

The Urgency of Signature Affixation on the Minutes for Persons with Physical Disabilities as Auction Buyers

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Abstract

This research aims to analyze the urgency and mechanisms for affixing signatures on auction minutes, particularly for individuals with physical disabilities or limb impairments (physical disabilities) acting as auction buyers. In the context of Indonesian law, auction minutes constitute an authentic deed requiring a signature as a legal validity condition that grants it full evidentiary strength. However, individuals with limb impairments who may have physical limitations in affixing conventional signatures face challenges in fulfilling this requirement. Therefore, legal reconstruction is crucial to provide alternative valid signatures for individuals with disabilities, such as fingerprints or electronic signatures. This research employs a normative juridical method, referring to relevant legislation and a conceptual approach to analyze legal principles and justice in fulfilling the rights of persons with disabilities. The findings indicate that affixing signatures on auction minutes for individuals with limb impairments is of high urgency to ensure legal certainty and validity. The regulation of alternative valid signatures will ensure that the rights of persons with disabilities are upheld in the legal auction process. Thus, regulatory changes to provide equal access for persons with disabilities in authentic deed transactions are essential for inclusive legal justice and certainty.

Keywords: Auction Minutes, Physical Disabilities, Signature, Urgency

INTRODUCTION

In today's society, every individual naturally hopes to be born in a complete and healthy condition. However, it is undeniable that some people are born either physically complete or with physical impairments. Regardless of a person's physical condition, whether born whole or not, each individual must be respected and valued as they deserve (Parihin, 2023). This is in accordance with the principles of human rights, which are universal, non-discriminatory, indivisible, and inalienable (Norilla & Mulyono, 2018). In order to fulfill these rights, there must be legal certainty under a legal framework, specifically in Indonesia, governed by Indonesian positive law (Karsayuda et al., 2023).

Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution) stipulates that Indonesia is a state based on the rule of law. This principle is intended to provide legal certainty, order, and protection to all Indonesian citizens (Fadli & Hadi, 2023). In line with this, Article 27 paragraph (1) of the 1945 Constitution of Indonesia affirms that: "All citizens are equal before the law and the government and shall uphold the law and the government without exception." This article embodies the principle of "equality before the law," which serves as a norm to protect the fundamental rights of citizens against discrimination and the arbitrary actions of authorities concerning their rights (Acemoglu & Wolitzky, 2021).

Therefore, as stipulated in Article 28D paragraph (1) of the 1945 Constitution, it states: "Everyone is entitled to recognition, guarantee, protection, and legal certainty in a fair manner, as well as equal treatment before the law." Thus, the law must apply to all individuals, not just a select few. This ensures legal certainty and protection for legal actions they will undertake,

particularly regarding legal acts in the creation of agreements made in the form of authentic deeds (Triwahyuningsih, 2020).

Referring to the provisions regarding authentic deeds based on Article 1868 of the Civil Law (hereinafter referred to as the Civil Law), an "authentic deed" is defined as "a deed made in the form prescribed by law, created by or before public officials who have the authority or jurisdiction to do so, at the place where the deed is executed." A deed is considered authentic if it meets these elements, namely being made in the form prescribed by law and created by or before a public official who has the authority. It is also signed and contains events that will serve as the basis for a right over an obligation, intentionally made from the outset for the purpose of proof (Mertokusumo, 2006).

Referring to the provisions regarding authentic deeds, the auction minutes are also considered an authentic deed. This is regulated in Article 1 number 34 of the Minister of Finance Regulation Number 122 of 2023 concerning Auction Implementation Guidelines, which stipulates that: The Auction Minutes are the minutes of the auction process created by the Auctioneer, which constitute an authentic deed and have full evidentiary strength. As an authentic deed, the auction minutes carry full evidentiary strength, meaning it is considered valid and accurate regarding what is recorded within it unless proven otherwise. In the context of procedural law, the auction minutes can serve as a strong and valid piece of evidence, demonstrating that the auction process has been conducted in accordance with the applicable legal procedures and regulations. This is crucial to ensure the validity of rights over the auctioned goods and to avoid disputes that may arise in the future (KARINA et al., 2020). Referring to the provisions of Article 95 paragraph (1) of Minister of Finance Regulation Number 122 of 2023, it is stipulated that as evidence, every auction implementation must be documented in an "Auction Deed, which is the minutes of the auction process created by the auctioneer, hereinafter referred to as the Auction Minutes".

However, specifically in the context of auctions, every person is entitled to be a legal subject capable of performing legal acts, including individuals with disabilities. For the purposes of this writing, the focus is on disabilities related to physical, intellectual, mental, or sensory limitations, with physical disabilities referred to as "physical disabilities." This paper focuses on individuals with physical disabilities, specifically those who have damage, loss, or lack of limbs, particularly those unable to affix their signature. Although persons with disabilities have the right to be legal subjects, not all individuals with disabilities can be legal subjects. Persons with disabilities who are entitled to be legal subjects are those who are not mentioned in Article 433 of the Civil Law, such as individuals with physical disabilities who lack a hand, commonly referred to as "physical disabilities." Therefore, individuals with physical disabilities also have the same rights and legal capacity to perform legal acts (Efendi, 1994).

The Civil Law stipulates that a signature is a legal requirement for an authentic deed, as further explained in Article 41 of Government Regulation Number 24 of 1997. This regulation states that "the transfer of land rights must be legally evidenced in land registration through public auction, thus making the signing of auction minutes a valid, strong, and binding proof of the sale." Therefore, it is crucial to explore in-depth the issue of an auction participant or buyer with a physical disability (physical disabilities) signing the auction minutes for immovable property. In Indonesia, there are currently no detailed regulations addressing this matter, making it a novel and interesting topic for this research to ensure legal certainty in practice. This is particularly significant, as every individual who is a legal subject should have equal standing before the law, regardless of their condition (Koto, 2022).

Previous research on the subject and object of Auction Minutes as an authentic instrument for the affixing/signing of signatures has not been conducted. Therefore, it is important to further investigate this matter. Previous research conducted (Kurniawati, 2023) There is an urgent need for legal reconstruction to achieve legal certainty in the implementation of Article 16 paragraph

1 letter (c). By reconstructing the content of this provision, its implementation can be effectively carried out by notaries who are required to attach the fingerprints of the appearing party, particularly for those with physical disabilities, such as individuals with limb impairments (physical disabilities). The urgency of auction minutes in this article is closely related to the need for legal reconstruction, as also discussed in previous research. Such reconstruction is essential to ensure equal access for persons with disabilities in legal processes, to avoid legal uncertainty, and to ensure that auction minutes remain valid and legally accountable. This highlights the importance of revising the provisions regarding signatures in auction minutes so that individuals with disabilities can be fully involved in any transactions involving authentic deeds, including in the auction process.'

Based on the aforementioned explanation, the objective of this research is to analyze the urgency and regulatory mechanisms of signatures in auction minutes for individuals with disabilities, particularly those with physical impairments (physical disabilities). This is grounded in the principle of equal rights under human rights law, as well as the high urgency of affixing signatures in auction minutes to ensure the validity of deeds and legal certainty for the parties involved. The absence of specific regulations governing signatures for individuals with disabilities, especially those with physical impairments, creates a legal gap that necessitates regulatory changes to achieve legal certainty and justice for all citizens, including persons with disabilities.

RESEARCH METHODS

The type of research employed in this study is normative juridical research, as it is a form of legal research that focuses on the examination of legislation and legal doctrines to gain an understanding of the applicable legal principles (Supranto, 2003). The research approach used in this study includes a legislative approach (Statue Approach) carried out by reviewing and examining all relevant legal regulations and included in the category of legal issues which are the focus in writing this thesis, and also the conceptual approach (Conceptual Approach) is a type of approach that provides a point of view regarding the analysis of problem solving by looking at a regulation. relation to the concepts used (Marzuki, 2019).

Based on the use of these two methodological approaches, the legal materials utilized in this research consist of primary legal materials, including the 1945 Constitution of the Republic of Indonesia, the Indonesian Civil Law, Law Number 19 of 2011, Law Number 8 of 2016, *Vendu Reglement Staatsblad 1908:189*, *Vendu Instructie Staatsblad 1908:190*, and the Minister of Finance Regulation Number 122 of 2023. Meanwhile, the secondary legal materials include publications relevant to the primary legal materials, specifically related to the regulation of affixing signatures in the minutes of auction proceedings for persons with physical disabilities as auction buyers. These legal materials will be analyzed using legal construction analysis techniques. Legal construction is employed when faced with a legal vacuum (*rechts vacuum*), where the purpose of legal construction is to fulfill a sense of justice, even though the measures of justice and utility are inherently relative. The value of justice demands that similar legal events be treated equally, while the measure of utility lies in the practical usefulness of the law (Maulana et al., 2024).

RESULT AND DISCUSSION

The Function of Affixing a Signature in the Minutes of Auction Proceedings **The Function of a Signature in the Minutes of Auction Proceedings**

A signature serves as a declaration by the signing party to indicate their consent and intent that the written statement beneath the signature be considered legally valid and accurate. A signature generally consists of a series of letters or marks that form the signer's unique identity, thus allowing the document to be associated with the party making the statement or providing the information. Every written statement, including deeds, requires the signature of the relevant parties in order to be legally binding (Wirahutama, 2018). In relation to persons with disabilities, particularly those with physical impairments (such as persons with limb disabilities), who may face difficulties in affixing a conventional signature, legal reconstruction becomes crucial to ensure that they can still sign or express their consent through legally recognized alternative methods. This not only preserves the authenticity of the auction minutes but also ensures that the rights of persons with disabilities are protected in the auction process (Kumala et al., 2024).

A signature is an essential element in a deed, serving to distinguish one deed from another or from deeds created by other individuals, thus ensuring legal certainty. The function of the signature is to provide a unique identifier for the signer, thereby making the deed distinctive and corresponding to the party who affixed the signature (Rains & Young, 2006). The presence of a signature on a deed created by, for example, A and B, allows the deed to be identified as belonging to each respective party. This is different from a name or mark written in block letters, which does not reflect the unique characteristics of the person who made it.

The mechanism for signing an authentic deed involves more than just the requirement for the deed to be signed; the signature must also be affixed in the presence of the auctioneer (KARINA et al., 2020). This signing mechanism is crucial to ensure validity and legal certainty. The article mentions that persons with disabilities, particularly those with physical impairments (physical disabilities), who win the auction may face challenges in signing the auction minutes conventionally. Therefore, to guarantee certainty and protection, legal reconstruction is necessary to enable valid alternative mechanisms, such as electronic signatures or the use of additional witnesses or proxies, similar to those employed in the notary profession. (Anshori et al., 2022). This aims to ensure that persons with disabilities can fully participate in the legal auction process without diminishing the validity of the deed, while still upholding the principle of legal certainty.

Based on this, it can be classified that the signing of a document generally serves several purposes, namely (Divia Fitcanisa & Azheri, 2023):

- (1) As evidence: A signature serves to identify the signer with the document they sign. When the signer affixes a signature in a particular form, it becomes an attribute directly associated with them. Thus, the signature in the auction minutes functions to identify and legally link the auction buyers to the auction document. For the auction buyers who are person with a physical disability and may be unable to sign conventionally, the signature serves as authentic proof of their involvement in the transaction. Without an alternative signing mechanism for persons with physical disabilities, the auction minutes risk failing to meet the requirements of authenticity, which could lead to evidentiary issues in the future.
- (2) As ceremony: By signing a document, the signer acknowledges that they have performed a legal act, thus preventing actions from being taken without careful consideration. In relation to the signing of the auction minutes, it also serves as a formality that marks the buyer's conscious involvement in a binding legal act. For persons with physical disabilities, alternative signing methods such as fingerprints or electronic signatures can help ensure that they are aware of the legal actions they are undertaking. This is important to ensure that their involvement in the legal process is not only formal but also

substantively valid, thereby avoiding potential unintentional actions or involvement without full understanding, and;

- (3) As approval : A signature signifies approval or authorization of the contents of the document. This indicates that the signature in the auction minutes reflects the buyer's agreement to the content and outcome of the auction that has been conducted. For persons with physical disabilities, a signature or its alternative becomes crucial as a symbol of their consent or authorization regarding the minutes. Without proper evidence of consent, the agreement in the auction minutes could be deemed invalid or non-compliant with legal requirements. Therefore, there is a need for a legal reconstruction mechanism that allows inclusive signing methods for persons with physical disabilities, enabling them to provide their consent in a manner that is appropriate yet legally recognized.

Authentication and Proof Based on Auction Minutes Affixed with a Signature

Authentication, in the context of auction minutes, means that the minutes must be formally validated to become an authentic deed. According to Article 1, Paragraph 34 of the Minister of Finance Regulation Number 122 of 2023, auction minutes are the minutes of the auction process prepared by the auction official and hold the status of an authentic deed. To fulfill this status, several requirements must be met, one of which is the affixation of signatures by the auction official and the relevant parties. (Sihombing, 2020). Based on this, it can be interpreted as follows:

- (1) Validity and Identification of Parties: The signature on the auction minutes serves as a means to identify and legally bind each party to the contents of the document. The auction official is responsible for ensuring that all parties involved have signed the auction minutes. This indicates that each party agrees with the content of the document and that the minutes have been prepared in accordance with the applicable procedures.
- (2) Legal Certainty: By affixing a signature to the auction minutes, the deed is legally recognized as a valid document with authentic power. This ensures that the auction minutes serve not only as a valid document but also as one containing truth that cannot be disputed by the parties involved.
- (3) Role for Persons with Disabilities: In cases where the auction buyer is a person with a disability, particularly those with physical impairments (physical disabilities), authentication may need to be carried out using alternative methods, such as fingerprints or electronic signatures, to ensure that the document still meets the requirements for valid authentication.

Thus, the auction minutes, once signed by the auction official and the relevant parties, have full evidentiary power. As an authentic deed, the auction minutes can serve as a valid piece of evidence recognized by the court in legal disputes. The proof in this context emphasizes the strength of the auction minutes to demonstrate that the auction was conducted in accordance with the procedures and that the rights to the auctioned goods have been lawfully transferred, because:

- (1) Full Evidentiary Power: The signature affixed to the auction minutes provides full evidentiary power, meaning that the minutes are considered true and valid unless proven otherwise by other evidence. In the case of a legal dispute, the signed auction minutes will serve as strong evidence indicating that the auction transaction was conducted properly and that the results have been approved by the relevant parties.
- (2) Legal Protection: The full evidentiary value of the auction minutes protects the rights and obligations of each party involved in the auction process. In this regard, the auction minutes serve as valid proof for the buyer that they have legally acquired the goods. If the buyer is a person with a disability who is unable to sign conventionally, alternative mechanisms must be implemented to maintain the evidentiary value, ensuring that the buyer's rights are still protected with certainty.

Based on the above explanation, authentication and proof in the auction minutes containing signatures are crucial to ensure that the document meets the requirements of an authentic deed and can be used as valid evidence in court. The signature on the auction minutes not only identifies and binds the parties to the contents of the document but also provides full evidentiary power, making the auction minutes a piece of evidence that is difficult to dispute. In the context of persons with physical disabilities, alternative authentication methods such as fingerprints or electronic signatures may need to be accommodated to ensure that the auction minutes remain valid and possess the same evidentiary power.

Analysis of the Urgency of Affixing a Signature on the Auction Minutes from the Perspective of Legal Certainty

It is well established that the law must fulfill three fundamental values: justice, legal certainty, and utility (Rifai, 2011). From this perspective, the signature on the auction minutes plays a crucial role in ensuring these three values, particularly legal certainty. In Radbruch's theory of legal certainty, legal certainty is a principle that must be prioritized in legal rules to guarantee stability, order, and predictability (Mahfuz, 2020). The signature on the auction minutes serves as a form of authentication, signifying the approval and validity of each party involved in the auction transaction. Without a signature, the auction minutes cannot be considered authentic and valid, thus losing its full evidentiary power and impacting legal certainty. Referring to Moh. Fadli's theory of legal certainty, legal certainty encompasses several key aspects, namely rules, procedures or mechanisms, time, and institutions (Fadli & Hadi, 2023). Each of these aspects provides guidance to ensure that the legal process runs orderly, is predictable, and guarantees the rights of all parties involved. When applied in the context of affixing a signature to the auction minutes, this theory highlights the importance of each component in ensuring that the auction minutes function as an authentic deed with full legal force and validity. Therefore, the analysis of these four aspects in the context of the auction minutes is as follows:

(1) Certainty of Rules

Legal certainty of rules pertains to the existence of clear and explicit regulations regarding signatures on the auction minutes. In this regard, Article 1, Paragraph 34 of the Minister of Finance Regulation Number 122 of 2023 stipulates that the auction minutes are an authentic deed that must be signed by the auction official and the parties involved (the seller and buyer or their representatives). This rule provides the legal foundation that a signature is an essential requirement to ensure that the auction minutes are considered valid and legally binding. Without this regulation, the auction minutes would not have sufficient validity in the eyes of the law. The point is that a clear rule regarding the obligation of a signature provides certainty to all parties about the validity of the auction minutes (Sudiarto et al., 2021). Thus, the provision of a signature as a requirement in this regulation supports the aspect of legal certainty and prevents ambiguity in legal interpretation.

(2) Certainty of Procedure or Mechanism

Procedure or mechanism refers to the steps that must be followed in the execution of the auction and the affixing of signatures. In the context of the auction minutes, this procedure includes the signing by all parties in the presence of the auction official, which is typically preceded by the reading of the deed's contents to ensure the full consent of all parties involved. This procedure ensures that the auction minutes are prepared in accordance with the established protocol, resulting in an authentic deed. The purpose is that this mechanism prevents unauthorized or improper signing, which could cause the auction minutes to be considered invalid. For persons with disabilities who are unable to sign conventionally, alternative procedures, such as the use of fingerprints or electronic signatures, should be recognized within this mechanism to ensure equal access and legal certainty for them (Wibisono, 2024).

(3) Certainty of Time

The certainty of time in the auction process and the affixing of signatures on the auction minutes is crucial to ensure a swift, efficient process without unnecessary delays. The auction schedule and signing of the minutes should be clearly defined, typically occurring immediately after the reading of the minutes. Timeliness in signing the auction minutes serves as evidence that the parties involved agree with the auction results at that moment, without delay, which could lead to uncertainty. This means that with a clear time framework, the auction process and signature affixing can be completed within a structured timeframe, without the risk of delays that may cause legal uncertainty or disputes in the future. For individuals with disabilities, the certainty of time ensures that they also have equal opportunity to sign at that time, without being hindered by additional time required for alternative signing procedures.

(4) Institutional Certainty

The authority responsible for the execution of the auction minutes is the institution with legal authority, namely the auctioneer. The auctioneer is responsible for ensuring that all procedures and regulations are followed, including the affixing of signatures by the parties involved. The auctioneer serves as a guarantor that the auction minutes are prepared and signed in accordance with applicable regulations, providing legal certainty regarding the validity of the document. The objective of establishing institutional certainty is that the auction process and the affixing of signatures under the supervision of the authorized officer ensures the validity of the auction minutes as an authentic deed. This institution must also provide legitimate alternative methods for individuals with physical disabilities, so that all auction participants can sign the minutes fairly and in accordance with the law.

The affixing of signatures on the auction minutes is crucial to achieve certainty in terms of rules, procedures, time, and institutions. The signature is not merely a formality but a manifestation of legal certainty that grants validity to the auction minutes as an authentic deed. For individuals with disabilities, alternative legitimate methods of signing, such as fingerprints or electronic signatures, should be considered to ensure that all parties receive equal rights in the auction process, so that legal certainty can be applied fairly, efficiently, and inclusively. It is hoped that the signing of the auction minutes will not only be procedural but also essential in achieving legal certainty, justice, and benefit for all parties involved. The signature ensures that the auction minutes meet the requirements of an authentic deed with full probative value. For individuals with disabilities, providing alternative methods such as fingerprints or electronic signatures aligns with the principles of legal certainty, offering fair access and ensuring benefits for every party within an inclusive and secure legal system.

CONCLUSION

The urgency and legal challenges related to signatures on auction minutes for individuals with physical disabilities or amputees are significant. An auction, as a formal process in Indonesia, produces auction minutes, which are legal documents with full probative value. As an authentic deed, the auction minutes require signatures from the auction buyer and the auction official as valid proof of the transaction. However, for amputees who may not have the physical ability to sign conventionally, the signature requirement can become a barrier that threatens their rights in the auction transaction. Article 1, number 34 of the Minister of Finance Regulation Number 122 of 2023 and Article 41 of Government Regulation Number 24 of 1997 stipulate that auction minutes must be signed to be legally valid and admissible as evidence in court. Without a valid signature, the auction minutes lose their probative value, which could lead to legal disputes in the future. Therefore, legally recognized alternative mechanisms, such as the use of

electronic signatures or fingerprints, are essential to accommodate the needs of individuals with disabilities.

The signature on the auction minutes is not merely a formality, but also a crucial element in establishing legal validity and ensuring fairness for all parties involved. The signature functions not only as proof of ownership rights but also protects legal certainty for the auction buyer. Without a mechanism that accommodates the needs of individuals with disabilities, the auction minutes created may risk failing to meet the requirements of authenticity, which could lead to potential legal uncertainty. Therefore, to achieve inclusivity within the legal system, it is important to amend regulations through legal reconstruction. This reconstruction could involve the establishment of alternative methods for affixing signatures, such as the use of electronic signatures or fingerprints. This step would ensure that individuals with physical disabilities have equal access in the legal auction process without undermining the validity of the auction minutes as an authentic deed. Through such provisions, it is hoped that legal certainty, fairness, and benefits for all citizens of Indonesia can be effectively fulfilled, ensuring that individuals with physical disabilities are not discriminated against in accessing their legal rights.

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