

Notary's Responsibility for Criminal Acts of Corruption He Did as a General Official Study of Decision Number: 1673 PK/Pid.Sus/2024

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Abstract. *As a public official, a notary has the authority to create authentic deeds that have perfect evidentiary power. However, in practice, it is possible for notaries to be involved in criminal acts of corruption, either directly or indirectly, thus raising questions regarding the limits and forms of their legal accountability. This study aims to analyze the responsibility of notaries for criminal acts of corruption committed in their capacity as public officials and their legal implications. The research method used is normative juridical research with a statutory and conceptual approach. The data used are primary, secondary, and tertiary legal materials that are analyzed qualitatively to obtain a comprehensive understanding of notary responsibility in the context of criminal acts of corruption. The results of the study indicate that notaries proven to have committed criminal acts of corruption can be held accountable under criminal, civil, and administrative laws. Criminal liability is imposed based on laws and regulations related to criminal acts of corruption, while civil liability relates to losses incurred, and administrative liability is in the form of sanctions from organizations or supervisory agencies.*

Keywords: *Corruption; Crime; Legal; Protection; Responsibility.*

1. Introduction

In carrying out their duties, notaries are legally protected by Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary, which the author will hereinafter refer to as UUJN and UUJNP. The presence of a notary in creating legal certainty and providing legal protection for the community is a blessing for their position. This protection is also in line with the objectives of the law, particularly related to integrating and coordinating various interests in society by regulating the protection and limitations of these various interests.

The responsibilities of a Notary as a public official include the responsibilities of the Notary profession itself which are related to deeds, namely the Notary's civil responsibility for the deeds he makes, responsibility for the material truth of the deed, in the construction of unlawful acts.¹

The authority for Article 84 and Article 85 of Law No. 2 of 2014 concerning amendments to Law No. 30 of 2004 concerning the Position of Notary is regulated that, when a Notary in carrying out his/her duties is proven to have committed a violation, the notary can be subject to or given sanctions, in the form of civil sanctions, administrative sanctions, and the Notary's code of ethics, and these sanctions have been regulated in such a way, both previously in the Notary Position Regulations, and now in the UUJN and the Notary's Code of Ethics, and do not regulate the existence of criminal sanctions against notaries.

A notary is a public official authorized by the state to issue authentic deeds and perform other duties as stipulated in Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Office of Notaries (UUJN). In carrying out their duties, a notary holds a strategic position because every deed they issue has the power of proof in the eyes of the law. Therefore, the office of notary demands integrity, professionalism, and a high degree of moral and legal responsibility.

The involvement of notaries in corruption is certainly a serious problem because it concerns public trust in notarial institutions and legal integrity in Indonesia. As public officials, notaries have responsibilities not only ethically and administratively through the supervision of the Notary Supervisory Board (MPN), but also criminally if their actions meet the elements of a crime as regulated in Law Number 31 of 1999 and Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption.

From a legal perspective, the position of a notary as a public official often presents a dilemma. On the one hand, a notary acts as a public functionary subject to state administrative law. However, on the other hand, when a notary commits an act that is detrimental to state finances or receives certain compensation, he or she can be classified as a state official as stipulated in Articles 2 and 3 of the Corruption Eradication Law. This debate then raises the need to examine the form of responsibility of a notary for the criminal acts of corruption they commit, both in terms of criminal liability, administrative liability, and professional ethics.²

¹Herlien Budiono, 2015, Collection of Civil Law Writings in the Notary Sector, Third Book, PT Citra Aditya Bakti, Bandung, p. 73.

²Al Samiya, 2021, "Notaries as Reporters in the Prevention of Money Laundering Crimes," Jurnal Juris, Vol. V, No. 2, p. 102

Furthermore, this research is also important for providing a deeper understanding of the position of notaries as public officials in the context of criminal law, as well as for emphasizing the need for a stricter system of oversight and enforcement of ethical codes to prevent abuse of office by notaries. Therefore, the discussion on notaries' responsibilities for corruption is not only theoretically relevant for the development of legal science, but also practically relevant for realizing clean, transparent, and accountable governance of the notary profession.

In the Indonesian legal system, the crime of corruption is regulated by Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption. This law stipulates that anyone who intentionally commits an act of enriching themselves or others that harms state finances can be punished. Furthermore, Articles 2 and 3 state that corruption can be committed by anyone who has the authority, opportunity, or means due to their position or status.

Herein lies an interesting problem to examine further. Are notaries included in the category of "state administrators" as referred to in the law, so that they can be held accountable for corruption crimes? Based on the Explanation of Article 2 of Law Number 28 of 1999 concerning the Administration of a Clean and Corruption-Free State, Collusion, and Nepotism, state administrators include public officials who carry out government functions and provide services to the community. Notaries, although not state civil servants, carry out public functions based on the mandate of the law, so in certain contexts they can be categorized as public service officials.³

Thus, when a notary commits an act related to abuse of authority, accepting gratuities, or participating in a criminal act of corruption, they can be held criminally accountable, just like other legal subjects. This is in line with the principle of equality before the law, which states that every citizen has equal standing before the law and government. However, on the other hand, there is a view that the responsibility of notaries also has administrative and ethical dimensions, because in addition to being subject to criminal law, notaries are also under the supervision of the Regional, Regional, and Central Supervisory Council (MPN) and the Notary Honorary Council (DKN).

From a criminal law perspective, corruption is an extraordinary crime with far-reaching impacts on social life and the economy, as well as public trust in the state. Therefore, the regulation and enforcement of corruption laws must be firm and comprehensive, including against those holding public office, such as notaries.

³M. Siti Nabila, 2022, "Corruption Crimes Committed by Notaries in Relating to Deeds They Issue", *The Indonesian Journal of Legal Studies (TELJ)*, Vol. 3 No. 2, , p. 45

The problem that arises is the ambiguity of the legal status of notaries as public officials, who, on the one hand, are not state officials, but on the other, perform state functions in the form of public legal services. This ambiguity influences the determination of legal accountability when notaries commit acts of corruption.

From the things that the author has described above, the author is interested in further studying, discussing and raising research entitled: "NOTARY ACCOUNTABILITY FOR CRIMINAL ACTS OF CORRUPTION COMMITTED BY THEM AS A GENERAL OFFICIAL. Study of Decision Number: 1673 PK/Pid.Sus/2024"

2. Research Methods

This research uses a normative juridical research method, namely research that focuses on the study of applicable legal norms related to the Notary's Liability for Corruption Crimes Committed as Public Officials. The approach used includes a statute approach by examining the provisions in Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary, Law Number 31 of 1999 concerning the Eradication of Corruption Crimes in conjunction with Law Number 20 of 2001 concerning its Amendments and related laws and regulations, as well as a conceptual approach to analyze the validity of a deed in the Indonesian legal system.

The legal materials used consist of primary legal materials, namely relevant laws and court decisions; secondary legal materials, in the form of legal textbooks, scientific journals, and opinions of notary experts, as well as tertiary legal materials that serve as supporting materials. The legal material collection technique is carried out through literature studies, while the legal material analysis is carried out qualitatively using descriptive-analytical methods, namely by describing, interpreting, and drawing conclusions regarding the problems studied.

3. Results and Discussion

3.1. Notary's Responsibility for Corruption Crimes Committed as Public Officials Study of Decision Number: 1673 PK/Pid.Sus/2024

A notary is a public official with the authority to issue authentic deeds and other powers as stipulated by law. As a public official, a notary not only performs administrative functions but also fulfills the state's function of providing legal certainty for public legal actions.

The notary's position as a public official implies that every action taken in carrying out their duties has a public legal dimension. Therefore, any deviation in the performance of their duties not only impacts civil law but can also give rise to

criminal liability, including in the context of corruption.⁴

In practice, notaries can be involved in criminal acts of corruption through Abuse of authority Making deeds that facilitate unlawful acts, Collusion in transactions that harm state finances, Formal legitimacy of corrupt acts, The role of notaries as authentic deed makers is often an instrument of legitimacy for a legal act. If the deed is used as a means to conceal the proceeds of crime or facilitate corrupt practices, the notary can be held criminally responsible.⁵

Based on these facts, the element of "abuse of authority" in a criminal act of corruption can be analyzed as fulfilled by the notary's use of his official authority to issue a cover note that does not reflect the actual situation. This action demonstrates a deviation from the purpose of granting the authority, which is to ensure legal certainty, not to facilitate the disbursement of credit that could potentially harm state finances.

In carrying out their duties, notaries are required to uphold the principles of honesty, independence, thoroughness, and compliance with the law. However, in practice, it is possible for this authority to be misused for personal or party interests, including in the context of criminal acts of corruption. This case demonstrates that notary administrative actions, such as issuing covernotes, cannot be viewed as mere formalities but rather have significant legal consequences. The discrepancy between the contents of the covernote and the actual conditions of the legal object indicates a potential violation of the principles of prudence and verification, which should be part of a notary's professional obligations. If a notary is involved in a criminal act of corruption, the legal liability inherent is not limited to ethical or administrative aspects, but can also extend to criminal, civil, and administrative matters simultaneously.

As public officials, notaries have the authority to create authentic deeds that serve as evidence in various transactions, including those related to the management of state assets, the procurement of goods and services, investment agreements, and the transfer of land rights related to state finances. Under certain circumstances, deeds created by notaries can serve as a means of formal legitimacy for actions that inherently contain elements of corruption.⁶

A notary's responsibility for corruption cannot be separated from the concept of official accountability. This is because every notary's actions in drafting a deed are carried out in their capacity as a public official. Therefore, if a deed is proven

⁴Jo Shien Nie et al., 2025, "The Inconsistency of Notary Criminal Liability in Banking Credit Corruption Crimes in Case Number: 42/Pid.Sus-TPK/2022/PN Mdn", *Journal of Community Service and Educational Research*, Vol. 4 No. 2, P. 12626

⁵Ibid., p. 12627

⁶Nikson Rinaldi Sinaga and Bambang Eko Turisno, 2024, "Notary's Responsibility for Covernotes Made as a Substitute for Debt Collateral", *Notarius*, Vol. 17 No. 2, P. 636.

to be part of a corruption scheme, the notary can be held legally accountable as long as there is an element of fault and active or passive involvement in the act.

In the context of criminal law, notary liability arises if it is proven that the notary knew that there was an unlawful act but still facilitated it through a deed, participated in designing or structuring transactions that were detrimental to state finances, abused the authority of office to legitimize corrupt acts, and received certain rewards to facilitate acts that were contrary to the law.⁷

In Decision Study Number 1673 PK/Pid.Sus/2024, the Supreme Court classified notaries as accomplices in corruption. This demonstrates that even though notaries are not the primary perpetrators, their contribution in providing the legal-formal basis through documents is still considered causally related to the crime.

Notaries' involvement in corruption can occur both directly and indirectly. Directly, notaries can be involved through falsifying information in deeds or manipulating data used in certain legal proceedings. Indirectly, notaries can act as facilitators, providing formal legitimacy to actions that are actually against the law.

Within the framework of criminal liability, notaries do not have immunity from prosecution if proven guilty of corruption. This aligns with the principle of equality before the law, which affirms that everyone, including public officials, is subject to the same laws. Therefore, a notary's position cannot be used as a justification or excuse for involvement in corruption.

The responsibility of notaries in corruption cases is also closely related to the principle of official accountability. Official accountability requires that any authority granted by the state be used responsibly and not abused for personal or group interests. If a notary is proven to have abused their authority for corrupt purposes, this constitutes a betrayal of public trust. Consequently, in addition to criminal sanctions, the notary may also lose their moral legitimacy as a public official.

Thus, the notary's responsibility for corruption crimes includes: criminal liability for involvement in corrupt acts, administrative liability for violations of official obligations, civil liability for losses incurred, and ethical liability for violations of the professional code of ethics. All of these forms of responsibility reflect that the notary's position is not merely a technical position, but a position of public trust that demands high integrity.

⁷Jo Shien Nie et al., 2025, "The Inconsistency of Notary Criminal Liability in Banking Credit Corruption Crimes in Case Number: 42/Pid.Sus-TPK/2022/PN Mdn", *Journal of Community Service and Educational Research*, Vol. 4 No. 2, P. 12629.

The responsibilities of notaries must also be viewed from the perspective of their official authority. The authority granted by the state carries with it the consequence of public responsibility. Abuse of authority constitutes a form of unlawful conduct that can be classified as corruption if it results in state losses. Furthermore, the involvement of notaries in the practice of gratification can also open the door to criminal liability. Accepting rewards outside of legal provisions, whether in the form of money or facilities, related to the performance of office, can be categorized as corrupt practices if the purpose is to influence the notary's decisions or actions.⁸

In the administrative dimension, the responsibilities of notaries are increasingly complex. Notaries are not only subject to criminal law, but also to professional law and professional codes of ethics. Violations of professional integrity, even if not necessarily criminal, can still result in administrative sanctions. Administrative sanctions against notaries involved in corruption can include: temporary suspension during the legal process, permanent suspension if found guilty, or revocation of the right to hold office. These sanctions are important to maintain public trust in the notary profession.⁹

3.2. Legal Protection for Notaries Proven to Have Committed Corruption as Public Officials, Study of Decision Number: 1673 PK/Pid.Sus/2024

Legal protection for notaries convicted of corruption as public officials is a complex issue in the Indonesian legal system. This is due to their position at the intersection of public office and the legal profession, which carries significant responsibilities to the community and the state. In Decision Study Number 1673 PK/Pid.Sus/2024, legal protection for notaries is still provided through the opportunity to file legal remedies up to the judicial review stage, demonstrating that the judicial system continues to guarantee the legal rights of defendants even after being found guilty.

Legal protection in this context is not intended to absolve notaries from criminal liability, but rather to ensure that law enforcement processes are conducted fairly, proportionally, and in accordance with the principles of the rule of law. In a modern legal system, every individual, including public officials who violate the law, remains entitled to legal protection. This principle is rooted in the principle of due process of law, which guarantees that no one can be sanctioned without due process.

Legal protection for notaries involved in corruption can be seen in several aspects, namely procedural protection, professional protection, and human

⁸Nikson Rinaldi Sinaga and Bambang Eko Turisno, 2024, "Notary's Responsibility for Covernotes Made as a Substitute for Debt Collateral", *Notarius*, Vol. 17 No. 2, P. 636.

⁹Anisa Anggit Arsanti and Aju Putrijanti, 2024, "Legal Accountability for Land Deed Officials Who Commit Corruption in the Tax Sector", *Notarius*, Vol. 17 No. 2, P. 611.

rights protection. Procedural protection ensures that the investigation, inquiry, and prosecution processes are carried out in accordance with applicable procedural law. Notaries still have the right to be accompanied by legal counsel, defend themselves, file objections, and receive a fair trial.¹⁰ Professional protection relates to specific mechanisms governing the examination of notaries in relation to their position. This is crucial to prevent the criminalization of actions that constitute the legitimate exercise of official authority. Human rights protection affirms that notaries, even if proven guilty of a crime, retain their basic rights as citizens. These rights include the right to humane treatment, the right to justice, and the right not to be discriminated against.¹¹

Furthermore, legal protection also serves to maintain a balance between the interests of law enforcement and the interests of professionalism. Excessive law enforcement without regard for professional protection can undermine the legal services system. From an administrative law perspective, legal protection for notaries involved in corruption is realized through a mechanism for development and oversight of the notary's duties. This mechanism allows for evaluation of the notary's performance of duties before imposing final sanctions. Legal protection also contributes to the stability of the legal system. The notary office, as part of the legal system, requires assurance that law enforcement actions do not undermine the existing institutional structure. Therefore, legal protection for notaries found guilty of corruption serves as a form of protection for individual rights and the integrity of the legal system.¹²

Legal protection for notaries convicted of corruption must also be viewed from the perspective of a just justice system. In a state governed by the rule of law, the principle of justice is not only directed at victims or the public, but also at perpetrators of crimes, including public officials such as notaries. Notaries remain legal subjects with constitutional rights that must be respected throughout the law enforcement process. Therefore, even if a notary is convicted of corruption, legal protection is still provided to ensure that the sanctioning process is carried out legally and does not exceed the limits of legal authority.

From an administrative law perspective, legal protection for notaries who commit corruption can be understood as an effort to maintain a balance between the interests of law enforcement and the interests of professionalism. Without adequate protection, the law enforcement process has the potential to create uncertainty and even injustice. Legal protection is also related to the principle of proportionality in imposing sanctions. Not all violations committed

¹⁰Nikson Rinaldi Sinaga and Bambang Eko Turisno, 2024, "Notary's Responsibility for Covernotes Made as Collateral for Debts," *Notarius*, Vol. 17 No. 2, p. 636

¹¹Anisa Anggit Arsanti and Aju Putrijanti, 2024, "Legal Accountability for Land Deed Officials Who Commit Corruption in the Tax Sector," *Notarius*, Vol. 17 No. 2, P. 610

¹²Nikson Rinaldi Sinaga and Bambang Eko Turisno, 2024, "Notary's Responsibility for Covernotes Made as Collateral for Debts," *Notarius*, Vol. 17 No. 2, p. 636

by notaries must result in severe criminal sanctions. In some cases, violations may be more appropriately resolved through administrative or ethical mechanisms, depending on the severity of the error and the resulting impact. Legal protection for notaries found guilty of corruption must also be viewed within the framework of the principle of legality. This principle emphasizes that every law enforcement action must have a clear legal basis. Therefore, even if a notary has been found guilty, any legal action against them must still be based on valid regulations. This legal protection is crucial to prevent disproportionate repressive actions in the law enforcement process. In practice, handling cases involving public officials often generates high levels of public pressure. This situation has the potential to compromise the objectivity of the legal process if not balanced with adequate protection mechanisms.¹³

Furthermore, legal protection also serves to ensure that criminal liability is not overly applied. Not all errors in the performance of office can be categorized as corruption. Therefore, a clear distinction is needed between administrative errors, ethical violations, and criminal acts. This distinction is crucial to maintain justice and prevent the criminalization of actions that do not actually meet the elements of a crime. Thus, legal protection for notaries who are proven to have committed criminal acts of corruption is not aimed at avoiding responsibility, but rather to ensure that law enforcement is carried out fairly, proportionally, and in accordance with the principles of the rule of law.

Based on the overall discussion regarding legal protection for notaries who are proven to have committed criminal acts of corruption as public officials, a number of important points can be drawn which show that the law does not only function as an instrument of punishment, but also as a balancing mechanism between upholding justice and protecting individual rights.

The notary's position as a public official places all their actions within the realm of public law. Therefore, if a notary is found guilty of corruption, the legal liability imposed is not only personal but also relates to the integrity of their public office. However, being a perpetrator of a crime does not eliminate the notary's right to legal protection in law enforcement proceedings. Legal protection for notaries found guilty of corruption is a manifestation of the principle of the rule of law. In a state of law, every individual, including public officials who commit violations, retains the right to fair treatment. This legal protection ensures that the investigation, inquiry, and trial processes are conducted objectively, transparently, and do not violate fundamental rights.

Legal protection also serves to distinguish between official misconduct and criminal misconduct. Not all actions committed in the performance of a notary's

¹³Ibid., p. 12629

duties can be classified as corruption. Therefore, distinguishing between administrative violations, ethical violations, and criminal offenses is crucial.

Legal protection plays a role in upholding the principle of proportionality in imposing sanctions. Sanctions imposed on notaries must be commensurate with the severity of the offense and the resulting impact. Therefore, the law serves not only to punish but also to create balance. Legal protection is also related to efforts to maintain the dignity of the notary profession. The notary position is highly dependent on public trust. Without adequate legal protection, the law enforcement process has the potential to undermine trust in the profession as a whole. Legal protection reflects the principle of non-discrimination. Notaries have the right to equal treatment before the law, without any prejudicial treatment. Legal protection serves to maintain the integrity of the legal process. Without protection, there is a risk that law enforcement processes could be influenced by particular interests. Legal protection also serves as a means of education. With protection mechanisms in place, notaries and other public officials can understand the limits of their authority and responsibilities. Legal protection ensures that law enforcement remains within the framework of the rule of law. The law should not be used as a tool of power.

Overall, legal protection for notaries found guilty of corruption reflects a balance between the interests of law enforcement and the protection of individual rights. Therefore, legal protection is not intended to absolve notaries from liability, but rather to ensure that the law enforcement process is conducted fairly, proportionally, and in accordance with the principles of the rule of law. Therefore, legal protection for notaries in such cases does not eliminate criminal liability, but rather ensures that the law enforcement process continues to be conducted fairly, transparently, and in accordance with the principles of the rule of law.

4. Conclusion

As a public official, a notary public is legally responsible for all actions taken in carrying out their duties. If a notary public is proven to have committed a criminal act of corruption, they may be held criminally liable under applicable laws and regulations, in addition to administrative and ethical responsibilities as stipulated in the notary's position. This reflects that the notary public's status as a public official does not provide legal immunity, but rather demands a high level of integrity, professionalism, and accountability in exercising their authority. Legal protection for notaries public officials remains in place as long as the law enforcement process is carried out in accordance with statutory provisions and upholds the principle of due process of law. However, if a notary public is legally and convincingly proven to have committed a criminal act of corruption, legal protection is not intended to absolve them from criminal liability, but rather to guarantee the fulfillment of their legal rights during the examination, trial, and

implementation of the decision. Thus, legal protection serves as a guarantee of procedural justice, not as a form of impunity for perpetrators of corruption.

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