

Reconstruction of Free Legal Services Regulations by Notaries



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ABSTRACT: Notaries as public officials appointed by the authorities have the right and authority to make authentic deeds and get paid as a form of professionalism. Notaries are also obliged to provide legal assistance free of charge to people who can't afford it, but sometimes there are notaries who don't apply this. So that the purpose of this study is how to regulate the law on the provision of legal services free of charge by notaries to people who can't afford it and how to reconstruct regulations in the provision of legal services free of charge by notaries to people who can't afford it. The method used in this study uses normative research methods. So, the results of this study are first, the provision of legal services free of charge is mandatory, thus requiring a notary to provide legal services in the notary field free of charge to people who can't afford it. Second, Article 37 Notary Office Law has contradicted the values of justice that have been applied in the context of the 1945 Constitution Article 28D paragraph 2 which states that everyone has the right to get a job and get paid. So, it is necessary that the regulation on the provision of notary services for free can be regulated in implementing regulations and the regulation on the provision of free legal services is revised and reviewed, so that notaries have assistance from the government in the form of a budget to carry out the provision of legal services free of charge.

KEYWORDS: Construction, Legal Services, Free, Notary.

A. INTRODUCTION

In carrying out their profession, Notaries provide legal services to the public as regulated in Law Number 2 of 2014 concerning Notary Positions. With the enactment of this law, the *Reglement op HetNotary Ambt in Indonesia* (Stb. 1860 No. 3) is revoked and declared invalid. The existence of a notary is, juridically, regulated in the signs of the Notary Office Regulation Act (Staatsblad 1860-3) based on the Staatsblad 1855-79 concerning *Burgerlijk Wetboek* (BW/Civil Code). Notaries in carrying out their positions, have the right to obtain honorarium in accordance with Article 36 of Law Number 30 of 2004 concerning Notary Positions. Where the amount of honorarium received by the Notary is based on the economic value and sociological value of each deed he makes. Economic value means that there are services that must be compensated for the results of services performed by Notaries in terms of making deeds while sociological value is based on the social function of the object of the deed made.

Notaries are general officials in charge of making authentic deeds and other duties prescribed by laws and regulations. Notaries are known as public officials and not as public officials or State Administration officials. The main task of a Notary Public is in the realm of private law, making deeds or agreements between fellow communities, or communities and the government. The importance of the Notary's position in society is related to the deed he made; the deed made by the Notary has a position as perfect evidence. The term general official is a translation of the term *Openbare Ambtenaren* contained in Article 1 of the Notary Office Regulation (PJM). The term *Openbare Ambtenaren* contained in Article 1 of the *Reglement op het Notary Ambt in Indonesia* (*Ord. van Jan. 1860*) *Staatsblad* 1860 No. 3, translated as General Officer. Similarly, the term *Openbare Ambtenaren* contained in Article 1868 of the Civil Code (*Burgerlijk Wetboek*).¹

Notary work is a job that prioritizes service over reward, showing what must be done as the obligation is not in the form of payment to be received, client satisfaction is the main thing. Service in this case is not only in the sense of making deeds, making deeds is only part of the activity called service. Services concern holistic and comprehensive aspects from the ease of the public getting information, contacting the notary concerned, coming to the notary place, notary office facilities, notary friendliness and employees. Honorarium is the right of the Notary, meaning that everyone who needs Notary services is obliged to pay the

¹ Fikri Aulia, "Implementasi Bantuan Hukum Oleh Notaris Secara Cuma-Cuma Kepada Orang Yang Tidak Mampu," *Officium Notarium* 1, no. 2 (2021): 305–16, <https://doi.org/10.20885/JON.vol1.iss2.art10>.

Reconstruction of Free Legal Services Regulations by Notaries

honorarium to the Notary even though the Notary is obliged to help provide services for free to those who are unable to provide honorarium to the Notary.²

In Article 37 of Law Number 30 of 2004 concerning Notary Positions, there is an exception regarding honorarium, namely Notaries are required to provide legal services in the field of notarial free of charge to people who are incapable. The concept of incapacity in the Notary Office Law is not clearly stated. Then the uncertainty is also about what deed can be given free of charge, because surely those who come to the Notary must be related to the deed or legal deed that they will put in the deed. As is known, Notaries in carrying out their positions are appointed and dismissed by the Government, but Notaries are not civil servants who receive salaries from the government. When talking about the idealism and dignity of the notary profession. Idealism seems to be a new and strange item during the rise of pragmatism which has become a new understanding in society. Notaries as part of individuals in society face similar challenges. On the one hand, notaries are asked to maintain their idealism as public officials, to provide free legal services as mandated in article 37 of the Notary Law, but on the other hand, notaries are squeezed by materialism to meet their needs. Especially now to become a Notary is very costly and a large time, so whether especially the newly appointed Notary Public wants to give free deeds to clients who cannot afford it.

The concept of "incapable" here is still vague because it is not explained in the Explanation rules, then in addition to the concept of "incapable" to further explain "incapable", of course there are criteria that must be a guideline for a Notary to provide free assistance to the incapable person. The reason behind or also called ratio legis researchers take this issue to be raised is to want to clarify the development of the notary profession as well as other professions that are trust professions appointed by the State to carry out service duties to serve the community, which prioritizes service rather than the rewards it will receive, because the interests of the community are the nature of professions that prioritize service interests.

So, the purpose of this study is to add analytical material related to legal issues regarding the reconstruction of free legal services regulations by Notaries, which distinguishes this study from previous research is that no one has discussed more specifically related to how a Notary Public provides free legal services to financially disadvantaged service users. As in the thesis written by Sari, discussing what article 37 paragraphs (1) and (2) of UUJN mean for notaries who provide free legal services to indigent people and related to sanctions given if they are not fulfilled and how to find and analyze obstacles in the application of article 37 paragraphs (1) and (2) of UUJN in providing legal services in the field of notarial to indigent people by notaries in Kediri City.³ Another thesis that also raised the same theme from Sumodiyono discussed how to regulate the provision of Legal Aid in the field of notarial free of charge to indigent people and what are the legal consequences for notaries who refuse to provide Legal Aid in the field of notarial to indigent people.⁴ So that the formulation of the problem in this study is how the legal regulation of providing free legal services by Notaries to indigent people and how to reconstruct regulations in providing free legal services by Notaries to indigent people.

B. METHOD

This research uses a type of normative law research, which uses normative case studies in the form of legal products.⁵ The type of research used is also conflict norm. The nature of this research is *prescriptive analytical*, that is, it studies the purpose of law, the values of justice, the validity of the rule of law, legal concepts and legal norms.⁶ The approach used is the statutory approach (*statute approach*) and the concept approach (*conceptual approach*).⁷ So this study was analyzed to find out how the construction of free legal services regulations by Notaries.

C. RESULT AND DISCUSSION

LEGAL REGULATION OF PROVIDING FREE LEGAL SERVICES BY NOTARIES TO INDIGENT PERSONS

Legal Basis for Providing Free Legal Services

Law No. 16 of 2011 concerning Legal Aid was promulgated in the State Gazette by the Minister of Law and Human Rights on November 2, 2011. As a legal product produced by the Government and DPR, it requires sufficient time to be disseminated to

² Ghansam Anand, *Karakteristik Jabatan Notaris di Indonesia* (Jakarta: Prenada Media Group, 2018).

³ Diah Ayu Puspita Sari, "Makna Pemberian Jasa Hukum Secara Cuma-Cuma Oleh Notaris Pada Orang Tidak Mampu Terkait Sanksi Yang Diberikan Oleh Undang-Undang Jika Tidak Dipenuhi (Analisis Pasal 37 Ayat (1) Dan (2) Undang-Undang Jabatan Notaris No. 2 Tahun 2014)," *Brawijaya Law Student Journal*, 14 Juli 2016, <http://hukum.studentjournal.ub.ac.id/index.php/hukum/article/view/1759>.

⁴ Sigit Somadiyono, "Implementation of Free Notarial Legal Assistance to the Indigent," *Journal Lex Specialis*, no. 20 (November 14, 2017): 99-112.

⁵ Mukti Fajar ND. and Yulianto Achmad, *Dualism of Normative Law Research and Empirical Law* (Yogyakarta: Pustaka Siswa, 2010).

⁶ Dyah Ochterina Susanti and A'an Efendi, *Legal Research* (Jakarta: Sinar Grafika, 2014).

⁷ Peter Mahmud Marzuki, *Legal Research* (Jakarta: Kencana, 2008).

Reconstruction of Free Legal Services Regulations by Notaries

relevant Government Officials and to the public. Law No. 16 of 2011 concerning Legal Aid after a long period of time has only been implemented. A legal product in the form of a law in government must pay attention to juridical, sociological, and philosophical aspects. In addition to these three aspects that must be considered, it is also the government's legal politics in making laws and regulations. This legal policy is a government policy in providing the government's rationale in forming a law. Such is the case with Law No. 16 of 2011 concerning Legal Aid. The political direction of government law is to provide a legal basis for the State Administration to provide Legal Aid to poor people or groups of people who cannot afford to get free legal assistance by the State. The emphasis of Law No. 16 of 2011 concerning Legal Aid is to provide Free Legal Assistance to poor people or groups of people who have problems with the law, both in criminal, civil, and administrative cases. In this regard, the position of the state in the Legal Aid Law is constitutional. This means that the State guarantees the constitutional right of everyone to fair recognition, guarantee, protection and legal certainty and equal treatment before the law as a means of protecting human rights.⁸

Notary is a legal profession; thus, the Notary profession is a noble profession (*officium nobile*). It is called *officium nobile* because the position of Notary is very closely related to humanity. A deed made by a Notary Public can be a legal basis for the status of property, rights, and obligations of a person. An error in a Notary Deed can lead to the deprivation of one's rights or one's burden on an obligation. For Notaries themselves, in carrying out their office duties, of course, they have rules that not only need to be understood but must be implemented. Providing good, satisfactory, independent service which means not being biased because the Notary is not a party in every client transaction that comes to him, therefore the Notary must stand in the middle. All products issued by a Notary, be it in the form of a deed must be made into a product that will make the client safe, safe not only when the deed is completed, but safe at any time. Because the deed made by the Notary Public is a law for both parties who have agreed.⁹

That the State is responsible for providing Legal Aid to the poor as a manifestation of access to justice. Similarly, Legal Aid organized by the State must be oriented towards the realization of equitable social change. The relationship between the state and the Legal Aid Institute is that in Article 1 paragraph (3) of the Legal Aid Law, it is affirmed that legal aid providers are legal aid institutions or community organizations that provide Legal Aid services under this Law. The State as the organizer of Legal Aid in this Law appoints Legal Aid institutions and community organizations as Legal Aid Providers. In Article 8 paragraphs (1) and (2) affirmed in Article 8 paragraph (1) the implementation of Legal Aid is carried out by Legal Aid Providers who have met the requirements under this Law. Meanwhile, it is stated in Article 8 paragraph (2) that the requirements for Legal Aid Providers as referred to in paragraph (1) include being a legal entity; accredited under this Act; have a fixed office or secretariat; have a caretaker; and has a legal aid program.¹⁰

Legal aid is essentially rooted in human rights, because legal aid is a form of constitutional right for all people or citizens to obtain guarantees of legal protection; guarantee of equality before the law; and the guarantee of equal treatment before the law as a means of recognition of human rights themselves. Legal aid certainly cannot be separated from the diversity of problems in society, because between problems and legal aid are two related things. But for the law to function it needs cooperation and synergy between the cohesiveness of law enforcement and the rule of law. Legal aid is definitively broadly defined as an effort to help the poor. The statement illustrates that the existence and implementation of legal aid, cannot be separated from the existing conditions in society, it also plays a role in providing legal assistance to the community, especially for the poor or poor. Article 2 of Law Number 16 of 2011 concerning Legal Aid adheres to six principles, namely the principles of justice, equality of position in law, openness, efficiency, effectiveness, accountability. The six principles mentioned above have an impact on legal assistance in practice that occurs today, whether these principles have really been fulfilled in the effectiveness of the application of a rule of law.¹¹

In Law No. 16 of 2011 concerning Legal Aid, the Person in Charge of Legal Aid is the obligation and responsibility of the State through the Ministry of Law and Human Rights, but in its implementation, it is handed over to the community through legal aid institutions and community organizations that have met the requirements according to Law No. 16 of 2011 concerning Legal Aid and its implementing regulations. The rights and obligations of Legal Aid providers in carrying out their functions and duties have rights and obligations. Law Number 16 of 2011 concerning Legal Aid explicitly mentions the rights and obligations of Legal Aid Providers. The provisions regarding the obligations of Legal Aid Providers are contained in Article 8 paragraph (1) that the implementation of legal aid is carried out by legal aid providers who have met the requirements under this law. Furthermore,

⁸ Marzuki.

⁹ Aulia, "Implementasi Bantuan Hukum Oleh Notaris Secara Cuma-Cuma Kepada Orang Yang Tidak Mampu."

¹⁰ Marzuki, *Penelitian Hukum*.

¹¹ Nuryanti Puji Utami, "Penerapan Pemberian Jasa Hukum Di Bidang Kenotariatan Secara Cuma-Cuma Oleh Notaris Berdasar Undang-Undang Nomor 2 Tahun 2014 Di Kabupaten Malang," *Jurnal Ilmiah Administrasi Publik* 3, no. 1 (5 Oktober 2017): 77–82, <https://doi.org/10.21776/ub.jiap.2017.003.01.10>.

Reconstruction of Free Legal Services Regulations by Notaries

Article 9 states that legal aid providers have the right to recruit advocates, paralegals, lecturers and students of the law faculty; perform legal aid services; organizing legal counseling, legal consultation and other activity programs related to the provision of legal aid; receive a budget from the state to carry out legal aid under this law; issue opinions or statements in defending cases that are their responsibility in court sessions in accordance with the provisions of laws and regulations; obtain information and other data from the government or other agencies for the purpose of case defense; and obtain guarantees of legal protection, security and safety while carrying out the provision of legal assistance.

This Law also regulates funding and criminal sanctions. That the consequences of the presence of this Legal Aid Law are not only related to the substance of the regulation and the accompanying mechanisms, but also the correlation with funding. Legal aid funding is regulated in Article 16 which explains that legal aid funding required and used for the provision of Legal Aid in accordance with this Law is charged to the State Budget; other than funding as referred to in paragraph (1), sources of Legal Aid funding may come from grants or donations; and/or other legitimate and non-binding sources of funding. Furthermore, Article 17 explains and affirms that the government is obliged to allocate funds for the implementation of Legal Aid in the State Budget and funding for the implementation of Legal Aid is allocated to the budget of ministries that carry out government affairs in the field of law and human rights.

Legal Aspects of Providing Free Legal Services by Notaries Based on Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Law on Notary Positions.

That if the provisions of article 37 paragraph 1 of the Notary Law are implemented, then, matters relating to legal services in the field of notarial affairs as stipulated in Article 15 of the Notary Law related to the authority of the Notary, namely the Notary is authorized to make authentic deeds regarding all deeds, agreements, and provisions required by laws and regulations and/or desired by those interested to be stated in authentic deeds, ensure the certainty of the date of making the deed, keep the deed, give copies and quotations of the deed, all of which so long as the making of the deeds is not also assigned or exempted to other officials or other persons prescribed by law. The notary is also authorized to certify the signature and establish the certainty of the date of the letter under the hand by registering in a special book; bookkeeping letters under hand by registering in a special book; make copies of the originals of the letters under hand in the form of copies containing the description as written and described in the letter concerned; attestation of photocopy match with the original letter; provide legal counseling in connection with the making of deeds; make deeds relating to land; or make a deed of auction minutes.

Therefore, based on the provisions of Article 37 of Law of the Republic of Indonesia Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions which states in article 37 paragraph 1, namely "Notaries are obliged to provide legal services in the field of notary free of charge to people who are incapable", things that become the authority or function of notary notaries as in Article 15 of the Notary Law must be given free of charge to people who are incapable. However, the problem is the implementation of Article 37 of this Notary Law, in contrast to the provision of legal aid as stated in Law Number 16 of 2011 concerning Legal Aid which clearly states, that for the provision of free legal aid carried out by legal aid institutions or community organizations that provide Legal Aid services based on the Legal Aid Law, in this case it is mentioned as an advocate, paralegals, lecturers, and students of the Faculty of Law which is stated in Article 9 part a of Law Number 16 of 2011 concerning Legal Aid.

So, in this case it can be concluded that the relationship between Law Number 16 of 2011 concerning Legal Aid and the implementation of Article 37 of the Notary Law is that it has no relationship with each other, so that the notary in carrying it out, is with the personal initiative of the notary.

Regulatory Aspects of Notary Law and Notary Code of Ethics When Notaries Do Not Provide Free Legal Services

Notaries who are appointed and dismissed by notary organizations under the Ministry of Law and Human Rights, are not civil servants who receive salaries from the government every month and get benefits so in this case Notaries work with individualist aspects. As for providing free legal services as mandated in article 37 of the Notary Law, on the other hand, notaries are squeezed by materialism to meet their needs. Especially now to become a Notary is very costly and a large time, so whether especially Notaries who have just been appointed or who have been in the business for a long time want to give free of charge related to the notary's duty, namely as a deed making to clients who cannot afford it.

Notary in making legal deeds, the form of the deed is regulated by law and in the case of making justice in the deed, the Notary Public can help the parties make the deed in accordance with its function, law enforcement by adding some criteria, as long as it does not conflict with the Law and other regulations, so that the parties get justice in the legal actions they make. So, an assessment can be taken that Notaries play a very large role in creating justice from various kinds of legal acts in the community because each deed has legal force. However, many Notary advantages do not know for sure until there are still many people who do not use Notary services to make legal actions that should be made authentic so that problems do not arise. Even if someone knows, there are still many who consider Notaries for the elite only, so in reality there are still many in remote areas who do not understand and are even afraid to deal with Notaries. There are even some people who understand that they consider Notaries to be figures who only want to know the affairs of elite people who have money because the attitude of Notaries is still there who

Reconstruction of Free Legal Services Regulations by Notaries

give a picture that is not easily understood by people who are still unfamiliar with their thoughts, and Notaries are also still many who are reluctant or picky who go to him to provide legal assistance by explaining it.¹²

As for when Notaries are unable to provide free legal services, it is actually a common thing to happen when someone feels that an action has no benefit for himself individually, but reflects on the rule of law in the provisions of Law of the Republic of Indonesia Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Position Article 37, that Notaries are obliged to provide legal services in the field of notarial affairs free of charge to persons who are indigent; Notaries who violate these provisions may be subject to sanctions in the form of verbal warnings; written warnings; temporary suspension; honorable dismissal; or dishonorable dismissal. So, when a Notary Public refuses or declares an act of being able to provide legal services for free, then of course it has violated the provisions of Article 37 paragraph 1 of the Notary Law which if a notary refuses to provide legal services in the field of notarial free of charge to people who are incapable. Related to not providing legal services in the field of notarial affairs free of charge to people who are not able, it has violated Law of the Republic of Indonesia Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions which certainly has sanctions, namely can get written warnings, temporary suspension, honorable dismissal and dishonorable dismissal as for the basis of these sanctions based on Article 37 paragraph 2 of the Notary Law.

As for its implementation, it is reviewed based on Article 4 of Hukham Regulation No. 61 of 2016 that the procedure for imposing sanctions is in the event of a violation committed by a Notary after an examination by the Regional Supervisory Panel against the Notary. Then the Regional Supervisory Board makes minutes of examination of Notaries and minutes of findings of Notary protocol examinations. Then the Regional Supervisory Board submits a report on the results of the examination to the Regional Supervisory Board.

RECONSTRUCTION OF REGULATIONS IN THE PROVISION OF FREE LEGAL SERVICES BY NOTARIES TO INDIGENT PERSONS

Regulation of the Concept of Providing Free Legal Services

The term free provision of legal services is a translation of the terms legal aid and legal assistance which in practice both have somewhat different orientations from each other. Legal aid, usually more used to indicate the meaning of providing free legal services in the narrow sense of providing services in the legal field to someone involved in a legal problem free of charge or free, especially for those who are indigent (poor). While legal assistance is used to show the understanding of providing free legal services to those who cannot afford it, or providing free legal services by the notary profession that uses honorarium.¹³

Clarence J. Dias uses the term legal services to be more accurately defined. According to him, what is meant by providing free legal services is all forms of providing services by the legal profession to the public in society with the intention of ensuring that no one in the community is deprived of the right to obtain the legal advice they need simply because they do not have sufficient financial resources. Meanwhile, the term legal services is defined as steps taken to ensure that the operation of the legal system in reality will not become discriminatory as a result of differences in the level of income, wealth, and other resources controlled by individuals in society.¹⁴

That continuous development is carried out to realize national goals as intended in the Preamble to the 1945 Constitution, on the one hand has consequences for changes in people's lives, and on the other hand the increasingly important role of law. Legal interference that is increasingly widespread in areas of public life tends to be a close relationship between law and social problems.¹⁵ Article 27 paragraph (1) of the 1945 Constitution states that "All citizens have equal standing in law and government and are obliged to uphold that law and government with no exception". With the recognition of the principle of equality before the law as intended by the article above, it basically requires further elaboration through a strong juridical foundation, both regarding the implementation of judicial processes that uphold human rights, as well as climastially regarding the implementation of legal aid activities.

In connection with this, the activity of providing free legal services to underprivileged people in its growth in Indonesia, only began in the decade of the 70s along with the enactment of the juridical basis of Law Number 14 of 1970 concerning the Principles of Judicial Power. Matters relating to legal aid are regulated in articles 35, 38, 37 and 38. Eleven years later, Law Number 8 of 1981 concerning the Code of Criminal Procedure was enacted, which also regulates the issue of legal aid. The provision of free legal services to underprivileged people in development cannot be separated from society or social systems as a

¹² Elviana Sagala, "Tanggung Jawab Notaris dalam Menjalankan Tugas Profesinya," *Jurnal Ilmiah Advokasi* 4, no. 1 (15 Maret 2016): 25-33, <https://doi.org/10.36987/jiad.v4i1.349>.

¹³ Bambang Sunggono dan Aries Hartanto, *Bantuan Hukum dan Hak Asasi Manusia*, Cetakan Pertama (Bandung: Mandar Maju, 2001).

¹⁴ Clarence J. Dias, *Research on Legal Services and Poverty*, Cetakan Pertama (Washington: Wasington University Law Quartely, 1975).

¹⁵ Sunggono and Hartanto, *Legal Aid and Human Rights*.

Reconstruction of Free Legal Services Regulations by Notaries

social legal basis that has its own influence on the practice of implementing free legal services to poor people. In some circles, especially Non-Governmental Organizations (NGOs) and legal aid organizations, the understanding and scope of work The provision of free legal services to the poor community is not limited to the legal field in relation to the resolution of a case, but also includes the economic and political fields, namely by directing its activities to efforts to increase legal awareness of the poor so that people realize their rights as human beings, legal subjects and citizens. Legal aid also means trying to carry out improvements.

Moreover, the provision of free legal services to poor people also means trying to carry out legal improvements so that the law can meet the needs of the people and keep up with changing circumstances. For the benefit of development in the field of law, especially in order to increase people's legal awareness, ensure law enforcement and legal certainty, efforts are made in the form of movements so that the community knows and understands it all, including in the form of providing legal assistance to those who are entitled. In relation to the provision of free legal services to the underprivileged, in general it can be said that all types of free legal services to the poor are aimed at changing attitudes, although it is not the final goal, but each of the free provision of legal services to the poor has a purpose directed at various social categories within community.¹⁶

Reconstruction of Free Legal Services Provided by Notaries to Indigent Persons

Departing from the fact, that the formulation of provisions for the provision of free legal services by notaries in Law of the Republic of Indonesia Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions Article 37 which is currently in force is considered less relevant in the context of policies for notaries, this is because in this case it is different in context from the rules regulated in the provisions of the advocate profession which is supported in Law Number 16 Year 2011 concerning Legal Aid, so that advocates in this case even though they provide free legal assistance, but there is a reciprocity of what it provides, namely the provision of budget for advocates from the government to carry out legal aid, even if researchers consider in the formulation of provisions the reason Notaries are obliged to provide legal services in the field of notarial free of charge to people who are not able" is to realize the value of social justice which is in accordance with values that live in Indonesian society itself. Related to the value of justice itself, when related to Article 28D paragraph (2) of the Constitution of the Republic of Indonesia Year 1945 explains that everyone has the right to work and get fair and decent remuneration and treatment in employment relations.

So by looking at the legal basis of the constitution in the 1945 Constitution, it has clearly stated that everyone has the right to work for fair remuneration and treatment, so according to researchers in this case the provisions of Law of the Republic of Indonesia Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions Article 37 has contradicted the values of justice that have been applied in the context of the 1945 Constitution Law Article 28D paragraph 2 Because it immediately gives ethical sanctions when a notary, which in this case, of course, in fulfilling his life is from providing legal services in the field of notary, then if immediately the legal services are given free of charge, it certainly interferes with the survival of the notary profession.

So according to researchers, the values of justice contained in the 1945 Constitution Article 28D paragraph 2 can be implemented with implementation provisions guided by the provisions of Law Number 16 of 2011 concerning Legal Aid which is formally regulated for the advocate profession, so it is also necessary for the notary profession to be given the rules of the legal aid policy, so that there is a forum for the future for notaries who serve the community who need legal assistance in the field of notarial affairs.

D. CONCLUSION

Based on Article 37 paragraph 1 of Law of the Republic of Indonesia Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions in the provision of free legal services, it is mandatory, thus requiring a notary to provide legal services in the field of notarial free of charge to indigent people, where the provision of legal services includes the provisions of Article 15 of the Notary Law, namely making authentic deeds regarding all deeds, agreements, and provisions required by laws and regulations and / or desired by the interested person to be stated in an authentic deed, certify signatures and determine the certainty of the date of the letter under hand by registering in a special book and making a deed related to notary land, while this obligation carries immediately if the notary refuses to provide legal services free of charge so that it is prohibited because violates the provisions of Article 37 paragraph 1 of Law of the Republic of Indonesia Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Position which certainly has sanctions, namely can get written warning, temporary suspension, honorable dismissal and dishonorable dismissal as for the basis of these sanctions based on Article 37 paragraph 2 of the Notary Law.

Looking at the legal basis of the constitution in the 1945 Constitution, it has clearly stated that everyone has the right to work for fair remuneration and treatment, so according to researchers in this case the provisions of Law of the Republic of Indonesia Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions Article 37 has contradicted

¹⁶ Soerjono Soekanto, *Faktor-Faktor yang Mempengaruhi Penegakan Hukum* (Jakarta: Rajawali Pers, 1983).

Reconstruction of Free Legal Services Regulations by Notaries

the values of justice that have been applied in the context of the 1945 Constitution Law Article 28D paragraph 2 because immediately provide ethical sanctions when a notary in this case, of course, in terms of providing sufficient life is from providing legal services in the field of notary, then if immediately the legal services are provided free of charge, it certainly interferes with the survival of the notary profession, so that according to researchers the values of justice contained in the 1945 Constitution Article 28D paragraph 2 can be implemented with provisions for implementation that guided by the provisions of Law Number 16 of 2011 concerning Legal Aid in formal. So, it becomes necessary that the regulations for providing free Notary services can be regulated in the implementing regulations and the regulations for providing free legal services are revised and reviewed, so that Notaries have assistance from the government in the form of a budget to carry out the provision of free legal services.

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