

Effectiveness of Providing Free Notary Services for the Underprivileged

Muhammad Ridho Assyahid¹⁾ & Achmad Arifulloh²⁾

¹⁾Master of Notary Law, Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia, E-mail: ridhoassyahid120901@gmail.com

²⁾Master of Notary Law, Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia, E-mail: achmadarifulloh@unissula.ac.id

Abstract. *This study aims to analyze the effectiveness of the implementation of the provision of free legal services in the field of notary by Notaries and identify obstacles and solutions in its implementation. This study uses a qualitative approach with a sociological juridical research type. The types and sources of data used consist of primary data and secondary data obtained through interviews and literature studies. Data analysis was conducted descriptively qualitatively. Based on the results of the study, it is concluded that the obligation of Notaries to provide free legal services in the field of notary to people who cannot afford it is regulated in Article 37 paragraph (1) of the Notary Law. This provision provides hope for people who cannot afford to continue to obtain notary services without charge. In practice, the provision of free legal services is carried out based on the Notary's assessment of the conditions and legal needs of the clients who come to him. In addition, the implementation of the provision of free legal services in the field of notary is a form of social responsibility of the Notary profession in providing access to justice. However, the effectiveness of its implementation still faces various obstacles, including limited outreach to the community, the high workload of Notaries, and operational costs that must still be borne even though the service is provided free of charge.*

Keywords: Legal; Notary; People; Services.

1. Introduction

Indonesia is a nation governed by the rule of law and is obligated to provide and guarantee legal certainty, order, and legal protection for every citizen. One of the primary means of ensuring this legal certainty and protection is the existence of authentic written evidence regarding acts, agreements, decisions, and legal events. In civil law practice, the written evidence with the strongest and most

substantial evidentiary force is an authentic deed drawn up by an authorized public official, namely a notary public.¹

A notary is a public official with the authority to create authentic deeds and other powers as stipulated in the Notary Law. A notary's position as a public official places him or her in charge of exercising some of the state's authority in civil law, particularly in providing written evidence with full evidentiary force.² Therefore, authentic deeds made by a notary have a strategic function in providing legal certainty and protection for parties carrying out legal acts.

In carrying out their duties, notaries are not subject to executive, legislative, or judicial authority, allowing them to carry out their duties independently and impartially. Authentic deeds produced by notaries are legally accountable and provide maximum protection for clients, as they have full evidentiary force in court.³ Thus, the role of a notary is very important in ensuring legal order and legal certainty in society.

However, in practice, notary services are often associated with relatively high costs due to the legal expertise, professional responsibility, and significant administrative burdens involved. This situation results in access to notary services being enjoyed primarily by the economically well-off, while the less well-off often experience difficulties obtaining notary services. Yet, the need for notary legal services recognizes no distinction of social status, as everyone has the right to equal legal protection.⁴

The differences in economic capacity of the community have been anticipated by the legislators through the regulation of the obligation of Notaries to provide legal services in the field of notary free of charge to the poor as contained in Article 37 of Law Number 2 of 2014 concerning the Office of Notaries. This provision is intended to guarantee the principle of equality before the law and expand access to justice for the poor. However, in reality, the implementation of this obligation still faces various obstacles, including the difficulty of the community in proving their inability and the continued refusal of services by

¹Chalim, Abdul., & Arifulloh, Achmad. (2017). "The Position of Authentic Deeds in Guaranteeing Legal Certainty." in *Jurnal Akta*, Volume 4 No. 4 December 2017, p. 561. <http://jurnal.unissula.ac.id/index.php/akta/article/view/2517> accessed January 12, 2026.

²Adjie, Habib. (2015). "The Position and Authority of Notaries as Public Officials." in *Journal of Law and Notary Affairs*, Volume 2 No. 1 June 2015, p. 23. url <https://ejournal.undip.ac.id/index.php/kenotariatan/article/view/> accessed January 14, 2026.

³Salim HS. (2017). "Authentic Deeds as Perfect Evidence". in *Jurnal Yuridika*, Volume 32 No. 1 January 2017, page 45. url <https://e-journal.unair.ac.id/Yuridika/article/view/> accessed January 16, 2026.

⁴Anshori, Abdul Ghofur. (2014). "Public Access to Notary Services". in *Jurnal Rechtidee*, Volume 9 No 2 December 2014, page 67. URL <https://journal.trunojoyo.ac.id/rechtidee/article/view/> accessed January 18, 2026.

Notaries, which ultimately has the potential to violate the provisions of the Notary Law.⁵

This situation is also found in Brebes Regency, which has a relatively low level of community welfare. Many people experience obstacles in obtaining legal legitimacy for legal acts and agreements due to economic constraints, while the practice of providing free notarial services is not yet structured and widely disseminated. Therefore, identifying the implementation of notaries' obligations to provide free legal services is important to assess the conformity between applicable legal norms and the reality on the ground. This study aims to analyze the effectiveness of the implementation of free legal services in the notarial field by notaries.

2. Research Methods

This study uses a qualitative approach with a sociological juridical research type, which aims to examine the implementation of Notaries' obligations to provide free legal services in the notary field to the underprivileged as regulated in Article 37 paragraph (1) and paragraph (2) of Law Number 2 of 2014 concerning the Position of Notary. The data in this study consist of primary data and secondary data. Primary data were obtained through interviews with Notaries in Brebes Regency, while secondary data were obtained through library studies related to relevant laws and regulations and literature. Data analysis was carried out descriptively qualitatively by describing and describing the facts obtained in the field and linking them to applicable legal provisions.

3. Results and Discussion

3.1. Effectiveness of the Implementation of Free Notary Legal Services by Notaries in Brebes Regency

The obligation of Notaries to provide free legal services in the field of notary to those who cannot afford it is a normative mandate that is expressly regulated in Article 37 paragraph (1) of Law Number 2 of 2014 concerning the Position of Notary (UUJN). This provision is based on the principle of access to justice and emphasizes that Notaries as public officials are not solely oriented towards commercial interests, but also bear social responsibility in ensuring access to legal services for all levels of society.⁶

⁵Chalim, Abdul. (2018). "Administrative Sanctions against Notaries from the Perspective of the Notary Law". in *Jurnal Akta*, Volume 5 No 3 September 2018, page 89. URL <http://jurnal.unissula.ac.id/index.php/akta/article/view/> accessed January 21, 2026.

⁶Gunawan Widjaja, "The Role of Notaries in Providing Access to Justice for the Underprivileged", in the *Journal of Law & Notary*, Volume 5 No. 1 January 2019, page 45, url <https://journal.kenotariatan.ac.id/article/view/1123> accessed January 5, 2026.

The position of a notary as a public official plays a strategic role in ensuring legal certainty through the creation of authentic deeds. Authentic deeds have the power of perfect proof, as stipulated in Article 1868 of the Civil Code (KUHPperdata), making the existence of a notary a vital necessity in various legal acts.⁷Therefore, the implementation of the Notary's authority is not only interpreted as an administrative function, but also as part of the implementation of the state's public function in the field of civil law.⁸

The authority of a Notary is derived directly from the law (attributive), as stated in Article 1 number 1 and Article 15 of the UUJN. This authority includes the creation of authentic deeds, guaranteeing the certainty of the date of the deed's creation, storing the minutes of the deed, providing grosse, copies and extracts of deeds, as well as other authorities determined by statutory regulations.⁹Based on this authority, Notaries carry out their duties independently, neutrally and are not under the influence of executive power in the practice of providing legal services to the public.¹⁰

The results of field research indicate that the implementation of the obligation to provide free legal services by Notaries in Brebes Regency has not been running optimally in practice. This is due to the absence of clear technical regulations regarding the definition of "indigent persons" and the form of notarial legal services that can be provided free of charge. The norm of Article 37 paragraph (1) of the UUJN is vague (vague norm) because it is not accompanied by adequate operational explanations, so that its implementation is highly dependent on the subjective assessment of Notaries.¹¹

In practice, notaries in Brebes Regency generally never accept explicit requests from clients requesting free notarial legal services. Clients who visit a notary's office generally have legal needs of economic value, such as drafting deeds of agreement, transferring rights, establishing a legal entity, or legalizing documents. Therefore, they cannot be categorized as economically disadvantaged. This situation often results in the obligation to provide free legal services in the form of legal consultations and informal legal counseling without charge.

Based on the interview results, Notaries base their decisions on three main factors when providing free legal services: humanity, the client's candor, and the Notary's personal belief in the client's economic situation. Notaries do not

⁷Subekti, Law of Evidence, (Jakarta: Pradnya Paramita, 2014), page 27.

⁸Habib Adjie, Indonesian Notary Law, (Bandung: Refika Aditama, 2018), page 14.

⁹Law Number 2 of 2014 concerning the Position of Notary.

¹⁰Sudikno Mertokusumo, The Discovery of Law, (Yogyakarta: Liberty, 2015), p. 89.

¹¹Andi Hamzah, "The Vagueness of Norms in the Notary Law", in the Indonesian Legislation Journal, Volume 16 No. 2 June 2019, page 211, url<https://ejurnal.peraturan.go.id/article/view/982> accessed January 7, 2026.

require administrative documents such as a certificate of inability because they are considered to burden the client and contradict the humanitarian values that are the spirit of the Notary profession.

Humanitarianism is the primary moral foundation for providing free legal services. Notaries view the notarial profession as a service profession (*officium nobile*) that demands moral integrity and social concern. This view aligns with Tobing's assertion that notaries must understand the needs of the communities they serve, not simply exercise normative authority.¹²

However, the lack of a standardized mechanism for *pro bono* legal assistance in the Notary Law or the Notary Code of Ethics has the potential to create inconsistent practices in the field. Unlike the legal profession, which has relatively clear regulations regarding free legal assistance, notaries still find themselves in a normative gray area. This situation has resulted in the less than optimal implementation of Article 37 of the Notary Law.

From the perspective of a state based on the rule of law, the obligation to provide free legal services by Notaries is a manifestation of the principle of social justice as mandated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia and the fifth principle of Pancasila.¹³ Therefore, the effectiveness of implementing these obligations does not only depend on the personal integrity of the Notary, but also requires clearer and more implementable regulatory support.

Thus, it can be concluded that the effectiveness of free notarial legal services by notaries in Brebes Regency is normatively regulated in the UUJN, but empirically, it has not been optimally implemented. The implementation of this obligation remains moral and voluntary, not supported by a clear legal system and standards. Going forward, regulatory strengthening is needed so that this obligation becomes not only an ethical norm but also can be implemented consistently and fairly.

3.2. Obstacles and Solutions to the Implementation of Free Notary Services by Notaries in Brebes Regency

The obligation to provide free legal services in the notarial field by a Notary Public cannot be separated from the social, economic, and professional realities faced by Notaries in carrying out their duties. Working is essentially a basic human obligation to meet the needs of life, including material needs and the continuity of professional activities. In the context of the Notary profession, the demands of meeting living needs and office operational costs are an unavoidable

¹²GHS Lumban Tobing, *Regulations on the Position of Notary*, (Jakarta: Erlangga, 2010), page 56.

¹³Jimly Asshiddiqie, *The Indonesian Constitution and Constitutionalism*, (Jakarta: Sinar Grafika, 2017), p. 98.

reality, thus impacting the implementation of social obligations as mandated by the Notary Law (UUJN).¹⁴

Based on the results of field research in Brebes Regency, the main obstacle in the implementation of free notarial legal services lies in the lack of a clear and institutionalized system and mechanism. In practice, notaries categorize the provision of legal services without an honorarium into three classifications: to the economically disadvantaged, to legal acts or events that have a social function, and to parties who have a close personal relationship with the notary. This classification is entirely dependent on the notary's discretion and subjective considerations, as there are no technical and binding normative guidelines.

Another significant obstacle is the lack of a dedicated institution to provide free notarial services. The absence of an institution like the Notary Deed Assistance Institute (LBAN), which mandates *pro bono* notarial services, leaves the obligation to provide them solely to the moral conscience of each notary. This has led to the fading image of the notary profession as a noble *officium nobile* and has reinforced the public perception that notarial services are accessible only to those with financial means.¹⁵

However, constitutionally, the state guarantees the rights of every person to recognition, guarantees, protection and fair legal certainty as well as equal treatment before the law.¹⁶ Enforcing human rights is not only carried out through judicial mechanisms, but also through preventive measures, one of which is ensuring public access to legal evidence in the form of authentic deeds. In this regard, the role of a notary is crucial because authentic deeds can prevent disputes and provide legal certainty from the outset of a legal relationship.¹⁷

The next obstacle relates to the issue of notary service fees. In practice, fee negotiations frequently occur between notaries and clients, both from the lower and upper middle classes. Even large companies frequently negotiate fees, citing budget constraints. This situation has triggered a fee war between notaries, potentially undermining professionalism and solidarity within the profession. The absence of a fee oversight mechanism by the Honorary Council of the Indonesian Notaries Association (INI), leaves the issue of fees entirely at the discretion of each notary.

Furthermore, economic pressures and unfair competition in fees have driven some notaries to engage in legal smuggling practices, such as helping clients

¹⁴Franz Magnis-Suseno, *Political Ethics*, (Jakarta: Gramedia Pustaka Utama, 2016), p. 102.

¹⁵Setiawan, "The Existence of Notaries as Public Officials", in the *Indonesian Notary Journal*, Volume 4 No. 1 February 2018, page 33, url <https://jurnal.notaris.id/article/view/421> accessed January 4, 2026.

¹⁶Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia.

¹⁷Habib Adjie, *Indonesian Notary Law*, (Bandung: Refika Aditama, 2018), page 67.

avoid tax obligations by drafting underhand agreements that are then branded. Such practices clearly contradict the purpose of providing notarial legal services, which should uphold legal certainty, order, and justice.¹⁸

Another obstacle is the difficulty in identifying the qualifications of "indigent persons." Neither the UUJN (National Notary Law) nor the Notary Code of Ethics provide clear parameters regarding who is entitled to receive free notarial legal services. Consequently, notaries must use subjective judgment based on the client's appearance, candor, and the type of legal action requested. This situation creates inconsistent practice and has the potential to create injustice within the community.

Based on these various obstacles, it can be concluded that the obligation to provide free notarial legal services lacks strong binding force, both in terms of implementation and sanctions. Providing legal assistance is still viewed as an individual responsibility of notaries, which is highly dependent on their financial capabilities, experience, and social sensitivity.

As a solution, it needs to be reiterated that the obligation to provide free notary legal services is part of the implementation of human rights, especially the right to equality before the law.¹⁹ Notaries as public officials obtain their authority directly from the state through UUJN, so that morally and legally they have a responsibility to participate in enforcing, protecting and fulfilling human rights in the field of civil law.

Article 37 of the UUJN and Article 3, number 7 of the Notary Code of Ethics should not be understood merely as formal norms, but as ethical and social imperatives that must be implemented effectively. Provision of free legal services should be directed at situations of economic hardship, non-profit legal actions, and broader social interests.

A concrete solution is the establishment of a notarial deed assistance institution as a forum for the structured and coordinated implementation of pro bono notarial obligations. This institution could serve as a means of distributing the burden of responsibility proportionally among notaries, while also ensuring the quality of legal services provided to the underprivileged.²⁰

Furthermore, it is necessary to strengthen the role of professional organizations in fostering and overseeing the implementation of notaries' social obligations.

¹⁸Andi Hamzah, "Ethics and Violations in Notary Practice", in the Journal of Law & Development, Volume 49 No. 3 September 2019, page 412, url <https://jhp.ui.ac.id/article/view/1398> accessed January 8, 2026.

¹⁹Jimly Asshiddiqie, *Human Rights in a State of Law*, (Jakarta: Constitution Press, 2017), p. 88.

²⁰Gunardi, "The Urgency of Notarial Deed Assistance Institutions", in *Jurnal Notarius*, Volume 12 No 1 April 2021, page 59, url <https://ejournal.undip.ac.id/notarius/article/view/30122> accessed January 12, 2026.

Continuing education, internalizing humanitarian values, and strengthening professional ethics are key to preventing notaries from falling into the trap of purely materialistic orientation. Thus, the provision of free notarial legal services will no longer depend on individual compassion but rather become part of a just and civilized legal system.

3.3. Legal Status of a Foundation Establishment Deed Prepared Free of Charge by a Notary

A foundation's deed of establishment provided free of charge to the underprivileged community has, in principle, the same legal standing as a notarial deed made based on paid services. This can be seen from the example of the deed of establishment of the Cinta Kasih Foundation made by the Brebes Regency Notary, Rifkhi Pratama, SH, M.Kn. The affirmation of this equal legal standing is based on Article 1868 of the Civil Code which states that an authentic deed is a deed made in a form determined by law by or before an authorized public official. This provision does not differentiate deeds based on whether or not the notary receives an honorarium. Therefore, as long as the deed of establishment of the Cinta Kasih Foundation is made by an authorized notary and meets the formal and material requirements, the deed remains an authentic deed with perfect evidentiary power.²¹

The provision of free legal services in the preparation of the deed of establishment of the Cinta Kasih Foundation is the implementation of the obligations of the notary office as regulated in Article 37 paragraph (1) of Law Number 2 of 2014 concerning the Position of Notary. This provision expressly requires notaries to provide free legal services to those who cannot afford it. However, the exemption from honorarium does not eliminate the notary's obligation to comply with all legal provisions in the preparation of the deed. Thus, the form, structure, and systematics of the deed of establishment of the Cinta Kasih Foundation are still prepared in accordance with the provisions of Article 38 of the Law on the Position of Notary, the same as the deed of establishment of a foundation that is prepared for a fee.

The deed of establishment of the Cinta Kasih Foundation contains the objectives of establishing the foundation in the social, religious, and humanitarian fields as required by Law Number 16 of 2001 concerning Foundations as amended by Law Number 28 of 2004. In the social field, this foundation is designed to organize orphanage activities for orphans, half-sixteen, and abandoned children, including the fulfillment of basic needs, formal and non-formal education, and social development. In addition, the foundation is also planned to carry out social

²¹Subekti, Principles of Civil Law, (Jakarta: Intermasa, 2014), page 74.

assistance activities for underprivileged communities, such as basic food assistance, educational assistance, and community empowerment activities.²²

In the religious field, the Cinta Kasih Foundation aims to organize inclusive religious development activities oriented towards strengthening moral and spiritual values. These activities include religious studies, religious education for children in orphanages and the surrounding community, commemoration of religious holidays, and social outreach activities that emphasize the values of compassion, tolerance, and concern for others. Meanwhile, in the humanitarian field, the foundation is directed to carry out humanitarian assistance activities for victims of natural disasters and other emergencies through fundraising and distribution, emergency services, and collaboration with other social institutions. All of these activities embody the universal humanitarian values that are the basis for the foundation's founding.²³

The deed of establishment of the Cinta Kasih Foundation, which was made free of charge, still meets all the formal requirements for making an authentic deed, starting from the reading of the deed by the notary in the presence of the parties, signing by the parties, witnesses, and the notary, to the storage of the minutes of the deed by the notary. The fact that the deed making service was provided free of charge does not reduce the legal responsibility of Notary Rifkhi Pratama, SH, M.Kn. for the formal accuracy of the deed, both from the aspects of civil law, administration, and the code of ethics of the notary profession.

The equalization of the format and legal standing of foundation deed of establishment prepared free of charge and paid deed of establishment is a concrete application of the Theory of Legal Certainty. This theory demands that the law be applied consistently and predictably, so that every legal subject receives equal legal protection. If deeds prepared free of charge are treated differently in terms of their form or legal force, legal uncertainty and the potential for discrimination against the underprivileged will arise. Therefore, uniformity in the form and legal force of notarial deeds is an absolute requirement to guarantee legal certainty and equality before the law.²⁴

Thus, the deed of establishment of the Cinta Kasih Foundation, which was made free of charge by Notary Rifkhi Pratama, SH, M.Kn., is not only legally valid and has perfect evidentiary power, but also reflects the implementation of the notary's office obligations while guaranteeing legal certainty and protection for the foundation in carrying out its social, religious, and humanitarian activities.

²²Law Number 16 of 2001 concerning Foundations as amended by Law Number 28 of 2004.

²³Habib Adjie, *Foundation Law in Indonesia*, (Bandung: Refika Aditama, 2016), p. 56.

²⁴Jimly Asshiddiqie, *Legal Certainty and Justice*, (Jakarta: Constitution Press, 2018), p. 91.

4. Conclusion

Based on the research results, it can be concluded that the obligation of notaries to provide free legal services to the underprivileged is regulated in Article 37 paragraph (1) of the Notary Law. This provision provides a normative basis for underprivileged people to continue to obtain notarial services. However, this norm is still vague because it is not accompanied by further regulations regarding the implementation mechanism, so that in practice the determination of the provision of free legal services is very dependent on the notary's subjective assessment of the client's condition. In Brebes Regency, the implementation of this obligation is basically a form of social responsibility of the notary profession, but has not been running optimally due to limited socialization, the high workload of notaries, operational costs, and low legal awareness of the community. In addition, notarial deeds made free of charge have the same legal standing as deeds made for a fee, because the difference lies only in the aspect of honorarium, while in terms of form, procedure, and evidentiary power, they remain subject to the provisions of Article 1868 of the Civil Code and Article 38 of the Notary Law. Providing free legal services does not eliminate the notary's legal responsibility, but still requires professionalism and caution in making authentic deeds. Based on these conclusions, it is recommended that notaries consistently and professionally fulfill their obligation to provide free legal services in accordance with the provisions of the Notary Law. Legislative regulators need to strengthen normative arrangements by clarifying the implementation mechanisms, supervision, and legal protection for notaries who carry out these obligations. Notary professional organizations are also expected to develop uniform technical guidelines regarding the criteria for the underprivileged and service standards in providing free legal services to avoid differences in practice. Furthermore, in the practice of preparing free deeds, notaries are still advised to prepare deeds with the same format, structure, and procedures as paid deeds, and to formulate the foundation's aims and objectives clearly and operationally to create legal certainty and protection for the parties.

5. Conclusion

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