

## Legal Protection of a Notary Against the Crime of Falsification of Information in an Authentic Deed According to Law Number 30 of 2004 concerning the Position of a Notary

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### Abstract

Notary is a public official appointed by the government to carry out the task of making authentic deeds or other legal actions in accordance with applicable statutory provisions. The functions of a notary vary depending on the legal system in each country. In some cases where documents notarized by a notary contain false or fraudulent information, the notary may be subject to legal sanctions. Law Number 2 of 2014 concerning the Office of a Notary indeed regulates the duties of a notary in certifying detailed documents provided by clients, as stated in Article 16 paragraph (1) letter (f). Notary Honorary Council (MKN) is an institution established under UUJN and has a role in carrying out ethical oversight of notaries. However, MKN is not an institution that provides direct legal protection in criminal cases. MKN's duties are more focused on the ethical and disciplined aspects of the notary profession. This research uses a normative legal approach and departs from a void of norms, the aim of the research can be to identify and analyze the legal protection available to notaries in contexts where there are no specific provisions regarding the matter. The results of the study show that there is legal protection for notaries, namely stated in article 66 paragraph (1) UUJN by establishing a new legal protection institution for Notaries, namely MKN, law enforcers when summoning them must ask permission from the Notary Honorary Council.

**Keywords:** Notary, Legal Protection, Authentic Deed, Act



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### INTRODUCTION

In the Indonesian legal system, in order to uphold the law of certainty and provide legal protection to the public, the role of a notary is very important. Notaries have a crucial role when producing authentic deeds that have strong evidence in court. An authentic deed produced by a notary has a high probative value, the deed can be used as a clear and reliable reference in resolving legal disputes, both in court and outside the court. Notaries also play a role in providing legal advice to the public, including providing legal protection in legal transactions and actions.

Communities need witnesses who can be relied upon, guarantees and evidence that can be relied on, validated and validated, specialists and counselors who are impartial and non-obstacles, able to maintain confidentiality, and able to reach agreements that can secure their future. Notary legal protection is an important matter in the Indonesian legal system. As a public official who is responsible for his duties, a notary can be involved in legal proceedings, including in criminal cases related to the production or approval of documents containing false information or falsification. If there is an allegation of falsification in documents drawn up or attended by a notary, the notary may be summoned by the investigator to provide

information and participate in the criminal investigation or examination process. This is a reality in many communities, where there are several parties/clients who provide information but it is not in accordance with the reality of filing a deed with a notary. The notary's task is to help compile the information and data of the parties without examining the truth of the information in more detail. As we all know, a notary does not have the power to conduct an investigation or seek the material truth of the information and data of the parties (speakers). Cases like this will affect the deed made in the future will be problematic. Problems arise in relation to the form of responsibility of the notary for making authentic deeds such as information and data not based on the truth, factors due to the notary's own carelessness, negligence, intentional factors and other factors. Formulation of the Problem: After explaining the background, it can be concluded that the findings of the problem are, namely, what is the legal protection for a notary who is examined because of a false statement on an authentic deed?

## **RESEARCH METHODS**

Soerjono Soekanto is of the view that legal research techniques aim to investigate a subject or a number of legal phenomena related to society through research. This method is based on certain ways, methods, systematics, and ideas. Researchers use normative legal research methods to evaluate laws. This evaluation may include an analysis of the substance of the law, its consistency with legal principles, the clarity and certainty of the resulting law, and the impact of implementing the law in legal practice. In normative legal research, there are various approaches that can be used to obtain information and seek answers to the legal issues being researched. Two approaches that are commonly used are the statutory approach and the conceptual approach.

In normative legal research, the statutory regulation approach plays an important role because the research is related to the analysis and interpretation of existing legal norms. The conceptual approach (conceptual approach) in normative legal research departs from opinions and doctrines in the science of law. In the above approach, studying the opinions, theories and doctrines of legal science in order to find ideas that present the meaning of legal concepts and legal principles. The primary legal material for normative legal research is usually statutory regulations which are the main material for legal rules. Secondary legal materials such as law books, scientific articles, legal journals, theses and dissertations. This source provides analysis, views, and opinions of legal experts on the legal issues under study.

Library Studies (Library Research) is an approach used to collect data. Mestika Zed (2003) argues, library research or research using a library approach can be interpreted as an activity that involves gathering information from library sources. This includes searching, reading, storing, and processing various research materials.

## **RESEARCH RESULTS AND DISCUSSION**

Legal protection for notaries related to false statements in official letters or documents drawn up by a notary can be found in the Notary Office Act (UUJN). The Notary Office Law recognizes a notary as a position or function carried out by an individual as a public official who has been appointed by the government. Legal protection for a notary is based on the principles of the notary's position, not as a notary person. Legal protection for notaries can also be realized through a legislative process that focuses on protecting the interests of notaries as public officials. Through a legislative process involving the legislature or parliament, the rights of a notary are recognized, given protection and respect.

Article 66 paragraphs (1) and (2) of the Notary Office Law regulates the rights of investigators, prosecutors or judges to make copies of protocols and documents attached to

notary protocols that are stored in a safe deposit box. The delivery protocol is made by copying small documents or letters in point a paragraph (1). Legal protection for notaries According to the Honorary Council of Notaries, in the form of Regional Supervisory Councils responsible for the legal protection of the position of a notary. The MPD has the authority to agree or disagree with requests for approval from researchers who wish to invite a notary to check the deed produced by a notary. The above institutions are absolute institutions owned by MPD and not owned by other institutions (Ministry of Tourism and MPP).

There is a provision in Article 66 paragraph (1) UUJN which states that police, prosecutors and judges who summon a notary for questioning must obtain permission from the MPD. Permission from the MPD is required before investigators can act at the same time to follow up with a notary. When providing legal protection, the MPD is required to comply with laws and regulations governing how to arrange and summon a notary, as stated in the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia M.03. .HT.10. 2007. If a notary is suspected of having committed a crime related to the said act, the investigator wishing to reprimand the notary is obliged to submit an application for prior approval to the MPD. The MPD has the authority to submit questions to the court to examine the notary. In court, a notary may be tried in connection with the actions he has committed related to alleged criminal acts. In this case, the notary trial process will take place in the same way as stated in the applicable laws and regulations.

For example, the MPD finds convincing evidence regarding violations caused by a notary, the MPD can issue a decision to allow investigators, prosecutors or the court to examine the notary in accordance with the provisions of Article 66 (1) UUJN. However, to fill the void and increase legal protection for notaries, it is necessary to amend the UUJN which includes the establishment of the MKN (Honorary Council of Notaries) as a new police institution for notaries. With the existence of MKN, it is hoped that this institution can provide maximum legal input to notaries when carrying out their duties as law enforcement agencies. The purpose of forming this MKN may include providing stronger legal protection for notaries and regulating procedures and inspection procedures related to notary documents or protocols. Changes to UUJN and the formation of MKN as a special police institution for notaries are steps that can be taken to strengthen the legal protection of notaries. However, it is important to note that the implementation of these changes must go through the legislative process.

## **Discussion**

Legal protection for notaries is based on legal requirements and regulations which aim to provide justice and welfare to the whole community. As contained in Article 4 of the Notary Office Law, it is emphasized that a notary has an obligation to keep confidential all things he knows in carrying out his duties, including when giving testimony in court. This shows that the notary is not permitted to testify or reveal the contents of the deed he made. This obligation is also emphasized in Article 16 paragraph (1) letter (e) of the Notary Office Law, whereby a notary is prohibited from giving statements or testimony regarding the facts obtained in carrying out his duties, except in matters regulated by law.

Like Article 4 and Article 16 paragraph (1) letter (e) of the Law on the Position of a Notary Public, they have an obligation not to speak or provide testimony regarding the contents of the deed they made, including in court. This obligation is confirmed as part of the notary's oath of office. Article 16 paragraph (1) letter (f) UUJN also emphasizes that a notary must maintain the confidentiality of everything related to what he made, as well as all information obtained when the deed was made. This implies that a notary must maintain the confidentiality of the information he obtains in carrying out his duties as a notary.

UUJN has provisions that provide legal protection to notaries when facing arbitrary actions from law enforcement. Article 66 paragraph (1) of the UUJN regulates the role of the Notary Honorary Council (MKN) as a forum in charge of carrying out inspections at the beginning of the meeting of the notary organization. MKN has the authority to agree or disagree. This means that before a notary is examined by law enforcement, they must first obtain approval from the MKN. On the other hand, MKN has the task of coaching notaries when carrying out their duties. Legal protection for notaries has been regulated normatively in the applicable laws and regulations, among others:

1. The procedure for taking minuta deed and summoning a Notary Public, in accordance with Article 66 UUJN which allows investigators, public prosecutors, or judges with the approval of the Notary Ethics Council to take copies of the minuta deed and the attached documents. They can also summon a Notary to be examined in relation to the deed. In the context of special examinations in criminal cases, the procedure for summoning a notary must be followed. This provides legal protection for notaries, where the summons of a notary must be approved by the Notary Honorary Council which acts as a legal protection institution for notaries.
2. Notary's right of refusal as stipulated in: Article 170 of the Criminal Procedure Code; Article 19019 number 3 Civil Code; Article 146 paragraph (1) number 3 HIR; Article 277 HIR; and Article 4 UUJN and Article 16 paragraph (1) letter e UUJN.

Supreme Court Decision No. 702K/SIP/1973 can be used as a guide for consideration in various criminal cases faced by notaries. In the decision, it was explained that the task of a notary is to write a will and convey it to the party who comes to the notary. The notary is not obliged to carry out a substantial investigation of the statements submitted by the attending party. Thus, based on the decision, the responsibility for the validity and correctness of the contents of the deed rests entirely with the parties involved in the production of the deed, not on the notary. The notary cannot be directly involved in the contents of the deed because the notary acts as a party who records and writes what the parties involved want. If there are problems or problems with the deed at a later date, the responsibility will be directed to the party participating in the deed.

The Regional Supervisory Council (now known as the Notary Honorary Council) has a role in providing legal protection for notaries to continue working as professionals. This legal protection relates to the notary's compliance with the Law on Notary Position and notary professional ethics. The Indonesian Notary Association (INI) has an important role in providing legal protection for notaries. Legal protection from INI is by accompanying a notary during a hearing at the Notary Honorary Council.

## **CONCLUSION**

Law Number 30 of 2004 concerning the Position of Notary Public, specifically Article 66, provides legal protection for innocent notaries. The article states that law enforcement officials, such as investigators, public prosecutors, or judges, must seek permission from the Notary Honorary Council before summoning or examining a notary. The Notary Honorary Council has the authority to grant or refuse permission to summon a notary in a situation where the notary does not violate the Law on Notary Position and Notary Professional Ethics. The Indonesian Notary Association also has an important role in providing legal assistance to notaries involved in legal issues.

Suggestion: A notary who does not feel guilty and has behaved according to regulations and professional ethics does not need to worry about being exposed to a criminal case that has no basis. The Notary Honorary Council has an important role in providing legal protection

to innocent notaries. They will ensure that law enforcement officials follow proper procedures, including seeking permission before summoning or examining a notary. In addition, the Indonesian Notary Association is also ready to provide legal assistance to notaries facing criminal cases. They act as companions and legal consultants to the notary, and assist in preparing the defense.

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