



RESPONSIBILITIES OF NOTARIES IN MAKING AUTHENTIC DEEDS BASED ON LAW NUMBER 2 OF 2014 AND THE NOTARY CODE OF ETHICS

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Abstract

Notaries have a strategic position as a public official who is authorized by law to make authentic deeds. Deeds made by notaries have perfect evidentiary power and are the main evidence in every legal transaction. Therefore, the legal responsibility of notaries in the process of making authentic deeds is a very important aspect to be studied. This research aims to find out the Responsibilities of Notaries in the Making of Authentic Deeds Based on Law No. 2 of 2014 and the Notarial Code of Ethics and to find out the Formation of Authentic Deeds by the Notary Profession Based on Law No. 2 of 2014 and the Notary Code of Ethics. The method used in this study is normative juridical, with a legal approach and a study of related documents. The results of the study show that notaries can be asked to hold legal answers both civilly, criminally, or administratively, if it is proven that they have committed violations or negligence in carrying out their duties, including in the case of including data that is not in accordance with the circumstances of the case. In addition, the Notary Code of Ethics also provides a binding moral and professional foundation for notaries in carrying out their duties. The conclusion of this study emphasizes that the role and responsibility of legal must be carried out with integrity, prudence, and adhering to the certainty of positive law and professional ethics, in order to maintain public trust and ensure legal certainty in society.

Keywords: Notary, Authentic Deed, Responsibility, Law of the Notary Position, Code of Ethics

A. Introduction

The notary profession has a strategic position in the Indonesian legal system as a public official who is authorized by the state to make authentic deeds. The authentic deed has perfect evidentiary power and is the main

basis in various legal transactions. However, in practice, legal problems often arise involving notaries, especially when there are irregularities or omissions in the making of deeds, such as the inclusion of data that does not match reality or the existence of elements



of fraud from certain parties. This raises questions about the extent to which notary legal responsibility can be requested, both civilly, criminally, and administratively.

Conceptually, the authority of notaries is regulated in Law Number 2 of 2014 concerning the Notary Position (UUJN) which emphasizes that notaries have the obligation to carry out their profession independently, honestly, and impartially, and are guided by the Notary Code of Ethics¹.

B. Problem Statement

In fact, the notary does not have the authority to investigate the material truth of the information submitted by the parties. This is often the source of problems when the deed made turns out to be used for an invalid purpose. Thus, there is a need for further study of the legal responsibilities of notaries in the exercise of this authority.

Theoretically, it is based on the Theory of Legal Certainty (*Utrecht*) which emphasizes that the law must provide clarity, utility, and justice in order to create order and legal protection for the community. In addition, the Legal Responsibility Theory is also used which explains that a person can be held liable either due to intentionality, negligence, or the direct result of his actions (*strict liability*).² These two theories are the basis for assessing the limits of the notary's legal liability for the deed made before him.

C. Research Objectives

This study aims to analyze the legal responsibility of notaries in making authentic deeds based on Law Number 2 of 2014 and the Notary Code of Ethics, Examine the mechanism for the formation of authentic deeds by notaries in accordance with positive legal principles and professional ethics.

¹ Law Number 2 of 2014 concerning the Position of Notary

² Muhammad, Abdulkadir. "Indonesian Company Law. Bandung Citra Aditya Bakti", 2010.



D. Research Methods

This research uses a normative juridical approach, which is legal research that focuses on the study of written legal norms and applicable legal principles³. This approach was chosen because the problems studied were related to the normative aspects of the legal responsibility of notaries in making authentic deeds based on the provisions of Law Number 2 of 2014 and the Notary Code of Ethics. This research not only examines the text of the law, but also analyzes the application of the law in the practice of notary in Indonesia.

The research design is descriptive analytical, which is to describe and systematically analyze the positive legal provisions that govern the authority and responsibilities of notaries, then associated

with relevant legal theories and practices that occur in the field. With this draft, the research aims to obtain a complete picture of the implementation of notary legal responsibilities in making authentic deeds.

The data sources in this study consist of secondary data, which includes primary, secondary, and tertiary legal materials. Primary legal materials include relevant laws and regulations such as Law Number 2 of 2014 concerning the Notary Position, the Civil Code, and the Notary Code of Ethics. Secondary legal materials are in the form of literature, textbooks, results of previous research, scientific journals, and opinions of legal experts who discuss the responsibilities of notaries. Meanwhile, tertiary legal materials include legal dictionaries and encyclopedias that provide additional

³ Ediwarman. "Monograph of Legal Research Methodology", Guide to Writing Thesis, Thesis and Dissertation. Genta Publishing, 2016.



explanations of the legal terms and concepts used.

The data collection technique is carried out through library research by searching, reading, and studying various legal materials relevant to the research topic⁴. The data obtained are then selected and classified according to the research problem, in order to produce legal data that is valid and can be accounted for academically.

The collected data is analyzed using qualitative analysis techniques, namely by descriptive and interpreting the data descriptively without using statistical formulas⁵. The analysis is carried out by connecting legal norms, legal theory, and notary practices to find the conformity or incompatibility between legal provisions and their implementation in the field. From the results of the analysis, the researcher draws

conclusions deductively, namely from the general principles of law to conclusions that are specific in accordance with the focus of the research.

E. Research Results and Discussion

The results of this study show that the legal responsibility of notaries in making authentic deeds includes three main aspects, namely civil, criminal, and administrative liability, each of which has different legal consequences according to the form of violation committed. Based on the results of a study on Law Number 2 of 2014 concerning the Notary Position (UUJN) and the Notary Code of Ethics, it was found that the implementation of notary duties must always be based on the principles of prudence, integrity, and honesty. When these principles are ignored, notaries can be held legally

⁴ Soekanto, "Soerjono. Introduction to Legal Research", Depok, University of Indonesia, 2014.

⁵ Sugiyono. "Quantitative, Qualitative, and R&D Research Methods", Bandung Alfabeta, 2019.



accountable according to the level of violation.

1. Legal Responsibilities of Notaries in Making Authentic Deeds

Based on Article 15 paragraph (1) of the UUJN, notaries are authorized to make authentic deeds regarding all legal actions, agreements, and provisions that are required by laws and regulations or desired by interested parties. However, the authority also contains the responsibility to ensure that the deed is made in accordance with the applicable legal procedures⁶. The results of the analysis show that in practice violations committed by notaries are still found, such as the inclusion of false data, the absence of

parties, or abuse of administrative authority⁷.

In the context of civil liability, a notary can be asked for damages if his negligence causes harm to one of the parties⁸. For example, when the notary does not verify the correctness of the identity of the parties, so that the deed becomes legally flawed. Criminal liability arises if the notary deliberately manipulates data or participates in acts that contain elements of fraud. Meanwhile, administrative responsibility is imposed if the notary violates the provisions of the code of ethics or the provisions of the position stipulated in the UUJN, such as sanctions of reprimands, suspensions, and dismissals⁹.

⁶ Law Number 2 of 2014 concerning the Position of Notary

⁷ Ramadhan, Eka Dadan, and Eni Dasuki Suhardini. "Notary Criminal Liability in the Making of Deeds Based on False Statements is Linked to the Criminal Code and Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning

positions." *Paramarta Discourse: Legal Journal XVIII* 18, no. 1 (2019)

⁸ Civil Code (Burgerlijk Wetboek) Article 1870

⁹ Ramadhan, Ajeng Fitrah, and Iwan Permadi. "The Meaning of Certain Reasons in the Notary Code of Ethics Related to the Obligation to Carry Out the



This finding is in line with the opinion of Abdul Ghofur Anshori who emphasized that notaries as public officials have moral and legal responsibilities attached to their positions. Every violation of laws and regulations and the code of ethics is considered a form of violation of professional integrity that can tarnish public trust in the notary institution¹⁰.

2. The Role of the Code of Ethics in Regulating Professional Responsibilities

Although the results of the study also show that the Notary Code of Ethics functions as a moral and professional guideline that strengthens the legal norms that have been regulated in the UUJN. The

code of ethics regulates the behavior of notaries in order to uphold the values of honesty, independence, and responsibility in carrying out their duties. Violations of the code of ethics not only have an impact on the notary's professional reputation, but can also have legal implications if the violation harms other parties¹¹.

In practice, the Honorary Council of the Indonesian Notary Association (INI) plays an important role in enforcing the code of ethics through the mechanism of examination and sanctioning¹². The results of the case analysis reviewed in this study show that the majority of violations occur due to administrative negligence, such as inaccuracies in the deed making procedures or lack of data verification.

Notary Position in His Office." *Scientific Journal of Pancasila and Citizenship Education*4, no. 1 (2019): 15

¹⁰ Abdul Ghofur Ansori, 2009, *Indonesian Notary Institute: Legal and Ethical Perspectives*, UII Press, Yogyakarta, p. 3

¹¹ Talango, Asfariyani A, Roy Marthen Moonti, and Ibrahim Ahmad. *Notary Professional Ethics in a Legal Perspective*. 2 (2025).

¹² *Assembly, Approval, and Honor of Notaries*. NoLaJ. 2, no. 1 (2023)



However, in certain cases, the violation can escalate to a criminal offense if there is an element of intentionality.

This supports the *liability theory* put forward by Muhammad Abdulkadir, that every action that causes legal consequences must be accountable, either due to *fault liability* or the result of negligence¹³ Therefore, the existence of the code of ethics is an important instrument in maintaining the professionalism of notaries so that they remain in the legal and ethical corridor.

3. Legal Certainty in the Implementation of Notary Duties

The results of the study confirm that the principle of legal certainty (*rechtssicherheit*) is the main basis in the implementation of the notary position.

According to the theory of legal certainty put forward by Utrecht, the law must be able to provide a sense of security and clarity to the community. In the context of notary, legal certainty is realized through an authentic deed that has perfect evidentiary power. However, legal certainty can only be achieved if the notary exercises his authority in accordance with positive laws and professional ethical norms¹⁴.

In some cases, tensions arise between legal certainty and substantive justice. For example, when an authentic deed made according to formal procedures turns out to be used for an unauthorized purpose by certain parties. In this situation, the notary cannot be held materially responsible as long as he has

¹³ Understand the certainty in the law. <https://ngobrolinhukum.wordpress.com>.

¹⁴ Cahyawati, Giovanni Dinda. The ethical responsibility of the notary is related to signing the

deed outside the office by sending the deed minuta. 2022.



acted in accordance with legal procedures and does not have malicious intentions (*mens rea*). This shows that the limit of the notary's responsibility lies in the formal jurisdiction, not the material substance of the deed he made¹⁵.

4. Juridical Analysis

Juridically, the position of notaries in the Indonesian legal system is expressly regulated in Law Number 2 of 2014 concerning the Notary Position (UUJN) as a public official authorized by the state to make authentic deeds. The authentic deed has perfect evidentiary power as specified in Article 1868 of the Civil Code (Civil Code), which states that an authentic deed is a deed made in the form specified by law by or in the presence of a public

official authorized for it at the place where the deed is made¹⁶.

Thus, an authentic deed is the highest written evidence that provides legal certainty for interested parties. However, in its implementation, notaries often face legal issues related to responsibility for the deed made.

5. Implications of Research Results on Notary Practice

Based on the results of the analysis, it can be concluded that the legal responsibility of a notary must be understood comprehensively as a unit between juridical, moral, and administrative aspects. The implementation of the notary position is not only a matter of compliance with the

¹⁵ Yuliana, Ismail, and Puguh Aji Hari Setiawan. "Notary Accountability for Authentic Deeds Indicative of Criminal Acts in an Effort to Realize Legal Protection to the Community." *Alliance*:

Journal of Educational and Social Humanities Law 1, no. 5 (2024).

¹⁶ Engracia, Marchananda Diva, and Budi Santoso. "Rules of Reasonable Limitations on the Making of Notary Deeds and Their Legal Consequences." *Notarius* 16, no. 1 (2023):



law, but also ethical awareness in carrying out public service functions. Therefore, supervision of the notary profession needs to be strengthened through synergy between the Ministry of Law and Human Rights, the Notary Supervisory Council, and the Indonesian Notary Association (INI) so that every violation can be acted upon proportionately and transparently.

In addition, the results of this study confirm existing legal theories, especially the theory of legal certainty and the theory of responsibility, but also add a new dimension that personal integrity and ethical awareness have an equally important role as legal norms in guaranteeing public trust in notary institutions. Thus, increasing professionalism, ethical training, and strengthening internal supervision are strategic steps to prevent violations and maintain quality

F. Conclusion

Based on the results of research and discussion of the responsibility of notaries in making authentic deeds based on Law Number 2 of 2014 concerning the Notary Position and the Notary Code of Ethics, it can be concluded that notaries have legal, criminal, and administrative responsibilities. This responsibility arises when the notary commits a violation of the law, deviations in procedures, or negligence in carrying out the duties of his position. Notaries are obliged to act honestly, independently, impartially, and adhere to positive legal provisions and professional ethics.

The Notary Code of Ethics serves as a moral and professional guideline that strengthens formal legal norms in the UUJN. Violations of the code of ethics can reduce public trust in the notary profession and have implications for legal and ethical sanctions. Thus, the implementation of the notary



position must always be based on the principles of legal certainty, prudence, and integrity to ensure the validity of authentic deeds and protect the legal interests of the community.

This study emphasizes that the success of the implementation of notary duties is not only measured by compliance with the law, but also by ethical awareness and moral responsibility in carrying out strategic public positions.

Based on the results of this study, there are several suggestions that can be used as input:

1. For Notaries, it is expected to always increase their understanding of positive legal provisions and professional codes of ethics in order to be able to carry out their positions with full integrity and responsibility. Every notary action should be carried out with the principles of

prudence and professionalism to avoid violations of the law.

2. For Professional Organizations (Indonesian Notary Association/INI), it is necessary to strengthen the internal supervision mechanism and professional ethics development through continuous professional development so that notaries can understand legal dynamics and avoid deviant practices.
3. For the Government and Supervisory Institutions, it is recommended to strengthen the implementation of sanctions against notaries who violate the law or code of ethics, in order to increase accountability and public trust in notary institutions.

For the next researcher, it is recommended to conduct empirical research with a legal sociological approach to see firsthand how the implementation of notary responsibilities in the field and the factors



that affect compliance with legal norms and professional ethics.

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