



# The Indian Journal for Research in Law and Management

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Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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## ANALYSIS ON INDIAN NOTARIES ACT

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### INTRODUCTION

The term notary is described as the “Silent Sentinel” of the legal system. Unlike in courtrooms where judges or advocates operate this but also notaries function in the everyday spaces of law to certify affidavits, attest contracts, verify powers of attorney, or to authenticate translations. The work of a notary does not attract the public at large but every single person needs it as without them the legal routine and commercial transactions would lack the necessary stamp of credibility. This essential profession is regulated under the Notaries Act, 1952 where such law over seventy years is sustained in the system. Now, in the twenty-first century, this Act demands closer analysis.

### HISTORICAL BACKGROUND

The Roman law has roots in the office of notary where notarii acted as scribes and recorders of the official acts. During colonized India, Notaries were brought by the Britishers to facilitate commercial transactions, specifically in matters related to international business and trade. Post independence, it was essential to provide a balanced uniform legal framework to regulate appointments, functions and discipline. Hence, the Notaries Act, 1952 was enacted as well as empowered by both the Central & State Government to appoint and prescribe duties to Notaries. The only intention of the Parliament was to create an institution that would build public trust in documents, prevent fraud and ensure accessibility across the nation.

### FUNCTIONS AND POWERS OF NOTARIES

As per the Section 8 of the Notaries Act, 1952 defines the functions of a notary. That consists of verifying and attesting documents, administering oaths, recording affidavits, preparing and certifying instruments such as powers of attorney, noting and protesting negotiable

instruments, and authenticating translations. These duties place notaries at the intersection of private action and public recognition. For example, when a company executes an agreement with a foreign entity, the foreign jurisdiction often requires that the agreement be notarized. Similarly, domestic affidavits filed in courts frequently bear the seal of a notary. This seal is not a fancy decorative but as per Section 9 of the Act mandates every notary to maintain an official seal bearing their name, registration number, and jurisdiction. The Notaries Rules, 1956 also regulate aspects such as the prescribed fees and registers to be maintained by the Notaries. Altogether, the provisions ensure accountability and transparency.

### **EVIDENTIARY VALUE**

*In State of Haryana v. Bhajan Lal*, the Supreme Court observed that notarization enhances authenticity but does not relieve parties from proving the contents when disputed. Similarly, in *K.K. Velusamy v. N. Palanisamy*, the Court emphasized that notarization of an agreement does not by itself validate the underlying transaction. Thus, the evidentiary value lies in the presumption of regularity and impartiality that accompanies a notarial act.

### **CHALLENGES IN IMPLEMENTATION**

Several challenges have been faced in practice of this Act. Firstly, the framework is outdated as the enactment in the year 1952, has kept the Act not well paced with the digital age. There is a significant gap, due to absence of provisions for digital notarization as the rise of electronic commerce and e-governance. Secondly, instances of malpractice lose the public's confidence. Common reports of notaries attesting documents without verifying parties, although as per Section 10A provides for disciplinary action, inquiries are often delayed, and suspensions remain rare. Thirdly, the problem of uneven distribution persists. Finally, there is widespread public ignorance about the role of notaries. Many individuals mistakenly assume that notarization conclusively proves the validity of a document, when in reality it only certifies identity and execution.

### **NEED FOR REFORM IN THE ACT**

To adopt the digital notarization is one of the critical reforms, where such adoption is already recognized by the way of digital signature with the help of Information Technology Act, 2000, extending similar recognition to e-notarization would bring India in line with global practices. The United States and parts of Europe have introduced remote online notarization using secure video-conferencing and blockchain technologies. India, with its emphasis on digital

governance, should follow suit. Stricter disciplinary control is another urgent need and complaints against notaries must be resolved swiftly, with penalties imposed for malpractice. Regular audits, surprise inspections, and digital record-keeping could enhance accountability. Equitable distribution is as equally important as stricter disciplinary control. Appointments should reflect regional demand, ensuring that citizens in both urban and rural areas have access to notarial services. Rationalizing the number of notaries will also reduce unhealthy competition. It is to be made mandatory for periodic training and certification. Notaries must remain updated on changes in procedural rules, international practices, and digital verification techniques. The public awareness campaigns should clarify the role and limitations of notaries.

## **CONCLUSION**

The Act was way forward of its time during the enactment, by regulating appointments, defining duties, and ensuring accountability, it laid the foundation for a trustworthy system of document authentication. However, in the digital era, its shortcomings have become increasingly evident. Outdated provisions, weak disciplinary mechanisms, malpractice, and lack of modernization hinder its effectiveness. This reform is not just desirable but also necessary. By incorporating digital notarization, strengthening discipline, rationalizing appointments, and enhancing public awareness, India can transform its notarial system into one that is efficient, transparent, and globally relevant. In an age where authenticity and trust are paramount, revitalizing the profession of notaries is not only a legal necessity but also a social imperative.

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