

## PPAT's Obligation in Providing Free Services to Indigent People

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**Abstract.** *PPAT Temporarily must provide free services to people who are unable to obtain an Authentic Deed of land rights or property rights to flats, which is strong evidence in the legal process. However, existing regulations governing this matter can lead to multiple interpretations and incomplete documentation requirements, making it difficult for Land Deed Making Officials (PPAT) to fulfill their obligations. Therefore, the application of standardization by PPAT depends on the interpretation of each individual, because it is not regulated in applicable regulations. This study aims to analyze regulations, literature, and interviews with PPAT to find out how they fulfill their responsibilities. This research used normative legal research which reveals that misinterpretation is caused by two factors, namely the absence of criteria to determine a person's incompetence and the imprecise requirements to guarantee its accuracy. The conclusion show better provide services to the community, it is necessary to establish clear criteria and standards for individuals who are unable to carry out legal actions in the field of land and flats.*

**Keywords:** *Free; Indigent; Obligation; PPAT; Services.*

### 1. INTRODUCTION

When registering land with the Land Office, it is important to consider the actual physical and legal status of the land, including any changes to previously recorded legal data. This is where the Land Deed Making Officer (PPAT/*Pejabat Pembuat Akta Tanah*) plays an important role in ensuring that land administration and registration are carried out accurately. According to the Government Regulation of the Republic of Indonesia Number 24 of 1997 concerning Land Registration, the transfer and transfer of land rights can only be registered if supported by a deed from the PPAT.

PPAT is a public official who has the legal authority to make deeds of transfer and transfer of land rights and other regulated deeds (Iftitah, 2014). They also assist the Head of the Land Office in recording changes in land registration data by making deeds. This function is in accordance with Law of the Republic of Indonesia Number 4 of 1996 and Government Regulation of the Republic of Indonesia Number 24 of 1997.

The law has been amended by Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats and Land Registration. Given that the function of the PPAT is quite large in the field of community services and increasing sources of state income which will then become the driving force for increasing national development, as explained in Government Regulation Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning Regulations for the Position of Land Deed Making Officials, "PPAT is a general official who is authorized to make authentic deeds regarding deeds certain laws regarding land rights or property rights to flats". In line with these provisions, Land Deed Making Officials (PPAT) are trusted to solve legal problems and create legal certainty.

The 1945 Constitution of the Republic of Indonesia recognizes Indonesia as a state of law, where the rule of law guarantees certainty, order, and legal protection based on truth and justice (Muhlashin, 2021). In this context, the legal position of man is closely related to his human rights. Human rights are basic rights given by God to all mankind without discrimination based on sex, color, nationality, religion, age, politics, social status, language, or any other status. These fundamental rights form the foundation for other rights and responsibilities (Bahri, 2018).

Government Regulation Number 24 of 2016 aims to realize security and legal protection for individuals in civil law matters. For this reason, the State appoints the PPAT as the General Officer to make an Authentic Deed of Land Rights or Ownership Rights over Flats. The PPAT not only makes authentic deeds, but also provides legal counseling to clients or parties. In doing so, they consider various aspects of applicable laws and social norms to avoid legal problems in the future. Land Deed Making Officials (PPAT) may not discriminate based on social, economic, or political status in providing legal counseling, because they are mandated by the state to carry out their duties and maintain their professional standards (Aditama, 2018). According to Article 32 Paragraph (2) of Government Regulation Number 24 of 2016, the PPAT is obliged to provide services to every client who wants to take legal remedies and cannot afford the costs. This applies to both PPAT and Temporary PPAT. These regulations provide relief for those who may not have the means to access justice equally.

In the government regulation there is a blurring of meaning regarding the definition of "someone who is incapable", the extent of the provisions regarding legal restrictions. This creates obstacles for those who cannot afford the services of Land Deed Making Officials (PPAT), because there are no standard criteria to determine who is entitled to free services. The meaning of Article 32 Paragraph (2) of the above regulation needs to be clarified so that there is no multiinterpretation that can harm the community and hinder the implementation of the mandate of the Presidential Regulation to ensure equal justice. The general explanation contained in the annex to the regulation also does not provide further explanation on this matter. Legal norms are supposed to be a tool to ensure justice and provide legal protection for those who cannot afford it (Farahwati, 2019). According to Article 34 of the 1945 Constitution, the State is responsible for taking care of the poor and neglected, developing a social security system for all people, empowering the weak, and providing adequate health facilities and public services. As one of the professions of public officials, Land Deed Making Officials have an important role in providing public services and are obliged to provide free services to people who cannot afford it (indigent people) (Azizah, 2018). To ensure that these obligations are carried out effectively, it is necessary to formulate mutual expectations and standardize the implementation of regulations as described above.

Based on this, Article 32 Paragraph (2) creates legal confusion that can lead to multiple interpretations by the parties. Moreover, the article lacks specific standards and provisions to effectively enforce such obligations. In addition, the terms and conditions of "incompetent person" depend on the subjective nature of the PPAT, which can be misused by unscrupulous officials to evade their responsibilities. Seeing these problems, the author is interested in reviewing the obligations of Land Deed Making Officials (PPAT) in providing services without charging fees to parties who cannot afford it.

This study focuses on analyzing aspects of certainty, feasibility, and legal protection provided by the State to underprivileged communities, such as people who are unable to get legal services in the land sector or flats. The research emphasizes the urgency and relevance of Government Regulation of the Republic of Indonesia Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning Regulations for the Position of Land Deed Making Officials. The purpose of this study is to analyze legal certainty that guarantees the fulfillment of the rights of underprivileged communities and see the form of legal protection for underprivileged people in obtaining free legal services in land or flats, as a means to obtain the rights of underprivileged communities.

## **2. RESEARCH METHODS**

The study author uses the Normative empiric legal research method, which examines legal materials such as written regulations. This type of research focuses on obtaining objective law by studying legal issues and can be done through literature or document studies. The process of normative legal research consists of two stages. The first stage involves proving whether the research is indeed legal research. The second stage is to conduct research to obtain subjective laws relating to rights and obligations (Sung & Umar, 2020). To conduct this study, the author used two different approaches, namely the legal approach and the conceptual approach. This means that research focuses on existing regulations as positive laws, and analysis of legal materials is carried out through tracing library materials (Mahmud Marzuki, 2017).

## **3. RESULTS AND DISCUSSION**

### **3.1. The Legality of PPAT's Obligation in Providing Free Services to Indigent People**

1. Government Regulation of the Republic of Indonesia Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning Regulations for the Position of Land Deed Making Officials

In article 32 Paragraph (2) of PP 24/2016 states that Land Deed Making Officials (PPAT) and Temporary PPAT are obliged to provide services to those who cannot afford it free of charge. That is, if a person or a community is unable to pay the fee, they can still receive services free of charge. PPAT and PPAT While referred to as public officials who have the authority to provide services without charging fees to those who cannot afford it. Temporary PPAT is a government official appointed to carry out PPAT duties in areas where the number of PPAT is insufficient. In these areas, the sub-district head or village head is appointed as a Temporary Deed Making Officer (PPAT) to provide deed making services (Believer, 2017).

To facilitate the community with a PPAT Deed in areas that lack PPAT or to assist certain community groups in producing certain PPAT Deeds, a Temporary Land Deed Making Officer is appointed. This is done to meet the requirements of the Land Deed Making Officer (PPAT) in the working area of the relevant sub-district. However, if in an area there is already a PPAT that meets the quota, then the newly appointed sub-district head cannot be appointed as a temporary PPAT. Conversely, if in a sub-district work area there is no PPAT available or there is already a PPAT but there is still demand, it can be appointed and designated as a Temporary PPAT (Nugraha & M.S., 2022). Article 32 Paragraph (2) is the legal basis for providing services to the community or individuals who are unable to obtain legal services free of charge. The regulation provides legal certainty to the community and guarantees equal justice before the law for everyone.

If we look closely, it turns out that the Government Regulation of the Republic of Indonesia Number 24 of 2016 which amends Government Regulation Number 37 of 1998 concerning the Regulation of the Position of Land Deed Making Officer does not provide a comprehensive explanation of "someone who is incapable". This raises the question of how the restrictions referred to in Article 32 Paragraph (2) apply to legal subjects who are considered "incapable" and unable to provide services free of charge.

It is important to clarify the meaning of article 32 Paragraph (2) of the Government Regulation of the Republic of Indonesia Number 24 of 2016 concerning the Regulation of the Position of Land Deed Making Officers. This will prevent multiple interpretations from interested parties that can have a negative impact on society. The regulatory mandate to ensure equal justice has not been implemented due to the absence of standardized criteria. This creates obstacles for parties who are unable to contact the PPAT. The general explanation in the annex to the rule is also less detailed. Legal norms must ensure justice and legal protection for everyone, regardless of financial status.

## 2. Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 33 of 2021 concerning the Fees of Land Deed Making Officials

The purpose of ATR/BPN Ministerial Regulation Number 33 of 2021 is to simplify the property registration process in Indonesia. One important aspect of this regulation is to ensure transparency of costs associated with the transfer of land rights, especially the fees charged by PPAT for making deeds. In addition, the regulation outlines provisions for providing free services to people who cannot afford such services. Article 2 paragraph (1) and paragraph (2) states that Land Deed Making Officers and Temporary Land Deed Making Officers are obliged to provide deed making services free of charge to indigent people. Furthermore, individuals who are unable to pay for such services can obtain a Certificate of Incapacity from the competent authority to prove their eligibility for free services under this regulation.

To be able to take legal action against someone who is incapacitated, it is necessary to provide a Certificate of Incapacity (SKTM) as proof. The agency authorized to issue SKTM is the Village Apparatus, which is the government organization that is closest and in direct contact with the community. The provision of SKTM is a mandatory service that must be provided by the Government Apparatus, especially the Village Government, because one of its functions and duties is to protect and serve the community. This is especially important in the current era of globalization and regional

autonomy, where the role of regional officials as public servants greatly determines regional progress.

It is known that villages have an important role in the success of regional development, especially in terms of regional autonomy. As the government organization closest to the community, the village is directly involved in development planning and services (Simbolon et al., 2021). However, Hendri's research on the effectiveness of the Poor Certificate Service (SKTM) in Lereng Village, Kuok District, Kampar Regency, shows that there are problems with the SKTM services provided. Factors that hinder the effectiveness of the Certificate of Incapacity (SKTM) service consist of low public awareness, the absence of technical regulations on sanctions and the absence of verification of data on indigent people by the Head of RT and RW (Hendri, 2022).

Although not a widespread issue in Indonesia, there have been cases where village governments have abused their authority by issuing SKTM improperly. One of the misuses of SKTM as a requirement for receiving free legal aid is because the way to get SKTM is not selective. Although the Central Bureau of Statistics (*BPS/Badan Pusat Statistik*) has made the criteria for poor families, these criteria are not legal products so they do not have binding force to be obeyed (Libra & Arifalina, 2018). This is a reminder that when SKTM is only the only requirement for individuals who cannot afford the services of Land Deed Making Officials (PPAT), then this can be used by opportunist individuals who want to take advantage of the situation.

Paragraph (2) states that the Certificate of Incapacity is used by applicants who are unable to handle their affairs, but if the certificate cannot be proven authentic, it is not sufficient to guarantee its implementation. In addition, the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 33 of 2021 concerning the Service Fee of Land Deed Making Officials, aims to provide transparency regarding the cost of transferring land rights and provide convenience in land registration. However, it is not clear whether the right of "a person who is incapacitated" to receive free services is considered important because the regulation only accommodates it in one paragraph, which may not be sufficient to guarantee its implementation as referred to in Article 32 Paragraph (2).

3. Decree of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency Number 112 / KEP-4.1 / IV / 2017 concerning the Code of Ethics of the Association of Land Deed Making Officials

The Code of Conduct of the Association of Land Deed Making Officials attached to the Decree of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency states that Land Deed Making Officials (PPAT) are obliged to offer their rights and provide free services to financially disadvantaged community members. However, the code of conduct does not specify the purpose behind these obligations or the way they are implemented.

The main purpose of having a Code of Professional Ethics is to guarantee social control and prevent outside interference, misunderstandings, and conflicts (Anita Sinaga, 2020). It also outlines professional principles and criteria for existing and new members of a professional group to ensure their obligations are known with certainty. This helps prevent conflicts of interest between members of professional groups, as well as between groups and communities. The Code of Ethics is a moral rule established by the association based on the decision of Congress and / or determined

and regulated in the laws and regulations governing it. This applies to all members of the IPPAT association and everyone who performs duties as a PPAT, including Substitute PPAT. The Code of Ethics for Land Deed Making Officials (PPAT) and Substitute Land Deed Making Officials (PPAT) applies to them both in professional and personal life. Please note that this code of ethics is not a statutory regulation, but a set of rules set by a professional organization – IPPAT.

If this organization is not authorized to form laws and regulations according to state qualifications, then the establishment of a code of ethics must follow the procedures established by law. Written regulations containing legally binding norms, formed, or stipulated by state institutions or authorized officials according to the procedures stipulated in laws and regulations. Such regulations are recognized and have legal force to the extent ordered by higher laws or established by authority.

### **3.2. The Scope of Implementation of PPAT Obligations in Providing Free Services to Indigent People**

In accordance with the legal basis for providing services by the PPAT, legal services in the Land or Flats are provided free of charge or free of charge only to the community / someone who cannot afford it. It is the obligation of the PPAT to continue to provide these services without raising unfounded objections to clients.

It is important to note that the existence of a legal basis may not always be sufficient to provide services to those who cannot afford it, given the possibility of multiple interpretations and incomplete regulations. Moreover, existing legal conditions have not provided clear standardization for PPAT in carrying out their duties, and this can vary depending on the individuals involved. Therefore, it is necessary to consider various aspects before implementing this regulation, moreover the targeted legal subjects are communities or individuals who may not be able to.

BPS determines a person's poverty or poor status based on a series of criteria. This includes inadequate living conditions, such as a floor area of less than 8 m<sup>2</sup> per person, floors made of earth, bamboo or cheap wood, and walls made of low-quality bamboo, straw, or wood without plaster. Lack of access to basic sanitation facilities, such as the absence of defecation facilities or sharing latrines with other households, is also a factor. Other criteria include lack of electricity for household lighting, drinking water from unprotected sources such as wells, springs, rivers or rainwater, and reliance on firewood, charcoal, or kerosene for daily cooking. Individuals who only consume meat, dairy, or chicken once a week, buy only one new set of clothes a year, and eat only once or twice a day are also considered underprivileged. In addition, those who cannot afford treatment at puskesmas or polyclinics, have sources of income below a certain amount, such as farmers with a land area of 0.5 ha, farm laborers, fishermen, construction porters, plantation workers or others who earn below Rp 600,000 per month, and have low education or none at all, or savings/goods that are easily sold with a minimum value of Rp 500,000,- Such as motorcycles (credit/non-credit), gold, livestock, motorboats or other capital goods, are also considered. Underprivileged (Sendangsari.bantulkab.go.id, 2024).

BPS has set a benchmark for poverty or underprivileged communities in Indonesia. This benchmark is used to record the percentage of poor people in a country. Based on the poverty profile in Indonesia as of March 2023 published by BPS, the data collection results show this;

**Table1.** Percentage of Poor People by Region March 2023

<b>Percentage of Poor People by Region</b>		
Region	2023	
	Semester 1 (March)	Semester 2 (September)
City	7,29	-
Village	12,22	-

Source: *Badan Pusat Statistik Sulawesi Tenggara*, <https://www.bps.go.id/id/statistics-table/2/MTkyIzI=/persentase-penduduk-miskin--maret-2023.html>

From the table above, the percentage of poor people in rural areas in March 2023 was recorded at 12.22 percent, while in urban areas the percentage of poor people was recorded at 7.29 percent. Seeing that the Central Statistics Agency (BPS) released an analysis of data from the March 2023 National Socioeconomic Survey (Susenas), it shows that the number of poor people in urban areas is relatively low. But according to the authors' research based on open interviews with anonymous sources, the situation may be different. To validate this, the authors conducted interviews with Land Deed Making Officials (PPAT) to strengthen empirical data.

Based on the narration of resource persons who work at the PPAT in Kendari City, Southeast Sulawesi, there are cases where people are less able to own large amounts of land. Although these people seem to have the ability to own the land, it is often inherited from previous generations and is not used due to financial constraints. The Central Statistics Agency (BPS) reported that Kendari City has a relatively low number of poor people, BPS uses the concept of the ability to meet basic needs (basic needs approach). With this approach, poverty is seen as the inability from the economic side to meet the basic needs of food and not food measured in terms of expenditure (Central Bureau of Statistics of Southeast Sulawesi Province, 2024). But keep in mind that each region is unique and cannot be generalized.

From the description above, it can be concluded that there is no definite standard in assessing disability, especially because the current regulations do not set criteria or standards that must be followed by PPAT. This makes the determination of requirements for individuals or communities who cannot afford it at the discretion of the PPAT, which can cause confusion. If PPAT bases its assessment on the criteria set by the Central Statistics Agency (BPS), this is not appropriate because there are certain scenarios where a person may not be economically capable but has assets in the form of land or property.

The duty of the PPAT, as a General Officer appointed by the state, is to assist all members of the community and not refuse requests for legal services from indigent parties in the field of land or real estate if it is in line with laws and regulations and moral standards. The PPAT profession is a service that can benefit many people, so it does not become a challenge for clients who seek legal assistance for indigent people.

### **3.3. The Role of The State in Providing Legal Protection to Individuals Deemed Incapacitated (Indigent People)**

The 1945 Constitution of the Republic of Indonesia mandates Land Deed Making Officials (PPAT) to provide legal services related to land and flats without charging any fees to those who cannot afford it. As a state of law, the Unitary State of the Republic of Indonesia upholds the principle of the rule of law that guarantees certainty, order, and protection of law by prioritizing truth and justice. Man's position in law is closely related to the human rights he has, namely the human rights or principles bestowed upon him by God Almighty. These human rights are inherently inherent in all human beings, without discrimination based on sex, color, nationality, religion, age, politics, social status, language, or other factors. This human right forms the basis for other rights and obligations. Article 27 Paragraph (1) of the Constitution of the Republic of Indonesia Year 1945 states that all citizens have an equal position in law and government and are obliged to uphold the law and government with no exception.

Every citizen has the right to access legal counsel and to be treated equally before the law, with justice for all. In addition, Article 28 D Paragraph (1) of the Constitution of the Republic of Indonesia Year 1945 affirms that everyone has the right to fair legal certainty, recognition, protection, and equal treatment before the law. This article affirms that every individual has the right to human rights, including equal treatment and standing before the law. These rights are universal, meaning that everyone has the right to be recognized as a person according to law, wherever he or she may be. In addition, every individual has an equal position before the law and is entitled to legal protection without experiencing discrimination in any form.

As a General Officer appointed by the state, it is expected to help all levels of society regardless of social status. The 1945 Constitution mandates the state to fulfill its obligations towards its citizens, including the care of poor and abandoned children, the development and implementation of a social security system for all people, the empowerment of the weak and indigent in a dignified manner, and the provision of adequate health care facilities and community service facilities. By fulfilling these obligations, the state can ensure the welfare and progress of all its citizens.

In Indonesia, every individual has the right to equal treatment before the law, and the state is responsible for providing necessary facilities such as health services and public services. To ensure this, the government provides legal services by Land Deed Making Officials (PPAT) free of charge to those who cannot afford it. PPAT is a General Officer who provides services related to land and flats to the community. They cannot refuse the requests of the community, especially the indigent, as long as they comply with laws and moral values. (Permenta, 2021)

According to the Government Regulation of the Republic of Indonesia Number 24 of 2016 concerning Amendments to the Regulation of the Position of Land Deed Making Officers, there are administrative sanctions for violations committed by PPAT, which are further regulated by Ministerial Regulation. Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 2 of 2018 confirms that PPAT may be subject to sanctions for violating the implementation of its position, not fulfilling obligations stipulated in laws and regulations, violating prohibition provisions stipulated in laws and regulations, and/or violating the Code of Ethics.



The purpose of this Ministerial Regulation is to provide guidance and supervision to PPAT, and to enforce legal regulations through the imposition of sanctions by the Ministry. The main objective is to ensure that the PPAT is professional, has integrity, and carries out his duties in accordance with laws and regulations, and the Code of Ethics. The Ministry conducts supervision by enforcing the rule of law based on findings of violations committed by Land Deed Making Officials (PPAT) in carrying out their duties or complaints of alleged violations, as affirmed in Article 12 Paragraph (2).

If there are allegations of violations committed by Land Deed Making Officials (PPAT), complaints can be received from the community, both individuals/legal entities and the Association of Land Deed Making Officials (IPPAT). To overcome this, the authorities can sanction Land Deed Making Officials (PPAT) who are proven to violate the rules. Such sanctions may take the form of a written reprimand, suspension, honorable dismissal, or dishonorable dismissal. These measures are in place to ensure that officials comply with rules and regulations and provide fair and transparent services to the public.

The violation referred to in this study is for Land Deed Making Officials (PPAT) who do not carry out their obligations as stipulated in laws and regulations, in the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 33 of 2021 concerning Land Deed Making Service Fees it is stated that "Land Deed Making Officials and Temporary Land Deed Making Officials are obliged to provide deed making services without charging fees to people who do not capable." It is further affirmed in Article 3 paragraph (2) that "In the event that the Land Deed Making Officer and the Temporary Land Deed Making Officer who collect fees from a person who is incapacitated as referred to in Article 2 paragraph (1) shall be subject to sanctions in the form of a written reprimand."

If the PPAT is proven to have committed a violation, the Head of the Land Office can provide sanctions in the form of a written reprimand letter. The Regional PPAT Advisory and Supervision Council (MPPD) can also conduct inspections and provide reports accompanied by recommendations for decisions and types of sanctions. Based on the report, the Head of the Land Office can issue a written reprimand letter to the PPAT outlining the violation and the follow-up actions that need to be taken. This warning letter is valid for one month.

#### **4. CONCLUSION**

The current legal situation regarding complex and incomplete land deed regulations causes interpretations of established norms to vary. To better provide services to the community, it is necessary to establish clear criteria and standards for individuals who are unable to carry out legal actions in the field of land and flats. Unfortunately, there is no provision regarding restrictions on individuals who are unable to obtain legal services. In addition, there are no established guidelines to determine who is entitled to free legal services from the Land Deed Making Officer (PPAT). But keep in mind that PPAT officials cannot refuse requests for assistance from parties who are unable to get legal services, if it is in accordance with laws and morality. Failure to comply with these regulations may result in administrative sanctions being imposed on the Land Deed Maker.

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