

Legal Protection Reform for Notaries Regarding Time Limits on Authority

Adillah Yuswanti¹, Faisal Santiago²

Universitas Borobudur, Indonesia^{1,2}

Email: norarisadillah@gmail.com¹, faisalsantiago@borobudur.ac.id²

Abstract

This research examines the legal protection for notaries in Indonesia, particularly concerning the legal vacuum that arises in the context of the time limits on notary authority. Although notaries play a vital role as public officials who authenticate authentic deeds, existing regulations, including the Notary Position Law (UUJN), still contain gaps that threaten the integrity of this profession. This study highlights the urgency of reforming legal protection for notaries by identifying unclear provisions and providing concrete recommendations to strengthen legal protection. By analyzing the implications of legal vacuums on public trust and professional integrity, this research aims to offer effective solutions to enhance legal protection for notaries and strengthen their position within the Indonesian legal system.

Keyword: Legal Protection, Notaries, Legal Vacuum, Reform, Time Limits on Authority.

INTRODUCTION

Notaries play a very important role in the legal system, especially in the context of creating and authenticating legal documents (Hajayanti et al., 2024). As an authorized public officer, notaries are responsible for drafting authentic deeds that possess high legal force. The deeds created by notaries not only serve as written evidence of an agreement but also provide legal certainty for the parties involved in the transaction (Setiawan et al., 2021). In an increasingly complex society, where business transactions and legal agreements are becoming more varied, the presence of notaries is crucial. Notaries help prevent future disputes by ensuring that all parties understand the content and consequences of the documents they sign, as well as guaranteeing that the applicable legal procedures have been followed. Thus, notaries make a significant contribution to stability and fairness in society, while also providing a sense of security for individuals and institutions in their transactions (Fadlan, 2022).

In addition, the role of a notary also includes functions as a supervisor and guarantor of the legality of various important documents, including purchase deeds, loan agreements, and deeds of establishment for legal entities. Notaries have the duty to verify the authenticity of the identities of the parties involved and ensure that they are acting freely and without coercion or pressure (Sinaga et al., 2023). This not only protects the interests of individuals but also safeguards the integrity of the legal system as a whole. In situations where legal conflicts may arise, notarial deeds carry significant evidentiary power in court, providing additional protection for the parties involved in transactions (Muza, 2024; Patni & Putro, 2023). Thus, the presence of notaries not only supports legal certainty and security but also serves as a bridge

between society and the legal system, ensuring that individual rights are protected and transactions are conducted fairly and transparently (Hermin & Kn, 2024).

Law enforcement officials, including notaries, can be regarded as defenders of truth and justice who are obligated to perform their duties in good faith and sincerity. Due to its noble and honorable nature, the legal profession, including the position of notary, should be viewed as both a choice and a calling to serve society in the field of law. Notaries are also referred to as *officium nobile* because of their closeness to humanitarian values. In this regard, the role of a notary is not merely to perform administrative tasks, but also to act as agents of justice committed to protecting individual rights and ensuring fairness in legal transactions (Suwasta et al., 2024).

Since the invention of writing around 5,000 years ago, society has needed individuals capable of drafting written documents, both for literary purposes and to clearly and reliably express legal actions. This function is the origin of the notarial profession. Over time and across different places, the profession of notary has evolved to meet the needs of society, seeking reliable and trustworthy figures. The signature and seal of a notary not only provide legal assurance but also serve as strong and legitimate evidence. Notaries act as neutral experts, offering legal advice with integrity, and have an obligation to maintain the confidentiality of the information obtained during the performance of their duties (Supriadi, 2023).

As part of the *officium nobile* profession, notaries are bound by the provisions of Law No. 30 of 2004 on Notary Positions and Law No. 2 of 2014, which amends that law. The Notary Public Law serves as the legal basis that references the validity and execution of notarial duties. Additionally, the code of ethics for notaries establishes the moral norms that must be adhered to in carrying out their authority, while the oath of office serves as a source of inspiration for notaries to perform their duties responsibly. With the presence of related regulations, such as those from the Ministry of Law and Human Rights, notaries are expected to carry out their functions effectively, maintain public trust, and contribute to the development of a fair and transparent legal system (Budiono, 2014).

The authority of notaries is regulated by Law No. 30 of 2004 on Notary Positions, as well as government regulations and other related rules (Nurlaela, 2020). The Notary Public Law outlines various powers held by notaries in carrying out their duties, including the creation of authentic deeds, document storage, and providing legal advice (Ghansham Anand & Kn, 2018). This authority includes the drafting of deeds related to agreements, sales and purchases, grants, as well as the establishment of legal entities and other important documents. In this context, notaries act as public officials who guarantee the validity and legality of the documents prepared, providing legal certainty for the parties involved. Furthermore, the authority of notaries is also governed by a code of ethics that requires notaries to act professionally, objectively, and neutrally in all legal transactions executed.

The time limits for notarial authority are regulated by the Notary Public Law and other related regulations (HS & Sh, 2021). Although there are no explicit provisions regarding deadlines for notaries to perform certain tasks, there are regulations concerning the validity of deeds and the deadlines for the completion of deeds (Yakhedian, 2023). For example, a deed signed by a notary will remain valid indefinitely; however, there are specific time limits for the ratification or registration of the relevant documents. If not completed within the stipulated time, the document may lose the desired legal effect. The legal implications of these time limits are that if notaries do not register or take other legal actions within the designated timeframe, this may result in the invalidity of the document or lead to disputes in the future.

Despite the clearly regulated authority of notaries, they often face various challenges related to the time limits of their powers. One major issue is the lack of understanding and compliance from the parties involved in legal transactions, who often disregard the deadlines set for the ratification or registration of deeds. This can lead to legal uncertainty and future disputes. Additionally, notaries frequently encounter pressure from certain parties to perform their duties hastily, which can compromise their integrity and independence as legal officials. Cases that demonstrate the need for reform in legal protections for notaries often involve legal disputes where the deeds created are not recognized or are canceled due to delays in administrative processing.

RESEARCH METHOD

The normative legal research method is an approach that emphasizes the analysis of written legal norms and regulatory documents (Jonaedi Efendi et al., 2018). In this research, the researcher will examine relevant legislation, such as the Law on Notary Positions, as well as implementing regulations that support the exercise of notarial authority. This approach aims to understand and evaluate how effectively existing legal norms govern the powers and deadlines of notaries, as well as to identify shortcomings or legal gaps that may need to be addressed. Through the analysis of these norms, the researcher can explore the legal foundations underpinning notarial practices and their implications for legal protection for notaries and the individuals who utilize their services.

The analytical approach in normative legal research focuses on the deconstruction and understanding of the legal consequences of various existing norms, as well as the relationship between legal norms and actual practices in the field (Jonaedi Efendi & Prasetijo Rijadi, 2022). In this context, the researcher will analyze how the rules established in legislation are applied in everyday life by notaries and the public, as well as the challenges faced in their implementation. This approach involves a critical evaluation of existing legal practices, including analysis of cases that demonstrate discrepancies between norms and reality, as well as the impact on the effectiveness of notaries' duties as guardians of justice and truth.

RESULT AND DISCUSSION

Regulation and Time Limits of Notarial Authority in Law No. 30 of 2004 on Notary Positions

The regulation of notarial authority is crucial in ensuring the validity and public trust in the legal documents produced. Notaries, as public officials empowered to create authentic deeds, are responsible for the integrity and validity of the documents they prepare. With clear regulations regarding notarial authority, the public can obtain the legal certainty necessary for various transactions, whether for sales, agreements, or the establishment of legal entities. Furthermore, such regulations help prevent the abuse of power, as notaries are required to act professionally and objectively in every deed they create. Thus, the regulation of notarial authority serves as a solid legal foundation to maintain the credibility and legitimacy of the legal actions taken by individuals and legal entities. In addition, the regulation of notarial authority contributes to the protection of the rights of the parties involved in an agreement or legal transaction. In this regard, notaries not only function as document preparers but also as mediators who can provide a clear understanding of the content and consequences of the agreements. With regulations governing the limitations of notarial authority, the public is expected to protect themselves from potential disputes in the future. Moreover, good regulation

also allows notaries to act in good faith, enabling them to perform their duties more efficiently and effectively.

According to Article 1 Paragraph (3) of the 1945 Constitution, legal protection is a constitutional mandate reflecting the existence of the law itself. Legal protection is essential to uphold the rule of law, justice, and peace in society. Satjipto Rahardjo explains that the purpose of legal protection is to safeguard individual interests by providing the allocation of human rights that allows individuals to act in accordance with those interests. In the context of notaries, legal protection is divided into two forms: preventive and repressive. Preventive legal measures for notaries are already facilitated by the state through the Law on Notary Positions, which serves as a reference for notaries in carrying out their duties. Meanwhile, repressive measures include litigation and non-litigation processes, such as consultations, negotiations, mediation, conciliation, or expert assessments.

Notaries in Indonesia are bound within a legitimate organization recognized by the government, namely the Indonesian Notary Association (INI). INI is responsible for providing protection, including legal protection, to notaries in accordance with Article 6 of the INI Bylaws. Although the legal products produced by notaries in the form of authentic deeds only reflect the will of the parties, in practice, notaries often become entangled in legal issues, including accusations of document forgery. To address this, there is a legal protection mechanism regulated in Article 66 of the Notary Public Law, which includes preliminary examinations by the Notary Honorary Council (MKN). MKN is an institution designated to provide approval before a notary is summoned and examined by investigators. If MKN agrees, the notary has the right to keep the contents of the deeds confidential, meaning the contents cannot automatically be disclosed in judicial processes unless they become evidence in disputes requested by the parties involved.

As public officials, notaries bear a significant moral responsibility to account for their professionalism and conduct to the state. In this context, the Law and Human Rights Regulation No. 9 of 2017 governs the application of the principle of recognizing service users for notaries. Notaries are required to comply with and apply this principle as part of efforts to prevent and combat money laundering, while also protecting themselves from involvement in suspicious transactions. This protection is reinforced by Government Regulation No. 57/2003, which guarantees safety for reporters or witnesses, including notaries, from various forms of threats. Therefore, it is important for notaries to apply this principle and report suspicious financial transactions (TKM) through the GoAML application. However, this reporting mechanism has the potential to create contradictions with the notary's obligation to keep the contents of deeds and related information confidential. Although this may seem contradictory, it is considered non-violating because it relates to the interests of the parties involved and provides protection for notaries to ensure their duties are free from abuse by users seeking to conduct legal transactions.

The Law on Notary Positions (UUJN) provides a clear legal basis regarding the authority held by notaries in carrying out their duties and functions. One of the primary authorities granted to notaries is the creation of authentic deeds. An authentic deed is a legal document created by a notary in the presence of the interested parties and witnessed by witnesses. The existence of this deed provides legal certainty and guarantees the validity of the contents of the agreements or legal actions recorded in the deed. As a document with strong legal force, an authentic deed can be used as perfect evidence in legal proceedings, thereby minimizing the potential for disputes in the future.

In addition to the creation of authentic deeds, notaries also have the authority to store important documents. Notaries are responsible for safeguarding and securing documents related to the deeds they have created. This storage not only includes authentic deeds but also other supporting documents relevant to the agreements made. This authority is particularly important to protect the interests of the parties from the risks of loss or damage to documents, which could negatively impact legal certainty and the rights held by each party. By securely storing documents, notaries play a role as guardians of public trust in the integrity and professionalism of their duties.

Legal counseling is also one of the authorities inherent to the role of notaries. In their capacity as legal advisors, notaries are expected to provide clear and accurate understanding regarding the contents of the agreements or documents to be signed by the parties. This authority is essential to ensure that all involved parties understand the legal consequences of their actions, so no party is disadvantaged. Through effective legal counseling, notaries can help reduce the risk of future disputes and increase compliance with applicable legal provisions.

Notaries also have the authority to sign and validate agreements between parties. This act reflects that notaries do not merely serve as witnesses to the agreement, but also as parties who provide acknowledgment and validity to the agreements made. By signing and validating documents, notaries guarantee that the process of creating deeds conforms to the relevant legal provisions. This authority is crucial as it grants legal strength to the agreements reached by the parties and provides legal protection for the rights stated in the deed.

The time limits for notarial authority are regulated in the Law on Notary Positions (UUJN) to provide legal certainty and effectiveness in the performance of their duties. One important provision related to time is concerning the creation and validation of deeds. Notaries are required to complete the deed promptly after all involved parties have signed the document. This provision aims to ensure that the resulting deed accurately reflects the will of the parties and can be relied upon as legal evidence. In practice, the process of creating deeds must be carried out efficiently while still adhering to all legally established procedures. Delays in the creation of deeds can result in legal uncertainty for the parties, which in turn may lead to disputes in the future.

Additionally, time limits are also related to the validation of other important documents that may not always be in the form of authentic deeds. For example, in some cases, notaries must validate copies of documents related to specific agreements or transactions. The UUJN regulates that notaries must review and verify the authenticity of the documents before providing validation. The time required for this validation depends on the complexity of the documents and the availability of necessary information for verification. In this regard, notaries are responsible for ensuring that the validation process is conducted within a reasonable timeframe to avoid causing harm to the parties needing the documents.

Legal Vacuums Faced by Notaries Regarding Time Limits of Authority and Legal Protection Reforms for Notaries

Legal vacuums concerning the authority of notaries refer to situations where existing regulations do not clearly or completely outline the authority and time limits held by notaries in carrying out their duties, creating legal uncertainty for notaries and the parties utilizing their services. This often occurs when there are gaps in laws or provisions, such as the Law on Notary Positions (UUJN), which do not accommodate the various situations or complexities that notaries may face in daily practice. These legal vacuums can lead to difficulties in

determining the responsibilities and authorities of notaries and potentially result in disputes or legal conflicts, both between notaries and other parties, as well as among the parties involved in agreements facilitated by notaries. Given this legal vacuum, notaries may lack a strong legal basis to protect themselves from legal risks, while at the same time, the parties transacting through notarial deeds also face uncertainty regarding the validity and legal protection they should receive.

The existing legal protection for notaries, recognized as *officium nobile*, still has deficiencies and gaps that require serious attention from the state. Although this legal protection binds notaries while they are still in office, there are clear age and tenure limits, where notaries will be honorably dismissed at the age of 65, with a possible extension of two years based on health considerations. However, the end of a notary's term does not automatically eliminate their legal responsibilities related to the deeds they have created. This creates a contradiction, as every authority held by public officials should have clear boundaries and a strong legal foundation. If a public official performs actions beyond their authority, such actions can be considered a violation of the law. In this context, notaries who have entered retirement, are on leave, or have been dismissed cannot be held accountable, as their authority has ended.

Furthermore, it is essential to distinguish between personal errors and errors related to the notarial position. Personal errors can be addressed through mechanisms similar to those for the general public, but mistakes occurring within the context of the notarial position require specific legal mechanisms, even after their term has concluded. This distinction is critical to ensure there is preventive legal protection for notaries, even if they are no longer in official positions. Another legal protection gap that the state must consider is related to legitimate evidence showing that a notary has performed their duties up to the designated time, specifically regarding Appointment Letters. Upon appointment, notaries receive an Appointment Letter, indicating that all actions specified in that letter are accountable before the law. However, when notaries retire or complete their term, they do not receive a Termination Letter. This results in ambiguity regarding their status and responsibilities, where, although retirement or pension rights cannot be enjoyed, the responsibilities for the deeds they have created continue to attach to them.

The legal vacuum faced by notaries can have severe implications for the profession, both in terms of public trust and profession integrity. First, this legal vacuum creates uncertainty that may lead to public doubt regarding the validity of deeds made by notaries. When there is ambiguity about notaries' legal responsibilities after they retire or are dismissed, the public may question the validity and legal strength of the deeds signed by such notaries. This not only affects public perception but can also influence business and investment decisions involving notarial documents. If the public lacks confidence in notaries' professional conduct, trust in the legal institution as a whole will be undermined.

Moreover, legal vacuums can result in situations where notaries may face unjust legal consequences. For instance, in some cases, notaries could be accused of involvement in forgery or other illegal acts, even though they have endeavored to perform their duties well. The ambiguity over their responsibilities after their term ends makes notaries vulnerable to legal claims that should not apply. Real cases reflecting the impact of this legal vacuum include situations where notaries are forced to face litigation due to legal ambiguities surrounding the deeds they signed, despite their actions having been carried out in good faith. In this context,

it is seen that the legal vacuum not only harms the notaries themselves but also the parties relying on the legal documents prepared by them.

Although the Law on Notary Positions (UUJN) and related regulations provide a legal framework for notaries' authority and responsibilities, these regulations still have significant limitations. The UUJN governs various aspects of notarial authority, including the creation of authentic deeds, document storage, and legal counseling. However, some provisions in the UUJN are considered unclear or insufficient to encompass the different situations that notaries may encounter. For example, the absence of specific provisions addressing what happens to a notary's responsibilities once they are no longer in office creates confusion for both the notaries and the parties involved in legal transactions.

Another limitation arises regarding provisions that regulate legal protection for notaries. While the UUJN provides some forms of protection, such as examinations by the Notary Honorary Council, the existing legal protection mechanisms may not be sufficient to shield notaries from baseless claims or legal violations caused by a lack of information or mistakes not attributable to them. This highlights the need for revisions and improvements to the existing regulations to create clearer and more comprehensive legal guarantees for notaries, thus enhancing public trust in this profession. With better regulations in place, notaries can perform their tasks with greater assurance and security, thereby safeguarding the integrity and credibility of the notarial profession.

Reforms in legal protection for notaries are urgently needed to ensure that this profession can operate efficiently and assuredly. Adequate legal protection will provide clarity regarding notaries' responsibilities and authority, as well as prevent various legal risks they might face after their terms have concluded. In this context, the existing legal vacuums can create doubt and uncertainty that, in turn, affect public trust in the deeds made by notaries. Reform is crucial to address these issues and restore public confidence in notaries as integral public officials.

The urgency for reform lies not only in the need for legal clarity but also in strengthening existing legal protection mechanisms. Currently, many provisions in the Law on Notary Positions (UUJN) do not adequately emphasize protection for notaries after they retire or are dismissed. This could lead to difficulties for notaries in accounting for actions taken while still in office. Regulatory reform is essential to resolve these uncertainties and provide legal certainty for notaries and the parties using their services.

To address the legal vacuums related to the time limits of notarial authority, several concrete reform steps need to be proposed. First, there should be the establishment of clear legal provisions regarding notaries' responsibilities after their terms end. These provisions must explicitly state that although a notary has retired, they remain responsible for the deeds created during their term, but with clear limitations regarding the nature of that responsibility. For example, there should be a mechanism to transfer legal responsibility to an oversight body or organization after notaries retire. This would clarify the boundaries of their responsibility post-retirement.

Additionally, to strengthen legal protection for notaries, a review of existing mechanisms, particularly concerning reporting and examination by the Notary Honorary Council (MKN), is necessary. MKN should be granted greater authority to protect notaries from unfair legal actions and provide legal assistance when notaries face legal issues. Reform should also include the provision of ongoing training and education for notaries regarding regulations and professional ethics, ensuring they are better prepared to face potential legal challenges. Other concrete recommendations include the creation of a digital platform that can

assist notaries in managing documents and deeds, including features for recording and accessing appointment and termination letters more easily. This would minimize the risk of legal evidence vacuums that have been problematic thus far. With comprehensive reforms and innovative solutions, it is expected that legal protection for notaries can be enhanced, subsequently supporting the integrity and public trust in this profession.

CONCLUSION

Legal protection for notaries and the legal vacuums they face indicate that although notaries play the role of public officials with significant responsibilities in the creation of authentic deeds, there are still gaps in regulations that can threaten their integrity and public trust. The Law on Notary Positions (UUJN) provides an important legal foundation; however, the existing protection mechanisms are still inadequate, especially for notaries who have retired or been dismissed. The legal vacuum concerning post-term responsibilities and the ambiguity regarding authority limits after their tenure are crucial issues that need to be addressed promptly to prevent negative impacts on the notarial profession and public confidence.

Therefore, reform in legal protection for notaries is an urgent step that needs to be taken. Proposed reforms include establishing clearer provisions regarding the responsibilities of notaries after their term, strengthening protection mechanisms through the Notary Honorary Council, and enhancing education and training for notaries. With these measures, it is hoped that a more comprehensive and effective legal framework will be created, which not only protects notaries as individuals but also reinforces the position of the notarial profession in the eyes of the public. The existence of a good legal protection system will contribute to the establishment of justice and legal certainty, as well as support the role of notaries as an *officium nobile* who are respected and trusted.

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