
*PROTECTION LAW FOR CLIENT NOTARY PUBLIC WHO
EXPERIENCED LOSSES DUE TO FORGED AUTHENTIC
DEEDS*

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ABSTRACT

This study seeks to determine and analyze the legal protection available for notary clients against the forgery of authentic deeds, as stipulated in Constitution Number 1 Year 2023 concerning the Criminal Code in Indonesia. Additionally, it aims to examine the legal responsibilities associated with the forgery of authentic deeds perpetrated by notaries. The research methodology employed is normative legal research. The findings indicate that the legal protection available for notary clients who incur losses due to forgery can be classified as repressive protection under civil law, which encompasses the provision of compensation, as well as under criminal law according to Law Number 1 Year 2023, specifically Article 391, Article 392, and Article 394. Furthermore, a notary may bear responsibility for the content of an authentic deed that he or she has executed if such action arises from negligence or intentional wrongdoing, thus implicating civil, criminal, and administrative accountability, in addition to the Notary's Code of Ethics.

Keywords: *legal protection; notary clients; deed forgery authentic.*

I. INTRODUCTION

Notaries are extensions of the government. The state has entrusted notaries with certain affairs and duties. Law Number 2 Year 2014 About Change On Constitution Number 30 of 2004 concerning the Position of Notary provides authority to notaries public to create authentic deeds. Therefore, a notary is a public official with the authority to create authentic deeds and possess other authorities as referred to in the law.

As public officials who serve the public to create authentic evidence, notaries should carry out their duties by the Notary Code of Ethics. This ensures legal certainty and public trust in Notaries. If a Notary does not act honestly, reasonably, independently, and impartially and does not protect the interests of the parties involved in the legal act, they fail in their responsibilities. A Notary Public cannot operate under Act Number 2 of 2014, LN Number 3 of 2004, TLN Number 5491, Article 16 paragraph (1) letter a. The Notary Law (UUJN) mandates that notaries can be held administratively, civilly, and criminally accountable.

Notaries carry out their duties and authority not only for personal interests but also for the interests of society. Notaries must be able to foster a relationship of trust with their clients by acting professionally. And has dignity and honor because if a notary makes a deed incorrectly, sanctions can be imposed, resulting in a deed that has the power of proof as a private deed or becomes null and void by law. As a result, the parties can demand reimbursement of compensation costs from the notary. In Article 7 paragraph (2) UUJN, Notaries may also be subject to sanctions in the form of verbal or written warnings, temporary dismissal, honorable dismissal, or even dishonorable dismissal.

Notaries making authentic deeds must have qualified skills and an honest personality to uphold legal certainty for the community. However, it does not rule out the possibility of errors in making the deed. For example, procedural errors occur on the Notary's part. In addition, errors can also occur on the part of interested parties who are dishonest in providing information or false information. Whatever the mistake of making an authentic deed, this condition can cause losses for the Notary himself. Even requiring Notary is responsible for his actions, in the form of administrative, civil, or criminal sanctions.¹

One example of a case related to forgery of deeds committed by a Notary is in Criminal Decision Number 1362/Pid.B/2019; in this decision, a notary with the initials RU entered false information by ordering his employees to make a deed containing incorrect information or false information. The false information is contained in the Deed of Sale and Purchase Agreement, where the first party in the deed is the late N, who has died since 2011, and his wife, the late Hj. NH has passed since 2001, while the second party in the deed is MS as the buyer. Based on applicable laws and regulations, Notary RU should have made a Deed of Sale and Purchase Agreement by placing IH and A, children or heirs of the late N and the late Hj. NH as the first party. In this case, Notary RU made a deed without involving the children of the late N and Hj. NH, as a result, the children of the late N and the late Hj. NH felt aggrieved by the actions of Notary RU who included false information in the Deed of Sale and Purchase Agreement that he made.

Article 28D paragraph (1) of the 1945 Constitution states that every person is entitled to the acknowledgment, guarantee, protection, and certainty of law, Which is fair as well as treatment, Which is the same front lawn. Legal protection, in a way criminal and civil law, in principle, protect a personal's legal interest; however in law criminal is more about the interest and the penalty is criminalization.²

¹Rizki Amalia, Musakkir Musakkir, Syamsudin Muchtar, *Notary's Responsibility for Contents Act Authentic Which No In accordance With Fact*, AL-ISHLAH: Journal Scientific Law, Volume 24, No.1, (May 2021), p. 190.

²Rosa Agustina, *Unlawful Acts*, Postgraduate Program, Faculty of Law, University of Indonesia, Jakarta: 2003, p.14.

This can be understood in Chapter 16 And Chapter 17 UUJN: when the Notary, in operating his/her job duties, has committed violations that have resulted in deviations from the law, then the Notary can be sentenced. The sanctions are in the form of Civil, Administrative, Notary Code of Ethics. These sanctions have been regulated in the Notary Law regarding the Code of Ethics for the Notary Profession, where no existing information sanction criminals, but the Notary Supervisory Board organization can impose penalties on Notaries. In cases such as relating to Notaries, Considering that it has been regulated in the Law on the Position of Notaries (UUJN), which relates with Code Ethics, his profession as well as there is an Assembly Supervisor Notary where functioning For supervise duties and authorities of a Notary. The application of criminal sanctions is set aside and limited to Notaries. Therefore, there is an overlap between the application of the Notary Law and the criminal law regulated in the Criminal Code. Overlap, giving ambiguity law for Notaries if there is an error in acting based on his duties and authority.³

The legal sanctions provisions in the UUJN indicate that notaries are not immune to the law. Notaries, in addition to being subject to civil and administrative sanctions, can also face sanctions related to the code of ethics of their position and even criminal sanctions. Regarding criminal sanctions, because they are not regulated in the UUJN, such sanctions will be imposed if a notary, in carrying out his/her duties, fulfills the elements of a certain crime—specifically, an act defined as criminal based on the Book Constitution Law Criminal Code or Law Number 1 of 2023 concerning the New Criminal Code. With the absence of criminal sanctions in the UUJN, the regulations concerning sanctions against notaries are less than perfect. The existing laws and regulations are incomplete. There can be no laws and regulations that are entirely comprehensive in nature and as clear as possible. No law or regulation can fully regulate all aspects of human life comprehensively and clearly because human activities are extensive in both type and quantity. In instances of incompleteness, unclarity, or a vacuum in regulation, legal discovery must be conducted by the legal system itself. The legal discovery referenced in this case does not always involve finding a new legal concept or discovering a theory or regulation when faced with incompleteness, unclarity, or a regulatory void; rather, legal discovery must be undertaken regardless of whether a new concept is necessary or not.

Criminal sanctions are essential to include in the UUJN, as they not only provide a framework for exercising authority but also serve as a preventive measure before crimes occur. The inclusion of criminal sanctions in the UUJN is crucial for ensuring the law is effective and upholds justice for those in the community harmed by the notary's authentic actions.

³Mufti Muadil Zar, Omar, M. Amen Qodri, *Not quite enough Answer Notary Public To Wills Which Indicated False*, Indragiri Law Reviews, Volume 1, Number 1, (December 2023), p.35.

Criminal provisions that may arise in connection with the duties and position of a notary include those related to forgery, specifically outlined in Article 263 and Article 264 of the Criminal Code, as well as Articles 391 and 392 of Law Number 1 of 2023 regarding the New Criminal Code. The imposition of sanctions must be emphasized as a requirement within various legal regulations. It is common for some individuals to argue that notaries possess immunity from the law. Consequently, this raises important questions regarding the necessity of addressing notarial criminal acts, particularly in light of the absence of criminal sanctions in the UUJN, which may result in notaries feeling unencumbered by the legal challenges they encounter. In instances where dishonesty is evident among any individuals involved in executing binding agreements or deeds, it is imperative that those acting in good faith are afforded legal protection. In this context, it follows that a person seeking notarial services must be protected under the Constitution. Chapters 84 and 85 of the Notary Law and the Notary Code of Ethics only provide regulations concerning the administrative and civil accountability of Notaries Public, while failing to address criminal liability. This oversight arises due to the fact that the formulation of the Notary Law places greater emphasis on the formal practice aspect of the Notary Public's position. Criminal sanctions against a Notary can only be invoked if the actions fulfill the criteria of error and criminal responsibility. Therefore, a legal vacuum is created in the Notary Law and the Notary Code of Ethics concerning the lack of established criminal sanctions for notaries engaging in acts of forgery pertaining to authentic deeds. It can be concluded that the UUJN and the Notary Code of Ethics lack comprehensive regulations regarding criminal sanctions applicable to notaries who violate these laws. In light of the aforementioned background, key issues arise within this study, including the provision of legal protection for notary clients against the forgery of authentic deeds by notaries according to Law Number 1 of 2023, and the legal responsibilities attributed to notaries who have falsified authentic deeds.

II. RESEARCH METHODS

Legal research is an analytical process that includes certain methods, systematics, and thinking. It aims to study certain legal phenomena and then try to solve the problems that arise, so an appropriate research method is required.⁴ The type of legal research used in this study is normative legal research, also called research law doctrinal. This study type is related to statutory regulations (law in books) or law conceptualized as a rule or norm, which is a benchmark human behavior that is considered appropriate.⁵

⁴Ani Mrs. Purwati, *Method Study Law Theory And Practice*, CV. Jack Media Publishing, Surabaya, 2022, p.4.

⁵Amiruddin, H. Zainal Cool, *Introduction to Legal Research Methods Revised Edition*, Rajawali Press, Depok, 2018, p.118.

III. DISCUSSION

3.1. Protection Law Client Notary Public Against Forgery of Deeds Authentic By Notary Based on Law Number 1 of 2023

In the legal context, society has begun to realize the importance of proof written as Wrong One tool proof, which is very significant. With the advancement of technology and the development of society, awareness of the need for written evidence with strong evidentiary power is increasing. This underlines the need for individuals who can be trusted to provide knowledge and have the ability to provide signatures and stamps that provide guarantees and certainty. In addition, objective and impartial advisors are also increasingly recognized as a necessity in overcoming weaknesses in the existing system. In addition to acting as officials who have the authority to compile documents law which has strength strong evidence in the judicial process, Notaries are also one of the parties who have the expertise and authority to provide explanations regarding various aspects of law to the public. Notaries also have the authority to prepare different deeds required in multiple legal transactions.

To maintain integrity in the making of deeds, a notary must thoroughly understand relevant laws and regulations. They need to choose a neutral advisor who is an expert in his field, who can provide objective advice and support the preparation of the deed that is legitimate and guarantees his protection in the future. Thus, the presence of a Notary as a witness and signatory of the deed confirms the validity and trustworthiness of the document. This provides substantial legal certainty and convinces the parties concerned about the validity of the recorded transaction.

Act authentic that made by or in before a notary should be able to provide guarantees of certainty, order and legal protection. Therefore, the Notary Law provides limitations and regulations on the work that can be done so as not to commit violations that can harm his clients or himself. However, as a human being, a Notary is not free from the potential to commit acts that deviate from the norms that act or commit an unlawful act in carrying out his duties. This is because he is human. A civil wrong committed by a person that causes harm to another person by violating the rights and responsibilities established by law and for which compensation can be requested for the losses caused by the violation is called an illegal offense.

Notaries, in carrying out their duties, may perform acts that violate regulations and legislation, specifically by committing forgery of authentic deeds. Forgery can occur both formally and materially. Formally, this happens if the party issuing the deed is not the authorized party. Material forgery can occur if the contents stated in the deed are not in accordance with the information provided by the concerned party.

The creation of authentic deeds forged by a notary has legal consequences, one of which is harming the notary's client. Therefore, the notary's client who is harmed must

be given legal protection. As a country of law, as stated in Article 1, paragraph 3 of the 1945 Constitution, legal protection is given as a mandate from the constitution because legal protection is a real form of the existence of law.

Legal protection is critical because it can realize the supremacy of the law and uphold justice and peace in society. The supremacy of law means that the law has absolute power in regulating human relations in various kinds of life so that all actions of citizens and government are always based on applicable law. The supremacy of the law will not be realized if the community does not enforce the relevant rules properly. Establishing justice as the law's primary objective, where every citizen can enjoy their rights and fulfill their obligations, is a manifestation of justice. Peace in life in society is everyone's hope. Peace will be realized if everyone feels protected in all areas of life. This can be realized if the applicable rules are implemented.⁶

Legal protection is not merely about implementing what is written in the law. The problem of direct and indirect factors. According to Soerjono Soekanto, factors that can affect legal protection include:⁷

1) Factor law That Alone

The law in question is that laws must not be contrary to state ideology. In addition, laws must be prepared according to the provisions governing the authority to make laws as regulated in the state constitution. Furthermore, laws must be made according to the needs and conditions of the community in which they are enforced.

2) Factor enforcer law

The law enforcers referred to are parties who are directly involved in the field of law enforcement. Law enforcers must carry out their duties properly in accordance with their respective roles, which are regulated by laws and regulations. They prioritize justice and professionalism so that they become role models for the community and are trusted by all parties, including all members of society.

3) Factors of supporting facilities or means for the creation of legal protection

The facilities and means in question include educated and skilled human resources, good organization, adequate equipment, sufficient finances, and soon. Adequate facilities and means are a must for law enforcement's success.

4) The community factor

The community is the environment where the law applies or is implemented. Community members must know and understand the applicable laws and obey them with full awareness of the importance and necessity of the law for community life.

5) Factor culture

The culture in question results from work, creation, and feeling based on human will in social life. In this case, culture includes values that underlie applicable laws,

⁶Yusnawan Lubis And Mohammed Sodeli, *Pancasila and Citizenship Education*, Second Edition, PT Tiga Serangkai Pustaka Mandiri, Solo: 2018, p. 37.

⁷Soerjono Mr. Soekanto, *Factors Which Influence Enforcement Law*, UI Press, Jakarta: 1983, p. 35.

which are abstract concepts about what is considered good so that it is adopted and what is considered flawed so that it is avoided.

According to Satjipto Raharjo, legal protection is providing protection to human rights that are harmed by other people. This protection is given to the community so that they can enjoy all the rights granted by law.⁸

- a. The existence of protection from government to its citizens

The government is obliged to provide legal protection to its citizens.

- b. Guarantee of certainty law

The guarantee in question relates to legal cases currently being undergone by each citizen. This is important so everyone is not trapped in an uncertain legal status.

- c. Associated with rights of inhabitant country

Every citizen has the right to obtain their rights during the legal process, starting from process of investigation and justice until the end of the judge's decision. In this case, it includes the right to get a lawyer, the right to be treated equally in the eyes of the law, the right to get due process court, Which is Honest And fair, the right To submit appeals, and so on.

- d. There are sanctions punishment for parties That violate

Imposing sanctions on lawbreakers is one of the efforts to provide legal protection because the threat of sanctions can prevent someone from violating the law, both criminally and civilly.

Two types of protection can be provided directly. by law, First nature is preventive, that is in the form of legal protection does not become a victim of a crime, and secondly, is repressive, namely in the form of protection to obtain legal guarantees/compensation for the suffering/loss of people who have become victims of a crime⁹. Left to suffer without any protection from the state. In the scope of prevention, the law must emphasize preventing people from committing crimes.

Conceptually, legal protection in Indonesia is based on recognizing human dignity based on Pancasila. Law can function as a manifestation of actions that are adaptive, flexible but also predictive, and anticipatory.¹⁰ Theoretically, there are two types of legal protection: preventive and repressive.¹¹

The theory of legal expert Muchsin reinforces the theory of legal protection; he thinks that legal protection is a method that is expected And intended to protect legal subjects through specific regulations that exist in the community, and these regulations are obeyed and enforced and have certain sanctions for those who violate them. Muchsin continues that protection law divided into two, namely:¹²

⁸Yusnawan Lubis And Mohammed Sodeli, Op.Cit., p. 35.

⁹The Soetijipto Raharjo in Philip M. Hudson, 1983, *Protection Law For Indonesian People* , Op.Cit., p.45

¹⁰Ibid, p.118

¹¹Philip M. Hadjon, 1987, *Protection Law for People in Indonesia* , Build Knowledge, p.19

¹²Lily Rasjidi And IB Wya Son, 1993, *Law As A System*, Loc.Cit.

1) Protection Law Preventive

This protection is provided by the government or local authorities to prevent an act from occurring or occurring, which can be categorized as a violation of other people's rights. This method is contained in a statutory regulation that provides signs or warnings to someone before they do something. In this way, everyone is intended to be careful and respect each other's rights more.

2) Legal Protection Repressive

In this legal protection, the emphasis is on the incident after violating the rules made by preventive legal protection. Someone who has and has violated the rules will receive the punishment or sanction that has been agreed upon. This protection is the final of the law to protect and provide justice to the victim. This form of protection can be in fines, revocation of rights, imprisonment or imprisonment up to life imprisonment or even the death penalty.¹³

The creation of an authentic deed that has been falsified by a notary, leading to losses for the notary's client, is an event that has already occurred. Consequently, the action that can be taken is not preventive but rather remedial. Legal protection and means of protection under the law that can be utilized in this case serve a repressive role aimed at resolving the issues that have already happened. According to researchers, the fabrication of authentic deeds that have been falsified by a notary results in losses for the victim. Both criminal and civil law protections can be granted to the notary's client who has been disadvantaged, which can be pursued through a lawsuit in court. In principle, criminal and civil protections exist to safeguard a person's legal interests; however, criminal law primarily focuses on public interest, imposing criminal penalties, whereas civil law protections are private in nature and involve compensation for damages.

In this study, the focus is on repressive legal protection in criminal law according to Law Number 1 of 2023 concerning the New Criminal Code, criminal cases related to the formal aspects of notarial deeds, investigators, public prosecutors and judges will include the Notary having taken legal action:

1. Making fake/forged letters and using fake/forged letters (Article 391 paragraphs 1 and 2)
2. Do forgery (Chapter 392 paragraph 1 And 2)
3. Asking to include information false in deed authentic (Chapter 394)
4. Do, to order do, Which participate and do.¹⁴

Criminal law is part of public law, so it has become its duty to protect the interests of the general public. Criminal law is the law that regulates violations and crimes against the public interest, actions which are punishable by punishment. Counterfeiting can be classified as a fraud crime, which is not all action but a forgery. The act of counterfeiting

¹³Ray Pratama Siadari, 2015, " *Legal Protection Theory* ", downloaded from <http://raypratama.blogspot.co.id/2015/04/teori-perlindungan-hukum.html> , on March 12, 2025 at 15.05 WITA

¹⁴Lamintang, 2009. *Crimes Special* . Ray Graphics, Bandung, matter. 36.

is classified as a crime of fraud if someone describes an item as if it were genuine or Correct, whereas indeed, the truth is not owned by him; because of this data description, other people are deceived and believe that the conditions described for the goods/letters/data are true. or original. Falsification of writing/data if the content or data is incorrect.¹⁵

The crime of forgery is a crime that contains a system of untruth or false on something or an object in Which something appears from the outside as if it is true when, in fact, it is contrary to the truth. This act of forgery is a type of violation of 2 (two) basic norms, namely:

- 1) A truth or belief whose violation can be classified as fraud.
- 2) Public order, the violation of which is classified as a crime against the state or public order.

According to Soesilo, the forms of letter forgery are as follows:¹⁶

- a) Make letter false : make the contents No should (not true).
- 3) Forging a letter: changing a letter so that its contents differ from the original. There are various methods. The letter is not always replaced with another; it can also be done by subtracting, adding, or changing something from the letter.
- 4) Forging sign hand, including understanding of fake letters.
- 5) Attaching a photo of someone other than the authorized holder (for example, a photo school certificate).

Based on the formulation of criminal elements from the text of Article 391 of Law Number 1 of 2023 concerning forgery of authentic deeds carried out by a Notary, it cannot be applied to the perpetrator, namely the Notary who forged the authentic deed. However, the Notary can be subject to sanctions from Article 392 because Article 392 is an aggravated forgery of letters because the object of this forgery contains a high trust value. So all the elements that differentiate between Article 391 and Article 392 of the New Criminal Code only lie in the existence of an object of forgery, namely “Types of letters and letters that contain greater trust in the truth of their contents.”¹⁷

Notaries, as public officials, bear responsibility for every job given to them by clients. Every job will always be accompanied by things that become not quite enough, he answered. Accountability contains the principle of error, which is based on monodualistic balance, namely the principle of error, which is based on the value of justice. This principle is aligned in pairs with the principle of legality, which is based on the value of certainty.

Administratively, the instruments of law enforcement include preventive and repressive measures. Preventive measures are carried out through periodic examination

¹⁵RIGHTS Moch. Anwar, *Law Criminal Part Special (Criminal Code) Book II Volume I*, (Jakarta: Alumnia, 1986), p. 190.

¹⁶Ibid

¹⁷ Adami Chazawi, *Crime To Forgery*, (Jakarta: PT. King Grafindo Persada, 2001) p. 107.

of notary protocols that may indicate violations of the code of ethics in implementing the notary's office. While repressive measures are carried out through the imposition of sanctions by:

- a. The regional supervisory board, in the form of verbal and written warnings and has the right to propose to the central supervisory board a 3 (three) month or 6 (six) month dismissal and dishonorable discharge.
- b. The Central Supervisory Board, in the form of temporary dismissal and has the right to propose to the Minister in the form of dishonorable dismissal.
- c. Minister, in the form of termination with No respect.

Criminal law is the last resort if sanctions are not met or efforts in other branches of law are ineffective or considered inadequate. For Notaries who commit criminal acts, the Minister may dismiss them because the Notary has been proven guilty and is subject to criminal threats. Prison, Which was set up in Decision Minister Year 2003 about Article 21 paragraph (2) sub b of the Notary Law, namely, a Notary is proven guilty of something directly related to his position or another criminal act with the criminal threat of 5 (five) years imprisonment.

Notaries as public officials can also be subject to criminal charges, either based on articles on forgery or other articles related to their duties as Notaries and can even be sentenced to prison as long as the criminal act is stated in the articles accused. However, to state the truth of the Notary's committing the act, it must still go through a process of proof which in the criminal procedure proof system is called a negative system, namely a system of proof by seeking material truth, namely a judge in the proof system before the court so that a A criminal sentence can be imposed if 2 (two) absolute conditions are met, namely sufficient evidence and the judge's conviction.

The valid evidence referred to in Article 184 paragraph 1 of the Criminal Procedure Code is witness testimony, expert testimony, letters, instructions, and defendant's testimony. Based on this evidence, to prove that a notary has committed a criminal act of forgery of a deed or falsification of information, there must be at least two valid pieces of evidence as in Article 183 of the Criminal Procedure Code, namely that the judge may not impose criminal to somebody except if at least two tool proof Which legitimate He to obtain the belief that a act criminal really happened and the defendant was guilty of doing it.

3.2. Legal Responsibility To Notary Public The Forger of Authentic Deeds

Based on Soeroso's opinion, legal consequences are the consequences of actions carried out to obtain the desired consequences of the perpetrator and are regulated by law. This action or action is called a legal action. Thus, the term other consequence law meaningful due to action law. The forms of these legal consequences can include:

- a) The birth, change, or disappearance, for example, a deed that was originally authentic becomes a deed under hand, resulting in the law undergoing changes.
- b) The birth, change, or disappearance of a legal relationship between two or more legal subjects, which means one party's rights and obligations face the other party's rights and obligations. Example: A enters into an agreement in trade so that a legal relationship or connection is created between A and B after implementing it. Payment paid off about the law That can be lost or disappeared.

The legal consequences of forgery of deeds committed by a notary are generally a situation in which a public official has sought profit and abused power regulated in the "law on the position of a notary." At the same time, other parties feel they have been harmed by the deed containing false information made by the notary, so the result of his actions is a natural sanction. For notaries who carry out criminal acts, their dismissal can be carried out by the Minister, Which reasonable Notary Public Already There is proof guilty as well as subject to the threat of imprisonment, which is regulated in the 2003 Ministerial Decree concerning Notaries, Article 21 paragraph (2) sub b, namely A notary who is proven guilty of a crime directly related to his/her position or other criminal acts is subject to a five-year prison sentence.¹⁸

In notarial law, if the parties disagree about a notarial deed, they must return to the notary to make a cancellation deed. The canceled deed no longer binds the parties, and they must bear all the consequences of the cancellation; if the parties do not agree that the deed in question must canceled, Wrong only one can submit a lawsuit against the other so that the notarial deed is changed to a private deed. After being demoted, the judge who tried the case can provide his interpretation of the notarial deed revealed to determine whether the deed is still binding on the parties.¹⁹

According to Habib Adjie, the imposition of a criminal sentence on a notary does not immediately cause the deed made to be null and void. Something that is not legally correct is if there is a criminal verdict with a verdict to cancel a notarial deed because the notary is proven to have committed a criminal act of forgery. Thus, what must be done by the parties who will place the notary as a convict for the deed made by or before the notary concerned is to file a civil lawsuit to request the cancellation of the deed.²⁰

Based on Article 1 paragraph (7) of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary, a notarial deed or authentic deed is a deed made before a Notary with procedures or forms based on the Law. Authentic Deeds themselves have also been regulated in the Burgerlijk Wetboek, which will hereinafter be referred to as BW in Article 1868: "Authentic Deeds are a deed

¹⁸Gassanova Farah The BA, Hero Francisca, Felicity Sri Marniati, P *rotection Law For Parties Due to Criminal Acts Committed by Notaries* , Journal of Legal Research, Volume 4, Number 2 (2022).

¹⁹Habib Adjie, *Looking through the telescope Treasures Notary Public And PPAT Indonesia* , PT. Image Aditya Bakti, Bandung, 2009, p.34

²⁰Jaifurrachman And Habib Adjie, *Aspect Accountability Notary Public in Making Deeds*, (Bandung: Mandar Maju, 2011), p. 26.

Which in form Which determined by Laws are made by or before employees general that have power to in a place Where deed made.” Act authentically made To create existence certainty law and protection law for the party. The elements contained in Article 1868 BW:

- a) That deed That made And inaugurated in form according to law;
- b) That the deed made by or in front of public official ;
- c) That the deed was made in front of which was authorized To make it in the place where it was made.

Forgery of deeds can occur both formally and materially. Formally, it can occur if the party issuing the deed is not an authorized party. Materially, it can occur if the contents stated in the deed do not match the information provided by the interested party regarding the deed. This can happen because the authorized party making the deed changes it or false information is provided by the party in need or the interested party.²¹

If a forgery of a document is found, either formally or materially, then the deed will no longer function as perfect evidence. As a result, the deed will no longer have binding force. A forged deed, whether formally or materially, will become a private deed whose binding force depends on the evidence in court.²² A notary’s forgery of an authentic deed is a serious violation that can result in the deed losing legal force. Notaries who are proven to have committed forgery can be subject to criminal, civil, and administrative sanctions. Therefore, it is important for the Notary Public to always maintain integrity and compliance with the law and carry out its duties.

A deed which is a written form of an agreement or contract from The parties, must fulfill the requirements for a valid agreement as regulated in Article 1320 of the Civil Code, namely:

- 1) Agreement for party;
- 2) The skills of the party;
- 3) objects ;
- 4) Because it is halal.

Notaries in carrying out their duties are not free from intentional and unintentional mistakes. The mistakes made by the Notary allow the Notary to deal with legal responsibility both civilly, administratively and criminally. If it turns out that the deed contains elements of false information, then the deed is null and void by law, meaning that the law considers that there was never an agreement or that it is automatically void without having to. There is a lawsuit. The condition returned is like the condition before there is an agreement. In this case, it means that it must first be proven whether there

²¹Kartini Siahaan, 2019, *Legal Position of Notarial Deeds as Evidence in Criminal Acts of Forgery of Documents in Criminal Justice Processes*, Recital Review Journal Vol. 1 No. 2 Year 2019, p. 82

²²Loc.Cit.

is an element of a criminal act in its making, meaning after the suspect is sentenced.²³ Criminal provisions are not regulated in the UUJN. However, a Notary may be held criminally liable if the Notary commits a criminal act.

1) Form accountability administration Notary Public

Regarding Administrative Law sanctions in the form of verbal or written warnings, temporary dismissal, honorable dismissal, or dishonorable dismissal. There is no further explanation under what circumstances a Notary is given a sanction with the qualifications as follows in Chapter 85 UUJN. Sanctions Law Administration against a Notary for his/her mistake in making an authentic deed according to Article 85 UUJN concerning the provisions as referred to in Article 7, Chapter 15 paragraph (1, 2, and 3), Chapter 16 paragraph (1) letter a, Chapter 16 paragraph (1) letter b, Chapter 16 paragraph (1) letter c, Chapter 16 paragraph (1) letter d, Chapter 16 paragraph (1) letter e, Chapter 16 letter (1) f, Chapter 16 verses (1) letter g, Chapter 16 paragraph (1) letter h, Chapter 16 paragraph (1) letter i, Chapter 16 paragraph (1) letter j, Article 16 Article (1) letter k, Article 17, Article 20, Article 27, Article 32, Article 37, Article 54, Article 58, and/or Article 63, may be subject to sanctions in the form of:

- a) Reprimand oral;
- b) warning ;
- c) Temporary suspension ;
- d) Dismissal with respect; or
- e) Dismissal with No respect.

The profession of a notary is related to individuals, organizations profession, the public generally, And the country. Notary professional relationships with the community and the state have been regulated in the UUJN. In contrast, the relationship between the Notary profession and professional organization is controlled through the Notary code of ethics. Without a code of ethics, the dignity and honor of the profession will be lost. In carrying out their duties, notaries must comply with the UUJN and their professional code of ethics. The scope of the code of ethics applies to all members of the Indonesian Notary Association (INI) and other people who hold the position of Notary. Sanctions as a form of effort to enforce the Notary code of ethics for violations of the code of ethics poured out in Chapter 6, state sanctions imposed on members who violate the code of ethics may include reprimands, warnings, temporary dismissal from association membership, and dishonorable dismissal from association membership.²⁴

From a state administrative perspective, the Minister of Law and Human Rights gives the letter of appointment. The Republic of Indonesia's Human Rights to Notaries can be revoked and the Notary dismissed from his position. For the notary's responsibilities

²³Daughter AR, *Protection Law To Notary Public (Indicator Tasks Notary Position Which Implications Actions Criminal)*, (Medan : Softmedia, 2011), matter. 108.

²⁴Abdul Ghofur Anshori, *Institution Notary Indonesia Perspective Law And Ethics*, (Yogyakarta : UII Press, 2009), pp. 48-49.

to be carried out based on the UUJN and other laws and regulations, supervision of the notary is also needed to carry out his duties as a public official making authentic deeds. Two institutions have the authority to supervise Notaries, namely the Notary Supervisory Board, which is formed by the Minister, and the Honorary Council, which is one of the tools of the Notary organization, in this case the Indonesian Notary Association (INI).

2) Form accountability civil Notary Public

Notarial deeds are related to civil matters, namely contracts made by two or more parties, although they can be made unilaterally (the nature is only to strengthen). The nature and principles adopted by law engagement, specifically engagement Which born Because agreement, that the Law may only be changed or replaced or stated No applicable, only by the Which make it, meaning the agreement of both parties which is stated in an authentic deed binds both parties as it binds the Law. Based on Article 1338 of the Colonial Regulation, Staatsblad Number 23 of 1847 concerning the Burgerlijk Wetboek voor Indonesie (BW)/Civil Code (hereinafter referred to as the Civil Code), regulates that:

“All agreements made by the law apply as law to those who make it. That approval No can be withdrawn apart from both parties’ agreement or for reasons determined by law. The agreement must be carried out in good faith.”

The above provisions are closely related to creating authentic deeds where a deed cannot be cancelled if there is an error/legal procedure, except by making corrections/improvements. In other words it can only be done by creating a deed of amendment to make the corrections. Existing errors. Act the wrong one must remain and be stored in the deed-making protocol.

3) Form of accountability Law Criminal Notary Public

The form of notary liability in criminal law cannot be based on the description of the deed made by the notary because the notary only records what the parties submit to be included in the deed. As for information, falsehoods caused by the parties in providing information or documents are the parties’ responsibility.²⁵ Notary criminal liability is imposed if the Notary commits a criminal act. The Notary concerned cannot be held responsible because the Notary only records what the parties convey to be stated in the deed. What can be accounted for to the Notary is if the fraud or trickery originates from the Notary himself.²⁶ The Amendment Law to UUJN only regulates sanctions for violations committed by Notaries against the Amendment Law to UUJN. These sanctions can be in the form of deeds made by notaries who do not have authentic power or only have the power as private deeds. Regarding acts Notary Public do act criminal forgery or to fake Notary deed, the Amendment Law to UUJN does not

²⁵Andi Mamminanga. (2008). “ Implementation of the Authority of the Regional Notary Supervisory Board in the Implementation of Notary Duties based on UUJN “. Thesis. Gajah Mada University, Yogyakarta, p. 32.

²⁶Notodisoerjo, 1982, *Law Notarial in Indonesia (a explanation)* , Rajawali Press, Jakarta, p. 229.

explicitly regulate the matter of criminal provisions; therefore, it is said that based on the principle of legality which is the principle of the Criminal Code that:

- 1) Country Indonesia is country law based on Pancasila And UUD;
- 2) The state guarantees that every citizen has equal standing before the law and government;
- 3) Every citizen, without exception, is obliged to uphold the law and government.²⁷

To uphold the law, Notaries must be subject to criminal penalties as regulated in Law Number 1 of 2023 concerning the New Criminal Code, which will come into effect on January 1, 2026. Proving that a Notary has committed a criminal act of falsifying a deed or making a false deed as referred to in Article 391, Article 392, and Article 394 of Law Number 1 of 2023 must be based on an investigation and evidence process that is by the rules of law by seeking elements of error and intent from the Notary himself. This is intended to be accountable both institutionally and in the capacity of the Notary as a legal subject.

In the Amendment Law to UUJN, it is stipulated that when a Notary operates his position proven to be a violation, a Notary may be subject to sanctions or be given sanctions in the form of civil, administrative, and code of ethics sanctions, but does not regulate the existence of criminal sanctions. In practice, the violation of The sanction is then qualified as a criminal act committed by a Notary. These aspects include:

- 1) Certainty day, date, month, year, And o'clock facing;
- 2) The party (whoever) facing the Notary Public;
- 3) Sign hand Which facing;
- 4) Copy deed No by minutes of the deed;
- 5) Copy deed There is, without made minutes deed; and
- 6) The minutes of the deed were not signed in full, but the minutes of the deed were issued.²⁸

The above aspects are closely tied to the actions of Notaries in violating Article 15 of the Law on Amendments to the UUJN. If Notaries fail to implement the provisions of this Article, it may lead to acts of forgery or falsification of deeds as referred to in Article 391, Article 392, and Article 394 of Law Number 1 of 2023, potentially resulting in losses for interested parties.

A notary involved in a deed can be implicated in the criminal acts of forgery or falsification of a notarial deed if it is determined that the notary did not read and explain the deed to the person in the presence of witnesses. This is contingent upon proving the objective elements (the formal aspects of the unlawful nature of the act) as outlined in the relevant articles on forgery, as well as the subjective elements (the material aspects of the unlawful nature of the act), specifically the error and criminal responsibility.

²⁷M. Yahya Good luck, 2000, *Discussion The problem And Implementation Criminal Procedure Code (Investigation) And Prosecution* , Edition Second, Rays Graphics, Jakarta, p.36.

²⁸Habib Ajie, Op.Cit, matter. 120- 121

Meanwhile, the examination of violations committed by a Notary must be carried out in a holistic and integral manner by considering the external, formal, and material aspects of the Notary's deed, as well as the implementation of the Notary's duties related to their authority. Thus, in addition to being based on legal regulations that govern violations committed by Notaries, it is also necessary to integrate them with the reality of Notary practice. The examination of Notaries is inadequate if conducted by those who have not yet delved deeper into the world of Notary Public. This means that those who will evaluate the Notary must be capable of demonstrating the major errors made by the Notary intellectually; in this case, the logical (legal) reasoning required for examining a Notary, not the logic of power or authority.

The imposition of criminal sanctions on notaries can occur as long as the aforementioned limitations are violated. This means that, in addition to fulfilling the criteria for violations outlined in the Amendment to the UUJN and the Notary Code of Ethics, it must also align with the stipulations in Law Number 1 of 2023 concerning the Criminal Code. If the unlawful act committed by a notary qualifies as a criminal offense, but it is categorized as a violation based on the Amendment to the UUJN, then the concerned notary cannot be subjected to criminal punishment. Because the criteria for evaluating a deed must be based on the Amendment to the UUJN and the Notary's Code of Ethics.

IV. CONCLUSION

The legal protection and legal protection mechanisms available to clients of Notaries who suffer harm as a result of the creation of falsified authentic deeds are considered repressive. This is due to their objective of resolving disputes that arise and providing appropriate sanctions or punitive measures, which may involve civil or criminal litigation against Notaries who engage in unlawful activities, thus aiming to prevent the recurrence of such violations. The Law on Notaries (UUJN) does not delineate criminal sanctions; however, should a Notary perpetrate a violation that includes elements of the falsification of authentic deeds with intent or negligence, following the imposition of administrative and civil sanctions, the act may be classified as a criminal offense. This classification elucidates the existence of evidence implicating the Notary in the crime of falsification of an authentic deed. The focal point of this legal protection is the criminal sanctions stipulated in Law Number 1 of 2023 regarding the Criminal Code, which will take effect in 2026, specifically referencing criminal sanctions outlined in Article 391, Article 392, and Article 394 of the Law as mentioned earlier.

The legal consequences of forgery of authentic deeds include the failure to meet the conditions for a valid agreement as regulated in Article 1320 of the Civil Code, specifically the elements of agreement and lawful cause. When an agreement does not fulfill the subjective condition of agreement, it leads to cancellation. Similarly, failing to satisfy

the objective condition of a lawful cause renders the agreement null and void by law, leading to its legal nonexistence. A Notary can be held accountable for the contents of an Authentic Deed based on intent or negligence. In creating an authentic deed, various responsibilities can be imposed on a Notary for contents that do not correspond to the facts, including civil, criminal, and administrative/ethical responsibilities. Suppose a Notary acts contrary to the law while drafting a deed. In that case, civil liability can be claimed, which may include reimbursement of costs, damages, and interest as consequences if the deed only serves as a private proof or if it becomes null and void by law, as outlined in Article 1365 of the Civil Code. Criminal liability arises if the deed contains elements such as false information, forgery, or falsification of documents. From an office perspective, a Notary is responsible for every deed created, even if the Notary protocol has been submitted or transferred to the keeper of the Notary protocol. Regarding the code of ethics, a Notary who violates these regulations may face warnings, temporary suspension, or dishonorable dismissal from the association's membership.

REFERENCE

- Abdul Ghofur Anshori, *Institution Notary Indonesia Perspective Law And Ethics* , (Yogyakarta : UII Press, 2009).
- Adami Chazawi, *Crime To Forgery* , (Jakarta: PT. King Grafindo Persada, 2001) p. 107.
- Amiruddin, H. Zainal Cool, *Introduction to Legal Research Methods Revised Edition* , Rajawali Press, Depok, 2018.
- Andi Mamminanga. (2008). “ *Implementation of the Authority of the Regional Notary Supervisory Board in the Implementation of Notary Duties based on UUJN* “. Thesis. Gajah Mada University, Yogyakarta.
- Ani Mrs. Purwati, *Method Study Law Theory And Practice*, CV. Jack Media Publishing, Surabaya, 2022.
- Gassanova Farah The BA, Hero Francisca, Felicity Sri Marniati, *Protection Law For the Parties Due to Criminal Acts Committed by Notaries*, Journal of Legal Research, Volume 4, Number 2 (2022).
- RIGHTS Moch. Anwar, *Law Criminal Part Special (Criminal Code) Book II) Volume I* , (Jakarta: Alumnia, 1986).
- Habib Adjie, *Looking through the telescope Treasures Notary Public And PPAT Indonesia*, PT. Image English: ...
- Jaifurrachman And Habib Adjie, *Aspect Accountability Notary Public in Making Deeds*, (Bandung: Mandar Maju, 2011).
- Kartini Siahaan, “ *Legal Position of Notarial Deeds as Evidence in Criminal Acts*” *Forgery Letter In Process Justice Criminal Law*,” Recital Review, No. 2, Vol. 1, 2019.
- Kartini Siahaan, 2019, *Legal Position of Notarial Deed as Evidence in Criminal Acts of Forgery of Documents in Criminal Justice Process*, Recital Review Journal Vol. 1 No.2 Year 2019.

- Dear, M.Ag, et al. *Notary Public And PPAT in Indonesia*, (Yogyakarta: The Universe Script, 2023).
- Lamintang, 2009. *Crimes Special*. Ray Graphics, Bandung .
- M. Yahya Good luck, 2000, *Discussion The problem And Implementation Criminal Procedure Code (Investigation) And Prosecution* , Edition Second, Rays Graphics, Jakarta.
- Mufti Muadil Zar, Omar, M. Amen Qodri, *Not quite enough Answer Notary Public To Wills Which Indicated False*, Indragiri Law Reviews, Volume 1, Number 1, (December 2023) .
- Notodisoerjo, 1982, *Law Notarial in Indonesia (an explanation)* , Rajawali Press, Jakarta.
- Peter Mahmoud Marzuki, And Yulianto Schmad, *Dualism Study Law Normative & Empirical* , Student Library, Yogyakarta, 2013.
- Philip M. Hadjon, 1987, *Protection Law for People in Indonesia*, Build Knowledge.
- Daughter AR, *Protection Law To Notary Public (Indicator Tasks Notary Position Which Implications Actions Criminal)* , (Medan : Softmedia, 2011).
- Ray Pratama Siadari, 2015, “ *Legal Protection Theory* ”, downloaded from <http://raypratama.blogspot.co.id/2015/04/teori-perlindungan-hukum.html>
- Rizki Amalia, Musakkir Musakkir, Syamsudin Muchtar, *Notary's Responsibility for Contents Act Authentic Which No By Fact* , AL-ISHLAH: Journal Scientific Law, Volume 24, No.1, (May 2021).
- Rosa Agustina, *Unlawful Acts*, Postgraduate Program, Faculty of Law, University of Indonesia, Jakarta: 2003.
- Soerjono Mr. Soekanto, *Factors Which Influence Enforcement Law*, UI Press, Jakarta: 1983.
- The Soetjipto Raharjo in Philip M. Hudson, 1983, *Protection Law For Indonesian people*
- Sudikno Mertokusumo, *Invention Law A Introduction* , (Yogyakarta: Liberty, 2009),
- Yusnawan Lubis And Mohammed Sodeli, *Pancasila and Citizenship Education* , Second Edition, PT Tiga Serangkai Pustaka Mandiri, Solo: 2018.