LEGAL PROTECTION FOR NOTARY THAT DOESN'T ATTACH LETTER AND DOCUMENT TO MINUTA DEED

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Abstract **–** The absence of norms regarding the strength of proof of deeds made by or before a Notary without letters and documents attached to the Minutes of the Deed, can cause legal problems. There are times when in the judicial process law enforcers question the basis of a notary in making a deed if there are no letters and or documents attached to the minutes of the deed concerned. Sociologically, the fact that minutes of deeds are kept without a letter or other document attached, has a tendency to be questioned by the parties to the dispute. For example, there is no sale and purchase receipt attached to the Minutes of the Sale and Purchase Binding Deed, or no photocopies of ID cards, KK from the parties. Philosophically, the Notarial Deed is an authentic evidence tool that contains the will, information and data from the subject and object in the deed. Legal actions contained in a notarial deed are not legal actions from a notary, but legal actions that contain actions, agreements and stipulations from the party requesting or wanting their legal actions to be stated in an authentic deed. So it is the parties to the deed that are bound by the contents of an authentic deed. A notary is not a craftsman making deeds or a person who has a job making deeds, but a notary in carrying out his/her duties is based on or equipped with various legal knowledge and other sciences that must be mastered in an integrated manner by a notary and deeds drawn up before or by a notary have a position as a tool proof. Notaries must be careful (Article 16 (1) a UUJN No. 2 of 2014) in keeping the minutes of the deed. The mechanism for storing Minuta Deeds is precisely not regulated in detail in UUJN No. 2 of 2014. In fact, the general regulations regulate the position of copies of Deeds when the Minuta Deeds are destroyed. The copy of the Deed still has perfect and binding evidentiary power when the Minuta Deed is destroyed (Article 1889 of the Civil Code). The validity of the copy of the Deed must first meet the requirements which can be seen from the words of the verses.
Keywords: *law protection, minuta deed, notary*

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INTRODUCTION

The existence of a Notary in Indonesia is still recognized based on the provisions of Article 2 of the Transitional Rules of the 1945 Constitution, namely "all existing laws and regulations remain valid as long as they have not been enacted according to this Constitution". Pursuant to the provisions of Article 2 of the Transitional Rules of the 1945 Constitution, the Regulation op Het Notaris Arnbt in Nederlands Indie continues to apply, so that the Notary Position Regulations that have been in force since 1860 continue to be used as the only law governing notaryship in Indonesia. Changes to the Notary Position Regulations can only be carried out since the promulgation of Law Number 30 of 2004, regarding the Position of Notary Public on October 6th, 2004 (Latifah, 2021). With the enactment of Law Number 30/2004, the Regulations for Notary Position in Indonesia based on ord.stbl 1860 Number 3 which took effect from July 1, 1860 are no longer valid.

In essence, notaries are public officials who are given authority by Law Number 30 of 2004 concerning the Position of Notary (hereinafter referred to as UUJN-2004) jo. Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary (hereinafter referred to as UUJN-2014). The authority of a notary in making a deed is basically an extension of the state in providing services to the public who need a deed as evidence for a legal action that was committed. (Pratama, 2022).

As it is known, that currently the business world is developing so rapidly, which requires legal certainty in every transaction or agreement made by business actors and the community. There needs to be services for the things that the community needs. One of the professions that provide services to

ensure legal certainty for business transactions, particularly in the field of private law specifically related to notary affairs is a Notary.

The notary as stipulated in Article 1 of the Regulation of Notary Ambt in Indonesia Staatblad 1860-3 which determines (Multazam, 2014b):

> *De Notarissen zijn openbare ambtenaren, ulsluitend bevoeqd om authentieke akte noptemaken wegens alle handelingen, overeenkomsten en beschikkingen, waarvan eenealgemeene verordening geschrift blijken zal, daarvan de dagtekening te verzekeren, de akten in bewaring te houden en daarvan grossen, afschriften en uittreksels uit te geven; alles voor zzover het opmaken dier akten ene algemene verordening niet ook aan andere ambtenaren of personen opgedragen of voorbehouden is.*

In Indonesia, an advocate, even though he is an expert in law, is not authorized to make authentic deeds, because he does not have the position of a "public official". On the other hand, a "Civil Registry Officer" (*Ambtenaar van de Burgerlijke Stand*), even though he is not a legal expert, has the right to make authentic deeds for certain matters, for example to make birth certificates, marriage certificates, death certificates. That is because he is designated by law as a "public official" and is authorized to draw up those deeds.

An authentic deed provides binding and perfect evidence against the parties (and their heirs) or those who obtain the rights from the parties, this is in accordance with the provisions of Article 1870 of the Civil Code which determines a deed to provide between the parties and their heirs or the people who got this right from them, a perfect proof of what is contained in it (Multazam, 2014a).

The power attached to an authentic deed is perfect (*volledig bewijskracht*) and binding (*bindende bewijskracht*), which means that if the evidence for the authentic deed is submitted, then the deed has met the formal and material requirements and the evidence presented by the opponent will not reduce its existence, in At the same time, the authentic deed is attached to a perfect and binding evidentiary force (*volledig en bindende bewijskracht*), thus the truth of the contents and statements contained therein becomes perfect and binding on the parties regarding what is mentioned in the deed. Perfect and binding on the judge, so that the judge must make it a perfect and sufficient factual basis to make a decision on the settlement of the disputed case.

Philosophically, the Notarial Deed is an authentic evidence tool which contains the will, information and data from the subject and object in the deed. As an authentic deed, a notarial deed provides assurance of certainty of truth (Pramapta, 2022) :

a. Time and date of signing of the Deed
b. Place of signing of the Deed
c. Identity of Subject and Object data in the Deed
d. Legal actions contained in the Deed
e. The deed has been signed by the appearers, notaries and witnesses.

The legal actions contained in a notarial deed are not legal actions of a notary, but legal actions that contain actions, agreements and stipulations from the party requesting or wanting their legal actions to be written down in an authentic deed. So the parties to the deed are bound by the contents of an authentic deed. A notary is not a craftsman making deeds or a person who has a job making deeds, but a notary in carrying out his duties is based on or equipped with various legal knowledge and other sciences that must be mastered in an integrated manner by a notary and deeds made before or by a notary have a position as a tool proof.

Deeds drawn up by or before a notary public can also be used as a legal basis for the status of a person's property, rights and obligations. If there is a mistake in the deed made by the Notary, it can cause the revocation of one's rights or the burden of another person's obligation. When carrying out the duties of his position, a Notary must comply with the various provisions mentioned in the Notary's Office Law. As an authentic deed, a notarial deed has functions like other deeds. A deed can function as a formal function and can also function as evidenc, namely: first, a formal function (Widyantari, 2019).

The deed has a formal function, which means that in order to be complete or perfect (not for legality) a legal action, a deed must be made. The parties who carry out a legal act must make it in written form, both an authentic deed and a deed under the hand so that it becomes perfect. There are exceptions to this, because for certain agreements the existence of a deed is a formal requirement that absolutely must be met for the agreement to become legally valid. (Hariawan & Adjie, 2022).

There are exceptions to the principle of consensualism contained in Article 1320 of the Civil Code, these exceptions are governed by regulations which establish a formality for certain agreements. One example is the establishment agreement of a limited liability company which must be stated in an authentic deed drawn up by a Notary, this is regulated in Article 7 (1) Law no. 40/2007 regarding

limited liability companies. Another example is a peace agreement according to Article 1851 of the Civil Code that must be made in writing. These agreements are called formal agreements, which if the agreement does not fulfill the formalities set by the regulations that govern it, the agreement is null and void. (Umar, 2020).

There are a number of agreements which are conditioned by law by specifying that apart from an agreement, it also requires certain formalities to form certain types of agreements. Sometimes, for the validity of several agreements, the law requires that the agreement be made in a certain form, for example, it must be made in a private deed or in the form of an authentic deed. The existence of a deed in a formal agreement is an absolute condition for the validity of the agreement.

The second is the function of evidence. Since the beginning, the parties deliberately made a deed (authentic or underhand) for a later proof. The written nature of an agreement does not make the agreement valid, but so that the deed can be used by the parties as evidence in the event of a dispute in the future. For agreements that are not classified as formal agreements, the function of the deed is only as evidence, in other words for legal actions that are not classified as formal agreements, but are made in written form by the parties, then the function of the deed in this case is as evidence. An authentic deed as the strongest and fullest evidence has an important role in every legal relationship in people's lives, through an authentic deed, rights and obligations can be clearly seen, guarantees legal certainty, and at the same time it is hoped that disputes can be avoided (Nisa', 2020).

These letters and documents include documents relating to the identity of appearers such as identity cards (KTP), family cards (KK), marriage certificates, documents related to the basis of authority to act from appearers such as a power of attorney if authorized, affidavit heirs, approval letters and documents regarding objects in the agreement, for example certificates of ownership, building permits (IMB) and other documents that will serve as the basis for making deed (Utari Dewi & Martana, 2020).

Since the entry into force of the Regulation of Notary Reglement Op Het Notary Ambt in Indonesie (Stb.1860:3) until UUJN-2004 came into force, there is no provision requiring the notary to attach letters and supporting documents that will serve as the basis for making the deed in the minutes of the deed apart from original power of attorney if the appearer acts by proxy. Especially for power of attorney from the appearer Stb.1860:3 Article 30 determines:

A power of attorney under the hand, as well as an authentic power of attorney issued in its original form, must be attached to the minutes of the deed. An authentic letter made in minutes must be stated in the deed. If the parties act based on oral power of attorney, this must be stated in the deed. For any breach of any of these provisions, the notary was subject to a fine of 25 guilders (Imtiyaz et al., 2020).

In Article 47 of the 2004 UUJN determines (Priyandini, 2018) :

(1) An authentic power of attorney or other letter which forms the basis for the authority to draw up a deed issued in the original form or a private power of attorney must be attached to the Minutes of the Deed.
(2) The authentic power of attorney made in the form of Minutes of Deed is described in the deed.
(3) The provisions referred to in paragraph (1) are not required to be carried out if a power of attorney has been attached to the deed drawn up before the same Notary and this is stated in the deed.

Based on the provisions above, it can be seen that according to article 47 UUJN-2004 which is still valid today, an authentic power of attorney or other letter which is the basis for the authority to make a deed issued in the original form or a private power of attorney must be attached to the minutes of the deed, will but there are no provisions governing the consequences for the authenticity of the Deed if this is not done by a Notary, and legal protection for a Notary for violations of this.

According to the considerations of letter C UUJN-2014 "that a Notary as a public official who carries out the profession in providing legal services to the community, needs to get protection and guarantees in order to achieve legal certainty". It can be interpreted here that when a Notary performs his/her position according to the mandate of the Law, then the Notary must have legal protection, but UUJN-2004 in conjunction with UUJN-2014 does not explain further about legal protection for the Notary.

The Minuta Deed according to UUJN-2014 Article 1 point 8 determines "Minuta Deed is the original Deed which includes the signatures of the appearers, witnesses, and Notary, which is kept as part of the Notary Protocol". Furthermore, regarding the Notary protocol, according to the provisions in UUJN-2014 Article 1 point 13 stipulates that "Notary Protocol is a collection of documents which are state archives that must be stored and maintained by a Notary in accordance with statutory provisions" (Fidelia, 2020).

In terms of the similarity or conformity approach, the quality of photocopies is much higher in quality and originality compared to copies through conventional systems and methods, manual or handwritten copies, but the strength of proof of copies is much higher than photocopies because copies are regulated in the law. -statute, while photocopies are not. Regarding the copy, it is contained in Article 1889 of the Civil Code or 302 Rbg, which equates the copy with the original, so that the strength of proof attached to the first copy (first grosse) is the same as the strength of proof attached to the original. There is no provision that discusses the provisions regarding the extent to which the photocopy is identical or identical to the original letter.

Letters and supporting documents are an important part of making a deed, because the data and information in these letters and documents will later be included in the deed. The regulation on the position of a notary does not regulate the consequences for the authenticity of a deed that does not attach letters and supporting documents to the minutes of the deed, although for the benefit of the judicial process, investigators, by first obtaining approval from the Notary Honorary Council, are authorized to take photocopies of the minutes of the deed and/or letters - a letter attached to the Minutes of the Deed or Notary Protocol in the Notary's safekeeping as stipulated in Article 66 (1) a of the 2014 Notary Office Law. In essence, the letter and supporting documents in this dissertation research also include the power of attorney referred to in Article 47 of the Notary Office Act 2004 (Ali Marzuki, 2018).

There is a void in norms regarding the strength of proof of deeds made by or before a Notary without letters and documents attached to the Minutes of the Deed, which can lead to legal problems. There are times when in the judicial process law enforcers question the basis of a notary in making a deed if there are no letters and or documents attached to the minutes of the deed concerned. Sociologically, the fact that minutes of deeds are kept without a letter or other document attached, has a tendency to be questioned by the parties to the dispute. For example, there are no sales and purchase receipts attached to the Minuta of the Sale and Purchase Binding Deed, or there are no photocopies of ID cards, KK from the parties.

1. PROBLEM

By looking at the considerations above, this study examines philosophically there is legal injustice in protecting notaries who do not attach letters and documents to the minutes of the deed in various attachments to the deed made by notaries and how the legal formulation of protection for notaries in protecting minutes of the deed. There have been many studies discussing the relationship between the principle of consensualism and minutes of deed documents, but this is very different from what was studied, especially the existence of a void in the norms regarding the strength of proof of deeds made by or before a Notary without letters and documents attached to the Minutes of Deeds. can cause legal problems in Indonesian positive law. This research has positive findings in the development of legal protection for Minuta Deed letters and documents ratified by Notary officials in the notary office law in Indonesia and further research can be carried out in Indonesia concerning the validity of Minutes of Deeds.

Some of these legal arguments are structured in the framework of fair law enforcement, the fact that minuta deed is stored without a letter or other document attached, has a tendency to be disputed by the parties to the dispute. Therefore, this article does not have any conflict of interest with anyone.

2. RESEARCH METHOD

The research used in this research process uses a type of normative legal research (Van Hoecke, 2016). By using library materials or secondary materials that have been collected. Legal research is also a process to determine legal rules, legal principles, and legal doctrines in order to answer the legal issues faced. The basic materials used in this study came from library data. Everything related to data analysis is narrated holistically so that a complete combination is found and conclusions can be drawn in a balanced and structured manner using a deductive method.

3. RESULT AND DISCUSSION

3.1 Legal Uncertainty in Protecting Notaries Against Notary Position Regulations in Letters and Minuta Deed Documents

A notary in carrying out his duties is not free from mistakes. One form of mistake made by a notary is a typo in the minute of the deed. A typo in the minutes of the deed can become a problem when a copy of the deed has been issued and has been used by the appearers. If a typo occurs in the deed, the Notary is obliged to make corrections to provide legal certainty. Improvements to the deed can be carried out by a Notary public with the knowledge of the appearers and witnesses. In the event

of a typo in the minutes of the deed whose copies have been issued, the Notary is obliged to summon the parties again to make repairs to the deed.

The minutes of the deed also contain personal data or information from the appearers and other documents needed to make the deed. Every month the minutes of the deed made by the notary must be bound into one book containing no more than 50 deeds and on each cover of the book the total minutes of the deed, month and year of manufacture must be recorded, where the copy of the deed made must match the contents exactly with the minutes deed. The difference is only in the thumbprint, initials, signature, and changes. Minuta deed can also be used as state archives, which can be used if there is a case or dispute at a later date. Minutes of the deed must also be kept carefully and maintained by a notary.

The notary's authority to make changes must be in accordance with existing regulations, so that the deed can still be used as perfect evidence. If the notary does not carry it out in accordance with existing provisions and regulations, the notary's actions qualify as an unlawful act. This is caused by the actions and mistakes he made causing harm to another person or party. Article 1365 of the Civil Code, explains that every act that violates the law and brings harm to other people, obliges the person who caused the loss due to an error to replace the loss.

In fact, several cases were found that involved and ensnared notaries in court, in this case not only became a problem in the realm of civil law but also entered the realm of criminal law, namely the decision of the Indonesian Supreme Court Decision Number.42/PDT.G/2013/ PN.PBR, Decision of the Supreme Court of the Republic of Indonesia Number.606/PDT/2017/PT.DKI, Decision of the Supreme Court of the Republic of Indonesia Number 1003 K/PID/2015, and Decision of the Supreme Court of the Republic of Indonesia Number 1099 K/PID/2010, notary actions on decisions the decision states that there are still notaries who are not careful in taking action and ignore the rules contained in the notary office law in producing a deed. This causes errors, especially when a notary makes changes to the minutes of the deed after the copies have been issued. As a result of the violation committed by a notary, it can cause harm to one of the parties, where the notary has been negligent in carrying out his duties and was carried out intentionally or unintentionally, jointly by the parties/appearers who made the deed with the aim and intention to benefit. one party/ appearers or harm other appearers.

This event can lead to legal uncertainty for clients or appearers who intentionally come and face a notary to ask for help in carrying out legal actions. Practices like this can be categorized as a notary not having good faith and a notary having violated his or her oath, where a notary intentionally makes a fake deed, which refers to an act against the law. A notary who has the authority to make and make changes to a deed should be more careful in doing so, which must be in accordance with the regulations and have been determined.

Likewise, with a notary, has a heavy responsibility in carrying out his duties. With the promulgation of the 2014 Notary Office Law, it can be said that there has been a legal union in the regulation of Notaries in Indonesia and the 2014 Notary Office Law where this law can serve as a measuring instrument for the validity or truth of notaries in carrying out their duties or responsibilities in his position with the intention that if violated it will result in a legal impact on the deed made before him as well as on the Notary itself.

The notary in carrying out his position, before determining the principal of the agreement in the deed signed by the appearer or the parties, the notary is obliged to ask questions about the contents of the deed. Determining the subject of the agreement means determining the basis of an interest of the parties which is expected to be the subject of an agreement. The basis of the agreement must be formulated with great care and accuracy because the formulation determines the certainty of its implementation. The determination of the rights and obligations of the parties or appearers must be balanced, fair and rational. An unbalanced form can result in things that are detrimental and do not bring benefits to one of the parties.

Article 1 (8) of the Notary Office Law No. 30 of 2014 explains that, minuta deed is the original deed which includes the signatures of the appearers, witnesses, and the Notary, which is kept as part of the notary's protocol. Notary as a Public Official in carrying out his position has the obligations specified in Article 16 of the Notary Office Law Number 30 of 2014, where the obligations of a notary are one of those listed in the provisions of Article 16 (1) a of the Notary Office Law Number 30 of 2014 states that a Notary is obliged to act in a trustful, honest, thorough, independent, impartial manner and safeguard the interests of the parties involved in legal actions. In Article 16 (1) d of the Notary Office Law Number 30 of 2014, it means that the notary is obliged to issue a grosse deed, a copy of the deed, or a quote of the deed based on the minute of the deed.

Article 48 of the Notary Office Law Number 30 of 2014 paragraph (1) explains that it is prohibited to change the contents of the deed by: replacing, adding, crossing out, inserting, deleting; and/or overwritten. In paragraph (2) it is explained that changes to the contents of the Deed in paragraph 1 letters a, b, c, and d can be made and valid if the changes are initialed or given other

validation signs by the appearer, witness, and Notary. Violation of paragraphs 1 and 2 results in a deed only having the strength of proof as a private deed and can be a reason for parties who suffer losses to demand reimbursement of costs, compensation and interest from a notary, and in Article 48 (3) of the Law -Notary Office Law Number 30 of 2014 also explains that violations of the provisions referred to in paragraphs (1) and (2) result in a deed only having the power of proof as a private deed and can be a reason for the party suffering a loss to demand reimbursement of costs , compensation and interest to the notary.

If the notary makes changes to the minutes of the deed after the copy has been issued and the notary makes the changes outside of the provisions stipulated in the Law on Notary Office Number 30 of 2014, the formal form in a deed can cause the deed to only have the power of proof such as deed under the hand and will result in losses for one of the parties. If the notary makes changes to the substance of the deed without any sign of approval or initials, then the deed only has the strength of proof as an underhand deed and causes one of the parties to suffer losses, and the party who feels that he has been harmed can sue the notary to compensate for the losses he has experienced, compensation for the notary's actions can be in the form of interest, compensation and reimbursement of costs.

Since the issuance of Article 48 of the Notary Office Law No. 30 of 2014, when the notary reads out the deed and finds errors in any form either at the beginning or at the end of the deed, what the notary must immediately do is first, immediately carry out changes to the draft notarial deed by reprinting it if the appearers are still available and there are supporting office equipment, secondly if the appearers are not available, the notary is obliged to immediately contact the appearers to make repairs to the deed because an amendment to the deed will be deemed valid if there is sign of approval or initials of the appearers, witnesses and the notary himself.

Regarding the copy of the deed that does not match the sound as in the minutes of the deed, that this negligence is a mistake made by a notary when making a deed which causes the other party to suffer losses and is an unlawful act caused by negligence committed by a notary. In making a copy of the deed, the sound of which does not match the minutes of the original deed, it can be said that the notary has made a mistake in his position, which in carrying out his duties, a notary must be sensitive to his own obligations, namely to act in a trustful, honest, thorough, independent, taking sides and safeguarding the interests of parties involved in legal actions as well as a sense of caution and responsibility in issuing a deed. Compliance with a copy of the deed and minuta deed must be achieved. This is made to avoid the occurrence of an oversight which can lead to a problem in the future, and the notary must be able to provide legal certainty for what has made.

The need for the role of a notary to create legal protection and legal certainty for the public or the public which is preventive in nature, where the notary must be able to avoid the occurrence of a legal problem, by producing an authentic deed drawn up before him which they are with legal status, obligations and rights of a person in law which serves as a very perfect evidence in the eyes of the court when there is a dispute over their obligations and rights.

In the theory of responsibility, the status and position of a notary can be realized by First, liability which is a broad legal word that designates almost all the characters of risk or responsibility, which are certain, which depend on or which may include all the characters of rights and obligations that are actual or potential such as threats, crimes, cost of damages, and conditions that create the duty to enforce the law (Panjaitan, 2017).

Second, responsibility which is something that can be accounted for for an obligation, and includes decisions, abilities, skills, and competence including the obligation to be responsible for the laws implemented. The term liability refers more to legal responsibility, where liability is due to mistakes made by legal subjects, while the term responsibility refers more to political accountability. When providing services, a professional notary is responsible for personal or public. In the sense of being responsible for himself, that is, a notary must act in a manner of morality, professionalism and integrity for the sake of his life. Responsibility to the public, that is, a notary must be willing to provide the best service to the parties without discriminating and also have the courage to bear all the consequences that will occur from his services, either intentionally or through negligence. (Mahendra, 2019).

Responsibilities of a notary in the 2014 Notary Office Law, means that a notary must be able to commit to legal provisions when carrying out a task and obligation, meaning that all actions committed by a notary when carrying out his duties and obligations must be legally responsible, including all the consequences in the provision of legal sanctions for violations of the legal norms that serve as guidelines. Responsibilities of a notary in a legal sense are also related to rights and obligations, where the rights and obligations of a notary are the notary's obligations as described in Article 16 of the 2014 Notary's Position Law, the notary is also obliged to provide exclusive services for the appearer and the

notary is entitled to payment of honorarium after completing a copy of the deed at the request of the appearer, and the notary is obliged to pay compensation for negligence or deliberate action by himself.

Making an agreement with the intention of solely taking advantage of one of the parties will only be a notary's mistake which will cause legal consequences for the notary himself. In making an authentic deed, the notary must be responsible for any violations or mistakes made by a notary at the time the deed was drawn up. On the other hand, if the elements of violation and error were caused by the appearers themselves, then the notary cannot be held accountable, because the notary only carries out his duties to record everything conveyed by the parties and included in a deed.

If in practice the notary makes a mistake making changes to the contents of the deed which are inconsistent with the applicable provisions, then the notary's actions in this case have caused losses to the parties whose names are listed in the deed, where the appearers expect the deed to be valid. made by the notary has perfect strength, but as a result of a notary who has violated the provisions of the 2014 notary office law, the deed becomes an imperfect deed and has the power of proof to become a deed under the hand. Because the notary's actions not only cause the deed that should be an authentic deed, but instead becomes a private deed and null and void, because of this mistake, the notary should accept the legal consequences that will be given.

3.2 There is a gap in norms in proving a deed before a notary on the minutes of the deed

The Minuta of the Deed which was destroyed means that the Minuta of the Deed is lost, destroyed, lost without being able to be found again. If the Minuta of the Deed can still be found and has been found, it will not cause legal problems. Problems will arise if the Minutes of the Deed are destroyed because the Notary cannot issue a Copy of the Deed, Excerpt of the Deed, or match it. What's more, there are legal rights that have been violated, namely the rights of the parties on the basis of authentic rights with complete, full, and binding evidentiary force.

The destruction of the Minutes of the Deed can mean that it is destroyed in its entirety, that is, physically so that the information or contents in the deed are automatically destroyed as well. Other meanings are destroyed in the contents so that, even though the physical deed is still remaining, the information on the truth of legal actions in or outwardly is destroyed. Even when restoration is carried out in the last condition, the contents of the deed remain unknown.

A copy of the Deed has perfect evidentiary power on condition that it can show the original (Article 1888 (2) of the Civil Code). The existence of the original deed is absolutely necessary to prove the argument that a copy of the deed is the same as the original deed (Article 1888 paragraph (2) of the Civil Code). The notary also makes the Minutes of the Deed a source of the Copy of the Deed (Article 16 (1) d UUJN No 2 of 2014). Apart from being a reference in issuing a copy of the deed, the notary must keep it because the minutes of the deed are state archives. This means that the one who has the authority to keep the Minutes of the Deed is a Notary even though the power of proof is the property of the parties.

The notary must be careful (Article 16 (1) a UUJN No 2 of 2014) in keeping the Minutes of the Deed. The mechanism for storing Minuta Deeds is precisely not regulated in detail in UUJN No. 2 of 2014. In fact, general regulations regulate the position of copies of Deeds when Minuta Deeds are destroyed. The copy of the Deed still has perfect and binding evidentiary power when the Minuta Deed is destroyed (Article 1889 of the Civil Code). The validity of the copy of the Deed must first meet the requirements which can be seen from the words of the verses.

There are types of invalid copies of the deed as authentic evidence if the minutes of the deed are destroyed. For example, the minutes of the deed were signed on the 1st (one) but the minutes of the deed were destroyed on the 2nd (two) and then on the 3rd (three) notary issued a copy of the deed. A copy of the Deed issued after the Minutes of the Deed has been destroyed is considered invalid because the source is not available (destroyed) or the Minutes of the Deed have been destroyed before the Copy of the Deed has been published.

The argument is that such a copy of the deed has violated Article 1888 (2) of the Civil Code in conjunction with Article 1 (9) UUJN No. 2 of 2014 in conjunction with Article 16 (1) d of UUJN No. 2 of 2014 that the copy of the deed has perfect value as long as the minutes in accordance with the original and stated the phrase "given as a copy with the same sound" so that the copy of the deed must be issued based on or sourced from the minutes of the deed. There is a copy of the Deed which is still valid and perfect as authentic evidence as the original. The first example, the minutes of the deed were signed on the 1st (one), then a copy of the deed was issued on the 2nd (two), and the minutes of the deed were destroyed on the 3rd (three). A valid copy as evidence with perfect and binding force after the Minutes of the Deed is destroyed is the first copy of the Deed.

Another argument regarding the legality of the first copy of the Deed is that there is no long distance between the completion of the creation and binding of the Minuta Deed bundle, recording in the Repertum and Kleper, recording the results of the renvoi on sheets of paper, inserting renvoi notes

on sheets of paper into copies so that they are neat and tidy. there is no renvoi on the left, matching the copy with the Minutes of the Deed, then signing the copy by the Notary with the issuance of the first copy, so it is unlikely that the Notary is not careful in keeping the Minutes of the Deed. A notary in such circumstances has a tendency to keep his memory or his memory fixed on the Minutes of the Deed he had just drawn up and used to make copies of it. So ideally the first copy of the deed deserves to be placed first because the first minute of the deed attaches its perfect and binding evidentiary power to the first copy of the deed so that it must be judged the same as the original.

Efforts to criminalize a notary even though the procedures for making a deed and the form of a deed have been carried out by a notary in accordance with the provisions of the UUJN. The most important thing to pay attention to is not to criminalize a Notary just because of a problem that occurred between the parties themselves, while the Notary has carried out his/her duties in accordance with the mandate of the Law.

The deed made according to the form and procedure in the UUJN must be considered as an authentic deed that has provided legal certainty for the parties. Notary's other obligations related to administrative obligations in terms of recording, storage and reporting are not elements that will affect the authenticity of the Notary Deed that has been made in accordance with UUJN provisions. If the Notary commits a violation of these administrative obligations, then the Notary may be subject to administrative sanctions in accordance with the UUJN provisions, and if the violation causes harm to other parties, the Notary may be held accountable for paying compensation for the loss.

In practice, notaries are often made or positioned as defendants by other parties, who feel that the legal actions mentioned in the deed are categorized as actions or legal actions of a notary or are actions of a notary together with other parties who are also mentioned in the deed. In the construction of notary law, one of the duties of a Notary is to formulate the wishes or actions of appearers, even appearers, in the form of an authentic deed, taking into account the applicable legal rules. This is as stated in the Supreme Court Judgment Jurisprudence Number: 702K/Sip/1973, September 5th, 1973, that is, the Notary's function is only to record/write down what is desired and stated by the parties who appear before the Notary, there is no obligation for the notary to investigate materially a number of things put forward by the appearer before the notary. Based on the substance of the Supreme Court Decision, if the parties have something to do with a deed made before or by a troubled Notary, then this is the matter of the parties themselves, the Notary does not need to be involved, and the Notary is not a party to the deed.

3.3 Legal Certainty in the Protection of Notary Publics

Notaries are prone to legal problems, because Notaries only base the making of the Deed on document truth or formal truth, while material truth rests with the parties and the legal products brought by the appearers to be shown to the Notary. If the information submitted to the Notary is false or the documents provided to the Notary contain false data or information, it does not mean that the deed made before the Notary is fake. The notary only records what is conveyed by the parties to be included in the deed. Incorrect and fake information from the parties is the responsibility of the parties themselves. A notary can be held accountable if the deception or deception comes from the notary himself.

As for the factors that led to the making of an authentic deed by a notary based on fake letters and supporting documents (Rahmayani et al., 2020):

1. Ignorance of the Notary that the letter is fake, because the Notary in making the deed may not be suspicious and must believe in any information presented before him, therefore the Notary has the potential not to know the real truth of the information presented before him.
2. There are parties who have bad faith, whereby one of the parties or both parties deliberately make a fake letter or provides a fake statement to be presented to a Notary, where the letter and statement form the basis for making an authentic Deed.
3. The notary ignores the principles of prudence, the notary ignores the precautionary principle here, the meaning is that the notary does not recognize both parties based on the identity proffered before the notary, and examines carefully and carefully the documents both subject and object which will later be included in an authentic deed made by a Notary.
4. There is a conspiracy between the Notary and the two parties in making the deed in which the Notary cooperates or participates in including incorrect or false information in the deed.

Statements that contain lies submitted by appearers are not the authority and responsibility of the Notary, because the Notary cannot guarantee the honesty of the appearers who will definitely say the truth as contained in their deed of agreement, so that if there is a problem in the material aspect, an investigation should be carried out beforehand against the appearers or parties who intentionally provide false information and documents to the Notary, and not the Notary in question. In fact, even

the legal process does not only stop at that stage, notaries generally are also accused of colluding with the appearers to issue fake notary deed.

This raises concern for the Notary in carrying out his duties, because at any time he can be sued by the parties, and there is even the possibility of getting criminal charges. Therefore, in order to protect himself, an attitude of vigilance and caution is required of a Notary. In practice, not a few Notaries experience problems in connection with the Deed that they have made, which is declared null and void by a court decision as a result of discovering a legal defect in the making, for example, it turns out that the document provided by one of the parties is incorrect.

Drawing up of a Notary Deed based on letters and documents that are incorrect or contain falsification shown by the appearers to the Notary, in which the Notary does not check the material truth, does not qualify the Notary concerned as an actor who participated in a crime authentic deed forgery. This is because the Notary has a legal obligation to serve the public in making authentic deeds according to their authority, but the Notary can be considered as an actor participating in the crime of forgery of letters if the Notary subjectively has an error, namely in the form of intention to order to place incorrect information in the document. deed made. If the letters and supporting documents shown by the appearers have real legal defects, as long as there are no problems, and as long as no one is questioning them, then it will not affect the existence of the Notary deed, but if there are parties who question and sue in court, then the court can make the basis for canceling legal actions contained in the deed (Sari, 2020).

A very crucial thing related to letters and supporting documents which are used as the basis for making a deed, is if it turns out that the letters and documents are fake letters and documents or the original letters and documents contain fake data and information. Therefore, it is important to keep the letters and supporting documents for the deed to ensure that the data and information from the letters and documents shown by the appearers at the time of signing are included in the notary deed.

However, the safekeeping of letters and supporting documents for the minutes of the deed is not part of the procedure for making the deed until the signing of the deed, so the absence of supporting letters and documents attached to the minutes of the deed should not be used as an excuse for questioning the authenticity of the deed that has been drawn up. This is because after the deed has been made by the Notary, the deed will be read out in full by the Notary in front of the appearers so that if there is something that is not appropriate or there is a writing error it can be known immediately. Appearers can also request the Notary to change the contents if it turns out that the contents of the deed are not in accordance with the wishes of the appearers or there are incorrect data and information that must be corrected. This is intended if after reading it then the parties sign the deed, then the parties are deemed to have known, understood and agreed to the contents of the deed along with all the information and data contained in it (Mutmainah & Hapsari, 2021).

When all the information and data have been contained in the deed and signed, what is stated in the deed must be considered as true as it really is. The absence of letters and supporting documents attached to the minutes will no longer affect the authenticity of the deed, because all data and information from the original documents shown by the appearers has been contained in the deed which has been signed perfectly. This also applies to the information contained in the deed, even though the party signing the deed later dies, what has been stated in the deed must still be considered as his wish. The absence of a person who provides information because he has died does not make his statement that has been stated in the authentic deed invalidated (Rudianto et al., 2020).

Therefore, a notary cannot be held criminally responsible if he does not attach letters and supporting documents to the minute of the deed, even if it is found out later that the letters and documents used as the basis for making the deed are letters and documents that contain falsification. Notaries can be held criminally responsible. If it turns out that it can be proven that the Notary actually knows that the letters and supporting documents that are used as the basis for making the deed are documents that contain falsification, however, the Notary still makes the deed based on the letters and documents.

According to the researcher's view, legal protection for Notaries in carrying out official secrecy is regulated in general and specifically in laws and regulations as follows:

1. Article 17 (1) and (2) of Law no. 48 of 2009 concerning Judicial Power, which reads: (1) The party being tried has the right of refusal against the judge who is trying this case. (2) The right of refusal as referred to in paragraph (1) is the right of a person being tried to submit an objection accompanied by reasons against a judge who is trying his case.
2. Article 66 (1) a and b of the 2014 UUJN which states that:

In the interest of the judicial process, investigators, public prosecutors or judges with the approval of the Notary Honorary Council are authorized to:

a. Take a photocopy of Minutes of Deed and/or letters attached to Minutes of Deed or Notary Protocol in the notary's repository

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b. Summons the Notary to be present at the examination relating to the deed he made or the Notary Protocol that is in the Notary's custody.

In this preventive legal protection, legal subjects are given the opportunity to submit their objections or opinions before a government decision gets a definitive form. The aim is to prevent disputes from arising. Preventive legal protection has sufficient meaning for government actions that are based on freedom of action because with preventive legal protection the government is encouraged to be careful in making decisions based on discretion. In Indonesia, there is no specific arrangement regarding preventive legal protection, especially for Notaries.

Repressive legal protection aims to resolve disputes. The handling of legal protection by the General Courts and Administrative Courts in Indonesia falls into this category of legal protection. The first principle regarding legal protection against government actions is based on and originates from the concept of recognition and protection of human rights because according to history from the west, the birth of concepts regarding the recognition and protection of human rights is directed at restrictions restrictions and obligations of society and the Government. The second principle that underlies legal protection against acts of government is the principle of rule of law. Associated with the recognition and protection of human rights, the recognition and protection of human rights takes the main place and can be linked to the goals of a rule of law. (Sugiri, 2020).

Legal protection for notaries has been regulated in Article 66 of the 2014 notary office law, but the 2014 notary office law does not clearly stipulate legal protection for notaries who do not carry out the obligation to attach supporting letters and documents to the minutes of the deed. The importance of legal protection for a Notary is to maintain the nobility of the dignity of his position, including when a Notary must give testimony and proceed in examinations and trials, keep the details of the deed confidential in order to safeguard the interests of the parties involved in the deed and maintain the minuta of the deed, as well as the protocol of the Notary else in storage (Putra et al., 2021).

The theory of legal protection used so far Notaries are often faced with the problem of a legal vacuum which creates legal uncertainty related to the safekeeping of minutes of deeds without attaching supporting letters and documents to the minutes of deeds. By conducting an analysis using the theory of legal protection, it is expected that a notary who carries out his duties will not be criminalized by accusing a notary of being a party to the deed.

CONCLUSION

The notary's obligation to attach letters and documents to the minutes of the deed includes administrative obligations related to notary protocol storage. A notary who does not carry out this obligation must receive protection and not be criminalized as a crime or consider a notary as a party that causes harm, because the deed he made is inauthentic. Liability for a notary who violates this obligation is subject to administrative sanctions.

Legal protection for notaries has been regulated in Article 66 of the 2014 notary office law, but the 2014 notary office law does not clearly stipulate legal protection for notaries who do not carry out the obligation to attach supporting letters and documents to the minutes of the deed. The importance of legal protection for a Notary is to maintain the nobility of the dignity of his position, including when a Notary must give testimony and proceed in examinations and trials, keep the details of the deed confidential in order to safeguard the interests of the parties involved in the deed and maintain the minuta of the deed, as well as the protocol of the Notary. others in storage.

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