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Regulation of Minimum Notary Fees for the Preparation of Deeds in Indonesia and South Korean as an Effort to Enforce Notary Professionalism

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Abstract: This study analyzes the minimum notary fee regulations in the preparation of deeds in order to uphold the professionalism of the notary profession through a comparative study of notary law in South Korea. The purpose of this study is to analyze the minimum notary fee regulations, which often lead to unhealthy competition among notaries in Indonesia. This study uses a normative research method with a legal and comparative approach. The results of this study show that the establishment of notary fees in Indonesia is an urgent need from the perspective of legal certainty and justice. The result is legal uncertainty for the public who use notary services and a decline in the dignity of notaries due to price cutting. In South Korea, because fees are public and transparent and maintain the professionalism of notaries, the ideal honorarium in Indonesia that can provide justice is: clear legal regulations, minimum fee regulations.

Keyword: notary, fee, deeds, professionalism

INTRODUCTION

Notaries are an important part of the legal system in Indonesia, particularly in the creation of authentic deeds that have full evidentiary force before the law. Notaries are authorized to create authentic deeds relating to acts, agreements, and stipulations required by general regulations or by interested parties. Their duties include guaranteeing the contents of the deed, confirming the date, storing the deed, and providing certified copies, duplicates, and excerpts (Rani and Ali, 2019). Authentic deeds drawn up by notaries are considered valid and binding legal documents, and provide a type of legal defense for the parties involved. The notary profession is crucial, as the essence and basis of a notary's duties centers on the process of legalization. This process forms the fundamental legal basis for the status of assets, rights and obligations of the parties, and other related matters (Anuddin and Siswanto, 2024).

Notaries play a very strategic role in ensuring legal certainty, order, and the protection of people's rights. When legal documents are not properly drafted or do not comply with applicable procedures, various legal problems may arise that can harm the parties involved

and even lead to prolonged disputes. Therefore, notaries play a crucial role, as they are not only responsible for drafting and certifying documents, but also for ensuring that all legal processes are carried out in a lawful, correct, and compliant manner with applicable laws and regulations (Imani and Basoeky, 2025). The position of trust granted by law and society requires a person working as a notary to be responsible for carrying out that trust to the best of their ability and to uphold legal ethics, dignity, and integrity in their position. Authentic deeds drawn up by notaries not only provide legal certainty for the parties involved, but also play a role in preventing disputes in the future. Therefore, the power of notaries to draft genuine deeds is a crucial aspect to understand, both from the perspective of positive law and its practice in everyday life.

Notaries are professionals appointed by the government through the Minister of State, but they do not receive salaries from the state. Notaries receive payments or fees (hereinafter referred to as honoraria) from clients for services rendered, such as the preparation of authentic deeds, legalization, certification, and other authorities. One important aspect of the notary profession is the regulation of honoraria, particularly in relation to minimum honoraria for the preparation of deeds. Honorarium is not a form of service compensation but is an important part of the notary profession, preventing unhealthy competition. In Indonesia, there is debate about the need to set a minimum honorarium. The emergence of cases where notaries set rates below the standard indicates unhealthy price competition that has the potential to reduce service quality, undermine independence, and open the door to abuse of authority (Faedhatu et al, 2024).

Such unfair competition practices undermine the value of the notary profession, which is driven to reduce accuracy, accelerate processes disproportionately, or even disregard the principle of prudence in pursuit of cost efficiency. Setting fees too high can also limit public access to deed drafting services, especially for low-income groups. Thus, the regulation of minimum fees must consider the balance between the principles of efficiency, fairness, legal certainty, and accessibility.

The comparison of the South Korean notary system is regulated by the Notary Public Act No. 693 of 2010, which specifically regulates notary fees in South Korea, emphasizing the goal of ensuring consistency and fairness in the notary profession. The amount of fees in South Korea is regulated by binding regulations issued by the Ministry of Justice. The fee mechanism is relatively structured, clear, and based on consistent regulations. Supervision of notary practices in South Korea is strictly enforced so that unhealthy competition can be minimized. This comparison is relevant for analyzing whether a more centralized and systematic fee regulation model such as South Korea's can be used as a reference in drafting policies in Indonesia. Based on the description of the background of the problem, the author formulates the problems in this study as follows: 1. Is it necessary to establish a minimum notary fee system? 2. How can an ideal fee system be established in Indonesia that provides certainty and fairness for notaries?

METHOD

This type of research is normative legal research, also referred to as doctrinal research is type of legal research that is carried out by looking at secondary data or library materials in this type of research law is frequently understood as what is written in legislation (law in books) or as rules or norms that serve as standards for acceptable human behavior. This research uses literature as the main material for analyzing cases, and the author does not conduct field research. This research is conducted using literature (secondary material) or library legal research, which is broadly aimed at: research on legal principles, research on legal systematics, research on legal synchronization, research on legal history, and research on comparative law. The approaches used in this study are: the statute approach and the comparative approach.

RESULTS AND DISCUSSION

Notaries provide legal certainty for the parties to the deeds they draw up. The functions that are also the authority of a notary as a public official are to draw up authentic deeds pertaining to all acts, agreements, and stipulations that are mandated by law and wanted by the interested parties to be stated in authentic deeds, to ensure the deeds formation date is certain, and to store the deed, to provide certified copies, copies, and excerpts of the deed, all of which are subject to the condition that the preparation of such deeds is not also assigned or exempted to other officials or persons designated by law (Ningsih et al, 2022).

The minister appoints a notary as a public official to perform certain state functions and serve the public interest, particularly in the field of civil law, even though notaries are not civil servants who receive salaries from the state. These public services are in the form of deed preparation and other duties assigned to notaries, which are inherent in their status as public officials within the scope of their duties and authority. Notarial deeds issued by notaries provide legal certainty for the community. According to Nusyirwan, notaries are semi-private individuals because they cannot act freely as private individuals. They must uphold their dignity, and therefore they are allowed to receive fees (honoraria) for each service they provide (Aisy, 2014).

Article 36 paragraph (2) UUJN. Regulations regarding notary fees are determined solely on the basis of the economic and sociological value of each deed drawn up, without specifying a fixed amount or proportion. The economic and sociological value of each deed has a maximum limit, preceded by the words “at most” and “not exceeding” as stipulated in Article 36 (2) (3) and (4) of the UUJN:

The amount of honorarium received by a Notary is based on the economic and sociological value of each deed drawn up. The economic value as referred to in paragraph (2) is determined from the object of each deed as follows:

1. Up to IDR 100,000,000.00 (one hundred million rupiah) or the equivalent in grams of gold at that time, the maximum honorarium received is 2.5% (two point five percent);
2. Above Rp100,000,000.00 (one hundred million rupiah) up to Rp1,000,000,000.00 (one billion rupiah), the maximum fee received is 1.5% (one point five percent); or
3. Above Rp 1,000,000,000.00 (one billion rupiah), the honorarium received is based on an agreement between the Notary and the parties, but does not exceed 1% (one percent) of the object for which the deed is made.

The sociological value is determined based on the social function of each deed with the maximum honorarium of IDR 5,000,000.00 (five million rupiah).

Notary Fees the amount of fees is determined not only by the provisions of article 36 of the UUJN but also by the associations (Indonesian Notary Association) rules. According to article 3 point (13) of the notary code of ethics, notaries must implement and adhere to the rules regarding fees set by the association. In practice, there are always notaries who violate the provisions stipulated in the Law, either by increasing the fee or reducing the fee to get clients. As stated in Article 4 point 10 of the Notary Code of Ethics, which reads “setting a fee to be paid by the client at an amount lower than the fee set by the association”(Andika and Syofyan, 2024).

Substandard appointments that give rise to unfair competition among notaries can certainly cause problems, not only among fellow notaries, but also for the notaries themselves in terms of their dignity as public officials. Considerations for determining notary fees in the professionalism of the notary profession Minimum fees support the professionalism of the profession so that notaries carry out their duties and positions in accordance with standards without having to compete unfairly by lowering fees below standard rates. The dignity of the notary position as a public official must also be maintained through fees that reflect the legal responsibilities, expertise, and risks of performing the functions of a public official whose deeds have evidentiary power.

During the Japanese colonial period in 1910, Japanese law was also applied in South Korea through the Chosun Civil Ordinance (1912) and the Chosun Notary Ordinance (1937), which formally regulated the position of notary. The Electronic Notary System has been implemented and operated in South Korea with the amendment of the South Korean Notary Public Act No. 9416 dated February 6, 2009 (Rosa, 2024). The fee system in South Korea has greater legal certainty. Notary fees are set out in an official tariff table issued by the Ministry of Justice Notary Public Act 693 and its implementing regulations. Each type of deed has a different tariff, depending on the transaction value and the level of complexity of the deed.

Notary Public Act 15150 concerning the supervision of notaries is overseen by the Minister of Justice. The Minister of Justice may delegate part of the authority to supervise notaries to the chief prosecutor of the district prosecutor's office or to the president of the Korean Notary Association. This supervision ensures that every payment made has a valid legal basis, and violations will result in administrative and disciplinary consequences. This system increases public trust because everyone who uses notary services knows how much they will be charged. Because the rates are public and transparent and maintain the professionalism of notaries, the public does not need to negotiate prices with notaries. In terms of legal certainty, the South Korean system adopts the principle of legal certainty through regulation, whereby legal certainty is achieved through clear and enforceable written norms.

The determination of notary fees in Indonesia is an urgent necessity from the perspective of legal certainty. Article 36 of the Notary Law does regulate the basis for determining notary fees based on the economic and sociological value of a deed, but this provision only provides a maximum limit without setting a uniform fee standard. In the context of professional ethics, the setting of official rates is also necessary to maintain the dignity of the notary profession as public officials who act honestly, independently, and impartially. Differences in rates encourage unhealthy competition among notaries, with some lowering their rates below standard levels to attract clients without regard for the quality of data verification and due diligence.

According to Van Apeldoorn, “legal certainty can also mean things that can be determined by law in concrete terms.” Legal certainty guarantees that laws are enforced, that those who are entitled to rights under the law can obtain them, and that judgments can be enforced. Legal certainty also provides justifiable protection against arbitrary actions, meaning that a person will be able to obtain what is expected in a given situation. Certainty comes from the word “certain,” which grammatically means fixed, definite, and sure (Halilah and Arif, 2021).

Establishing an ideal honorarium system in Indonesia that can provide legal certainty, where this stage is the initial foundation that is expected to influence regulatory policies regarding notary honorariums in the UUJN. Ideal means that it is in line with what is aspired to or desired, but the elements within it are also harmonious, and the language used must be clear, simple, and precise because its content is a message to the people affected by the legislation. Ideal here also means that there are no conflicts between one piece of legislation and another, either vertically or horizontally (Salsabila and Putrijianti, 2023). The following are several factors for achieving the ideal notary fee that can provide legal certainty in Indonesia, some of which are:

1. Clear legal regulations must establish a general framework including principles, definitions, and authority to regulate rates. Implementing regulations may also specify categories of deeds and cost components.
2. The establishment of notary organization regulations in each region sets minimum notary service fees to ensure fairness for notaries in receiving service fees. It is very important to establish strict rules regarding the setting of minimum notary service fees so that they can be used as a reference for every notary in setting the lowest fees charged to their clients for

drawing up deeds, thereby creating uniformity in fees for each similar transaction, so that there are no significant differences in fees between notaries.

3. The list of minimum rates regulated by notary associations and organizations is in the form of a table containing categories of deeds. Based on the provisions established in South Korea, every notary is required to provide a copy of the rate list on their respective websites.

4. Sanctions for notaries who violate the provisions on notary fees, regarding sanctions for violations of fee stipulations, so that if there is a violation of Article 36 of the UUJN, no civil sanctions will be imposed. Thus, the stipulation of notary service fees is determined based on the agreement of the parties. Sanctions imposed on notaries are intended to ensure that notaries perform their work and duties properly and honestly so that authentic deeds, which are the product of notaries, can provide legal protection and certainty to the parties.

CONCLUSION

Based on the analysis of the above research, it is necessary to set a minimum notary fee in Indonesia as an urgent need from the perspective of legal certainty and justice. Article 36 of the UUJN does regulate the basis for determining notary fees based on the economic and sociological value of a deed, but this provision only provides a maximum limit without setting a uniform fee standard. As a result, there is legal uncertainty for the public who use notary services, and the dignity of notaries has declined due to price competition. In the context of legal certainty, the public has the right to obtain a guarantee that all public legal services, including notary services, are carried out with clear standards. In South Korea, because fees are public and transparent and maintain the professionalism of notaries, the public does not need to negotiate prices with notaries. In terms of legal certainty, the South Korean system adopts legal certainty achieved through strict and enforceable written norms.

The establishment of an ideal fee system in Indonesia that can provide legal certainty includes: clear legal regulations, the setting of minimum rates in each region, a list of notary fees, and penalties for violating fee regulations.

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