

## Notary's Authority To Publish Deeds

Udin Narsudin

Univeristas Pasundan, Bandung, Indonesia

Article Info	ABSTRACT
<b>Keywords:</b> Law, Authority, Deed	In order to determine heirs to ensure legal certainty, the Notary is the only party who has the authority to issue birth certificates for all Indonesian citizens regardless of their ethnic origin. This is based on the UUJN (Notary Public Law) which regulates that notaries have the authority to determine evidence in the form of public documents, including heir statements . Notaries are appointed by law as the sole owner or institution that has the right to issue Notaries for all Indonesians, as intended in Article 15 paragraph. (1) UUJN, based on the Notary's authority to determine the actual deed. The authority of a Notary is personal authority and its function itself must have legal meaning, be binding, so that its function can run well and does not conflict with the authority of other functions. Issuance of inheritance deeds by a notary to all Indonesian citizens without discrimination in accordance with legal principles and upholding laws regarding safety and equality before the law. Likewise, the Notary's right to provide evidence as an heir or as a statement of heir is protected by the UUJN, a step that is in line with the concept of development law.
This is an open access article under the <a href="#">CC BY-NC</a> license 	<b>Corresponding Author:</b> Udin Narsudin Univeristas Pasundan, Bandung, Indonesia <a href="mailto:udin.narsudin@unpas.ac.id">udin.narsudin@unpas.ac.id</a>

### INTRODUCTION

The constitution adopted by Indonesia is in line with the concept of a new constitution which aims to guarantee the welfare of the people. (Kartini & Kusyandi, 2021) The government is able and quick to control and regulate every area or part of its citizens' lives, only for the welfare of its citizens. (Administration & Untag, 2019) In social life, the purpose of law is to determine regulations. (cnn, 2018) Apart from the need for other things that are also intended to be regulated by law, the main purpose of law is order. This is a practical fact that affects all aspects of human society. (Anita Sinaga, 2020) Justice as the legal goal behind order. (Faisal Santiago, 2017) To create order in society, it is necessary to have truth (law) in interactions between members of society. (Al Isra, 2017) Without legal certainty and social order, people will not be able to effectively develop their God-given talents in the society in which they live. In this case, legal certainty is the most measurable legal goal to ensure the establishment of order and justice in society. (Rasinus et al., 2021)

Legal certainty is one of the most important legal principles. Basic law is the general legal principle that forms the basis of legal norms . The most important thing for legal certainty is the existence of regulations (regulations) that actually exist in the law. (Hanifah, 2020) The question of whether this law is fair and beneficial to society is not just about the value of the law itself. A general law must be a general law or a law of necessity. (Suhardin, 2007)

To create a general and peaceful atmosphere in society, this law must be strictly enforced and implemented. For this reason, the legal requirements must be known first. (Farida, 2016)

An idea that should be applied in appointing heirs consistently and in accordance with legal principles is to ensure that the notary is one of the few officials who has the right to provide heirs to all levels of Indonesian society, regardless of race or ethnicity. (Taofik, 2021) In accordance with the reasons and legal basis stated and explained later. Citizens recognize Notaries as public officials and have the right to make real decisions on all actions, agreements and decisions required by laws and general regulations, especially those desired by those who handle them. Declared authenticity confirms the date and is not obligatory or exclusive to the administrator or anyone else. (Ratangin, 2017)

Notary as a Civil Servant is the application of a Notary as a government tool that is legally authorized to provide public services to the community, including the creation of public documents as final deeds for legal work in the civil sector. (Prayitno, 2017) Jurisdiction is the basis for legal actions that are determined and given status based on legal rules or the constitution. Therefore, each jurisdiction has its own scope of jurisdiction, which is determined by the Constitution. (Safitri & Wibowo, 2023)

## METHOD

Basically there are three ways to obtain power from the constitution, namely:

### **Contribution**

Contribution is the delegation of government power by a legislator to a government body. The budget is the granting of new government powers according to the constitution (new powers are created). (Mz, 2019) In this case, the recipient of power can create new power or expand existing power. Internal and external responsibility for the implementation of the authority entrusted to the responsible person. (Rahman, 2017)

### **Decentralization**

Decentralization is the transfer of government power from one government unit to another government unit. (Aini, 2022) Assignment is the transfer of existing powers (by the party receiving the transfer to another person), so that the assignment is effective before the assignment. (Wijaya, 2017) Delegation does not create power, but transfers power from one owner to another. The legal responsibility is not on the giver, but on the recipient of the gift. (GOOD, 2015)

### **Jurisdiction**

Jurisdiction occurs when a government agency allows another agency to exercise its authority on behalf of that agency. (Ramlah, 2018) There is no transfer of power or delegation of power in a trust. The seller only acts on behalf of the authorized distributor. (Hasan Harinanto Sugiono, 2015) Final responsibility for decisions made by the client remains with the administrator (without liability). Guarantees do not have to be made by law, but can be made in writing or verbally. The position of a Notary as a public official is a state body entrusted with various government functions and authorities, including the

nature of duties, obligations, rights and responsibilities when working in public in their field. in public works, especially in the preparation and confirmation of work. (Nardo, 2023)

The government as a public official appoints a Notary to assist people who wish to submit written evidence regarding the occurrence of a legal event. (Kurniawati, 2017) Written evidence or letters are anything that contains writings to express feelings or express someone's thoughts and is used as evidence. Editing has 2 (two) functions:

1. Formality (formality causa), namely the law which is a formal condition for the existence of a right that is complete or perfect (invalid), the law must be changed into law.
2. As evidence (probationis causa). In the future, action will be taken as evidence. The presentation is the most important part of the job. In the article of the Civil Code of 1868 there is an understanding of permanent law: "Permanent law is a law made by law or in the presence of a public official who exercises that right if there is a law. the action will occur. completed work .

Therefore, to qualify for permanent employment you must meet the following 3 (three) criteria:

1. Must be done "near" (number) or "before" (more than ten) public works.
2. Laws must be enforced in the manner prescribed by law.
3. Public officials who have or are authorized to carry out work must be authorized.

That an act of honor is an act carried out by an official who is assigned by an authorized and appointed official. The source of notary power is obtained through a sign, while the notary's power to carry out general actions is carried out through legal acts, namely UUJN. When filing a claim, the notary's right to make an actual deed must be taken into account for evidentiary purposes. (Rosadi, 2020)

## DISCUSSION

Because the Notary's book as a true deed is the strongest and most complete evidence, UUJN adapts the form and style of the book, original, draft, copy of the book, copy of the textbook. In their daily work related to making authentic deeds for all documents, agreements and arrangements required by law or required by interested parties, Notaries are divided into 2 (two) groups consisting of deeds that are entered into manuscripts. 1 number 7 UUJN. , that is:

1. Deed of delivery or notarial note (ambtelijke akten), a deed written by a "door" notary. In a voluntary act, the Notary explains/provides as a public official as a witness everything that the Notary saw, wrote, experienced and what other people on his part did.
2. Party deed (partij deen), a deed executed "in the presence of" (at least ten) notaries.

The party deed contains information about the parties who are parties to this deed, in addition to this, a notary's statement is also included stating that those present have expressed their wishes as stated in the side deed. Work . Work . Therefore, according to the UUJN concept, there are 2 (two) types of activities that fall under the authority of a Notary, namely activities related to the activities and activities of the parties. The notary's minutes

must be approved if the interested parties are unable to provide testimony in court. The actions of officials who do not have authority, are incompetent to act, or do not fulfill the requirements cannot be considered as actions in good faith, but become effective with the signature of the parties making the agreement. worry .

In notary practice in Indonesia, heir statements are usually made in a separate deed. Contains personal information from a notary who believes that the person mentioned there is a descendant of the deceased. Whether it is true or not, an act is void if it is believed to have been committed by or in the presence of a public official; In addition, after a person dies, procedures for carrying out legal acts must be followed , and efforts must be made to establish the identity of the person who will inherit the deceased person's work. a document must be drawn up and must meet the requirements set by law. In the court process it becomes a statement of descent. Submitting the heir's information in advance and/or to a notary can be the legal basis for Article 15 paragraph of the interested party recording it on a reliable device. According to the evidence, the heir statement deed made by a notary has decisive value, because it is made in the presence of a public official who is authorized to carry out public actions. This is different from the heir's statement which is just a statement, even though it is made by a notary, has no legal force because it does not fulfill the ideals of the claim. Certificate of Authenticity, the Notary checks the authenticity of the material to prove the truth of the information provided by the parties. Of course the notary must ensure the truth about the house and its descendants.

Notaries have the task of ensuring legal certainty by carrying out their duties based on examination and research of existing documents, such as death certificates, marriage certificates, child birth certificates, domicile statements or extramarital agreements, residence or non-residential certificates. Marriage certificate, adopted children and information on whether they are wanted or not. The existence of a will is known by checking the wills section in the Central Registry of the Ministry of Law and Human Rights. This is what makes inheritance deeds made by a notary different from other offices . Making birth certificates for all legal entities should be left entirely to a notary. The case will be referred to the local court or Sharia Court only if a dispute arises. According to these conditions, the action was correct, that is, it was not carried out in a form required by law. The importance of having time for coordination between relevant parties in developing national laws must be taken into account so that the process of making birth certificates in Indonesia does not continue to be based on law.

With the current development in society where more and more people are making wills , there are good benefits from notarial journalism, namely making a will through a list of will items. Ministry of Law and Human Rights. The inheritance process does not occur in other institutions that issue inheritance deeds other than notaries, for example at regional offices, district and ecclesiastical courts or district courts.

#### **The term statement of heirs is made by a notary.**

For the sake of legal certainty, the statement of heirs must be announced in the form of real estate in accordance with Article 15 par. (1) UJN. The heir statement made by the notary refers to the identity of the heir and the method of explanation or declaration

regarding the creation of the heir before the notary. The share or rights of each heir depends on the will law he wishes to use, according to will law based on the Civil Code, Islamic will law, will law or inheritance, and its distribution. from inheritance. A special inheritance letter can be made to represent part of the inheritance. Therefore, the Notary must know well how to report to his successor and must also pay attention to the necessary steps so that mistakes do not occur in the future which could be detrimental to the heirs and the Notary.

It is important to make an inheritance certificate, which is clearly stated in Article 14 of Wet op de Grootboeken der Nationale Schuld and it is stated that in the Inheritance Certificate which must be maintained at this time, the principles that must be used in making the Inheritance Certificate in Indonesia are:

- a. Name, surname and last name of the applicant.
- b. Name, surname , place of residence and, in the case of minors, date and year of birth of those who have the legal right to declare their share by will or letter of distribution and disinheritance (boedelscheiding).
- c. It is possible to state the name, surname and address of the minor's representative (i.e. guardian, main body), including special administrators (protected from the air).
- d. The true sign of a valid will or inheritance is the relationship between the giver and the heirs who will inherit it.
- e. The heir's obligations regarding the right to transfer what he receives, by stating the name, surname and address of the object, as well as who can receive it and help if changes in management need to be made.
- f. Including the leader's statement sharing the story of his descendants to confirm the veracity of the document.

The procedure for writing an inheritance deed carried out by a notary is as follows:

#### **The first stage**

- a. The notary requests a stamp application from the applicant/donor or his representative; • Requests a death certificate from the heirs;
- b. The recording of a will in the Central Register of Wills, whether it has been made or not, is closely related to the distribution of inherited assets, both inheritance and will, so that problems do not arise.

#### **Second Stage**

- a. The notary who ratifies the inheritance deed brings the inheritance deed which provides a guarantee of its legal authenticity. Apart from that, the rights of the notary who prepared it are also required, the cooperation of descendants to prove the validity of one's deed. government participation is responsible for: - correct/reliable data provided in the citizenship certificate.
- b. Information and direct orders from the Ministry of Law and Human Rights for the registration of wills which are administered directly and nationally (throughout Indonesia) in collaboration with Notaries throughout Indonesia in connection with paragraph 16 (1) letter h UUJN requires Notaries to make and register wills no later than 5th ( fifth ) of every month.

### **Obligation to verify the will at the central register before publishing information about descendants.**

When making an inheritance deed, the notary must always pay attention to the register of wills, because if an examination is not carried out there is a high risk of claims from the descendants of the deceased, which will be detrimental to the heirs in the future. The beneficiary controls the distribution of assets if the beneficiary dies. The existence of a will influences the contents of the inheritance letter ratified by a notary, because one or more heirs can be excluded as heirs by virtue of a will or part of the inheritance of their heirs or not. get a share of it. It is known that the husband or wife of the heir can inherit the house without receiving a share of the inheritance, because the husband or wife of that person cannot hand over the keys to the actual share (legitimate share) of the municipality . (30)

At this time, blood relatives in a straight line from top to bottom, if their shares are divided, still receive the actual share and place of inheritance from the heir. If left untreated, it could have fatal consequences because it is an important part that must be obtained and cannot be taken lightly. According to Article 15 par. 1 UUJN, Notaries have the right to publish information about heirs in the form of real documents, which are not intended for those who have rights according to the Civil Code, but for all of Indonesia. The legal distribution of assets before the merger of wills is carried out according to the law regarding the "resident class" of the testator. Which type of trusted tool is most similar to UUJN because it can be studied together in legal discovery. To eliminate and eliminate discrimination in traditional information, Notaries can act as persons authorized to publish traditional information. Notaries must be able to use the values of independence in real action, namely making Notaries and making them the only officials who have the authority to issue information to all Indian citizens without distinction of class/race/ethnicity or religion. A notary as a foundation has its own powers and the same status must have legal regulations, is bound so that its functions can run well, does not conflict with the authority of other functions, so the law must have these powers. base . Authority is a limitation on who can act and is limited to a position according to the legal rules governing that position.

The issuance of inheritance deeds to all Indian citizens by a notary is carried out in accordance with procedures related to the supremacy of law by fulfilling the requirements of legal certainty and equality before the law, as well as giving the notary the authority to prove heirs, heirs . . Statements of descent are also protected by UUJN, in accordance with the principles of Mochtara Kusumaatmadja's theory of legal development, so far legal theory in Indonesia has been created by Indonesian control. size and culture of Indonesian society. Thus, by measuring these dimensions of development, the concept of law is born, grows and develops in accordance with the different conditions currently in Indonesia, and its application is in accordance with Indonesian terms and conditions.

### **CONCLUSION**

In practice, inheritance deeds are written by descendants and ratified by village heads and regents for Indonesian citizens, by notaries for Chinese Indonesian citizens, and by BHP for other communities in eastern Indonesia. and different legal bases, so that the concept of

legal certainty in the legal concept is not respected. Determining heirs is very important in inheritance law, because the law that regulates it must be the same as Mochtar Kusumaatmadja's legal development theory, a method or method is needed in the development process. The role of law ensures safety and welfare. There are still many oath laws in Indonesia, and the unified law of oaths cannot always be used and fully implemented throughout Indonesia; However, issuing a succession deed can be done through a notarized succession deed, because even though there are many provisions in succession law in family law and succession law for Indian citizens, it is not necessary to obtain one. traditional certificate . or the authority to make a will. the information is different. The large number of traditional certificates is a form of illegality and Indonesia is avoided as a legal country. As a country, Indonesia states that its law requires one oath. However, because a national will law cannot currently be put forward, the relevant issues in will law, namely the statement of heirs, must be the same for all Indians, without distinction. The power of a notary to declare inheritance for all Indonesian people regardless of class can eliminate the existence of pluralistic law in inheritance statements and the law applied to the development legal theory of Mochtar Kusumaatmadja.

#### REFERENCES

- Administrasi, M., & Untag, F. (2019). *AKSELERASI PROSES DEMOKRATISASI: KAJIAN SOSIOLOGIS Oleh : Christine Diah Wahyuningsih NIDN : 0628015701*. 15(19).
- Aini, M. (2022). Desentralisasi Pendidikan Madrasah Melalui Otonomi Daerah Di Indonesia. *Ulumuddin : Jurnal Ilmu-Ilmu Keislaman*, 12(1), 95–106. <https://doi.org/10.47200/ulumuddin.v12i1.1122>
- Al Isra, A. B. (2017). Hablumminannas: Nilai-Nilai Keislaman dan Praktiknya Dalam Pergaulan Antar Ikhwan dan Akhwat Pada Organisasi Forum Lingkar Pena Makassar. *ETNOSIA : Jurnal Etnografi Indonesia*, 1(2), 66. <https://doi.org/10.31947/etnosia.v1i2.1616>
- Anita Sinaga, N. (2020). Kode Etik Sebagai Pedoman Pelaksanaan Profesi Hukum Yang Baik. *Jurnal Ilmiah Hukum Dirgantara*, 10(2), 1–34. <https://doi.org/10.35968/jh.v10i2.460>
- cnn. (2018). Hukum. *Rctu*, 33. tertey7urtuw4568w3568w4
- Faisal Santiago. (2017). Penegakan Hukum Tindak Pidana Korupsi oleh Penegak Hukum untuk Terciptanya Ketertiban Hukum. *Pagaruyuang Law Journal*, 1(1), 23–43.
- Farida, S. P. (2016). Revitalisasi Pancasila dalam Penegakan Hukum yang Berkeadilan di Indonesia. *Justicia Islamica*, 3(2), 1–15.
- GOOD, G. (2015). 濟無No Title No Title No Title. In *Angewandte Chemie International Edition*, 6(11), 951–952. (Vol. 1, Issue April).
- Hanifah, I. (2020). Kebijakan Perlindungan Hukum Bagi Pekerja Rumah Tangga Melalui Kepastian Hukum. *Jurnal Legislasi Indonesia*, 17(2), 193. <https://doi.org/10.54629/jli.v17i2.669>
- Hasan Harinanto Sugiono, B. (2015). *Hukum Acara dan Praktik Peradilan Perdata*.
- Kartini, M., & Kusyandi, A. (2021). Eksistensi Ptun Sebagai Wujud Perlindungan Hukum

- Kepada Warga Negara Dari Sikap Tindak Administrasi Negara. *Yustitia*, 7(2), 236–248. <https://doi.org/10.31943/yustitia.v7i2.144>
- Kurniawati, putri. (2017). No Title ترازو الادب..الإلا ك تروني الاب. ط فرة على ت تغذى جرائم ..الإلا ك تروني الاب. *Universitas Nusantara PGRI Kediri*, 01, 1–7.
- Mz, H. I. (2019). *Kekuasaan Negara Republik Indonesia Berdasarkan Undang-Undang Dasar*. 13(2), 258–269.
- Nardo, L. (2023). Pertanggungjawaban Kode Etik Advokat Terhadap Pelanggaran Yang Dilakukan Oleh Advokat. *Jurnal Ilmiah Publika*, 11(1), 143. <https://doi.org/10.33603/publika.v11i1.8214>
- Prayitno, I. (2017). Telaah Terhadap Pergeseran Kewenangan Notaris Setelah Terbitnya Peraturan Menteri Hukum Dan Ham Republik Indonesia Nomor 9 Tahun 2017 Tentang Penerapan Prinsip Mengenali Pengguna Jasa Bagi Notaris. *Acta Diurnal Jurnal Ilmu Hukum Kenotariatan Dan Ke-PPAT-An*, 1(1), 115. <https://doi.org/10.24198/acta.v1i1.70>
- Rahman, K. (2017). Pelayanan Pemerintahan Yang Bertanggung Jawab. *Jurnal Ilmu Pemerintahan Nakhoda*, 16(28), 34–42. <https://doi.org/10.35967/jipn.v16i28.5823>
- Ramlah, R. (2018). Implikasi Pengaruh Politik Hukum Kolonial Belanda Terhadap Badan Peradilan Agama di Indonesia. *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan*, 12(02), 283–402. <https://doi.org/10.30631/alrisalah.v12i02.424>
- Rasinus, Widyastuti, A., Permadi, Y. A., Sudono, E. P., Karwanto, Ramadhani, R., Hidayat, T., Purba, P. B., Sesfao, M., Purba, D. S., Purba, S. R. F., Purba, B., & Chamidah, D. (2021). *Dasar-Dasar Kependidikan*. 67.
- Ratangin, G. (2017). *Program magister kenotariatan program pascasarjana fakultas hukum universitas islam indonesia 2017*. 17921049.
- Rosadi, A. G. (2020). Tanggung Jawab Notaris Dalam Sengketa Para Pihak Terkait Akta Perjanjian Pengikatan Jual Beli (Ppjb) Yang Dibuatnya. *JCH (Jurnal Cendekia Hukum)*, 5(2), 243. <https://doi.org/10.33760/jch.v5i2.228>
- Safitri, M., & Wibowo, A. (2023). Peranan Mahkamah Konstitusi Di Negara Indonesia (Mengenai Mahkamah Konstitusi). *Jurnal Penelitian Multidisiplin*, 2(1), 71–76. <https://doi.org/10.58705/jpm.v2i1.106>
- Suhardin, Y. (2007). Peranan Hukum Dalam Mewujudkan Kesejahteraan Masyarakat. In *Jurnal Hukum Pro Justitia* (Vol. 25, Issue 03, pp. 270–282).
- Taofik. (2021). *PERAN NOTARIS DALAM PENYELESAIAN PERMASALAHAN HAK WARIS TANAH (Studi Kasus Di Kabupaten Cirebon)*. 12–26.
- Wijaya, L. I. (2017). Eksekusi Jaminan Fidusia Karena Overmacht (Studi Di Wahana Ottomitra Multiartha Finance Mataram). *Al-IHKAM: Jurnal Hukum Keluarga Jurusan Ahwal Al-Syakhshiyah Fakultas Syariah IAIN Mataram*, 9(01), 89–105. <https://doi.org/10.20414/alihkam.v9i01.1155>