

Legal Force of a Notarial Peace Deed Between the Victim and the Perpetrator in Termination of a Criminal Case at the Investigation Level in the Jurisdiction of the Riau Regional Police.

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Abstract. *This study discusses the legal force of the Notarial Peace Deed between the Victim and the Perpetrator in the Termination of Criminal Cases at the Investigation Level in the Riau Regional Police Jurisdiction. The focus of the research is directed to analyze the position and evidentiary value of the notarial peace deed in the settlement of criminal cases, especially the crime of forgery of documents. The method used is a normative juridical approach by examining laws and regulations, doctrines, and case studies. Data were obtained through literature studies and analysis of the peace deed that was the object of the research. The results of the study indicate that the notarial peace deed is an authentic deed as regulated in Article 1868 of the Civil Code, which has perfect evidentiary force both formally and materially. However, in the context of criminal law, the existence of the deed does not automatically stop the investigation process, because the termination of the case is the authority of the investigator based on Article 109 of the Criminal Procedure Code. The peace deed only functions as a substantive consideration for the application of restorative justice, with the condition that there is a peace agreement, recovery of losses, and no objections from the victim or the public interest. This research confirms that notarial deeds play a crucial role as legal instruments that provide certainty and legitimacy to settlement agreements, both in civil and criminal matters. However, within the framework of positive law, their implementation still requires investigator discretion to determine whether to terminate a case.*

Keywords: *Certainty; Justice; Legal; Notarial; Restorative.*

1. Introduction.

In Indonesia, almost all law enforcement institutions have regulations related to the resolution of criminal cases through the Restorative Justice mechanism. In the Supreme Court, it is regulated in the Supreme Court Circular Letter (SEMA) Number 4 of 2014 concerning the Implementation of the Formulation of the Results of the 2013 Supreme Court Chamber Plenary Meeting as a Guideline for the Implementation of Duties for the Court. In the Prosecutor's Office, it is regulated in the Attorney General's Regulation Number 15 of 2020 Number 15 of 2020 concerning the Termination of Prosecution Based on Restorative Justice, and at the Police level, it is regulated in the Regulation of the Chief of Police Number 8 of 2021 concerning the Handling of Criminal Acts based on Restorative Justice.

However, in Indonesian law enforcement practice, it is common to find Peace Deeds drawn up between victims and perpetrators during the investigation stage. These deeds are generally drafted in the form of a notarial deed containing a peace agreement, reflecting the good faith of both parties to resolve the issue amicably and non-litigatively. This practice raises several important legal questions, such as the extent to which these Peace Deeds are binding on law enforcement officials such as the police and prosecutors, and whether a peace agreement between the parties automatically halts ongoing legal proceedings.

In many cases, this peace mechanism is used to resolve issues where the injured party is asked for compensation. To achieve peace between the two parties, the case in question is written down. Discussions about agreements are inseparable from discussions about obligations. Articles 1233 to 1312 of the Civil Code regulate the source of obligations, performance, reimbursement of costs, damages, and interest for non-fulfillment. Restorative justice is becoming a new approach to resolving criminal cases. Institutions ranging from the police and the prosecutor's office to the courts under the auspices of the Supreme Court have instruments related to restorative justice.

In practice, if the victim's rights have been restored, and a settlement agreement has been reached between the victim and the perpetrator, then law enforcement can stop the law enforcement process in question.¹As the process progresses, to achieve certainty, the parties (the perpetrator and the victim) seek a legal document model to outline the points of their agreement. One alternative is to convert it into a Notarial Settlement Deed, drawn up before a notary.

An Authentic Deed is an official document made by or before an authorized public official in accordance with the Law and in a form determined by law. The

¹Eriyanto Wahid, *Restorative Justice and Conventional Justice in Criminal Law*, Trisakti University, Jakarta, 2009, p. 26

Notary Law grants notaries the authority to make Authentic Deeds.²One form of Authentic Deed relevant to the implementation of restorative justice is the Notarial Peace Deed, which is a deed containing a peace agreement between the victim and the perpetrator of the crime, legally written before a notary. This deed not only serves as strong written evidence, but also has executorial power as regulated in Article 1858 of the Civil Code, which states that a Peace Deed has the same force as a judge's decision that has permanent legal force. The Notarial Peace Deed also presents a peace agreement between the victim and the perpetrator, legally written before a notary.

Notarial deeds not only serve as strong evidence but also have enforceable power, as evidenced by research that notarial peace deeds can be immediately executed or serve as the legal basis for dismissing a case. Therefore, notarial peace deeds play a crucial role in providing legal guarantees for the peace agreement reached by the parties and serve as a basis for law enforcement officials to terminate criminal proceedings based on the principles of restorative justice.

For example, the case of alleged criminal act of forgery of documents reported by Rusdi Rahman in which Zubir Zakaria Dt. Mudo was named a suspect on July 22, 2024 by the Riau Regional Police. When Zubir Zakaria Dt. Mudo was in detention at the Riau Regional Police on August 21, 2024, a Notarial Deed was signed in the format of a Peace Deed between Zubir Zakaria Dt. Mudo as the suspect and Rusdi Rahman as the victim/reporter. The Peace Deed was signed before Notary Erika Jenri Halasan Panjaitan, SH, M.Kn in Pekanbaru with Deed Number "6" of 2024 dated August 21, 2024.

According to Article 1868 of the Civil Code, a deed is an Authentic Deed made in a form determined by law by or before an authorized public official at the place where the deed was made. Furthermore, Article 1 number 1 of Law Number 2 of 2014 states that; "A Notary is a public official who is authorized to make an Authentic Deed and has other authorities as referred to in this law or based on other laws."

Regarding Notarial Deeds, Article 1 number 7 of Law Number 2 of 2014 explains that a Notarial Deed is an Authentic Deed made by or before a Notary according to the form and procedures stipulated in the law.³On the other hand, peace is an agreement between two parties to end a case being examined in court or prevent a case that has been made in writing, as stipulated in Article 1851 of the Civil Code (Burgelijk Wetboek); "Peace is an agreement that contains that by

²Hermin, Regulation of Electronic Signing of Authentic Deeds, Uwais Inspirasi Indonesia, 2024, p. 24.

³Ghansam Anand, "Types of Deeds Made by Notaries," Hukumonline.com, August 16, 2023, <https://www.hukumonline.com/klinik/a/akta-notaris-cl1996/>. Accessed June 1, 2025.

handing over, promising or holding an item, both parties end a case being examined in court or prevent the emergence of a case if it is made in writing."

Thus, the peace agreement made by the parties or two parties aims to prevent disputes/disputes from arising between those in dispute/dispute. In addition, this peace agreement can also be made with the aim of resolving conflicts or disputes. Along with the valid requirements for an agreement in the Civil Code, this peace agreement is also valid if it meets the four valid conditions for an agreement, as stated in Article 1320 of the Civil Code which regulates the valid conditions for an agreement, namely:⁴

- 1) their binding agreement
- 2) the ability to make a contract
- 3) a main issue
- 4) a reason that is not forbidden

In civil law and civil procedure, there are two ways to resolve a dispute if one party fails to fulfill its obligations in a legal relationship: settlement by the parties themselves, known as peace, or settlement through the courts. In agreements made by the parties, it is often stated that if a dispute arises, the parties will pursue the settlement methods stipulated in civil law. If a settlement cannot be reached, the parties will resolve the dispute through the competent court or district court in their jurisdiction (litigation).

Peace agreements, whether through litigation or non-litigation, are governed by civil law. This rule has long been recognized and regulated in Article 1851 of the Civil Code, which stipulates that peace agreements must be made in writing to resolve non-litigation obligations. Peace agreements are usually written in the form of a Private Deed or an Authentic Deed. However, a Peace Agreement is considered a Deed if it is made in the form of an Authentic Deed, which can be drawn up by a notary or a court.⁵

A Peace Deed is a peace agreement written in a Notarial Deed. The peace agreement must include all provisions deemed necessary by the parties. As stipulated in Article 1858 of the Civil Code, a Peace Deed has permanent legal force, which is the same as a judge's decision as stipulated in Article 1858 of the Civil Code which states; "Between the parties concerned, a peace agreement has the same force as a judge's decision at the final level. The peace agreement

4Elly Ernawati & Herlien Budiono, Legal Explanation regarding Cancellation of Agreement, PT Gramedia, Jakarta, 2010, p. 63.

⁵Murniati Rilda, Relevance and Legal Power of Peace Deeds in Settling Disputes in the Economic Sector, Fiat Justisia Journal of Legal Studies Volume 9 No. 1, January-March 2015, p. 90.

cannot be challenged on the grounds that there is a mistake regarding the law or on the grounds that one of the parties has been harmed."

Therefore, a Peace Deed drawn up by a Notary has permanent legal force. Referring to the peace agreement letter drawn up by the police as evidence of the settlement of a criminal case based on restorative justice, the victim still feels the need for legal protection that guarantees the fulfillment of the victim's rights. This is intended to prevent criminals from violating their peace agreement with the victim. In resolving civil disputes, a notary can draw up a deed regarding a civil case that can be used as legal evidence that both parties have agreed to settle a case. If the case is submitted to the court, the notarial deed is then confirmed.

An alternative to resolving disputes is to use a Deed of Agreement or a Peace Deed drawn up by the parties before a notary, particularly in cases stemming from civil legal relationships. However, if the Peace Deed is drawn up in the context of a case settlement at the investigative level by the police, the question arises as to the extent to which the deed binds the police institution, which is not formally a party to the agreement. In practice, the implementation or waiver of the Peace Deed falls within the scope of the investigator's discretion. This discretion can lead to the termination of the investigation process through the issuance of an Investigation Termination Order (SP3).

SP3 is an administrative action that marks the end of the investigation of a criminal case by investigators for certain reasons, such as insufficient evidence, not being a criminal act, or by law, as regulated in Article 109 paragraph (2) of the Criminal Procedure Code. The use of SP3 has also been regulated administratively in the Decree of the Attorney General of the Republic of Indonesia Number: KEP-518/A/JA/11/2001 concerning Amendments to the Decree of the Attorney General of the Republic of Indonesia Number KEP-132/JA/11/1994 concerning the Administration of Criminal Cases.

2. Research Methods.

The research methodology used in this paper is the empirical legal research method, according to Mukti Fajar Empirical Legal Research is "a legal research method that uses empirical facts taken from human behavior, both verbal behavior obtained from interviews and real behavior carried out through direct observation. Empirical research is also used to observe the results of human behavior in the form of physical remains or archives.⁶ So in this research, the author will examine the legal force of the notarial deed of peace between the victim and the perpetrator in terminating criminal cases at the investigation level in the jurisdiction of the Riau Regional Police.

⁶Mukti Fajar and Yulianto Achmad, 2010, *Dualism of Empirical & Normative Legal Research*, Pustaka Pelajar, Jakarta, p. 280

3. Results and Discussion

3.1. Legal Force of the Notarial Deed of Peace Between the Victim and the Perpetrator in Terminating Criminal Cases at the Investigation Level at the Riau Regional Police.

An Authentic Deed is an official document made by or before an authorized public official in accordance with the Law and in a form determined by law.⁷The Notary Law authorizes notaries to create authentic deeds. One form of authentic deed relevant to the implementation of restorative justice is the Notarial Peace Deed, a deed containing a peace agreement between the victim and the perpetrator of a crime, legally written before a notary. This deed not only serves as strong written evidence but also has executory power as stipulated in Article 1858 of the Civil Code, which states that a Peace Deed has the same force as a judge's decision that has permanent legal force.

A Notarial Peace Deed also presents a peace agreement between the victim and the perpetrator, legally formalized before a notary. Notarial deeds not only serve as strong evidence but also have enforceable power, as evidenced by research that shows that Notarial Peace Deeds can be immediately executed or serve as the legal basis for dismissing a case. Therefore, Notarial Peace Deeds play a crucial role in providing legal guarantees for the peace agreement reached by the parties and serve as a basis for law enforcement officials to terminate criminal proceedings based on the principles of restorative justice.

In the case to be explained, an agreement was reached to sign a peace agreement between the perpetrator and the victim. The process began with the initiative of one of the parties (the suspect, the victim, or their respective representatives/legal counsel) to seek a peaceful resolution outside the criminal justice process. Signing Permit Process at the Detention Center Because Zubir Zakaria Dt. Mudo is a detainee at the Riau Regional Police, signing at the Detention Center requires a special permit procedure. The suspect's legal counsel submits an official request to the Head of the Detention Center/Directorate of Detention and Evidence (Tahti) of the Riau Regional Police or the investigator handling the case, with a copy to the relevant agency. The Detention Center/Investigator will issue a permit by considering aspects of security, order, and the fact that the signing is for the good purpose of resolving the dispute, and that the suspect is not coerced and is legally competent to make an agreement (in accordance with Article 1320 of the Civil Code). For the purpose of a Restorative Justice Application, the deed is submitted to the Riau Regional Police Investigator and/or Public Prosecutor (if the file is already P-19/P-21) as the basis

⁷Hermin, Regulation of Electronic Signing of Authentic Deeds, Uwais Inspirasi Indonesia, 2024, p. 24.

for an application for the case to be resolved outside the court through the Restorative Justice mechanism (termination of investigation/prosecution).

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A Notarial Peace Deed also presents a peace agreement between the victim and the perpetrator, legally written before a notary. Notarial deeds not only serve as strong evidence but also have executory power, as confirmed by research that Notarial Peace Deeds can be immediately executed or serve as the legal basis for dismissing a case. Thus, Notarial Peace Deeds play a crucial role in providing legal guarantees for the peace agreement reached by the parties and serve as a basis for consideration by law enforcement officials in terminating criminal proceedings based on principles of restorative justice.

The case of alleged criminal act of forgery of letters reported by Rusdi Rahman in which Zubir Zakaria Dt. Mudo was named a suspect on July 22, 2024 by the Riau Regional Police in. When Zubir Zakaria Dt. Mudo was in detention at the Riau Regional Police on August 21, 2024, a Notarial Deed was signed in the format of a Peace Deed between Zubir Zakaria Dt. Mudo as the suspect and Rusdi Rahman as the victim/reporter. The Peace Deed was signed before Notary Erika Jenri Halasan Panjaitan, SH, M.Kn in Pekanbaru with deed number "6" of 2024 dated August 21, 2024. The crime of forgery of letters in the investigation process at the Riau Regional Police is an ordinary offense, not a complaint offense. It can be said that after the report is made and the investigation begins, especially in the case description above, the perpetrator or suspect has been detained, the legal process continues even though the victim has withdrawn the report or has reached a peace.

The decision to discontinue a case rests with the investigator (police) or public prosecutor (prosecutor). The position of a settlement deed is only to mitigate the sentence but does not terminate it even though the settlement deed has been signed. The settlement deed can be a determining factor, but it is not an automatic guarantee of stopping the investigation of all types of crimes. The deed is submitted to the Riau Police investigator and/or the public prosecutor (if the file is already P-19/P-21) as a basis for a request for the case to be resolved out of court through the Restorative Justice mechanism (termination of investigation/prosecution).

The legal certainty of a notarial deed of peace between the victim and the perpetrator in the context of terminating a criminal case at the investigation level in the Riau Regional Police (and throughout Indonesia) is closely related to the concept of Restorative Justice and the investigator's discretionary policy, because in formal juridical terms, peace is not a reason for terminating an investigation which is limitedly regulated in the Criminal Procedure Code (KUHAP). However, in practice and supported by internal Polri regulations, a notarial deed of peace becomes a strong basis for investigators to issue an Investigation Termination Order (SP3) through the Restorative Justice mechanism.

The peace deed obtained outside the court should be made in the form of an authentic deed, so that later when a lawsuit is filed in court, the judge can immediately issue a decision (*uit voerbaar bij vooraad*), because the deed has perfect or undeniable evidential power, the contents of the deed are considered true and the judge must believe what is written in it.

3.2. Legal Consequences of Ignoring the Notarial Deed of Peace Between the Victim and the Perpetrator at the Riau Regional Police.

A notarized peace agreement has the same legal force as a final court decision, provided it meets the formal and material requirements. Therefore, this agreement is binding on the parties who made it and must be implemented in good faith. If one party ignores or fails to implement the terms of the peace agreement, the other party can file a lawsuit for breach of contract with the court. The court can then order the defaulting party to implement the terms of the peace agreement. Furthermore, the injured party has the right to seek compensation for any losses incurred as a result of the breach. A peace agreement can also serve as a means of legal protection for victims, as it allows them to obtain redress for the losses or suffering they have experienced. Peace agreements provide an opportunity for the perpetrator to correct their mistakes and restore good relations with the victim.

Explained in detail from various perspectives, some of the legal consequences of ignoring the deed. Peace between the victim and the perpetrator, namely:

1) From a Criminal Perspective.

Because the Criminal Procedure Code does not regulate peace as a reason for terminating an investigation, if the investigator ignores the peace deed, the case can still proceed to the prosecution stage. The peace deed does not automatically cancel the criminal process, so even if it is ignored, it does not violate criminal procedure law because the main reference remains Article 109 of the Criminal Procedure Code regarding the reasons for terminating an investigation, which reads:

- a. If an investigator has begun investigating an incident that constitutes a crime, the investigator will notify the public prosecutor of this.
- b. If the investigator stops the investigation because there is insufficient evidence or the incident turns out not to be a criminal act or the investigation is stopped by law, the investigator will notify the public prosecutor, the suspect or his family.
- c. In the event that the termination referred to in paragraph (2) is carried out by the investigator as referred to in Article 6 paragraph (1) letter b, notification regarding this matter shall be immediately submitted to the investigator and public prosecutor.

2) From a restorative justice perspective

If the notarial deed of peace fails to achieve the goal of restorative justice, even though reconciliation has been made and the victim has forgiven the perpetrator, this will indeed lead to dissatisfaction among the public and victims, as the non-litigation settlement formalized through an authentic deed was not considered by investigators. Authorities may be deemed inconsistent with the policies of the National Police Chief and Attorney General, who have encouraged the use of restorative justice.

3) From a Civil Perspective.

Ignoring a settlement agreement does not invalidate its legal force as an authentic deed. The agreement remains legally binding between the victim and the perpetrator, especially if it includes a compensation clause. If the perpetrator fails to comply, the victim can demand enforcement of the settlement agreement through a civil lawsuit (e.g., civil execution).

4) From the Perspective of Legal Certainty.

Uncertainty in law enforcement is a condition that contradicts the principle of legal certainty. Legal certainty serves to guarantee that every legal action will receive equal treatment based on applicable regulations. In the context of a notarial peace deed, neglect by law enforcement officials can be seen as neglect of authentic evidence that normatively has perfect evidentiary power as regulated in Article 1870 of the Civil Code which reads: "An authentic deed provides perfect proof between the parties and their heirs or persons who receive rights from them regarding what is contained therein."

Article 1870 of the Civil Code stipulates that authentic deeds, including notarial peace deeds, have full evidentiary force and are binding on the parties. Consequently, peace deeds are not merely formal documents, but rather authentic evidence that must be recognized in legal proceedings, including when considering the termination of a criminal case through restorative justice

mechanisms. If law enforcement officials ignore these deeds, their status as legal instruments is lost, thereby creating legal uncertainty.

According to Hans Kelsen, legal certainty requires that legal norms be consistently enforced and not be arbitrarily interpreted by law enforcement officials. Ignoring the peace agreement would mean that officials are not enforcing legal norms properly, thus contradicting the principle of consistent law enforcement.

According to Gustav Radbruch, legal certainty is one of the fundamental values of law, alongside justice and expediency. In this context, a notarial peace deed fulfills the values of justice (because the victim and perpetrator agree to reconcile) and expediency (because it can end the conflict without a lengthy process). However, if the deed is not recognized, the legal objectives of certainty, justice, and expediency are not achieved. In other words, ignoring the peace deed not only violates the formal aspects of the law but also reduces the law's legitimacy in the eyes of society.

It can be concluded that formally, the Criminal Procedure Code does not recognize peace as a reason for stopping an investigation, but materially, legal practice and the needs of society demand its application. *restorative justice* However, a peace deed cannot be ignored because it helps achieve certainty, justice, and benefit. In terms of its function, it can be understood that a peace deed drawn up by a notary also serves as a means of resolving criminal cases through a restorative justice approach. This is because the deed can contain various forms of peace agreements, including regulations on the rights and obligations of the parties related to aspects of evidence and implementation of execution in the event of a default. Therefore, in order to realize the principle of justice and provide legal protection in the peace process based on restorative justice, the existence of a peace deed drawn up by a notary is very beneficial for parties seeking peaceful dispute resolution.

4. Conclusion

Based on the results of the research and analysis above, the author can draw conclusions from this writing, including the following: Legal Force of Notarial Deed of Peace Between Victim and Perpetrator in Termination of Criminal Case at Investigation Level has the status of authentic evidence that is valid, binding, and has perfect evidentiary power. This deed can be the basis for consideration by investigators or public prosecutors in applying restorative justice, although formally the Criminal Procedure Code does not regulate peace as a reason for terminating an investigation. Legal certainty of the peace deed still faces a dilemma. On the one hand, a notarial deed of reconciliation is a valid legal fact under the Civil Code. However, on the other hand, the lack of explicit provisions in the Criminal Procedure Code creates potential legal uncertainty, leaving its

implementation highly dependent on the discretion of investigators and prosecutors. Legal consequences if the peace deed is ignored different according to perspective: From a criminal perspective, the process can continue until prosecution. From a restorative justice perspective, the goals of restoring victims' rights and achieving peace were not achieved. From a civil perspective, the deed remains binding and can be executed in the event of default. From the perspective of legal certainty, ignoring the peace deed weakens legal legitimacy and creates uncertainty.

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