

## Reconstruction of Ratification of Notarial Deeds as Authentic Deeds in the Case of Indigenous People

Ida Ayu Ratna Kumala<sup>1\*</sup>, I Gede Yusa<sup>2</sup>, Marwanto<sup>3</sup>, I Gusti Agung Mas Rwa Jayantiari<sup>4</sup>  
Udayana University

**Corresponding Author:** Ida Ayu Ratna Kumala [yugekkiran23@gmail.com](mailto:yugekkiran23@gmail.com)

---

### ARTICLE INFO

*Keywords:* Disabled, Authentic Deed, Notary, Affidavit.

*Received :* 14, July

*Revised :* 27, July

*Accepted:* 28, August

©2024 Kumala, Yusa, Marwanto, Jayantiari : This is an open-access article distributed under the terms of the [Creative Commons Attribution 4.0 International](https://creativecommons.org/licenses/by/4.0/).



### ABSTRACT

This research uses normative research methods with a statute approach, historical approach, and conceptual approach. This research aims to find out, examine, and analyze the urgency of legal protection for persons with disabilities against authentic deeds made before a Notary and also to examine and determine the validity of notarial deeds made by persons with disabilities through alternative relevant attestation procedures. The result of this research is that the reconstruction model for the validation of an authentic deed made before a notary for a disabled person follows the provisions of Article 44 of the UUJNP, but this provision must be accompanied or accompanied by at least 2 (two) witnesses who will later make a certificate of testimony (Affidavit) before the notary that he witnessed the disabled person had made the deed before the notary concerned. In essence, the reconstruction of authentic deed attestation is needed to realize the purpose of the law it self, in the form of certainty, justice, and expediency.

---

## **INTRODUCTION**

As of now the number of individuals with disabilities in Indonesia has come to 22.97 million individuals or around 8.5% of Indonesia's populace, with the most notable number of individuals with disabilities in ancient age, whereas WHO gauges that more than 1.3 billion individuals encounter noteworthy disabilities, which speaks to 16% of the worldwide populace. For this reason, Indonesia as a lawful state ensures the survival of each citizen, counting individuals with disabilities. The rights of people with incapacities in Indonesia have been explicitly recognized in Article 28I passage (1) of the 1945 Structure of the Republic of Indonesia (hereinafter alluded to as the 1945 Structure of the Republic of Indonesia. This arrangement is supplemented by a ensure of uncommon treatment for people with disabilities which is recognized in Article 28H passage (2) The 1945 Structure of the Republic of Indonesia. The acknowledgment of the rights of people with incapacities within the 1945 Structure of the Republic of Indonesia gives a verifiable understanding that the State is obliged to realize and fulfill these rights. At that point Law Number 39 of 1999 concerning Human Rights (hereinafter alluded to as the Human Rights Law) was set up), reinforce the commitment of the state and society to regard the rights of People with Incapacities as animals made by God All-powerful .

The ponder of disabilities started to move since the alter in controls in Law Number 4 of 1997 concerning People with Incapacities (hereinafter alluded to as the Law on People with Disabilities), to Law Number 8 of 2016 concerning People with Disabilities (hereinafter alluded to as the Law on People with Incapacities). The Law on People with Disabilities gives point by point criteria for somebody who can be called a individual with a incapacity. Article 4 of the Law on People with Incapacities classifies a few sorts of people with disabilities, to be specific people with physical incapacities, people with mental incapacities, people with mental disabilities and/or people with tactile disabilities .

Indeed in spite of the fact that assurance for people with disabilities is isolated within the Law on People with Disabilities and is spread over a few laws and controls in Indonesia, people with disabilities still tend to experience separation in existence due to a non-inclusive physical and social environment. This implies that the environment in which individuals with incapacities discover themselves tends not to bolster the actualization of their potential. There are still limitations, deterrents, challenges, and decrease or end of the rights of people with incapacities, causing the condition of people with disabilities in Indonesia to live in conditions of defenselessness, backwardness, and destitution. Boundaries to administrations are of course more frequently seen and felt by individuals with physical disabilities, this will be seen from the presence of physical and non-physical offices that are not neighborly for individuals with disabilities, which comes about in trouble in getting to equity. Individuals with disabilities still confront more noteworthy troubles than non-disabled individuals in getting to open and private administrations in Indonesia .

In open administrations, it was found that a few individuals with incapacities felt separation within the benefit handle, counting physically debilitated individuals who had trouble in obtaining a driver's permit additionally found in administrations at the Dukcapil Office, most of which did not give a uncommon benefit course for individuals with inabilities when they needed to handle gracious archives. and others. At that point, in private administrations, segregation was also found against individuals with incapacities within the form of notarial deeds for individuals with physical incapacities who needed to create an assention some time recently a public accountant. In truth, on the off chance that you see at private law, particularly contract law in Indonesia, individuals with physical incapacities can be categorized as legitimate subjects as long as they are not beneath guardianship as ordered by Article 433 of the Respectful Code .

One frame of physical incapacity is physical impedance. A debilitated individual is somebody who encounters an orthopedic clutter (a frame of disturbance of the typical work of the bones, muscles and joints which may be due to innate birth, infection or mishap), so that on the off chance that they need to move or walk they require assistive gadgets. The level of disability in physically debilitated children has different levels, a few are gentle, the mellow level has impediments in carrying out exercises but can still be moved forward through treatment, at that point the direct level has engine restrictions and tangible coordination clutters, and the extreme level has add up to impediments in physical development and being incapable to control physical developments, and indeed not having development organs.

In spite of the fact that the law of engagement directs individuals with physical inabilities as legitimate subjects, counting physically crippled individuals they can be categorized as legitimate subjects. In any case, shockingly, individuals with extreme physical impedance (for case without hands and feet) still involvement challenges in private administrations, particularly in making Bona fide Deeds some time recently a Legal official. In this manner, the individual with physical disability alluded to and centered on in this thesis inquire about could be a serious frame of physical disability (for case, not having hands and feet). Seen from the point of view of gracious rights in terms of making assentions, administrations for individuals with incapacities, particularly individuals with inabilities, have not gotten full consideration. Directions for making notarial deeds for parties are ordinarily guided by Law Number 30 of 2004 concerning the Position of Legal officials (hereinafter alluded to as UUJN) which was afterward corrected by Law Number 2 of 2014 concerning Corrections to Law Number 30 of 2004 concerning the Position of Legal officials (here in after alluded to as UUJNP). In arrange for an assention made by parties, particularly people with inabilities, to be a culminate means of verification, it must be made within the frame of an True Deed marked by the parties. This marking handle at that point gets to be a dead conclusion in satisfying the rights of impaired individuals .

The dead conclusion in satisfying the rights of impaired individuals in terms of making true deeds some time recently a Legal official can be seen from

the issue of marking deeds for individuals with extreme incapacities (for case, they do not have hands and feet) for which an reply has not however been found. So, in this condition, the individual confronting genuine physical impedance cannot sign or put his fingerprints on the Minutes of Deed, so the individual concerned certainly cannot make a notarial deed as a implies of demonstrating the assention he made. The presence of these issues demonstrates that there's still a need of standards in terms of controls with respect to options to marks and fingerprints for individuals with serious incapacities within the prepare of making notarial deeds which have not been controlled within the UUJN and UUJNP. Moreover, in case you see at the Law on People with Incapacities in conjunction with the Human Rights Law, which places more accentuation on common directions with respect to the fulfillment of rise to openings for people with inabilities in all perspectives of state and community organization, regarding, securing and satisfying the rights of people with incapacities, counting giving availability and satisfactory settlement .

Based on writing looks and perceptions carried out, a few titles were found with respect to legitimate assurance for individuals with inabilities, particularly the physically debilitated, which were related to this inquire about, specifically the primary investigate by Ida Ayu Ratna Kumala and I Ketut Sudantra, which centered on the legitimate capacity of a individual with a hard of hearing disabilities to require legitimate activity. deed some time recently a public accountant in Indonesia from the viewpoint of human rights, contracts and notarial law. The comes about of this research indicate that Indonesian national law for the most part recognizes the correct of people with inabilities, counting hard of hearing people, to require gracious lawful activity. In common, hard of hearing individuals can sign contracts, but there's no ensure that they get it the communication prepare in making a deed. In this setting, there are still impediments related to the need of sign dialect translators in Indonesia which can complicate the method of exchanging data in making notarial deeds between hard of hearing clients, legal officials and witnesses. Moment, Merry Rosari Kurniawati Weo and Dewi Cahyandari, who centered on changes to the arrangements within the Legal official Position Law as well as the direness of recreating the law on connecting fingerprints in deed minutes for the physically debilitated. The comes about of this inquire about appear that there are a few changes within the UUJN. The points that have changed within the most recent UUJN are: the existence of a Uncommon Substitute Legal official; Legal official candidate internship; Public accountant retirement age and its connection to the expansion of retirement age; Public accountant specialist in making deeds relating to arrive; the specialist of the Legal official in making the sell off minutes deed; Legal officials who are designated as State Authorities; and Usage of supervision of Legal official positions. The direness for this lawful recreation is to realize lawful certainty with respect to the usage of the substance of article 16 paragraph 1 letter (c). By reproducing the substance of this article, its execution can be carried out well by legal officials who are required to join their fingerprints, particularly for legal officials who have physical limitations, namely the physically crippled.

Most of the investigate as it were analyzes lawful assurance for individuals with inabilities, particularly the physically crippled within the general scope, so there's a investigate hole related to investigate in terms of giving the latest arrangements in realizing lawful assurance that's important to the issue of marking deeds for individuals with extreme physical inabilities (for illustration, having no hands). and feet) for which the reply has not however been found. This investigate points to discover out, think about and analyze the criticalness of legitimate assurance for disabled people with respect to true deeds made some time recently a Notary Public and also to consider and decide the legitimacy of notarial deeds made by physically impaired individuals through elective significant approval strategies .

### **THEORETICAL REVIEW**

Regulations for making notarial deeds for parties are usually guided by Law Number 30 of 2004 concerning the Position of Notaries (hereinafter referred to as UUJN) which was later amended by Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notaries (hereinafter referred to as UUJNP). In order for an agreement made by parties, especially persons with disabilities, to be a perfect means of proof, it must be made in the form of an Authentic Deed signed by the parties. Article 1 number 7 UUJNP states that a notarial deed is an authentic deed made by or before a Notary in accordance with the form and procedures stipulated in this Law.

Signing by the public is not only felt to be very important and weighty, but it is also considered to be binding on what is being signed. Mr C.J.J. de Joncheere in his dissertation entitled *Het Rechtscharakter van de Ondertekening* in 1982 discussed for the first time the signature on a document. He stated that the etymological meaning of the word 'sign' (*ondertekenen*) is to put a sign under something. However, this word is considered unsatisfactory to represent the urgency of signatures in everyday life. So, he then explained further the aims and objectives (*strekking*) of the signing action, as follows: Signing is a legal fact (*rechtsfeit*), namely a statement of the will of the signatory (*signatory*), that by affixing his signature under a writing he wishes that the writing be considered in law as his own writing.

The importance of having a signature on a document, especially on a notarial deed, can be further seen from the history of the signature itself. During the Roman Empire, all legal actions were carried out orally in the presence of witnesses. As for legal actions carried out in writing, only a seal is affixed to provide authenticity to the written document. Later, the Roman Empire, Justinian, was the first to say that a seal was not enough and required that witnesses also sign. The signatures of witnesses are only intended to designate people who can testify if there is a dispute about the origin of a written document. The situation in France was originally the same as in Roman times where human testimony was more common and stronger than written evidence.

This also affects the previous notarial deed which also had no signature. Proof of authenticity is only the royal seal (le scel royal) placed by the notary after the deed is completed. Because over time the seal turned out not to be an effective guarantee against forgery and fraud, the Ordinance of 1304 from Philips den Schoonen (King of France), ordered notaries to sign their deeds. Only the notary's signature is sufficient to prove the authenticity of a notarial deed and this lasted until 1560. In that year the Ordinance of Karel IX stipulated that the notary's signature on the deed alone was not enough and required the party to also sign it. This provision was maintained until Law 25 Ventosé an (year) IX appeared which regulated Notariats and from this law De Noariswet was created in the Netherlands. BW in the Netherlands has used 3 words, namely teekenen, onderteekenen, and handteekening, among others in Articles 979 (932), 982 (935), 986 (939), 987 (940) and 1915 (1878) and these articles are passed in the Indonesian Civil Code (with numbers in brackets). These three words were translated by Prof. Soebekti with the Indonesian words respectively "signing", "signing", and "signature". Since now, the addition of signatures in contract documents has begun to be adopted, not only in the civil sector but in several other areas of life, until now a new innovation has been discovered in the form of digital signatures.

## **METHODOLOGY**

This research uses a normative legal research method which examines in depth the relevant laws and regulations and legal doctrines as well as sources of legal materials related to the research topic, namely legal protection for the physically disabled regarding authentic deeds made before a Notary. The approaches used to solve the problems in this research are the statutory approach (The statue approach), the Historical Approach (The History Approach), and the Conceptual Approach (The Conceptual Approach). The sources of legal materials used in this writing use three sources of legal materials, namely primary legal materials, secondary legal materials, and tertiary legal materials. The technique for collecting legal materials used is the library study technique. The analysis techniques used in this research are description techniques, analysis techniques and argumentation techniques.

## **RESULTS**

### ***Model of Authentic Deed Ratification Made Before a Notary for Persons with Disabilities***

A Notarial Deed is a form of Authentic Deed as a consequence of the duties and authority of a notary as regulated in Article 15 paragraph (1) UUJNP. The act of signing a notarial deed by the parties is to add the name of the signer and the signature of the parties, so adding initials, namely the abbreviation of the signature, is considered not enough. However, it is not uncommon to find situations in which the presenters are unable to put their signatures in a notarial deed, for example when one or all of the presenters is a seriously disabled person who cannot sign or put his fingerprints, thereby resulting in the loss of a person's rights to an action. agreed in the deed. In this situation, UUJN and UUJNP only provide an alternative by requiring the

parties to provide information on the reasons for their disabilities to sign at the end of the deed as regulated in Article 44 paragraph (1) UUJNP. Article 44 paragraph (1) UUJNP stipulates that immediately after the deed is read, the deed is signed by each presenter, witness and Notary, except if there is a presenter who is unable to add a signature by stating the reasons which are emphasized at the end of the deed. The explanation of Article 44 of the UUJNP is quite clear, but implicitly this provision is intended for applicants with circumstances, one of which is in the event that the applicant cannot sign, because they are illiterate, then the applicant can put their thumbprint.

Thus, the existence of this case made UUJNP revive the provisions on attaching fingerprints of the face to the minutes of the deed made by the notary. This is regulated in Article 16 paragraph (1) letter c UUJNP which states that when carrying out his office, the Notary is obliged to attach letters and documents as well as the fingerprint of the presenter to the Minutes of the Deed. The urgency of applying fingerprints of the presenter/facers/parties in the minutes of notarial deeds is that they are used to prove deeds that are denied at a later date, also to provide more legal force to the notarial deed product thereby providing more legal protection to the parties concerned, the Notary himself, as well as third parties, apart from that fingerprints can also be used if the person present is illiterate so they cannot read and write, nor can they sign.

Even though fingerprints have been revived as an alternative to signing in certain circumstances, the problem regarding alternative signing of deeds for people with severe disabilities (for example, without hands and feet) has not yet been answered. So, in this condition, the person facing serious physical impairment cannot sign or put his fingerprints on the Deed Minutes, so the person concerned certainly cannot make a notarial deed as a means of proving the agreement he made.

The establishment of provisions in Article 44 of the UUJNP, allows the physically disabled person not to sign the deed, which then explains at the end of the deed a situation where the person facing the deed cannot sign the deed and therefore uses another sign of ratifying himself, namely by writing with his mouth. The deed is still legally valid and still has value as an authentic deed even though it does not contain a thumbprint or fingerprint as a substitute for a signature, because the surrogate's statement as mandated by Article 44 UUJNP is the basis for ratifying the deed and this information is recognized as a surrogate's signature. Surrogate comes from Dutch which means "Substitute". If related to what has been described above, the Surrogate is a substitute for a signature which is used if the person appearing states that he cannot sign for a certain reason and this reason is stated explicitly in the deed that is made. According to Habib Adjie, this is said to be "Information about being prevented from writing.

However, this legalization from the mouth has a vulnerable risk because it is oral, therefore the provisions of Article 44 of the UUJNP for the face of the physically disabled must be accompanied or accompanied by at least 2 (two) witnesses who will later make a deed of testimony before a notary that he

witnessed the person The disabled person has made the deed before the relevant notary. The deed of testimony made by the 2 (two) witnesses before the relevant notary is called an Affidavit in this research. According to IPM Ranuhandoko, an Affidavit is "A written statement on oath by the maker, before the competent authority". Affidavit, according to Black's Law Dictionary 3th Edition, is a voluntary declaration of facts written down and sworn to by the minister oaths". According to the Legal Dictionary, an Affidavit is a written statement made voluntarily under oath by someone authorized to take an oath. An Affidavit is a statement under oath containing information and facts from a testimony. The facts stated must contain concrete and logical facts. This means that the Affidavit must contain truth that can be accepted by common sense. For example, a lawyer who has been appointed by the oath-taking committee, or consul. The existence of an affidavit in the process of ratifying the notarial deed made by the physically disabled person causes the application of Article 44 UJNP at the end of the deed to the deed made by the physically disabled person can be made with the following sentence:

"Immediately after I, the Notary, read this deed to the presenters and witnesses, at that time the presenter, Mr. affidavit issued by the local District Court, while Mr. B and Mr. C, the witnesses and the notary signed it."

As mentioned above, the person facing the incapacitated person includes or invites two witnesses before the notary, so in the deed made by the person facing the incapacitated person, the notary also includes these two witnesses who explain that the person concerned witnessed the making of this deed.

The process that the face of the physically impaired must go through in order to obtain an Affidavit as evidence, is that the face of the person first comes to the Notary's Office with 2 (two) witnesses, and the face of the person explains to the notary the purpose of his visit. After the presenter explains to the Notary and the Notary sees directly the condition of the presenter, based on Article 44 UJNP, at the end of the deed the notary explains the reasons why the presenter cannot sign the deed and put his fingerprints, and at that time the presenter is accompanied by two witnesses from the presenter. who saw and heard the condition directly. After the deed has been completed and read by the notary in front of the witnesses, both witnesses from the Notary and witnesses from the physically disabled person, then at that time the Notary also makes a deed of statement by the two witnesses, after the deed is signed, a copy of the deed brought to the District Court to be sworn in by the Judge, and after that the court will issue a report of the oath called an Affidavit. The minutes of the oath are then taken to the Notary's Office and attached to the minutes of each deed, because Notaries in Indonesia do not have the authority to ratify Affidavits.

If it is related to the authority to take an oath and make an Affidavit by a Notary in Indonesia, then based on the above authority of a Notary in Article 15 UJNP, the Notary does not have the authority to make an Affidavit and take an oath so that those who have the authority to certify the Affidavit are authorized officials in this case. This is the Oath Committee in the courts, both District Courts and Religious Courts. After the Affidavit is issued by the court



in the form of a letter, the Affidavit is attached to the minutes of the deed as one unit. If analyzed based on Article 1866 of the Civil Code regarding types of evidence, the Affidavit is classified as documentary or written evidence, because the physical form used as evidence in the trial is writing (deed). The contents of the Affidavit contain the witness's statement regarding what he saw and knew about a thing or event.

Affidavits are focused on providing evidence aimed at a legal event which is the subject of a dispute, therefore the contents of the Affidavit must be in accordance with the disputed case in order to support and strengthen the evidentiary process. The party using the Affidavit as evidence must add other supporting evidence to strengthen the truth of the contents of the affidavit. Regarding the physically disabled person, the presence of Affidavit evidence is used as complementary evidence to explain a fact related to a matter or event that occurred, in which case the correct condition of the applicant is not being able to add his signature and fingerprint to the minutes of the deed. Affidavit as a complementary piece of evidence if there is a dispute regarding a legal action brought by an invalid before a notary draws the conclusion that in this condition the affidavit has the same legal force as preliminary evidence.

If all these processes have been carried out, the notarial deed made by the physically disabled person can be categorized as an authentic deed and has perfect evidentiary power, so that the deed will create legal certainty and protection for the party concerned. Then, the existence of affidavits in the realm of procedural law evidence in Indonesia can be an example that law can develop according to the times. Apart from that, the existence of an affidavit can provide legal protection and certainty as well as justice before the law in the case of physically disabled persons who are considered vulnerable, backward and/or poor.

## **DISCUSSION**

### ***The Essence of Reconstructing the Ratification of an Authentic Deed Made Before***

#### ***a Notary by a Disabled Person.***

Indonesia guarantees the survival of every citizen, including people with disabilities. The rights of persons with disabilities in Indonesia have been expressly recognized in Article 28I paragraph (1) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution of the Republic of Indonesia) which stipulates that the right to life, the right not to be tortured, the right to freedom of mind and heart conscience, the right to religion, the right not to be enslaved, the right to be recognized as a person before the law, and the right not to be prosecuted on the basis of retroactive laws are human rights that cannot be reduced under any circumstances. This provision is supplemented by a guarantee of special treatment for persons with disabilities which is recognized in Article 28H paragraph (2) which stipulates that every person has the right to receive special facilities and treatment to obtain the same opportunities and benefits in order to achieve equality and justice.

Then the enactment of Law Number 39 of 1999 concerning Human Rights (hereinafter referred to as the Human Rights Law), strengthened the obligation of the state and society to respect the rights of Persons with Disabilities as creatures created by God Almighty. In its development, the study of disabilities began to shift since the change in regulations in Law Number 4 of 1997 concerning Persons with Disabilities (hereinafter referred to as the Law on Persons with Disabilities), to Law Number 8 of 2016 concerning Persons with Disabilities (hereinafter referred to as the Law on Persons with Disabilities). At first, studies on people with disabilities were only seen from a medical and social perspective, so that the Law on Disabled People tended to discuss issues of discrimination, marginalization and stigma on people with disabilities, then, after the publication of the Law on People with Disabilities, studies on people with disabilities shifted to aspects that focus on human rights issues.

One form of physical disability is physical impairment. A disabled person is someone who experiences an orthopedic disorder (a form of disruption of the normal function of the bones, muscles and joints which may be due to congenital birth, disease or accident), so that if they want to move or walk they need assistive devices. The existence of disabled people needs to receive comprehensive attention from various groups, even though categories of disabled people have been regulated in the Law on Persons with Disabilities and levels of impairment have even been regulated, but in practice there has been no special treatment for categories of levels of impairment in fulfilling their rights. . This can be seen, for example, in matters of engagement, private law in Indonesia provides opportunities for people with disabilities to make verbal or written engagements. For agreements in written form, persons with disabilities can make an authentic deed before a notary which can be used as evidence at a later date.

In order to be a perfect legal product, the making of an authentic deed must comply with the procedures regulated in statutory regulations. Everything stated in the deed must be considered true if the parties have fulfilled the provisions of Article 1320 of the Civil Code, Article 1868 of the Civil Code, UUJN, and UUJNP, after this has been fulfilled, a signature is added as proof that someone has given approval to the agreement made with his own will. A signature functions as proof that a person has given his or her consent by signing something, that he or she agrees to the action he or she is taking and the information contained therein is in accordance with the purpose of using the signature. Adding a signature to the minutes of a deed is a legal obligation that determines the validity or authenticity of a deed and functions to guarantee the correctness of the identity of the person present and protect the notary in the future if one of the parties denies the legal action carried out before the Notary and gives rise to a dispute.

However, for people with severe disabilities (for example, without hands and feet), signatures or thumbprints as proof of validation cannot be carried out. Thus, the process of making a Notarial Deed then becomes a problem for people with disabilities, especially people with severe disabilities when one or all of the parties cannot sign or put their fingerprints, resulting in the loss of a person's rights to an action agreed to in the deed. This then proves that in practice there

are still restrictions, obstacles, and difficulties for people with severe disabilities, even though the law of engagement regulates people with physical disabilities as legal subjects, including people with physical disabilities who can be categorized as legal subjects.

Society tends to think that the physically disabled are a disgrace, shameful, are considered the same as sick people, are considered helpless, are pitied, only stay at home and are supervised, so it is very difficult to provide equal rights and opportunities. It is not uncommon for people to ridicule, and gossip about the disabilities experienced by people with physical impairments. The negative perception of 'incompetence like normal people in general' attached to disabled people means that disabled people are rarely included in the agreement process before a Notary or even makes disabled people feel inferior and anxious about taking part in making an agreement before a Notary. Even UUJN and UUJNP have not been able to accommodate the presence of physically disabled people in the process of making authentic deeds. Thus, in terms of private rights, disabled people often choose to make verbal agreements that have weak legal force without being able to provide certainty and legal protection for the rights of disabled people.

The existence of recognition and regulation of persons with disabilities in legislation in Indonesia is based on the idea that the majority of persons with disabilities in Indonesia live in vulnerable, underdeveloped and/or poor conditions due to the existence of restrictions, obstacles, difficulties and reduction or elimination of the rights of persons with disabilities. For this reason, there is a desire to realize equal rights and opportunities for people with disabilities towards a life that is prosperous, independent and without discrimination. Thus, the Unitary State of the Republic of Indonesia guarantees the survival of every citizen, including persons with disabilities who have legal status and have the same human rights as Indonesian citizens and as an inseparable part of Indonesian citizens and society are a mandate and gift from God. Almighty, to live forward and develop in a just and dignified manner. In line with the above objectives of recognizing and protecting the rights of persons with disabilities, it is necessary to reconstruct the ratification of authentic deeds made before a Notary by persons with disabilities in order to facilitate the fulfillment of the rights of persons with disabilities in the field of private law. In essence, the reconstruction of authentic deed validation is necessary to realize the objectives of the law itself, in the form of certainty, justice and legal benefits.

*First*, the value of certainty is obtained when an authentic deed made before a Notary by a Person with Disabilities is valid and has legality by including an affidavit as supporting evidence. The affidavit functions as an attempt by the face of the invalid to state the truth that it is true that the person cannot put his signature or fingerprint on the minutes of the deed because he does not have both hands. Regarding the notarial deed, which in the case of the physically disabled person is an attempt by the person to state the truth regarding the legal act stated in the notarial deed. If the notarial deed made by the physically disabled person meets the applicable provisions, then the deed becomes valid and binding on the parties concerned, so that legal certainty is

realized. The legal certainty referred to here is regarding the position of a notary's deed and the position of the invalid regarding guaranteeing rights in the eyes of the law which is not differentiated from other parties, especially for binding oneself in legal actions before a notary.

*Second*, the value of justice for people with disabilities has actually been adequately accommodated in the UUJN and UUJNP through clauses in Article 16 paragraph (1) letter c and Article 44 UUJNP, but these provisions certainly do not emphasize and strengthen justice for people with disabilities, especially the physically disabled. For this reason, the presence of an affidavit is an alternative that can realize the value of justice in the process of making an authentic deed before a notary by a physically disabled person. By accommodating the ratification of authentic deeds made before a Notary by the face of the physically disabled by including an affidavit as supporting evidence, it reflects that in contract law, especially in the notarial field, it provides justice based on equality by providing space for the fulfillment and recognition of the rights of the physically disabled.

*Third*, the value of benefit for people with disabilities when an authentic deed made before a Notary by a Person with Disabilities is valid and includes an affidavit is that it can be used as perfect evidence to realize legal protection. Actually, the function of a deed consists of two, namely a formal function and a function as evidence. The formal function is a juridical recognition of legal acts, meaning proof at a later date and as evidence regarding whether or not the statements made by the person signing the deed are true. The power of this formal proof provides certainty about events regarding the official and the parties correctly stated and carried out what is contained in a deed. Meanwhile, the function of a deed as evidence is perfect evidentiary power, because the specialty of an authentic deed lies in its evidentiary power. An authentic deed provides the parties and their heirs or people who receive rights from it with perfect evidence

## **CONCLUSIONS AND RECOMMENDATIONS**

The reconstruction model for authenticating an authentic deed made before a notary for a person who is disabled follows the provisions of Article 44 UUJN, but this provision must be accompanied or accompanied by at least 2 (two) witnesses who will later make a deed of testimony (Affidavit) before a notary that he or she witnessed the person being disabled. The prosecutor has made the deed before the relevant notary. The affidavit functions as an attempt by the face of the invalid to state the truth that it is true that the person cannot put his signature or fingerprint on the minutes of the deed because he does not have both hands. Regarding the notarial deed, which in the case of the physically disabled person is an attempt by the person to state the truth regarding the legal act stated in the notarial deed. In essence, the reconstruction of authentic deed validation is necessary to realize the objectives of the law itself, in the form of certainty, justice and legal benefits.

### **FURTHER STUDY**

This research only focuses on legal reconstruction for disabilities, further research can study legal reconstruction for other marginalized communities.

### **ACKNOWLEDGMENT**

We would like to thank all the parties involved in this research.

### **REFERENCES**

- Adjie, H. 2011, *Kebatalan dan Pembatalan Akta Notaris*, Refika Aditama, Bandung.
- Aswandi, A. dan Roisah, K. (2019), *Negara hukum dan Demokrasi Pancasila Dalam Kaitannya Dengan Hak Asasi Manusia (HAM)*, *Jurnal Pembangunan Hukum Indonesia*, 1(1).
- Badriyah, L. dan Pasmawati, H. 2020, *Problematika Pada Anak Berkebutuhan Khusus: Sebagai Panduan Bagi Pendampingan ABK*, Rumah Literasi Publishing, Jakarta.
- Fakhriah, E.L. 2017, *Bukti Elektronik Dalam Pembuktian Perdata*, PT. Refika Aditama, Bandung.
- Garner, B.A. 2006, *Black's Law Dictionary, Third Pocket Edition*, Thomsom West, USA.
- Google translate, Surrogate diakses dari <https://translate.google.co.id/?hl=id&sl=en&tl=id&text=surrogate&op=translate>.
- Kementerian Koordinator Bidang Pembangunan Manusia dan Kebudayaan Republik Indonesia (2023), *Pemerintah Penuhi Hak Penyandang Disabilitas di Indonesia*, diakses dari <https://www.kemendikopmk.go.id/pemerintah-penuhi-hak-penyandang-disabilitas-di-indonesia>.
- Khoirunisa, D. dan Astuti, P. (2016), *Faktor Penghambat Implementasi Pasal 80 Huruf E Undang-Undang Nomor 22 Tahun 2009 Tentang Lalu Lintas Dan Angkutan Jalan Terhadap Hak Perolehan Sim Bagi Penyandang Disabilitas*, *Jurnal S1 Ilmu Hukum, Fakultas Ilmu Sosial dan Hukum, Universitas Negeri Surabaya*.
- Kie, T.T. 2011, *Studi Notariat dan Serba-Serbi Praktek Notaris*, PT. Ichtiar Baru Van Hoeve, Jakarta.

- Kumala, I.A.R. dan Sudantra, I K. (2023), *Discourse on the Civil Rights of the Deaf People in Making a Notary Deed*, *Udayana Journal Of Law and Culture*, 7(2)
- Makarim, E. 2011, *Notaris dan Tanda Tangan Elektronik*, Cetakan Pertama. PT. Rajawali Grafindo Persada, Jakarta.
- Mutia, F. 2023, *Akses, Informasi, & Disabilitas*, Airlangga University Press, Surabaya.
- Patil,P. 2023, *Tanda Tangan Sepanjang Abad: Menelusuri Evolusi dari Segel ke Tanda Tangan Elektronik*, diakses dari [https://drysign-exelatech-com.translate.google/blog/signatures-through-ages-tracing-evolution-seals-e-signatures?\\_x\\_tr\\_sl=en&\\_x\\_tr\\_tl=id&\\_x\\_tr\\_hl=id&\\_x\\_tr\\_pto=tc](https://drysign-exelatech-com.translate.google/blog/signatures-through-ages-tracing-evolution-seals-e-signatures?_x_tr_sl=en&_x_tr_tl=id&_x_tr_hl=id&_x_tr_pto=tc).
- Rachmadyasah, S. 2010, *Tentang Affidavit*, diakses dari <https://www.hukumonline.com/klinik/a/tentang-affidavit-cl3371/>.
- Rofiah, S. (2017), *Harmonisasi Hukum sebagai Upaya Meningkatkan Perlindungan Hukum bagi Perempuan Penyandang Disabilitas korban Kekerasan Seksual*, *Jurnal QAWWAM*, 11(2).
- Sari, E.P. Sihabudin, dan Winarno, B. (2015), *Ekuatan Pembuktian Affidavit Sebagai Alat Bukti Surat*. *Brawijaya Law Student Journal*.
- Sari, P.N. 2018, *Self Compassion Pada Penyandang Tuna Daksa*, Skripsi Program Studi Psikologi Fakultas Psikologi Universitas Muhammadiyah Surakarta.
- Shodiqin, A. (2021), *Ambiguitas Perlindungan Hukum Penyandang Disabilitas Dalam Perundang-Undangan Di Indonesia*, *Jurnal Legislasi Indonesia*, 18 (1).
- Sholihah, I. (2016), *Kebijakan Baru: Jaminan Pemenuhan Hak bagi Penyandang Disabilitas*, *Jurnal Sosio Informa*, 2(2).
- Suwignyo, H. (2012), *Keabsahan Cap Jempol Sebagai Pengganti Tanda Tangan Dalam Pembuatan Akta Otentik*, *Jurnal Notarius*.
- Weo, M.R.K. dan Cahyandari, D. (2014), *Pengaturan Pelekatan Sidik Jari Dalam Minuta Akta Bagi Penyandang Tuna Daksa*, *Jurnal Magister Hukum Udayana*, 12(3).
- World Health Organization (2023), *International Day of Persons with Disabilities 2023*, diakses dari <https://www.who.int/campaigns/international-day-of-persons-with-disabilities/2023>.