

Determination Of Notary Service Fees For The Preparation Of Authentic Deeds In Payakumbuh City

Rani Permata Saria, Ali Arbenb

Andalas University

Rani.pesa89@gmail.com

ABSTRACT

The emergence of improper competition among notaries is partly due to the imposition of service charges or honorariums that are lower than the provisions outlined in the Law and the Ethical Guidelines. This is very contrary to what is regulated by the UUJN and the Notary Code of Ethics, because notaries are prohibited from making efforts to determine service rates below the standard to get as many clients as possible, but in practice there are notaries who do this. For this reason, in cases like this, there needs to be supervision by the Notary Supervisory Board regarding the implementation of Notary honorariums. "From several percent of the sociological and economic value needs to be determined" This is very difficult because the Notary determines the exact sociological value of the deeds being made. In reality, UUJN Article 36 paragraph 2 is less than satisfactory, it can be said that the amount of honorarium made by public officials is based on the exact economic value and the exact sociological value of all deeds made. a public official whose function is to prepare authentic deeds. The code of ethics aims to ensure that every action taken by a notary is based on the principles of professionalism, objectivity, and the interests of the community and the state.

Keywords: Service Fees; Notaries; Notarial Deeds

INTRODUCTION

In their profession, notaries act as public servants as officials appointed by the government. In their services, notaries are bound by the regulations of the position and the professional code of ethics as notaries. The notary's duty is to regulate in writing and authentically the legal relationship between parties who have entered into an agreement by consensus using the services of a notary, which essentially provides legal certainty for the agreement they have agreed to. Here it is clear that a notary is a position free from the influence of any pressure, but has strong legal certainty, therefore in every grosse certain deed always includes the sentence "For Justice Based on the One Almighty God."

In practice, the application of honorariums varies between notaries. Some apply the honorarium amount in accordance with the provisions of Article 36 of the UUJN, but many notaries apply below the standard provisions. Determining the honorarium for notary services below the standard, which can lead to unhealthy business competition among fellow notaries, of course, raises its own problems, not only limited to fellow notaries but also to the notaries themselves. Contrary to what was expected, as time goes by and the notary profession becomes more and more popular, coupled with technological developments and the opportunity for some notaries to obtain as many clients as possible in an instant and unconventional way, this makes some notaries tempted to deviate from the existing rules. Without realizing it, this gives rise to competition among some notaries themselves.

One of the causes of unhealthy business competition among notary colleagues is the determination of notary service fees or honorariums below the standards set by the Law and the Code of Ethics. This is very contrary to what is regulated by the UUJN and the Notary Code of Ethics, because notaries are prohibited from making efforts to set service fees below the standard to get as many clients as possible, however in practice there are notaries who do this. The set fees/honors appear unreasonable because they are very cheap, when compared to the rates/honors in general. Conformity regarding honorariums between notaries so that there is healthy competition in carrying out their profession in making authentic deeds, but on the one hand emphasizes the service aspect. Therefore, in such cases, it is necessary for the Notary Supervisory Board to supervise the implementation of Notary honorariums.

Clear standards for notary fees should be established in each region in West Sumatra to ensure uniformity and transparency in services and prevent unreasonable cost differences between regions. This standard will make it easier for the public to access notary services that suit their financial capabilities, without being trapped by burdensome fees. Furthermore, implementing standard notary fees in West Sumatra can also strengthen public trust in the notary profession, as they will feel better protected from potential abuse or opaque practices. In this regard, local governments can collaborate with notary organizations to formulate fee regulations that are appropriate to local economic conditions, consider notary operational costs, and ensure reasonable prices for the public.

Setting standard fees can also encourage improvements in the quality of notarial services. With clear and measurable rates, notaries will be more focused on improving their competence and professionalism, without having to worry about unfair competition based on price differences. Local governments, in conjunction with notary associations, can regularly monitor and evaluate fees to ensure they remain relevant to regional economic developments and maintain the sustainability of the notary profession.

Consistently established fee standards will minimize the potential for injustice that can arise from economic disparities between regions. For example, more developed or developing regions may have higher notary fees than more marginalized regions, so standard fees will reduce this disparity. This will also provide clarity for parties wishing to use notary services, whether individuals, companies, or government agencies.

With clear and standardized regulations, notaries throughout West Sumatra can also more easily carry out their professional practice without any doubts about the reasonableness of the fees charged, while the public can obtain fair and affordable legal services.

Writing Method

This research uses a sociological (empirical) juridical approach, namely research that examines applicable legal norms and relates them to the facts found in the research. If law is a social phenomenon with an empirical nature, it is studied as a variable (independent variable) that has an influence and impact on various aspects.

DISCUSSION RESULTS

Practice of Determining Notary Service Fees Related to the Preparation of Authentic Deeds

Based on the author's interview with Notary Rahmiarti, SHI, SH, M.Kn, notary service fees are wages as compensation for services (provided to the notary). There are two principles that influence the service fee system. First, the principle of serving is limited to the wages received. Second, the principle of serving according to request. The position of Notary allows for serving requests from the appearers regarding work other than the preparation of

authentic deeds by receiving an agreed service fee. This is what is needed so that Notaries in carrying out their duties do not only rely on receiving honorariums according to the UUJN. but there are also honorariums obtained from the public for legal services outside their authority as regulated in the UUJN.

Article 36 Paragraph (2) of the UUJN states: "The amount of honorarium received by a notary is based on the economic and sociological value of each deed he makes. From a certain percentage of the sociological and economic value needs to be determined." This is very difficult because the notary determines the exact sociological value of the deed being made. In fact, UUJN Article 36 paragraph 2 is less than satisfactory. It can be said that the amount of honorarium made by public officials is based on the exact economic value and the exact sociological value of all deeds made. This means that for all deeds, 2 exact values must be sought, namely the exact economic value and the exact sociological value. This will certainly make it difficult for public officials to know the exact economic value and also the exact sociological value to find out the final result. The honorarium that will be received by the maker of the deed is based on the exact amount of the economic result and the result of the sociology of the deed being made. Furthermore, in the explanation of Article 36 paragraph 4, deeds that have certainty in sociology and have social duties are based on Article 36 of the UUJN. For example, a deed of establishment of a foundation. school establishment deeds and hospital construction deeds. Furthermore, Article 37 of the UUJN states that notaries are required to provide free services to the underprivileged.

From the results of the interview with Notary Rahmiarti, SHI, SH, M.Kn said "Notaries do not receive honorarium from the state even though the state appoints notaries as public officials but notaries receive wages/services for authentic deeds prepared and legalized by notaries from the parties who have appeared before the notary for legal acts carried out as stated in Article 36 paragraph (2) UUJN. The public appears before a notary so that their legal interests are protected, this is expected to be an answer to the needs of the community. The authority of a notary has been determined by UUJN as stated in Article 15 UUJN, especially in making deeds, namely legal acts regulated in law or the parties themselves who come before a notary and then state their wishes to be stated in the form of a notarial deed.

Based on the notary's authority, the fee for a notary who has prepared a notarial deed is determined. The fee is a notary's right. Individuals who appear before a notary and then document the transaction in an authentic deed are required to pay the fee. However, the notary is also obligated to provide voluntary assistance without charging a fee to those unable to pay.

Based on the interview conducted by the author with Notaries in Payakumbuh, the average deed made by a New Notary appointed by the Ministry of Law and Human Rights will make 1 to 3 deeds because the new Notary does not have a partner with the Bank, and Notaries who have been around for a long time will make 70 deeds per month, this depends on the Notary's clients in carrying out their duties as a Notary.⁴⁴ In the interview conducted by the author regarding the problem of deeds made by Notaries so far there have been no violations, but there are Notaries who pay honorariums below the standards set by the Notary, this is due to several factors, including the following:

1. The mutual acquaintance factor between the notary and the client
2. Because the client is categorized as a low-income family, the notary reduced his fee for the client.

Efforts to minimize violations of the code of ethics require continuous and continuous socialization and supervision by the Indonesian Notary Association, in addition to this, strict regulations are needed in its implementation regarding the procedures for appointing Notaries, especially regarding the application of Notary formations, so as not to cause an increase in the number of Notaries in an area that does not match the needs, this is certainly very influential in suppressing the occurrence of violations of the code of ethics, especially unhealthy competition between fellow Notaries. In the future, it is necessary to improve the cooperation that has been carried out so far so that good coordination and cooperation are increasingly enhanced based on mutually needed friendship between Notaries and the Indonesian Notary Association as a unifier between Notaries, the Management of the Indonesian Notary Association (INI), the Ministry of Law and Human Rights, the Honorary Council and the Supervisory Board through scientific activities and friendship must be able to foster a better sense of professional solidarity, uphold behavior that is in accordance with

the Code of Ethics and work together in a mutualistic manner in enriching scientific material that is relevant to the Notary's field of work.

The issue regarding the Notary's honorarium is also something that was previously regulated in the cooperation agreement. Because when the Notary submits a cooperation offer for the use of his services in making authentic deeds, the Notary also attaches a price list for completing the work of making the Deed. Usually the price proposed by the Notary is a price below the standard set by the UUJN or much lower and cheaper than the proper price. The practice of applying these rates/honors means that the Notary has engaged in a form of competition with his colleagues to obtain clients through certain parties. The reality of this is that it is increasingly common in practice, making competition between Notary colleagues increasingly tight, the increasing number of Notaries who reduce their rates/honors is increasingly triggering difficulties in implementing the provisions of Article 36 Paragraph (3) of the UUJN. The lack of supervision from the Notary Supervisory Board and the lack of public awareness regarding the application of this Notary honorarium are some of the factors causing the difficulty in implementing Article 36 Paragraph (3) of the UUJN. From the explanation above, it can be seen that a Notary can make the deed by having it made by a Notary and the cost of making each deed varies and the making of the deed has been determined by law and mutual agreement by Notaries in a region and there is also a Notary's honorarium which is free for less fortunate clients.

The geographic location of a region also impacts the determination of notary service fees. Notaries in large urban areas such as Jakarta, Surabaya, or Bandung tend to set higher rates compared to notaries in rural areas or districts, especially in Payakumbuh. This is due to the higher operational costs of notary offices, higher levels of consumption and purchasing power of the community, so that service prices are adjusted accordingly. The cost of living for notaries in large cities is certainly more expensive, so the fee is adjusted to the economic environment. For example, preparing a deed of sale and purchase of a house worth IDR 500 million in Jakarta may cost IDR 5 million (1%), but in areas such as Payakumbuh, it can be only IDR 2 million–IDR 3 million (0.4%–0.6%). Geographical location greatly influences the practice of determining notary service fees, mainly due to differences in living and operational costs, business competition, the number of active notaries, the dominant types

of legal transactions, infrastructure conditions and accessibility. Therefore, although the basic rules regarding notary fees are regulated nationally, implementation in the field is highly dependent on the geographic location and socio-economic realities of the region.

The Impact of Competition on the Determination of Notary Services in the Preparation of Deeds

Setting a notary's fee below standard can trigger unhealthy competition among fellow notaries, which can lead to various problems. The impact is felt not only among fellow notaries but also by the notary concerned. In addition to creating disparities among fellow notaries in a particular area, potentially damaging harmonious relationships, this can also undermine the dignity of the notarial profession, which should be respected. This action violates the law on the profession, the code of ethics, and the oath of office, which require every notary to be honest and uphold the honor, dignity, and responsibility of their profession.

Determining notary fees or fees is becoming increasingly difficult to enforce. Despite existing regulations regarding the amount of fees, some notaries still set fees below these limits. This is due to the increasing number of notaries in various regions, which has triggered increasingly fierce competition among them. The fiercer this competition, the more notaries are forced to engage in inappropriate behavior. These actions have the potential to subject notaries to legal liability. One issue that has emerged concerns notary liability for unfair competition practices among notaries.

The author revealed this based on an interview with a notary in Payakumbuh City, who explained that a case occurred in determining notary fees in Payakumbuh City, which falls under Region B Classification. At one point, when a notary was drafting a deed, the fee for which had been determined by the regional administration, another notary set a lower price. As a result, some clients began comparing prices and opted to switch to the notary offering the lower rate.

Provisions regarding notarial deed fees are also regulated in several articles in the Notarial Code of Ethics. This Code of Ethics prohibits notaries from setting fees below the standards set by the association. This can be clearly found in Article 3 paragraph (13) of the Notarial

Code of Ethics, which states, "Notaries and other parties who hold the position and carry out duties as notaries are required to implement and comply with all provisions regarding fees set by the association." Thus, the association has established rules governing notarial fees.

In addition to the aforementioned Article, Article 4 paragraph (10) of the Notary Code of Ethics also regulates honorariums, which states that notaries or other parties holding notary positions are prohibited from setting honorariums to be paid by clients at amounts lower than the standards determined by the association. From this provision, it can be seen that the Notary Code of Ethics does not support setting lower honorariums, as evidenced by the existence of provisions that set minimum honorarium standards for notary services.

By establishing regulations regarding minimum fees for notarial services, the Indonesian Notaries Association (INI) aims to create uniformity in notarial service fee standards. The association's determination of fee standards aims to prevent unfair competition among notaries regarding free pricing. However, despite this, increasing competition has led many notaries to ignore these established fee standards.

Notaries violate existing provisions if they intentionally "play" with the minimum honorarium limit set by the Indonesian Notaries Association Regulations. This action clearly constitutes unfair competition in notarial practice, so the notary in question must be held accountable for his actions. A notary's ethical responsibility relates to the moral norms that serve as a reference for notaries in assessing whether actions taken in carrying out their profession are right or wrong, good or bad. This responsibility covers three things: first, if the action is carried out in a state of normal functioning reason; second, if the notary violates it with free will; and third, if there is deliberate action with bad intentions that causes harm.

Competition in setting fees is common, particularly to attract clients. Many notaries engage in "price wars" with their colleagues and even offer prices significantly lower than those set by the association. Such actions undoubtedly impact the professionalism of notaries, as in carrying out their duties, notaries are responsible for providing legal certainty, order, and legal protection for the public through the authentic deeds they produce. Notaries must maintain the quality of each deed they draft to ensure there are no legal deficiencies that

could undermine its validity. The increasing workload of notaries due to the "price slashing" policy will undoubtedly impact their professionalism in drafting authentic deeds. Therefore, the Indonesian Notaries Association has established a minimum fee limit to ensure that notaries' duties and responsibilities are carried out properly and equitably, which in turn will enhance notary professionalism.

The ineffectiveness of sanctions for violations of the notary code of ethics can have a negative impact on the notary world. The Indonesian Notary Association's regulations regarding the notary code of ethics can be ignored by notaries, because to date, the Notary Law (UUJN) does not regulate or specify that violations of the notary code of ethics that lead to the imposition of ethical sanctions can be the basis for imposing administrative sanctions as stipulated in the UUJN, which can result in the notary's dismissal from office.

A notary is a public official authorized by the state to create authentic deeds and has a strategic function in ensuring legal certainty, order, and protection for the public. As a consequence of this authority, notaries are entitled to receive compensation or honorarium for their work as stipulated in the Notary Law (UUJN) and the Notary Code of Ethics. However, in practice, determining notarial service fees often faces problems. One of these is unhealthy competition among notaries, where some notaries set fees far below the applicable standard. This phenomenon creates a dilemma: on the one hand, the public benefits from receiving lower fees, but on the other hand, it creates injustice for fellow notaries and has the potential to undermine the dignity of the profession.

In the context of notarial services, distributive justice requires that each notary receive proportional opportunities and benefits from their work. Service fees should reflect the level of difficulty of the deed, legal responsibility, and applicable professional standards. However, the practice of competitive low rates creates imbalances. Notaries who set their rates according to regulations feel disadvantaged because clients prefer notaries with lower fees. As a result, the distribution of benefits becomes unfair, and professional standards that should be equal are treated differently. Competition in determining notarial services for deed preparation tends to have a negative impact on achieving the principle of justice. The practice of low rates creates distributive injustice for fellow notaries, ignores corrective

justice due to weak oversight, and violates the principle of fairness because in the long run it actually harms society.

Efforts Made to Avoid Unhealthy Competition Between Notaries in Determining Notary Services in Making Deeds

Unfair competition through tariff setting in carrying out his work, a notary must follow the guidelines to avoid deviating and resulting in violations of the notary law. Government control of the notary profession is carried out by the notary supervisory board at the district, provincial, and central levels. A supervisory mechanism is essential to ensure the implementation of legal norms and the notary professional code of ethics runs as expected. Supervision of the implementation of the notary code of ethics is carried out by the notary honorary board under the Indonesian Notary Association.

Article 7 of the Notary Code of Ethics explains that supervision of the implementation of the Code of Ethics is carried out in the following manner:

- a. At the first level by the Regional Management of the Indonesian Notaries Association and the Regional Honorary Council;
- b. At the appeal level by the Regional Management of the Indonesian Notaries Association and the Regional Honorary Council; At the final level by the Central Management of the Indonesian Notaries Association and the Central Honorary Council.

Supervision is an action or process of activity to determine the results of implementation, errors, failures to then make improvements and prevent the recurrence of these errors, as well as ensuring that the implementation does not deviate from the established plan. Supervision of Notaries leads to the enforcement of legal regulations that limit the scope of the Notary's office.

The purpose of supervision of Notaries is to ensure that Notaries fulfill the requirements stipulated by the Law and the Notary Code of Ethics to the best of their ability for the benefit of the public they serve. Notary supervision is differentiated between the behavior and actions carried out by Notaries in carrying out their duties by the Supervisory Board, while the behavior and actions carried out by Notaries outside of carrying out their duties are supervised by the Notary Honorary Council. This supervision is essentially a form of legal

protection for Notaries themselves because with the existence of supervision, every Notary in their behavior and actions both in carrying out their duties and outside of their duties are always within the legal corridor.

The oversight mechanism for the Notary profession is ideally regulated in laws and regulations and is an inseparable part of the social reality of the legal community that is directly related to this profession. Supervision is one aspect of law enforcement that must always be considered and implemented in the law enforcement environment, including supervision of Notaries. Law enforcement always involves humans in it, thus it will also involve human behavior, therefore the law can only be implemented effectively if it is followed by strong supervision or control mechanisms from parties appointed based on laws and regulations, thus the legal profession that is carried out remains within the corridor of professional ethics and in accordance with the implementation of its position, so that public trust as users of Notary services will be maintained.

The supervision referred to is a preventive and curative activity. Preventive means a coaching process, while curative means imposing sanctions on Notaries in carrying out their duties if they are proven to have violated the UUJN and the Notary Code of Ethics. The scope of this supervision is broader than the scope of supervision of Notaries carried out by the Regional Supervisory Board as has been clearly and firmly regulated in the Notary Law. Article 7 of the Notary Code of Ethics explains that Supervision of the implementation of the Code of Ethics is carried out in the following ways: i. At the first level by the Regional Management of the Indonesian Notary Association and the Regional Honorary Council; ii. At the appeal level by the Regional Management of the Indonesian Notary Association and the Regional Honorary Council; iii. At the final level by the Central Management of the Indonesian Notary Association and the Central Honorary Council.

Notary supervision is distinguished between the behavior and actions carried out by Notaries in carrying out their duties by the Supervisory Board, while the behavior and actions carried out by Notaries outside carrying out their duties are supervised by the Notary Honorary Council. This supervision is basically a form of legal protection for the Notary himself because with the existence of supervision, every Notary in his behavior and actions both in carrying out his duties and outside his duties is always within the legal corridor. The supervision mechanism for the Notary profession is ideally regulated in laws and regulations and is an inseparable part of the social reality of the legal community that is directly related to this profession.

It can be concluded that the form of price fixing agreement in the determination of rates carried out by Notaries in Payakumbuh is based on UUJN in Article 36 paragraphs 1 to 4 and is also regulated in the Regulation of the Notary Association of the Indonesian Notary Association (INI) Code of Ethics. The determination of Notary rates regulated in the Notary Law only concerns the preparation of deeds and regulates the maximum limit of honorarium. The agreement to determine the minimum amount of honorarium and for complementary services for a Notary's deed is guided by the Notary Code of Ethics, then the administrators of each region of the Indonesian Notary Association will make an agreement between all members to obtain results in accordance with mutual agreement.

Conclusion

The practice of determining the price of notary services in making authentic deeds in Payaumbuh is regulated in Article 36 paragraph (2) of the Notary Law (UUJN), which states that "The amount of honorarium received by a notary is based on considerations of the economic value and sociological value of each deed made." In practice, the determination of the percentage of economic value and sociological value must be clearly determined. However, this faces obstacles because it is difficult for notaries to determine the exact measure of the sociological value of a deed. In reality, the provisions of Article 36 paragraph (2) of the UUJN are not yet completely satisfactory, because it seems as if the honorarium determined by public officials must always be based on a definite calculation of both the economic value and the sociological value of each deed made. This means that for each deed, a definite benchmark is needed, both in terms of economic value and from the aspect of sociological value. The impact of competition in determining notary services in making deeds is due to the absence of clear regulations in determining notary services in making deeds has two sides: encouraging efficiency and better service, but also risks giving rise to unhealthy competition that damages the dignity of the profession. Therefore, strict regulations are needed, consistent law enforcement, and increased ethical awareness so that this competition remains within a healthy and professional corridor. The importance of supervision and enforcement of this code of ethics does not only rely on internal mechanisms carried out by notary professional organizations, but also requires external supervision from authorized institutions, such as the Notary Supervisory Board. Efforts made to prevent unhealthy competition between notaries are supervision by Notary organizations in determining Notary honorariums in connection with the making of deeds in the city of Payakumbuh. Supervision from the Indonesian Notary Association of the

behavior and actions of Notaries in Payakumbuh to prevent unhealthy competition through the determination of rates: At the first level by the Regional Management of the Indonesian Notary Association and the Regional Honorary Council; At the appeal level by the Regional Management of the Indonesian Notary Association and the Regional Honorary Council; At the final level by the Central Board of the Indonesian Notaries Association and the Central Honorary Council

1. Confession

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