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Legal Protection of Instrument Witnesses in Maintaining the Secret Position Notary

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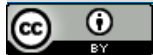
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ABSTRACT

Notary as an official who is legally authorized to make official deeds, in accordance with the provisions in Law Number 2 of 2014 concerning amendments to Law Number 30 of 2004 concerning the office of notary. A requirement that must be met to make an authentic deed is the presence of witnesses. This witness is a person who is present when an event occurs and has the ability to provide information that can prove that the event actually occurred. An instrument witness is a person who is present in the process of making a deed by a notary, where his name is also recorded in the deed. This study aims to analyze how the legal rules regulate and protect the confidentiality of information from instrument witnesses in maintaining the confidentiality of the notarial deed they witnessed. To protect them from possible undesirable consequences, there needs to be legal protection given to witnesses in the process of making notarial deeds. This is important because witnesses are often involved in problems or disputes that arise in relation to the documents they witness. In order for witnesses not to be victimized or further involved in the case, legal protection must be guaranteed to ensure that they will not be harmed due to their role as witnesses in the notarial deed. This research applies a normative legal research method using a statue approach. There are no clear provisions regarding the legal rules of instrument witnesses in notarial deeds based on research. The absence of regulations regarding witnesses contained in the Notary Position Law or other regulations. Law No. 31 of 2014 amending Law No. 13 of 2006 on Witness and Victim Protection serves to provide legal protection to witnesses involved in the process of making notarial deeds. However, in Law No. 31 of 2014 amending Law No. 13 of 2006 on Witness and Victim Protection, the protection of witnesses' rights is still inadequate. Witnesses who are given protection by the Law are individuals who are directly involved and have knowledge and experience of a criminal offense. Meanwhile, a notarial deed witness is a person who is present to witness the formal process of making a deed. The Law on the Protection of Witnesses and Victims is inadequate in providing legal protection to witnesses involved in the process of making notarial deeds

INTRODUCTION

In the field of notary work, when carrying out their duties, notaries make deeds that are desired by the parties for the purposes of certain legal actions. Notaries make deeds in accordance with the requests submitted by the parties who come. The notary will make a deed only if requested by the party who comes to him, and the notary will use the evidence or information from the parties shown and given in his presence. Then, the notary will compile officially, formally, and substantially in the form of a notarial deed, in accordance with legal regulations, deed-making procedures, and legal regulations related to the legal actions included in the deed. As a trusted official, a notary must maintain the confidentiality of the contents of the deed he makes and the information obtained from the parties involved, unless the law requires him to disclose the secret and provide the information to the parties who request it. The legal actions contained in a notarial deed are legal actions performed by the parties involved in the agreement and request that the legal actions be recorded in an official document. If there is a dispute over the deed, it is necessary to explore why this is the case. The deed may be faulty because the notary intentionally took actions that favored one party, or it may be the fault of the parties involved who did not provide the actual documents.

Testimony is very important in the evidentiary process in both civil and criminal law. In deciding a case, the judge is bound by valid evidence, including testimonial evidence. Testimony is evidence given to the judge in court to prove the truth of an event that is being disputed. This testimony is usually delivered orally by a party not involved in the case and presented at trial. In relation to the importance of providing additional information in explaining civil or criminal cases, testimony has a significant role as evidence used. Notaries must ensure the presence of 2 (two) witnesses whose identity and authority are clearly stated in the notarial deed. According to Article 40 paragraph (1) of Law No. 2 of 2014 on the Amendment to Law No. 30 of 2004 on the Office of Notary, the presence of two witnesses when reading a notarial deed is considered a formal requirement

that must be stated in the deed, with their identities recorded at the end of the deed.

In Law No. 2 of 2014 on the Amendment to Law No. 30 of 2004 on the Position of Notary, it is stated that notaries must recognize witnesses as one of their requirements. In the notary world, there are two categories of witnesses that are recognized, namely identifying witnesses and instrumental witnesses. An instrument witness is a person who is legally required to be present when a notarial deed is made. The duty of the instrument witness is to sign the deed, provide evidence of the correctness of the contents of the agreement, and ensure all the requirements of the formalities in accordance with the law are met. And generally, the notary employee is the person who becomes the main witness. While an identifying witness is responsible for introducing the notary to the notary, an unknown notary requires one identifying witness. However, if there are more than two persons present, they can introduce themselves to the notary. In the process of signing the deed, the witnesses present are not required to sign, but they are allowed to sign if they wish to do so. The witness recorded in the notarial deed only serves as an attestation that the witness has been presented in accordance with the applicable legal rules. The existence of two witnesses as an absolute requirement, does not mean that only two witnesses are required. If necessary, more than two witnesses may be presented. In the process of making a notarial deed, the law requires the presence of an instrument witness. Notary employees who act as instrument witnesses in the process of notarizing a deed become part of the legal elements that have legal consequences. So, if there is a problem or case related to the notarial deed in the future, the notary employee will be directly involved in the matter. The instrument witnesses must have reliable expertise in acting, the witnesses must understand the language of the agreement used, are not allowed to have a close family relationship either vertically or horizontally up to the third degree, either with the notary or with the parties involved in the transaction. In law, in general, witnesses are considered as one of the valid evidence. Witnesses, as legitimate

evidence, can provide testimony regarding what they have seen, either orally, in writing, or by signature. They describe the deeds or actions of others or the circumstances of an event.

But in reality, notaries remain legally responsible both criminally and civilly if there are problems or claims against the deeds they make. Even though there is an instrument witness who was present when making the deed. For example, in a legal case involving the falsification of information on an authentic deed issued by a notary, the notary involved in the incident was reported and later presented in court. The case involved a notary with the initials X in Pekanbaru who was involved in the making of a cooperation agreement (minuta deed No149). In proving that they had not obtained a copy of deed No. 149, witness DFS as the director of PT.B used the draft of deed No. 149 as letter evidence, while witness BS and witness MH used a copy of notarial deed No. 149. That after notary X gave the original minutes to DFS, the witness saw that in the original letter of the minutes of deed No.149 in several articles there were changes, namely the existence of scribbles and deletions of sentences, which were then retyped with a manual typewriter, and there were articles that were discarded without the knowledge of witness DFS as the first party. In this case, the act of notary X has committed criminal elements by falsifying letters against authentic deeds, so the witness reported it until it entered the court process.

Based on the examples of cases mentioned above, it is clear that notaries are often involved in legal issues involving claims from related parties or third parties related to the deed, either through falsification of information in the deed, falsification of copies or decreasing and changing the contents of the deed. Although in making an authentic deed, the notary is required to be witnessed by an instrument witness. The involvement of an instrument witness in a notarial deed can become controversial if there is a dispute or lawsuit against the deed that has been made by the notary. When a trial takes place, the witness is called before the court to give testimony and explain the events that occurred. Several facts

occurred in several regions, where notary employees were called to be witnesses in court proceedings, among others:

1. Case number 37/Pdt.G/2011/Pnbs Batu Sangkar Court in his testimony, the witness did not only provide information with his duties in making the deed, namely in reading the deed and signing the notarial deed. But the witness also testified that the contents of the will were that after Mrs. Rukianis died, her property was given 1/3 to be donated to the surau dagang sungai pua in Batusangkar, 1/3 to all her siblings and her husband's nephews, male or female, equally and 1/3 for the poor surau dagang sungai pua in Batusangkar, 1/3 to all her siblings and her husband's nephews, male or female, equally and 1/3 for the poor and abandoned children.
2. number 178/Pdt.G/2012/PN. Sleman District Court who testified in relation to a dispute involving a notarized power of attorney agreement, the witness testified that according to the witness the land purchased by the defendant belonged to djoko sudono, the defendant's lawyer had sent the amount of money requested by the plaintiff via transfer to an account belonging to the defendant's wife, the witness said the land purchased by the defendant was still letter C and was currently in the process of being converted at the Sleman Land Agency, and according to the witness after the money was sent by the defendant to heri sartana it turned out that because the process was not smooth, the defendant did not end up purchasing the land in question.
3. Case Number 26/Pdt.G/2013/PN. Kbr District Court of Kota Baru, regarding a deed of agreement made before a notary, the witness testified that according to the witness, agreement number 50 of 2007 was an agreement for the division of property from the title of datuk panjang gadang marajo lelo, the parties to the agreement

were the defendant I as the first party and the defendant II as the second party, and according to the witness, the contents of agreement number 50 of 2006 were that the first party who received property from the title of datuk panjang gadang marajo lelo gave 35% (thirty-five percent) of the property to the second party.

According to the explanation of the role of the witness, the witness has given testimony that goes beyond his duties and obligations, explaining all information related to the making of the deed, which must be kept confidential, because there are no legal rules governing these conditions. It is important to regulate the legal protection of witnesses involved in the making and reading of notarial deeds in the Notary Law. In order to avoid someone from giving testimony regarding the contents of the deed. In the process of examining witnesses, only examine matters related to the procedure for making a deed or ask for their testimony about legal actions taken by the parties involved in the deed. The duty of a notary employee as a witness in the process of signing a notarial deed is included in the work area of the notary profession. However, the Notary Law does not provide legal protection to witnesses, especially notary employees. This is due to the absence of legal provisions in the Notary Public Office Law that protect notary employees as witnesses who carry out official evidence in the making of notarial deeds. The existence of instrument witnesses in the making of notarial deeds has an important role in protecting notaries when carrying out their profession. Therefore, it is important to conduct an in depth discussion on the role of instrument witnesses in maintaining the confidentiality of notarial deeds.

METHODS

The research method in this law uses a type of normative legal research. In this research, two different approaches are used to analyze a situation where there are no norms or rules governing witnesses in a notarial deed who are tasked with maintaining the confidentiality of the contents of the notarial deed. The first approach is the Legislative

Approach, which involves analyzing existing laws and regulations. The second approach is the conceptual approach, which involves an understanding of related concepts. According to the study conducted to determine the absence of legal regulations and legal certainty related to the protection of the confidentiality of instrument witnesses in their duties as notaries. In addressing the legal issues in this study, the author submits that the sources of legal materials used include primary sources, secondary sources, and also tertiary sources. The research method used in this study is a literature study. This is because this study aims to explore the legal form of the instrument witness rule through the analysis of concepts and regulations contained in primary legal sources such as laws and regulations, secondary legal sources such as books, journals, and news, and tertiary legal sources such as legal dictionaries and language dictionaries.

RESULTS AND DISCUSSION

a. Form of Legal Rules for Witness Instrument

The legal basis is the legislation used as the basis for each individual in carrying out actions in accordance with the law. The legal basis can also be in the form of legal regulations or provisions of laws that are used as a foundation in making new legal regulations or that have a lower level of power in the hierarchy of legal regulations. In the process of forming legal regulations, it is necessary to use principles that ensure certainty, justice, and broad benefits for society. The form of regulation refers to legal procedures that are often contained in legal regulations or written decisions issued by specialized institutions. That a notary is an official who has the power to make authentic deeds and has other powers regulated in Law Number 2 of 2014 Article 1 point 1 Amendment to Law Number 30 of 2004 concerning Notary Position or based on other laws.

As a notary in carrying out their duties, they must get protection from the applicable laws. This is very important because often notaries become suspects or even convicted in relation to the deeds they make. One of the regulations given by the Law

to notaries regarding the making of authentic deeds is the requirement for witnesses. Law No. 2 of 2014 Article 40 of the Amendment to Law No. 30 of 2004 on the Office of Notary stipulates that every deed executed by a notary must be attended by at least two witnesses, unless other laws and regulations provide otherwise. According to UUJN, witnesses in a notarial deed are not required to know the acts contained in the deed. A witness is a person or party who is present as a formal requirement in the making of a deed, with the task of providing testimony about the truth of what has been done and ensuring that all formalities required by law have been fulfilled in the process of making the deed.

According to Article 41 of the Notary Law, a notarial deed will be considered an authentic deed if it is attended by two witnesses. If this requirement is not met, then the deed can be considered as an underhand deed. Usually, an employee of the notary who has been officially recognized will be a witness in the making of the deed. The position of witnesses to a deed is certainly different from ordinary witnesses who only hear or see the events that occur. Therefore, the provisions of Article 322 of the Criminal Code do not apply to witnesses who record or witness this agreement. The Article also explains that anyone who intentionally discloses information that should be kept confidential because of his or her position or job, either currently or previously, will be subject to a maximum imprisonment of 9 months or a maximum fine of 6 (six) hundred rupiahs.

Witnesses as evidence in their role as witnesses who do not have an official position as mentioned in the article. Thus, if a person who is a witness in the process of making a notarial deed reveals the confidential contents of the deed, then the act is considered unlawful in accordance with Article 1365 of the Civil Code. The importance of the existence of an instrument witness in a notarial deed is regulated in Article 38 paragraph (4) letter c of the Notary Public Office Law. This article states that in the end or closing of the deed, it must include complete information about the name, date, and place of birth, occupation, position, and residence address of each witness. Certainly, an authentic deed is a very strong

form of evidence and must be disclosed openly in front of the parties and witnesses. If the formal requirements are not met, then the deed will be considered an underhand deed that has evidentiary power. Strictly speaking, in the current Indonesian legal regulations, namely Law Number 8 Year 1981 on Criminal Procedure, there are no provisions regarding witnesses related to deeds or instruments.

However, in the notarial world, it is known as the person who witnesses the making of the deed. Although regulated in the legal regulations regarding the Office of Notary, the phrase "deed witness" is not specifically used and it is not stated who is entitled to be a deed witness. The rules regarding witnesses are explained in the Civil Code, in the fourth part of the third chapter which discusses evidence and witnesses. Article 1895 of the Civil Code, Article 1902 of the Civil Code, and Articles 1904 to 1912 of the Civil Code regulate this matter. In the Criminal Code, there are also provisions on witnesses which are regulated in Article 1 number 26 and Article 159, a provision found in Article 185 of the Criminal Code. According to Article 1 point 26 of the Criminal Code, a witness is a person who has the ability to provide relevant information related to the investigation, prosecution, and legal proceedings related to a criminal offense that they witnessed, heard, or experienced firsthand.

Witnesses are valid evidence. Article 185 of the Criminal Code states that when giving testimony, information obtained from witnesses who are not directly obtained or who are only heard from other people cannot be considered as admissible evidence. The legal status of a notary employee as a witness in the making of an authentic deed is an inseparable aspect and has legal implications for the validity of the deed made by the notary. Notary employees who act as witnesses in the deed become people who are considered to know and are responsible for legal issues that arise if there are legal problems with the notarial deed. The existence of witnesses is a must in the process of making a notarial deed.

The role of witnesses in the deed provides protection for the notary if the validity of the deed is questioned by the parties involved in the deed or

third parties. Witnesses also serve as strong evidence because they can provide testimony in court. This witness statement can be used as strong evidence, either in the form of testimony or confession. A notary who acts as a witness in a deed must be present at the place where the deed is officially formalized, namely when the notary reads out the deed, and has responsibility for the duties and requests of the notary. The existence of a deed witness or instrument witness is a requirement stipulated in the Notary Position Law in order to give validity to the notarial deed. When the deed is formalized, the role of witnesses in the deed plays an important role with significant responsibilities! In ensuring that the authenticity of the deed is met, the law has set requirements that must be met. The implementation of regulations on witnesses who act as notary employees in the criminal justice process is also regulated in Article 29 jo Article 30 of the Law on Witness and Victim Protection. When asked to be a witness in a criminal case, notary employees will receive protection from the Witness and Victim Protection Agency (LPSK) so that their rights as witnesses are guaranteed.

This protection includes the right not to fear or be threatened by threats or pressure when giving testimony in court in the process of criminal cases. In Law No. 31 of 2014, it can be concluded that the legal protection provided only applies to witnesses in the judicial process of criminal cases. There is still a lack of clarity regarding the legal norms in the UUJN related to instrument witnesses. Therefore, lawmakers should make improvements to ensure clarity regarding the role of witnesses and their responsibilities in making authentic deeds. Those responsible for lawmaking should follow Van Apeldoorn's concept of Legal Clarity, which states that legal clarity has two aspects, namely concrete legal determination and legal security. Witness obligations should include two aspects that should be clearly and specifically defined in the enforcement of laws governed by statutory rules. In this regard, the law needs to be adapted to the times in order to be relevant and legitimately secure in the future. The need to have legal certainty is an inseparable

characteristic of law, especially in terms of written legal norms. If the law does not have the value of certainty, it will lose its meaning because it cannot be used as a guide in behavior for each individual. The contents of the deed and the information obtained must be kept confidential in order to protect the interests of the community, especially the parties whose legal actions are recorded in the official deed. From the above, it can be concluded that all persons in the room during the deed-making process, including notaries and instrument witnesses, have an obligation to maintain the confidentiality of the deed contents and information obtained in the deed-making process. Performing a *verlidjen* or sealing not only provides benefits to the notary, but also to the individuals present.

b. Legal Protection for Instrument Witnesses in Maintaining the Secrets of Notary Position

A witness is someone who is intentionally or unintentionally present to witness, see, and hear events or events related to the law. A witness mentioned in a deed is a person who witnesses the instrument or deed. They are present during the making of the deed, sign the document, and testify as to the truth of the formal rules governed by the Act contained in the deed. These actions are also witnessed by the witnesses. This states that the instrument witnesses or deed witnesses are tasked with overseeing whether the deed has been properly prepared, read out, signed and executed by the notary during its inauguration. In the Indonesian legal system, witnesses have an important role as evidence that can be used to prove the truth of a legal event, both in the civil and criminal realms. Witnesses have a duty to sign and provide an explanation of the events they witnessed, which involve the actions or deeds of others against a specific situation at an event.

The inauguration of a deed is a procedure or steps in the making of a deed which consists of two, namely the reading and signing of the deed. This not only involves the parties who agree, but also involves witnesses to the deed. In accordance with Article 16

paragraph (1) letter m of the Notary Position Law, it is generally emphasized that every deed made by a notary must be pronounced or read by the notary to all parties involved or present, with a minimum of 2 (two) witnesses, or 4 (four) witnesses in the case of making a will under hand. The official submission of the letter that has been explained in the reading of the deed, the presence of witnesses has a role to witness, hear and see directly the process of submitting the deed between the notary and the parties present so that the deed made by the notary includes the contents desired and agreed by all parties, and all parties understand the contents of the deed made. There is an obligation for the notary to read out the deed in the process of making the legalized deed. This is also related to the formal evidentiary power, where a notarial deed provides certainty regarding what is stated in it and that everything stated in the deed is true and in accordance with the will of the parties who come to the notary. However, witnesses to the deed are not required to understand or know the contents of the deed and are not responsible for the execution of the deed, whether it has been fulfilled or not. There is no provision in the UU Jabatan Notaris or related legal regulations that stipulates that the parties must witness, pay attention to, and listen carefully to the notary's explanation. Therefore, responsibility for the consequences of such negligence lies with the parties involved.

In the Indonesian civil law system, witnesses have an important role as valid evidence to prove legal events, both in civil and criminal cases. Witnesses have the task of using signatures, providing information about what they see involving the actions of other people in a situation that occurs at the event. The instrument witness is present as evidence that also aims to protect the validity of the deed made by the notary if it is disputed by one of the parties involved in the deed or other related parties. In fact, during the trial, the instrument witness confirmed the validity of the notarial deed that had been signed by the notary, the parties, and the instrument witness. Although the witness could not explain in detail the contents of the deed because he claimed to have forgotten. This statement is

actually confirmed by the law because the instrument witness is not responsible for remembering all the contents of the agreement, even though the witness must also maintain the confidentiality of the deed of agreement as required and required by the notary. The position of other witnesses in a notarial deed plays a role in ensuring the validity and authenticity of the deed. If the requirements stipulated by Article 41 of the Notary Public Office Law are not met, then the deed will undergo a change from a notarial deed to a deed under the hand in accordance with the law. The provisions of the Article result in clarity regarding the evidential power of instrument witness testimony in the trial process.

Pursuant to Article 1871 of the Civil Code, if a deed has been notarized and signed by the parties, as well as witnessed by the notary and witnesses, then the deed becomes such strong evidence that no other evidence is required. When appearing before a judge in the investigation of a case in accordance with the above-mentioned regulations, the witness will only be asked to provide testimony related to the issue or dispute involving the document that has been witnessed and signed by him. The formality of the notarization of the deed is not the main focus that needs to be disclosed, as the notarization of the deed is sufficient for the judge to formally test the validity of the deed. When a notary witnesses the signing of a document, the information provided by the witness may concern the personal liability of the notary employee. The testimony relates to whether the notary has fulfilled all the formal requirements stipulated by the Notary Law. If a witness who is a notary employee testifies in court regarding a case related to a notarial deed, he or she is only responsible for the performance of the duties assigned by the notary. This is limited to the formality process of legalizing the deed and only to the extent of the orders or tasks given by the notary in the preparation of the deed.

The scope of witness protection in Indonesia is generally regulated in Law Number 31 of 2014, which is an amendment to Law Number 13 of 2006 concerning the protection of witnesses and victims. In this case, legal protection is provided to witnesses

or victims to ensure that the testimony they provide can be accepted as valid evidence in the judicial process. In court proceedings, witnesses are also a factor considered by judges in finding the facts and reaching a fair decision. It may happen that witnesses or victims are afraid to give true testimony or pretend not to know what really happened, because of threats by certain parties, either physically or emotionally, against them, their families, or their property. In Law No. 31/2014 amending Law No. 13/2006 on Witness and Victim Protection, it is explained in article 1 that a witness is a person who has the ability to provide relevant information in the context of investigation, investigation, prosecution, and examination in court related to criminal acts that he/she heard, witnessed directly, or experienced himself/herself. The instrument witness is a very important witness in the process of making an authentic deed who should have the responsibility to maintain the confidentiality of the contents of the deed he signs. However, regulations regarding this matter have not been regulated in detail in the Notary Position Law (UUJN). When a witness makes a deed, then the witness can easily be questioned about the issues in the deed he or she signed. The summoning of instrument witnesses by other parties or authorized officers can also result in the deprivation of activities in the deed due to the lack of protection and legal certainty for instrument witnesses in maintaining the confidentiality of the contents of the deed.

In this context, it can be said that in Indonesia, the protection of witnesses who provide testimony in the examination process is covered by general regulations. This protection is set out in the Law on Witness and Victim Protection, which provides legal guarantees for the safety of the witness's person, family, and property. It aims to protect witnesses from threats related to the testimony that will be or has been given. Regulations regarding notary employees as instrument witnesses in providing testimony in a case are not regulated in the notary office regulations. In this case, an instrument witness is considered the same as an ordinary witness and is not considered a witness by virtue of office or profession in accordance with Article 322 of the

Criminal Code. Although there are no specific regulations regarding witnesses at the inauguration of a notarial deed, the Law allows for the designation of a notary employee as a witness when the deed is inaugurated.

This provides evidence for witnesses when giving testimony in court, then getting legal protection and protection not only for themselves, but also for their families and assets which are also included in the protection provided by the Witness and Victim Protection Agency (LPSK). Institution Protection is an action or effort to guard and protect someone or something from harm or loss. The Witness and Victim Protection Agency (LPSK) is responsible for providing legal protection to witnesses and their families after they have expressed a willingness to fulfill the terms and conditions of witness protection. This law applies generally to any person called to be a witness in a particular case in court. The protection of notarial employees as witnesses should not only be limited to the provisions contained in the Notarial Office Act, but should also be considered with reference to the regulations governing witness protection as a whole. This means that notary employees should follow other legal regulations that may provide legal protection to them when acting as witnesses in court proceedings. If referring to the provisions of Law Number 31 of 2014 which amends Law Number 13 of 2006 concerning Witness and Victim Protection, notaries who are summoned as witnesses in the trial of such cases are entitled to request legal protection so that their rights as witnesses are also protected, including the right to provide testimony only as a formality in the inauguration of the deed.

Witnesses who act as instruments or witnesses in notarial deeds receive protection as stipulated in Law Number 31 of 2014 concerning amendments to Law Number 13 of 2006 concerning Witness and Victim Protection. This law states that the responsible party must provide protection and assistance to witnesses or victims, in accordance with the duties and authorities stipulated in the law. In order to obtain legal protection, a person must fulfill the procedures set out in Article 29 in

conjunction with Article 30 of the Witness and Victim Protection Law. This procedure involves submitting a written application to the Witness and Victim Protection Agency (LPSK). After making the submission, LPSK will examine the application and if it meets the criteria for protection, LPSK will provide a decision in writing within a specified time.

Legal protection is in accordance with the concept described by Philipus M. Hadjon as a means of legal protection carried out preventively, where the basic principle of legal protection comes from the principle of recognition and protection of human rights by the government. Preventive legal protection is a provision that gives individuals the opportunity to express their objections or opinions before government decisions are taken. This preventive effort is intended to ensure that violations or disputes do not occur. Before obtaining legal protection from the Witness and Victim Protection Agency, they must go through several steps that have been stipulated in the revision of Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Witness and Victim Protection. In the Law, there are conditions that must be met in order to obtain protection from the Witness and Victim Protection Agency, as explained in Article 28 paragraph 1 of Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Witness and Victim Protection. Law Number 31 of 2014 on the Amendment to Law Number 13 of 2006 on Witness and Victim Protection explains that the Witness and Victim Protection Agency will provide legal protection to any witness or victim who fulfills the conditions set out in Article 28 paragraph 1 of the Law. These conditions include information provided by witnesses or victims must have important value, as well as threats from outside parties that can endanger the lives of witnesses or victims and their families.

In the Notary Law, there is no article that regulates the obligations and rights of instrument witnesses or deed witnesses. There are also no provisions explaining the protection of the confidentiality of the contents of notarial deeds. This means that even though deed witnesses are not

required to know the contents of the deed, they can still know it. In the absence of rules requiring witnesses to keep the contents of the deed confidential, there is potential for such witnesses to reveal secrets related to the notarial deed. Notary employees who act as administrative staff are witnesses who provide testimony in the process of making deeds in practice. Therefore, it is necessary to carefully understand and regulate the importance of maintaining the confidentiality of the contents in the deed by the witnesses involved. The current rules in the Notary Law related to deed witnesses only regulate the duties and responsibilities of notaries in presenting witnesses when reading and signing notarial deeds as a formal requirement to ensure the formation of authentic deeds. This regulation only addresses the formal requirements of being a witness. Therefore, there is a need for more detailed regulations or clear rules in the Notary Position Law related to securing the confidentiality of deed contents. This aims to ensure legal protection of the confidentiality of the contents of the deed and safeguard the interests of all parties involved in the notarial deed.

The absence of this regulation has resulted in a void in the law regarding legal protection for witnesses in notarial deeds when providing testimony as witnesses in the process of examining cases or lawsuits against deeds made by notaries. To overcome this norm vacuum, a possible solution is to create a new norm called *ius constituendum* or *lege ferenda*. This new norm will regulate the law that is expected to apply in the future, lacking pre-existing rules. In Law No. 2 of 2014 Amending Law No. 30 of 2004 on the Office of Notary, there are rules regarding the legal obligation to maintain the confidentiality of notarial deeds. For notaries, apprentice notary candidates, substitute notaries, and temporary officials in the notary field. However, the regulation is not yet fully complete in terms of its regulation, so the legal norms that require instrument witnesses are incomplete.

CONCLUSION

From the discussion that has been explained in the previous section, the author concludes that instrument witnesses or deed witnesses in notarial deeds have not been specifically regulated in Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Office of Notary. Instrument witnesses will be exposed to the investigation process and called as witnesses for questioning. Notaries who receive legal protection by exercising their right of recusal granted by the Law as well as protection from the Notary Supervisory Council. Meanwhile, the witness, because there is no article in the Notary Office Law that regulates his rights as an instrument witness, is required to provide information about the notarial deed, and in this case there can be disclosure about the contents of the deed.

Based on the previous description, the author concludes that the regulation regarding instrument witnesses or deed witnesses in notarial deeds has not received special policies in Law Number 2 of 2014 which is an amendment to Law Number 30 of 2004 concerning Notary Position. Instrument witnesses who have a role in the incident will be actively involved in the investigation process and invited to give their testimony as witnesses. A notary gets legal protection by utilizing his/her rights granted by the legislation and also gets protection from the notary supervisory institution. Meanwhile, as witnesses, they have to provide testimony about the notarial deed as there are no rules in the Notary Law governing their rights as instrument witnesses. In this process, it is likely that the contents of the deed will be revealed. The provisions regarding witnesses in the Notarial Position Law or other regulations do not exist. Laws refer to written legal regulations that govern expected or prohibited actions and behaviors within a country. Law No. 31 of 2014 amending Law No. 13 of 2006 on Witness and Victim Protection provides legal protection to witnesses involved in notarial deeds. Law No.

13/2006 on Witness and Victim Protection does not provide adequate protection for the rights of witnesses. Because the witnesses in the Act who will be protected are those who have knowledge, experience, or observation of an event in a criminal case. Meanwhile, a witness to a notarial deed is a person who is present to oversee the deed-making process and ensure that the formalities are met. The Regulation on Witness and Victim Protection is still inadequate in protecting and guaranteeing the legal rights of witnesses in certain situations.

However, the author suggests that there is a need for cooperation between notaries through the Notary Supervisory Council and investigators in regulating instrument witnesses and their legal protection. This cooperation will discuss the arrangements to be put in place and the legal protection for witnesses involved in legal cases involving notarial deeds and in the investigation process at trial. Thus, it can properly understand the role of deed witnesses in order to carry out their duties properly. The government needs to update the contents contained in the Notary Position Law, several actions can be taken to protect notary deed witnesses, such as incorporating witness protection articles and provisions into Law Number 2 of 2014 Amendment to Law Number 30 of 2004 concerning Notary Position or by creating special regulations governing the rights and legal protection for deed witnesses. In order for witnesses to feel safe and legally protected, and to prevent the disclosure of notarial deed secrets through witness testimony, legal protection is provided to witnesses, and witnesses can also prevent notarial deed secrets from being disclosed in this way.

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