

Juridical Analysis of the Notary's Position as a Witness in Trials Is Linked to the Notary's Right To Refuse



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ABSTRACT: The importance of the Notary's role as an official who witnesses the execution of a legitimate deed cannot be overstated. Notaries have the option to retract their statements, but occasionally they are called upon to give testimony. This study is to investigate notaries' status as witnesses in court proceedings and to assess the legal safeguards afforded to them about their refusal rights. Normative juridical research methodology is used. Secondary data is the kind of data that is used. Techniques for analyzing data that combine deductive reasoning and qualitative analysis. The results of this research are: first, The role of a Notary as a witness in a trial is essentially governed by the UUJN. Notaries are not required by laws to testify; in fact, their Oath of Office and Article 16 of the UUJN forbid them from speaking, not even in front of the court. Notaries have the prerogative and duty to refuse. To finish the legal process in court, the Notary must, however, also represent the state's interests. The Notary must testify during the trial if mandated by law. Notaries cannot decline to be used as witnesses without the approval of the Notary Honorary Council, in accordance with the provisions of Article 66 UUJN. Instead, notaries must be able to control when to speak and when to remain silent. Second, In order to testify in court, notaries are granted legal protection as Public Officials. Protection of Notaries as witnesses in criminal cases following the publication of Constitutional Court Decision No. 49/PUU-X/2012, which states that summoning a notary public requires first going via the Honorary Council of Notaries in compliance with Article 66 UUJN regulations. The rights and obligations of a Notary as stated in the Notary's oath of office, Article 16 paragraph (1) letter e and Article 54 UUJN, Article 1909 paragraph (3) of the Civil Code, and Article 322 of the Criminal Code also provide protection for notaries.

KEYWORDS: Notary, Right of Rejection, Trial, UUJN, Witness.

I. INTRODUCTION

Indonesia is a legal state that ensures certainty, order, and legal protection for each and every citizen through the application of Pancasila and the Republic of Indonesia's 1945 Constitution. Genuine written documentation of all acts, agreements, stipulations, and legal events made before or by authorized officials is required to ensure legal clarity, order, and protection. A notary is a public official who possesses the power to create valid deeds and other authorities as stipulated by law or as per Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary (hereafter referred to as UUJN). A notary's deed may serve as the legal foundation for a person's possessions, rights, and responsibilities. If a notarial deed is drawn up incorrectly, a person's rights may be taken away or someone may be burdened with an obligation (Anshori, 2009).

A deed made before or by a Notary has the power as perfect and strong evidence and has the power of execution (Adjie, 2008). A deed is authentic, not because it is stipulated by law, but because it is made by or in the presence of an authorized official (Sulhan, Lubis, & Syahnel, 2018). Notaries must first take an oath of office before carrying out their duties. The Notary's oath of office stipulates that the Notary promises to keep the contents of the Deed confidential as closely as possible in accordance with the provisions of these regulations. This relates to the Notary as a position of trust. So, the Notary can only give, show, or inform the contents of the Deed, grosse of the Deed, copy of the Deed, or excerpt of the Deed to directly interested parties, heirs, or people who obtain rights (Dewi, Atmadja, & Yusa, 2018). This is based on Article 4 paragraph (2) and Article 54 paragraph (1) UUJN.

In essence, a position holding trust is required by law to maintain the confidentiality of the Deeds it prepares and the information/statements of the parties it obtains when making the Deed, unless the party requesting the information requests that the secret be disclosed. The purpose of the Notary's duty to maintain the confidentiality of the contents of the Deed and all information gathered during its preparation is to safeguard the parties' interests. Keeping the contents of a Deed confidential is also one of the obligations of a Notary as regulated in Article 16 paragraph (1) letter f UUJN which states that a Notary is obliged to "keep

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confidential everything regarding the deed he or she makes and all information obtained in order to make the deed in accordance with the oath/promise of office, except the law determines otherwise.”

Based on the right to disobey and the obligation to disobey, the Notary has the right to be released as a witness under the terms of Article 170 paragraph (1) of the Criminal Procedure Code, which states that people who are required to keep secrets due to their work, dignity, or position may request to be released from exercising their right to testify as a witness, specifically regarding matters entrusted to them, and Article 1909 of the Civil Code, which states that anyone who is required to keep secrets due to their position, work, or position under the law may request to be released from testifying as a witness, provided that the information is about matters entrusted to them (Prabawa, 2017).

The Criminal Procedure Code's Article 184, which covers witness and expert statements, letters, instructions, and defendant statements, will constitute the foundation of the evidential procedure in the criminal justice system. Written evidence, evidence involving witnesses, accusations, confessions, oaths, and anything else that complies with the requirements set forth in the Civil Code may all be used as evidence under Article 1866 of the Civil Code. Over time, in certain cases the parties involved in the case may be represented by lawyers, prosecutors, or the parties concerned and the court feels the need to present a notary as a witness regarding the deed that has been made. In the event of a dispute, an authentic deed which is the strongest and most complete evidence can make a real contribution to resolving the dispute.

In light of the fact that a Notary must testify in court regarding a deed they have executed, even though they have the freedom and duty to refuse, UUJN Article 66 paragraph (1) stipulates that, in the interest of justice, investigators, public prosecutors, or judges who have the consent of The Honorary Council of Notaries may:

a) Take a photocopy of the Deed Minutes and/or letters attached to the Deed Minutes or Notary Protocol in the Notary's custody;
And

b) Summon the Notary to attend an examination relating to the Notarial Deed or Protocol which is in the Notary's custody.

This provision stipulates that if a Notary is summoned by the Police, Prosecutor's Office or Judge, the agency is obliged to ask for approval from the Notary Honorary Council (MKN). This provision is related to Article 322 paragraph (1) of the Criminal Code which states that anyone who deliberately discloses a secret that he or she is obliged to keep because of his or her position or occupation, whether current or previous, is threatened with imprisonment for a maximum of nine months or a fine of a maximum of six hundred rupiah (Aziza, Trisanti, & Aristyanti, 2020).

Based on the description above, a Notary cannot immediately refuse to provide information on the grounds of official confidentiality. The Notary can be used as a witness and asked for information regarding the deed he has made if the Notary's Honorary Council approves the request submitted by the Police or Prosecutor's Office or Judge. In this case, the existence of the Notary Honorary Council is actually very strategic. Even though it is in accordance with the rules established by law that notaries must maintain the confidentiality of the contents of the deed, in reality in the examination of criminal cases there are notaries who are asked to testify regarding the deed they have made for the sake of law enforcement and legal certainty (Yanty, 2013). This requires the notary to be careful when providing information at the trial or providing information on the contents of the deed that is required at the trial.

As one of the legal instruments, on the one hand, notaries have the right to disavow as professional public officials and must uphold their oath of office not to disclose the contents of their deeds, on the other hand, notaries must stand in the interests of the state which refers to the public interest in order to complete the legal process in court. so as to produce decisions that are fair, useful and guarantee certainty, as regulated in the last sentence of Article 16 paragraph (1) letter f UUJN, that unless the law determines otherwise, and the last sentence of Article 54 paragraph (1) UUJN that, unless otherwise determined by statutory regulations. In this arrangement, it gives the impression that a notary can disclose the contents of the deed to parties who have no interest in it, such as the police, as long as it is supported by statutory regulations.

When the UUJN is promulgated, Notaries hope to receive proportional protection in carrying out their duties as a position of trust, meaning that when the Notary Honorary Council responds to requests submitted by the Police or Prosecutor's Office or Judge, they must truly be in a position to protect the Notary's interests, remembering the UUJN regulates the right of rebuttal of Notaries. Basically, a notarial deed is a state archive that must be protected and its contents and confidentiality must be maintained. It cannot be opened and handed over to parties who have no interest in the deed. This will be a dilemma for Notaries that authentic deeds which are State archives must be kept confidential. However, the Notary must also provide information and evidence as a photocopy of the authentic deed to serve as evidence during the examination and before the trial if there is a problem with the authentic deed that has been made. Based on this description, according to the author, there is a need for a more in-depth study regarding the position of Notaries as witnesses in trials, as well as legal protection for Notaries who are used as witnesses in trials related to the Notary's right to refuse. Therefore, the author is interested in conducting research with the title "Judicial Analysis of the Position of Notaries as Witnesses in Trials Linked to the Notary's Right to Defy".

II. RESEARCH METHOD

In this research, the author uses a normative juridical legal approach which is often called doctrinal research. Normative legal research is legal research carried out by examining library materials, which includes research on legal principles, legal systematics, levels of vertical and horizontal synchronization, and legal comparisons (Soekanto & Sri Mamudji, 2013). The approaches used are the statutory approach and the conceptual approach. The type of data used is secondary data in the form of statutory regulations and legal writings. The data collection method uses library research. This research uses data analysis techniques with deductive logic, which is a way of interpreting and explaining the research material obtained based on legal understanding, legal regulations, legal theories, and doctrines related to the problem under study. Legal regulations are needed as major premises, then correlated with relevant legal facts which are used as minor premises and through a syllogism process a conclusion will be obtained on the problem being studied. According to Peter Mahmud Marzuki who quoted the opinion of Philipus M. Hadjon, explaining the deduction method as the syllogism taught by Aristotle, the use of the deduction method stems from submitting a major premise (general statement), then submitting a minor premise (specific in nature), from those two premises then a conclusion or conclusion is drawn (Marzuki, 2010). Legal regulations are used as major premises and legal facts are used as minor premises.

III. RESEARCH RESULT

Notary's Position as a Witness in Trial

A notary is a public servant with the power to create genuine deeds and other powers as stipulated by the UUJN or other laws. A Notarial deed is defined as an official deed made by or before a Notary in the form and according to the procedures specified in this legislation, as stated in Article 1 number 7 UUJN-P. On the other hand, a deed that is made by or in the presence of public officials who have the power for the purpose for which it is made, in the manner specified by law, is considered authentic according to Article 1868 of the Civil Code. The task of the Notary's position is to express the wishes or actions of the parties in an authentic deed, while maintaining the applicable legal provisions. Consolidating the relationship between the parties in written form and a certain format, so as to realize legal relations between legal subjects of a civil nature is also the duty of the Notary's position (Sulihandri & Rifiani, 2013). In carrying out his position, a notary must act professionally based on a noble personality and always carry out his duties in accordance with applicable laws and regulations as guidelines that must be obeyed. In Indonesia, notaries gather in an association called the Indonesian Notary Association (hereinafter abbreviated as INI). INI is a legal notary association and has been incorporated according to the Decree of the Minister of Justice of the Republic of Indonesia dated January 23 1995 Number C210221.HT.01.06.

Notary's obligations relating to the preparation of deeds are regulated in Article 16 paragraph (1) letters a to n UUJN. Of course, every Notary cannot avoid problems, whether because of the deed or because of the parties themselves. Problems that arise can drag the notary into becoming a witness, suspect or even defendant in a case. The problems in question can be criminal, civil or PTUN cases. This can result in the notary not only being subject to prosecution but also sanctions if he is proven to have violated the applicable laws and regulations. These sanctions have been regulated in such a way both in the UUJN and the Notary's Code of Ethics (Aulia, 2020).

The duties and authority of a Notary as an authentic deed maker play a significant role in realizing legal certainty and public protection. This is because an authentic deed is said to be perfect evidence of a certain legal action and/or event. Basically, an authentic deed or minutes made by a Notary contains confidentiality. For this reason, examination of authentic deeds and notaries is carried out in accordance with the provisions of the law (Firmansyah & Wahyuningsih, 2017). According to Article 66 paragraph (1) UUJN, a Notary may only be examined with permission from the Notary Honorary Council. If the Notary Honorary Council does not respond to a request for authorization made by the Police, Prosecutor's Office, or Judge to obtain a photocopy of the Deed Minutes and/or letters attached to the Deed Minutes or Notary Protocol in the Notary's custody, or to call the Notary to appear at an examination pertaining to the Notary's Deed or Protocol which is in the Notary's custody, then the Notary Honorary Council is considered to have granted permission. Therefore, requests to summon and examine a Notary in court made by investigators, prosecutors, or judges may be approved or denied by the Notary Honorary Council. The Regional Supervisory Council (MPD), which formerly held this jurisdiction, has since been declared invalid by Constitutional Court Decision Number 49/PUU-X/2012 (Rani, Ali, & Edwar, 2019).

Basically, Article 16 paragraph (1) letter f UUJN regulates that the Notary is obliged to keep everything regarding the deed confidential unless the law determines otherwise. Thus, the only limitation is that the law can order the Notary to disclose the contents of the deed. This provision is a remiss obligation given by UUJN to the Notary. A notary as a position of trust is obliged to keep secrets regarding the deeds he makes. Although Article 1909 of the Civil Code requires every competent person to be a witness and to give testimony before the court. However, this provision does not apply to those who, based on statutory provisions, are not permitted to speak. The basis for the obligation to deny positions of trust lies in the interests of society, so that if someone is in trouble, they can contact someone they trust to get the help they need in the juridical field without harming them (Marjon, 2016).

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There are no laws in the UUJN requiring notaries to testify; rather, notaries are prohibited from speaking, even in court, by their oath of office and Article 16 of the UUJN. This means that notaries cannot testify about anything that is contained in their deed. Notaries are required to refuse, and their right to refuse serves the interests of the parties who have entrusted them, believing that the Notary will be able to retain all of the parties' statements or complete information provided to them before the Notary makes the deed (Adinugraha & Oktafianto, 2015). Apart from that, the Notary's obligation to provide testimony is also regulated in Article 1909 paragraph (3) of the Civil Code and Article 322 of the Criminal Code. According to Ko Tjay Sing, the term used is work secret, he explains the theory of absolute secrecy: it is called absolute because it is mandatory to keep work secrets under any circumstances, ordinary or extraordinary and in any case it is mandatory to keep the secret (Sing, 1978). Based on this understanding, the notary is obliged to keep the contents of the deed and information obtained by him because of his position confidential at any time and under any conditions.

Notaries have a duty to always consider UUJN when performing their official obligations. One of the pledges taken by an official making valid deeds and sworn in under Article 4 UUJN is that they will maintain the confidentiality of all information learned during the course of performing their duties. Article 16 (1) letter e specifies that "unless the law determines otherwise, keep confidential everything regarding the deed he makes and all information obtained to make the deed in accordance with the oath/promise of office". Article 54 of the UUJN states that, unless otherwise specified by law, a Notary may only give, show, or notify the person who has a direct interest in the deed, the heir, or the person who has acquired the right, the contents of the deed, the grosse of the deed, a copy of the deed, or an excerpt of the deed. Based on the provisions in the Civil Code, Criminal Procedure Code, Criminal Code, and UUJN, the right to disavow as a manifestation of the secret implementation of the notary's office, remains attached to the notary's position.

Article 4 paragraph (2) UUJN requires notaries not to speak, meaning that notaries are not permitted to provide information regarding what is contained in the deed they have made and any information obtained in the performance of their office, however, based on Article 16 paragraph (1) letter e jo Article 54 UUJN, the exercise of the right to keep the contents of the deed confidential coincides with the exercise of the right to be able to give testimony whenever there is a law, in other words the notary is exercising the right to speak. Thus, the notary must be able to limit himself to when to speak and when not to speak, the notary cannot refuse to be used as a witness with the approval of the Notary Honorary Council, in accordance with the provisions of Article 66 UUJN. If the relevant regulation expressly stipulates that a notary is obliged to provide testimony or to show, then specifically for that purpose he is exempt from the oath and secret of office (Anshori, 2009). If a Notary gives testimony at a trial, then uses his right to disavow, then the Notary must be released from his obligation as a witness or to give testimony before the court, if he uses his right to disavow, because legally, according to the knowledge of the Notary concerned, the testimony to be given is considered contradictory. with an oath of office or violating official secrets. Secondly, it frees the notary from all legal demands from interested parties, if the right to refuse is apparently rejected by the judge/tribunal or according to legal provisions he is required to provide testimony before the court.

Legal protection for notaries who serve as witnesses in trials is linked to the notary's right to refuse

Basically, the position of Notary is a position of trust, and to protect the trust and interests of the public, the notary has an obligation to keep confidential all legal acts outlined in the contents of the deed and all information given to the notary in making the deed (Adjie, 2012). In relation to legal protection, according to Philipus M. Hadjon, legal protection can be interpreted as an effort to provide rights to the protected party in accordance with the obligations they have undertaken. A notary is a public official who carries out his duties and authority based on law. So what gets protection here is the position. Position means a job (task) in a government or organization (Kebudayaan, 1994) Position is a legal subject, namely supporting rights and obligations. As a supporter of rights and obligations, this is related to the duties and authority of the position, so that any work carried out in the name of the position must be in accordance with the provisions of the laws and regulations. This is the legal umbrella for officials in carrying out their positions.

Legal protection is part of the working of the legal function to realize justice, benefit and also legal certainty. Protection itself is protection given to legal subjects in accordance with applicable legal regulations, whether it is preventive in nature, meaning prevention so that disputes do not occur by carrying out supervision. To avoid the occurrence of legal problems in the future, the implementation of the duties of a Notary must be guided by professional standards. So here a distinction must be made between professional standards which serve as guidelines for carrying out office duties and standards of behavior. Professional standards must be in accordance with the values that apply in a profession which will become the benchmark or basis for carrying out the profession. The formulation of professional standards is to carry out work carefully and carefully based on average abilities compared to other professional colleagues, with the same situations and conditions for concrete goals in the profession (Tedjosaputro, 2003). Based on this understanding, notaries in carrying out their official duties must have standards in the form of a code of ethics, namely the Notary's Code of Ethics which is applied in making authentic deeds.

In the event of a conflict in the choice to become a witness due to a summons from the authorities and the use of the right to disobey an oath of office, law enforcers should be able to differentiate between personal errors (foute personnelle fault) and errors in carrying out their official duties (faute de serive or in service fault). For errors of a personal nature, the Notary must be likened

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to an ordinary citizen whose responsibility can be asked and held accountable, so that the same legal protection mechanism applies to an ordinary citizen, but for errors related to his/her job duties/position, the authenticity of the deed -The deed is still guaranteed, but Notaries need to be given legal protection which has a different working mechanism from ordinary members of society. In this way, Notaries will feel safe, calm and at ease, because there is a guarantee of legal protection for Notaries in carrying out their duties as Public Officials. For him, it will be guaranteed that all arrests, detentions or investigations at the police, prosecutor's office and even before the court are carried out in accordance with applicable legal procedures and provisions.

Notaries as Public Officials are given legal protection by law in order to provide testimony in court. This legal protection is not merely used in the sense that a Notary is a position that is immune from the law, but the legal protection is for the professionalism of the Notary. Especially to protect the interests of the applicant which have been stated in the authentic deed, where the deed will become a state archive that deserves to be protected (Kie, 2011). Protection of Notaries as witnesses in criminal cases after the issuance of Constitutional Court Decision No. 49 / PUU- as intended in Article 1909 paragraph (3) of the Civil Code and Article 322 of the Criminal Code. The right to deny and the obligation to deny that a notary has provide protection for both the notary himself and the deed he makes. This of course also provides protection for the parties related to the deed. The existence of the right to refuse and the obligation to refuse to protect the disclosure of the contents of the deed from things that could harm it (Utama, 2022).

In accordance with Article 18 paragraph (2) of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 7 of 2016 regarding the Honorary Council of Notaries, which specifies that in performing the functions as specified in paragraph (1), the Honorary Council of Notaries The area's role is to offer direction within the framework of:

- a) Maintain the dignity and honor of Notaries in carrying out their professional position; And
- b) Provide protection to the Notary regarding the Notary's obligation to keep the contents of the Deed confidential.

The Notary Honorary Council will always provide guidance to notaries so that they will not encounter criminal acts in carrying out their official duties, and will also provide training and knowledge about notarial matters, authentic deeds and the relationship between authentic deeds and the parties and the confidentiality of a deed can be maintained. The existence of the Notary Honorary Council (MKN) is not to protect Notaries, but to foster and supervise Notaries, so that they continue to act in their position and behave in accordance with UUN and the Notary Code of Ethics, meaning that the Notary Honorary Council cannot provide any guarantees to Notaries who are proven to have violated statutory regulations. -invitation. The existence of a Notary Honorary Council to guide and examine Notaries if the deed they make is suspected of having problems before being submitted to government officials (Zagoto, 2020).

In essence, the right to withdraw refers to the ability to decline to testify in court in either a civil or criminal case. Notaries are afforded greater discretion when using their legal right of recusal in civil disputes. The Dutch word *verschoningsrecht*, which refers to the right to be released from testifying as a witness in a civil or criminal action, is translated as "right of recusal." This privilege deviates from the conventional rule that everyone called as a witness must testify in person (Marjon, 2016). The option to decline to testify in court is known as the right of refusal. This denial extends to all relevant facts regarding the deed, not only the points made in the deed he made. This right is obligated to remain silent in addition to being restricted to that right.

In practice, there are still very few Notaries who can use this Right of Disclaimer, which determines whether or not the reason for being exempted from giving testimony is valid for the Notary. Exemption from the obligation to keep the contents of this deed confidential is also not a reason for them to simply give up their right to exercise the Right of Rejection. This is because the Right of Rejection is also granted for the public interest, so it cannot simply be set aside (Arisaputra, 2012). The right of recusal is not only a right but rather an obligation that must be carried out to protect both the notary profession itself and more specifically to protect the parties to the deed. In connection with the rights inherent in notaries, namely the right to disapprove, in an examination process, whether at the level of investigation, inquiry or during the trial process, the notary's attitude is passive, in the sense of providing information limited to matters relating to the implementation of his office only. The obligation to maintain confidentiality is mandatory not only to maintain the confidentiality of the contents of the deed but also to keep all information obtained confidential. Based on the description above, it can be explained that the right of recusal can be used as the right to withdraw from being a witness at the trial and/or not to speak at the trial regarding issues regarding a deed made by a notary. The right to deny testimony, if it is related to official secrets, is based on Article 170 paragraph (1) of the Criminal Procedure Code and Article 1909 paragraph (2) of the Civil Code. Therefore, if the confidentiality of this position is violated, the Notary will be subject to sanctions under Article 322 Paragraph (1) of the Criminal Code.

The use of the Right of Rejection is returned to the Notary concerned, in the sense that it is returned to their respective consciences. If he feels that he is in a wrong position and does not want to take sides, the Notary will use the Right of Refusal, but if the Notary's statement as a witness is very necessary for a trial process, then he can choose not to use the Right of Refusal and be willing to give testimony in the trial. A Notary who feels that there is a higher interest can waive the right of denial that he has, but even though the Right of Denial is handed over to the Notary himself, it is up to him to decide whether the Notary will give testimony or not give testimony. In the end, the judge will decide whether or not a notary needs to provide testimony in the case resolution process. There is an exception where the Notary is obliged to provide testimony because the Right to Disapprove cannot be used if

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it conflicts with other laws. Based on Article 16 paragraph (1) letter e and Article 54 UUJN, the last sentence says "...unless the Law determines otherwise." For example, the Corruption Crime Law Number 31 of 1999 which has been amended by Law Number 20 of 2001 concerning the Eradication of Corruption Crimes. Article 36 states that the obligation to provide testimony as intended in Article 35 also applies to those whose work, honor and dignity or their positions are required to keep secrets, except for religious officials who according to their beliefs must keep secrets. Thus, the Notary cannot use his Right of Rejection if the deed he makes is related to a criminal act of corruption.

IV. CONCLUSION

The position of a Notary as a witness in a trial is actually in the UUJN. There are no regulations that require a Notary to give testimony, in fact the Notary's Oath of Office and Article 16 of the UUJN require the Notary not to speak, even before the court, which means they are not allowed to give testimony regarding what is contained in the deed. Notaries have the obligation to deny and the right to deny. The right to refuse and the obligation to refuse is not for the Notary's personal interests, but for the interests of the parties who have entrusted the Notary. However, Notaries must also stand in the interests of the state which refers to the public interest in order to complete the legal process in court so as to produce a decision that is fair, useful and guarantees certainty, as regulated in the last sentence of Article 16 paragraph (1) letter f UUJN, that unless the law determines otherwise, and the last sentence of Article 54 paragraph (1) UUJN-P that, unless otherwise determined by statutory regulations, this means that if required by law the Notary must give testimony at the trial. Notaries must be able to limit themselves when to speak and when not to speak, notaries cannot refuse to be used as witnesses with the approval of the Notary Honorary Council, in accordance with the provisions of Article 66 UUJN.

Notaries as Public Officials are given legal protection by law in order to provide testimony in court. This legal protection is not merely used in the sense that a Notary is a position that is immune from the law, but the legal protection is for the professionalism of the Notary. Protection of Notaries as witnesses in criminal cases after the issuance of Constitutional Court Decision No. 49 / PUU- from the rights and obligations of a notary as referred to in the Notary's oath of office, Article 16 paragraph (1) letter e and Article 54 UUJN, Article 1909 paragraph (3) of the Civil Code and Article 322 of the Criminal Code. The right to deny and the obligation to deny that a notary has provide protection for both the notary himself and the deed he makes. This of course also provides protection for the parties related to the deed. The existence of the right to refuse and the obligation to refuse to protect the disclosure of the contents of the deed from things that could harm it. A Notary can use the right of denial if he is asked to provide testimony regarding a deed he has made, but the Notary can also not use the right of denial if the Notary's statement as a witness is very necessary for a trial process or is required by law.

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