

## Implementation of Notary Services and Education In Providing Legal Services for Poor People Based on the Notary Office Act

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### **Abstract**

The research aims to analyze the criteria for people who can't afford to get legal services from a notary. To carry out the obligation to provide legal services to poor people. Normative qualitative research methods will describe the phenomena occurring in the field. Data collection techniques by conducting interviews. Observations at the location to be examined, with focused and thorough research and discussion focus, on the occurred findings. As for the study of documentation in the archives regarding regulations and obligations as a notary. The results of the research are (1). They are providing educational services for underprivileged people to get free legal services from a notary to people experiencing Poverty, as evidenced by a Certificate of Inadequacy from the Kelurahan, based on the client's acknowledgment that he is truly incapacitated, seen from the legal actions brought by the client to the Notary, personal assessment of the Notary based on the client's attitude and behavior when facing. (2). Notaries apply the obligation to provide education and legal services to poor people by providing free legal service assistance for their notary services, based on Article 37 paragraph (1) of Law Number 2 of 2014. Concerning the Position of Notary, but still charges a fee that must be incurred by the client, such as the cost of Non-Tax State Revenue.

**Keywords:** Education Services, Legal Services, Disadvantaged People

### **I. Introduction**

A notary must carry out the Notary's obligation, and if it is not carried out or violated, then the Notary will be subject to sanctions for this violation. Notaries are responsible for providing legal services to people who need them. Service is an activity carried out to meet the needs of society both in the field of services and other administration. Community needs can be met if the services provided meet six out of ten indicators of good service, namely certainty of service time.

Society is a social life characterized by a certain degree of social relations. Social links are communication between human beings in a certain environment. Communication is what raises or raises a social relationship between humans who are in an environment.

They interact in a certain area and have the same culture. The needs of society in this modern era are numerous, one of which is the need to fulfill services in the notary sector. People who need to make authentic deeds must appear before a Notary. People cannot just face a Notary wherever that person is. People who need to appear before a Notary must follow the place where the person is domiciled or in the same city as the scope of work of the Notary because a Notary may not carry out his position outside his territory of office based on Article 17 (1) letter a Law Number 2 of 2014 Concerning Amendments to Law Number 30 of 2004 Concerning the Position of Notary.

A notary is a public official who serves the public by managing deeds and legal documents. The Notary's services are entitled to an honorarium, but Article 37 of the Notary

Office Law requires a notary to provide services without an honorarium to people who can't afford it. As public officials, notaries do not receive an honorarium from the state but from the public for legal services provided by a notary in accordance with their authority. The use of notary legal services by people who can afford it can be done by giving an honorarium to a notary. In contrast, people who can't afford it cannot provide an honorarium for a notary.

## 2. Research methods

Qualitative method as a method that focuses on in-depth observation of services and education for people who are not capable of notarization. So the use of qualitative methods can produce phenomenal and comprehensive studies in the field of public services.

The data obtained through various types of data collection include the following:

- a. Interview key volunteers to obtain data such as notaries, people who need services,
- b. observations of various people who need services
- c. Documentation, and discussions that focus on public service research

## 3. Results and Discussion

### 3.1. Implementation of services and education with criteria for disabled people to get legal assistance from a notary

The notary profession has an important role in notary affairs, where notaries are given the authority to do authentic deeds and have been included in the provisions of laws and regulations. The Notary himself plays a role in providing legal services in the civil field to the public. Based on Law Number 2 of 2014 Amendment to Law Number 30 of 2004 Concerning the Position of Notary, a notary has the authority to do authentic deeds and has other powers. As public officials, notaries have the authority to carry out some of the tasks of state power in the form of original acts, which are used as written evidence in the civil field.

Based on the Notary Office Law and its Code of Ethics, a notary is required to be able to provide legal services for people who can afford it and people who can't afford it. In the notary sector, legal services can be provided to all levels of society in Indonesia without any differences in social status. The social situation in question is that both people who can or cannot afford people who need legal services in the notary field are obliged to get the same benefit from a notary. The characteristics of Poverty can be seen from three dimensions, including the following:

- a. Cultural Poverty arises due to cultural or mental factors of people who do not have high morale.
- b. Systematic Poverty arises because the rich are in their own culture of luxury and control people from various aspects of life from the political, economic, and social systems.

The criteria for the poor and disabled people registered above, as referred to in the Third Dictum, are based on the Unified Database resulting from the 2011 Social Protection Program Data Collection. The success of social protection program implementation depends on the availability of Integrated Social Welfare Data (DTKS). DTKS is the reference data in programs for handling the poor and implementing social welfare.

Tax payments can represent a person's economic level, meaning that taxes can be charged to those who are truly qualified to be able to pay them. The person cannot be given a moral justification to release him from the obligation to pay. Tax is a social engineering tool that is

cross-subsidized; this aims so that everyone at the current social level can enjoy equal or equal public service rights.

Article 7 of the Income Tax Law Number 36 of 2008 defines Non-Taxable Income as the amount of personal taxpayer income exempt from Income Tax (PPh) Article 21 (withholding remuneration paid to individuals concerning work, position, services, and activities). As a fiscal policy, it is determined based on criteria such as the condition of the national economy, the movement of the minimum wage, and the average cost of living in Indonesia.

Regulation of the Minister of Finance Number 101/PMK.010/2016 Regarding Adjustment of the Amount of Non-Taxable Income for 2016-2019, PTKP is set at Rp. 54,000,000.- (fifty-four million rupiah) per year or Rp. 4,500,000.- (four million five hundred thousand rupiahs) monthly for personal taxpayers, if married, an additional Rp. 4,500,000.- (four million five hundred thousand rupiah), and if you have one child, add Rp. 4,500,000.- (four million five hundred thousand rupiahs) for a maximum of three children or Rp. 13,500,000.- (thirteen million five hundred thousand rupiah). Based on this, taxpayers who have an average income below Rp. 4,500,000.- (four million five hundred thousand rupiahs) per month is not subject to a 10% (ten percent) withholding tax Article 21. Permanent taxpayers are bound to other tax obligations, such as Transaction Tax (VAT) or levies.

Based on Article 36 (1) of the Notary Office Law, a notary has the right to receive an honorarium for the legal services he has provided following his authority; that what is meant that a notary is not allowed to withdraw honorarium from appearers or clients outside their jurisdiction. Article 37 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 that notaries are obliged to provide free legal assistance to people who cannot afford it.

In the field of notary law, there are administrative sanctions, that if a notary commits an act that violates the law, he is not only given civil sanctions but can also be given administrative sanctions. State administrative sanctions are a form or tool of power that has the nature of public law, in which the government is a form of response to non-compliance with the obligations specified in state administrative law. These administrative sanctions include the following: The government will use forced money to give fair and definite punishment by imposing fines following applicable regulations.

Determination of sanctions for violations by a notary against Article 37 paragraph (1) of the Law on the Office of a Notary is in the future determined in Article 37 paragraph (2) following the level of error of the Notary who committed the violation, namely:

- a. Verbal warning;
- b. written warning;
- c. temporary stop;
- d. Honorable discharge;
- e. Dishonorable discharge.

According to Habib Adjie, on November 24, 2022, a notary who will provide legal services in the notary field for free based on Article 37 paragraph (1) of Law Number 2 of 2014 Concerning the Position of Notary and Article 3 number 7 Notary Code of Ethics. The first is seen from the problem of legal actions, such as what legal steps will later be stated in a deed. The second is the personal attitude of the Notary himself, in which the Notary, with his conscience, is moved to provide legal services free of charge.

Based on the results of interviews conducted by researchers with the first informant, Notary/PPAT Hendry Samin, S.H., M.Kn, on July 1, 2022, at Jalan Palagan, Student Army Number 95 Sariharjo, Ngaglik, Sleman, Special Region of Yogyakarta, that the criteria for disabled people to get legal services free of charge from a notary are from the initial appearance, the initial impression that is meant here is how the appeared looks when facing the

source. Based on the information provided by the informant, the criteria for obtaining legal services for people who can't afford it can also be seen from bidding on the honorarium.

According to information from the informant, while the informant was a notary, no appearers came to him to ask for legal service assistance in the notary sector for free because appearers generally came to the informant to draw up a notarized deed related to the transfer of rights and obligations between the parties regarding a transaction. , for example, namely lease agreements and legalization. Some appearers came to the informants to draw up a deed of establishment of community organizations, firms, and foundations. 85 Based on this, the appearers could be supported because the appearers had assets.

### **3.2. Implementation of Services and Education by Implementing the Obligation to Provide Legal Services to Poor People**

Various types of services can be performed by notary public officials, namely as follows:

- a. Deed of the establishment of a Limited Liability Company (PT), minutes of the General Meeting of Shareholders (GMS); Deed of foundation establishment; CV establishment deed; Trading Business Establishment Deed (UD); Deeds or agreements, namely: Marriage agreement; Lease; Accounts payable or acknowledgment of debt; Cooperation; Description of inheritance rights, and so forth. Deeds related to land, namely: Power of Attorney to impose mortgage rights (SKMHT); Sale and binding purchase agreement (PPJB); Waiver of rights; Sale and purchase of houses by way of transfer of ownership; Will deed; Fiduciary deed; Deed of inheritance rights;
- b. Make a deed of minutes of the auction; Credit agreements, namely individual debt agreements, conventional bank loans, Islamic bank loans, and corporate loans;
- c. Financing or multi-finance; Making a power of attorney deed, namely a power of attorney made by a person entitled to authorize it to another person who is trusted and can be made with the right of substitution.

In carrying out their obligations, notaries are required to adapt their expertise to the times, wherein the development of the times, there are legal requirements that are increasingly complicated every year.

### **3.3. Implementation of Services and Education that the Notary Has Ever Rejected or Not, Against Appearances Who Approach the Notary**

The object of study of notary professional ethics is a human being who has a profession as a notary. Ethics sees notaries from deliberate actions related to norms in their work. Models related to this matter have a dual function: before something happens, it is used as a guide to show how something should happen, and after something happens, it is used as a measure to weigh whether something happened according to what it should.

Notaries must be honest, fair, transparent, and sensitive in doing authentic deeds, which is very important to ensure legal certainty for their clients. Professional ethics contains two principles that what applies to a notary as a professional. In carrying out the profession, the Notary must be responsible and not violate the rights of other parties. These principles are:

- a. The responsible attitude is that the Notary is expected to be accountable for the work he does and the work results. The Notary must be responsible for the impact of work that arises on other people's lives.

- b. Respect for other people's rights that the profession of a notary in terms of demands for justice means that in carrying out his position, a notary may not violate the rights of other people or institutions.

Notary operationalizes their duties and functions as authorized official in a notary deed that must be authentic. Receive responsibility for all tasks and actions related to Notary. Must be able to educate the public in providing legal services to people experiencing Poverty and referring to legal references in providing notarized legal services, based on Article 37 of Law no. 2 of 2014 and Article 3 no. 7, as the Notary Code of Ethics. In carrying out his duties and functions, Adar must provide notary legal services properly and consciously in accordance with the rules and regulations.

Under Article 37 of Law no. 2 in 2014 and also based on Article 3 no. 7, the Notary Code of Ethics must provide services and education about notary legal services free of charge to the public who are unable and need them. Financial incapacity is The supporting factor for free notary legal services. It can be concluded that the source person, as a notary, has always accepted an appearance and can afford it, but the appeared is required to pay fees that must be paid, such as PNB. Article 37 of Law Number 2 of 2014 and Article 3 Number 7 of the Notary Code of Ethics have yet to be fully implemented.

#### **4. Conclusion and Suggestion**

##### **4.1. Conclusion**

Based on the findings and discussion above, several conclusions can be drawn, including the following:

- a. Criteria for an incapacitated person to obtain legal services free of charge from a notary public is people with low incomes, as evidenced by a Certificate of Inadequacy from the Kelurahan, based on honesty or acknowledgment from the client that he is truly an incapacitated person, judging from the problem legal actions brought by the client to the Notary, personal judgment from the Notary based on the client's attitude or behavior when facing.
- b. Notaries implement the obligation to provide legal services to poor people by providing free legal service assistance for their notary services, based on Article 37 paragraph (1) of Law Number 2 of 2014 Concerning the Office of a Notary, but still charge a fee must be incurred by the client such as the cost of Non-Tax State Revenue.

##### **4.2. Suggestion**

Based on the discussion and conclusions described above, it can provide recommendations in the form of suggestions that can be submitted, namely as follows:

- a. Implementing legal services in the notary field free of charge requires a new regulation in the notary field. Especially in terms of parameters for people who can be said or qualified as disabled people to get legal services from a notary.
- b. To the Notary as a deed-making official, representing the authorities can provide notary deed legal services for free and need to provide counseling as public education regarding notary deed law free of charge as an obligation for Notaries. This counseling must be done because many people still need to gain knowledge regarding legal assistance for free or for free, which will be obtained from a notary.

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