

Regulatory Model for the Cancellation of Authentic Notarial Deeds Based on Principles of Justice



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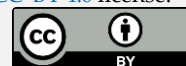
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ABSTRACT

The cancellation of an authentic notarial deed can be carried out by one of the parties or the aggrieved party if the deed contains legal defects, causing it to be downgraded to a private deed. The cancellation must be conducted by filing a lawsuit in the court with jurisdiction over the place where the authentic notarial deed was created. This research aims to analyze the cancellation of authentic notarial deeds from the perspective of civil procedural law, which is not yet based on the principles of justice. It also seeks to identify weaknesses in the current procedures and propose a justice-based reconstruction model for the cancellation of authentic deeds made by notaries. The study uses a socio-legal paradigm with relativism ontology and an empirical juridical approach, employing non-doctrinal legal research methods. Primary data were collected through field research, including interviews and/or questionnaires with competent parties. The findings reveal that the reasons for cancellation include non-fulfillment of objective conditions of agreements, absolute incapacity, lack of authority, contradictions with legal provisions, violations of public order or morality, fulfillment of legal events with void conditions, relative incapacity, defects of will, abuse of circumstances, breach of contract, and non-compliance with formal agreement requirements. The study suggests establishing a legal harmonization institution and including judicial decisions in the legislative hierarchy, as well as reconstructing the National Land Agency's service system for better deed management.



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1. Introduction

The responsibilities of a Notary's authority have traditionally been confined to the domain of private law. One aspect of law governs interpersonal relationships within society through specific legal frameworks. Civil law, also known as private law, is exemplified by transactions involving the sale and purchase of property or automobiles.¹ Civil law can be categorized into the following branches, family law, property law, contract law, and inheritance law. In this study, it is essential to delineate the responsibilities of a Notary's authority to avoid biased interpretations

¹ Harsanto Nursadi Wigati Pujiningrum, Rosa Agustina, 'Civil Disputes Between Government and Individuals: A Comparative Study of Indonesia and French Legal System', *Jurnal Hukum UNISSULA*, 40.2 (2024), 110–33 <https://doi.org/http://dx.doi.org/10.26532/jh.v40i2.39388>

within the private (civil) law domain. A Notary is a Public Official authorized to create Authentic Deeds for acts, agreements, and provisions as mandated by law or requested by the interested party.²

The Notary ensures the accuracy of the deed's date, retains the deed, and provides certified copies and excerpts, provided that the creation of such deeds is not delegated to or excluded from other officials or individuals as specified by law. This authority is governed by Article 1 in conjunction with Article 15 of Law No. 2 of 2014, which amends Law No. 30 of 2004. The execution of a Notary's responsibilities and powers often reveals that the realization of justice remains significantly distant from its ideal essence.³ The objective of an optimal legal policy concerning notaries, as public officials empowered to execute authentic deeds, is to ensure that inconsistencies between actions and their intended purposes do not hinder the pursuit of justice, thereby safeguarding the notary profession. Researchers aim to investigate and critique the deviations from the ideal concept of justice to derive equitable solutions and remedies.⁴

Article 1868 of the Civil Code ("KUHPerdata") serves as the legal foundation for Notaries to create authentic deeds and grants them statutory authority. According to Article 1868 of the Civil Code, an authentic deed is defined as a document executed in the legally prescribed form by or in the presence of a public official authorized for that purpose at the place of execution.⁵ Authentic deeds must fulfill the requirements outlined in Article 1868 of the Civil Code and are inherently cumulative, necessitating the inclusion of all essential elements. Deeds executed that do not comply with the stipulations of Article 1868, even if signed by the parties involved, cannot be considered authentic deeds and are deemed to hold the validity of private writings only, as stipulated in Article 1869 of the Civil Code.⁶

The authority of a Notary to create authentic deeds is governed by Law No. 2 of 2014 concerning Notary Positions (UUJN), which amends Law No. 30 of 2004.

² Md Hasnath Kabir Fahim Wiwik Sri Widiarty, 'Institutional Roles and Mechanisms in Upholding Legal Protection Under Consumer Protection Law in the Era of Globalization', *Jurnal Hukum UNISSULA*, 40.2 (2024), 134–52 <https://doi.org/http://dx.doi.org/10.26532/jh.v40i2.40717>

³ Prawitra Thalib and others, 'Hisbah (Supervision) Application in Determining of Standardize Standard Akad Modes on Islamic Financial Institution in Indonesia', *131.Iclgg 2017 (2018)*, 220–27 <https://doi.org/10.2991/iclgg-17.2018.31>

⁴ Victor Shcherbyna, 'Transparent and Predictable Labour Conditions in European Union: Legal and Comparative Study', *Jurnal Hukum Unisula*, 39.2 (2023), 307–25 <https://doi.org/http://dx.doi.org/10.26532/jh.v39i2.32573>

⁵ Mujib Medio Annas and others, 'Sanctions for Notaries for Breach of Position and Code of Ethics Conduct in the Exercise of the Authority', *Proceedings of the Second International Conference on Public Policy, Social Computing and Development (ICOPOSDEV 2021)*, 642.2 (2022), 45–50 <https://doi.org/10.2991/assehr.k.220204.008>

⁶ Zheng Xiao and others, 'The Impact of State-Owned Capital on Labor Cost Stickiness in Private Firms: Evidence from China', *Economic Modelling*, 141 (2024), 106906 <https://doi.org/https://doi.org/10.1016/j.econmod.2024.106906>

Article 1, number 1 of the UUJN defines a Notary as a public official authorized to produce authentic deeds and endowed with additional authorities as stipulated in this law or other applicable legislation. The phrase "in the location where the act is executed" in Article 1868 of the Civil Code refers to the Notary's domicile, indicating that the Notary resides within the district or municipal jurisdiction (Article 18 paragraph (1) UUJN).⁷ The jurisdiction of the Notary's office covers the entire province where the Notary resides (Article 18 paragraph (2) UUJN). Article 1871 of the Civil Code stipulates that an authentic deed does not provide conclusive proof of its contents as mere assertions unless those assertions are directly related to the principal subject matter of the deed. An authentic deed exclusively serves as conclusive evidence of a direct relationship agreement pertinent to the principal contents of the deed as consented to by the parties. Apart from the primary provisions agreed upon, the contents of the authentic deed do not provide conclusive evidence for the parties involved in the agreement who utilize the authentic deed.⁸

Article 15 paragraph (1) of the UUJN outlines the authority of a Notary, stating that a Notary has the capacity to create authentic deeds regarding all acts, agreements, and determinations mandated by statutory regulations or requested by the interested party to be documented in an authentic deed. This authority includes ensuring the certainty of the deed's date, safeguarding the deed, and providing a gross copy and extract of the deed, provided that the creation of the deed has not been delegated to or excluded from another official or individual as prescribed by law.⁹ A Notarial Deed, as defined in Article 1, number 7 of the UUJN, is a genuine document executed by or in the presence of a Notary in accordance with the form and procedures established by this law. According to the Great Dictionary of the Indonesian Language, a deed is a document that serves as proof, containing a statement (such as information, confession, or decision) about a legal occurrence, created in accordance with applicable regulations and endorsed by an official witness. In this context, the role, responsibilities, and powers of a Notary

⁷ Yukun Zheng and others, *A Cross-Chain Scheme Combining Notary with Linkable Ring Signature and Hash Time Lock Contract* (Atlantis Press International BV, 2024) https://doi.org/10.2991/978-94-6463-419-8_28

⁸ Fang Wang, Xinci Chen, and Guochao Yang, 'Fiscal Expenditure Responsibilities of Public-Private Partnerships and Corporate Innovation Investment—Evidence from Prefecture-Level Cities in China', *China Journal of Accounting Research*, 2025, 100416 <https://doi.org/https://doi.org/10.1016/j.cjar.2025.100416>

⁹ R. Rahaditya and Eka Aprilia, 'The Notary's Responsibility for Unlawful Acts of Counterfeiting the Selling Power of Attorney in the Sale and Purchase Deed (Case Study of Tangerang District Court Decision Number 1443/Pid.B/2018/PN.Tng)', *Proceedings of the 3rd Tarumanagara International Conference on the Applications of Social Sciences and Humanities (TICASH 2021)*, 655.Ticash 2021 (2022), 341–47 <https://doi.org/10.2991/assehr.k.220404.053>

are clearly delineated, granting the Notary the authority to execute an authentic deed within his or her capacity.¹⁰

The legal grounds for the annulment and revocation of a notarial deed, apart from those specified in the UUJN, generally align with the legal grounds for terminating a contract. Instances of notarial deeds subject to annulment for legal reasons include Supreme Court Decision No. 3480.K/Pdt/2019 and Supreme Court Decision No. 3703.K/Pdt/2016, with detailed explanations provided in Chapters III and IV. Deficiencies in a notarial deed may result in its annulment, rendering the legal act unlawful or devoid of legal effect. According to the description above, the annulment of an authentic notarial deed cannot be performed by the parties through a cancellation lawsuit or by the court itself, as long as the authentic notarial deed does not contain elements of unlawful acts or formal defects, in accordance with Article 38 of Law No. 2 of 2014, which amends Law No. 30 of 2004.¹¹

A party to an agreement defaults on its obligations as outlined in the authentic deed, the aggrieved party does not seek the annulment of the authentic notarial deed. Instead, it initiates a lawsuit for damages against the defaulting party that has caused losses to the other party. Article 1265 of the Civil Code defines a void condition as one that, if fulfilled, nullifies the obligation and restores all parties to their previous positions as if the obligation had never existed. This condition does not delay the obligation; it merely requires the creditor to refund what was received if the specified event occurs. Article 1265 of the Civil Code mandates that if an agreement is annulled by a court decision with final legal authority, the parties shall return to their original positions as though no obligation had existed. The annulment of an agreement requires the creditor to return all that was obtained from the debtor during the term of the agreement.¹²

Furthermore, Article 1266 of the Civil Code states that the condition for cancellation is considered inherently included in a reciprocal agreement if one party fails to fulfill its obligations. In such cases, the agreement is not legally void on its own; the court must issue a cancellation order. Even if the agreement includes a cancellation clause related to non-performance, the cancellation must still be pursued through the court. In the absence of a cancellation clause, the judge

¹⁰ Dong Peng and others, 'Exploring the Role of Governance in Determining Public-Private Investment in Energy: New Empirical Insights from ASEAN', *Socio-Economic Planning Sciences*, 96 (2024), 102096 <https://doi.org/https://doi.org/10.1016/j.seps.2024.102096>

¹¹ Ndakhona Bashingi and others, 'Challenges and Opportunities for Private-to-Public Transportation Modal Shift and Integrated Multimodal Passenger Transportation Systems in Gaborone', *Transportation Research Procedia*, 82 (2025), 1858–77 <https://doi.org/https://doi.org/10.1016/j.trpro.2024.12.160>

¹² Jehanzeb Rashid Cheema, Shariq Siddiqui, and Afshan Paarlberg, 'Investigating Private and Public School Performance Gap: A Case Study in Turkey', *International Journal of Educational Development*, 113 (2025), 103205 <https://doi.org/https://doi.org/10.1016/j.ijedudev.2025.103205>

may grant a period not exceeding one month to fulfill the obligation upon the defendant's request, considering the circumstances. According to Article 1266 of the Civil Code, regardless of the inclusion of a cancellation clause, the annulment of the agreement must be sought through a formal complaint filed with the court. Article 1267 of the Civil Code stipulates, "The party to whom the obligation is not fulfilled may elect to compel the other party to perform the agreement, with compensation for costs, damages, and interest." The injured party may request one of two remedies from the judge in their lawsuit against the defaulting party or the party that unilaterally terminates the agreement: enforcement of the agreement or cancellation accompanied by compensation for the injured party.¹³

An authentic notarial deed may be annulled if it fails to meet the subjective and objective criteria for agreements as specified in Article 1320 of the Civil Code. This article outlines four essential requirements for a valid agreement: (1) mutual consent of the parties involved, (2) legal capacity to contract, (3) a specific subject matter (object of the agreement), and (4) a lawful cause. Subekti categorizes the first two requirements as subjective since they relate to the parties themselves; failure to meet these requirements grants one party the right to seek annulment (voidable). Conversely, the third and fourth requirements are considered objective, relating to the object of the legal act; failure to comply with these objective requirements renders the agreement null and void.¹⁴

The fourth criterion for a lawful cause requires that the content or basis of the agreement be legal and not derived from an illegal or fraudulent cause, thereby not violating the law, public order, or morals, as outlined in Articles 1335 to 1337 of the Civil Code. Secondly, the capacity to act legally, as required for the validity of an agreement under Article 1320 of the Civil Code, is assessed in terms of maturity or relative competence. Incompetence can be classified into two categories: absolute incompetence, which arises from circumstances or factual conditions (e.g., a mentally ill person or a director engaging in ultra vires acts), and relative incompetence, which is determined by legal standards (e.g., a minor or a director acting without the required consent as per the articles of association).¹⁵

Thirdly, factual inability (onmachtig) to perform legal acts may arise when individuals, though not formally placed under guardianship, experience mental disorders, are under hypnosis, or are affected by narcotics, rendering them

¹³ Lukas Mergele, Moritz Hennicke, and Moritz Lubczyk, 'The Big Sell: Privatizing East Germany's Economy', *Journal of Public Economics*, 242 (2025), 105291 <https://doi.org/https://doi.org/10.1016/j.jpube.2024.105291>

¹⁴ Baiyang Xiao, 'Making the Private Public: Regulating Content Moderation under Chinese Law', *Computer Law & Security Review*, 51 (2023), 105893 <https://doi.org/https://doi.org/10.1016/j.clsr.2023.105893>

¹⁵ Edoardo D Martino, 'Monetary Sovereignty in the Digital Era. The Law & Macroeconomics of Digital Private Money', *Computer Law & Security Review*, 52 (2024), 105909 <https://doi.org/https://doi.org/10.1016/j.clsr.2023.105909>

incapable of forming their own volition. Such factual incompetence results in the deed being void from the outset. In contrast, relative incompetence makes the deed subject to cancellation or ratification by a legal representative.¹⁶

Fourthly, incapacity to act is distinguished from incapacity under guardianship. The law differentiates between incapacity to act (*handelingsonbekwaamheid*) and incapacity to act under guardianship (*handelingsonbevoegdheid*). A person may have the capacity to perform legal acts in general but lack the authority to carry out specific legal acts. Such incapacity must be governed by binding legal provisions without deviation. If an individual legally deemed incompetent to perform specific legal acts proceeds to do so, the resulting deeds are considered null and void by law. The incapacity to perform specific legal actions is regulated by various provisions, including Articles 907, 1468, 1469, 1470, and 1471 of the Civil Code.¹⁷

The Supreme Court Decision No. 3148 K/PDT/1988, issued on June 21, 1989, invalidated the following notarial deeds: numbers 422 and 423, dated December 29, 1983; number 173, dated March 15, 1985; and number 151, dated August 15, 1984. This decision has legal implications for the Notary, the parties involved in the legal act, and other affected individuals. Normative legal research indicates that a notarial deed, despite fulfilling the formal requirements to qualify as an authentic deed under the Notary Law (UUJN), may be annulled in specific circumstances, particularly when the State decides to revoke it, as the State represents the supreme authority and can enforce its will. This analysis investigates the conditions under which an authentic deed may be declared null and void by law and examines the legal consequences for third parties, as established by the Supreme Court of Indonesia in decision number 3148 K/PDT/1988.

An authentic deed, executed by and in the presence of a Notary Public, must possess absolute evidentiary strength to compel the judge when presented as evidence in court. Consequently, a notary must adhere to the requirements of the UUJN and other relevant laws when carrying out their duties. The contents of the Notarial Deed must comply with the applicable legal regulations. In particular, the notarial deeds numbered 422 and 423, dated December 29, 1983, must adhere to the Civil Code's provisions regarding the validity of agreements, powers of attorney, sales and purchases, and the Limited Liability Company Law No. 1 of 1995. Any violation of these requirements renders the notarial deeds null and void, along with the resulting legal acts, and holds no legal effect for third parties. The decision

¹⁶ Joan Clay and Elvis C Stephens, 'Union Organizers' Access to Hotels' Private Property', *The Cornell Hotel and Restaurant Administration Quarterly*, 36.2 (1995), 4–28 [https://doi.org/https://doi.org/10.1016/0010-8804\(95\)93840-Q](https://doi.org/https://doi.org/10.1016/0010-8804(95)93840-Q)

¹⁷ Rachna Gangwar and G Raghuram, 'Framework for Structuring Public Private Partnerships in Railways', *Case Studies on Transport Policy*, 3.3 (2015), 295–303 <https://doi.org/https://doi.org/10.1016/j.cstp.2014.08.005>

reinforced land rights (HAT) by declaring the notarial deed null and void to protect third-party interests.¹⁸

In a related case, the Jakarta District Court's Decision No. 384/Pdt.G/2010/Pn. Jaksel annulled an authentic notarial deed concerning a debt recognition agreement. Although the deed satisfied the formal requirements set forth in Article 38 of the Notary Law and met the validity criteria for agreements under Article 1320 of the Civil Code, the panel of judges noted that the defendant had exploited the circumstances during the creation of the deed. However, the plaintiff failed to substantiate the defendant's alleged abuse. Consequently, the claim of unlawful conduct in the authentic notarial deed related to the acknowledgment of debt was not proven, as the deed was executed based on the plaintiff's voluntary consent, with no violations of formal or material legal requirements. Despite this, the South Jakarta District Court nullified the debt acknowledgment executed through the notarial deed. The researcher contends that notarial deeds should carry stronger binding authority and not be easily annulled, given that the Notary, as an official representative of the State, facilitates public agreements under the State's authority as stipulated in Article 1868 of the Civil Code.¹⁹

In Supreme Court Decision No. 3703.K/PDT/2016, the court addressed the annulment of a Sale and Purchase Agreement (PPJB) executed by an authentic notarial deed. The landowner, EK, initiated legal action to annul the PPJB in response to a third-party lawsuit concerning the PPJB object. The Jayapura District Court determined that EK's complaint lacked a sound legal basis, as a third-party claim does not constitute valid grounds for the annulment of a PPJB under the law. Both the Jayapura District Court and the Supreme Court dismissed EK's claim, stating that the third party's challenge to the PPJB object did not justify its cancellation.²⁰

The annulment of an authentic notarial deed due to legal defects, rendering the deed comparable to a private document, must be pursued through a lawsuit filed in the court with jurisdiction over the deed's place of execution. The relevant jurisdiction is that of the district or city where the Notary resides or maintains an office. The lawsuit must comply with Indonesian civil procedure law, as regulated

¹⁸ Jongsay Yong and others, 'Ownership, Quality and Prices of Nursing Homes in Australia: Why Greater Private Sector Participation Did Not Improve Performance', *Health Policy*, 125.11 (2021), 1475–81 <https://doi.org/https://doi.org/10.1016/j.healthpol.2021.09.005>

¹⁹ Kate Dawson and others, 'Working with Private Hospital Midwives in Victoria, Australia to Identify Practice Change Priorities: Outcomes of a Delphi Study', *Midwifery*, 124 (2023), 103767 <https://doi.org/https://doi.org/10.1016/j.midw.2023.103767>

²⁰ Hana Sabanovic and others, "'It's Not a One Operation Fits All": A Qualitative Study Exploring Fee Setting and Participation in Price Transparency Initiatives amongst Medical Specialists in the Australian Private Healthcare Sector', *Social Science & Medicine*, 339 (2023), 116353 <https://doi.org/https://doi.org/10.1016/j.socscimed.2023.116353>

by the Rechtsreglement Voor De Buitengewesten (RBg) for areas outside Java and Madura, and the HIR for Java and Madura.²¹

In the Netherlands, the cancellation of an authentic notarial deed is regulated by the Burgerlijk Wetboek (BW) or the Dutch Civil Code. The cancellation of an authentic deed can be carried out through a court process if there is evidence of errors, fraud, or other legal defects. The cancellation process begins with a lawsuit filed by the party who feels disadvantaged by the existence of the authentic deed. The court will examine the evidence presented by the parties involved to ensure that the cancellation request is based on solid legal grounds. Furthermore, the court will consider whether there is any indication of abuse of authority or errors in the preparation of the deed by the notary. If the court finds that the authentic deed was created in a manner inconsistent with legal provisions or contains fraudulent elements, the deed may be annulled. The court's decision to cancel the deed is final and binding on all related parties. Consequently, a canceled deed no longer has the evidentiary strength typically associated with an authentic deed.²²

The procedure for canceling an authentic notarial deed in the Netherlands has several advantages. First, the process is conducted clearly and transparently, allowing the parties involved to understand the stages and requirements for deed cancellation. This clarity is essential to ensure that no party is disadvantaged without a clear legal basis. Second, the court plays a central role in evaluating the evidence and deciding on the cancellation. This direct oversight by the judiciary guarantees the validity of the cancellation decision, as it undergoes verification and objective consideration. This also provides legal protection for the party harmed by the existence of an authentic deed that is legally flawed. With strict regulations and a strong role for the judiciary, the cancellation of an authentic notarial deed in the Netherlands is conducted in a fair and accountable manner.²³

Numerous researchers have performed research on the annulment of valid notarial deeds, highlighting diverse legal, theoretical, and practical dimensions. Previous studies have generally examined the legitimacy of notarial deeds, the authority of notaries, and the legal ramifications of deed cancellations. Nonetheless, research specifically addressing the statutory framework for the annulment of genuine notarial deeds grounded in principles of justice is few. A significant study by Yerushalmi, et al investigated the legislative framework regulating the annulment of notarial deeds in Indonesia. The study revealed that

²¹ Malcolm Abbott, 'Privately-Owned Utilities in 19th Century Western Australia', *Utilities Policy*, 84 (2023), 101618 <https://doi.org/https://doi.org/10.1016/j.jup.2023.101618>

²² Giulia Faggio, Teresa Schlüter, and Philipp vom Berge, 'Interaction of Public and Private Employment: Evidence from a German Government Move', *Regional Science and Urban Economics*, 111 (2025), 104084 <https://doi.org/https://doi.org/10.1016/j.regsciurbeco.2025.104084>

²³ Eun Hak Lee and Ho-Chul Park, 'Publicness in Highway Projects: A Multi-Criteria Decision-Making Approach to Public-Private Partnerships', *Socio-Economic Planning Sciences*, 98 (2025), 102154 <https://doi.org/https://doi.org/10.1016/j.seps.2025.102154>

although Indonesian rules offer methods for deed cancellation, they frequently lack explicit instructions for the application of justice principles, resulting in variations in judicial rulings.²⁴ Junaid Tahir conducted a notable study on the difficulties encountered by notaries when their deeds are invalidated. The study indicated that the lack of defined procedures frequently compromises legal certainty, especially when cancellations impact third parties.²⁵ Additionally, Xiao Baiyang examined the comparative legal frameworks of Indonesia and the Netherlands, highlighting the regulatory disparities in the annulment of notarial deeds. The report emphasized that, in contrast to Indonesia, the Netherlands employs judicial oversight to guarantee that the cancellation procedure complies with principles of fairness and legal justice.²⁶

This disparity underscores the need for a regulatory framework prioritizing equity to reconcile the interests of all stakeholders. Notwithstanding these investigations, a research gap persists regarding a comprehensive regulatory model specifically intended to synchronize the annulment of genuine notarial deeds with principles of justice. This research seeks to address that deficiency by offering a holistic model that incorporates fairness, legal certainty, and procedural clarity. This research aims to investigate the reasons why the annulment of authentic notarial deeds, when viewed through the lens of positive law, does not align with the principles of justice. It also explores how the reconstruction of such cancellations by a Notary can better reflect ideals of justice.

2. Research Method

This research adopts a descriptive-analytical approach, aiming to describe the object of study based on current factual data. The focus of the research is the reconstruction of the cancellation of authentic notarial deeds based on the principles of justice. The data used in this study consist of primary and secondary data. Primary data are obtained through field research, such as interviews and/or questionnaires conducted directly with competent parties.²⁷ Meanwhile, secondary data consist of primary, secondary, and tertiary legal materials that are relevant to the study. The data collection method is tailored to the scope and purpose of the research. Primary data are gathered through field research using guided

²⁴ Erez Yerushalmi and Sani Ziv, 'Internalizing Social Value in Healthcare: Optimal Policy in Mixed Public-Private Systems', *Journal of Policy Modeling*, 2025 <https://doi.org/https://doi.org/10.1016/j.jpolmod.2025.01.007>

²⁵ Junaid Tahir and others, 'A Critical Analysis of Public Private Partnership Model in Energy from Waste Projects', *Sustainable Futures*, 8 (2024), 100240 <https://doi.org/https://doi.org/10.1016/j.sftr.2024.100240>

²⁶ Xiao.

²⁷ Aris Irawan, Julian Ransangan, and Rachel Georghea Sentani, 'Criminal Penalties for Foreigners Engaged in Illegal Fishing Indonesia's ZEE Impact SDGs', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 3.1 (2025), 95–120 <https://doi.org/https://doi.org/10.53955/jsderi.v3i1.42>

interviews.²⁸ These interviews are conducted with relevant stakeholders, including members of the Regional Supervisory Council (MPD) of Notaries in Central Java, the Chairman of the Notary Honorary Council, the Chairman of the Indonesian Notary Association in Central Java, the Secretary of the Indonesian Notary Association, legal experts in notarial law, officials from the Ministry of Law and Human Rights, and judges.²⁹ The interviews are conducted directly, using prepared questions as a guide while allowing flexibility according to the situation. If the data collected from interviews are deemed insufficient, questionnaires are used as a supplementary method, containing written questions that must be answered clearly by respondents. By employing this method, the research is expected to delve deeply into the subject matter and obtain accurate information to support the analysis of the reconstruction of the cancellation of authentic notarial deeds based on justice principles.³⁰

3. Results and Discussion

Regulatory Models for Cancellation of Authentic Notarial Deeds in Indonesia

Every act performed by a Notary is strictly regulated by Law Number 30 of 2004 in conjunction with Law Number 2 of 2014 concerning the Notary Profession (UUJN). As a public official governed by statutory regulations, a Notary must comply with the provisions of the Notary Position Act. To avoid errors in performing notarial duties that may lead to severe legal consequences, both for the Notary and the parties requiring notarial services, it is essential for every Notary to have a comprehensive understanding of the Notary Position Act. The notarial position is one of trust (*vertrouwens ambt*), where individuals entrust matters to the Notary as a person of trust (*vertrouwens persoon*). Notaries are obligated to maintain confidentiality regarding all information disclosed during their professional duties, even if some of it is not stated in the deed.³¹

A notarial deed containing a marriage agreement (prenuptial agreement) must be made in an authentic form and certified by a Notary, as regulated by Article 29 of Law Number 1 of 1974 on Marriage. Such an agreement outlines the separation

²⁸ Paul Atagamen Aidonojie and others, 'Examining Human Rights Abuses on Religious, Cultural, and Political Intolerance in Nigeria', *Journal of Sustainable Development and Regulatory Issues*, 3.1 (2025), 78–94 <https://doi.org/https://doi.org/10.53955/jsderi.v3i1.55>

²⁹ Jelang Ramadhan and Imam Khomeini Hayatullah, 'Zakat and Waqf Synergies to Accelerating Sustainable Development', *Journal of Sustainable Development and Regulatory Issues*, 3.1 (2025), 29–54 <https://doi.org/https://doi.org/10.53955/jsderi.v3i1.56>

³⁰ Orin Gusta Andini and others, 'Indonesia's Safeguarding of Human Rights to Achieve Sustainable Development Goals: Insights from Australia's Experience', *Journal of Sustainable Development and Regulatory Issues*, 3.1 (2025), 1–28 <https://doi.org/https://doi.org/10.53955/jsderi.v3i1.53>

³¹ Agnieszka Kopańska, Roman Osinski, and Bartosz Korbus, 'Private Entities Motivations to Participate in Public-Private Partnerships', *Socio-Economic Planning Sciences*, 92 (2024), 101841 <https://doi.org/https://doi.org/10.1016/j.seps.2024.101841>

of assets, debts, and other marriage-related matters, providing legal certainty and binding power. Similarly, a grant deed (*hibah*) for immovable property must also be made in authentic form according to Article 1682 of the Civil Code. This ensures legal certainty, as an invalid grant deed lacks legal force. The authentic deed guarantees that the grant process follows applicable legal procedures and serves as valid evidence in court if disputes arise. Moreover, the protection of Notaries is regulated in the Indonesian Criminal Code (KUHP), particularly in Articles 50 and 51(1). These provisions highlight the comparative law theory regarding the Notary's status as a public/state official, akin to a judge. Judicial decisions perceived as legally flawed should not automatically result in criminalization. The legal protection framework for Notaries is reinforced by Supreme Court jurisprudence and relevant regulations.³²

Article 1321 of the Civil Code states that consent is deemed invalid if it contains a defect of will in the form of error (*dwaling*), coercion (*dwang*), or fraud (*bedrog*). These defects of will are considered limited and do not render the agreement automatically null and void; rather, they make the agreement valid and binding but subject to annulment through a lawsuit, as affirmed in Article 1449 of the Civil Code. In addition, Article 84 of Law Number 2 of 2014 concerning the Office of Notary (UUJN) stipulates that a notarial deed may be annulled if proven to contain legal defects based on a court decision. A notarial deed that violates certain provisions will be deemed to have evidentiary power equivalent to a private deed or even be null and void. This is consistent with the principle of *acta publica probant sese ipsa*, whereby an authentic notarial deed is considered valid and binding until proven otherwise. Thus, although an authentic deed possesses perfect evidentiary power in both civil and criminal procedural law, contrary evidence can alter its position during court proceedings.³³

Notarial deeds used as evidence in criminal cases in court possess perfect evidentiary power. Judges are expected to trust the validity of the contents of an authentic notarial deed as long as its inaccuracy cannot be proven. In criminal cases involving notarial deeds as evidence, the primary purpose is to demonstrate that a criminal act causing harm to another party indeed occurred during the deed's creation, based on a complaint from the aggrieved party. Nevertheless, the final assessment of the evidentiary value of the notarial deed ultimately rests with the judge. If the judge considers that the notarial deed alone is insufficient to prove the occurrence of a criminal act, the judge has the authority to disregard it. This approach aligns with criminal procedural law, which mandates that judges

³² Panagiotis E Dimitropoulos, 'Principle-Based Accounting Standards and Earnings Management in Private Hotel Firms: The Impact on Government Subsidies', *Advances in Accounting*, 68 (2025), 100812 <https://doi.org/https://doi.org/10.1016/j.adiac.2025.100812>

³³ Kelly Fabiane Simões and others, 'Assessment of the Impact of Public-Private Partnerships in Education: A Case Study of Schools in Brazil', *International Journal of Educational Development*, 114 (2025), 103232 <https://doi.org/https://doi.org/10.1016/j.ijedudev.2025.103232>

adhere to the minimum standard of proof. Despite the notarial deed's status as a perfect piece of evidence, judges are not permitted to question its contents, as the confidentiality of authentic deeds is protected by the Law on Notarial Profession (UUJN). The legal force of a notarial deed as evidence is retained as long as the deed has been made in accordance with applicable legal provisions.³⁴

However, the cancellation or invalidation of a notarial deed may occur if there is a violation of the legal requirements outlined in the UUJN, such as non-compliance with procedural standards or inaccuracies in the identity of the appearing parties. Additionally, other factors outside the UUJN, such as substantive defects or inconsistencies within the deed itself, may also lead to its invalidation. In such cases, the legal consequences of the deed are deemed void from the moment the deed was signed, rendering the legal actions stated therein as never having occurred.³⁵

In the implementation of legal practices, there remains a sense of injustice toward notaries regarding the annulment of a deed by one of the parties involved. A prominent case illustrating this issue involved Notary Didik Ariyanto, who was reported by Agus to the Blora Police Department in a criminal case. The dispute originated from the drafting of a sale and purchase deed conducted by Sri Winarsih, a widow and the former spouse of Agus Kristianto, based on a divorce certificate authorizing her actions. Following the cancellation, Agus Kristianto filed a lawsuit to annul the land certificate at the Semarang Administrative Court (PTUN), which ruled in favor of Agus, confirming the annulment deed and invalidating the transferred certificate under Teguh Herri Purwanto's name. The legal battle continued through appeals to the Surabaya PTUN and eventually the Supreme Court of Indonesia, all of which upheld Agus Kristianto's claims. Despite the notary's assistance in the legal process, including testifying in favor of Agus, the latter surprisingly filed both civil and criminal charges against Notary Ariyanto. Agus accused the notary of negligence in drafting the sale and purchase deed, causing material and immaterial losses, and alleged the inclusion of false information. Consequently, the Blora Police summoned the notary for clarification. In response, Notary Ariyanto sought legal protection from the Regional Board of the Indonesian Notary Association (*Pengwil Jateng INI*), which opposed the police

³⁴ Abdoul' Ganiou Mijiyawa, 'How Does the Changing Financing Landscape towards Debt from International Private Creditors Affect Economic Growth in Developing Countries?', *Economic Analysis and Policy*, 85 (2025), 1318–36 <https://doi.org/https://doi.org/10.1016/j.eap.2025.01.020>

³⁵ Enrico Giarmanà, 'Managing Renewable Electricity within Collective Self-Consumption Schemes: A Systematic Private Law Approach', *Renewable and Sustainable Energy Reviews*, 188 (2023), 113896 <https://doi.org/https://doi.org/10.1016/j.rser.2023.113896>

investigation, citing indications of criminalization. As a result, the case was halted.³⁶

The controversy surrounding this case highlights the dilemma faced by notaries when carrying out their professional duties. On one hand, notaries are responsible for ensuring that legal transactions are properly documented and comply with existing laws. On the other hand, they are vulnerable to legal repercussions if one of the parties later disputes the validity of the deed. This predicament raises concerns about the extent to which notaries should be held accountable for disputes arising from deeds that were created based on the information and consent provided by the parties involved.³⁷

In Indonesian law, the role of notaries is primarily regulated by the Law on Notary Positions (UUJN), which mandates notaries to act as impartial and reliable public officials. However, this legal framework does not adequately shield notaries from criminal liability when a deed is annulled. The annulment process itself often hinges on proving that the deed was made under circumstances that violate the principles of fairness, such as coercion, misuse of authority, or fraudulent intent. Article 1321 of the Indonesian Civil Code (KUH Perdata) provides grounds for annulment if a contract is proven to have been agreed upon under duress or threats. Nonetheless, the burden of proof in such cases can be complex and subjective.³⁸

Furthermore, the case of Notary Ariyanto underscores the need for legal clarity regarding the responsibility of notaries when disputes arise. Although notaries are obliged to verify the identities and intentions of parties involved in legal transactions, they cannot always foresee or control subsequent conflicts, especially in cases where one party challenges the legitimacy of the transaction. The lack of clear guidelines on how notaries should respond to contested deeds leaves them vulnerable to criminal charges, even when they have acted in accordance with their professional obligations.³⁹

Comparatively, other legal systems also grapple with the issue of notary liability in annulment cases. In the Netherlands, for instance, undue influence is acknowledged as a basis for contract annulment if one party takes advantage of the other's weaker position to gain benefits, as seen in the landmark case of H.J.

³⁶ Alejandro Fernández, Marietta Haffner, and Marja Elsinga, 'When Land Is Not Enough: Drawing in Private Investment to Increase Social Rental Housing in Spain', *Cities*, 159 (2025), 105720 <https://doi.org/https://doi.org/10.1016/j.cities.2025.105720>

³⁷ Rachel B Wickenheiser, 'Profits over People: The Dangers of Privatizing Space Colonization', *Futures*, 169 (2025), 103592 <https://doi.org/https://doi.org/10.1016/j.futures.2025.103592>

³⁸ Clare Sullivan and Eric Burger, 'E-Residency and Blockchain', *Computer Law & Security Review*, 33.4 (2017), 470–81 <https://doi.org/https://doi.org/10.1016/j.clsr.2017.03.016>

³⁹ Eka Suci, Indria Sari, and Dwi Rimadona, *Islamic Inheritance Law Review in Notary Practices in Indonesia* (Atlantis Press SARL, 2023), I <https://doi.org/10.2991/978-2-38476-046-6>

Van Elmbt vs. E. Ferelebend (1964). Similarly, in Australia and the United States, courts recognize the principle of unconscionable conduct, which may lead to the invalidation of agreements made under coercive or unfair circumstances. These precedents demonstrate that the protection of contractual fairness is a universal legal concern, but the approach to notary liability varies significantly.⁴⁰

From a professional standpoint, notaries must exercise heightened diligence when drafting deeds, especially in situations where the ownership status or the intentions of the parties are not unequivocally clear. They must thoroughly document the verification process and obtain clear, written statements from involved parties to safeguard against future disputes. Moreover, professional associations and legal institutions should offer greater support and guidance to notaries facing legal challenges, as their role is essential to maintaining public trust in legal documentation.⁴¹

In light of these considerations, the case of Notary Didik Ariyanto calls for a comprehensive review of existing regulations to better protect notaries from potential criminalization when performing their official duties. Legal reforms should focus on establishing clear procedural standards for notaries in contentious cases, ensuring that they are not held criminally liable for actions performed in good faith. Strengthening the legal position of notaries would also contribute to more consistent and just outcomes in cases involving deed annulment.⁴²

Ultimately, the profession of notaries is integral to the legal system, as they serve as impartial witnesses and document authentic legal acts. However, to maintain the integrity of the notarial profession, it is imperative to address the existing gaps in legal protection. By implementing more precise regulations and reinforcing professional support mechanisms, the legal system can ensure that notaries can perform their duties without undue fear of criminal liability, thereby upholding the principle of legal certainty for all parties involved.⁴³

⁴⁰ Dwi Rimadona, Aprilianti, and Nurul Riski Yanti, *Card Legal Review of Social Security Providing Agency Health (BPJS Kesehatan) Is a Mandatory Requirement for Administration in Notarial Buying Agreement* (Atlantis Press SARL, 2023) https://doi.org/10.2991/978-2-38476-046-6_111

⁴¹ Neneng Nurhasanah and others, 'The Institutional Strengthening of Inovasi Ummat Sharia Cooperative and Firdaus Pesantren Cooperative Pangalengan', *Proceedings of the 4th Social and Humanities Research Symposium (SoRes 2021)*, 658. SoRes 2021 (2022), 117–20 <https://doi.org/10.2991/assehr.k.220407.022>

⁴² S Zagaynova and E Ivanova, 'The Russian National Model of Conciliation Procedures : Ways to Reach', 420. Ick (2020), 114–18 <https://doi.org/https://doi.org/10.2991/assehr.k.200321.095>

⁴³ Robinson Robinson, Sri Sulistyawaty, and O K Isnainul, *Application Of Digital Signing to Authentic Notarial Deeds In Changes To Electronic Contracts That Apply In Indonesia* (Atlantis Press SARL, 2024) <https://doi.org/10.2991/978-2-38476-352-8>

Regulatory Models for Cancellation of Authentic Notarial Deeds in Several Countries

The principle of contract cancellation based on unconscionable conduct is a well-established concept within the Australian legal system. This principle recognizes that a contract may be invalidated if there is a defect in consent resulting from unconscionable conduct. Such a defect undermines the foundational element of a valid contract, namely "genuine consent." Consequently, contracts found to be affected by unconscionable conduct may be declared void or voidable. In addition to unconscionable conduct, the Australian legal system also recognizes other doctrines that can render a contract invalid. These include undue influence, misrepresentation, misleading conduct, duress, and mistake. While each doctrine addresses distinct circumstances that can vitiate consent, unconscionable conduct is particularly concerned with situations where one party takes unfair advantage of the other's disadvantaged position.⁴⁴

For a contract to be considered valid under Australian law, it must satisfy several essential requirements, one of which is the presence of genuine consent between the contracting parties. Unconscionable conduct directly affects this requirement, as it indicates that the disadvantaged party did not truly or freely agree to the contract terms. The presence of unconscionable conduct signifies that one party has acted in a manner that is contrary to fairness and equity. The High Court of Australia, through landmark decisions and the opinions of Justices Mason, Deane, and Gibbs, has articulated key criteria to determine when unconscionable conduct invalidates a contract. The first criterion is that one party must be in a significantly disadvantaged position, often described as a "special disability." This may include circumstances where an individual's ability to understand or evaluate the contract is substantially impaired.⁴⁵

The second criterion requires that the disadvantaged position must be so severe that it significantly impairs the affected party's ability to make informed judgments. This situation can arise when a party lacks sufficient knowledge or understanding of the contractual content, leading to an inability to comprehend the implications of the agreement. Such a scenario reflects an inherent inequality between the parties. Thirdly, it must be demonstrated that the disadvantaged party is genuinely unable to make sound judgments or decisions regarding the

⁴⁴ Grace Natalia H Famdale and Jeanne Neltje, 'Juridical Review of the Form of the SKMHT Deed Which Is Made by a Notary According to Article 38 of Law Number 2 of 2014 Concerning Amendment to Law Number 30 of 2004 Concerning Notary Position', *Proceedings of the 3rd Tarumanagara International Conference on the Applications of Social Sciences and Humanities (TICASH 2021)*, 655.2 (2022), 1138–44 <https://doi.org/10.2991/assehr.k.220404.180>

⁴⁵ Billy Samuel, 'Analysis of Legal Protection and Responsibilities of Notary Officials for Authentic Deeds Made', *Proceedings of the 3rd Tarumanagara International Conference on the Applications of Social Sciences and Humanities (TICASH 2021)*, 655.Ticash 2021 (2022), 733–39 <https://doi.org/10.2991/assehr.k.220404.115>

contract. This inability to exercise judgment is a critical factor in determining whether the contract was formed under unfair conditions. The focus is on whether the party could realistically understand the nature and consequences of the agreement.⁴⁶

Moreover, it is essential to establish that the advantaged party had actual knowledge of the disadvantaged party's situation. Merely being aware of a potential imbalance is insufficient. The advantaged party must have recognized the specific vulnerability of the other party and proceeded to exploit that vulnerability to gain a benefit. Exploitation of this nature fundamentally contradicts the principles of good faith and fairness that are central to contractual obligations. Courts assess whether the advantaged party consciously used the weaker party's disadvantaged state to their advantage. If proven, such conduct is deemed incompatible with the ethical standards expected in contractual dealings.⁴⁷

Unconscionable conduct, when established, represents a serious breach of equitable principles within contract law. Courts aim to protect vulnerable parties from being unjustly bound by agreements made under coercive or exploitative circumstances. Consequently, when unconscionable conduct is identified, the affected party may seek remedies such as rescission or the declaration of the contract as void. Through these legal protections, the Australian legal system upholds the integrity of contractual relationships by ensuring that contracts are formed and executed fairly. By addressing unconscionable conduct, courts safeguard individuals from the consequences of contracts that were established through significant inequality or unfair manipulation. This approach underscores the commitment to maintaining justice and fairness in contractual practices.⁴⁸

In the legal system of the United States, the principle of freedom of contract does not imply that one party, bound by the contract, has the unrestricted right to determine the contents of the contract solely for their own benefit. Freedom of contract must be interpreted in the context of fairness and equity. Therefore, the presence of overly favorable terms to one party may result in a legal intervention

⁴⁶ Ni Komang, Arini Styawati, and I Nyoman Sumardika, *Proceedings of the 3rd International Conference on Business Law and Local Wisdom in Tourism (ICBLT 2022)*, *Proceedings of the 3rd International Conference on Business Law and Local Wisdom in Tourism (ICBLT 2022)* (Atlantis Press SARL, 2023) <https://doi.org/10.2991/978-2-494069-93-0>

⁴⁷ Kurniawan Budi Santoso, *Notary Legal Protection Related to Notary Summons in the Notary Audit Process Post the Decision of the Constitutional Court Number 16/Pu-Xviii/2020* (Atlantis Press SARL, 2023) https://doi.org/10.2991/978-2-38476-024-4_67

⁴⁸ Gunawan Djayaputra and Ivana, 'The Responsibility of Notary Who Misused the Signature Which Was on a Blank Form (Case Number: 2564K/Pdt/2019)', 478.Ticash (2020), 652–57 <https://doi.org/10.2991/assehr.k.201209.103>

to prevent injustice.⁴⁹ In this context, courts have the authority to review and potentially invalidate contractual clauses that are deemed excessively one-sided or unconscionable. The purpose is to maintain a balance between contractual freedom and the protection of weaker parties from exploitation.⁵⁰

The concept of "unconscionability" within U.S. contract law allows a judge to disregard a specific part or even the entirety of a contract if it is deemed to result in an unconscionable outcome. This principle serves as a safeguard against contracts that, while technically valid, would lead to unfair or unreasonable consequences if enforced. The notion of unconscionability is deeply rooted in the judicial effort to maintain substantive justice within contractual relationships. This principle emphasizes that a contract must not only be lawful but also equitable and reasonable in its execution and consequences.⁵¹

Contracts deemed inequitable or unconscionable are often described as so unfair that they "shock the conscience of the court." This vivid expression reflects the judiciary's strong aversion to enforcing agreements that clearly violate fundamental notions of fairness. The phrase encapsulates the idea that some contracts are so patently unjust that a judge cannot, in good conscience, uphold them. The judicial response to such contracts is not merely a matter of interpreting legal technicalities but also involves an assessment of ethical and moral standards within contractual dealings.⁵²

This form of injustice typically arises when one party either fails to pay proper attention to or does not genuinely comprehend the contractual clauses. In some cases, this lack of comprehension is intentionally exploited by the stronger party, who might include complex or obscure terms that the weaker party is unlikely to understand fully. Examples include the use of overly technical language, small print, or terms placed on the reverse side of the agreement. Such practices are

⁴⁹ Konrad Kollnig and others, 'Privacy in Chinese IOS Apps and Impact of the Personal Information Protection Law', *Computer Law & Security Review*, 55 (2024), 106041 <https://doi.org/10.1016/j.clsr.2024.106041>

⁵⁰ Radina (Adi) Stoykova, 'A New Right to Procedural Accuracy: A Governance Model for Digital Evidence in Criminal Proceedings', *Computer Law & Security Review*, 55 (2024), 106040 <https://doi.org/10.1016/j.clsr.2024.106040>

⁵¹ Jeffrey C Price and Jeffrey S Forrest, 'Chapter 4 - The Role of Government in Aviation Security', in *Practical Aviation Security (Fourth Edition)*, ed. by Jeffrey C Price and Jeffrey S Forrest, Fourth Edition (Butterworth-Heinemann, 2025), pp. 149–211 <https://doi.org/https://doi.org/10.1016/B978-0-443-13538-5.00006-4>

⁵² Jeffrey C Price and Jeffrey S Forrest, 'Chapter 12 - Societal Threats and Security Operations', in *Practical Aviation Security (Fourth Edition)*, ed. by Jeffrey C Price and Jeffrey S Forrest, Fourth Edition (Butterworth-Heinemann, 2025), pp. 565–632 <https://doi.org/https://doi.org/10.1016/B978-0-443-13538-5.00005-2>

considered unfair, especially when they hinder a party's ability to make an informed decision.⁵³

Courts and legal authorities firmly oppose contracts or clauses that they find to be unjust. This opposition stems from a commitment to preserving the integrity of contractual relationships and ensuring that agreements do not become instruments of exploitation. Historically, such policies were addressed through interpretative language constructions, manipulating the rules of offer and acceptance, or declaring that the clause in question contradicted public interest or the primary purpose of the contract. These judicial practices reflect a dynamic interpretation of contract law, where rigid formalism is often tempered by considerations of fairness.

The fundamental test revolves around whether, given the general commercial context and the specific circumstances of the transaction, the clause disproportionately favors one party to the extent of being unfair. This test is not merely theoretical but requires a detailed factual analysis. Courts must examine the circumstances under which the contract was formed, including the relative bargaining power of the parties, the clarity of the terms, and whether any deceptive practices were involved. Consequently, the court is obligated to carefully examine the evidence pertaining to these concerns. The guiding principle is to prevent unfair pressure and shocks while safeguarding the fair allocation of risks based on primary bargaining power. This principle acknowledges that parties may have differing levels of knowledge, experience, and negotiating strength. Therefore, the legal framework grants courts the authority to assess a contract, whether executed under private agreement or authenticated by a notary, by examining the clauses to determine whether they disproportionately favor one party, thereby resulting in unfairness, even at the moment of the contract's formation.⁵⁴

The judiciary is entrusted with the responsibility of rendering just legal decisions in cases where one party suffers due to inequities arising during the contract's creation, whether executed privately or through a notarial deed. Such inequity often stems from one party exploiting the other's significantly weaker bargaining position. Courts are expected to intervene when the imbalance of power leads to the inclusion of oppressive terms, which would render the contract

⁵³ Dennis Brown and others, 'Reducing Fraud in Organizations through Information Security Policy Compliance: An Information Security Controls Perspective', *Computers & Security*, 144 (2024), 103958 <https://doi.org/https://doi.org/10.1016/j.cose.2024.103958>

⁵⁴ Ashwin Karale, 'The Challenges of IoT Addressing Security, Ethics, Privacy, and Laws', *Internet of Things*, 15 (2021), 100420 <https://doi.org/https://doi.org/10.1016/j.iot.2021.100420>

unconscionable. Through this judicial oversight, the principle of equity within contractual law is maintained.⁵⁵

In the Netherlands, the cancellation of authentic notarial deeds is governed by civil law and the notarial regulations applicable in the country. Notarial deeds in the Netherlands are regarded as legal documents with full evidentiary value before the court. The annulment of a notarial deed requires a specific legal process and is generally permissible only when valid legal grounds are present. The legal basis for the annulment of notarial deeds is provided in the Dutch Civil Code (Burgerlijk Wetboek), particularly Article 3:40 BW, which states that agreements contrary to public order or morality are null and void.⁵⁶

The procedure for annulment involves filing a lawsuit with the civil court if the deed was executed under error, fraud, coercion, or in violation of the law. The notary, as a legal professional, is obligated to ensure that all parties involved comprehend the content and legal consequences of the deed, and that the deed is executed without coercion or deceit. The court has the authority to decide on annulment when there is sufficient evidence of legal violations during the deed's creation. Through this procedural framework, the Dutch legal system seeks to uphold the validity and integrity of notarial deeds while providing a mechanism for rectifying instances where fairness is compromised.⁵⁷

Challenges and Constraints in the Implementation of the Regulatory Model

Law is a tool for humans, serving as an instrument designed to meet human needs. In this context, isolating the legal system from various surrounding social institutions can negatively impact the fulfillment of human needs. When the law becomes isolated from social realities, it risks transforming into a self-serving institution rather than one that serves the public interest. This condition causes the law to lose its role as an agent of social change and as a tool for achieving substantive justice. This phenomenon has become a focal point of criticism towards the law, particularly when deviations from fundamental principles of justice occur.⁵⁸

⁵⁵ Fengzheng Wang, 'Remote Data Security Monitoring Technology for Computer Networks Based on Machine Learning Algorithms', *Procedia Computer Science*, 228 (2023), 325–32 <https://doi.org/https://doi.org/10.1016/j.procs.2023.11.037>

⁵⁶ Oluwafemi Olukoya, 'Assessing Frameworks for Eliciting Privacy & Security Requirements from Laws and Regulations', *Computers and Security*, 117 (2022), 102697 <https://doi.org/10.1016/j.cose.2022.102697>

⁵⁷ Jingyu Fan, 'Legal Policies Failing on Data Breaches?—An Empirical Study of U.S. Information Security Law Implementations', *Procedia Computer Science*, 221 (2023), 971–78 <https://doi.org/https://doi.org/10.1016/j.procs.2023.08.076>

⁵⁸ Candy Paula Adventia Haezera and Tjempaka, 'Responsibility of a Notary Public Towards a Forged Deed of Decision of the Shareholders Meeting (Example of the Cases of Banten High Court Number 9/PID/2019/PT.BTN)', 478.Ticash (2020), 822–25 <https://doi.org/10.2991/assehr.k.201209.129>

From the perspective of the subject, law enforcement can be defined as the efforts made by law enforcement officers to ensure that legal rules are applied as intended. The primary goal of law enforcement is to maintain the rule of law, even if it requires the use of coercive measures by law enforcement officers. From the perspective of the object, namely the legal aspect itself, law enforcement can be viewed from two perspectives: broadly and narrowly. In a broad sense, law enforcement encompasses not only formal written rules but also the values of justice that exist within society.⁵⁹

Conversely, in a narrow sense, law enforcement is limited to the enforcement of formal and written regulations issued by authorized institutions. In practice, however, law enforcement does not always proceed in line with theoretical frameworks or established legal provisions. Numerous obstacles and challenges may arise during implementation, especially when conflicts emerge between legal regulations and social realities. One of the issues worth examining is the legal protection of notaries as witnesses and the examination of authentic evidence within the context of a democratic legal state.⁶⁰

This study focuses on a case involving Notary Didik Ariyanto, who was reported by Agus in a criminal case at the Blora Police Department. The case originated from the creation of a sale and purchase deed by Sri Winarsih, a widow and former wife of Agus Kristianto, based on a divorce decree. During the creation of the deed of transfer of land rights, Mrs. Sri Winarsih conveyed her intentions to Notary PPAT Didik Ariyanto and fulfilled all the formal requirements stipulated. The deed was then used in the process of transferring the land certificate at the Blora Land Office to be registered under the name of Teguh Herri Purwanto, the future husband of Sri Winarsih.⁶¹

However, during the name transfer process, a neighbor informed Agus that his ex-wife had sold the house to her new partner. Upon learning this information, Agus conducted further investigations and discovered that the transaction took place before Notary Didik Ariyanto. Agus then reported this matter to the notary, who subsequently blocked the certificate and summoned the related parties for a

⁵⁹ Nadya Maysan and Ariawan Gunadi, 'Cancellation of The Grant Will by The Heirs', *Proceedings of the 3rd Tarumanagara International Conference on the Applications of Social Sciences and Humanities (TICASH 2021)*, 655. Ticash 2021 (2022), 838–43 <https://doi.org/10.2991/assehr.k.220404.133>

⁶⁰ Marshella and Tjempaka, 'Judicial Review Regarding Sanctions for Notary/Land Deed Officer Who Made Authentic Deeds for Land Based on Private Bequest Deed (Case Study of The Supreme Court's Decision Number 1477 K/PDT/2019)', 478. Ticash (2020), 849–54 <https://doi.org/10.2991/assehr.k.201209.134>

⁶¹ Chris Rivaldo Maengkom, 'Electronic Information Security System for Notarial Deeds as National Archives', *Proceedings of the Asia-Pacific Research in Social Sciences and Humanities Universitas Indonesia Conference (APRISH 2019)*, 558.13 (2021), 748–52 <https://doi.org/10.2991/assehr.k.210531.094>

meeting at his office. After the meeting, the parties agreed to annul the sale and purchase deed through an authentic deed of cancellation.⁶²

With the cancellation deed, Agus Kristianto filed a lawsuit to cancel the certificate at the Semarang Administrative Court (PTUN). At the first trial, the lawsuit was accepted and supported by the cancellation deed prepared by Notary Didik Ariyanto, resulting in the annulment of the certificate that had already been transferred. The case continued to the appeal stage at the Surabaya Administrative Court and subsequently to the Supreme Court of the Republic of Indonesia, where all decisions favored Agus Kristianto. This indicates that the cancellation deed prepared by the notary held significant probative value in the judicial process.⁶³

Despite winning the case, Agus then reported Notary Didik Ariyanto to the Blora Police Department, accusing the notary of negligence in drafting the sale and purchase deed, which allegedly caused material and immaterial losses. Additionally, Agus accused the notary of including false information in the deed. This situation sparked a controversy regarding the legal protection of notaries who had performed their professional duties in accordance with established procedures. The Central Java INI Regional Board subsequently provided legal protection to Notary Didik Ariyanto, citing indications of criminalization of the notary profession in this case. Following the objection from the Central Java INI Regional Board, the police investigation into the case was eventually terminated. This decision reaffirmed the existence of legal protection for notaries who perform their professional duties properly and in accordance with applicable regulations. The case of Notary Didik Ariyanto demonstrates the potential for criminalization of the notarial profession, especially when notaries are held accountable for actions taken by others involving legally valid deeds. Therefore, it is crucial to strengthen the legal protection regulations for notaries to prevent the misuse of legal authority.⁶⁴

From this case study, it is evident that the effectiveness of law enforcement is highly dependent on balancing formal legal norms with justice principles embedded within the community. According to Soerjono Soekanto, several factors influence the effectiveness of law enforcement, including the legal system itself, law enforcement officers, facilities or infrastructure, societal support, and legal culture. If there is a discrepancy between values, norms, and behavioral patterns

⁶² Ahmad Ramadan, Amin Purnawan, and Lathifah Hanim, 'The Role of the Notary Honorary Council on the Confiscation of Minutes of Deed by Police Investigators', *Sultan Agung Notary Law Review*, 4.3 (2022), 832 <https://doi.org/10.30659/sanlar.4.3.832-845>

⁶³ Ridwan Sidharta B, *Proceedings of the 3rd International Conference on Business Law and Local Wisdom in Tourism (ICBLT 2022)*, *Proceedings of the 3rd International Conference on Business Law and Local Wisdom in Tourism (ICBLT 2022)* (Atlantis Press SARL, 2023) <https://doi.org/10.2991/978-2-494069-93-0>

⁶⁴ Shoucai Zhao and Lifeng Cao, *Dynamic Notary Group Election Algorithm Based on Reputation Value* (Atlantis Press International BV, 2023) https://doi.org/10.2991/978-94-6463-030-5_89

within society, law enforcement may be disrupted, hindering the achievement of justice. Based on this analysis, it can be concluded that legal protection for notaries in carrying out their duties is crucial within the Indonesian judicial system. Criminalizing notaries who have professionally fulfilled their duties may undermine public trust in the legal profession. Therefore, comprehensive regulatory reforms are needed to ensure that notaries are legally protected while performing their professional obligations. Thus, a balance between legal protection and professional responsibility can be effectively maintained.⁶⁵

Factors influencing law enforcement can be examined from various perspectives. One of the main factors is the legal factor itself. This legal factor refers to laws or written regulations that are generally applicable and made by the government. Problems in law enforcement often stem from problematic legislation. The legal factor in question can encompass several aspects, including: (a) non-compliance with the principles of the applicability of laws; (b) the absence of implementing regulations that are crucial for the application of laws; and (c) ambiguity in the wording of the law, resulting in confusion in interpretation and implementation. Such ambiguity often arises due to the use of terms that can be interpreted broadly (multi-interpretation), thereby triggering conflicts in the legal enforcement process. For instance, a law that has been enacted but lacks implementing regulations may result in certain articles being unenforceable.⁶⁶

A concrete example is the application of Article 66 Paragraph (1) of the Notary Office Act (UUJN), which regulates the summoning of notaries as witnesses. In criminal judicial processes, permission from the Notary Honorary Council (MPD) is mandatory. However, in special criminal offenses, especially corruption as an extraordinary crime, such permission should ideally only serve as a notification to expedite legal proceedings. This approach aims to prevent the concealment of crimes by taking refuge behind the official position. Nonetheless, the UUJN itself has not yet unequivocally provided full protection to notaries as public officials who perform certain state duties. The position of notaries as public officials should be equivalent to other professions that exercise state authority, such as judges. Notaries, as an honorable profession (*officium nobile*), play a crucial role in meeting societal needs in the realm of authentic evidence. Therefore, law enforcers must

⁶⁵ Dita Perwitasari and Maydinah Syandra Fairina, 'Legal Consequences for Nominee Deed Notaries', *Proceedings of the International Joint Conference on Arts and Humanities 2021 (IJCAH 2021)*, 618.30 (2022), 864–70 <https://doi.org/10.2991/assehr.k.211223.149>

⁶⁶ Ricky Utama and Benny Djaja, 'Legal Consequences Against Notary with Convicted Status by Court Decisions', *Proceedings of the 3rd Tarumanagara International Conference on the Applications of Social Sciences and Humanities (TICASH 2021)*, 655.Ticash 2021 (2022), 1035–39 <https://doi.org/10.2991/assehr.k.220404.163>

understand the essence of the notarial office more comprehensively and prioritize good faith in performing their duties.⁶⁷

Another issue within the UUJN is the ambiguity in the formulation of articles. For example, Article 15 Paragraphs (1) and (2) of the UUJN regulate the authority of notaries in drafting authentic deeds, legalizing signatures, and making copies of underhanded documents. These provisions often conflict with other regulations, such as Government Regulation No. 24 of 2016 concerning the Position of Land Deed Officials (PPAT) and the Minister of Finance Regulation concerning Class II Auction Officials. This indicates that inconsistent legal formulations can lead to legal uncertainty. Overall, the existence of notaries as public officials entrusted with state duties needs to be appreciated and more firmly protected by regulations. Fair and transparent law enforcement significantly depends on the clarity of laws and the proper understanding of law enforcement officers.⁶⁸

One of the fundamental legal issues arises from the ambiguity within Article 15, paragraph (3) of Law No. 2 of 2014 concerning the Position of Notary, which stipulates in addition to the authority as referred to in paragraphs (1) and (2), a Notary shall have other authorities as regulated by the prevailing laws and regulations. This provision raises a critical question regarding the interpretation of the phrase "all provisions of the law apply to Notaries." The absence of a clear explanation within the elucidation of the Law on Notary Positions (UUJN) creates uncertainty regarding its actual meaning and scope.⁶⁹ This vagueness inevitably leads to interpretative inconsistencies and practical difficulties in its application. As a result, legal practitioners and law enforcers encounter dilemmas in implementing the norms set forth by the law. Consequently, the UUJN, despite its regulatory purpose, often fails to be effectively enforced. The issue lies in the inherent ambiguity of the regulation itself, which results in the law being perceived as merely normative rather than practically applicable.⁷⁰

Another major issue lies in the role of law enforcement itself. In the context of this discussion, law enforcers are defined as individuals or institutions directly or

⁶⁷ Billy Hutomo Kaspar and Mella Ismelina Farma Rahayu, 'Legal Perspective of the Role of Notary in Legalizing Underhand Lease Agreements in Indonesia', *Proceedings of the 3rd Tarumanagara International Conference on the Applications of Social Sciences and Humanities (TICASH 2021)*, 655. *Ticash 2021* (2022), 972–79 <https://doi.org/10.2991/assehr.k.220404.154>

⁶⁸ D. Uglitskih and T. Akhmetov, 'Problems of Law Enforcement Practice in Registration of Movable Property Pledge and the Role of the Notary in Solving These Problems', 90. *Ispcbcs* (2019), 180–82 <https://doi.org/10.2991/ispcbc-19.2019.45>

⁶⁹ Yetniwati Yetniwati, Elita Rahmi, and Diana Amir, 'User's Perspective on the Quality of Notary Master Graduates in the Concept of Work', *Proceedings of the 3rd Green Development International Conference (GDIC 2020)*, 205. *January* (2021), 494–97 <https://doi.org/10.2991/aer.k.210825.084>

⁷⁰ Karti Komalasari B and others, *Proceedings of the 3rd International Conference on Business Law and Local Wisdom in Tourism (ICBLT 2022)*, *Proceedings of the 3rd International Conference on Business Law and Local Wisdom in Tourism (ICBLT 2022)* (Atlantis Press SARL, 2023) <https://doi.org/10.2991/978-2-494069-93-0>

indirectly involved in legal enforcement, especially in cases where Notaries serve as witnesses or where Notarial deeds constitute authentic evidence. These law enforcers include investigators, public prosecutors, judges, police officers, attorneys, and correctional officers. Each professional within the legal system holds specific responsibilities and authorities that must be executed appropriately. Judges, in particular, hold a crucial position as the final decision-makers whose rulings ultimately resolve legal disputes. Their decisions must be based on objective reasoning and a comprehensive understanding of the legal issues presented. On the other hand, the roles of other law enforcers, such as investigators and prosecutors, are to present clear, convincing, and factual legal arguments to the court. However, despite this division of roles, challenges still arise in achieving judicial clarity and fairness.⁷¹

In practice, however, the reality of law enforcement is far more complex and problematic. According to progressive legal theory, the law should serve humanity, not the other way around. Nonetheless, in the context of Notary duties, challenges often emerge from a lack of understanding and professionalism among law enforcers. This lack of competence can lead to the improper implementation of legal provisions, which in turn hinders the proper functioning of justice within the framework of Notarial authority.⁷² Several factors contribute to these enforcement challenges. First, the low quality and professionalism of law enforcers, including judges, prosecutors, police officers, and advocates, often impede effective law enforcement. Second, the principle of "the right man in the right place" is not consistently applied, resulting in unqualified individuals occupying essential legal positions. Such situations lead to a lack of expertise and inadequate legal decision-making processes. Third, there is often a lack of commitment among law enforcers to uphold the principles of justice and legal integrity. Fourth, the absence of an integrated, modern, and effective law enforcement mechanism further exacerbates these challenges. In many instances, the lack of systemic coordination among legal institutions weakens the consistency and reliability of legal processes, undermining the overall justice system.⁷³

Fifth, political influence and interference within the justice system remain pervasive, particularly within the police force, prosecution offices, and judiciary. This influence often results in biased or compromised legal actions, thereby

⁷¹ Lina Maulidiana, Rendy Renaldy, and Muhamad Rusjana, 'Dialectics Method in Completion of Notary & PPAT Service Capacity Issues with Lecturers as Social Problems in the Legal Education Scope', 140.Icleh (2020), 401–5 <https://doi.org/10.2991/aebmr.k.200513.079>

⁷² Vincentius Simon Suyanto, 'AHU-Online as a Means of Notary Performance Assistance and Responsibility of Documents Produced', 140.Icleh (2020), 529–36 <https://doi.org/10.2991/aebmr.k.200513.103>

⁷³ Istiadi and Ghina Fortuna Ayu, *Implementation of Service Excellence Strategy to Improve Hr Performance in A Law Firm Office* (Atlantis Press SARL, 2023) https://doi.org/10.2991/978-2-38476-132-6_47

diminishing public trust in the legal system. Lastly, there are serious allegations regarding corruption and organized crime within the judicial framework. The perception of a "judicial mafia" involving collusion between law enforcers and criminal networks further damages the credibility and integrity of law enforcement.⁷⁴ The lack of coordination among law enforcement agencies remains a critical issue. Disjointed communication and cooperation hinder the effective handling of legal cases. This disconnect exists not only at the theoretical and normative levels but also in the practical implementation of justice. Coordination among law enforcement bodies is essential to maintain legal consistency and avoid fragmented legal practices. Unfortunately, the absence of a unified approach continues to compromise justice delivery.⁷⁵

Given these conditions, there is a growing demand for an integrated justice system that harmonizes the roles of various law enforcement entities. Establishing such a system requires designing clear, coordinated mechanisms that align the efforts of investigators, prosecutors, judges, and other law enforcement officers. Implementing an Integrated Justice System (IJS) would strengthen the coherence of legal processes, minimize errors, and ensure that justice is administered effectively. Failing to realize this approach will likely perpetuate the current inefficiencies and negatively impact the credibility of the justice system.⁷⁶

Third, criminal law and civil law factors. In principle, the legal system prevailing in Indonesia, including notarial law (UUJN), adheres to the Continental European legal system. The sources of law within this system include legislation created by legislative authorities, regulations issued by the executive authorities (based on the authority granted by law), and customary practices accepted as law by society, provided they do not conflict with existing legislation.⁷⁷ Based on these sources, the Continental European legal system is divided into two main categories: public law and private law. Public law is a branch of law that regulates the relationship between a legal subject and the existing legal object. In other words, public law encompasses legal regulations governing the authority and power of the state as well as the relationship between society and the state. Examples of laws falling under the realm of public law include constitutional law (such as Law No. 24 of 2009 concerning the Flag, National Anthem, and State

⁷⁴ I Wayan Ana and others, 'Translating Indonesian Notarial Documents into English: Issues and Its Strategies', 166.Prasasti (2018), 495–500 <https://doi.org/10.2991/prasasti-18.2018.90>

⁷⁵ Liliana Tedjosaputro, 'Authentic Deed of Notary That Carries Criminal Charges BT - International Conference on Law, Economics and Health (ICLEH 2020)', 140.Icleh (2020), 508–10 <https://doi.org/10.2991/aebmr.k.200513.098>

⁷⁶ Septian Fujiansyah and others, *Unlawful Acts of Notary Officials in Making Deeds Whose Signatories Are Not Before a Notary* (Atlantis Press SARL, 2024) https://doi.org/10.2991/978-2-38476-218-7_103

⁷⁷ Vannesia Imanuella Pandelaki and Rasji Rasji, 'Synchronization of Law Regulations Concerning Notary Authority in Electronic Certification', *Proceedings of the 3rd Tarumanagara International Conference on the Applications of Social Sciences and Humanities (TICASH 2021)*, 655.30 (2022), 597–600 <https://doi.org/10.2991/assehr.k.220404.094>

Symbol), administrative law (including the notarial domain, such as Law No. 25 of 2009 concerning Public Services), and criminal law.⁷⁸

The duties and authorities of a Notary, as regulated in the UUJN and Civil Code fall under private law. Private law, or civil law, governs relationships between individuals in exercising their rights and fulfilling their obligations. In this context, the role of a Notary becomes crucial in providing public services, particularly in the economic sector, including commerce, banking, corporate affairs, and other legal matters requiring authentic evidence.⁷⁹ In practice, issues arise regarding the application of criminal law, particularly concerning the term "criminal act", which is used as a translation of the Dutch term "strafbaar feit." Although the term "criminal act" has replaced "strafbaar feit," the lawmakers did not adequately explain its exact meaning. The term "strafbaar feit" essentially refers to acts prohibited by law and subject to criminal penalties.⁸⁰

According to Mezger, criminal law can be defined as a legal rule that associates specific actions with penal consequences, provided the actions meet certain criteria. An act that fulfills these conditions is considered a punishable act or a crime (Verbrechen or Crime). Since a criminal act involves a person committing the act, the main issue lies in determining the act itself and the individual who violates the prohibition. Consequently, the term "criminal act" accurately translates the concept of "strafbaar feit."⁸¹

To address these issues, the researcher proposes reconstructing the provisions related to the annulment of authentic notarial deeds. First, the government should establish a legal harmonization body to prevent conflicts between different legal sources, such as judicial jurisprudence decisions and the UUJN. Second, it is necessary to incorporate judicial decisions into the hierarchy of legal regulations under Law No. 12 of 2011 in conjunction with Law No. 15 of 2019.⁸² This integration would clarify the status of judicial jurisprudence decisions concerning statutory regulations. Thus, when a dispute arises regarding the annulment of an

⁷⁸ Dwi Rimadona and Aprilianti, 'The Urgency of Reporting the Will as a Source of Issuing a Letter of Will on the List of the Will Center', *Proceedings of the Universitas Lampung International Conference on Social Sciences (ULICoSS 2021)*, 628.ULICoSS 2021 (2022), 553–63 <https://doi.org/10.2991/assehr.k.220102.074>

⁷⁹ Rimadona and Aprilianti.

⁸⁰ Yue Yu and Shibin Zhang B, *Proceedings of the 2022 3rd International Conference on E-Commerce and Internet Technology (ECIT 2022)*, *Proceedings of the 2022 3rd International Conference on E-Commerce and Internet Technology (ECIT 2022)* (Atlantis Press International BV, 2023) <https://doi.org/10.2991/978-94-6463-005-3>

⁸¹ Muhammad Raditya Pratama Ibrahim and Amad Sudiro, 'The Obligations of Notary as a Party Reporting Suspicious Transactions', *Proceedings of the 3rd Tarumanagara International Conference on the Applications of Social Sciences and Humanities (TICASH 2021)*, 655.Ticash 2021 (2022), 633–38 <https://doi.org/10.2991/assehr.k.220404.100>

⁸² Sri Nurdiana Purwaningsih, 'Organ Transplant Agreement Between Donor and Recipient by Notary', 140.Icleh (2020), 626–32 <https://doi.org/10.2991/aebmr.k.200513.119>

authentic deed from the perspective of civil procedural law, the resolution can be more transparent and acceptable to the public. Third, the National Land Agency (BPN) needs to restructure its public service framework, particularly in managing land deed archives. This improvement aims to ensure structured, substantive, and culturally appropriate archival management in Indonesia. Consequently, similar cases, such as a defendant only discovering that the planned AJB agreement with the plaintiff cannot be executed due to the land being leased to a third party, can be avoided in the future.⁸³

Fourth, there should be a reconstruction of Article 84 of the UUJN by adding provisions that guarantee government protection for notaries when performing their duties in drafting authentic deeds. This provision would act as an extension of the *lex specialis* from Article 51 of the UUJN, which stipulates that acts performed under official orders from competent authorities are not subject to criminal penalties. Fifth, it is essential to add an article to Law No. 30 of 2014 or Law No. 2 of 2011, stating: "Public officials who perform partial governmental functions shall be entitled to government protection, and the deeds they draft cannot be annulled or subjected to criminal sanctions."⁸⁴ Such a provision would provide legal certainty and protect the professional integrity of notaries. Sixth, further clarification is needed regarding the concepts of "agreement," "capacity," "a specific matter," and "a lawful cause" as stipulated in the latest version of the Civil Code (*Burgelijk Wetboek or BW*) in the Netherlands. This is crucial to prevent confusion, particularly concerning the legal age of adulthood, legal guardianship, and lawful causes, which remain insufficiently explained in the Indonesian Civil Code (*KUHPerdata*).⁸⁵

Seventh, the government must address the discrepancies between jurisprudence and statutory regulations by issuing clear guidelines to ensure uniform interpretation and implementation. Without clear legal integration, discrepancies may persist, leading to inconsistent judicial practices. Eighth, there is a need for professional capacity building among notaries and legal practitioners to enhance their understanding of both civil and criminal law, particularly in cases involving notarial deeds.⁸⁶ This measure will contribute to the consistent and

⁸³ Ni Luh and Gede Purnamawati, *Proceedings of the 3rd International Conference on Business Law and Local Wisdom in Tourism (ICBLT 2022)*, *Proceedings of the 3rd International Conference on Business Law and Local Wisdom in Tourism (ICBLT 2022)* (Atlantis Press SARL, 2023) <https://doi.org/10.2991/978-2-494069-93-0>

⁸⁴ Ririn Rismawanti and others, *Apostille Convention: Notary Profession in Transnational Document Legalization* (Atlantis Press International BV, 2023), I https://doi.org/10.2991/978-94-6463-214-9_15

⁸⁵ Melyana Melyana and Ariawan Ariawan, 'Entrusted Money Embezzlement by the Notary on the Making of Cooperation Agreement', *Proceedings of the 3rd Tarumanagara International Conference on the Applications of Social Sciences and Humanities (TICASH 2021)*, 655.Ticash 2021 (2022), 158–65 <https://doi.org/10.2991/assehr.k.220404.025>

⁸⁶ Nicolaas Sugiharta and Amad Sudiro, 'Legal Consequences and Legal Liability for Authentic Deals Made By Notaries During Leave Time', *Proceedings of the 3rd Tarumanagara International*

professional application of legal norms. Ninth, stakeholders in the legal and notarial fields should actively engage in academic discussions and legal forums to continually update their knowledge and harmonize legal interpretations, thus fostering a more cohesive legal framework.⁸⁷

Finally, establishing a systematic legal database that includes updated regulations, jurisprudence, and legal interpretations would significantly benefit legal practitioners and notaries. Such a database would facilitate easier access to relevant legal information, minimizing the risk of conflicting interpretations and enhancing legal certainty.⁸⁸

4. Conclusion

The cancellation of authentic notarial deeds from the perspective of positive law does not fully align with the principles of justice, as it fails to meet the objective requirements of an agreement. According to Article 1320 of the Indonesian Civil Code, a valid agreement must meet four conditions: (1) mutual consent between the parties binding themselves, (2) competence to make an agreement, (3) a specific subject matter (object of the agreement), and (4) a lawful cause. If any of these conditions are not fulfilled, the agreement may be deemed void. In practice, reconstructing the cancellation of authentic notarial deeds should be grounded in the principle of justice. Authentic deeds, drawn up by notaries as public officials, serve as perfect evidence and are presumed true, as they are created by notaries acting on behalf of the state and authorized to use the state emblem (the Garuda stamp) as regulated by Law No. 24 of 2009. All deeds made by notaries are considered state archives, thus belonging to the state and granting notaries specific rights and obligations as public officials. However, the state, through its judicial power, may impose its will by issuing court rulings that cancel authentic notarial deeds, potentially leading to the criminalization of judicial decisions or products. This situation necessitates considering the provisions of Articles 50 and 51 paragraph (1) of the Indonesian Criminal Code, Supreme Court Jurisprudence No. 41 K/Pdt/1990, Supreme Court Circular No. 4 of 2002, and Article 5 of Perkap No. 12 of 2009, which serve to limit such actions. Supreme Court Decision No. 3703.K/PDT/2016 should be perceived as a part of law enforcement aimed at social engineering (law as a tool for social engineering) and social control (law as a tool for social control). Particularly in the context of notaries/PPAT, this decision is

Conference on the Applications of Social Sciences and Humanities (TICASH 2021), 655.Ticash 2021 (2022), 119–25 <https://doi.org/10.2991/assehr.k.220404.019>

⁸⁷ V.V. Yarkov and I.G. Rents, 'Notariat and Mediation: New Opportunities of Information Technology in the Context of Competition of Legal Frameworks', 420.Ick (2020), 156–60 <https://doi.org/10.2991/assehr.k.200321.103>

⁸⁸ I Gusti Ngurah Muliarta, 'The Principle of Good Faith in the Sale and Purchase Agreement of Rights Made Before a Notary', *Community Service Journal of Law*, 1.1 (2022), 44–48 <https://doi.org/10.55637/csjl.1.1.4477.44-48>

expected to enhance social life by realizing justice (das sollen) and guiding the fair implementation of state policies.

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