

The Role of Notaries in Translating Deeds for Applicants Who Do Not Master Indonesian

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Abstract

A notary is a public official who has the authority to draft authentic deeds and carry out other notarial functions as regulated in Law Number 2 of 2014 concerning the Position of Notary. One of the key responsibilities of a notary is to ensure that all appearing parties fully understand the content and intent of the deed being executed. This obligation becomes particularly important when a party does not understand the Indonesian language. Article 43 of the Notary Law explicitly stipulates that the notary must translate or explain the content of the deed to the appearing party in a language they understand, and if unable to do so, the notary is required to involve an official translator. This duty reflects not only the legal, ethical, and administrative responsibilities of the notary but also embodies the principles of justice and legal protection for all parties involved. This research employs a normative juridical method with a statutory and conceptual approach, utilizing primary, secondary, and tertiary legal materials. The findings indicate that the notary's responsibility to translate the contents of a deed is crucial for preserving the validity and evidentiary strength of an authentic deed. Failure to fulfill this obligation can result in the deed losing its authenticity and may lead to civil, administrative, and even criminal liability for the notary. Furthermore, the failure to translate the deed may constitute a breach of professional ethics, thereby undermining the integrity and public trust in the notarial profession.

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1. INTRODUCTION

Notaries have a position as public officials who are authorized by law to make authentic deeds and carry out other notarial functions related to civil law. In carrying out their duties, notaries are not only required to understand the legal aspects alone, but are also required to ensure that the entire process of making deeds is carried out in accordance with the principles of caution, clarity, and legal protection for the parties. One important aspect of this principle of caution is the notary's ability to ensure that all parties understand and fully comprehend the contents and intent of the deed made and signed before the notary.

In Indonesia, the official language used in notarial deeds is Indonesian. This is in line with the mandate of Article 43 of Law Number 30 of 2004 concerning the Position of Notary as amended by Law Number 2 of 2014. The provision states that if the person appearing does not understand the language used in the deed, the notary is required to translate or explain the contents of the deed to the person appearing. If the notary is unable to translate directly, then he is required to present an official translator. This obligation confirms that the understanding of the contents of the deed by the parties is an absolute

requirement for the validity of the agreement contained in the notarial deed. However, in daily practice, it is not uncommon to find events where the parties do not understand Indonesian, such as foreign citizens or local people in certain areas who only understand regional languages or foreign languages. In such situations, the existence of a translation becomes very important. If the notary is negligent or ignores this obligation, then the deed made can be declared legally flawed because it is contrary to the principle of consensualism and the principle of good faith in contract law. This has the potential to cause disputes in the future, either in the form of a lawsuit for cancellation of the deed or civil or even criminal liability against the notary.

Furthermore, the role of a notary in translating the contents of a deed is also closely related to the principles of legal protection and human rights. Every individual who undergoes a legal process—including in the making of a deed—has the right to understand the legal process and documents that involve him/her. In this context, a notary does not only act as a formal registrar or witness, but also as a facilitator of justice (*officium nobile*) who ensures that the entire process runs fairly, openly, and can be understood by all interested parties. Thus, the role of a notary in translating a deed to a party who does not master Indonesian cannot be viewed as a mere administrative obligation, but rather as part of a fundamental ethical and professional responsibility. The failure of a notary to ensure this understanding not only violates the provisions of the law, but also violates the principles of justice and the responsibility of the notary office. Therefore, The author is interested in conducting research with the title "The Role of Notaries in Translating Deeds for Applicants Who Do Not Master Indonesian So that matter will be studied in the formulation of the problem, the first What is the Notary's Responsibility in Translating the Contents of a Deed to Applicants Who Do Not Master Indonesian According to Statutory Regulations? And What are the Legal Consequences of Notarial Deeds When Notaries Do Not Translate the Content of the Deed to Visitors Who Do Not Understand Indonesian? as the formulation of the second problem.

2. RESEARCH METHOD

In this study using normative legal research methods. While the approach in this study is the statute approach and conceptual approach. The sources of legal materials used are primary legal materials, secondary legal materials, tertiary legal materials. The analysis technique used uses qualitative methods.

3. RESEARCH RESULTS AND DISCUSSION

3.1 What is the Notary's Responsibility in Translating the Contents of a Deed to Applicants Who Do Not Master Indonesian According to Statutory Regulations?

The notary's responsibility in translating the contents of the deed to the person appearing who does not master Indonesian is part of his main function as a public official who guarantees the authenticity of the deed. This responsibility is not only legal, but also moral and professional, because it is directly related to the principles of justice, prudence, and legal protection. Legally, the notary's responsibility is regulated in Article 43 of Law Number 30 of 2004 concerning the Position of Notary in conjunction with Law Number 2 of 2014, which states that if the person appearing does not understand Indonesian, the notary is obliged to translate the contents of the deed into a language that the person appears understands with the assistance of an official translator if necessary. This shows that the understanding of the contents of the deed by the parties is an integral part of the implementation of the notary's duties correctly and legally. According to Habib Adjie, the notary's responsibility in this context includes three main

aspects, namely: (1) legal responsibility, because it is related to the validity of the deed; (2) ethical responsibility, because the notary must act professionally and fairly towards all parties; and (3) administrative responsibility, because violations can result in sanctions from the Supervisory Board.

Legal responsibility relates to the notary's obligation to carry out his duties in accordance with the provisions of applicable laws and regulations, especially in **Notary Public Law (UUJN)**. In the context of the speaker not mastering Indonesian, **Article 43 of Law No. 2 of 2014** expressly requires the notary to translate the contents of the deed into a language understood by the person appearing. If the notary does not fulfill this obligation, then the deed he makes **does not meet formal requirements** as an authentic deed. This has a direct impact on the evidentiary power of the deed in the Indonesian legal system. Thus, the legal responsibility of a notary demands accuracy, **adherence to procedures, and compliance with positive legal norms**. Failure to fulfill this obligation may result in the deed being void, **null and void**, or at least can be **canceled by** the injured party. In a civil lawsuit, this is a strong basis for the cancellation of a deed because it contains legal defects (both in terms of substance and form).

Ethical responsibility refers to the notary **professional code of ethics** and moral values attached to the position as a public official. The notary must carry out his duties properly **fair, honest, and impartial**, and maintain the integrity of the profession in every legal action he/she takes. In the event that the person appearing does not understand Indonesian, the notary's ethical responsibility is not **allowing information inequality to occur which** has the potential to harm one of the parties. In other words, translating the contents of a deed is not just a legal obligation, but part of **a professional attitude that upholds the principle of justice (equity)**. According to Habib Adjie, a notary who ignores the principles of justice and equality of information violates professional ethics, even if he is not subject to direct sanctions in formal law. Therefore, ethical responsibility is a form of self-control of a notary so as not to abuse power or act arbitrarily against those who appear who do not have adequate legal knowledge. Administrative responsibility is a consequence of the implementation of the notary's position which is supervised by **Regional Supervisory Council (MPD), Regional Supervisory Council (MPW), and Central Supervisory Council (MPP)**. Notaries who violate the provisions as regulated in the UUJN or code of ethics may be subject to **administrative sanctions** in the form of:

- a. Verbal or written warning
- b. Temporary suspension
- c. Temporary suspension
- d. Permanent termination

The implementation of this administrative responsibility is an important mechanism in maintaining the quality of legal services by notaries, as well as **guarantor of public accountability**. In the context of foreign parties or parties who do not understand Indonesian, the notary's failure to translate the deed can be considered a serious administrative violation, because it has the potential to damage the credibility of the profession and harm the wider community.

The notary's responsibility is also closely related to the principle of transparency and balance of the rights of the parties in a contract. According to Sudikno Mertokusumo, an agreement is only valid if it is made in good faith and on the basis of a shared understanding of the contents of the agreement. So, if one party does not understand the contents of the deed, then this principle has been violated.

In notarial practice, the notary's responsibility is also preventive, namely preventing legal disputes due to incompatibility of understanding between the parties. Therefore,

the notary must actively ensure that there are no language barriers that become obstacles to the formation of consensus or agreement between the parties.

3.2 What are the Legal Consequences of Notarial Deeds When Notaries Do Not Translate the Content of the Deed to Visitors Who Do Not Understand Indonesian?

Notarial deeds that are not explained or translated to the person appearing who does not understand Indonesian may contain legal defects, both in terms of formal and material. This has implications for the evidentiary power of the deed and the potential sanctions that can be imposed on the notary concerned.

Based on Article 1868 of the Civil Code, an authentic deed is a deed made in a form determined by law, by or before an authorized public official. One form of such formal provision is the obligation to guarantee that the person appearing understands the contents of the deed. If this is not fulfilled, then the deed loses its authentic nature and is downgraded to a private deed, as stated in Article 43 paragraph (3) and (5) of the UUJN. If the person appearing does not understand the language used in the deed, the notary is required to translate the contents of the deed into a language understood by the person appearing by using the services of an authorized translator, a violation results in a deed only having evidentiary force as a private deed.

In addition, if there is an element of negligence from the notary in this case, then civil liability may arise in the form of a lawsuit for damages by the party who feels aggrieved. More seriously, if the negligence is intentional or causes significant losses, then administrative and even criminal sanctions can be imposed, as regulated in Articles 84 and 85 of the UUJN.

According to Gunawan Widjaja, the power of an authentic deed is highly dependent on the fulfillment of all formal aspects stipulated by law. If even one element is not fulfilled—including the obligation to explain or translate the contents of the deed—then the deed no longer has perfect evidentiary power in the eyes of the law.

In a journal published by IUS Jurnal Hukum, it is stated that in several cases, notarial deeds that were not explained properly to the parties resulted in the cancellation of the deed by the court. This proves that minor negligence such as not translating can be the basis for the cancellation of a deed legally.

Not only that, ethical implications are also an important highlight. Notary is a profession that is full of integrity values and public trust. If the notary does not translate the contents of the deed to the person appearing who does not understand Indonesian, then he has denied the mandate of the position attached to him as the guardian of civil law justice. Therefore, in addition to legal implications, notaries must also be prepared to face ethical assessments from professional organizations such as the Indonesian Notary Association (INI) and the Notary Honorary Council.

Taking all these aspects into consideration, it can be concluded that not translating the contents of a deed to the person appearing is not a minor violation, but a serious violation that results in the cancellation of the deed, lawsuits, administrative sanctions, and damages the credibility of the notary profession itself. Therefore, a high commitment is needed from each notary to carry out this responsibility consistently and professionally.

4. CONCLUSION

Based on the discussion in the previous chapters, in this study it can be concluded that:

1. The responsibility of a notary in translating the contents of a deed to a party who does not master Indonesian is a legal obligation that is expressly regulated in the Notary Law, specifically Article 43 of Law No. 2 of 2014. A notary must ensure that each party truly understands the contents of the deed made, either directly or through an official translator if necessary. This obligation is not only procedural, but also reflects the moral and ethical responsibility of a notary as a public official who upholds justice and the protection of the rights of the parties. In addition, this responsibility also includes administrative aspects, where violations of the obligation to translate can result in sanctions from the Notary Supervisory Board. Thus, the implementation of this responsibility is very important to maintain the validity of the deed, prevent potential disputes, and maintain the integrity of the notary profession in Indonesia. Failure to fulfill the obligation to translate can result in the deed being legally flawed and detrimental to the parties to the event.
2. If a notary does not translate the contents of the deed to a party who does not understand Indonesian, the deed may lose its authenticity and be reduced to a private deed as stated in Article 43 of the UUJN. This has implications for reducing the evidentiary power of the deed in court. In addition, the notary's negligence in carrying out the obligation to translate can result in legal consequences in the form of a lawsuit for damages, administrative sanctions, and even criminal sanctions in accordance with the provisions of the Notary Law. In addition to the formal legal impact, this action also results in a violation of professional ethics that can damage the credibility and integrity of the notary as a public official. Therefore, fulfilling the obligation to translate is not only a matter of technical procedures, but also part of the moral and professional responsibility that must be adhered to in order to maintain public trust and legal protection for all parties.

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