

## Legal Constructions of Apprenticeship for Notary Candidates in the Framework of *Rechtsidee*

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### Abstract

This article discusses the concept of the legal construction of notary candidate apprenticeship within the framework of *rechtsidee* (law ideals). This article demonstrates that the so called *rechtsidee* has always focused on three ideals, namely legal certainty, legal justice, and legal benefit. With regards to apprenticeship, it is argued, however, that these three ideals are not sufficient. Most legal studies have forgotten another basic ideal, namely the education principal which is inevitable in establishing a professional and qualified notary. The article demonstrates how the apprenticeship should be addressed to reveal the concept of legal construction for prospective public notaries. It is believed that there is a legal but moral relationship between a notary candidate and a notary public apprentice under the supervision of the government or a designated official. The principles of education in apprenticeships would enable the notary candidates to have sufficient knowledge and wisdom, and other character buildings like dedication, harmony, mutual relationships, role model, as well as, but not limited to, honesty. Given its functions, apprenticeship legal construction has to be developed in regulations not only based on the principles of legal certainty, legal justice, and legal benefit, but also on the principles of education.

**Key words:** legal construction; apprenticeship; notary; education.

## A. Background

Every man might always be in need of law as long as his relationship and interaction with others are concerned. So, a good law is made to provide services and fulfil people's interests.<sup>1</sup> According to Gustav Radbruch, the legal framework contains elements of legal justice, legal benefit and legal certainty.<sup>2</sup> In line with its functions, the construction of apprenticeship law shall provide the very ideal of law which called *rechtsidee*.<sup>3</sup> In general speaking, the legal objectives of the *rechtsidee* is to ensure that regulations shall stand on the principle of justice, legal certainty, and legal benefit. Despite these three principles, however, the idea of *rechtsidee* seems to have failed to address wider principals that might be developed in legal philosophy. Therefore, the principals of *rechtsidee* are insufficient as long as the apprenticeship regulations are concerned.

The provisions of Article 3 of the Indonesian Law Number 2 of 2014 on Office of Notary Public regulates that the apprenticeship of notaries shall take at least 2 consecutive years, while the Article 16 section (1) regulates an obligation that a notary be willing to join an apprenticeship. In addition to regular apprenticeship regulated in rules of notary profession, there is also known a joint apprenticeship

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1 Nurul Qamar, *Hak Asasi Manusia Dalam Negara Hukum Demokrasi*, First imprint, Sinar Grafika, Jakarta, 2013, p. 13.

2 Dedy Nursamsi, "Kerangka Cita Hukum (RechtIdee) Bangsa Sebagai Dasar Kewenangan Mahkamah Konstitusi Menguji Peraturan Pemerintah Pengganti Undang-Undang," *Cita Hukum* Vol. 2 No. 2014, Faculty Syariah and Law, State Islamic University of Syarif Hidayatullah, Jakarta, p. 92.

3 The idea of *rechtsidee* implies that in essence the law as a rule of conduct in society is rooted in the ideas, feelings, intentions and thoughts of the community alone. Hence, the ideal framework of law (*rechtsidee*) comprises are ideas, intentions, creativity and thoughts as long as the law is concerned or perceptions of the meaning of the law which consists of three elements: legal justice, legal usefulness (*doelmatigheid*) and legal certainty. In the social life, the ideals of the law shall influence and function as general guiding principles, critical norms and motivating factors in law enforcements. Bernard Arief Sidharta, *Refleksi Tentang Struktur Ilmu Hukum-Sebuah Penelitian Tentang Fundasi Kefilsafatan dan Sifat Keilmuan Ilmu Hukum Sebagai Landasan Pengembangan Ilmu Hukum Nasional Indonesia*, Mandar Maju, Bandung, 2000, p. 180-181.

which is set out in the Regulation of Indonesian Notary Public Association concerning Apprenticeship. However, the joint apprenticeship is not recommended by the Law of Notary Profession on apprenticeship resulting in a legal uncertainty. In a normative perspective, provisions of the apprenticeship are still unclear because there are no provisions of sanctions upon the non-compliance, there are no provisions to supervise institutions, a too long duration of apprenticeship which is perceived injustice by the notary candidates, and there is no well-structured apprenticeship program. Besides, many senior notaries are reluctant to accept notary candidates to follow an apprenticeship program in their office due to the absence of sanctions. It is demonstrated here that the construction of apprenticeship laws has failed to meet the ideal of law (*rechtsidee*).

Ria Anugrah suggests in her thesis that the idea of joint apprenticeship mechanism to achieve the required competencies has run well. However, in practice, the participants are charged with high administrative costs. Besides, in the implementation, the joint apprenticeship usually takes one day which is equal to one semester. In fact, the materials of apprenticeship that are similar to the course syllabus in a university. In addition, the regulation of Notary Public Association simply deals with the obligations of notary candidates.<sup>4</sup> However, it is found in the thesis weaknesses as she has failed to analyze the idea of apprenticeship with the principle of *rechtsIdee*. Neither is the joint apprenticeship regulated nor it is recommended in the Law of Notary Profession as the higher regulation the legislation hierarchy.

According to Vittorio Olgiati, the effort to control the quality of the notary profession, the education and the apprenticeship of notary candidates are of the best ways to increase the competitiveness level of the notary profession vis a vis other legal profession. A notary is expected not only to have technical and administrative expertise, but

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4 Ria Anugrah, Widodo Suryandono, "Pelaksanaan Magang Bersama Untuk Meningkatkan Keterampilan Notaris (Studi Pelaksana di Pengurus Wilayah Sumatera Selatan)," *Thesis*, Magister of Notary, University of Indonesia, <http://www.notary.ui.ac.id/index.php/home/article/download/220/89>

also an ability to explain and find new technical legal schemes and contract models that are now increasingly developing and varied.<sup>5</sup>

In many countries with Civil Law system or Common Law system,<sup>6</sup> especially in many parts of Europe, the Netherlands, France, Central America, South America, including Indonesia, the notaries follow the Latin type. The regulation in accepting a notary candidate to become a notary in Indonesia that adheres to civil law system is carried out after completing his/her education at a Notary Master. He/she must first become an extraordinary member of the notary organization from which he/she can continue his/her apprenticeship at the notary office. Education for prospective notaries in the civil law system is a requirement, because in this legal system. In Indonesia, notaries are public officials who have the authority to make authentic deeds.<sup>7</sup> According to Lavato and Laurini the Latin-type notary is both a public officer and a private free-lance practitioner. Enrolled in a compulsory professional guild, he practices under the supervision of the Judiciary. By virtue of the legal relevance of the so-called 'public act' in Civil Law system, he has a monopolistic power granted by the State over the production of 'original notarial deeds.' However, within this general framework, he organizes his office autonomously, is individually responsible for his expertise and lives on his earnings.<sup>8</sup>

It is learnt from Lavato and Laurini's elaboration regarding the obligation of a notary candidate becoming a member of the notary organization, it is unfair to have such responsibility for the notary candidates. This writing aims to address a legal construction concept

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5 Vittorio Olgiati, "The Latin-type Notary and the Process of European Unification," *International Journal of The Legal Profession*, Vol. 1 No. 3, 1994, p. 260

6 Abdul Hadi, "Mengenal Sistem Hukum di berbagai Belahan Dunia," <https://tirto.id/mengenal-sistem-hukum-di-berbagai-belahan-dunia-ezyL>, accessed on 22 November 2020.

7 Dwi Suryahartati, "Legal Education for Notary Position in Indonesia," *Journal of Advances in Social Science and Humanities*, Vol. 4 (12), DOI 10.15520/jassh412377, 2018, p. 442.

8 Lovato in Vittorio Olgiati, The Latin-type Notary and the process of European Unification, *International Journal of The Legal Profession*, Vol. 1 No. 3, 1994, p. 259.

for notary candidates in apprenticeship based on the principle of education, the principle of benefit, the principle of legal certainty, and the principle of justice.

## **B. The Concept of Legal Construction of Apprenticeship**

### ***1. The Concept of Legal Construction of Apprenticeship Based on the Expediency Principle***

Law is aimed to provide ways for individuals in the society in order to achieve ultimate happiness.<sup>9</sup> Therefore, apprenticeship activities shall create harmonious relationships between the notary candidate and the apprentice recipient; this was to bring happiness to them. Notaries who have received apprenticeship were happy to transfer their knowledge to notary candidate. Similarly, the notary candidates would be happy to receive knowledge about notarial practices they might have accepted less in universities.

According to Nadiem Makarim, to realize the education program for “*Merdeka Belajar*” (independent of learning program) in Universities, an apprenticeship course is required with the content of 3-8 credits. He suggested that apprenticeship with a long period of time will make students get used to communicating with stakeholders.<sup>10</sup> This opinion, however, is only relevant for apprenticeships during course. Meanwhile, apprenticeships for notary candidate shall be carried out based on the mandate of the Law of Notary Profession. It was recommended that apprenticeship activities be carried out during education for a short period of time, at least 2 (two) months, and regular apprenticeship after completing the Master of Notary Education. This apprenticeship was carried out for a minimum of 1 year.

The apprenticeship practice for notary candidates is very important. It is stated by Habib Adjie that apprenticeship is aimed at see-

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9 Jeremy Bentham, in Frederikus Fios, “Keadilan Jeremy Bentham dan Relevansinya Bagi Praktik Hukum Kontemporer,” *Journal Humaniora*, Faculty of Humanities, BINUS University, Jakarta, p. 304.

10 <https://medium.com/@trisulaid/polemik-magang-ala-nadiem-makarim-dalam-kebijakan-kampus-merdeka-cc26311c2463>, accessed 11 November 2020.

ing how the administrative practices of notary activities, filling out books and documents used in notary practice.<sup>11</sup> Apprenticeships are required to fill the lacking of notarial practice in universities. The apprenticeship course is one of the requirements to become a notary as mandated in the Law on Notary Position.

The apprenticeship is the process of educating a notary candidate into independent, professional to enable them guarantee their activities within their authority as public services who can serve legal aids for the community. It is learnt from Hatta Isnaini and Wahyu Utomo that in the service for legal aids, people would need public servants who are able to protect, serve, and become the one to rely on and to trust whose signatures and services can create and provide certainty and perfection of evidence in legal events.<sup>12</sup>

## **2. The Concept of Apprenticeship Law Construction of Based on the Principle of Education**

The principle of educating needs to be applied in apprenticeship as it is one of the learning processes in the field as a complement to theoretical learning. According to Sumardiono, apprenticeship is a learning process with experts through activities in the real world, by practicing knowledge and skills to solve real problems around.<sup>13</sup> It is hoped from the implementation of the principle of educating consistently and correctly in the apprenticeship activity, prospective notaries would easily create notary candidates.

In order to improve the Notary Masters education, apprenticeship during lectures aims to increase students' insight as well as to notice legal facts in society. Apprenticeship advice during the educa-

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11 Habib Adjie, 2008, *Hukum Notaris Indonesia Tafsir Tematik Terhadap UU No. 30 Tahun 2004 tentang Jabatan Notaris*, PT. Refika Aditama, Bandung, p.63.

12 Hatta Isnaini, Wahyu Utomo, "The Existence of the Notary and Notarial Deeds within Private Procedural Law in the Industrial Revolution Era 4.0," *International Journal of Innovation, Creativity and Change*, Volume 10, Issue 3, 2019, p. 132.

13 Yulia Effrisanti, "Pembelajaran Berbasis Proyek Melalui Program Magang Sebagai Upaya Peningkatan Soft Skills Mahasiswa," *Jurnal Eksis*, Vol.X, No.1, April 2015, STIP PGRI Jombang, p. 32.

tion period is very beneficial for students. However, apprenticeships in the education period should not take be too long time. It should only be around 2-3 months instead. This must be set through higher education academic regulations.

Well education must pay attention to the educational principles of achieving quality educations. They are consistency, good exemplary, seriousness, honesty/objectiveness, compassionate.<sup>14</sup> To achieve consistency in the apprenticeship education, there shall be a legal norm set out in the legislation and academic rules so that it would be easier to uphold the regulation.

The definition of exemplary here refers to an example of the good behavior of educators as the management leaders in the notary office, including their professional ethics and skills in making deeds. The principle of knowledge transfer from apprentice recipients to notary candidates heavily determines the achievement of apprenticeship learning. Notary candidates are required to seriously participate in the apprenticeship program, be skillful, and be able to keep up with technological developments. Notary candidate shall behave trustfully because any fraudulent acts are punishable by criminal law. Notary who receives an apprenticeship must also be sincere, happy to deal with interns, because providing knowledge to Notary candidate was a noble act. The existence of a harmonious relationship between the apprentices and the supervisors will make the apprenticeship process run smoothly, and the goals are easily achieved. Every learning process also requires a learning evaluation which is carried out by the apprentice notary public. Where someone has not achieved the required result; the apprentice notary is obliged to provide feedback in order to improve the results to be achieved.

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14 Joko Suharto, "Prinsip-prinsip yang Harus Ditegakan Dalam Pendidikan Pendidikan," *Fakta Pers.id*, 25 December 2018, <https://faktapers.id/2018/12/prinsip-prinsip-yang-harus-ditegakkan-dalam-pendidikan/> accessed in 12 November 2020.

### **3. The Concept of Legal Construction of Apprenticeship Regard to the Principle of Legal Justice**

Justice, according to John Rawls, has two types, namely: first, it must provide equal rights and opportunities to most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others.<sup>15</sup> As an implication of the principle of justice, everyone has the basic right to education and intelligence. Apprenticeship activities are parts of education that have already granted privileges in the eyes of human rights.

The second principle of justice is social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone's advantage, and (b) attached to positions and offices open to all.<sup>16</sup> Socio-economic disparities between prospective notaries who still have no income and notary apprentices who already have special income in the notary field, need to be regulated in such a way that benefits all parties. Notary apprenticeship recipients are allowed to order prospective notaries to make deeds based on orders from their clients, because this action benefits the prospective notary in gaining knowledge. It also benefits the notary apprenticeship recipient who has helped his work, as long as it is under the supervision of the notary.

Anyone who makes a mistake and negligence will be subject to sanctions, in accordance with the principle of investigative justice from Thomas Aquinas which says "A person is considered fair if he is sentenced to a corporal punishment or a fine, in accordance with the amount of the punishment that has been determined for the crime specified."<sup>17</sup> Notary candidates and notary apprenticeship recipient who violate the laws and regulations, based on the notary

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15 John Rawls, *A Theory of Justice*, Harvard University Press, Cambridge, Massachusetts, 1999, p. 52. See also Ana Suheri, "Wujud Keadilan dalam Masyarakat Ditinjau dalam Perspektif Hukum Nasional, *Jurnal Morality*, Vol. 4 No.1 June 2018, p. 63.

16 *Ibid.*

17 Muhamad Erwin, 2011, *Filsafat Hukum, Refleksi Kritis Terhadap Hukum*, RajaGrafindo Persada, Jakarta, p. 227.

code of ethics and the internship agreement, they will be subject to sanctions, either criminal sanctions, civil sanctions, or administrative sanctions according to the type of law they violate. Mistakes made by the notary candidates during the apprenticeship are the responsibility of the notary apprenticeship recipients as long as it is related to the context of making a deed in a formal context. Based on the Law on Notary Positions, the notary has responsibility for the formal form of the deed and not for the content or contents of the deed.<sup>18</sup>

#### ***4. The Concept of Legal Construction of Apprenticeship Regard to the Principle of Law Certainty***

In the framework of legal certainty, it is necessary to have written regulations governing apprenticeship. A good rule as what Lon Fuller put is:

A legal system consists of regulations, not based on momentary decisions for certain rights; The regulation was announced to the public; Not retroactive, because it will damage the integrity of the system; Made in a formula that is understood by the public; There should be no conflicting regulations; Should not demand an action more than what can be done; Should not be changed frequently; There must be a match between regulations and day-to-day implementation.<sup>19</sup>

The implication of the law certainty theory is that the provisions of the apprenticeship law has to be made in a written regulation by an authorized official. The authorized official is the one who is authorized to appoint a notary such as the Ministry of Law and Human Rights. The regulation is named as the Regulation of the Minister of Law and Human Rights.

The regulation is not a decision that validity period is temporary, or changes frequently. If a regulation changes frequently, it will

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18 Ibrahim Siranggi, Sukanda Husin, and Busyra Azheri, "Liability of Substitute Notary in Deed Correction," *International Journal of Multicultural and Multireligious Understanding (IJMMU)*, Vol. 6 No. 4, <http://dx.doi.org/10.18415/ijmmu.v6i4.945>, 2019, p. 33.

19 Fuller, *Menguak Teori Hukum (Legal Theory) dan Teori Peradilan (Judicialprudence), Termasuk Interpretasi Undang-undang (Legisprudence)*, Vol.1, Kenca, Jakarta, 2009, p. 294.

make it difficult for the public to know about it, and it is difficult to realize the legal certainty. These regulations must be published or announced to the public, especially to notaries, notary organizations, universities or the Notary Master study program. The announcement of a ministerial regulation is certainly made through official documents and state news.

Each statutory regulation comes into force on the date of promulgation or a date determined for the future, and might not apply retroactively to avoid the mess and not damage the integrity of the existing system. In order to ensure legal certainty, apprenticeship regulations shall use languages that are easy to understand, comply with good grammar rules, and avoid ambiguous interpretations. The formulation in the apprenticeship regulations and the apprenticeship agreement must use the national language where the apprenticeship is conducted.

The contents of the apprenticeship regulations and the apprenticeship agreement intended to regulate the rights and obligations of both notary candidates and notary apprenticeship recipients which normally are possible to implement, do not regulate obligations or actions beyond human's normal ability. For example, it does not regulate the obligation for notaries to provide honoraria to notary candidates who fail to satisfy apprenticeship. The actions to follow-up the notary candidates of notary apprenticeship recipients, comprising preparation of a structured apprenticeship program, placement of apprenticeships, implementation of apprenticeships, supervision of apprenticeships, evaluation, and termination of apprenticeship.

In addition, apprenticeship regulations should be enforced, that they were easy for both apprentice candidates and the recipient apprentices. In order to enforce the regulation easily, the legal substance has to meet criteria: *die gerechtigkeit* (justice); *die zewckmabigkeit* (benefit); *die rechtssicherheit* (certainty).<sup>20</sup> Where such the ideals of law are contained in a regulation, the construction of apprenticeship

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20 Nur Agus Susanto, "The Axiological Dimention From, The Case Decision of "ST", An Analysis Decision of Case Review Request Number 97 PK/Pid. Sus/2012," *Jurnal Yudisial*, Vol. 7 No. 3 December 2014, p. 214.

law can be accepted by the community, so that it is easy to enforce.

The apprenticeship regulation consists of several rules. The highest but the basic law is the Constitution, then the Law of Notary Profession, Government Regulations as implementing regulations of the Rule of Notary Profession, Ministerial Regulations related to notary which are now under the Ministry of Law and Human Rights, the Regulation of the Indonesian Notary Public Association which is applicable when it is recommended by a higher level regulation. Likewise, the academic regulations in higher education made by the Notary Master Study Program are validated by the lowest tertiary education leaders at the faculty level. All regulations must be made in accordance with the provisions of the formation of statutory regulations, not only based on decisions. Apprenticeship arrangements that shall be included in the Regulation of Ministry for certain relevant Minister, described as follows:

a. Apprenticeship placement arrangements

Apprenticeship placements can be done by the prospective interns to go by themselves to the Notary Office initiatively or it can be done based on the recommendation from the Ministry of Law office in the area where the apprenticeship is located to appoint a Notary for Apprentice Recipient. The appointment of a Notary Recipient of Apprenticeship as a teacher by the prospective notary is stipulated by the Ministry of Law on the principle of equalization for qualified notaries. Requirements for being an apprenticeship recipient do not have to have made a large number of Deeds, it is enough to have already made a deed. The expertise of a teacher is not only influenced by the large number of deeds he/she makes, but also the level of skill and goodwill to become a teacher.

b. Apprenticeship Agreement Law Content

Apprenticeship agreement needs to be made by a Notary candidate with a Notary Recipient in written form so that there is certainty in their legal relationship which is signed by both parties. This is very crucial for evidence that the Notary candidate is indeed holding an apprenticeship. The apprenticeship agreement

is registered at the local Provincial Office of the Ministry of Law and Human Rights. The purpose of registration is to order the administration and facilitate supervision. The contents of the apprenticeship agreement need to be regulated in a Ministry of Law and Human Rights regulation, at least the contents of the agreement contain several things such as: the identity of the Notary candidate and the notary who received the apprenticeship, the apprenticeship period, rights and obligations of the parties, legal consequences of violating the apprenticeship agreement, disputing resolution, approval date and so on.

c. Apprenticeship Period

The minimum number of apprenticeship hours in one day is 3 hours because during that time the Prospective Notary Public can make a deed. The number of apprenticeship days is a minimum of 3 days in one week because in one week he/she can do an apprenticeship on the first day of training to make a deed according to the program, the second day of training to make a deed according to the request of the Apprentice Notary client if any and the third day he gets an evaluation or correction for the deed training he/she made by the Apprentice Notary Public. In addition, the number of apprenticeship days can be more than three days in one week if there is an agreement between the two parties. The schedule of apprenticeship activities in one week requires a design prepared by an Apprentice Notary Public. The total length of the apprenticeship is not more than 1 (one) year in order to be appointed as a Notary. The apprenticeship duration shall be shorter than the Notary Masters education period to avoid the delay of the notaries appointment.

d. Apprenticeship Program Materials

The Apprenticeship program is ideally implemented for 4 stages or 4 quarterly. The first quarter includes notary office management materials, making agreements in the field of family law, inheritance and helping the Notary Recipient of Apprentices to make deeds based on client requests. Furthermore, Quarter II includes strategies to serve incoming clients and deed a princi-

pal agreement followed by additional agreements. Quarter III includes observing the transaction process, taking role as a witness and making deeds of agreement in national and international business. The last, Quarter IV includes drawing up a deed of establishment for a business entity whether in the form of a legal entity or non-legal entity, making minutes of a meeting of shareholders and minutes of the auction.

e. Honorarium

Honorarium to a prospective notary public may be given if the attendance of the candidate is equal to the working hours of the notary employee. The amount of honorarium is the same as the salary of an employee. It is also possible to agree on an honorarium for a prospective notary public if the work of the prospective notary public receives excellent values. Moreover, honorarium for Notary Public Apprentices are given by the State based on the applicable standards.

f. Supervision Arrangements

Supervision is needed in the apprenticeship process. The supervision can be done by the entity that has the authority to supervise namely the government. It is because the function of the government which is not only making regulations but also protects the community.<sup>21</sup> According to Van Vollenhoven, there are 4 types of government functions, namely: commanding (*Bestuur*), supervising (*politie*), justice and regulatory function (*regelaar*). To realize the *politie* function of the government for the affairs of the notary office, The Rule of Notary Profession has assigned to the current minister, namely the Ministry of Law. *Politie* functions carried out by the relevant Ministries include apprenticeship registration, implementation of apprenticeship and terminating of apprenticeship.

g. Submission of Apprenticeship Certificate

An apprenticeship certificate will be given after the imple-

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21 Zakaria, "Pengenalan Administrasai Negara", <https://www.slideshare.net/cvrhmat/pengenalan-hukum-administrasi-negara> accessed in 20 August 2020.

mentation of the apprenticeship within a period of 12 months. An apprenticeship certificate will be given by the Ministry of Law agency after receiving recommendation from the Notary Recipient of the Apprenticeship. Based on the results of supervision and recommendations from the Notary Recipient of the Apprenticeship, the delivery of certificate can be postponed if Notary candidate is not present or not disciplined in the apprenticeship and has been warned 3 times by the supervisor.

h. Award to Notary Recipient of Apprenticeship

The obligation of a Notary to accept an apprenticeship is determined by the Rule of Notary Profession. Following the principles of justice and legal usefulness, apprenticeship can also provide benefits for Notary Recipients of Apprenticeships, as well as certificates and honoraria from the state through the Ministry of Law and Human Rights. This certificate serves as evidence of having fulfilled its obligation to provide an apprenticeship. This, of course, has something to do with the credibility of a notary. To measure the credibility of a notary public, apart from being measured by the number of deeds achieved for one year. It is also measured by the number of prospective notaries under their guidance in one year.

i. Penalty

The imposition of sanctions comes from the results of supervision or a report from one of the parties, If one of the parties has made an error or negligence or has not complied with compelling laws and regulations, a notary code of ethics, and an apprenticeship agreement. The form of sanctions in notary law consists of criminal sanctions, civil sanctions, and administrative sanctions.

Criminal sanctions occur when a Notary candidate, or a Notary Public Apprentice Recipient commits a crime, fraud that has met the elements of offense in the Criminal Code.<sup>22</sup> Civil sanctions can be given to a party who commits an act that can cause

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22 Article 63 chapter (2) Kitab Undang-undang Hukum Pidana (Indonesian Criminal Code).

harm to the other party. If a Notary candidate commits mistakes and negligence that is detrimental to the Notary Recipient of the Apprentice or notary's client, civil sanctions may be imposed on him. Forms of civil sanctions include: compensation, fines, the fulfillment of performance, reimbursement of expenses.<sup>23</sup> Administrative sanctions may be given to Notary candidates and Apprentice Notaries who violate the Law on Notary Position, apprenticeship regulations, notary code of ethics. For a Notary who has fulfilled the requirements as an apprenticeship recipient, he should do his obligations, if he is not willing to provide an apprenticeship, he will be given administrative sanctions. The form of administrative sanction can be given in stages hierarchically, starting from the first stage of a verbal warning, the second stage of a verbal warning, the third stage of verbal warning; the first stage of written warning, the second stage of written warning, and the third stage of written warning. If this coaching stage is not successful, then it is continued with a temporary abortion of operation for 6 months, followed by a temporary abortion of operating for one year. When this attempt is not successful, a warning will be given to a sanction for revoking the business license. Termination of operational permit only applies to Notary Recipients of Apprenticeships while for a notary candidate, where his/her attitudes and morals cannot be corrected up to the third stage of written warning, the apprenticeship activity can be stopped for the Notary candidate who commit a mistake.

### **C. Conclusion**

The concept of legal construction of apprenticeship can be learnt from the relationship between the notary public candidates and the notary public apprentice recipients under the supervision of the government or an appointed ministry, usually the Ministry of Law. The

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23 Mardiyah, I Ketut Rai Setiabudhi, Gde Made Swardhana, "Sanksi Hukum Terhadap Notaris Yang Melanggar Kewajiban dan Larangan Undang-undang Jabatan Notaris," *Acta Comitas, Jurnal Hukum Kenotariatan*, Universitas Udayana, Vol. 2, No. 1, 2017, p. 114.

legal construction of apprenticeship is built upon legal principles and educational principles which covers the mechanisms such as preparation of an apprenticeship program, registration, placement, implementation of apprenticeship and supervision, and termination of apprenticeship. With regards to this concept of relationship and mechanism, the regulation of apprenticeship shall be based on the principle of legal certainty, the principle of legal justice, the principle of legal benefit, and the principle of education. The last principle, namely education, is added in the legal construction of apprenticeship for prospective notaries to achieve such ideals as harmonious relationship, perseverance, literacy, exemplary, honesty and objective, and self-evaluation. All these legal principles shall be implemented in the apprenticeship regulations made by the Ministry who has the authority to appoint notaries.

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