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Optimization of the Implementation of... (Histy Tria Agustina & Nanang Sri Darmadi)

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Optimization Implementation of the Notary **Responsibilities in Providing Social Services to Underprivate Communities in Kendal Regency**

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> **Abstract.** This study aims to analyze the optimal implementation of notaries' responsibilities in providing social services to underprivileged communities in Kendal Regency and to identify obstacles and solutions encountered in its implementation. The study used an empirical juridical method with a statutory regulatory approach, literature study, and interviews with two notaries in Kendal Regency. The results of the study indicate that the obligation of notaries to provide free legal services to underprivileged communities is regulated in the Notary Law, the Notary Code of Ethics, and the principle of justice in the 1945 Constitution. However, its implementation is highly dependent on the notary's personal awareness due to the lack of standard guidelines regarding the mechanism for determining the criteria for underprivileged communities or the procedures for providing free services. The notaries interviewed stated that the provision of social services is carried out on the basis of humanity and professional integrity, not due to pressure from normative sanctions. The main obstacles faced include relatively high operational costs, the lack of standards for verifying clients' economic capabilities, and the risk of abuse by those who are actually well-off. The proposed solutions include the development of technical guidelines by professional organizations, increased socialization, and strengthening the integrity of notaries as public officials.

Keywords: Communities; Notary, Professional; Services.

1. Introduction

The need for notarial services in modern society is increasing along with the development of legal relations in the social and economic spheres. Notaries play a central role as public officials authorized by the state to create authentic deeds as evidence with perfect evidentiary force (Putri, 2020). In practice, the public's

need for authentic deeds often does not match their financial capabilities, especially for low-income groups. This situation creates a gap between the ideal of regulation, which requires legal services for all citizens, and the reality on the ground, which shows that some people are discouraged from taking legal action due to financial constraints (Sari & Pramesti, 2021).

As a nation based on the rule of law, Indonesia emphasizes the importance of legal certainty, order, and protection, including equal access to notarial services (Saragih, 2019). In this context, the existence of notaries is not merely an administrative complement, but part of the state's mechanism for guaranteeing citizens' rights. However, various studies indicate that public understanding of the social function of notaries remains low, leading to the perception that notary services are always expensive, leading to a reluctance to seek them (Rahmawati & Hidayat, 2021). Yet, the Notary Law explicitly mandates notaries to provide free services to those who cannot afford them.

As a legal profession, notaries are required to maintain integrity and professionalism, while fulfilling their obligations as mandated by law. Research by Erwinsyah (2020) shows that notaries play a crucial role in creating legal certainty and preventing disputes through authentic deeds, which have the highest evidentiary value. Furthermore, the social role of notaries is regulated by Article 37 of Law No. 2 of 2014, which requires them to provide free legal services to the underprivileged. However, research in several regions demonstrates weak implementation of this social obligation, as some notaries prioritize commercial aspects over public service (Mulyani, 2022).

The gap between normative regulations and on-the-ground practice is increasingly apparent through previous research findings. For example, a study by Pambudi and Setyowati (2021) found that most notaries in Central Java remain selective in providing free services, citing operational costs, job risks, and the need to maintain office continuity. On the other hand, low-income individuals still require authentic deed services for essential activities such as grants, wills, or the establishment of legal entities. This suggests structural barriers hindering access to justice, despite regulations guaranteeing free services for the poor.

Furthermore, other research confirms that the implementation of Article 37 of the UUJN is often hampered by the inability verification mechanism, inconsistent operational standards, and a lack of strict oversight from the Regional Supervisory Council (MPD) and the Notary Honorary Council (MKN) (Utami & Budiarto, 2020). The absence of standard guidelines leads to broad interpretations among notaries regarding the category of "incapable," thus increasing the potential for deviations in refusing free services. This fact demonstrates that notaries' social obligations still require optimization to achieve the objectives of the law.

In fact, various studies emphasize that the success of legal development is determined not only by sound regulations but also by the morality and ethos of service of law enforcers, including notaries (Fauziah, 2021). In the context of notarial services, notary integrity is the foundation of public trust. When notaries fulfill their social obligations, they not only help the underprivileged but also strengthen the legitimacy of the notary profession as part of a just and humane public service.

The gap between notaries' normative obligations and the practice of providing free services demonstrates the importance of identifying issues related to the implementation of notaries' social responsibilities, particularly in fulfilling the rights of the underprivileged to access notarial services. This identification is crucial for finding more appropriate solutions to optimize the notaries' social role in society.

This study aims to analyze the optimization of the implementation of Notary's responsibilities in providing social services to underprivileged communities in Kendal Regency.

2. Research Method

This study uses a qualitative approach to obtain an in-depth overview of the optimization of notaries' social service delivery to underprivileged communities in Kendal Regency. This approach allows researchers to fully understand the phenomenon through descriptive data sourced from interviews and related documents. Specifically, this study falls under the category of empirical legal research, examining how legal provisions regarding notaries' social responsibility are applied in practice through direct observation and interaction with informants.

The data in this study include primary and secondary data. Primary data were obtained through interviews with Notaries working in Kendal Regency to obtain information regarding the implementation of social services, the mechanisms used, and the obstacles faced in providing services to the underprivileged. Meanwhile, secondary data were obtained through a literature review of primary legal materials such as the Constitution of the Republic of Indonesia, Law of the Republic of Indonesia Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary Public, and the Civil Code. In addition, secondary legal materials in the form of books, legal journals, scientific articles, and relevant research results were also used to strengthen the analysis. Tertiary legal materials such as legal dictionaries, the Great Indonesian Dictionary, English dictionaries, and encyclopedias were used as supporting sources to clarify the terms and concepts used in the study.

The obtained data was analyzed using qualitative descriptive analysis methods. This analysis was conducted by organizing, interpreting, and presenting the data

as it was to provide a comprehensive overview of the level of optimization of Notary responsibility in providing social services to the underprivileged in Kendal Regency, as well as the factors influencing the sustainability of this practice.

3. Results and Discussion

3.1. Provisions of the Regulations on Optimizing the Implementation of Notary Responsibilities in Providing Social Services to the Underprivileged in Kendal Regency

Working is a basic human obligation, including choosing a profession responsibly. Notaries, as a legal profession, have a social role to serve the community through their expertise and services. Notary legal services are needed by all levels of society, but differences in economic conditions mean that some people cannot afford to pay honorariums. Therefore, Article 37 Paragraph (1) of the Notary Law (UUJN) stipulates that notaries are required to provide free legal services to those who cannot afford them.

Notaries are tasked with providing the best possible service to the public without discrimination, including providing legal counseling to ensure clients understand their rights and obligations. In practice, notaries must comply with the UUJN and the Notary Code of Ethics, maintain professionalism, confidentiality, and uphold the interests of all parties. Deeds are considered legally binding, and notaries are responsible for their content and legal consequences.

The authority of a notary is regulated in Article 15 of the UUJN, which includes the preparation of authentic deeds, signature authentication, legal counseling, land deeds, and auction minutes. In addition to these authorities, notaries are also bound by ethical obligations as stipulated in Article 3 of the Notary Code of Ethics, including the obligation to provide services to the underprivileged without charging an honorarium.

Article 37 of the UUJN also regulates sanctions for notaries who fail to fulfill their obligation to provide free services, ranging from warnings to dismissal. However, in practice, this obligation often results in financial burdens for notaries, as all operational costs are borne personally, so free services are provided as long as they do not cause significant losses. In addition to the UUJN, the obligation to provide non-discriminatory services is also supported by the Notary Code of Ethics, the 1945 Constitution (Articles 28D and 34), and the Public Services Law.

Based on interviews with two notaries in Kendal Regency, both have provided free legal services, particularly for the establishment of social foundations. Notaries assess clients' economic capabilities based on their financial condition and professional judgment, without standard administrative requirements. Due to the lack of official guidelines from the Indonesian Institute of Legal Aid (NI)

regarding the criteria for recipients of assistance, assessments are left to the discretion of each notary.

The provision of free services is generally carried out in two ways: first, the applicant submits a request directly to a Notary; or second, through the head of the INI branch who then appoints a specific Notary. Factors that encourage notaries to provide free services include humanitarian values, client honesty, and the Notary's confidence in the condition of the party appearing before them. Although social services in the form of legal counseling should be provided, not all Notaries are able to provide free deed services continuously due to limited operational costs. Therefore, the provisions regarding sanctions in Article 37 of the UUJN and the Code of Ethics are deemed necessary to be clarified to avoid putting pressure on Notaries.

3.2. Obstacles and Solutions Faced by Notaries in Providing Social Services to Underprivileged Communities in Kendal Regency

Notaries have a responsibility to provide professional services to all members of the public without distinction of economic ability. Free services provided to the underprivileged are part of the social function of the notary office and a form of humanitarian service. Based on the provisions of the UUJN and the Notary Code of Ethics, services to the public must fulfill the principle of equality, namely providing fair legal treatment as mandated by Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia. Thus, providing free services is not only a moral obligation, but also an implementation of the rule of law.

The provision of free services, as stipulated in Article 37 of the UUJN, is essentially the same as other public services, remaining within the scope of a notary's authority. However, this provision has cost implications, as free services still require operational costs, such as stamp duty, administration, electricity, and employee salaries, which must be covered independently by the notary. Therefore, notaries may provide free services as long as they do not cause significant economic loss to their office. Nevertheless, notaries in Kendal Regency continue to fulfill this obligation as a demonstration of professionalism and commitment to the mandate of the UUJN.

In an interview with Notary Martina Yulistyani, SH., M.Kn., it was revealed that she regularly provides free services in the form of consultations, legalizations, and certifications to the underprivileged. According to her, there are no significant obstacles in providing social services, as obstacles actually indicate that notaries are not fulfilling the mandate of the law. The obstacles that arise generally do not originate from the notary, but from the client, particularly regarding the completeness of administrative requirements and a lack of legal understanding. Many underprivileged people are unaware of the existence of pro bono services, so they are reluctant or hesitant to access them.

In addition to administrative constraints and public ignorance, there are also technical issues such as disruptions to the General Legal Administration (AHU) system. This system is crucial for the electronic deed creation process and legal entity registration. If the system experiences disruptions, notary services—including free services—can be disrupted. However, most notaries in Kendal do not consider limited operational costs a barrier, as they believe that social service is part of their professional dedication, and is performed with sincerity, regardless of the size of their fees.

To address these challenges, several solutions have been implemented, both by notaries themselves and by professional organizations. Improving the stability of the AHU system is a priority to ensure smooth administrative processes. The Indonesian Notaries Association (INI) also plays a key role in educating the public about notary social services and reducing the perception that notary fees are always high. Collaboration with humanitarian organizations and local governments is also necessary to reach underprivileged communities in need of reliable legal services.

Optimizing these social services requires support from local governments, for example by providing standardized SKTM (Certificate of Legal Aid) as a basis for verifying low-income clients. Notaries can also schedule specific days for pro bono services to ensure public services remain productive. Furthermore, educating the public about document completeness is essential to ensure the deed-making process is uninterrupted. Synergy between notaries, local governments, the Indonesian Institute of Legal Aid (NII), and social organizations will improve access for low-income communities to notarial services.

Overall, the main obstacles to social services do not originate from notaries, but rather from the community, such as ignorance, lack of legal education, and incomplete documents. Notaries in Kendal Regency demonstrate a strong commitment to carrying out the mandate of Article 37 of the UUJN while maintaining the quality and integrity of the profession. Their sincere social services demonstrate that notaries function not only as public officials but also as public servants who uphold the values of humanity and social justice.

3.3 Example of Deed of Establishment of a Foundation

DEED OF INCORPORATION

FOUNDATION

Number: 15

- Today, Thursday, 11-09-2023 (eleventh of October two thousand and twenty three) at 13.00 WIB (thirteen zero-zero Western Indonesian Time)----

- Before me, HISTY TRIA AGUSTINA, Bachelor of Law, Master of Notary, Notary in Semarang, in the presence of witnesses who are known to me, Notary and will be mentioned at the end of this deed:						
1. Miss Nina Zatulini, born in Jakarta, on January 25, 2000 (January Twenty-Five, Two Thousand), Indonesian citizen, student, residing at Jalan Moh Yamin Number 12, Neighborhood Association 002, Citizens Association 001, Banyumanik District, Semarang City, Resident Identity Card Holder with Population Identification Number: 337889332776						
2. Miss Putri Nirmala, born in Solo, on August 20, 1995 (August Twenty, Nine Hundred and Ninety-Five), Indonesian citizen, student, living and residing at Jalan Sukun Raya, Neighborhood Association 009, Citizens Association 001, Sukun District, Solo City, Resident Identity Card Holder with Population Registration Number: 332009887118						
- The presenters are known to me, the Notary;						
- The Presenters hereby explain in advance:						
a. That we hereby separate from the assets in the form of cash as the initial assets of the Foundation which will be established with this deed, and						
b. That without prejudice to the provisions of the applicable laws and regulations and with the permission of the authorized party, the parties agree and consent to establish a foundation with the following Articles of Association:						
NAME AND PLACE						
Article 1						
(1) This foundation is called: YAYASAN INSANI						
(1) This foundation is called: YAYASAN INSANI Hereinafter in these articles of association it is simply abbreviated to						
 (1) This foundation is called: YAYASAN INSANI Hereinafter in these articles of association it is simply abbreviated to Foundation, domiciled and headquartered in the City of Semarang; (2) The Foundation may open branch or representative offices in other places, both within and outside the territory of the Republic of Indonesia, based on a 						
(1) This foundation is called: YAYASAN INSANI Hereinafter in these articles of association it is simply abbreviated to Foundation, domiciled and headquartered in the City of Semarang; (2) The Foundation may open branch or representative offices in other places, both within and outside the territory of the Republic of Indonesia, based on a decision by the Management with the approval of the Supervisory Board						

ACTIVITY
Article 3
To achieve the above aims and objectives, the foundation carries out the following activities:
1. In the Social Sector:
2. In the Humanitarian Field:Providing assistance to victims of natural disasters, floods, landslides, fires and volcanic eruptions;
Providing assistance to refugees resulting from war;
Establishing and organizing a halfway house; -
Establishing and running a funeral home;
Providing protection of human rights; -
Providing consumer protection;
Organizing environmental conservation
3. In the field of religion:
Establishing places of worship (mosques/prayer rooms)
Organizing Islamic boarding schools;
Receive and distribute zakat, infaq and alms;
Improving religious understanding;
Carry out religious broadcasts;
Comparative study of religion;
TIME PERIOD

Article 4
This foundation was established for an indefinite period of time
RICHES
Article 5
(1) The Foundation has initial assets originating from the Founder's separated assets, consisting of cash amounting to Rp. 10,000,000 (ten million rupiah);
(2) Apart from the wealth as referred to in paragraph (1), the foundation's wealth can also be obtained from:
a. non-binding donations or assistance; b. waqf; b. waqf;
c. grants;
d. testamentary grant; And
e. other acquisitions that do not conflict with the Foundation's Articles of Association and/or applicable laws and regulations
(3) All the Foundation's assets must be used to achieve the Foundation's aims and objectives, -
FOUNDATION ORGANS
Article 6
The Foundation has organs consisting of:
a. Builder;
b. Management;
c. Supervisor;
GUARDIAN
Article 7
(1) Trustees are Foundation organs that have authority that is not delegated to Management or Supervisors
(2) The supervisory board consists of one or more members of the supervisory board

appointed as the Chair of the Advisory Board	
(4) Those who can be appointed as members of the Board of Trustees are individuals who are the founders of the foundation and/or those who, based on the decision of the Board of Trustees meeting, are deemed to have high dedication to achieving the aims and objectives of the foundation.	
(5) Advisory members are not given salaries or allowances by the foundation	
(6) In the event that the foundation for any reason does not have a member of the Board of Trustees, then within 30 (thirty) days of the vacancy occurring, a member of the Board of Trustees must be appointed based on a decision of a joint meeting of the Supervisory Board and the Management Board	
(7) A member of the Board of Trustees has the right to resign from his position by notifying the Foundation in writing of his intention no later than 30 (thirty) days before the date of his resignation	
Article 8	
(1) The term of office of the Trustees is not specified	
(2) The position of a member of the Board of Trustees will automatically end if the member of the Board of Trustees:-a. dies;b. resigns with written notification as stipulated in Article 7 paragraph (7);c. no longer meets the requirements of the applicable laws and regulations;d. is dismissed based on a decision of the Board of Trustees Meeting;e. is declared bankrupt or placed under remission based on a court decision;f. is prohibited from becoming a member of the Board of Trustees due to the applicable laws and regulations	
(3) Supervisory members may not serve as management members and/or supervisory members. —	
DUTIES AND AUTHORITIES OF THE SUPERVISORS	
Article 9	
The supervisor is authorized to act for and on behalf of the supervisor.	
(1) The supervisor's auth <u>ority includes:</u>	
a. decisions regarding changes to the Articles of Association; -	

	appointment and dismissal of members of the Management and Supervisory ard;					
	determination of the Foundation's general policies based on the Foundation's ticles of Association;					
	ratification of the work program and draft annual budget of the Foundation;					
e. 	making a decision regarding the merger or dissolution of the Foundation;					
f.	approval of annual report;					
g. 	appointment of a liquidator in the event that the Foundation is dissolved					
In the event that there is only one member of the Advisory Board, all duties and authorities given to the Cha <u>irperson of the Advisory Board or the Advisory Board</u> member also apply to him/her.						
BOARD OF DIRECTORS MEETING						
	Article 10					

- (1) The Advisory Board meeting is held at least once a year, no later than 5 (five) months after the end of the financial year as an annual meeting, as referred to in Article 12. The Advisory Board may also hold a meeting at any time if deemed necessary upon written request from one or more Advisory Board members, Management members, or Supervisory members.
- (2) Meeting call The mentoring is carried out by the mentor directly, or by letter with a receipt, no later than 7 (seven) days before the meeting is held without taking into account the date and time of the meeting.
- (3) The meeting invitation must include the day, date, time, place and agenda of the meeting.
- (4) The Board of Trustees meeting is held at the Foundation's domicile, or at the Foundation's place of activity, or at another place within the jurisdiction of the Republic of Indonesia.
- (5) In the event that all members of the Trustees are present, or represented, the summons is not required and the Trustees Meeting can be held anywhere and has the right to make legal and binding decisions. (The Board of Trustees Meeting is chaired by the Chairman of the Board of Trustees, and if the Chairman of the Board of Trustees is absent or unable to attend, then the Board of

Trustees Meeting will be chaired by a person chosen by and from the members of the Board of Trustees who are present.r.

- (6) The Supervisory Meeting is chaired by the Chairman of the Advisory Board, and if the Chairman of the Advisory Board is not present or is unable to attend, then the Advisory Meeting will be chaired by a person selected by and from the members of the Advisory Board who are present by and from the members of the Advisory Committee who are present ------
- (7) A member of the Advisory Board may only be represented by another member of the Advisory Board in an Advisory Board Meeting based on a power of attorney. ------

 Article	11	

- (1) The Board of Trustees meeting is valid and has the right to make binding decisions if:
- a. attended by at least 2/3 (two thirds) of the number of members of the Advisory Board;-----
- b. In the event that the quorum as referred to in paragraph (1) letter a is not achieved, a second Advisory Meeting may be convened;
- c. The summons as referred to in paragraph (1) letter b, must be made no later than 7 (seven) days before the meeting is held, without taking into account the date of the summons and the date of the meeting;------
- d. The second Advisory Meeting will be held at the earliest 10 (ten) days and at the latest 21 (twenty one) days from the first Advisory Meeting-----
- e. RThe second supervisor is valid and has the right to make binding decisions, if attended by more than 1/2 (one half) of the number of supervisor members -----
- (2) The decisions of the Advisory Meeting are taken based on deliberation to reach consensus.
- (3) In the event that a decision based on deliberation to reach a consensus is not reached, the decision is taken based on a vote of agreement of more than 1/2 (one half) of the total valid votes.-----
- (4) If there are an equal number of votes for and against, the proposal is rejected.---
- (5) The voting procedure is as follows:-----
- a. Each member of the Advisory Board who is present has the right to cast 1

(one) vote and 1 (one) additional vote for each other member of the Advisory Board that he/she represents;

- b. Voting on a person is done by means of a closed ballot without a signature, while voting on other matters is done openly and signed, unless the Chair of the Meeting determines otherwise and there are no objections from those present;--
- c. abstentions and invalid votes are not counted in determining the number of votes cast
- (6) At each Advisory Meeting, minutes of the meeting are made which are signed by the meeting chair and the meeting secretary.
- (7) The signing as referred to in paragraph (6) is not required if the minutes of the meeting are made by notarial deed.
- (8) The supervisor can make a valid decision without holding a supervisory meeting, provided that all members of the supervisory board have been notified in writing and all members of the supervisory board have given their written approval regarding the proposal submitted and signed the approval.—
- (9) Decisions taken as intended in paragraph (8), have the same force as decisions legally taken in the Supervisory Meeting -----
- Made and inaugurated in the City of Semarang on the day and date as stated in the beginning of this deed in the presence of:-

-----THUS THIS ACT ------

- 1. Miss Jesica, born in Semarang, on 07-04-1995 (April Seventh, one thousand nine hundred and ninety-five), Indonesian citizen, employee of a notary, having her address and residing at Jalan Bringin Asri, Neighborhood Association 008, Citizens Association 002, Ngaliyan District, Semarang City, Holder of a Resident Identity Card with Population Identification Number: 334554665443;-------
- 2. Miss Desy, born in Semarang, on 20-08-2000 (August 20, two thousand), Indonesian citizen, notary employee, living and residing at Jalan Singosari, Neighborhood Association 007, Citizens Association 006, Majapahit District, Semarang City, holder of a Resident Identity Card with Population Identification Number: 332112334776;-----

- After this deed is read by me, the Notary to the presenters and witnesses, this deed is immediately signed by the presenters, witnesses, and me, the Notary.------
- Carried out without changes.-----
- The minutes (original) of this deed have been duly signed.-----
- Given as (Copy) which sounds the same. -----

Notary in Semarang City

HISTY TRIA AGUSTINA, SH, M.Kn

4. Conclusion

Provisions for the Implementation of Social Services by Notaries, Based on UUJN No. 2 of 2014, specifically Article 37 paragraphs (1) and (2), Notaries are required to provide free notarial legal services to the underprivileged, and violations are subject to sanctions ranging from warnings to dismissal. This obligation incurs additional costs for Notaries because all operational costs—such as stamp duty, administration, electricity, and employee salaries—are borne by the Notary themselves without government assistance. Therefore, providing free services can be done as long as it does not cause a significant economic burden. In practice, this social responsibility is carried out more on a voluntary basis and based on humanitarian values rather than purely as a legal obligation. If this obligation is imposed with the threat of sanctions, then the provisions of Article 37 UUJN and Article 3 number (7) of the Notary Code of Ethics have the potential to become a form of pressure on Notaries. Therefore, many Notaries interpret it as a form of service, not a coercive legal burden. Obstacles and Solutions to Social Services, An interview with Notary Martina Yulistyani, SH, M.Kn. showed that notaries do not experience significant obstacles in providing free services, as this is mandated by the UUJN. The main obstacles lie in technical aspects, particularly disruptions to the General Legal Administration (AHU) system. Furthermore, the public often does not understand legal procedures or is unaware of the existence of pro bono services. Solutions implemented include stabilizing the AHU system, establishing policies to mitigate the impact of service disruptions, and outreach by the Indonesian Notaries Association (INI) to reduce

the perception that notary fees are always high. Coordination with humanitarian organizations and local governments is also necessary to ensure that social services reach those who truly need them. The role of social institutions, legislators, and law enforcement is crucial to ensure that notarial services are carried out according to regulations and benefit the community. Suggestion, 1. Optimizing Notary Services for the Underprivileged. Notaries need to regularly educate the public about their right to free legal aid and provide technologybased consultation services to reach remote areas. Collaboration with the INI Regional Board is crucial to eradicate the stigma that notary services are always expensive. Furthermore, providing templates for foundation deed of establishment and educating the public about legal procedures can simplify the legal process for social activities. 2. Overcoming Social Service Obstacles, Notaries must understand and fulfill their obligations under the UUJN and actively educate the public about legal procedures and available free services. Support from professional organizations and local governments is also needed, for example through facilitation, financial assistance, or mentoring mechanisms, so that notaries can continue to provide social services without being burdened by operational costs.

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