



## Exploring Contemporary Issues and Key Takeaways: A Comparative Analysis of Civil-Law Notary Laws in Indonesia and Louisiana

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### Abstract

Notary as a public official authorized to make authentic deeds in each country has its own rules by adhering to the civil law and common law legal systems, this is specially true for Indonesia and Louisiana which have similarities in adhering to the civil law legal system. This study aims to compare the legal arrangements of notaries in Indonesia and Louisiana where to examine contemporary issues or important points found from legal comparisons. This method uses a type of normative legal research with a comparative approach, statute approach, and conceptual approach made from primary and secondary laws, which are collected using document research techniques in a description analysis. The results and findings of this comparative analysis are that there are significant differences related to notaries from countries that both adhere to the civil law legal system, this can be seen in terms of history, qualifications, duties and authorities to become a notary, sanctions and resolutions for violations that will occur. This legal difference raises interest in the realm of notaries which is expected through this research can be one of the supporting sources for the Indonesian state to discover the findings of notaries in various jurisdictions so as to improve positive law and or at least form a deeper body of knowledge in the field of notaries.



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### A. INTRODUCTION

The development of legal science and legal needs in society which results in the increasing need for protection of legal certainty and obligations for each legal subject (Iryadi et al., 2021). This need for protection of legal certainty has presented the notary as a figure for the community who is considered to be able to provide advices that are reliable and trusted for concerned parties (Saifuddin, 2021). Notary as a public official who is authorized to make authentic deeds for actions, agreements and decisions are required in the laws and regulations desired by those who are concerned which is set forth in an authentic letter with guarantees for dismantlement, storing deeds and issuing *grosse deed*, issuing copies of deed derivatives, this is done during the making of the deed to be given back to them or other officials (Muri et al., 2018). As a notary, in the event that the appointment and dismissal of the position of notary in Indonesia is carried out by the

government, which in this case is the Minister of Law and Human Rights who have duties and responsibilities in the field of notaries. The requirements for public officials are people appointed by the government with the task of authority to provide public services in the field of notaries (Isnaini & Utomo, 2019b). Thus, the relationship between the public and notary rises not only due to an agreement, but indeed the role and function of a notary is to serve the public, whose obligations are regulated in law and professional code of ethics to ensure legal protection for the public as users of notary services (Muri et al., 2018).

The notarial institution recognizes two legal system, namely as the Continental System with the Civil Law System and the Anglo-Saxon System with the Common Law System (Khamlia, 2021). Notarial instrument as well as regulations related to notarial practice have evolved in accordance with time, place and legal politics and legal awareness in each country. Reaching the position of a notary with a legal license requires prospective notaries to undergo various procedures before obtaining a notarial license and providing their services to the public. In countries adhering to the Civil Law legal system, especially Indonesia, notaries as public officials of Latin notaries are carried out by jurists with various additional procedures ranging from special education, examinations, to internships that must be taken (Nurliyantika et al., 2022). However, not all countries adhering to the Civil Law legal system have the same provisions and procedures in achieving and carrying out the notarial profession. This is the case in one of the fifty states in the United States, namely Louisiana, which has a legal system that is contrary to the United States as an adherent of the Common Law legal system (Stephenson, 2015).

Indonesia, with the Civil Law legal system, regulates the duties and powers of notaries in accordance with Law No. 2 of 2014 on the Amendment to Law No. 30 of 2004 on the Office of Notary (Nurliyantika et al., 2022). This will be compared with regulations related to the duties and powers of notaries in Louisiana. Comparative research on notarial law between Indonesia and other countries has been conducted in several previous studies. Research related to the legal comparison of a country's legal system is not unfamiliar, but there is nothing nearly similar to this research. This can be seen from the research conducted by Nadhif Mukhsin Al-Katiri (2020) regarding the comparison of duties in Indonesian Notary regulations which adhere to the Civil Law legal system and the United States which adheres to the Common Law legal system, where the results of his research show that the notary duties regulated in the Notary Office Law apply to all of Indonesia, while in the United States each state has its own notary regulations in regulating notarial duties. In research conducted by Rizka Nurliyantika et al. (2022) who conducted a comparison of the duties and authority of Notaries in the State of Indonesia as Civil Law and the State of Malaysia as Common law, explained the results of his research that the differences in the duties

and authority of notaries in Indonesia and Malaysia are related to the legal system stipulated in the constitution and adjusted to the conditions of each country, one of which is the colonization factor. Meanwhile, research from Salim et al. (2020) which examines the differences in the substance of the notary code of ethics owned by the State of Indonesia as Civil Law with the notary code of ethics owned by Georgia, the United States and Quebec, Canada as Common law, where the results of his research show that from the code of ethics of each country there are similarities related to notary obligations, but there are differences in the prohibitions, sanctions and procedures for notary enforcement. Some of the studies described above have similar themes with those that will be studied by the author in this study, namely related to the comparison of notary law between the State of Indonesia and other countries, but there are also significant differences where previous studies focused their research objectives on the duties and powers of notaries based on the regulations of each country studied while in this study will be studied as a whole in terms of history, qualifications, duties, authority, sanctions, and resolutions to various notary problems that often occur. In addition, some of the previous studies that have been mentioned both compare notary regulations against countries that adhere to the Civil Law legal system with countries that adhere to the Common Law legal system, which should be a legal comparison method to compare two or more things that have elements in common as well as in the current study which compares countries that adhere to the Civil Law legal system with Civil Law countries, based on the opinion of Soenarjati Hartono (Gozali, 2018). The last difference between the previous research and the current research is in the subject, where this research specifically compares the subject between the State of Indonesia and Louisiana which has never been specifically studied in previous research.

Louisiana as the only state of the United States that adheres to the Civil Law legal system, raises its own interest for researchers to compare notary regulations with the State of Indonesia which also has similarities in adhering to the Civil Law legal system, which is in line with the function of the method of comparative law which requires comparing two things that have similarities such as the similarity of the legal system adopted by the two countries in this study. Louisiana and Indonesia, which have similar legal systems, cannot be separated from the significant legal differences between them. This will generate interest in the realm of notaries which can be one of the supporting sources for the State of Indonesia to discover notary findings in various jurisdictions so as to improve positive law and form a deeper body of knowledge in the field of notaries for various countries in the world. Where with the similarity of the legal system adopted, it will become a reference for other researchers in supporting the comparative law method by comparing the similarities that have been owned between notaries in the two countries. Therefore, this is the basis of the researcher to examine the civil law

arrangements regarding notaries in Indonesia and Louisiana and examine contemporary issues and important points based on the particulars found from the legal comparison.

## B. RESEARCH METHOD

In solving problems related to legal perspectives, a legal approach is needed as a basis for compiling precise, accurate, and logical arguments. The type of research in this legal writing is normative legal research that examines laws and regulations applicable or applied to certain legal issues (Tan, 2021). In this study, researchers examined the comparative aspects of the law regarding the regulation of notarial civil law in the perspective of notary regulations in Indonesia and Louisiana. The research approaches used are Comparative Approach, Statute Approach, and Conceptual Approach. Comparative Approach is an approach taken to compare a country's law with the laws of other countries. In the opinion of Soenarjati Hartono in her book entitled "Kapita Selektta Perbandingan Hukum" (1982), states: "Comparative Law is a method of investigation and not a branch of science as is often assumed" (Gozali, 2018). The method used is to compare one legal institution (Legal institution) from one legal system with another legal institution, which is more or less similar (Gozali, 2018). According to him, the usefulness of comparative law consists of three points, namely first on the issue of the relevance of comparative law to historical, philosophical and juridical research; second is the urgency of comparative law to better understand national law, third is comparative law can help appreciate the culture of other nations and more in relation to the formation or development of relations between nations (Gozali, 2018). Statute Approach is an approach that is carried out by examining all laws and regulations that are related to the legal issues of the dealt with. While the Conceptual Approach as an approach that departs from the views and doctrines that have developed in legal science, especially related to notaries. The type of legal material used consists of primary legal materials, namely: Law No. 30 of 2004 concerning Notary Position Regulations, Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning Notary Position Regulations, Civil Code, and Louisiana Revised Statutes (Hikmawati, 2020). Secondary legal materials, namely: books, journals, legal papers, the internet, and others. The data collection technique used is by means of documentation techniques, namely collected from the review of laws and regulations, literature studies such as books, papers, articles, magazines, journals, newspapers or papers. To analyze the legal materials that have been collected, description analysis techniques will be used by compiling, processing, and analyzing according to the data that has been to provide an overview of the existing problems (Sari et al., 2022).

## C. RESULTS AND DISCUSSIONS

## History of Notary Position Regulation

The term “notary” is a term for stenographers or people who are able to write quickly with a high position because of their work, namely writing the results of the Emperor’s Consistory meeting related to state secrets in the 2-3rd century BC (Utomo, 2020). At that time, in addition to notaries, *tabeliones* were also known who had similar functions to notaries with their duties to serve the interests of the general public such as making deeds and letters, although they were not civil servants and were not appointed or appointed by the general authorities to carry out the provisions of the law (Nurliyantika et al., 2022). Much later, the city of *Latijnse Notariaat* in Northern Italy became the first place where notaries developed. From there, notarial activity extended to France where throughout the period the office of notary became a service to the general public whose need and usefulness had been recognized by society and the French state. Until the early 19th century, notarial activity expanded to several other countries where it developed in the form of professions and institutions (Victoria et al., 2020).

### a. History of Notary Position Regulation in Indonesia

Notaries in Indonesia have been known long before independence. Melchior Kerchem was the secretary of the college van schepenen or Municipal Shipping Affairs who was appointed as the first notary in Indonesia in 1620 (Nurliyantika et al., 2022). In 1860, the Dutch East Indies Government saw the need for new regulations regarding the Office of Notary in Nederlands Indie by adjusting the regulations regarding the Office of Notary in the Netherlands (Victoria et al., 2020). After Indonesia's independence, the existence of Notaries in Indonesia was still recognized based on the provisions of Article II of the Transitional Rules of the 1945 Constitution, namely: “All existing laws and regulations remain in force as long as no new ones have been made according to this Basic Law.” Therefore, the Reglement op Het Notarisambt in Nederlands Indie (Stbl.1860: 3) continued to apply (Muri et al., 2018). Until after the Round Table Conference, where the transfer of sovereignty from the Dutch Government to the Republic of Indonesia for the entire territory of Indonesia except West Irian has brought other consequences, namely Notaries with Dutch citizenship in Indonesia are required to leave their positions (Nurliyantika et al., 2022). In order to fill the vacancy, the Minister of Justice of the Republic of Indonesia determined and appointed Deputy Notaries to carry out the duties of the Notary Office and accept protocols originating from Notaries with Dutch nationality (Nurliyantika et al., 2022).

On October 6, 2004, Law No. 30/2004 on the Office of Notary was enacted (Muri et al., 2018). Where in Article 91 of the Notary Position Law has revoked and declared no longer valid: (1) Reglement op Het Notaris Ambt in Indonesia (Stbl. 1860:3) as last amended in the State Gazette 1954 Number 101; (2) Ordonantie September 16, 1931 concerning Notary Honorarium; (3) Law Number 33 of 1954

concerning Deputy Notaries and Temporary Deputy Notaries; (4) Article 54 of Law Number 8 of 2004 concerning Amendments to Law Number 2 of 1986 concerning General Courts; (5) Government Regulation Number 11 of 1949 concerning Oaths or promises of Notary Office (Nurliyantika et al., 2022).

Based on the Notary Position Law, it states that a notary is a public official authorized to make authentic deeds and other authorities (Saifuddin, 2021). Notary is qualified as a Public Official with an honorable position given by the state attributively through law to someone who is trusted. Notaries are appointed by the minister and can carry out their duties freely, without being influenced by the executive body and other bodies and act neutrally and independently (Saifuddin, 2021).

#### b. History of Regulating the Office of Notary in Louisiana

Throughout the United States apart from Louisiana, notaries are appointed by state governments to witness the signing of important documents and administer oaths. Notaries have different laws in each state (Lamotte, 2015). Louisiana with its mixed jurisdiction of French, Spanish, and Anglo-American laws does not follow common law like the rest of the United States (Stephenson, 2015). Notarization spread to Europe and has now become English, French, and Spanish. In 1279 in England, the Pope appointed the Archbishop of Canterbury as a notary and by the 13th century notary schools had sprung up in Western Europe. In Spain, in medieval times the *escribano publico* (public scribe) was appointed by the king to serve the general public under the *Las Partidas* law, which also regulated the royal notary where certain documents had to be notarized by a notary (Palmer, 2008). If it was proven that the *escribano publico* lied, the *escribano publico* would have his hand cut off while the royal notary would be put to death.

Since the Voyage of Columbus (1492-1493), notaries have existed in North America, while in 1639 the first notary was appointed in the American colonies. In 1682, notaries appeared when the Louisiana Territory was claimed by LaSalle for France (Palmer, 2008). *Sieur Madefisse* as a simple soldier was appointed the first notary in Louisiana in 1712 and in 1717 the first civil government was appointed by King Louis XIV after the military government, where the council included a clerk who was *ex officio* a notary in the colony (Lamotte, 2015). When notaries were present in the American Colonies, notaries in England became outmatched by lawyers in terms of obtaining the right to handle conveyances, this was because the exclusive right to handle conveyances had been given to lawyers, so notaries were only in charge of the ministry (Palmer, 2008). Therefore, notaries in the United States are only official witnesses to oaths and recorders of affidavits.

Notaries, who have existed since ancient Roman times, emerged when the art of writing was still rare. Notaries were originally people who could read and write and acted as impartial scribes. Notaries adopted the notary seal of the past

which emerged when most people were illiterate, so hot wax was dripped on a page and printed on a clay or metal disk with a family crest instead of a signature. When there was a long document, a ribbon would be inserted through two holes in the document and sealed with hot wax at the end. An undamaged seal became proof of the document's originality (Stpehenson, 2015).

### **Qualifications of Notaries in Indonesia and Louisiana**

#### **a. Qualifications of Indonesian Notary**

As a professional, a notary must be specially educated in carrying out his duties as a maker of authentic deeds which are not for his own interests but will be dedicated to the public interest, so that notaries are required to master positive norms and uphold moral values. Legislation will become a legal instrument for notaries in order to realize legal certainty, protection, justice and order for the community. In Indonesia, notaries must explore notarial science as an absolute requirement in carrying out their duties and authority as public civil officials who will make deeds as authentic evidence (Isnaini & Utomo, 2019a).

The Notary Position Law clearly regulates the professional ethics of a notary and the requirements to become a Notary as referred to in Article 2, namely: (a) Indonesian citizen; (b) Fearful of God Almighty; (c) At least 27 years of age; (d) Physically and mentally healthy based on a medical certificate from a doctor and psychiatrist; (e) Hold a bachelor's degree in law and a master's degree in notarial affairs; (f) Apprentice or have worked as a notary employee for at least 2 consecutive years in a Notary's office on his/her own initiative or recommendation from a Notary Organization after graduating from a master's degree in notarial affairs; (g) Not a civil servant, state official, advocate, or holding other positions prohibited by law; and (h) Not having been sentenced to imprisonment based on a court decision that has obtained permanent legal force for committing a criminal offense punishable by imprisonment of 5 years or more (Harahap & Wahyuni, 2020). In addition to these requirements, before being appointed as a Notary, Notary candidates must first become an Extraordinary Member of the Notary Organization in Indonesia, namely the Indonesian Notary Association, participate in a Joint Internship organized by the Regional Management of the Indonesian Notary Association, and take the Notary Code of Ethics Exam organized by Indonesian Notary Association, as well as attend the Notary Position Quality Improvement Training organized by the Ministry of Law and Human Rights (Abdillah et al., 2022).

The Minister determines the formation of notary positions by dividing notary positions into several regional categories, namely regional categories A, B and C, based on Minister of Law and Human Rights Regulation Number 19 of 2021. Regional categories A and B are only intended for the transfer of the Notary position area. Regional category C is intended for the first time appointment of

Notary or transfer of Notary position area. New notaries can only apply for appointment in regions with category C. Notary transfer appointment applications are submitted online through the website of the Directorate General of General Legal Administration of the Ministry of Law and Human Rights. After being appointed by the Minister of Law and Human Rights based on the Notary Appointment Decree, the Notary must take the oath of office at the Regional Office of the Ministry of Law and Human Rights in the Provincial office area in the Notary's domicile (Ariawan, 2018).

Within no later than 60 days as of the date of taking the oath or pledge of office of Notary, Notary shall perform his/her office manifestly, submit the minutes of the oath or pledge of office of Notary to the Minister, Notary Organization, and Regional Supervisory Council, and submit the office address, sample signature, and initials, as well as the red seal of office of Notary to the Minister and other officials responsible in the field of land, Notary Organization, Chairman of District Court, Regional Supervisory Council, and Regent or Mayor in the place where Notary is appointed (Ariawan, 2018)

#### b. Louisiana Notary Qualifications

Louisiana does not have the notary ethics regulations of other US states, but Louisiana has stricter regulations than them (Lee, 2012). In 1870, the requirement to become a notary public in Louisiana was for a man to have paid a bond of \$5,000 if he lived in Orleans Parish or \$1,000 if he lived in another Parish. Prospective notaries must be examined and found competent by the State Supreme Court, Circuit, and District Courts (Stpehenson, 2015). In terms of notarization, Louisiana notaries are allowed to concurrently serve as attorneys, so non-lawyer notaries are required to post a \$10,000 bond to indemnify them for negligence or provide a mortgage on the real estate where they practice (Stpehenson, 2015). Louisiana notaries had no legal or continuing education requirements, no law degree and no specific training experience, as there were no lawyers in Louisiana at that time when notaries were established. However, in 1964, non-lawyer notaries began to be required to pass a written exam, while the notary exam was waived for lawyer members (Lee, 2012). This resulted in many lawyers becoming notaries until the two professions merged. It was recorded in 2015 that 57% of notaries in Louisiana were lawyers.

The times have improved the qualifications of notaries in Louisiana, where Louisiana notaries are required to be Louisiana citizens or aliens, have a high school diploma or equivalent, be at least 18 years old, be able to read, write, speak and have adequate proficiency in English, be physically fit, have no unexpunged felony record, be of good moral character, integrity and discretion. If the notary public is a Louisiana citizen, he or she is required to register in the Parish where he or she resides. Since 1988, notaries are no longer required to post bonds as most attorneys



already carry malpractice insurance. A major difference in Louisiana's notarization requirements from other states is the rigorous examination for non-lawyer notaries, with many candidates failing their first attempt (Stephenson, 2015).

In 2003, the Louisiana Legislature directed the Secretary of State to raise the bar for uniformity in notarial examinations across the state, and this was first realized on June 13, 2005 by testing general knowledge of the law as well as duties in notarization, ability to understand and apply information, understanding of deeds and related documents. Since the realization of this exam uniformity, most notary candidates take notary exam preparation courses with the improvement of course quality by the state, so that in 2009 it is required for course providers to be registered with the state and pay a guarantee of \$25,000. The secretary of state's website will detail the skill levels of course providers by showing the percentage of students taught and passing the exam. Non-lawyer notaries and lawyer notaries who pass the state exam automatically have jurisdiction throughout the state (Asufie et al., 2020).

### **Duties Authorities and Obligations of Notary**

#### **a. Duties Authority and Obligations of Notary in Indonesia**

Notaries have the main characteristics of being impartial (neutral) and independent. In general, the authority of a notary is listed in Article 15 paragraph (1) of the Notary Position Law which states that: Notaries are authorized to make authentic deeds regarding all deeds, agreements, and stipulations required by laws and regulations and/or desired by those concerned to be stated in an authentic deed, guarantee the certainty of the date of making the deed, keep the deed, provide a *grosse*, copy and quotation of the deed, all insofar as the making of the deed is not also assigned or excluded to other officials or other persons stipulated by law (HS, 2018). In addition to the authority as mentioned, notaries are also authorized to: (1) Certify signatures, set the date of letters under the hand, record letters under the hand and register them in a special book; (2) Make copies according to the original documents of letters under the hand; (3) Attest the suitability of the copy with the original letter; (4) Provide legal counseling in connection with the making of deeds; (5) Make deeds related to land; (6) Make deeds of minutes of auction (Salim et al., 2021).

Meanwhile, the obligations of a Notary as stipulated in the Notary Position Law Article 16 paragraph (1) are: (1) act reliably, honestly, thoroughly, independently, and impartially for the benefit of the parties in the legal process; (2) make the minutes of the deed and keep it according to the notary protocol; (3) attach documents and fingerprints of the parties to the minutes of the deed; (4) issue a *grosse*, copy, or quotation of the deed based on the minutes of the deed; (5) provide services or may refuse if they conflict with the provisions of this law; (6) keep deeds made and information obtained in the making of deeds confidential in

accordance with the oath/pledge of office, unless otherwise provided by law; (7) bind a maximum of 50 deeds made in 1 month into a book, if the number of deeds exceeds the limit then it can be bound in more than 1 book, recording the number of deed minutes, month, and year of making on the cover of the book; (8) make a list of deeds of protest against non-payment or non-receipt of securities; (9) make a list of deeds related to wills in the order of the time of execution every month; (10) send the list of deeds or the list of nil deeds related to wills to the center of the register of wills within 5 days of the first week of the following month; (11) record in the repertory the date of sending the register of wills at the end of each month; (12) have a seal containing the symbol of the Republic of Indonesia, the name, position and domicile of the notary concerned; (13) read out the deed in front of the parties in the presence of at least 2 witnesses, or 4 witnesses specifically for the making of a deed of will under hand, and signed at that time by the parties, witnesses, and Notary; (14) receive the apprenticeship of prospective notaries (Ayuningtyas, 2020).

Based on the notary office law article 17 paragraph 1 explains what a notary may not do, namely: running the office or leaving the work area for 7 consecutive days without valid reasons, concurrently serving as a civil servant, state official, advocate, leader or employee of a state-owned, regional or private enterprise, concurrently serving as a land deed official or class II auction official outside the work area, becoming a substitute notary, doing work that is contrary to and affects the dignity of the office of notary (Al-Katiri, 2020).

#### b. Duties and powers of a Notary in Louisiana

The functions of a notary public in Louisiana are set out in Louisiana Revised Statutes section 35:2, which explains that: (a) to make inventories, valuations, and partitions; (b) to receive wills, make protests, contracts of marriage, conveyance, and in general, all contracts and instruments in writing; (c) to call family meetings and meetings of creditors; (d) to receive acknowledgments of instruments with personal signatures; (e) to make affidavits of correction; (f) to affix seals to the effects of deceased persons and to appoint them.

The court held that the functions of a notary are not fully explained in the law. According to Professor John Henry Merryman's opinion, a notary has 3 functions, namely: (1) Create important documents relating to the law; (2) Certify documents; and (3) Act like a registry office. By law, Louisiana notaries are assigned to the first function as document drafters who are empowered to accept wills and all written contracts. His second function as a document attestor has been the hallmark of the notary's authority in making authentic deeds in which the contents are accurately proven to be authentic by representing the voices of the parties and also the notary as a witness who has seen and heard their statements. The third function as archivist or recorder has largely been taken over by court

clerks, but notaries must make a record of sales, exchanges, donations, and mortgages of immovable property that have been made in their presence, together with all resolutions, powers of attorney, and other documents attached to or forming part of such acts (Stpehenson, 2015).

In addition to drafting, certifying and recording legal documents, notaries also act as advisors to their clients (Stpehenson, 2015). The ability of Louisiana notaries to create legal documents and provide advice has significant differences with notaries in other states. This is evident from a statement from the California Court of Appeal, where it was explained that notaries are not obliged to inform their clients that the notarized documents are not legally valid and if they do so, it is an unauthorized practice of law. In addition, the National Notary Association (NNA) said that non-lawyer notaries are not authorized to assist others in advising on making or selecting legal documents to be signed by the parties, for which violations can be fined or imprisoned. This was affirmed by the Washington Supreme Court, where “There is no such thing as a simple legal instrument in the hands of a layman” (Stpehenson, 2015).

Louisiana notaries acting as legal advisors have followed the tradition of French and Spanish notaries since 1803 where notaries were expected to fulfill their legal capacity and inform parties of their rights and the consequences of their actions. Louisiana notaries are required to inform the parties of the nature of the deed to be executed and ascertain the essential facts that will support the deed, as well as inform them of the formalities necessary to achieve the validity and efficacy of the deed. Louisiana courts have noted that notaries are not drafters or guarantors of the validity of legal documents, but are only obligated to certify the validity of the document's signature and are not responsible for any legal defects contained in the signed document. This also means that a notary will be liable for the legal defects of a document if he/she acts as a document maker (Stpehenson, 2015).

In carrying out their duties and authorities, there are often elements of intent or inadvertence that result in notaries violating established rules. As seen in the Louisiana case of *Dale v. Carriere*, 537 So. 2d 346, 346 (La. Ct. App. 4<sup>th</sup> 1988) where the Notary (defendant) notarized a will that was brought to him. The will consisted of a pre-printed form containing standard will clauses and blanks to be filled in by the testator. The court in which the succession was opened refused to probate the will as it did not satisfy the requisites of Louisiana law as to proper testamentary form. Plaintiffs then filed suit against the notary alleging that he was negligent in his notarization of a last will and testament which was legally invalid in its form, causing plaintiffs to suffer a loss in the value of their inheritance. The Notary's duty was a purely clerical one, requiring only certification of the signature on the particular document. There is no law in Louisiana which requires a notary to give inspection for legal flaws and guarantee the validity of every document which he notarizes when he is hired only in his capacity of a notary and not as a

drafter or guarantor of the validity of such documents (French & Smith, 2020). There is also another case in the State of Louisiana related to *Fechtner v. Bice*, 964 So. 2d 1055 (La. Ct. App. 1st 2007) where The Notary was called to the home of an elderly man to notarize his will. Upon arriving and being presented with the document to be notarized, the notary observed that it was handwritten and advised that a handwritten will did not need to be notarized. When a family member insisted the notary notarize the document anyway, he requested two witnesses and signed the will. But the Will was subsequently held invalid as to form. In this instance, the notary neither asked for nor did he give an opinion as to the validity of the document he was asked to notarize. He was not required by law to inspect the document that he did not draft to verify or guarantee its validity. The assertion that the notary could have made the document a valid testament by adding an attestation clause wrongly presumes that he had a duty to guarantee that the document was valid in form. Hence, the notary cannot be held liable for the fact that the document was improperly drafted (French & Smith, 2020).

The case of an Indonesian Notary who did not carry out his duties and authority professionally with elements of intent and negligence was also found in one of the notaries in Banten Province with the initials Notary RW, where the parties did not carry out the signing before the notary. This case was based on the report of the Regional Supervisory Council (*Majelis Pengawas Wilayah or MPW*) of Notary in Banten Province with Decree No. W29/T.Pem/Not.01/2010 MPW Notary in Banten Province dated January 11, 2010 regarding the establishment of the Regional Supervisory Council of Notary in Banten Province (Anggraini, 2021). In its hearing on January 26, 2010, the Banten Provincial Notary Regional Supervisory Council in conducting an examination of the Notary and the report file from his attorney, found the facts that the Notary had made a deed of power of attorney to sell in which the parties, both the grantor and the recipient of the power of attorney, did not sign the deed in front of the Notary. Referring to Articles 16 and 17 of the Notary Position Law, the Notary should act honestly, carefully, independently, impartially and safeguard the interests of the parties involved in law making. Therefore, the actions of the Notary have resulted in the loss for the parties in the form of transfer of Land and Building Rights. There is also another case of Notary RW based on the Letter of the Regional Supervisory Council of Notaries of Tangerang Regency-South Tangerang City dated December 15, 2009, Number 50/MPD/Kab.Tgr-Kota Tangsel/XII/2009 Regarding the Report of Inspection Results on Public Reports against Notary RW of Tangerang Regency-South Tangerang City, another violation was found, namely Notary RW made a copy of the deed not in accordance with the deed minutes and did not read out the deed in front of the plaintiffs in the presence of at least 2 witnesses and signed at that time by the plaintiffs (K. M. Putri et al., 2022).

So that from the cases that occurred in the State of Louisiana and Indonesia, it proves that a notary must uphold his responsibility as a party given trust by the government and society in accordance with moral demands, intelligence and prudence in order to ensure the legal certainty of the authentic deeds he produces (Arsy et al., 2021). If negligence occurs either intentionally or unintentionally, there will be major consequences that must be faced by these notaries (Purnayasa, 2019).

### Sanctions for Notary

#### a. Sanctions for Notary in Indonesia

Sanctions are a form of punishment to notaries for violations of work discipline or code of ethics, where the sanctions given can be in the form of administrative, civil, or criminal sanctions. In the notary office law, notaries are subject to civil sanctions if they violate Article 16 paragraph (1) letter m, Article 41 by referring to Article 38, Article 39 and Article 40, Article 48, Article 49, Article 50, Article 51 and Article 52 which can result in the deed as an evidentiary instrument becoming null and void and can be sued for losses by the parties (Iriantoro, 2022). Civil sanctions imposed can be in the form of reimbursement of costs, compensation, and interest if it has been proven: (1) There is a loss; (2) There is a causal relationship between the loss and the violation or negligence of the notary; (3) The violation or negligence is due to an error for which the notary can be held accountable (Damayanti, 2022).

Administrative sanctions are contained in Article 85 of the Notary Position Law with the lightest level of sanctions in the form of verbal reprimands and written warnings from the Regional Supervisory Council, if the sanction of reprimand is still ignored, the Regional Supervisory Council will propose to the Central Supervisory Council to carry out temporary dismissal for a maximum of 6 months to the offending notary (Auliaurrosidah & Utomo, 2019). Dismissal or dismissal with honor and dishonor will be the last sanction given if other sanctions are ignored. In terms of the dismissal of a notary, a notary may cease or be dismissed from his/her position with honor for several reasons, namely: (a) Death; (b) 65 years old; (c) Own request; (d) Not able spiritually or physically to carry out the duties of the office of Notary continuously for more than 3 years; (e) Concurrent position as stipulated in Notary Position Law. The age provision as referred to in letter b can be extended to 67 years old by considering the health of the person concerned (Rizal, 2019).

From the description above, it can be seen that the notary office law only regulates administrative sanctions and civil sanctions, criminal sanctions are not regulated because there is no direct relationship with the results made by notaries as authentic deed makers. However, even though it is not regulated in the notary office law, a notary can also be suspected of being involved in a criminal offense where upon the approval of the Notary Honor Council, investigators, public

prosecutors, and judges will summon, examine and request the submission of letters or deeds made by him (Noor El Islam et al., 2021). If proven to have committed a criminal offense, there will be sanctions from the Criminal Code or regulations outside the notary office law. Notaries may be subject to criminal sanctions if they fulfill the following conditions: (1) The existence of intentional and planned legal acts in the deed with the parties to commit a crime; (2) The existence of legal acts in the making of deeds that deviate from the notary office law or others; (3) The assessment of authorized officials on notary actions that are considered not in accordance with the provisions and are considered as unlawful acts. If it does not fulfill all three, then it is considered a general criminal offense that has nothing to do with the office of notary. Thus, in some cases, criminal offenses involving notaries are reported as: forgery of letters (Articles 263, 264, 266 of the Criminal Code), fraud (Article 378 of the Criminal Code), or embezzlement (Articles 372, 374 of the Criminal Code) (Muhammad et al., 2019).

#### b. Sanctions for Notary in Louisiana

In medieval times, notaries who committed fraud would lose their hands or be sentenced to death and forgeries would be subject to revocation of office up to forced labor for life. Notaries as public officials could be prosecuted for misconduct in office if they willfully refused or failed to perform a lawful duty and could be punished by public humiliation. A notary can be charged with public bribery if he or she fraudulently and falsely attests documents or offers to do so. A notary who makes or alters a false statement to a document entered into a public record may be charged with second-degree tampering with or making a false public record. It can also be charged with forgery if it creates, alters, executes, completes, or authenticates a document that is inconsistent with the party's actions or misrepresents the place and time of execution. For non-lawyer notaries, it can be considered a serious offense and declared as an unauthorized practice if they practice law outside of the practice of notaries (Stpehenson, 2015).

During this period, notaries who commit intentional or negligent acts can be sued for damages due to breach of contract or tort. Suits for breach of contract or tort and other matters must be filed one year after discovery but not more than three years after the act was committed. Notaries who engage in the unauthorized practice of law are subject to civil penalties under the provisions of the Louisiana Unfair Trade Practices Act (LUPTA). The Louisiana Attorney General is authorized to file a suit for damages seeking \$5,000 in damages per violation and an additional \$5,000 fine for victims who are disabled or elderly. Individuals can also file a private lawsuit under LUPTA and if the court finds fraudulent practices by the notary, the court can award damages, attorney's fees and costs. If after a warning is given but the fraudulent act continues, the court can award 3 times the compensation (Asufie et al., 2020).

Non-lawyer notaries in Louisiana may be subject to revocation or suspension of their commission and authority to exercise notarial powers if they meet the offense requirements listed in Louisiana Revised Statutes section 35:15(A): (1) Dishonesty, fraud, deceit, or misrepresentation; (2) A felony for which he has been convicted and no pardon has been issued; (3) Gross misconduct or malfeasance in the exercise of his notarial powers; (4) Officially certifying as true what he knew or should have known was false; (5) Violation of any provision of this Title, or any other law governing the office of notary public or the exercise of any notarial power or duty; (6) Ceasing to possess any qualification required for holding his commission as a notary public; (7) Abandonment of his commission.

The district attorney or the attorney general in the district court will be responsible for applying this regulation to prosecute notaries who are found guilty of committing any of the acts deemed as offenses in the law. If it is proven that the notary has committed serious offenses and irregularities, has been convicted of a criminal offense and has not been pardoned, and does not possess the required notarial qualifications, the court shall revoke his/her office and authority as a notary. If the offense committed is outside the provisions of Article 35:15(A), the court may revoke or suspend the authority of the notary for a certain period of time. The court may impose costs on a notary who has been revoked or suspended his authority as a notary to pay attorney fees to any person aggrieved by the notary. Under Louisiana Revised Statutes section 35:16, a notary public who is no longer registered in his or her jurisdiction or who has been convicted of a felony may be suspended by the Secretary of State. Suspension automatically applies to notaries who fail to file the required bonds and insurance, or to notaries who fail to file annual reports, as stated in Louisiana Revised Statutes section 71 (Stephenson, 2015).

In addition to the notary sanctions described above, notaries can also be dismissed by the Louisiana House of Representatives and convicted by the senate if found guilty of a felony or gross misconduct. Notaries who have been appointed by the governor only act as temporary officials until approved by the senate, if the senate does not approve the appointment, then the notary's position will automatically end (Stephenson, 2015).

In terms of this sanction, there are cases that present the implications and consequences that must be faced by notaries for negligence committed either intentionally or unintentionally. In the State of Louisiana, the case of *In Re Landry*, 2005-1871 (La. 7/6/06), 934 So. 2d 694: A title attorney opened a succession for his client Walter Wallendorf's deceased wife as part of a refinancing he was handling for Wallendorf. Wallendorf told his attorney the decedent had no children, no property other than the home, and had died intestate. The attorney prepared and notarized an affidavit of death and heirship (signed by Wallendorf) based solely on this information. The attorney also had two secretaries in his office (who had never

met the decedent) execute affidavits swearing that they were "well acquainted" with the decedent and knew that she had died intestate. The attorney notarized those affidavits and filed them into the record along with a Petition for Possession. It was later determined that the information in the affidavits was incorrect and had to be set aside. The Office of Defense Cooperation (ODC) filed charges alleging violation of Rules 3.3(a)(1), 8.4(c), and 8.4(d). LASC found that the attorney had knowingly and intentionally filed a false affidavit into court records, warranting a baseline sanction of suspension. The court imposed a 6-month suspension, with all but the first 30 days deferred. There is also another case, *In RePorter*, 2005-1736 (La. 3/10/06), 930 So. 2d 875: An attorney filed a defamation suit on behalf of his clients (Mr. and Mrs. West) and included an affidavit signed by both clients and notarized by him attesting that the factual allegations in the petition were true. In fact, Mrs. West had not signed the affidavit. The attorney had watched Mr. West sign his wife's signature. ODC filed charges alleging violation of Rules 3.3(a), 4.1(a), 8.4(a), 8.4(c), and 8.4(d). He was also charged for misconduct unrelated to the affidavit (failing to respond to discovery or otherwise pursue the case, resulting in a dismissal of the case). The attorney admitted that the notarial act was improper, but argued that the verification was not legally material to the suit and contained no material facts. He also said that Mr. West signed with his wife's permission. The court ultimately imposed a one-year suspension (French & Smith, 2020).

In the case that occurred in the State of Indonesia which has been conveyed above regarding the violation of Notary RW in Banten Province, the notary has violated Article 16 paragraph (1) letter a of Law Number 30 of 2004 concerning Notary Position, namely not acting honestly, carefully, independently, impartially and safeguarding the interests of parties involved in making law. In addition, they have violated Article 16 paragraph (1) letter c of Law Number 30 of 2004 concerning the Position of Notary, namely making a copy of the deed not in accordance with the minutes of the deed. In addition, the notary has violated Article 16 paragraph (1) letter i of Law Number 30 of 2004 concerning the Position of Notary, namely the notary did not read out the deed in front of the attendees in the presence of at least 2 witnesses and was signed at that time by the attendees. The notary violates Article 39 paragraph (2), Article 40 paragraph (1), Article 44 paragraph (1), Article 54 of Law Number 30 of 2004 concerning the Position of Notary, violations as mentioned in points 3, 4, and 5 can be sanctioned with provisions in accordance with Article 85 of Law Number 30 of 2004 concerning the Position of Notary, article 84 of Law Number 30 of 2004 concerning the Position of Notary. It is appropriate for the Regional Supervisory Council based on Article 73 paragraph (1) letter e of Law Number 30 of 2004 concerning the Position of Notary to impose sanctions in the form of an oral warning or written warning. In addition, based on Article 73 paragraph (1) letter f, the Regional Supervisory Council, based on the results of the examination, is authorized to propose



sanctions against Notary to the Central Supervisory Council in the form of temporary dismissal of 3 (three) months to 6 (six) months up to dishonorable dismissal (Purwaningsih, 2015).

For sanctions that have been regulated and become a reference for application in the practice notaries, as a notary must uphold the mandate of the parties that have been entrusted to him by making a professional contribution as a public official who serves the interests of the people in his country (Pratama, 2022). As conveyed by Habieb Adjie, a notary begins to carry out his duties and positions of public trust automatically when he has been sworn in or made a promise based on the religion adhered to by each notary, which this oath or promise has a deep meaning that binds the notary while carrying out his duties and positions in the community (Alfiansyah, 2019). The oath or promise contains two meanings that must be understood by prospective notaries or notaries themselves, namely: First, the Notary must be responsible to God for the oath or promise made based on their respective religions. This means that everything that the Notary does in carrying out the duties of his/her office will be held accountable in the form that God wants. Second, Notaries must be responsible to the State and society, meaning that the state has given trust to carry out as a state duty in the field of civil law, namely in making evidence in the form of deeds that have perfect evidentiary power and to the public who have believed that Notaries are able to formulate their will into the form of Notarial deeds, and believe that Notaries are able to keep and keep secret all information or speech given before Notaries (Alfiansyah, 2019).

### **Proposed Resolution on Notarial Issues**

#### **a. Resolution of Notary Issues in Indonesia**

In the context of law enforcement, various solutions are offered to the various factors that trigger violations in Indonesia, such as: (1) Reforming notarial regulations so that the Notary Position Law and Code of Ethics are more effective; (2) Revitalizing the organization; (3) Addressing human resource issues in terms of education, recruitment and practice, as well as anticipating issues of competitive demands, welfare, moral integrity; (4) Continuous supervision with the active role of relevant institutions supported by independent institutions; (5) Coaching and improving skills and professionalism through socialization, performance improvement, resilience, further studies and scientific activities (Purwaningsih, 2015).

In addition to repressive sanctions that have been regulated and given to notaries for violations of notarial rules, there are also various preventive law enforcement, such as: (a) Guidance by the relevant institute, by conducting guidance and supervision of Notaries, namely by means of: annual or periodic inspection of Notary protocols and socialization of the Notary Position Law No. 30 of 2004 and its implementing rules; (b) Increasing coordination and cooperation

between notaries and the Indonesian Notary Association through scientific activities to foster a better sense of professional solidarity and uphold behavior in accordance with the Code of Ethics and cooperate mutually with the enrichment of scientific material relevant to the field of Notary work. (c) Continuous supervision as a sign of the effectiveness of law enforcement that supports the implementation of the Notary Position Law and code of ethics to ensure legal certainty and prevention of violations that harm the public. Referring to Articles 67-76 of the Notary Position Law, supervision of Notaries is carried out by the Minister through the Supervisory Council which covers the behavior of Notaries and the implementation of the Notary position. Whereas in the Code of Ethics Article 7, supervision of the implementation of the Code of Ethics is carried out by the Management of the Indonesian Notary Association and the Honorary Council; (d) The need for a more independent and professional supervisory institution to assess and examine and supervise the implementation of the duties of the office of Notary, considering that this supervision is carried out by the Supervisory Assembly and the Honorary Council as well as the Management of the Indonesian Notary Association related to the Notary Office Law and the Code of Ethics. This independent institution should be professionals and seniors who are well versed in notarial science but are not practicing as notaries (Purwaningsih, 2015).

#### b. Resolution of Notary Issues in Louisiana

In 2012, the Louisiana State Bar Association ("LSBA") received complaints that notaries in Louisiana may be engaged in the unauthorized practice of law in the areas of real estate transactions and domestic law. In its fact-finding, however, no complaints regarding the unauthorized practice of law by non-lawyer Notaries were received. The LSBA has proposed legislation to provide additional civil remedies for the unauthorized practice of law. On January 17, 2015, the House of Delegates and Board of Governors of the LSBA adopted a resolution drafted by the LSBA Unauthorized Practice of Law Committee. This proposed statute would authorize the Louisiana Attorney General, the LSBA, or any district attorney to petition to enjoin any natural or juridical person, except licensed, suspended, or disbarred attorneys, from engaging in unauthorized legal practice. In a well researched and reasoned decision in 2009, the Louisiana First Circuit Court of Appeal held in *Louisiana State Bar Ass'n v. Carr & Assoc., Inc.* that the LSBA has standing to sue to enjoin the unauthorized practice of law. This legislation would codify that decision and add district attorneys and the attorney general as parties authorized to pursue an injunction. Under LUPTA the attorney general is already authorized to sue to enjoin unauthorized legal practice if deception is involved. The proposed statute would eliminate the need to prove deception. The proposed statute would also allow anyone except an attorney or law firm to sue for "general

damages, special damages and all other damages" resulting from unauthorized legal practice (Stephenson, 2015).

### Insights on Issues and Key Takeaways

Notary as a public official who has been given the trust by the state and also the public in Notary as a public official who has been given the trust by the state and also the public in making an authentic deed, making notaries must maintain the dignity of their position by avoiding violations and mistakes that can cause harm to others (Triwahyuni, 2020). In terms of qualifications to become a notary, the state of Louisiana allows a lawyer who doubles as a notary with easier requirements than someone who directly becomes a notary without being a lawyer first. On the other hand, concurrent positions as a lawyer are prohibited in Indonesia (Amalia, 2022). The existence of concurrent positions as practiced by notaries in Louisiana is an example that should not be followed by other countries. Avoiding the practice of dual positions has an important reason, where as a lawyer who is tasked with providing legal services both inside and outside the court for the legal interests of his clients has created an element of partiality, which is different from notaries who are independent and impartial in carrying out their positions. This dual position between a notary and a lawyer can be a conflict of interest when making a deed, where the notary with his power as a lawyer can influence his client with the aim of enriching himself to use the services of his notary office and also the contents of the deed tend to benefit the party he is pressuring (Oktavia, 2019). For the differences that are evident from the comparison, as a fellow country that adheres to the Civil Law legal system, this can be an input for the state of Louisiana to consider separating the duties of a lawyer from a notary which can overlap and cause confusion in terms of the division of the realm of duties for lawyers who become notaries with individuals who have purely become notaries since the beginning of their positions. In addition, for the State of Indonesia, this is a hope for prospective notaries or those who have become notaries to stick to the regulations that have been enacted to anticipate dual positions and avoid overlapping professions.

In addition, the qualifications to become a notary as seen from the level of education and age as a notary in Indonesia and Louisiana have a big difference where in Indonesia, a notary must be 27 years old and have an undergraduate education in notarial law which is also equipped with an internship and an exam with long stages, while becoming a notary in Louisiana is only required to be at least 18 years old and have a high school education or equivalent which is then only accompanied by a notarial exam (Primudyastutie & Sulistyono, 2021). The vast difference in requirements to become a notary between Indonesia and Louisiana shows that notaries in Louisiana have not forged notary skills in depth before going into the community. In contrast, the requirements to become a notary in Indonesia

can be used as an example to other countries to broaden the horizons and experience of prospective notaries accompanied by stages of examination to demonstrate their ability and readiness before going into the field. The importance of these strict requirements is to avoid fatal consequences for the lack of understanding and experience of the prospective notaries in dealing with various kinds of problems owned by their clients. With this difference, the complexity of the requirements of the State of Indonesia can be an input for the State of Louisiana to increase the requirements for prospective notaries in its regulations so that it can be the basis for assessing the Louisiana government's maturity in the ability of prospective notaries to deal with various problems in their profession, this can also be an anticipation to avoid the influx of young prospective notaries who enter the field because the level of education and age is quite low as a requirement. For the State of Indonesia, the regulations that have been formed and notaries who have faced various obstacles that have been formed by the state and notary organizations, can be a better example for prospective notaries who will join without relaxing the existing requirements, because this training will be the root for the constancy of the notary profession.

Indonesian and Louisiana notaries who have similarities in carrying out their duties and authorities as fellow adherents of the Civil Law system, apparently also present differences in the duties of notaries as legal advisors, where notaries in Indonesia and notary-lawyers in Louisiana are allowed to perform their duties as legal advisors for their clients. However, except for non-lawyer notaries in Louisiana who are prohibited from providing legal advice to their clients on the grounds that it is incompetent for a notary who does not have a background as a lawyer to provide advice to his client (Alkatiri et al., 2021). In accordance with the duties of a notary as a maker of deeds or legal documents for the benefit of his client, a notary should also be able to provide an in-depth understanding to his client regarding the deed or legal document that he will make and execute before the notary (R. N. Putri & Adjie, 2020). The duty of a notary as a legal advisor as in Indonesia can be an example for notaries in other countries, especially non-lawyer notaries in Louisiana, so that notaries are able to direct and pave the way for their clients in understanding the legal documents to be made, so that they will be free from circumstances that can result in unlawful acts (Utomo, 2022). This is because as ordinary people who do not understand matters relating to the law of a document, the community must get advice that should be done so that it does not conflict with existing laws, if the community acts on its own accord, and the non-lawyer notary immediately approves the matter submitted to them without any consideration in the document, it will become a threat to the state with community documents that lack the attention of notaries who have been given trust for the state and society.

Notaries in carrying out their duties cannot be separated from the legal risks that they must face when there are errors in making authentic deeds or other legal documents either intentionally or unintentionally. Louisiana notaries have provided evidence of anticipation of these risks with the presence of guarantees and insurance for notaries practicing in Louisiana. Protection of notaries through insurance is an urgency that must be ratified by other countries, so that notaries in carrying out their positions will feel safe because they have protection against the risks they will face (Zamil et al., 2022). Indonesian Notaries in dedicating their profession to the community, can make Notaries in Louisiana as a guide in applying insurance to Indonesian Notaries. This will be very useful for Indonesian Notaries to guarantee and anticipate their profession in order to obtain coverage and reimbursement for losses, errors, costs incurred, lost profits or legal liability to third parties. Behind the anticipation of these risks, fatal risks will lead to sanctions for notaries. Sanctions imposed on notaries in carrying out their duties and authorities between notaries in Indonesia and Louisiana have been strictly regulated in terms of administrative, civil, criminal sanctions that lead to the termination of the notary position (Putra, 2020). The sanctions applied by these two countries have become an example for other countries to discipline notaries in their respective countries. The firmness stipulated in the sanctions can be a warning threat for notaries in every country to be careful in carrying out their duties in serving the public interest and avoiding mistakes and violations that could risk their position as notaries. So that with the clarity of the provisions of the sanctions that have been regulated, it will make a guide for the public to put deep trust in all legal actions that will be carried out by notaries for public needs (Jurnalistika et al., 2022).

For the violations that have occurred and will occur in the world of notaries in Indonesia and Louisiana, each state has provided the best resolution to improve the professionalism of notaries who have been elected and trusted by the state and society to prove the originality of a document. In terms of finding and implementing solutions that have been carried out by each country, it has proven the best performance of the country, but in this increasingly advanced and modern society, problems that have been prevented by various precautions often reappear in the world of notaries. Therefore, Indonesia and Louisiana can take examples of preventive measures that have been implemented by each country, where Indonesia can make deeper improvements to the supervision of notaries either by amending the Notary Office Law or the Code of Ethics, adopting or ratifying regulations that can trigger notaries who are more responsible for their duties. In addition, preventive efforts made by Indonesia can be a reference for Notaries in Louisiana to further foster a good sense of professional solidarity and work in mutualism through routine activities, scientific activities, enrichment of scientific materials relevant to the field of notary work and socialization of regulations and

consequences that can be given. This preventive effort can also be a suggestion and reference for notaries in other countries besides Indonesia and Louisiana, so as to improve positive law and form a deeper body of knowledge in the field of notarial work.

#### D. CONCLUSION

Indonesian and Louisiana notaries have significant differences in terms of history, qualifications, duties and authorities, sanctions, and resolution of problems in the world of notaries which can be seen in each country by the regulations governing. Indonesian notary becomes an independent profession without concurrent positions and also notary insurance. Qualification to become a notary must have an undergraduate degree in notary public, undergo an internship and a notary exam is compulsory. Meanwhile, Louisiana notaries require notary insurance and allow concurrent positions as notary-lawyers with educational requirements, exams, and internships that are excused and easier than the requirements as non-lawyer notaries. The differences found can be a reference and opening of understanding in developing or improving notarial regulations in Indonesia and Louisiana or other countries in order to achieve affluence for the nation and state. This research can be a recommendation for further research by additional on developing the scope of research which is not only limited to this study, especially studies related to the comparison of the use of insurance in the world of notaries that have not been explained in depth in this study.

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#### COMPETING INTEREST

None.