

## Arrangements for Taking Minuta of Deeds Made Based on False Statements in Criminal Trials

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### ABSTRACT

This research addresses legal issues related to the use of deed minutes as evidence in criminal cases involving false statements made by a notary. According to Article 66 paragraph (1) of Law No. 2 of 2014 and Article 23 paragraph (1) of the Regulation of the Minister of Law and Human Rights No. 7 of 2016, discrepancies arise regarding the admissibility of deed minutes in judicial processes when false information is provided. The research examines the regulations for using deed minutes as evidence in criminal justice cases involving falsified statements by a notary and explores the legal status and consequences of deed minutes when proven to contain falsified information.

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## **INTRODUCTION**

Notaries, as public officials responsible for the legal sector, are obligated to provide legal services and ensure certainty, order, and protection within society. To fulfill these duties, notaries bear the responsibility of creating evidence that clearly establishes an individual's rights and obligations as a legal subject. A notary, acting under public authority and when required by law or requested by the public, is tasked with producing written evidence that holds authentic legal power. Article 1868 of the Civil Code states: "An authentic deed is a document made in the form prescribed by law, by or in the presence of an authorized public official at the location where the deed is executed." This definition highlights three key elements of an authentic deed: a. It is created in accordance with legal provisions; b. It is produced before an authorized official; c. It is executed at the specified location.

Through the deeds they create, notaries must provide legal certainty to the public who use their services. A notarial deed is an authentic document that carries legal authority, ensuring legal certainty as complete written evidence (*volledig bewijs*), which requires no additional proof and is binding on the judge. A deed that complies with legal provisions is an authentic document whose format is determined by applicable laws and regulations, including the introduction, body, and conclusion of the deed. The term "before the authorized official" refers to an official who has been granted the right and power to create authentic deeds. Officials authorized to create such deeds include notaries, PPATs (Land Deed Officials), auction officials, courts, and others. The location where the deed is executed is the place where the legal actions related to the creation of the deed occur. Through their deeds, notaries must provide legal certainty to the public using their services. A notarial deed is an authentic document with legal force, guaranteeing legal certainty as perfect written evidence (*volledig bewijs*), requiring no additional evidence, and binding the judge.

An authentic deed made by a notary possesses significant legal strength, as it serves as perfect evidence. Consequently, various laws and regulations mandate that certain legal actions be documented in authentic deeds. Notaries and their documents represent the state's efforts to ensure legal certainty and protection for society. In private or civil law, the state designates a notary as a public official authorized to create authentic deeds for evidentiary purposes. In notarial practice, a deed created by a notary (*door*) is known as a deed of *relaas* or a deed of minutes. This document contains descriptions of events witnessed by the notary, requested by the parties involved, and documents the actions or agreements of the parties in the form of a notarial deed. A deed made before (*ten overstaan*) a notary is referred to as a party deed in notarial practice. It includes descriptions, information, or statements provided by the parties in front of the notary, which they wish to be documented in a notarial deed. An authentic deed is thus one made before a notary and contains both formal and material truths based on the declarations of the parties appearing before the notary. The notary's role is to ensure that the presenter understands and agrees with the content of the notarial deed by reading it aloud, thereby making the

contents clear to the involved parties. If errors are found, the deed can be amended, and the notary will re-read it. Once the contents align with the parties' intentions, the notarial deed is signed.

The regulations outlined in the Law on Notary Positions define both the authority and responsibilities of notaries. Article 15, paragraph (1) of the Law on Notary Positions, Amendments specifies that notaries are authorized to create authentic deeds related to all acts, agreements, and stipulations required by statutory regulations or desired by interested parties, ensuring the certainty of the deed's date, safeguarding the deed, and providing the grosse, copies, and extracts, provided that the creation of such deeds is not otherwise assigned or restricted to another official or person as determined by law. The role of a notary, as a public official in a position of trust, is inherently complex and demanding, requiring adherence to the Law on Notary Positions and a high level of responsibility both individually and socially. Notaries must comply with positive law and the professional code of ethics, which is crucial for maintaining the integrity of legal norms. Although notaries are empowered to draft authentic deeds in civil law, they cannot initiate these deeds independently and must act based on prior requests from individuals. From an evidentiary perspective, an authentic deed serves as an ideal, comprehensive, and binding form of evidence due to its creation by a notary, with its accuracy recognized by judges in court. However, if discrepancies arise between the deed's content and actual fact, particularly if the parties provided false information, the deed may be considered fraudulent, underscoring the importance of accuracy and truthfulness in the information provided to the notary.

As stipulated in Article 1, number 8 of the Notary Public Position Law, Amendments, "minutes of a deed refer to the original document which bears the signatures of the presenters, witnesses, and the Notary, and is maintained as part of the Notary's official records." These minutes not only include the original signatures of the presenters, witnesses, and the Notary, but also, if necessary, the handprints of the presenters if they are unable to provide a signature. Furthermore, any additional evidence supporting the deed may be attached. A Notarial Deed documented in this minute form can be reproduced with identical content upon request from the presenters. Should there be any instance where false information is provided by the presenters, whether it is a partial inaccuracy or a complete falsification, Article 266, paragraph (1) of the Criminal Code specifies that "any individual who directs the inclusion of false information into an authentic deed, concerning an event that the deed is intended to confirm, with the intent of using or causing another person to use the deed as if the information were accurate, and thereby inflicts harm, shall be punishable by imprisonment for up to seven years."

In practice, there are frequent occurrences where parties deliberately provide false information or data to a Notary, resulting in the inclusion of fraudulent elements within the Notarial deed. This intentional misrepresentation jeopardizes the integrity of the Notarial deed and complicates the legal standing of the minutes associated with it. Although these

minutes are critical for legal proceedings, the existing protocol dictates that only photocopies of the minutes may be removed from the Notary's office, while the original documents must remain there. This requirement is outlined in Article 66, paragraph (1), letter a of the Law on Notary Positions, which specifies that for judicial purposes, investigators, public prosecutors, or judges may obtain photocopies of the deed minutes or related documents with the approval of the competent Notary Honorary Council. However, this provision is at odds with Article 23, paragraph (1) of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 7 of 2016, which pertains to the Honorary Council of Notaries. This regulation permits the removal of the original minutes for judicial purposes, thereby contradicting the stipulations of the Law on Notary Positions. This discrepancy between the two sets of regulations creates a notable conflict of norms. The Law on Notary Positions restricts the removal of original deed minutes, maintaining them in the Notary's office, whereas the Ministerial Regulation allows for their removal under certain circumstances. This regulatory conflict leads to overlapping responsibilities concerning the management of deed minutes, particularly when the authenticity of the information has been compromised. The inconsistency in the legal frameworks introduces confusion and uncertainty regarding the Notary's role in handling deed minutes, especially when fraudulent information is involved. Such conflicts can result in various legal challenges, affecting the effective implementation of the law and potentially undermining the legal certainty and integrity that Notaries are expected to uphold. This situation necessitates a thorough examination and potential harmonization of the conflicting regulations to ensure clarity and consistency in the Notarial process.

## **THEORETICAL REVIEW**

A Notarial Deed is considered an authentic document due to its creation by or before a Notary in adherence to legally prescribed formats and procedures. This type of deed is endowed with unparalleled evidentiary strength, implying that the deed itself serves as sufficient proof, barring any counter-evidence presented by another party. Judges are obligated to regard the deed as conclusive, provided it aligns with statutory requirements. The justification for this superior evidentiary value is threefold: Firstly, the deed provides Outward Proof, its authenticity is evident from its adherence to legal stipulations, notably as outlined in Articles 38 and 43 of Law No. 2 of 2014, which amends Law No. 30 of 2004 concerning the Position of Notary Public. This outward manifestation certifies the deed as a valid piece of evidence since it was executed in compliance with legal norms. Secondly, it offers Formal Proof, wherein the Notary certifies the veracity and precision of various elements including the appearance date, time, identity details of the involved parties, and the Notary's observations, as stipulated in Article 15, Paragraph (1) of UUJN-P. Finally, Material Proof is provided by the accuracy of the information or declarations made before the Notary and the involved parties. The deed is deemed to accurately reflect the presented facts, and any disputes

regarding the material content fall under the purview of the parties involved, rather than the Notary.

As is known, one of the conditions of norms that give rise to normative legal problems is conflict between norms in statutory regulations due to differences in hierarchy (vertical conflict), for example a conflict between norms from lower statutory regulations and norms from higher statutory regulations. One way to resolve such legislative conflicts is by using legal principles that function to resolve these conflicting norms. To resolve the conflict of norms, the principle of legal preference is used. The principle of legal preference encompasses three distinct types of solutions: the *lex superior* principle, the *lex specialist* principle, and the *lex posterior* principle. In the context of this research, these principles are employed to address the initial research question. This involves examining the relationship between Article 66, paragraph (1), letter (a) of the Law on Notary Positions and Article 23, paragraph (1) of Permenkumham Number 7 of 2016 concerning the Notary Honorary Council. By analyzing these provisions, the research aims to clarify how they interact and how their application can resolve the issue at hand within the broader framework of legal preference.

A Notarial Deed encompasses comprehensive details and declarations from the parties involved, created in alignment with their intentions, with the Notary's role being to formalize these intentions within a legally defined framework. To ascertain whether a document qualifies as a Notarial Deed, it must be thoroughly examined to ensure it adheres to all prescribed legal formalities. Should it be determined that the document does not comply with these formal requirements, its status as a Notarial Deed can be contested. In such instances, the deed's evidentiary value is reduced to that of a private deed, which is subject to judicial scrutiny. If the procedural deficiencies cannot be corrected, the deed may be invalidated through a judicial process. As a result, the ultimate determination of the document's evidentiary worth rests with the judge.

## **METHODOLOGY**

This study employs a normative juridical research methodology, which is particularly suited to addressing the conflict between Article 66, paragraph (1), letter (a) of Law No. 2 of 2014, which amends Law No. 30 of 2004 concerning the Position of Notaries, and Article 23, paragraph (1) of the Minister of Law and Human Rights Regulation No. 7 of 2016 concerning the Honorary Council of Notaries. Given the unique nature of legal science as a distinct and specialized field (*sui generis*), this research aligns with its specific character by focusing on legal materials that pertain directly to the core issues under investigation. *Sui generis* in legal terms is its own kind of science in terms of working methods and scientific systems. In essence, this research focuses on a thorough examination of existing legal materials to address the conflict of norms between the Notary Position Law and the Minister of Law and Human Rights Regulation No. 7 of 2016 concerning the Honorary Council of Notaries. The study is structured around the primary problem by relying on

comprehensive library research, which includes an in-depth analysis of primary legal sources, secondary legal sources, and tertiary legal sources. This approach ensures a detailed understanding of the legal issues at hand, allowing for a nuanced exploration of the discrepancies between the relevant legal provisions.

This study employs three distinct legal approaches: the statutory approach, the conceptual approach, and the case approach. The statutory approach involves a detailed examination of relevant legal regulations. Specifically, this research scrutinizes the conflict between Article 66, paragraph (1), letter (a) of Law Number 2 of 2014, which amends Law Number 30 of 2004 concerning the Position of Notaries, and Article 23, paragraph (1) of the Minister of Law and Human Rights Regulation Number 7 of 2016 concerning the Honorary Council of Notaries, particularly in relation to the issue of Taking Minutes of Deeds. The conceptual approach is utilized to analyze legal materials pertaining to the submission of minutes of deeds that contain false information within the criminal justice process. This involves exploring theoretical and practical perspectives on how such issues are addressed within legal frameworks. The case approach involves reviewing relevant court cases that have addressed the issue at hand and have resulted in binding judicial decisions. This approach provides insight into how similar legal conflicts have been resolved in practice, contributing to a deeper understanding of the application and interpretation of the relevant laws.

## **RESULTS**

### ***Arrangements for Taking Deed Minutes as Evidence***

A notary, serving as a public official, carries the essential duty of fulfilling tasks that are pivotal to ensuring legal certainty and facilitating the efficient operation of civil law. This role is critical as it involves not only the creation of authentic deeds but also the provision of assurances regarding the validity, reliability, and impartiality of these documents. Notaries are required to uphold the highest standards of confidentiality and integrity while ensuring that the deeds they produce function as irrefutable evidence in legal contexts. The legal efficacy of an authentic deed, produced by a notary, is profoundly significant due to its designation as perfect evidence under the law, a status that underscores its strength and reliability in judicial proceedings. The necessity for authentic deeds is enshrined in various legal statutes, which mandate their use for a range of significant legal actions, including the establishment of limited liability companies, cooperatives, fiduciary arrangements, and various forms of sales and lease agreements. The involvement of notaries in these processes reflects the state's broader commitment to fostering legal certainty and safeguarding the rights of individuals within the community. Within the framework of private or civil law, the state designates notaries as authorized public officials with the explicit authority to draft these deeds, thereby ensuring their legitimacy and compliance with legal standards. An authentic deed is defined as a formal document that must be prepared by or before an official who is legally empowered to create such documents, following specific formats and procedures as mandated by statutory regulations. This document serves as a deliberate and formal declaration of the truth concerning events or legal

actions, providing a reliable record that can be used as evidence. The officials authorized to create authentic deeds, including notaries and PPATs (Land Deed Officials), are entrusted with the responsibility of ensuring that these documents meet the rigorous standards required by law. The structure of an authentic deed, which includes its introduction, main body, and conclusion, must adhere to the detailed requirements set forth in Law Number 2 of 2014, which amends Law Number 30 of 2004 concerning Notary Positions, as well as other relevant legal provisions. This comprehensive adherence to legal standards ensures that the authentic deed maintains its integrity and effectiveness as a crucial element of the legal system.

According to Habib Adjie, notarial deeds, also known as authentic deeds, offer three significant advantages:

1. For parties entering into an agreement using a notarial deed, the primary benefit is the assurance of definitive legal certainty regarding the contents of the deed. This certainty stems from the fact that the notarial deed provides a clear and unambiguous record of the agreement, which helps prevent disputes over the terms.
2. A notarial deed provides a sense of security for the parties involved in the agreement. Should one party feel disadvantaged by the actions of the other, the disadvantaged party has the right to seek legal recourse based on the notarial deed. This means that the deed serves as a reliable basis for resolving disputes, enhancing trust among the parties.
3. In terms of evidentiary value, a notarial deed is considered to provide perfect proof. The perfection of this proof is intrinsic to the deed itself and does not require further interpretation or assessment beyond what is explicitly stated in the document. This means that the notarial deed is regarded as conclusive evidence of the facts it represents, reinforcing its role in legal proceedings..

An authentic deed is characterized by its exceptional evidentiary power, which is deemed perfect because it is created by a legally authorized public official. This perfection in proof is underpinned by three distinct strengths: the strength of physical evidence, the strength of formal evidence, and the strength of material evidence.

#### 1. Strength of Physical Evidence

This aspect pertains to the inherent ability of the deed itself to substantiate its authenticity, as outlined in Article 1875 of the Civil Code. Unlike private deeds, which require all signatories to acknowledge the truthfulness of the signatures or need to be validated through other legal means, an authentic deed—because it originates from a public official like a Notary—is inherently recognized as authentic. Therefore, such a deed holds self-evident status, asserting its authenticity to all parties involved based solely on the official capacity of the Notary.

#### 2. Strength of Formal Evidence

In a formal context, the deed affirms the veracity of what was observed, heard, and documented by the Notary in their official role. This includes confirming the accuracy of the date, the contents of the deed, the identities of

the parties involved, and the location where the deed was executed. The formal power of the deed lies in its capacity to guarantee these elements as truthful, reflecting the procedural integrity and the official duties performed by the Notary.

### 3. Strength of Material Evidence

This strength refers to the authoritative nature of the deed's contents, which are presumed true for all parties involved, as described in Articles 1870, 1871, and 1875 of the Civil Code. The information contained within the deed is considered valid and binding between the parties and their successors. When presented in court, the authentic deed serves as sufficient evidence for the judge, given that it is a written document, involves all parties, clearly defines the object of the deed, and specifies the date of its creation. Consequently, the deed's material evidence is robust enough to be considered conclusive without requiring additional proof.

The birth of an authentic deed cannot be separated from the parties' desire for their actions or agreements to have permanent legal force. If a dispute occurs, the authentic deed can be used as valid evidence in court trials. In the event that the parties make a deed containing false information to the detriment of the other party, this can be categorized as a criminal act.

According to Moeljatno, a criminal act is defined as any action that is expressly forbidden by a legal rule, with such prohibition being accompanied by the imposition of a specific penalty for those who contravene it. In essence, a criminal act is one that violates legal regulations and is subject to penal consequences. The prohibition targets the act itself – an occurrence or situation resulting from an individual's behavior – while the criminal sanction is directed at the individual who perpetrates the act. In the context of providing false information in the creation of an authentic deed, this behavior falls under the category of forgery, as outlined in Chapter XII of Book II of the Criminal Code. This classification emphasizes that falsifying information in official documents is considered a serious offense under criminal law, carrying appropriate legal repercussions. Forgery in letters is considered to be more about the interests of society as a whole, namely public trust in the contents of letters regarding the interests of individuals who may be directly harmed by false information in letters. In relation to document forgery, Article 264 of the Criminal Code provides the following stipulations:

- 1) Forgery of documents is punishable by imprisonment for up to eight years. This penalty applies to forgeries involving:
  1. Authentic deeds,
  2. Debt securities and debt certificates issued by a state, a part of the state, or a public institution,
  3. Certificates of debt or holdings from a company or an association related to airlines or foundations,
  4. Talons or proofs of dividends or interest related to the documents described in points 2 and 3, or any proof issued in lieu of these documents,

5. Letters of credit or trade documents intended for circulation.

- 2) The same penalty applies to individuals who intentionally use a forged document as described in the first paragraph, provided that the content of the document is false or fraudulent. If the use of such a forged document results in potential harm, the offender is subject to the same legal consequences.

In the event that when an authentic deed is made, there is falsification of information before the Notary and causes the other party to feel disadvantaged, then the party who feels disadvantaged can submit a report or complaint to the police on suspicion of falsification of information. With this report, the police will process the report of suspected criminal activity and carry out an investigation into the report. According to Article 66 of Law Number 2 of 2014, which amends Law Number 30 of 2004 concerning the Position of Notaries:

- 1) In the context of judicial proceedings, investigations, or actions by public prosecutors or judges, and with the approval of the Honorary Council of Notaries, the following actions are permitted:
  1. The ability to make copies of the minutes of the deed and/or any documents attached to the deed or the Notary's protocol held in the Notary's possession;
  2. The authority to call the Notary to appear for an examination concerning the Notary's deed or protocol that is under their custody.

In the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 7 of 2016 concerning the Honorary Council of Notaries, Article 23 outlines:

- 1) Requests for authorization to obtain copies of notarial deeds or protocols, as well as for summoning notaries by investigators, public prosecutors, or judges for examinations related to such deeds or protocols held by the notary, must be submitted to the Chairman of the Honorary Council of Notaries in the relevant regional area corresponding to the notary's jurisdiction.

According to Article 66, paragraph (1) of the amended Notary Position Law, the following provisions apply for judicial, investigative, or prosecutorial purposes, with the approval of the Honorary Council of Notaries: authorities are permitted to take photocopies of the minutes of the deed and/or any documents attached to the notarial deeds or protocols held by the notary, and to summon the notary to participate in an examination related to these deeds or protocols. Concurrently, Article 23, paragraph (1) of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 7 of 2016 concerning the Honorary Council of Notaries stipulates that "Request for approval to take minutes of a notary deed or protocol and summon a Notary by the investigator, public prosecutor or judge to attend the examination related to the Notary's deed or protocol which is in the Notary's custody and submitted to Honorary Council of Notaries area in accordance with the working area of the Notary concerned."

Based on Stufenbau's theory, looking at Article 7 paragraph (1) of the Law on the Establishment of Legislative Regulations, the basic norm for regulating Notaries is the 1945 Constitution which was then outlined in Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2014. 2004 concerning Notary Positions. So, when taking the minutes of a deed which is suspected to contain false information, the only thing that may be taken as evidence in court is only a photocopy of the minutes. This is related to the minutes as one of the state archives which are created and issued by the official who made the deed based on the authority granted by the Law. -Invite. So the photocopy of the minutes must be considered as perfect evidence because the photocopy is the same as the original minutes kept in the Notary's office.

## **DISCUSSION**

### ***Retrieval of Minutes of Deeds Containing False Information in the Judicial Process and the Status of Minutes of Deeds After Proving There Was False Information in Their Making.***

Every individual requires a figure whose information is reliable and trustworthy, whose signature and seal offer guarantees and robust evidence, and who serves as an impartial expert and advisor, ensuring protection in future agreements. Notaries occupy a crucial position and play an essential role in the fabric of national and state life, endowed with authority defined by statutory regulations. As public officials, notaries provide vital legal services to the public and thus deserve protection and assurances to uphold legal certainty. A notary, by virtue of their role, carries both legal and moral responsibility for the deeds they create. To effectively execute their duties, notaries must demonstrate professionalism, adhere to statutory regulations, and uphold the ethical standards established by their profession.

A deed is a formal document that captures legal events or actions, intentionally crafted to serve as evidence. As outlined in Article 1869 of the Civil Code, an authentic deed must be produced by an authorized public official and comply with statutory formatting requirements; otherwise, it is merely considered a private deed. This concept is further elucidated by Article 1868 of the Civil Code, which defines an authentic deed as one created in a specific legal format by or in the presence of a public official with the requisite authority at the location of its execution. An authentic deed is distinguished by its creation under the auspices of a legally empowered public official. For instance, a notary, who is a public official with the responsibility of drafting authentic deeds, must ensure that the document accurately represents the intentions and agreements of the parties involved. This entails strict adherence to legal procedures, guaranteeing that the deed faithfully reflects the wishes of those appearing before the notary and complies with established legislative protocols.

The criteria that establish a Notary's deed as an authentic deed include the signature of the Notary, who serves as the official responsible for the deed, both in the deed's minutes and in its copies. This signature ensures that the Notarial Deed carries genuine guarantees and certainties, affirming that the intentions and statements of the parties involved are accurate and constitute valid evidence for those who entered into the agreement, as well as their heirs. An authentic deed

possesses an impeccable evidentiary power, meaning it is presumed to be correct and binding unless proven otherwise through a court ruling that has acquired permanent legal force. Thus, the validity and evidential strength of the deed are upheld unless opposing evidence is presented and substantiated in a judicial decision that is final and binding.

When crafting an authentic deed, the information provided goes beyond mere testimonial evidence in civil or criminal cases. The creation of an authentic deed demands that all statements made are truthful and comply with legal regulations. If any party involved in the deed provides falsified information, it constitutes a criminal act punishable under the Criminal Code. An authentic deed based on false information essentially involves fabricating the entire document or parts of it with deceptive content. The primary purpose of such a deed is to assert that its contents are accurate. Engaging in the falsification of an authentic deed involves deliberately providing false information, making deceptive confessions, or altering documents, all of which are essential actions that undermine the integrity of the deed.

False statements made by parties can result in significant harm to both the other parties involved and the Notary. In this context, false information refers to providing details or circumstances that diverge from the actual situation intended. This includes presenting forged documents, supplying inaccurate information, or giving misleading explanations to Notaries and other parties, which falsely suggests that the contents of the deed are genuine. Such deceitful actions render the deed problematic and legally questionable. According to Article 266 of the Criminal Code, the penalties for committing such criminal acts involving false statements can be severe, with a maximum imprisonment term of up to seven years.

According to Article 66 of Law Number 2 of 2014, which amends Law Number 30 of 2004 regarding the Position of Notaries, the following provisions apply:

1. For the purposes of a judicial process, investigation, or proceedings involving a public prosecutor or judge, and with the approval of the Honorary Council of Notaries, the following actions are authorized:
  - a. To take a photocopy of the minutes of the deed and/or any documents attached to the minutes of the deed or the Notary's protocol that are held in the Notary's custody.
  - b. To summon the Notary to attend an examination related to the Notary's deed or protocol that is in the Notary's custody.

Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 7 of 2016 concerning the Honorary Council of Notaries, in the provisions of Article 23 which states: "Requests for approval to take minutes of notarial deeds or protocols and summons of notaries by investigators, public prosecutors or judges to attend examinations related to notarial deeds or protocols that are in the notary's custody are submitted to the chairman Honorary Council of Notaries area in accordance with the working area of the Notary concerned."

The criminal justice process addressing false information in a Notary's deed begins with an investigator initiating actions to address the issue. Initially,

the investigator submits a request to the Honorary Council of Notaries to obtain a photocopy of the relevant deed minutes and to seek information from the Notary involved. Upon receiving approval from the Honorary Council of Notaries, the investigator proceeds with a thorough investigation. Once the investigative files are deemed complete, the case is handed over to the public prosecutor. The public prosecutor then processes the case, drafts an indictment, and prepares for court proceedings. Following the completion of the indictment, the case files, including the indictment, evidence, and information about the defendant, are submitted to the court. The court then appoints a panel of judges to review and adjudicate the case. During the criminal justice process, the judge assesses not only the evidence presented but also seeks to uncover the material truth of the alleged criminal act. The judge's decision is based on a combination of the evidence presented at trial and the judge's own assessment and conviction regarding the case.

In accordance with the principle of preference, specifically the principle of *lex specialis derogat legi generali*, more specific legal provisions take precedence over broader regulations. When it comes to using minutes of a deed as evidence in judicial proceedings, the applicable regulations guiding the actions of investigators, public prosecutors, and judges are outlined in the Regulation of the Minister of Law and Human Rights Number 7 of 2016 concerning the Honorary Council of Notaries. This regulation is derived from the Notary Position Law, particularly Article 66, paragraph (3), which addresses the procedural framework of the Notary Honorary Council. According to *Stuffenbau's* theory, the fundamental legal basis for regulating Notaries is rooted in the 1945 Constitution, which was further developed through Law Number 2 of 2014, amending Law Number 30 of 2004 concerning the Position of Notaries. Subsequent to this, the Regulation of the Minister of Law and Human Rights Number 7 of 2016 was issued to provide specific guidelines for the Notary Honorary Council. Consequently, in the context of criminal justice, any request for the minutes of a deed must adhere to the provisions of this regulation. Thus, investigators, public prosecutors, and judges are required to seek permission from the Notary Honorary Council to obtain deed minutes, as the judicial process is focused on uncovering the material truth of the case at hand.

According to the concept of deed validity and its legal standing, a deed containing false information during its preparation may be downgraded to a private deed. This downgrade occurs because the material requirements for an authentic deed are legally compromised, rendering the deed defective from its inception. Such a deed, tainted by falsehoods, fails to meet the criteria of an authentic deed and thus loses its evidentiary power. Consequently, its effectiveness and reliability as legal proof are diminished, and it no longer holds the same authoritative status as a properly executed authentic deed. This degradation underscores the significance of accuracy and truthfulness in deed preparation, as any misrepresentation can fundamentally undermine the deed's legal credibility and impact.

## CONCLUSIONS AND RECOMMENDATIONS

The regulations for taking minutes of Notarial deeds in the criminal justice process must be based on Permenkumham Number 7 of 2016 concerning the Honorary Council of Notaries, namely that investigators, public prosecutors and judges can submit requests for taking minutes of deeds as evidence, this is in line with the aim of criminal procedural law, namely to seek material truth. If there is a criminal act of falsifying information in the minutes of the deed, then the minutes of the original deed must be used as evidence, and this Permenkumham is a technical regulation of the Notary Position Law. If the minutes of a deed contain false information by the parties, the deed will be degraded to a private deed and as a legal consequence the Notary's deed will become null and void. Lawmakers should synchronize the Law on Notary Positions with the provisions of the criminal procedural law and Permenkumham No. 7 of 2016 so that problems do not arise in the process of taking deed minutes as evidence.

## FURTHER STUDY

This research only focuses on legal reconstruction for disabilities, further research can study legal reconstruction for other marginalized communities.

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