



## THE CONCEPT OF SETTING FEES FOR OFFICIALS MAKING LAND DEEDS (PPAT) EQUITABLE FOR OFFICIALS MAKING LAND DEEDS (PPAT) IN INDONESIA

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### ABSTRACT

This study discusses the juridical study of the limits on fees for land deed making officials (PPAT) from the perspective of land deed making officials (PPAT) as public officials. This study is a normative study with a conceptual approach and statutory approach. The data collection technique was carried out by means of a literature study. The results of the analysis show that the regulation regarding the upper limit for PPAT fees in the Regulation of the Minister of Agrarian Spatial Planning/National Land Agency Number 33 of 2021 does not reflect the principle of justice for PPATs as public officials and the concept of regulation regarding PPAT fees which can create justice and legal certainty with the equalization of fees as other public officials such as Class II Auction Officials.

**Keywords:** *Fees, Land Deed Officials (PPAT), General Officials*

### 1. INTRODUCTION

Indonesia as a rule of law country has several public officials who handle the needs of society in private law. Public officials have differences with State Officials and Government Officials.<sup>1</sup>Public officials in Indonesia can be divided into two, namely those held by Non-PNS or Civil Servants which means they do not get a salary from the state such as Notaries, Land Deed Making Officials (PPAT), and Class II Auction Officials, but there are also public officials who are held by Civil Servants (PNS) such as civil registry employees whose job is the civil registry that issues certificates such as birth certificates, marriage, divorce and death certificates. In addition, public officials who become Civil Servants are Class I Auction Officers, who are under the auspices of the Director General of State Finance.<sup>2</sup> Public officials who are not Civil Servants as mentioned above, namely Notaries, Land Deed Officials (PPAT), and Class II Auction Officials who in carrying out their positions have authority in their respective fields that have been regulated based on statutory regulations. invitation. One of the public officials who receives fees from his clients as mentioned above is the Land Deed Making Officer or abbreviated as PPAT. Provisions for fees or PPAT honorariums have been regulated in laws and regulations in Article 1 of 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 Fees for Officials Making Land Deeds. The provisions of the Article read as follows:

<sup>1</sup>Solahudin Pugung, Regarding Land and Buying and Selling Laws and PPAT's Responsibilities for Deeds Containing Defects from a Rule of Law Perspective, Deepublish, Yogyakarta, 2021, p. 31

<sup>2</sup>Fayakundia Putra Sufi and Rusdianto Sesung, Separation of Positions for Public Officials in Indonesia, Perspective Journal, Volume 22, 2017, p. 204

*THE CONCEPT OF SETTING FEES FOR OFFICIALS MAKING LAND DEEDS (PPAT) EQUITABLE FOR OFFICIALS MAKING LAND DEEDS (PPAT) IN INDONESIA*

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- (1) "The fee for the official making the land deed and the official making the temporary land deed for the cost of making the deed may not exceed 1% (one percent) of the transaction price stated in the deed.
- (2) The fee as referred to in paragraph (1) includes the honorarium for the witness in making the deed.
- (3) Service Fee as referred to in paragraph (1) is based on economic value.
- (4) The economic value referred to in paragraph (3) is determined from the transaction price of each deed with the following details:
  - a. less than or up to IDR 500,000,000.00 (five hundred million rupiah), a maximum of 1% (one percent);
  - b. more than IDR 500,000,000.00 (five hundred million rupiah) to IDR 1,000,000,000.00 (one billion rupiah), a maximum of 0.75% (zero point seven five percent);
  - c. more than IDR 1,000,000,000.00 (one billion rupiah) to IDR 2,500,000,000.00 (two billion five hundred million rupiah), a maximum of 0.5% (zero point five percent); or d. more than IDR 2,500,000,000.00 (two billion five hundred million rupiah), a maximum of 0.25% (zero point two five percent)."

The breakdown of the honorarium or fees received by the PPAT in 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 is even smaller if converted into rupiah because there are several categories of nominal transaction prices different from the previous regulations which did not categorize prices transactions with a percentage of PPAT fees. If the making of the deed is seen based on the transaction price listed in the deed, compared to other public officials such as Notaries and Class II Auction Officials, the fees obtained by the PPAT are among the lowest. The honorarium received by a Notary is as explained in UUJN in article 36 which stipulates that the honorarium entitled to be received by a Notary is at least 2.5%, while for Class II Auction Officials in PMK 189/PMK/2017 there are actually similarities with the PPAT in terms of the percentage of perception wages, namely the percentage of 1%. However, Class II Auction Officials are limited by these provisions with a minimum perception wage that can be received by them of Rp. 2,500,000 while fees that are entitled to be received by PPATs are not limited or there is a minimum and it can be said that the provisions for fees in PPATs are not regulated by Ministerial Regulations. ATR/BPN Number 33 of 2021.

Determining the limit on fees for PPATs in this case needs to be questioned whether the existence of a limit on fees stipulated in Ministerial Regulation ATR/BPN Number 33 of 2021 is equivalent in relation to PPATs as public officials who have the authority to make authentic deeds in line with aspects of justice because compared to other public officials PPAT get less fees. In addition, if we look further at the existence of a PPAT as a public official as contained in Article 6 paragraph (2) of Government Regulation Number 24 of 1997 that: "In carrying out land registration, the Head of the Land Office is assisted by the PPAT and other Officials who are assigned to carry out certain activities according to this Government Regulation and the relevant laws and regulations".

Based on this, the PPAT in carrying out its position carries a big task and responsibility by assisting the Head of the Land Office in the context of maintaining land registration data activities where the PPAT deed is used as one of the requirements in land registration at the National Land Agency and the deed is also a tool perfect evidence and guarantee legal certainty in the land sector. Another indicator of injustice in the PPAT's fees when viewed based on the same authority as other public officials is obtaining authority from the State in the field of private law, and the PPAT carries out his special position in the field of land where there are restrictions on deed made by a PPAT. This is different from a Notary where there are more work areas and deeds as contained in Article 15 of Law Number 2 of 2014 concerning the Position of Notary and Class II Auction



Officer where the deed is made even though it is only the minutes of the auction but the working area is wider when work as a Notary.

In addition, with regard to the provisions for this fee, it is based on the transaction price listed in the deed, however, the transaction price is often manipulated by the parties for tax avoidance so that the nominal is lower, but indirectly if the transaction price is lower, the service fee is received by the PPAT is also lower when the nominal transaction price is less than or equal to IDR 500,000,000 which can only be withdrawn at a maximum of 1% of the transaction price. Thus, it is only natural that a PPAT has the right to receive a fee that is appropriate and in accordance with the duties and responsibilities of the PPAT and one of the parameters that needs to be considered in determining the fee is the level of accuracy and thoroughness in making a deed which is adjusted to what is requested by the parties. parties/ appearers. Based on these problems, this study has two objectives. First, this study aims to analyze whether the regulation regarding the upper limit for PPAT fees in Permen ATR/BPN No. 33 of 2021 has fulfilled the principles of justice for PPATs as General Officials. Second, to analyze the regulatory concept regarding PPAT fees that can create justice and legal certainty for PPATs.

## 2. RESEARCH METHOD

This study uses normative juridical research, namely research through legal materials or literature studies. The approach used is a conceptual approach and statutory approach. The technique of tracing legal materials by collecting primary, secondary and tertiary legal materials obtained from various sources and related literature in this study. Legal material analysis techniques are interpreted using systematic and grammatical interpretation methods.

## 3. RESULTS AND DISCUSSION

### 3.1. Setting the Upper Limit for PPAT Service Fees in the ATR/BPN Ministerial Regulation Number 33 of 2021 Perspective of the Principle of Justice

The presence of the PPAT which is a mandate from the Law and the position of the PPAT as a public official who does not receive a salary or honorarium from the state, so from the making of the deed carried out by the PPAT, the PPAT gets an honorarium from its service users. The parties who need PPAT services are required to provide money to the PPAT. Service fees in English are also called service pay, while in Dutch it is called honorarium, which is a reward in the form of material or money received by the PPAT in return for having drawn up a PPAT deed for the benefit of the parties.<sup>3</sup>

Withdrawal of honorarium made by the PPAT has been determined based on the provisions contained in the laws and regulations. This is intended to avoid problems or conflicts and discrepancies in the withdrawal of honorarium by the PPAT, considering that the PPAT does not receive a salary or honorarium from the State, it is necessary to have regulations governing this honorarium. Provisions regarding PPAT fees are contained in Article (1) of 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 Fees for Officials Making Land Deeds as follows: “(1) The fees for making land deed officials and temporary land deed making officials for the cost of making deed may not exceed 1% (one percent) of the transaction price stated in the deed.

(2) Fees as referred to in paragraph (1) include the honorarium of witnesses in making deed.

(3) Fees as referred to in paragraph (1) are based on economic value.

<sup>3</sup>Salim, HS., Techniques for Making Official Deeds for Making Land Deeds (PPAT), Rajawali Pers, Depok, 2019, p. 78

- (4) The economic value referred to in paragraph (3) is determined from the transaction price of each deed with the following details:
- less than or up to IDR 500,000,000.00 (five hundred million rupiah), a maximum of 1% (one percent);
  - more than IDR 500,000,000.00 (five hundred million rupiah) to IDR 1,000,000,000.00 (one billion rupiah), a maximum of 0.75% (zero point seven five percent);
  - more than IDR 1,000,000,000.00 (one billion rupiah) to IDR 2,500,000,000.00 (two billion five hundred million rupiah), a maximum of 0.5% (zero point five percent); or
  - more than IDR 2,500,000,000.00 (two billion five hundred million rupiah), a maximum of 0.25% (zero point two five percent).

This provision explains that the previous government regulation did not specify the transaction price, so any transaction price still uses the provisions, the PPAT honorarium may not exceed 1% of the transaction price, in contrast to the provisions in Permen ATR/BPN Number 33 of 2021 which details the provisions and being not allowed to exceed 1%, but a maximum of 1% of the transaction price and there are details as well as limits on transaction prices following the provisions of such percentages, and so on with the pattern that the higher the transaction price, the smaller the percentage for the PPAT honorarium or fees. When compared with the provisions for Class II Notaries and Auction Officers, the PPAT honorarium has the lowest percentage and there is no minimum limit. The author makes a comparison of the honorarium arrangements received by public officials, as follows.

- PPAT fees in Ministerial Regulation ATR/BPN Number 33 of 2021 Concerning Fees for Officials Making Land Deeds states that fees that are entitled to be obtained by PPATs are a maximum of 1% of the transaction price.
- Notary honorarium in Law Number 30 of 2004 concerning the Position of Notary states that the honorarium that is entitled to be received is a maximum of 2.5% of the object of the deed.
- The perception wage of Class II Auction Officials in PMK 189/PMK/2017 regarding Class II Auction Officials states that the perception wage that is entitled to be received by Class II Auction Officials is at least IDR 2,500,000 and a maximum of 1% of the auction price.

Comparison of the honorarium or fees received by the three public officials, it can be said that the fees earned by the PPAT are the lowest fees among the three, because the PPAT only gets a maximum percentage of 1% of the transaction price and there is no minimum limit. In fact, if explored further regarding the duties and authorities of a PPAT as a public official, he has a big responsibility and the PPAT deed also has an important role in land registration. The duties and authorities of the PPAT are based on the provisions of Article 2 paragraph (1) of Government Regulation Number 37 of 1998, land registration activities carried out by the PPAT are land registration data maintenance activities because the duties and positions of authority carried out by the Land Deed Making Officer are making deed of transfer of rights and imposition of land rights or property rights on flats. The deed made by the PPAT relates to legal actions regarding land rights or ownership rights to apartment units.<sup>4</sup>

If you switch to the authority of a Notary, the provisions of Article 15 paragraph (1) of the 2014 Notary Office Law, namely having the task of confirming the legal relationship between the parties in a written form and a certain format, so that it is an authentic deed, he is a strong document maker in a legal proceedings.<sup>5</sup>The form of public service for a Notary in carrying out his position is to confirm authentic deeds in accordance with the provisions of Article 1 relating to Article 15 of the UUNJP. The main task of a notary is to make authentic deeds, both those determined by laws and regulations and by the wishes of certain people and legal entities that need

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<sup>4</sup>Samsaimun, PPAT Position Regulations, Copyright Engineering Library, Bandung, 2018, p. 94

<sup>5</sup>Tan Thong Kie, Notary Studies: Several Subjects and Miscellaneous Notary Practices, Book I, Van Hoeve's New Ichtiar, Jakarta, p. 159





them.<sup>6</sup> Another general official who also has the task of making authentic deeds is the Class II Auction Officer. The duties of the auction official are to prepare for the auction, conduct the auction in public and carry out activities after the auction. Class II Auction Officer is an official who is authorized to conduct a voluntary non-execution auction at the request of the Auction Center or the Seller or the Owner of the Goods.<sup>7</sup> Duties and Obligations of Class II Auction Officials, namely contained in Minister of Finance Regulation Number 189/PMK.06/2017 Article 37 Auctions which will be explained in the following table:

### Comparison of Duties and Authorities of General Officials

DUTIES AND AUTHORITIES		
PPAT	NOTARY PUBLIC	AUCTION OFFICERS K. II
Article 2 Government Regulation Number 37 of 1998 concerning Regulations for the Positions of Officials Making Land Deeds	Article 15 Law Number 2 of 2014 concerning the Position of Notary	Article 35 and Article 37 PMK Number 189/PMK.06/2017
The PPAT has the main task of carrying out some of the land registration activities by making deeds as evidence that certain legal actions have been taken as the basis for registering changes to land registration data, and providing these documents to the local BPN Office.	The notary's task is to confirm the legal relationship between the parties in a written form and a certain format, so that it is an authentic deed, he is a strong document maker in a legal process.	Researcher of auction object documents, in the case of implementing an PL auction, the PL is required to examine the formal correctness of the auction documents, lead the implementation of the auction and make minutes of the auction or minutes of the auction if the auction items are not sold.

Based on this comparison of duties and powers, it can be said that the PPAT has a heavier responsibility because the PPAT deed must be drawn up in such a way that it can be used as a strong basis for registration of the transfer of rights and the imposition of the rights concerned. PPAT as a general official who has the authority to make deeds regarding land, of course, must have special abilities and skills in the land sector so that the deeds he makes do not cause problems in the future.<sup>8</sup> In addition, the PPAT even still has responsibilities after the issuance of the deed, it is said in Article 40 (1) Government Regulation Number 24 of 1997 "No later than 7 (seven) working days from the date the deed in question is signed, the PPAT must submit the deed made together with the relevant documents to the Land Office for registration".<sup>9</sup> Meanwhile, the duties and authorities of Notaries and Class II Auction Officials have different responsibilities, but if explored further, Notaries have the authority to make authentic deeds by confirming the will of the parties and there is a Supreme Court Jurisprudence (Supreme Court Decision No. 702 K/Sip /1973, September 5, 1973) stated: "The function of a notary is only to record/write down what is desired and stated by the parties who appear before the notary. There is no obligation for a notary to materially investigate anything (matters) raised by the appearer before the notary."<sup>10</sup> A different

<sup>6</sup>Supriadi, Ethics and Responsibilities of the Legal Profession in Indonesia, Sinar Graphic, Jakarta, 2006, p. 37

<sup>7</sup>Rachmadi Usman, Auction Law, Sinar Graphic, East Jakarta, 2019, p. 37

<sup>8</sup>Abdul Kadir Muhammad, Property Law, Print I, Citra Aditya Bakti, Bandungm 1994, p. 55-56

<sup>9</sup>Siti Romlah, Eka Putri Fauzia Ikromi, Fairuz Zahirah Zihni Hamdan, Delays in Submission of Land Rights Transfer Documents to the Land Office During the Covid-19 Pandemic, Jurnal Notaire, Volume 5, 2022, p. 6

<sup>10</sup>Hulman Panjaitan, Collection of Rules of Law of the Supreme Court of the Republic of Indonesia 1953-2008, Jakarta, 2013, p. 65

matter is found in Class II Auction Officials that in carrying out their duties, Class II Auction Officials are in charge of pre-auction or auction preparation. can be equated with a notarial deed.<sup>11</sup> However, if during the auction, the items being auctioned are not sold, there will be no minutes of the auction and will only become an official report.

In the section on the duties and powers of the general official, the difference at a glance is that the authority is almost the same, namely making authentic deeds which can be a strong means of proof, even though the PPAT deed has a crucial position because it is a source of data for maintaining land registration data, so the deed made by the PPAT must to be made in such a way that it can be used as a strong basis for the registration of the transfer and encumbrance of the rights concerned. In addition, the author analyzes through comparisons in the form of deeds made by these public officials there are several differences as follows:

### Comparison of Forms of Deeds of Public Officials

DUTIES AND AUTHORITIES		
PPAT	NOTARY PUBLIC	AUCTION OFFICERS CLASS II
PPAT makes a partij deed or deed of the parties	The notary makes partij deed, relaas deed, in original deed	Class II Auction Officer makes a relaas deed

There are differences in the comparison regarding the forms of public official deeds, but beforehand it is necessary to know about the meaning of partij deeds and relaas deeds and the risks that may be obtained from these two deeds.

a. Partij Deed

The partij deed, often referred to as the deed of the parties, is a deed drawn up in the presence of an official authorized to do so, in which the official explains what was heard from the appearers and then includes the statements of the appearers in the deed he made.<sup>12</sup> This partij deed is based on the statement or action of the parties who appear before the notary, and the statement or action must be confirmed by the notary to make a deed.<sup>13</sup>

b. Relaas Deed

This relaas deed is also called a deed of minutes (procesverbaal deed), that is, the initiative for making an official deed does not come from the people mentioned in the deed, but from the official who made the deed. In the relaas deed, the official records the occurrence of events or the course of the meeting in the deed he makes.<sup>14</sup>

Based on the description above, regarding the difference between the partij deed and the relaas deed, of course there are salient things related to the risks, the truth of the relaas deed and the contents of the relaas deed cannot be contested, except by alleging that the deed was fake, while the truth of the contents of the deed of the parties can be sued for the truth without accusing the deed of falsification. Therefore, in making a partij deed, a public official must be more careful because the public official whose job is to check the needs or desires of the parties to be included in a deed that aims as a means of proof, However, in the relaas deed, a public official has seen, attended, and heard and recorded the matters contained in the deed, therefore it is called an official deed, where in the official deed, it is less likely for a public official to make mistakes compared to a partij deed, because public officials have direct knowledge of the legal action to be made into a deed.

<sup>11</sup>Ni Kadek Ayu Ena Widiasih and I Made Bachelor, Minutes of Auction as an Authentic Deed to Replace Deed of Sale and Purchase in Auctions, Journal of Kertha Semaya, Volume 5, 2017, p. 6

<sup>12</sup>Khoidin, Notary Law in Indonesia, LaksBang Justitia, Yogyakarta, 2020, p. 101

<sup>13</sup>F. Eka Sumariningih, Regulations for Notary Office, Semarang, Faculty of Law, Diponegoro University, 2001, p. 7

<sup>14</sup>Khoidin, op. cit., p. 102



As well as proof of payment of tax payments and other fees required in making the deed. This of course requires accuracy, expertise and applying the precautionary principle in making a PPAT deed. The precautionary principle means to exercise caution both for oneself and for others by paying attention to the consequences of every action taken, both now and in the future.<sup>15</sup> Based on this comparison, it can be said that a PPAT as a public official has a responsibility in carrying out his duties even though he is not materially responsible but there are several things that must be examined before making a deed because a deed made by a PPAT is especially for land that has not been certified, then in making the PPAT deed must also be carried out in accordance with the correct incident, status and data and supported by documents which according to the PPAT's knowledge are correct, besides that the documents submitted by the PPAT to the local Land Agency Office are also required to complete all the requirements needed in the framework of land registration.

Permen ATR/BPN Number 33 of 2021 which has become a guideline for PPATs in determining the honorarium earned by PPATs as explained that the PPAT honorarium specified in the Ministerial Regulation has the lowest percentage compared to other public officials. Even though the PPAT as a general official compared to a Notary and Class II Auction Officer, the duties they carry are quite heavy with great responsibility. This makes it questionable from a fairness point of view how the PPAT's honorarium is related to the perspective of the principle of justice. Justice is something that must exist and is inherent in the making of laws and regulations.<sup>16</sup> Indonesia as a rule of law enforces laws and regulations as a form of legal certainty and also applies the principle of justice in article 28 D of the 1945 Constitution which reads: "Everyone has the right to recognition, guaranteed protection, and fair legal certainty and equal treatment before the law. " Everyone has the right to legal certainty and justice, which guarantees protection for everyone as well as protection from the arbitrary actions of the government itself. So that in the process of forming laws and regulations it must be carried out by guaranteeing that everyone has the right to recognition, guarantees of protection and fair legal certainty.<sup>17</sup>

The theory of justice used by the author is the justice of Aristotle's perspective. Aristotle distinguishes justice into distributive justice and commutative justice. Distributive justice relates to the determination of rights and the fair distribution of rights in the relationship between society and the state, in the sense of what the state should give to its citizens, as long as the state is able to provide what its citizens need fairly, or in other words where there is distributive justice, then the situation will be close to what is called a situation where social justice is achieved for society.<sup>18</sup> The construction of the concept of justice expressed by Aristotle can be drawn from the red thread that distributive justice is the duty of the government to its citizens to determine what citizens can demand in their country. Such a construction of justice imposes an obligation on legislators to pay attention to it in formulating the concept of justice into a law.<sup>19</sup> Based on the concept of justice promoted by Aristotle, that if it is related to the existence of Ministerial Regulation ATR/BPN Number 33 of 2021 regarding PPAT honorarium or fees, then as a rule made guidelines by PPATs in determining fees there should be an element of justice, because justice is mandated in Article 28 D of the 1945 Constitution which states that everyone has the right to justice and includes public officials, so that the process of forming laws and regulations must be carried out by guaranteeing that everyone has the right to recognition, guarantees of protection and fair legal certainty.

<sup>15</sup>Hatta Isnaini Wahyu Utomo and Hendry Dwicahyo Wanda, *The Precautionary Principle of Officials Making Land Deeds in Transfer of Uncertified Land*, Volume 24, 2017, p. 4

<sup>16</sup>Winda Wijayanti, *The Existence of Laws as Legal Products in Fulfilling Justice for the People (Analysis of Constitutional Court Decision Number 50/PUU-X/2012)*, Constitutional Court, 2013, p. 6

<sup>17</sup>Salahudin Tunjung Seta, *Community Rights in Forming Legislation*, Gajah Mada University, 2020, p. 3

<sup>18</sup>Zakki Adliyati, Achamd, *Tracking Justice in Polygamy Regulations: Philosophical Studies of Aristotle's Justice*, Thomas Aquinas, and John Rawls, *Undang: Journal of Law*, Volume 2, 2019, p. 9

<sup>19</sup>Bahder Johan Nasution, *Philosophical Study of the Concept of Justice From Classical Thought to Modern Thought*, Yustisia Journal, Volume 3, 2014, p. 4

If you look further at this, the theory of distributive justice put forward by Aristotle states that everyone has the right to get what is rightfully theirs, the rights of citizens here are related to public officials such as PPAT who are Indonesian citizens whose rights are of course protected by If there are regulations, the PPAT should have the right to obtain a fee or honorarium that is fair or in accordance with the performance and responsibilities of the PPAT as a public official who is given the authority to make deeds. However, If the authority given to the PPAT is connected with the fee or honorarium that has been given, then according to the author based on the theory of justice put forward by Aristotle, the provisions for fee that have been regulated in the ATR/BPN Ministerial Regulation Number 33 of 2021 do not reflect the value of justice in a proportional way, fair in this case is if everyone gets what is his right proportionally. However, in determining the PPAT service fee in the ATR/BPN Ministerial Regulation Number 33 of 2021, the government in this case as a policy maker does not provide an element of justice because the authority and responsibility charged are not in line with the fee received.

### **3.2.The Concept of Arrangements Regarding PPAT Fees That Can Realize Justice and Legal Certainty for PPATs**

The existence of ATR/BPN Ministerial Regulation Number 33 of 2021 which is a PPAT honorarium or service fee rule makes PPATs in withdrawing honorarium or service fees have guidelines, namely those rules. Service fee or honorarium itself is something that is the right of the PPAT. In the case of PPAT honorarium or fees that have been regulated in the Ministerial Regulation ATR/BPN Number 33 of 2021 which is the latest regulation for PPATs in withdrawing honorarium or fees, it can be seen that the PPAT's honorarium or services are the lowest and PPAT also has no minimum limit, no such as Class II Auction Officials who have a minimum limit. Therefore, the absence of this minimum limit can make PPAT's rights to collect honorariums or fees less protected. Based on the description above, it can be seen that there should be a regulatory concept regarding PPAT fees that can create justice and legal certainty for PPATs. Concept or regulation formulation has the meaning as an attempt to formulate a good legislation. A formulation that is carried out with the aim of creating better positive legal regulations, not only for legislators but also can be implemented properly by executors of the laws that have been made.

The concept regarding regulation of PPAT service fees can later be used as a suggestion for PPAT fee regulations in the future. Sudikno Mertokusumo explained that there are two legal criteria according to the validity period, first, *Ius Constitutum*, namely the law that is in effect now or existing and enacted law, and *Ius Constituendum*, namely the aspired law (future) laws that still have to be enacted or laws that will come.<sup>20</sup>In this section the author uses the legal construction method with the analogy method, this is because in terms of determining the PPAT fee or honorarium there is no justice and legal certainty in it, but when viewed or compared to Class II Auction Officials, the honorarium or fee obtained has been comparable and fulfill the principles of justice and legal certainty with the responsibilities assigned, because if seen in PMK 189/PMK/2017 concerning Class II Auction Officers in Article 47 which reads as follows:

- (1) "Class II Auction Officials are entitled to receive compensation in the form of a Perception Wages in each successful Auction.
- (2) Perception Wages as referred to in paragraph (1) are charged to the Seller.
- (3) The amount of Perception Wages as referred to in paragraph (1) is at least IDR 2,500,000.00 (two million five hundred thousand rupiah) and a maximum of 1% (one percent) of the Auction price.
- (4) In the event that the auction is not successful, the Class II Auction Officer may obtain administrative fees in accordance with the agreement of the parties."

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<sup>20</sup>Sudikno Mertokusumo, *Invention of Law An Introduction*, Liberty, Yogyakarta, 2006, p. 25.





The regulation states that there is a perception wage that is obtained by Class II Auction Officials, namely a minimum or minimum of IDR 2,500,000 and a maximum of 1%. Therefore, this can be applied to PPATs because PPATs also have the same linkages and scope of authority as Class II Auction Officials, namely as General Officials and after adopting norms related to perception wages of Class II Auction Officials where there is a phrase:

"The amount of Perception Wages as referred to in paragraph (1) is at least IDR 2,500,000.00 (two million five hundred thousand rupiah) and a maximum of 1% (one percent) of the Auction price."

The author found a match in terms of determining the regulatory concept regarding PPAT fee because it has the same authority as a general official besides that the provisions in the phrase above the perception wage of Class II Auction Officials have an upper limit that is the same or equivalent to the PPAT fee. Another reason for adopting this article is because in this case the PPAT profession, when associated with Class II Auction Officers, has similarities and linkages so that if you adopt the wage provisions for the perception of Class II Auction Officials, you will find a side of justice because it is equivalent to your position as a public official. According to the author, this provision has embodied the principle of justice because the PPAT as a general official has equality in terms of obtaining fees with one of the other public officials, namely Class II Auction Officers and there is also a principle of legal certainty in it because there is already a minimum amount so that the PPAT in withdrawing fees there will not be a significant difference with other PPATs because there is already a minimum limit stated in the provisions for withdrawing the PPAT's fees.

Arrangements regarding PPAT fees or fees can also be equated with the notary honorarium provisions Article 36 of the Law on Notary Office Number 30 of 2004 and have not changed in the most recent UUJN whose provisions stipulate that a notary is entitled to receive honorarium for legal services provided in accordance with their authority with a maximum percentage a large 2.5% (two point five percent) whose deed object value is up to IDR 1,000,000,000. These provisions can also be used for PPATs with the same authority as public officials who make authentic deeds, so the maximum is not 1% but 2.5%. The PPAT's honorarium or fee still needs to be reviewed or revised through changes in the regulation, because there is a need for equality between the honorarium of one public official and another public official. Provisions regarding the minimum amount of PPAT fees can also be discussed in advance by the Association of Land Deed Making Officials, abbreviated as IPPAT, which is an association for all Land Deed Making Officials (PPAT) throughout Indonesia with the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN). ) because the PPAT actually works under the auspices of the ministry and IPPAT is one of the sources of PPAT aspirations to convey their voice, therefore coordination between the two is needed so that there is a more efficient and precise formulation of the minimum amount of PPAT fees.

The position of a PPAT who is a public official who works to serve the community should also protect the state's fees for fees earned by the PPAT because his existence as a public official has assisted the government in serving the community for making authentic deeds. The fee for the PPAT is philosophically a tribute to the PPAT itself for the work that has been done, namely the making of the deed, which in making the deed, even though the form or format has been determined by the Minister, there is an important essence in making the deed so that there are no legal defects and problems at a later date. Thus, an award in the form of fees that is equivalent to the work that has been carried out by the PPAT and the responsibilities and risks assumed by the PPAT should be required.

#### **4. CONCLUSION**

Arrangements regarding the upper limit for PPAT fees in Permen ATR/BPN No. 33 of 2021 does not yet reflect the principle of justice for PPATs as Public Officials because the authorities and responsibilities imposed are not in line with the fees they receive because it is based on Aristotle's theory of justice, namely distributive justice with regard to what the state should give to its citizens, as long as the state is able to provide what is needed by its citizens fairly. However, the government in this case as a policy maker does not provide an element of justice in setting PPAT fee because the authority and responsibility charged are not in line with the fee received. The regulatory concept regarding PPAT fees that can create justice and legal certainty for PPATs can be constructed into new provisions in terms of PPAT fees, namely equality is needed because fellow public officials have relatively the same authority in making authentic deeds or it can also be aligned with perception wages. Class II Auction Officials because in this case they both hold the profession of a General Official in their authority to make authentic deeds and have similarities in setting the upper limit of their honorarium.



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