

CHAPTER V

CONCLUSIONS, LIMITATIONS, AND RECOMMENDATIONS

A. Conclusions

1. The main characteristic and the implementation of the Latin Notary Profession in civil law as follow: when performing his/her tasks, the notary needs to be independent and impartial. He/she has to balance the interests of all parties involved in a legal transaction, including the interests of third parties. The independency and impartiality are protected by law. Latin notaries are a defined, identifiable group, since they are specially appointed by the government. The need for impartiality is the main reason why Latin notaries as a group have the authority to verify and certify the legality of certain legal documents. Notary has a privileged to provide full range of Notarial service, who has the authority to draw up a notarial act. A Notarial Act is self authenticating and endowed with executory force, direct and primary evidentiary status and has a strong probative value in court. Therefore, the Latin notary turn out to be different from other professions, such as notary public in Anglo Saxon system.
2. The main characteristic and the implementation of the Anglo Saxon Notaries Public in common law has a very different role. These can be found for example in the Singapore, United Kingdom and the United States. In these countries, will be find so called notaries public which

represents only one party in a legal transaction. He/she does not have to look after the interests of other parties involved in the transaction or the interests of third parties. The Anglo Saxon notarial public profession is more or less comparable with a lawyer. Lawyers are not such a well defined group and lack the necessary impartiality characteristics engrained in the Latin notary function. The risk that a lawyer would take sides in the control on the legality of documents, and is more prominent, since the function of a lawyer is primarily to take and defend a certain viewpoint of a certain party.

3. The comparison of the Latin Style Notary based in Indonesia and the Notary Public of Singapore. The Latin notary is a legal professional like an attorney in Anglo Saxon system. Most countries in the civil law system have a Latin Notary Profession such as Indonesian, to whom the state delegates a specific public power to affirm the authenticity of a documents. Notary in performing his/her function, must takes account of the interest of all parties involved, acts impartially. An Indonesian notary is a legally and highly trained civil law notary, who is appointed by the decree of the Minister of Law and Human Rights of Republic of Indonesia. According to UUJN, a notary is a general officer who has the authority to draw up, draft and make an authentic act and other authority as mentioned. People have no choice but to go to the civil law notary because certain transactions require an authentic deed. The Indonesian

notary may not notarize or legalize a signature of a person who has not appeared before him/her. Meaning, the notary has to determine the identity of the person requesting the notarization, which ensure the integrity and authenticity of the document's contents. Acts that have been authenticated by an Indonesian notary, possess specific evidentiary power and deliver proof of what have been declared by him/her. The notarial act also makes the contract immediately enforceable. Most importantly, the Indonesian notary is responsible for the legality of the transactions. To conclude, the duties and functions of Indonesian notaries are more than just the clerical and administrative functions associated with the creation of legal documents but notaries provide an important contribution across a broad spectrum of social activities as noted above ensuring that notaries are an integral party of the Indonesian legal profession.

On the other hand, Countries in which common law prevails like Singapore have a system of notary public. The Singapore notary profession is a typical example of the Anglo Saxon notary public system, which has a very different role in comparison to the Indonesian Latin notary. The type of Singapore's notary public represents only one party in a legal transaction and does not have to look after the interests of other parties involved in the transaction or the interests of the third parties. This is due to Singapore's notary public is more and less comparable with an attorney. It stated in the Singapore's Notaries Public Act, Interpretation 2

Section 3, define that notary public means a person who has been appointed as a notary public and no person shall be appointed as a notary public unless he is a practicing advocate/attorney and solicitor in Singapore and has so practiced for not less than 7 (seven) years.

Furthermore, he/she is strictly prohibited to give legal advice and draft documents, unless he/she is also an advocate as well as a solicitor of the Supreme Court of Singapore. Therefore, lawyers are the only legal professional based in Singapore and notary public is not. The Notary Public is a member of a professional association of lawyers.

B. Limitations

This research may still be far from being perfect, particularly because:

1. The research is not supported by primary data due to the lack of time owned by the researcher, which should be gathered from interviews of the Latin notary and the Anglo Saxon notary public.
2. The research does not present other explanations from the other historians because of the limited resources.
3. The research cannot elaborate in a great detail due to it merely relies on the arguments presented by the experts in the Brooke's Notary, Law number 30 of the year 2004 concerning the status of Notary (hereinafter referred to as "Undang-Undang Tentang Jabatan Notaris") and the Notary Public Act (Cap 208)

C. Recommendations

1. The researcher recommend to the other law students in University of International Batam, who is on his/her way doing a research for the same object, to do more research on the sanctions given for both notary and notary public who against the law.
2. The researcher recommend to the notary, is a must to understand the responsibilities and the integrity as an integral part, in order to improve the performance by providing the best service. Aim to ensure legal certainty and protection to his/her client.
3. To the notary, only if the notary is uncertain of a signer's identity, willingness or general competence or when he/she has a good reason to suspect fraud, he/she can refuse to notarise a document. Aims at minimising the risk that transactions cause legal certainty and thus attempts to minimise the negative effects on welfare. In addition, the notary also must be free of bounds and independent of the respective parties.