

Implementation of Pro Bono Notary Legal Services for the Poor in Grobogan Regency

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Abstract. *Indonesia, as a country based on law as mandated in Article 1 paragraph (3) of the 1945 Constitution, stipulates that all aspects of national and state life must be based on law. This country based on law requires the protection and fulfillment of legal rights for all citizens without exception, including the right to legal aid. Within the framework of this country based on law, the role of notaries as public officials who carry out part of the state's functions is very important, especially in providing fair and equitable legal services. The author conducted the research with the aim of finding out and analyzing the implementation of the provision of free pro bono notary legal services in Grobogan Regency and analyzing what obstacles were encountered when implementing pro bono notary services. To find out the above objectives, the author used an empirical legal research type. Data sources were obtained from several stages, namely through field research (interviews) and library research. Data analysis in a systematic manner includes data reduction, data presentation and drawing conclusions. Based on the research results, it was concluded that the legal regulations regarding the obligation of notaries to provide free legal services to the poor are contained in Article 37 paragraph (1) UUJN and Article 3 paragraph (7) of the Notary Code of Ethics. In practice, Notary Mulyono, SH, M.Kn has carried out his obligations in accordance with the provisions of the Notary Law, legal services are not only provided to underprivileged clients but also provided for foundation activities, activities in the social, humanitarian and religious fields. Notaries assess underprivileged people based on humanity and conscience. Meanwhile, the obstacles encountered are that the provisions in Article 37 paragraph (1) of the UUJN do not explain in detail the procedures and who is said to be able to receive legal assistance to determine whether someone is eligible or can be exempted from fees, and there is still a lot of stigma in society that notary services are very high.*

Keywords: Notary; People; Services.

1. Introduction

Indonesia, as a country based on law as mandated in Article 1 paragraph (3) of the 1945 Constitution, stipulates that all aspects of national and state life must be based on law. This country based on law requires the protection and fulfillment of legal rights for all citizens without exception, including the right to legal aid. Within the framework of this country based on law, the role of notaries as public officials who carry out part of the state's functions is very important, especially in providing fair and equitable legal services.¹

Article 1 paragraph (2) of the 1945 Constitution emphasizes that sovereignty lies in the hands of the people and is implemented according to the 1945 Constitution. This shows that every citizen has the same rights in the eyes of the law, including in access to legal services. One manifestation of people's sovereignty in the context of legal services is the existence of pro bono or free legal services, which are intended for the less fortunate to access the legal services they need.

Indonesia is a developing country in which there are still low-income people. According to data from the Central Statistics Agency (BPS), the percentage of poor people in March 2023 was 9.36%. However, in September 2022, the number of poor or disadvantaged people in Indonesia decreased to 0.18%. This means that there are still many Indonesian people who need help in all aspects of life, both in the fields of economics, education, health and law.² Everyone who lives in Indonesia has the right to legal protection. Law is something that everyone actually needs to achieve a just life. Fair is not when the rich win and the poor lose. People who are proven guilty must still be punished. This is one way to realize the ideals of the state, namely "Just and civilized humanity", which is found in the fourth principle of Pancasila.

¹ Article 1 of the 1945 Constitution

² BPS, "Poverty Profile in Indonesia March 2023", <https://www.bps.go.id/id/pressrelease/2023/07/17/2016/profil-kemiskinan-di-indonesia-maret-2023.html> accessed May 12, 2024 at 20.06.

Notary is one of the professions in the legal field. The notary profession was born from the results of interactions between members of society and was developed and created by society itself.³ Law of the Republic of Indonesia No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning the Position of Notary hereinafter also referred to as UUJN, a notary is a public official who has the authority to make authentic deeds and has other authorities as referred to in this Law or based on other Laws.

A notary is a public official appointed by the state, also working for the interests of the state, however, a notary is not an employee as referred to in Law Number 8 of 1974 concerning the Principles of Civil Service, because a notary does not receive a salary from the state⁴, but rather receives an honorarium for the legal services he provides to clients in accordance with the duties and position regulated in Articles 36 and 37 of the Notary Position Law.

Honorarium comes from the word Honor which means honor, glory, a sign of respect or appreciation. Then the meaning of honorarium changed to compensation money, service money or also money from someone's work which is not a fixed salary. The expertise possessed by a notary can actually be used to obtain wealth, but in its implementation, notaries are not solely driven by considerations of wealth, influenced by the amount of money, and not only merely creating formal evidence to pursue legal certainty, but ignore the sense of justice.⁵ A notary must continue to adhere to the essential sense of justice in carrying out his main task, namely serving the community.

Legal services in the field of notary are needed by every group of society. The use of notary services by the community that is able can be done by giving an honorarium to the notary. This is the opposite for the poor community, they cannot give an honorarium to the notary. This difference in economic ability has an impact on the use of notary services and causes injustice in society if the poor community cannot enjoy legal services from the notary field.⁶ Basically, a notary may not refuse clients who come to him to get legal services in the field of notary in accordance with Article 37 paragraph

³ Habib Adjie, 2008, *Hukum Notaris Indonesia*, Rafika, Bandung, hal. 8.

⁴ Suhrawardi K. Lubis, 2014, *Etika Profesi Hukum*, Cet. VII, Sinar Grafika, Jakarta, hal. 34.

⁵ Ghansham Anand, *Karakteristik Jabatan Notaris di Indonesia*, Prenadamedia Group, Jakarta, hal. 112.

⁶ Siska Harun Buko, 2017, "Analisis Yuridis Tentang Kewajiban Notaris Dalam Memberikan Jasanya Kepada Masyarakat Yang Tidak Mampu Berdasarkan UU No.2 Tahun 2014", *Lex Privatum* Vol. V, No. 1, hal. 90. url : <https://ejournal.unsrat.ac.id> diakses pada tanggal 13 Mei 2024 pukul 08.49

(1) The Notary Law, the contents of which are:

"Notaries are required to provide legal services in the notary field free of charge to the poor."⁷

The article shows that poor people can be given

free notary services. Notaries are bound and obey the regulations governing the position of notary. These laws and regulations serve as guidelines for notaries in carrying out their duties and obligations. Notaries who violate Article 37 paragraph (1) will receive sanctions in Article 37 paragraph (2) of the Notary Law. These sanctions include:

"Notaries who violate the provisions referred to in paragraph (1) may be subject to sanctions in the form of:

- a. Verbal warning;
- b. Written warning;
- c. Temporary suspension;
- d. Honorable discharge;
- e. Dishonorable discharge."⁸

Every Indonesian citizen has the right to receive justice and security, therefore everyone must be respected, upheld and protected by the state, law and government.⁹ The public has the right to feel safe when carrying out legal acts, especially in the field of notary where they have the right to demand the provision of legal services in the field of notary on a Pro Bono basis or what is also called free of charge.

⁷ Pasal 37 ayat (1) Undang-Undang Jabatan Notaris

⁸ Pasal 37 ayat (2) Undang-Undang Jabatan Notaris

⁹ Kementerian Pertahanan Republik Indonesia, "HAM Adalah Hak Dasar Manusia yang Harus Dilindungi Negara dan Pemerintah", <https://www.kemhan.go.id/2016/05/18/ham-adalah-hak-dasar-manusia-yang-harus-dilindungi-negara-dan-p.html> diakses tanggal 20 Juni 2024 pkl. 10.01.

However, in its implementation, there are things that seem to contradict the notary's obligation to provide free legal services to the poor and the standards of people who are categorized as poor in order to get notary assistance. Because the concern is that people or the community can come to the notary's office claiming that they are poor, then get notary assistance for free. There is still a lack of public knowledge about the pro bono services provided by notaries.

From the things that the author has described above, the author is interested in studying further, discussing and raising research entitled:

“Implementation of Providing Free Pro Bono Notary Legal Services To The Underprivate in Grobogan Regency”

2. Research Methods

The author in compiling this research uses the Empirical Law research method. The empirical research method is a method that provides a framework of evidence to ensure the truth of something and functions to be able to see the law in a real sense and examine the process of how a law works in the community environment.¹⁰ Types This study uses a qualitative approach. The qualitative approach emphasizes the analysis of inductive thinking processes related to the dynamics of the relationship between the phenomena being observed, and always uses scientific logic. Qualitative research aims to develop the concept of sensitivity to the problems faced, explain the reality related to the exploration of theories from below and develop an understanding of one or more of the phenomena faced.¹¹

The data source used in this study is Primary Data, namely this study was produced through interview results. The parties involved in this study are Notaries, Pengda INI Grobogan, and Notary Staff.

Data analysis in this study uses a descriptive analytical method, with the hope that researchers in analyzing want to provide a description or explanation of the subject and object of research as the results of the research they have conducted and the data analysis used is a qualitative approach to primary and secondary data.

¹⁰ Mukti Fajar ND dan Yualianto Achmad, 2010, *Dualisme Penelitian Hukum Normatif dan Empiris*, Pustaka Pelajar, Yogyakarta, Hal. 154.

¹¹ Arif Furchan, 1992, *Pengantar Metode Penelitian Kualitatif*, Usaha Nasional, Surabaya, hal. 21.

3. Results and Discussion

3.1. Implementation Provision of Free Pro Bono Notary Legal Services to the Underprivileged in Grobogan Regency

Notary as official In carrying out their duties, the general public has an obligation to provide the best service to the community, both to the well-off and to the less fortunate. Capable in a way financial. The existence of profession Notary Public very required by every citizen in making authentic deeds so that it can provide benefits to the Community.¹²

Authentic deeds are divided into two, namely partij acta and relaas acta. Partij deed or party deed is a deed made before a Notary, meaning a deed made based on the statement or actions of the party facing the Notary, and the statement or actions must be confirmed by the Notary to be made a deed. While relaas deed or official deed is a deed made by a Notary as a public official that contains an authentic description of all events or incidents seen, experienced, and witnessed by the Notary himself. Authentic deeds have the power or evidentiary value which is broadly described as follows:

1. External. The ability of the deed itself to prove its validity as an authentic deed. If seen from the outside (its appearance) as an authentic deed and in accordance with the legal rules that have been determined regarding the requirements of an authentic deed, then the deed is valid as an authentic deed, until proven otherwise, meaning until someone proves that the deed is not an authentic deed externally;
2. Formal. Must provide certainty that an event and fact mentioned in the deed was actually carried out by a public official or explained by the parties appearing at the time stated in the deed in accordance with the procedures determined in making the deed;
3. Material. Certainty about the mystery of a deed, information or statement stated/contained in the deed must be considered true.

¹² Dirgantara P, 2019, "Tanggung Jawab Saksi Pengenal Terhadap Keterangan yang Diberikan dalam Pembuatan Akta Autentik", Acta Comitatus: Jurnal Hukum Kenotariatan, No. 4, Vol. 2, hal.

187. url: <https://www.neliti.com/id/publications/361763/tanggung-jawab-saksi-pengenal-terhadap-keterangan-yang-diberikan-dalam-pembuatan>

A deed made by an official without authority and without the ability to make it or does not meet the requirements is not considered an authentic deed, but only has the force of a private deed if it is signed by the parties.

the relevant party.¹³ Article 15 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Regulations on the Position of Notaries determines the authority of a Notary, this authority is a limitation that a Notary may not carry out an action outside of this authority.¹⁴

Notaries as public officials are required to be able to provide legal counseling for parties who come to them in order to gain full legal awareness and everyone is able to understand things in the form of matters and obligations as citizens. Obligations in a profession are absolutely carried out by people who have these obligations, if violated or do not carry out their obligations, then the sanctions that have been regulated will be imposed.

In carrying out their duties, notaries also have an obligation to provide voluntary assistance to the community who need their services. Notaries must be willing to provide the best possible service, without providing different services to clients who are financially capable and can provide quality services and have a positive impact on the community.

The notary can refuse to provide assistance, if the deed contains the contents of agreements that violate general provisions or morality, and if there are no witnesses who can be introduced to the notary or are not present at the making of the deed, then the notary can refuse to make the deed. authentic deed.

In accordance with the regulations stipulated in Article 36 of the Notary Law, namely the honorarium of a notary, the contents of which determine that a notary has the right to receive an honorarium for legal services performed in accordance with the authority held. However, not only the rights obtained by a notary by providing legal services, a notary is also obliged to provide voluntary assistance to the community who need or require the services of a notary, but the person does not have the economic ability, in the sense that they do not have

¹³ Sudikno Mertokusumo, 2014, *Penemuan Hukum Sebuah Pengantar*, E disi Revisi, Cahaya Atma Pustaka, Yogyakarta, hal. 141.

¹⁴ Yuriz, 2016, "Analisa Hukum Atas Perbedaan Bentuk Keterangan Waris Yang Dibuat Dalam Praktek Notaris Di Kota Medan", *Jurnal USU*, Vol 13, hal. 141, <https://repositori.usu.ac.id/handle/123456789/423> diakses pada tanggal 28 Agustus 2024, pkl 11.33

the ability to pay the honorarium for the notary's services, and this is stated in Article 37 of the Notary Law (UUJN).

The mechanism for providing legal assistance in the form of deed making services and other notary services to the poor is guided by the Notary Law and Law No. 16 of 2011 concerning Legal Aid (hereinafter referred to as UUBH), Government Regulation of the Republic of Indonesia Number 42 of 2013 concerning the Requirements and Procedures for Providing Free Legal Aid and Distribution of Legal Aid Funds, and the Notary Code of Ethics.

The supporting factor for providing legal aid in the notary sector is Article 37 Paragraph (1) of the UUJN: "Notaries are required to provide free legal aid in the notary sector to people who cannot afford it."

And based on Article 3 number 7 of the Notary Code of Ethics: "Providing services for making deeds and other authorities for the underprivileged without charging an honorarium."

Based on the opinion of the respondent, namely Notary Mulyono, SH, M.Kn. According to him, the existence of Article 37 of the Notary Law is very good because notaries are required to provide free legal services for people who need and cannot afford it. He also emphasized that the notary profession should play an active role in enforcing human rights, thus a sense of justice and security for the community is guaranteed.¹⁵

Mulyono SH, M.Kn also explained that the provision of voluntary legal services by notaries is not only given to people who are unable to afford it, but is also given to:

- a. foundation activities,
- b. social activities,
- c. humanity, and
- d. religious.¹⁶

Notaries must carry out their duties professionally, meaning that if legal services are provided to clients without charging a fee, then the notary is obliged to do so,

¹⁵ Wawancara dengan Mulyono, S.H., M.Kn Notaris Kab. Grobogan, 28 Agustus 2024.

¹⁶ *Ibid.*

for example, by providing services without charging an honorarium or charging an honorarium at a fee of their own free will or reducing it from the appropriate amount. However, if legal services cannot be provided free of charge, such as payment of Non-Tax State Revenue (PNBP) that cannot be covered by the notary due to the high cost, then the notary must explain the reason to the client so that it can be understood.

Notaries can provide free or pro bono assistance in various matters related to legal services. Some of these include:

1. Notaries can assist in the preparation of simple legal documents such as wills, simple agreements, or powers of attorney, especially for individuals who cannot afford to pay.
2. Providing legal advice to individuals in need can be a form of pro bono assistance.
3. Notaries can help in solving legal problems. relatively simple or small for the individual who needs help, such as small property issues or less complex partnership agreements.
4. Notaries can provide free legal education to the public, through seminars, workshops, or legal counseling to increase public understanding of their legal rights.
5. Notaries can also be involved in special cases that require legal assistance, especially those related to public interest or urgent cases that require legal assistance for those who cannot afford to pay.
6. Notaries can also provide free assistance to vulnerable groups such as abandoned children, single parents, or individuals with physical or mental disabilities in an effort to provide access to justice.¹⁷

In practice, Mr. Mulyono¹⁸ has implemented the regulations of Article 37 paragraph (1) UUJN, there are several factors that are the background for Mr. Mulyono in providing his legal services free of charge, namely:

¹⁷ Dimas Hutomo, Pemberian Jasa Hukum Secara Cuma-Cuma oleh Notaris, <https://www.hukumonline.com/klinik/a/pemberian-jasa-hukum-secara-cuma-cuma-oleh-notaris-lt5cbe92c427758/> diakses tanggal 29 Agustus 2024 pkl 09.22.

¹⁸ *Ibid.*

1. Human Factor

Based on humanitarian factors, in providing free assistance in the field of notary affairs, notaries are based on a sense of humanity to provide assistance to others.

2. Client Honesty Factor to Notary

The frankness factor of a client is very necessary in providing voluntary legal services by a notary.

3. The notary's confidence factor in the parties facing the notary's confidence factor in providing assistance to people cannot be based on a notary's assessment of the appearance or type of legal services desired.

Of the three factors that influence the implementation of free legal services for the underprivileged in practice carried out by Notary Mulyono is based on humanitarian factors, because the compensation for services provided to underprivileged clients is not in the form of honorarium or wages, but rather the notary expects a reward for his services because Mr. Mulyono upholds the principle of "Provisions have been arranged". Notaries will not ask for requirements such as a certificate from a government agency, for example a certificate of poverty for underprivileged clients in order to obtain legal services in the notary field.

The notary's response to providing free legal services to the poor can be very positive. Some of the responses that are usually made by notaries are:

1. Notaries can volunteer their time and expertise to help people in need, especially those who are financially unable to pay for legal services.
2. Notaries will provide the same professional and quality service to indigent clients as they provide to other paying clients. They will still ensure that the legal process is carried out with integrity and in compliance with applicable laws.
3. By providing free legal services to individuals who cannot afford it, notaries help increase access to justice for those who need legal assistance but do not have the financial resources to pay for such services.

4. The actions of notaries involved in pro bono can be an example for other legal practitioners to also make their contribution in helping people in need.

Notaries are personally responsible for the quality of the services they provide. The measure of humanitarian values for the position of Notary means treating their clients well. Not discriminating between clients who are able and those who are unable and treating them equally or equally. Humanitarian values also underlie Notaries not to abuse their profession considering that sociologically they have an unbalanced position when compared to other communities. Humanitarian values characterize Notaries to act or behave humanely so that they can carry out their duties professionally. Profession is a service because Notaries must work selflessly, especially for underprivileged clients. Profession must be viewed or experienced as a service, so that selfless nature becomes its characteristic to develop its profession.

Based on the results of an interview with a notary staff named Yuliyana, she said that while working with Notary Mulyono, SH, M.Kn, she often worked on pro bono services, such as making a deed of establishment of an association. If the deed is related to religion or other social activities, Notary Mulyono usually does not charge an honorarium for his services, because according to Yuliyana, Notary Mulyono is happy if he can help many people and his work can be useful for those around him. In addition to the deed of establishment of the association, several pro bono deeds that were worked on were foundation deeds, letter deeds power of attorney for divorce, and many other deeds.¹⁹

The results of the interview with the Head of the INI Regional Management of Grobogan Regency, namely Mr. Mulyono, SH, M.Kn, confirmed that he fully supports the activities of Notaries in providing free legal services in accordance with Article 37 paragraph (1) of the Notary Law, provided that the legal problem is clear and not problematic.²⁰

There are five parameters that can be used as a measuring tool for service quality when related to the position of Notary, namely:

1. The obstacle or reliability is the ability of the notary to create everything according to his promise.
2. Certainty or assurance is the ability that a notary has to create confidence in his clients.

¹⁹ Wawancara dengan Yuliyana Staff Notaris Mulyono S.H., M.Kn, 28 Agustus 2024.

²⁰ Wawancara dengan Mulyono, S.H., M.Kn Ketua Pengda INI Kab. Grobogan, 28 Agustus 2024.

3. Appearance or tangible is the appearance of oneself, office, equipment and everything that is material in nature that can increase the trust of the client.

4. Empathy is the ability of a notary to understand and feel the problems faced by his clients.

5. Responsiveness is the ability of a notary to provide quick solutions to his clients.

Based on the explanation, it can certainly provide an understanding of what is meant by service and how the service process is to support the success of the Notary profession. The position of a Notary as a public official to provide legal services in the notary field can also be given free of charge, especially to clients who are underprivileged.

Pengda INI in the notary organization event meeting always emphasize in carrying out duties as a notary, must adhere to the provisions stipulated in the Notary Law and the Notary Code of Ethics because without it the dignity and honor of professionalism will be lost and no longer gain the trust of the community. Notaries are also required to have high moral values, because with high morals, notaries will not abuse the authority they have, so that notaries will be able to maintain their dignity as a public official who provides services in accordance with applicable regulations and does not damage the image of the notary itself.²¹

In practice, the work of a notary prioritizes service over honorarium, meaning prioritizing what needs to be done rather than looking at the size of the honorarium that will be received later because client satisfaction is prioritized.

The profession of a notary is to serve the interests of many people, so a notary must not make things difficult for clients who come to him to request legal services in the notary field, whether for the well-off or the underprivileged.

3.2. Obstacles and Solutions in Providing Free Pro Bono Notary Legal Services to the Poor in Grobogan Regency

Legal services in the field of notary are needed by every group of society. The use of notary services by people who are able can be done by giving an honorarium to the Notary. This is the opposite for the poor, namely they can be given an honorarium by the Notary. Differences in economic ability have an impact on the

²¹ *Ibid.*

use of Notary services. Basically, Notaries may not refuse any client who comes to see them for carry out legal acts in the field of notary in accordance with the provisions of Article 37 Paragraph (1) of the Notary Law, "Notaries are obliged to provide legal services in the field of notary free of charge to people who are unable to pay."²² This article shows that people who are unable to pay can be given notary services free of charge.

The provision of free legal services in the field of notary by a Notary is based on the belief because of the assumption that initially arises based on the soul of humanity, so that from this assessment the Notary can make a decision to provide free legal services. And also the client's openness to the Notary because of the honesty expressed by the client regarding the inability to pay the honorarium for a legal service that he needs.

Legal certainty as one of the objectives of law can be said to be part of an effort to realize justice. Legal certainty is the implementation or enforcement of the law against an action regardless of who does it. Legal certainty means that everyone can estimate what they will experience if they do a certain legal action. Certainty is needed to realize the principle of equality before the law without discrimination.

According to Gustav Radbruch, legal certainty is *Scherkeit des Rechts selbst* (legal certainty about the law itself). There are 4 (four) things related to the meaning of legal certainty, including:

1. That the law is positive, meaning that it is legislation (*gesetzliches Recht*);
2. That this law is based on facts (*Tatsachen*), not a formulation of an assessment that will later be made by a judge, such as "good will", "decency";
3. That the facts must be formulated in a clear manner so that avoids errors in meaning, besides being easy to implement;
4. Positive law must not be changed frequently.²³

This opinion is based on his view that legal certainty is certainty about the law itself. Legal certainty is a product of law or more specifically of legislation. Based on his opinion, according to Gustav Radbruch, positive law that regulates human interests in society must always be obeyed even though the positive law is less fair.

The profession of a Notary as a public official in providing legal services in the field of notary can also be provided free of charge, especially to people who are

²² Pasal 37 ayat (1) Undang-Undang Jabatan Notaris

²³ Gustav Radburch. loc. Cit.

classified as underprivileged. The explanation regarding the requirements for obtaining free services from a Notary is not regulated in detail in the Notary Law, so its implementation depends on the Notary concerned.

It is only natural that the notary or client expects to receive services, in this case in the form of making an authentic deed which has legal certainty from a notary, but on the other hand, until now the regulations regarding notary fees do not have a definite amount or proportion, but are only determined based on the sociological value and economic value of each deed with a maximum limit preceded by the words "the greatest" and "does not exceed", as regulated in Article 36 paragraph (2) (3) and (4) UUJN as follows:

- a. The amount of honorarium received by a notary is based on the economic and sociological value of each deed made by him;
- b. The economic value as referred to in paragraph (2) is determined from the object of each deed as follows:
 1. up to 100,000,000.00 (one hundred million rupiah) equivalent to a gram of gold at that time, the largest honorarium received was 2.5% (two point five percent);
 2. above Rp. 100,000,000.00 (one hundred million rupiah) up to Rp. 1,000,000,000.00 (one billion rupiah) the honorarium received is a maximum of 1.5% (one point five percent): or
 3. above Rp. 1,000,000,000.00 (one billion rupiah) the honorarium received is based on an agreement between the notary and the parties, but does not exceed 1% (one percent) of the object for which the deed is made.
 4. Sociological value is determined based on the social function of the object of each deed with the honorarium received being a maximum of Rp. 5,000,000.00 (five million rupiah).²⁴

Based on the above regulations, according to Notary Mulyono, SH, M.Kn, regarding the provision of free legal services, it is not necessary to provide the rates determined by law, it all depends on the establishment of each Notary.²⁵

Notary Mulyono also said that he sincerely provides honorariums to the poor regarding the creation of legal products that are related to social and religious matters. Notaries also do not differentiate between providing facilities to clients who are able and clients who are unable so that there is no discrimination. According to the notary, the obstacle to the implementation of free services is

²⁴ Pasal 36 Ayat (1) (2) (3) Undang-Undang Jabatan Notaris

²⁵ Wawancara dengan Mulyono, S.H., M.Kn Notaris Kab. Grobogan, 2 September 2024.

because the provisions of Article 37 of the UUJN do not explain in detail the characteristics of people who are unable capable and what kind of legal assistance can be provided and there is still a stigma in the general public who consider that all matters relating to notaries require large costs and there are still many people who do not know about the existence of pro bono services in the notary sector.²⁶

In providing legal services voluntarily also creates a dilemma for notaries, on the one hand they want to free their services but on the other hand there is an obligation that must be paid by the client, namely the payment of Non-Tax State Revenue also known as (PNBP). Because in practice PNBP does not know the economic situation of the person.²⁷

Notary Mulyono emphasized that there is no problem that has no way out or solution, all problems can be solved. As with the provision of pro bono notary legal services, Notary Mulyono in implementing Article 37 of the UUJN uses cross subsidies, namely a financing mechanism in which income from one group or client is used to fund groups or individual clients who are considered less fortunate or in need of support. Cross subsidies aim to ensure more equitable access to services, goods, or facilities that are important to the wider community. In addition, the second solution is to conduct socialization to the community so that the community no longer considers notary fees high and to inform them that there are pro bono services in notary services. Although the provisions of Article 37 of the UUJN are still gray and do not explain the criteria for poor people, according to Notary Mulyono, this is also not a barrier, because basically Notaries do all of this based on humanitarian factors without any coercion from anywhere and Notary Mulyono has never asked for a certificate of inability from related agencies.²⁸

If analyzed using the theory of legal certainty according to Gustav Radburch, which is related to the existence of clear, firm and predictable rules to ensure that the law can be enforced fairly and consistently, there are regulations that must be improved, namely in the regulations in Article

37. Article 37 does not explain in detail the characteristics of the incapacitated and what types of legal services can be provided. This can cause problems in terms of legal certainty. The lack of clarity in Article 37 can cause uncertainty in its application, this has the potential to result in different or inconsistent interpretations in the field. However, Gustav Radburch also emphasized that in a

²⁶ *Ibid.*

²⁷ *Ibid.*

²⁸ *Ibid.*

situation of conflict between positive law (currently applicable law) and justice, the principle of justice must be prioritized even if positive law is considered less fair.

4. Conclusion

Based on the formulation of the problem that has been explained previously along with the data obtained to describe the problem into the research results, both library research and field research, it can be concluded that the implementation of the provision of free pro bono notary legal services in Grobogan Regency voluntarily for the poor has been carried out optimally, this is proven by the author conducting direct interviews with Notaries. Notaries assess someone who comes to them in need of help based on their humanitarian spirit and not only helps underprivileged clients, but also provides services voluntarily in the social, humanitarian, and religious fields. The regulation on the provision of free legal aid in the notary field for the underprivileged is currently still guided by Article 37 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary, Law Number 16 of 2011 concerning Legal Aid, and the Notary Code of Ethics. The obstacles encountered in the implementation of Article 37 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary are that the Law has not clarified the definition or category of the underprivileged community, so that notaries only assess based on humanitarian factors because of the moral urge of a notary to help fellow human beings in this case the underprivileged community, the lack of legal counseling so that the stigma of the general public who think that coming to a notary's office requires high costs, so they are reluctant to come to carry out a legal act.

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