT 8 Garden Rd, Dhaka-
1206, BANGLADESH.**

**WHEREAS THE DAFFODIL COMPUTERS LIMITED (DCL) WILL BE
TREATED AS
A 1ST PARTY, BRAIN STATION 23 WILL BE CALLED AS A 2ND
PARTY AND
SERVICENGINEBPO WILL BE CONSIDERED AS THE 3RD PARTY.**

WHEREAS the three of the organizations have agreed to sign a Memorandum of Understanding (MoU) for:

1. Responsibilities of the Daffodil Computers Ltd.:

- 1.1 Planning and Development of the Business Strategy.
- 1.2 Development of Marketing Materials.
- 1.3 Marketing (Digital/Physical).
- 1.4 Sales and Business Development.
- 1.5 Brand development and promotion.
- 1.6 Market Research and Development.
- 1.7 Customer Relationship Management.
- 1.8 Consortium website development, enhancement & maintenance

2. Responsibilities of ServiceEngineBPO & Brain Station 23

- 2.1 Software Tester Resource Pool Recruit
- 2.2 Software Testers Skillset Development with Vendor Certification
- 2.3 Software Testing Portfolio Development
- 2.4 Manage & Deliver Software Testing Service
- 2.5 Provide Software Testing Consultancy Service
- 2.6 Perform in Newness in Services
- 2.7 Cost Reduction in Services
- 2.8 Risk Reduction in Services
- 2.9 Innovation in Services
- 2.10 Dedicated Labs Establish for Software Testing Service
 - 2.10.1 Cloud Enabled Test Labs for
 - 2.10.1.1 Compatibility Testing

2.10.1.2 Performance Testing And

2.10.1.3 Mobile Application Testing, etc.

2.11 Facilitate OS & Apps wise different Hardware Devices according to needs: IOS, Android, etc.

2.12 Manage Projects/Needs wise Software Testing Tools

2.13 Ensure Company Certification (Projects/Needs wise):

2.13.1 ISO/IEC 27001 -Information security management

2.13.2 Open Web Application Security Project® (OWASP)

2.13.3 AICPA- American Institute of Certified Public Accountants, etc.

2.14 Ensure Security (Projects/Needs wise):

2.14.1 Protect intellectual property

2.14.2 Secured Access within the team.

2.14.3 Virtual LANs for an additional layer of network security or provide for Chinese walls between teams using physical access controls even within the delivery center. etc.

2.15 High Availability:

2.15.1 Redundant internet leased lines and

2.15.2 Redundant Power Supplies

2.15.3 24×7 operation, respond quickly to emergencies. (Projects/Needs wise)

3. Working Plan

3.1 BS23 & SEBPO will be responsible for deliver individual Software Testing Services given by DCL.

3.2 BS23 & SEBPO will be fully responsible to deliver the project in an efficient and timely manner as per work order/Contract to the DCL/Customer.

3.3 Each and individual project will have an individual agreement (based on the specific project scope and deliverables) with written details of their terms, conditions and payments.

3.4 In order to get the info by client, Consortium will authorize to use DCL, BS23 & SEBPO portfolio and project experience as well their client information on Consortium website and other sales presentations. But BS23 & SEBPO will not be liable for any misconduct of DCL with client.

3.5 All parties will keep their confidentiality and strictly not allow disclosing valuable information to each other. As well strictly not allow to communicate directly with the DCL, BS23 & SEBPO client locally or internationally on any project (present or future). If in case DCL have to disclose the real client name for any unexpected situation, unless it is officially authorized by BS23 & SEBPO, it will be settle mutually.

3.6 All parties will provide full cooperation to each other in a very respectable business manner and will resolve if any conflict or discrepancy occurred during the business or project process and be willing to help each other with a very understanding mindset. All parties will go to Arbitrator if arise any conflict between First Party, Second Party & Third Party.

3.7 All parties may assign a project manager for different projects, according to project needs.

3.8 For overall coordination one Project Director (PD) may assign, he will coordinate all projects by the help of project managers. PD will communicate with First Party, Second Party & Third Party top managements and stakeholders. PD will maintain the project wise Plan & Schedule. PD will also communicate with CMO: Chief Marketing Officer, CTO: Chief Technical Officer, MK: Marketing Manager, BDM: Business Development manager, Senior Sales Executive, Sales Executive, Junior Sales Executive, etc.

3.9 All parties must maintain NDA while stipulating full compliance of client identity and data, where the client can be local (BD) or international engaging through DCL, BS23 & SEBPO. 3.10 This agreement (Work together on individual Software Testing projects globally) and as well the content will remain the same, if in case comes any changes of the management structure.

4. Revenue Sharing Model

4.1 If the Project will be completed by DCL & BS23 then the Revenue Sharing Model will be following:

DCL BS23 Remarks 50% 50% It will be vary according to Project, Services, Time frame, Purpose, Ownership, Required Resources, Roles, value etc.

Note: According to no: 1 & 2 all Responsibilities will carry by DCL & BS23.

4.2 If the Project will be completed by DCL & SEBPO then the Revenue Sharing Model will be following:

DCL SEBPO Remarks 50% 50% It will be vary according to Project, Services, Time frame, Purpose, Ownership, Required Resources, Roles, value etc.

Note: According to no: 1 & 2 all Responsibilities will carry by DCL & SEBPO.

5. Duration of the MoU

5.1 The MoU will continue if the Consortium will prospective and profitable.

5.2 Time to time Consortium policies will be create according to Consortium needs.

6. Any dispute or matter of difference and/or disagreement between the Parties concerning the validity, scope, meaning, construction or effect of this Agreement and/or with regard to the rights, liabilities and obligations of the Parties arising out of or in connection with any matter relation to this Agreement, which cannot be settled by mutual discussion by and between the Parties hereto, shall be referred to and be settled and adjudicated upon by Arbitrators, one to be appointed by each party to the dispute who will appoint an umpire at the commencement of the proceeding and this clause shall be deemed to be guided by the Arbitration Act 2001.

7. Termination of the MoU

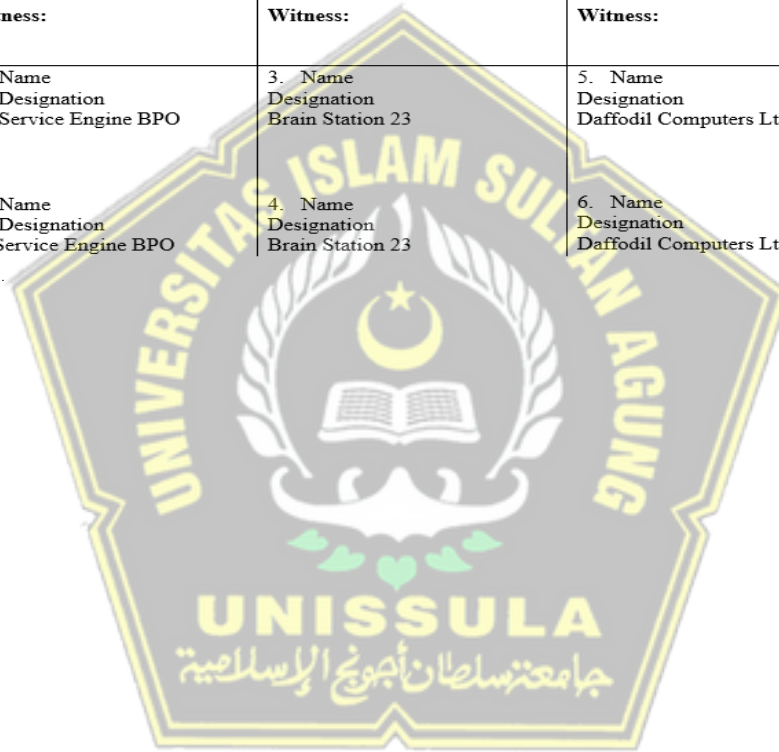
7.1 This agreement may be terminated either by DCL or BS23 or SEBPO by providing written notice and explanation to either DCL or BS23 or SEBPO at least 90 (Ninety) calendar days in advance of the effective date of termination.

It is mutually understood and agreed by and between these two Companies. Any

modification to this understanding shall be made by mutual consent of the parties, by the issuance of a written modification, signed and dated by top authorized officials, prior to any changes being performed.

All the three parties agreed to the terms and conditions set forth above as demonstrated by their signatures as follows:

For and on behalf of Service Engine BPO	For and on behalf of Brain Station 23	For and on behalf of Daffodil Computers Ltd.
Name Designation	Name Designation	Jafar Ahmed Patwary General Manager
Witness:	Witness:	Witness:
1. Name Designation Service Engine BPO	3. Name Designation Brain Station 23	5. Name Designation Daffodil Computers Ltd.
2. Name Designation Service Engine BPO	4. Name Designation Brain Station 23	6. Name Designation Daffodil Computers Ltd.



B. How do the legal prerequisites for becoming a notary differ between Indonesia and Bangladesh?

The legal prerequisites for becoming a notary can differ between Indonesia and Bangladesh due to variations in their legal systems and regulatory frameworks.

In Indonesia, to become a notary, one must meet specific requirements set forth by the government. These typically include obtaining a law degree, completing a notary training program, passing a rigorous examination administered by the Ministry of Law and Human Rights, and obtaining a license from the ministry. Notaries in Indonesia play a crucial role in authenticating legal documents and transactions.

In Bangladesh, the process for becoming a notary involves obtaining a law degree from a recognized university, gaining practical experience in the legal profession, and passing a notary public exam administered by the Ministry of Law, Justice, and Parliamentary Affairs. Once licensed, notaries public in Bangladesh are authorized to authenticate and certify documents and transactions.

While both countries have legal prerequisites for becoming a notary, the specific requirements and procedures may vary based on the respective legal systems and regulations governing notarial practice in each country.

For more details, it is explained in the following table:

Table 4. Comparison of Requirements to Become a Notary in Indonesia and Bangladesh.

Indonesia	Bangladesh
<p>The requirements to become a notary are regulated in Article 3 of Law no. 2 of 2014 concerning the Position of Notary Jo. UU no. 30 of 2004 Article 4 paragraph (1) and Article 2 paragraph (1) Permenkumham No. 19 of 2019 concerning Terms and Procedures for Appointment, Leave, Transfer, Dismissal and Extension of the Notary's Term of Office continue to be proven by other supporting documents:</p>	<p>The requirements to become a Public Notary in Bangladesh are regulated in Act no. 1881 (xxvi of 1881) On Notaries Public(Revised 1972): Appointment and Qualifications To become a Notary Public you must meet all of the following requirements: (President's Order No. 46 of 1972).</p>
<p>The requirements to be appointed as a Notary as referred to in Article 2 are:</p> <ul style="list-style-type: none"> • Indonesian citizens; • Fear of God Almighty; • aged at least 27 (twenty seven) years; 	<p>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: Bangladesh Citizen</p>

<ul style="list-style-type: none"> • Physically and mentally healthy as stated by a health certificate from a doctor and psychiatrist; • Holds a law degree and has a second degree in notarial education; • Have undergone an internship or have actually worked as a Notary employee for a minimum of 24 (twenty four) consecutive months in a Notary office on their own initiative or on the recommendation of a Notary Organization after graduating from the second level of notarial law; • Not having the status of a civil servant, state official, advocate, or not currently holding another position which is prohibited by law from holding the position of Notary; And • "Never been sentenced to prison based on a court decision that has permanent legal force for committing a criminal offense that is 	<p>Adult, min. 25 years</p> <p>Derived from Advocates</p> <p>Undergo an internship for min.1 year after passing the exam organized by the ministry</p> <p>Appointed by the Master of faculties in England or appointed under the Negotiable Instruments Act, 1881 (xxvi of 1881) has been practicing as a legal practitioner for at least five years or had been a member of judicial service as defined in Article 152 of the Constitution for at least five years.</p> <p>In addition, there are provisions regarding people who are prohibited from becoming Notary, namely:</p> <p>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</p>
--	--

<p>punishable by imprisonment for 5 (five) years or more."</p> <p>In addition to the complete supporting documents as intended, as a requirement to become a notary, a prospective notary must attach:</p> <ul style="list-style-type: none"> • photocopy of training certificate to improve the quality of notary positions issued by the Directorate General of General Legal Administration; • photocopy of code of ethics certificate issued by a notary organization which is legalized by the notary organization; • original statement of willingness to act as protocol holder; <p>And</p> <ul style="list-style-type: none"> • photocopy of legalized Taxpayer Identification Number (NPWP). 	<p>sentence or have been released.</p> <p>People who have been sentenced to bankruptcy or who have not been reinstated.</p> <p>People who have been dismissed as government employees.</p>
---	--

Table 5. Comparison of Duties & Authorities of Notaries in Indonesia and Bangladesh

No.	Duties/Authorities of Notaries in Indonesia	Duties/Authorities of Public Notaries in Bangladesh
1.	<p>Understanding :</p> <p>(Law of the Republic of Indonesia Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary)</p> <p>A notary is a public official who has the authority to make authentic deeds and has other authorities as intended in this Law or based on other laws.</p>	<p>Understanding :</p> <p>In Bangladesh Notary Public is known as an Officer under Article 177 of Constitution (1962) who is licensed by the Government of the Peoples Republic of Bangladesh to perform functions such as the authentication of signatures or documents, and the witnessing of affidavits or statements of persons under oath.</p>
2.	<p>Duties/Authorities: "Article 15 (1)</p> <p>Notaries have the authority to make authentic Deeds regarding all acts,</p>	<p>Notaries public may do all of the following:</p> <p>(a) Administering Oaths: A</p>

<p>agreements and stipulations that are required by statutory regulations and/or that are desired by interested parties to be stated in authentic Deeds, guarantee the certainty of the date of making the Deed, keep the Deed, provide grosses, copies and quotations of the Deed, all of this as long as the making of the Deed is not also assigned or excluded to other officials or other people as determined by law.</p> <p>(2) Apart from the authority as intended in paragraph (1), the Notary also has the authority to: a. validate the signature and determine the certainty of the date of the underwritten letter by registering it in a special book; b. record letters under hand by registering in a special book; ; c. make a copy of the original letter under your hand</p>	<p>notary public in Bangladesh is authorized to administer oaths and affirmations in connection with affidavits and statutory declarations.</p> <p>(b) Attesting Signatures: Notaries attest to the signatures on documents to certify that the signatures are genuine. This is important for various legal documents such as contracts, deeds, powers of attorney, etc.</p> <p>(c) Certifying Copies: Notaries can certify copies of original documents as true copies. This is often required for official purposes when original documents cannot be provided.</p> <p>(d) Witnessing Signatures: Notaries can witness the signing of documents and verify the identity of the signatories. This helps to prevent</p>
--	---

<p>in the form of a copy containing the description as written and depicted in the letter concerned; d. validate the suitability of the photocopy with the original letter; e. provide legal counseling regarding the preparation of Deeds; f. make deeds relating to land; g. make a Deed of auction minutes.</p> <p>(3) Apart from the authority as intended in paragraph (1) and paragraph (2), the Notary has other authority as regulated in statutory regulations."</p>	<p>fraud and ensures the authenticity of the documents.</p> <p>(e) Issuing Notarial Certificates: Notaries issue notarial certificates or notarial acts to authenticate the actions they have performed. These certificates serve as evidence of the notary's official act.</p> <p>(f) Verifying Identities: Notaries verify the identities of individuals signing documents by checking their identification documents such as passports, national ID cards, or driver's licenses.</p> <p>(g) Recording Notarial Acts: Notaries are required to maintain records of all notarial acts performed by them. These records serve as a permanent record of the transactions</p>
---	---

		<p>they have certified.</p> <p>(h) Providing Legal Advice: While notaries cannot provide legal advice in the same capacity as lawyers, they may offer general guidance on notarial procedures and the requirements for specific documents.</p> <p>(i) Protecting Against Fraud: Notaries play a critical role in preventing fraud by verifying the authenticity of signatures and identities of individuals involved in legal transactions.</p>
3.	<p>Obligations of Notaries "Article 16</p> <p>(1) In carrying out his office, a Notary is obliged to: a. act in a trustworthy, honest, thorough,</p>	<p>A notary may do all or any of the following acts by virtue of his office:</p> <p>i) verify, authenticate, certify or attest the execution of any</p>

<p>independent, impartial manner and safeguard the interests of parties involved in legal actions; b. make a Deed in the form of Deed Minutes and save it as part of the Notary Protocol; c. attach letters and documents as well as the person's fingerprints to the Deed Minutes; d. issue Grosse Deed, Copy of Deed, or Quote of Deed based on Minutes of Deed; e. provide services in accordance with the provisions of this Law, unless there are reasons to refuse; f. Keep confidential everything regarding the Deed he or she makes and all information obtained for the purpose of making the Deed in accordance with the oath/promise of office, unless the law determines otherwise; g. bind the Deeds he makes within 1 (one) month into a book containing no more than 50 (fifty) Deeds, and if</p>	<p>instrument; ii) present any promissory note, hundi or bill of exchange for acceptance or payment or demand for better security; iii) 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 Instrument Act, 1881 (Act XXVI of 1881), or serve notice of such note or protest; iv) note and draw up ship's protest, boat's protest or protest relating to demurrage and other commercial matters; v) administer oath to or take affidavit from any person; vi) prepare bottomry and respondentia bonds, charter parties and other mercantile documents; vii) prepare, attest or authenticate any instrument intended to take effect in any country or place outside Bangladesh in such form and</p>
---	--

<p>the number of Deeds cannot be contained in one book, the Deeds can be bound into more than one book, and record the number of Minutes of Deeds , month and year of publication on the cover of each book; h. make a list of deeds of protest against non-payment or non-receipt of securities; i. make a list of deeds relating to wills according to the time sequence of deeds being made every month; j. send the list of Deeds as referred to in letter i or the nil list relating to wills to the center for the will register at the ministry that handles government affairs in the field of law within 5 (five) days of the first week of each following month; k. record in the repertory the date of delivery of the register of wills at the end of each month; l. has a seal or seal containing the state symbol of the</p>	<p>language as may conform to the law of the place where such deed is intended to operate; viii) translate and verify the translation of any document from one language into another; ix) any other act which may be prescribed.</p> <p>Each notary is required to possess and utilize, as necessary, a seal with a design and form as prescribed.</p>
--	--

	<p>Republic of Indonesia and in the space surrounding it is written the name, position and place of the relevant position; m. read the Deed in front of the presenter in the presence of at least 2 (two) witnesses, or 4 (four) special witnesses for making a Deed of Will privately, and signed at that time by the presenter, witness and Notary; and n. accepting apprentice Notary candidates.</p>	
4.	<p>Prohibition of Notaries "Article 17 (1) Notaries are prohibited from: a. carrying out positions outside their area of office; b. leaving his/her area of office for more than 7 (seven) consecutive working days without a valid reason; c. concurrently as a civil servant; d. concurrently serving as a state</p>	<p>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.</p> <p>2. People who have been sentenced to bankruptcy or who have not been reinstated.</p>

<p>official;</p> <p>e. concurrently serving as an advocate; f. holding concurrent positions as leader or employee of a state-owned enterprise, regional-owned enterprise or private enterprise; g. holding concurrent positions as Land Deed Making Official and/or Class II Auction Official outside the Notary's place of residence; h. become a Substitute Notary; or i. carrying out other work that is contrary to religious norms, decency or propriety which may affect the honor and dignity of the Notary's position.</p>	<p>3. People who have been dismissed as government employees.</p> <p>In Bangladesh, licensed legal practitioners are responsible for attesting important documents through the notary public system.</p> <p>According to the regulations outlined in the Notaries Ordinance of 1961 and the Notaries Rules of 1964, individuals who have practiced law for a minimum of seven years, have a minimum of five years of experience in the judicial sector, or have been involved in legislative drafting at the governmental level are eligible to qualify as notaries.</p> <p>Nevertheless, the government retains the authority to appoint individuals as notaries provided they fulfill the eligibility criteria.</p>
--	---

C. How does the legal framework surrounding the notary public impact the effectiveness and enforceability of contracts in various sectors of the Bangladeshi industry?

The legal framework surrounding the notary public system in Bangladesh plays a significant role in the effectiveness and enforceability of contracts across various sectors of the Bangladeshi industry. Here's how:

Legal Authentication: Notaries provide legal authentication to contracts and important documents. Their attestation adds credibility and validity to the agreements, making them more enforceable in the eyes of the law.

Prevention of Fraud and Misrepresentation: The involvement of notaries helps prevent fraud and misrepresentation in contracts. Notaries verify the identities of the parties involved and ensure that the terms of the contract are accurately represented, reducing the risk of disputes and litigation.

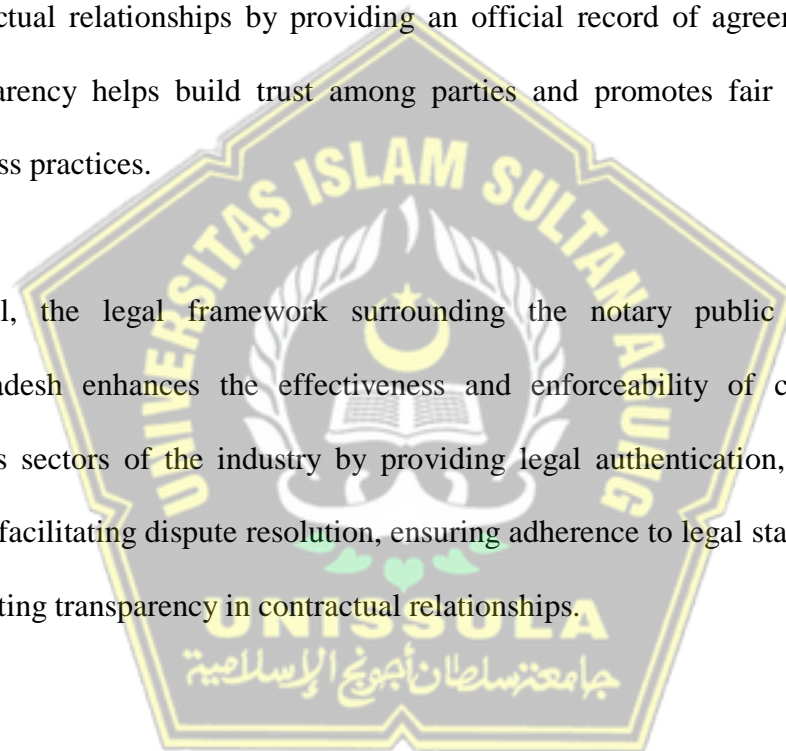
Confidence in Transactions: The existence of a reliable notary system instills confidence in business transactions and agreements. Parties involved in contracts feel more secure knowing that their agreements are backed by legal authentication and are less likely to face challenges regarding the validity of the contract.

Facilitation of Dispute Resolution: In case of disputes or disagreements arising from contracts, the involvement of notaries can facilitate smoother dispute resolution processes. The authenticated documents can serve as valuable evidence in legal proceedings, helping to resolve disputes more efficiently.

Adherence to Legal Standards: The legal framework surrounding notaries ensures that contracts adhere to legal standards and procedures. Notaries are required to verify that contracts comply with applicable laws and regulations, contributing to the enforceability of contracts across different sectors of the Bangladeshi industry.

Enhanced Transparency: The notary public system enhances transparency in contractual relationships by providing an official record of agreements. This transparency helps build trust among parties and promotes fair and ethical business practices.

Overall, the legal framework surrounding the notary public system in Bangladesh enhances the effectiveness and enforceability of contracts in various sectors of the industry by providing legal authentication, preventing fraud, facilitating dispute resolution, ensuring adherence to legal standards, and promoting transparency in contractual relationships.



CHAPTER IV

CLOSING

A. Conclusion

In conclusion, the notary position plays a vital role in the legal contract landscape within the Bangladeshi industry. Through the authentication and verification of crucial documents, notaries ensure the validity and authenticity of agreements, thus bolstering confidence and trust in business transactions. Their involvement mitigates the risks of fraud, misrepresentation, and legal disputes, providing a foundation for smoother dispute resolution processes and upholding adherence to legal standards and regulations.

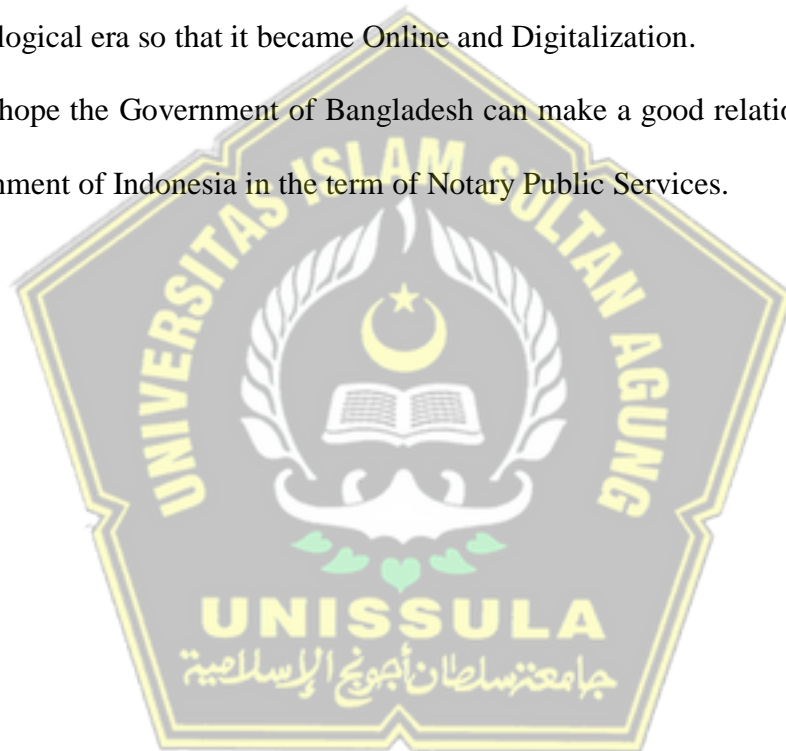
The function of notaries in Bangladesh's legal contracts fosters transparency and integrity, thereby enhancing the overall effectiveness and enforceability of agreements across various sectors of the industry. By providing a reliable framework for authentication and verification, notaries contribute to the stability and credibility of the business environment, facilitating fair and ethical business practices.

In essence, the presence of notaries in the Bangladeshi industry underscores the importance of accountability, credibility, and legal compliance in contractual relationships. Their role serves as a cornerstone for ensuring the reliability and

integrity of agreements, ultimately bolstering the country's commercial landscape and promoting trust and confidence among stakeholders.

B. Suggestions

1. This research hopefully can be made the References by Ministry of Law in Bangladesh as the Comparative Legal Study.
2. Hopefully the Public Notary in Bangladesh follow the development of technological era so that it became Online and Digitalization.
3. We hope the Government of Bangladesh can make a good relationship with Government of Indonesia in the term of Notary Public Services.



BIBLIOGRAPHY

A. Book

- The Constitution of the People's Republic of Bangladesh, Printed with latest amendment, April, 2016
- Commercial Law Including Company Law and Industrial Law, Business Law, Edited and Revised By Prof. Sakti Mukherjee
- Notary Public Rules and Regulations, Power of Attorney, Md, Anowarul Hauqe, Advocate Barun Kumar Biswas.
- Property Law by Dr. Ashok K. Jain
- Sengupta's Law of Powers of Attorney, Notaries and Oaths, Dsivedi Law Agency.
- Faisal, 2010, Breaking Through Legal Positivism, Rangkang Education, Yogyakarta.
- Altherton & Klemmack in Irawan Soehartono, 1999, Social Research Methods, a Research Technique in Other Social Welfare
- FiChaerudin, Syaiful Ahmad Dinar, Syarif Fadillah, 2008, Strategy for Prevention and Law Enforcement of Corruption Crimes, Refika Editama, Bandung.
- Teen Rosda Karya, Bandung.
- Muhammad Erwin, 2012, Legal Philosophy, Raja Grafindo, Jakarta.

B. Journals and Research

- NOTARY LAW & ETHICS: AVOIDING LIABILITY BY EXERCISING REASONABLE CARE & AVOIDING THE UNAUTHORIZED PRACTICE OF LAW By: Michael Closen, BS, MA, JD; Professor of Law Emeritus, John Marshall Law School; Former Illinois Notary Public; Present Florida Notary Public; Notary Consultant, Educator & Expert Witness; Author, PROFESSOR CLOSEN'S NOTARY BEST PRACTICES (2018)
- Volume 7 No. 4, December 2020 Nationally Accredited Journal, Decree No. B/4130/E5/E5.2.1/2019 Role of Notary in Abroad and Indonesia (Haingo Rabanirajona) 343 Role of Notary in Abroad and Indonesia Haingo Rabanirajona *) *) Universite Libre De Bruxelles, Belgium.
- Aga Wigana, Political Directions For Land Law On Land Property Rights For The People, The 5th International Conference and Call for Paper Faculty of Law 2019, Sultan Agung Islamic University
- Deen, Thaufiq., (Ong) Argo Victoria & Sumain. (2018). Public Notary Services In Malaysia. *JOURNAL OF ACTS*: Vol. 5, no. 4, 1017-1026. Retrieved from <http://jurnal.unissula.ac.id/index.php/akta/article/view/4135>
- Maolana, Wildan. Opinions of Ibn Qudamah and Imam Mawardi regarding marriage guardians for found children (Laqith). *ADLIYA: Journal of Law and Humanity*. Vol 12, No 1. 2019. <https://doi.org/10.15575/adliya.v12i1.4487>

C. Legislation

- Minister of Law and Human Rights Regulation (Permenkumham) No. 1 of 2016 concerning Procedures for Submitting Applications for Legalization of Legal Entities and Approval of Changes to the Articles of Association as well as Submitting Notifications of Changes to the Articles of Association and Changes to Limited Liability Company Data regarding Changes to Permenkumham No. 4 of 2014 concerning Ratification, Changes to the Articles of Association (AD) and Changes to Company Data.
- *Commissioners for Oaths Rules 1993;*
- *Legal Profession Act 1976 [Act 166].*
- *Notaries Public Act no. 115 of 1959 (Revised 1973) in Laws of Malaysia;*
- *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;*
- Minister of Finance Regulation Number 213/PMK.06/2020 concerning Instructions for Implementing Auctions.
- Minister of Finance Regulation Number 213/PMK.06/2020 concerning Instructions for Implementing Auctions.
- 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.
- 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*

D. Internet

- <https://www.google.co.id/search?q=nomor+penduduk+indonesia+2022>
accessed on 2 December 2022
- <https://www.dhakatribune.com/bangladesh/laws-rights/49611/availingnotary-services-in-bangladesh>
- <https://mrichowdhury.com/index.php/notarypublic/#:~:text=In%20Bangladesh%20Notary%20Public%20is,statements%20of%20persons%20under%20oath>

- <https://www.quora.com/How-do-I-notarize-documents-in-Bangladesh>
- <https://www.investopedia.com/terms/n/notary.asp>
- <https://notarybd.com/#:~:text=Are%20you%20a%20Bangladeshi%20or,released%20on%20our%20website%20for>

