

Reconstructing Notary Accountability for Unilateral Amendments of Authentic Deeds in the Context of Legal Certainty and Justice

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Abstract

*This study examines notarial accountability for unilateral amendments (renvoi sepihak) to authentic deeds that undermine legal certainty and substantive justice for the parties involved. Although Articles 48–51 of the Indonesian Law on the Position of Notary (UUJN) regulate deed correction mechanisms, these provisions remain normatively vague and fail to clearly define the procedural limits regarding the timing, form, and scope of permissible amendments, thereby enabling potential abuse of authority. This research employs a normative juridical method using statutory and conceptual approaches, supported by qualitative analysis of notarial doctrines, *verlijden* theory, administrative intervention theory, and Supreme Court Decision Number 1003 K/Pid/2015. The findings reveal that procedural ambiguity and weak supervisory mechanisms have created a structural gap that allows unilateral alterations to authentic deeds without adequate legal safeguards. The novelty of this study lies in proposing an integrative reconstruction model of notarial accountability that combines administrative, civil, and ethical dimensions through strengthened *renvoi* procedures, the use of digital verification technologies, and the enhanced role of the Notary Supervisory Council. This study concludes that reconstructing the notarial accountability framework is essential to ensuring legal certainty and substantive justice in notarial practice.*

Keywords: *Accountability; Authentic Deed; Notary*

1. INTRODUCTION

The notarial institution plays a fundamental role in ensuring legal certainty (*kepastian hukum*) within Indonesia's civil law system.¹ As public officials, Notaries are vested by the state with the authority to produce Authentic Deeds (*akta otentik*), which serve as the highest form of written evidence in civil transactions.² Through these deeds, Notaries are expected to guarantee the legality, clarity, and enforceability of agreements made between parties. Thus, the integrity and reliability of a Notary's work constitute a cornerstone of the public's trust in the legal system.³

However, recent developments reveal a troubling phenomenon involving unilateral amendments (*renvoi sepihak*) of Authentic Deeds, which threaten the very essence of legal certainty.⁴ In several documented cases, Notaries have altered the contents of a deed after it

¹ Almansyah, Dimas, and Mohamad Fajri Mekka Putra. "Tanggungjawab notaris dalam pembuatan akta para pihak di bawah tekanan dan paksaan." *Jurnal USM Law Review* 5.2 (2022): 754-766. <https://doi.org/10.26623/julr.v5i2.5728>.

² Gani, Iskandar A., et al. "The Constitutional Court's Protection and Fulfilment of the Citizens' Rights: Constitutional and Islamic Law Perspectives." *Samarah: Jurnal Hukum Keluarga dan Hukum Islam* 8.1 (2024): 317-338. <https://doi.org/10.22373/sjhc.v8i1.22215>.

³ Shofianingrum, Rilda, and Maman Sudirman. "Implikasi Hukum Akta Jual Beli Yang Tidak Ditandatangani di Hadapan Pejabat Pembuat Akta Tanah Sementara." *Jurnal USM Law Review* 7.3 (2024): 1952-1966. <https://doi.org/10.26623/julr.v7i3.10975>.

⁴ Rahayu, Derita Prapti, et al. "Law enforcement in the context of legal culture in society." *Law Reform* 16.2 (2020): 276-289. <https://doi.org/10.14710/Lr.v16i2.33780>.

has been signed, either upon request of one party or through personal initiative. Such actions not only violate procedural norms but also create defective deeds (*akta cacat hukum*) that undermine the evidentiary value of the document and erode public confidence in the notarial profession. These irregularities signify a growing tension between professional ethics, administrative procedure, and the pursuit of justice within notarial practice.⁵

From a regulatory standpoint, ambiguity persists in the procedural framework outlined in Articles 48-51 of the Law on the Position of Notary (*Undang-Undang Jabatan Notaris* or *UUJN*).⁶ These provisions stipulate the formal requirements for deed-making and the preservation of *minuta akta*, yet they fail to clearly define the procedural and legal consequences of unilateral amendments made after execution.⁷ The absence of explicit regulatory guidance generates interpretive uncertainty regarding the boundaries of a Notary's authority and the scope of liability when such misconduct occurs. This regulatory gap consequently weakens the protection afforded to parties relying on the deed and complicates the enforcement of notarial accountability.⁸

The legal implications of this problem are profound. Unilateral *renvoi* compromises the authenticity and probative value (*kekuatan pembuktian*) of the deed, leading to potential invalidation in judicial proceedings. Moreover, it raises questions about the extent and nature of notarial accountability, whether administrative, civil, or ethical, particularly when the alteration results in material loss or legal detriment to one of the parties. The situation exposes deficiencies in the current accountability system, which tends to treat each dimension of liability separately rather than as an integrated framework.

Previous research has discussed various dimensions of notarial accountability but has yet to provide a unified model that integrates administrative, civil, and ethical responsibilities. Wandayani (2015) examined procedural flaws in the implementation of notarial duties, particularly in cases of negligence leading to unilateral amendments, but did not elaborate on a concrete accountability framework.⁹ Nanda (2022) emphasized the importance of good faith and public trust as foundations of professional conduct, yet her

⁵ Munib, Ali, Suratman Suratman, and Diyan Isnaeni. "Tanggung Jawab Notaris Terhadap Pembatalan Akta Atas Terjadinya Tindakan Pemalsuan Oleh Notaris." *Jurnal USM Law Review* 7.3 (2024): 1241-1259. <https://doi.org/10.26623/julr.v7i3.9653>.

⁶ Serena, M.A., Saly, J.N., Sugiarto, I.R., Rambu, R.V., Wisuta, R., Pasyah, R.A., & Yulianto, H. (2023). Pertanggungjawaban Notaris Terhadap Pelanggaran Kode Etik Terkait Pemalsuan Akta Otentik. *Jurnal Ilmiah Wahana Pendidikan*, 9(20), 353-360.

⁷ Bashori, MS (2016). Pertanggung Jawaban Pidana Bagi Notaris Yang Melakukan Tindak Pidana Pemalsuan Surat Dalam Pembuatan Akta Otentik. *Jurnal Supremasi*, 3-3.

⁸ Abdul Ghofur Anshori, Lembaga Kenotariatan Indonesia Perspektif Hukum dan Etika, UII Press, Yogyakarta, 2009, hlm. 183.

⁹ Wandayani, Sari Dewi Adhistya, Emmy Latifah, and Anjar Sri Ciptorukmi Nugraheni. "Rekonstruksi Kode Etik Notaris: Menjawab Dilema Publikasi dan Promosi Jabatan di Era Digital." *Jurnal USM Law Review* 8.3 (2025): 1710-1742. <https://doi.org/10.26623/julr.v8i3.12790>.

analysis remained normative without addressing structural reform.¹⁰ Manullang (2023) advanced the philosophical equilibrium between legal certainty and justice as the core of notarial ethics, though his study lacked practical mechanisms for enforcement.¹¹ The most recent work by Wandayani (2025) further identified gaps in determining liability for unilateral changes, but it stopped short of formulating an integrated accountability system. Collectively, these studies indicate that prior scholarship has not yet harmonized the three dimensions of notarial accountability into a comprehensive legal model capable of upholding both legal certainty and substantive justice.¹²

In light of these theoretical and empirical gaps, this study holds critical urgency. It seeks to reconstruct a holistic framework of notarial accountability that simultaneously encompasses administrative, civil, and ethical dimensions. Such reconstruction is essential not only to ensure compliance with positive law (*hukum positif*), but also to embed the principle of material truth (*kebenaran materiil*) as a substantive foundation of justice. Accordingly, the primary objective of this research is to formulate a model of Notary accountability that guarantees both legal certainty and legal justice, thereby restoring public trust in the authenticity and reliability of notarial deeds.

2. METHOD

This research employs a normative juridical approach, complemented by a conceptual approach, as the principal methodological foundation.¹³ The selection of these approaches is directly aligned with the study's primary aim to critically analyze and reconstruct the framework of a Notary's professional liability within the Indonesian legal system. The normative juridical approach focuses on the analysis of laws as written norms (law in books), while the conceptual approach allows for the development of theoretical constructs that go beyond positive law, ensuring a more comprehensive understanding of accountability in notarial practice.

The study systematically utilizes three categories of legal materials. First, primary legal sources (*bahan hukum primer*) comprise the Law on the Position of Notary (*Undang-Undang Jabatan Notaris* or UUJN), the Indonesian Civil Code (*Kitab Undang-Undang Hukum Perdata* or KUHP), the Criminal Code (*Kitab Undang-Undang Hukum Pidana* or KUHP), the Code of Ethics of the Indonesian Notary Association, and Supreme Court Decision No. 1003 K/Pid/2015. The inclusion of the Supreme Court decision serves as an

¹⁰ Nanda, Reza Ria, and Rouli Anita Valentina. "Tanggung jawab notaris dalam legalisasi dokumen warga negara asing menurut Konvensi Apostille." *Jurnal USM Law Review* 5.1 (2022): 270-281. <https://doi.org/10.26623/julr.v5i1.4920>.

¹¹ Manullang, Lasmaria, and Amad Sudiro. "Legal Consequences of Making a Deed of Marriage Agreement by a Notary Who Has Not Been Registered." *Jurnal USM Law Review* 6.3 (2023): 1170-1180. <https://doi.org/10.26623/julr.v6i3.7338>.

¹² Mahkamah Agung Republik Indonesia. (2015). *Putusan Nomor 1003 K/Pid/2015 tentang Pemalsuan Akta Otentik oleh Notaris Neni Sanitra*. Diakses dari <https://putusan3.mahkamahagung.go.id/>.

¹³ Marlina, L., & Habib, A. (2022). Analisis Pertanggungjawaban Notaris terhadap Akta Cacat Hukum. *Jurnal Hukum & Etika Profesi*, 8(1), 45-58.

empirical-normative reference, offering an interpretative basis for understanding how the judiciary conceptualizes and applies notarial accountability within real legal disputes. Second, secondary legal materials (bahan hukum sekunder) include academic books, peer-reviewed journal articles, prior research findings, and authoritative opinions of legal scholars. These materials provide critical perspectives that enrich the analytical dimension of the study, particularly in identifying gaps and inconsistencies within existing regulatory frameworks. Third, tertiary legal materials (bahan hukum tersier) consist of legal dictionaries, encyclopedias, and other supplementary references that assist in clarifying terminologies, concepts, and interpretative nuances within the field of notarial law.¹⁴

Data collection was conducted through a comprehensive literature review and document study involving statutes, court decisions, and scholarly writings. The analytical process employs a qualitative method, emphasizing the interpretation of legal norms, the identification of doctrinal inconsistencies, and the construction of a conceptual model for reconstructing the accountability framework of notaries. This approach positions the research as analytically descriptive in nature, relying on doctrinal legal analysis to bridge the theoretical principles of law with their normative and ethical applications in practice. Ultimately, the chosen methodology ensures that the findings are not limited to a formalistic reading of statutory provisions, but also incorporate the interdisciplinary synthesis between law, social context, and professional ethics, reflecting the holistic nature of accountability within the notarial profession.¹⁵

3. RESULTS AND DISCUSSION

3.1 Notary's Accountability for Legally Defective Authentic Deeds and Weaknesses in the Prevailing Legal System

Based on the preceding analysis of notarial authority and the structure of legal responsibility, this section specifically examines how the weaknesses of Indonesia's legal system contribute to the emergence of defective authentic deeds and explores the theoretical and practical implications of notary accountability. This analytical continuity ensures that the discussion moves from problem identification, namely, the legal defects in notarial deeds, to solution and reconstruction, namely, the theoretical foundation for reformulating the accountability system for notaries.¹⁶

Fundamentally, the law's core mission is to establish certainty, justice, and protection for all individuals engaging in legal dealings.¹⁷ As modern life grows increasingly complex, the demand for documented proof possessing supreme legal authority becomes

¹⁴ Soekanto, S., & Mamudji, S. (2001). *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. Jakarta: RajaGrafindo Persada.

¹⁵ *Ibid.*

¹⁶ Miftah Arifin, Zaenal Arifin, and Mac Thi Hoai Thuong, "The Principle of Proportionality on Digital Business Agreements: Between Mitigation and Orientation," *Indonesia Private Law Review* 4, no. 1 (2023): 47–56, <https://doi.org/10.25041/iplr.v4i1.2954>.

¹⁷ Tarigan, R. S. (2024). *Menuju Negara Hukum Yang Berkeadilan*. Ruang Karya Bersama, hal.33

even more urgent. To address this, the State utilizes regulation to specifically empower the Notary as a Public Official, assigning them the critical duty of assuring the authenticity, certainty, and validity of legal deeds. Thus, the Notary's existence is far more than procedural; it serves as a vital tool for safeguarding public confidence in the overall legal framework.

The existence of the Notary emerges as a solution to the public's need for an official capable of providing legal certainty through authentic documents.¹⁸ The essential objective of the notarial office and profession is to provide services to the public, especially to those who require written evidence endowed with perfect legal force. The regulation concerning the notarial office was initially established through Law Number 30 of 2004, which subsequently underwent revision and refinement in Law Number 2 of 2014.¹⁹ In executing their duties, the Notary bears full liability for the Authentic Deeds they execute, as well as for other authorities inherent in their position. Prior to commencing the profession, every Notary is mandated to take an oath of office as a form of moral commitment to abstain from the abuse of authority or actions that may cause detriment to themselves or other parties. In addition to being bound by the oath, the Notary is also obliged to uphold the professional code of ethics as an ethical and moral guide in their daily activities.²⁰

The moral commitment and oath of office solemnly sworn by the Notary are ultimately oriented towards the execution of authority that has been specifically regulated by statutory instruments. Every authority vested in an office must be founded upon the rule of law as a guideline so that its execution can proceed in an organized manner and avoid overlapping with the authority of other offices. Based on this principle, should a Notary undertake actions that exceed the established boundaries of their authority, such actions may legally be classified as an abuse of authority. The authority of the Notary is regulated in detail under Article 15, Paragraphs (1), (2), and (3) of the Law on the Position of Notary (UUJN). Pursuant to Article 15, Paragraph (1), the essential competence of the Notary is the execution of Authentic Deeds and does not encompass the drafting of a Power of Attorney to Encumber Mortgage Rights (SKMHT) or a Certificate of Inheritance.²¹

It is pertinent to note that a number of types of Authentic Deeds fall under the purview of a Notary's authority but are simultaneously permissible to be executed by other officials or institutions, in accordance with the provisions stipulated in statutory regulations.²² In the context of a Notary's accountability, the validity of the Authentic

¹⁸ Serena, M. A., Saly, J. N., Sugiarto, I. R., Rambu, R. V., Wisuta, R., Pasyah, R. A., & Yulianto, H. (2023). Pertanggungjawaban Notaris Terhadap Pelanggaran Kode Etik Terkait Pemalsuan Akta Otentik. *Jurnal Ilmiah Wahana Pendidikan*, 9(20), 353-360.

¹⁹ *Ibid.*

²⁰ Stefani Christanti Hamdani, Endang Pandamdari, Tanggung Jawab Hukum Terhadap Status Akta Autentik Yang Dibuat Pada Saat Cuti, *Adigama Law Journal*, hal.2

²¹ MH Philipus, T Sri Djatmiati - *Yuridika*, 1997

²² Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris. Lembaran Negara Republik Indonesia Tahun 2014 Nomor 3

Deed constitutes a crucial issue, since a deed that is defective, whether formally or materially, not only diminishes its probative force but may also trigger legal consequences for the Notary and the related parties. Beyond the authorities stipulated in Article 15 Paragraphs (1), (2), and (3) of the Law on the Position of Notary (UUJN), the Notary is also charged with normative liabilities that must be executed in the practice of their office.²³ The UUJN, specifically in Article 16 Paragraph (1) letter a, mandates that the Notary must carry out their duties with full integrity, uphold the values of honesty, work meticulously and independently, maintain impartiality, and prioritize the protection of the interests of the parties in every legal action undertaken.²⁴

At the theoretical level, notarial liability can be analyzed through the lens of strict liability and the prudential principle. The doctrine of strict liability, as discussed by Hans Kelsen and further developed in modern administrative law, holds that accountability arises not solely from intention (*mens rea*) but from the existence of a legal violation itself. In the notarial context, this means that even an unintentional procedural defect, such as an unauthorized *renvoi*, can result in legal liability because the act breaches the statutory obligation to maintain the deed's authenticity.²⁵ Complementarily, the prudential principle (*asas kehati-hatian*) requires that the Notary, as a professional public official, exercise meticulous care and due diligence in every procedural step, ensuring that each act aligns with legal formality and ethical correctness. The interplay between these two concepts reinforces the argument that notarial accountability is objective in nature and founded upon the principle of professional negligence, not merely upon subjective fault.

Notwithstanding the clear establishment of normative obligations, notarial practice still demonstrates instances where the Notary undertakes actions that violate the provisions within the UUJN. Corroborating Kelsen's concept of strict liability, it is stated that an individual may still be held accountable for a violation even if the act was carried out unintentionally or beyond expectation.²⁶ This demonstrates that in notarial practice, the Notary cannot simply cite inadvertence or ignorance when drafting an Authentic Deed. From the perspective of positive law, a defective Authentic Deed, such as one resulting from unilateral *renvoi*, still leads to detrimental legal consequences for the parties involved. An Authentic Deed potentially loses its authentic status if it fails to meet the requirements stipulated in Article 1868 of the Civil Code (KUHP), which states that:

“A deed that cannot be treated as an authentic deed, either due to the incompetence or the incapacity of the public official concerned or due to a defect in its form, shall have the

²³ Iriantoro, A. (2024). Kesalahan Notaris Akibat Tidak Saksama Dalam Pembuatan Akta Perjanjian Pengikatan Jual Beli Terhadap Tanah Kas Desa Berakibat Tindak Pidana Korupsi. *Imanot: Jurnal Kemahasiswaan Hukum & Kenotariatan*, 4(1), 194-211

²⁴ Limbong, T. W. (2021). Analisis Yuridis Keabsahan Akta Sewa Menyewa Yang Direnvoi Secara Sepihak (Studi Putusan Nomor 146/PDT/2018/PT. Bdg). *Juris Studia: Jurnal Kajian Hukum*, 2(3), 549-558.

²⁵ Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris. Lembaran Negara Republik Indonesia Tahun 2014 Nomor 3

²⁶ Hans Kelsen, *Loc. Cit.*

probative force of an underhand writing if it is signed by the parties.”²⁷

Empirically, the breach committed by a Notary is observable in Supreme Court Decision Number 1003 K/Pid/2015. This decision details a Notary who imposed a modification or unilateral renvoi upon the minuta of a deed post-signature by all involved parties. The Court found that the amendment was performed outside the proper renvoi mechanism as stipulated in Articles 48-51 of the UUJN. Consequently, the deed was declared legally defective and void by law. However, rather than merely citing procedural violation, this decision is significant because it exposes systemic weaknesses in the enforcement of notarial accountability, specifically, the blurred boundaries between administrative negligence and criminal misconduct. The Court’s reasoning suggests that when the renvoi alters substantive elements of the deed, the act transcends administrative fault and enters the domain of intentional falsification.²⁸

The consequences of this action necessitated that the Notary concerned be held liable for their act, whether administratively, civilly, or criminally. Expert testimony, including that of Prof. Dr. Ismansyah, S.H., M.H., emphasized that any amendment to an Authentic Deed must strictly adhere to the procedural safeguards outlined in the UUJN. The failure to do so results not only in the loss of authentic probative force but also in the erosion of public trust in the notarial system. Thus, MA Decision No. 1003 K/Pid/2015 becomes a jurisprudential benchmark for reconstructing notarial accountability, demonstrating how legal defects in deeds can trigger multi-layered responsibilities: administrative, civil, and criminal.²⁹

Administrative sanctions for Notaries are governed by three regulatory instruments: the UUJN, the Notary Code of Ethics, and Ministerial Regulation No. 61 of 2016. Article 91A of Law No. 2 of 2014 stipulates the procedures for imposing such sanctions, ranging from written warnings and temporary suspension to honorable or dishonorable discharge. Nonetheless, these administrative measures, while essential, address only institutional misconduct; they do not fully resolve the issue of legal harm arising from the Notary’s imprudence.³⁰

In the civil dimension, liability arises when the injured party experiences loss due to a defective deed. According to Article 1865 of the Civil Code, the burden of proof lies upon the claimant to demonstrate the locus of the notary’s error. Hence, a notary’s professional negligence that leads to the degradation of an authentic deed to an underhanded document may constitute a civil wrong (tortious liability), obliging restitution of losses.³¹

²⁷ KUHPperdata.

²⁸ Putusan Mahkamah Agung Nomor 1003 K/Pid/2015.

²⁹ Bashori, M. S. (2016). Pertanggung Jawaban Pidana Bagi Notaris Yang Melakukan Tindak Pidana Pemalsuan Surat Dalam Pembuatan Akta Otentik. *Jurnal Supremasi*, 3-3.

³⁰ Santoso, I. A. (2023). Pertanggungjawaban Notaris Yang Melakukan Pemalsuan Akta Autentik (Studi Kasus Putusan Mahkamah Agung No. 1014 K/Pid/2013). *Jurnal Akta Notaris*, 1(2).

³¹ Andi Maminanga, “Pelaksanaan Kewenangan Majelis Pengawas Notaris Daerah dalam Pelaksanaan Tugas Jabatan Notaris berdasarkan UUJN”, Skripsi, (Yogyakarta: Universitas Gajah Mada, 2008), hlm. 32.

From the criminal law perspective, the boundary between administrative fault and criminal act becomes more nuanced. A Notary is generally shielded from criminal liability for false statements made by the parties, as the Notary's function is limited to recording. However, the situation changes when the Notary independently alters or authorizes alteration of the document after execution. In such cases, as confirmed in MA Decision No. 1003 K/Pid/2015, the Notary's conduct fulfills the elements of forgery under Articles 263, 264, and 266 of the Criminal Code (KUHP). The deliberate modification of a legally binding document demonstrates intent (*dolus*), not mere negligence, and constitutes a serious breach of both the strict liability principle and the prudential principle.³²

The discussion above reveals that the notary's accountability for legally defective authentic deeds is multi-dimensional, extending across administrative, civil, and criminal domains. The integration of strict liability and the prudential principle underscores that the foundation of notarial accountability is both objective and moral. The analysis of MA Decision No. 1003 K/Pid/2015 provides an empirical basis to evaluate the current deficiencies in Indonesia's notarial legal system, particularly the overlapping interpretation of negligence and intent.³³ Building upon these findings, the following subchapter will formulate a conceptual reconstruction of notarial accountability that harmonizes professional ethics, legal certainty, and justice within a coherent legal framework.

3.2 Reconstruction of Notary's Accountability System for Authentic Deeds Unilaterally Renvoied Based on Legal Certainty and Legal Justice

Based on the weaknesses of the existing liability system analyzed in the previous subsection, it becomes imperative to construct a more coherent and prescriptive framework of notarial accountability. The unilateral renvoi phenomenon illustrates the fragility of the current legal mechanism, in which the absence of procedural precision undermines both legal certainty and substantive justice. Therefore, this section aims to formulate a reconstruction model that not only addresses the normative vacuum within Articles 48–51 of the Law on the Position of Notary (UUJN) but also integrates theoretical and practical reforms to ensure a fairer and more transparent accountability system.

The legal foundation concerning Notary's accountability has indeed been regulated in various instruments, commencing from the UUJN, the Civil Code (KUHPPerdata), and the Criminal Code (KUHP). Although this framework is normatively available, practice demonstrates persistent gaps and weaknesses, particularly when a unilateral renvoi (amendment) occurs to an Authentic Deed. This situation not only causes the deed to forfeit its authentic characteristic but also creates uncertainty and injustice for the aggrieved party. Notwithstanding the availability of the normative framework concerning the Notary's office, practical reality shows that the mechanism for accountability has yet to provide a balanced measure of certainty and justice. Deeds that are legally defective or forfeit their authenticity

³² Sanksi Perdata dan Administratif Terhadap Notaris Sebagai Pejabat Publik

³³ *Ibid.*

frequently lead to uncertainty for the parties and result in losses that are challenging to recover.³⁴

This condition demonstrates that the issue of Notary's accountability does not solely originate from weaknesses in positive law (*hukum positif*), but also from the lack of affirmation concerning the principles and formal process for the execution of Authentic Deeds. One theory capable of explaining the significance of the formal process is the *verlijden* theory, which affirms that an Authentic Deed acquires its legal force because it is “born” in the presence of the competent Public Official, namely the Notary. This process includes all procedures concerning the reading, execution (signing), and official storage of the *minuta* of the deed, thereby guaranteeing its authenticity. Therefore, any alteration subsequent to the completion of the *verlijden* process, such as a unilateral *renvoi* executed without the presence of the parties, contravenes the formal principles of Authentic Deed formation and may incur legal liability for the Notary.³⁵

Notwithstanding the availability of a normative framework concerning Notary's liability through Law No. 2 of 2014 on the Position of Notary (UUJN), practical implementation still shows an apparent lack of clear information regarding when alterations or deletions (*renvoi*) on an Authentic Deed may be considered procedurally and materially valid. Consequently, this creates the potential for *renvoi* to be carried out unilaterally by the Notary or other related parties, potentially leading to legal uncertainty and injustice for the appearing parties (*para penghadap*).³⁶ It is indeed true that the UUJN regulates *renvoi* that must be initiated and approved by the parties, as stipulated in Articles 48-51 of the UUJN. However, these provisions remain generally normative and do not elucidate in detail the temporal limits, form, or administrative procedure for a valid *renvoi*.³⁷ Consequently, in practice, instances of *renvoi* executed without the knowledge or consent of the appearing parties still occur, causing the deed to forfeit its perfect authentic evidentiary force and degrading its status to an underhand deed (*akta di bawah tangan*).³⁸

In addition to the lack of clarity regarding the valid temporal limits for an Authentic Deed that has undergone *renvoi*, a regulatory vacuum also exists in the administrative aspect which is not explicitly regulated by the UUJN, particularly concerning the form of recording the alteration within the Authentic Deed whether it should be executed manually, as a

³⁴ Agustini, W., & Djaja, B. (2024). *Pertanggungjawaban Notaris terhadap Akta yang Cacat Hukum: Legal Consequences and Notary Liability for Deeds that are Defected in Law*. *Jurnal Penegakan Hukum dan Keadilan*, 5(2), 77–88.

³⁵ Lumban Tobing, G. H. S. (2020). *Peranan Notaris dalam Pembentukan Akta Otentik Berdasarkan Prinsip Verlijden*. *Jurnal Hukum Kenotariatan Indonesia*, 3(2), 145–160.

³⁶ Mahalini, N. K. D. P., Sariyani, N. L. P., & Puspawati, A. A. A. I. (2025). *Legalitas Renvoi Terhadap Kekeliruan dalam Akta Notaris*. *Jurnal Pengabdian*, 8(1).

³⁷ Fakhriah, S., & Zahra, D. R. (2025). *Upaya Renvoi Terhadap Kesalahan Pengetikan Minuta Akta Yang Di Buat Oleh Notaris*. *Repertorium: Jurnal Ilmiah Hukum Kenotariatan*, 14(1), 43-52.

³⁸ Al-Ishlah: *Jurnal Ilmiah Hukum*, *Pertanggungjawaban Notaris terhadap Isi Akta Autentik yang Tidak Sesuai dengan Fakta* (2021) – mengulas kegagalan pertanggungjawaban notaris ketika akta tidak mencerminkan fakta

marginal note, as an appendix, or as a record in the Notary's repertory. This situation gives rise to ambiguity and potential disparities in the interpretation of renvoi implementation.³⁹ For instance, while Article 50 of the UUJN only requires that deletions remain legible and be initialed by the Notary, witnesses, and the parties, it fails to specify the precise form of documentation. Corrections are often merely noted in the left-hand margin of the deed or formalized via a Berita Acara Pembetulan (Deed of Correction), leaving uncertainty over whether these methods are mandatory or optional, and critically, how they ultimately affect the deed's probative force. This ambiguity in recording weakens legal certainty and accountability, as an inadequately documented renvoi process can generate disputes concerning the authenticity of the recorded amendment in the deed.⁴⁰

Another weakness in the regulation concerning renvoi on Authentic Deeds lies in the lack of clear demarcation regarding the substance of the alterations that may be executed by the Notary. The UUJN, through its Articles 48 and 49, explicitly requires that any alteration, deletion, or addition made to the minuta of a deed must be duly recorded in the closing section and subsequently initialed by the Notary, witnesses, and all involved parties. However, these provisions do not provide a distinct boundary as to whether renvoi should only be performed for technical errors, such as typing or formatting, or whether it also encompasses substantive errors, such as changes to names, transaction values, or contractual clauses.⁴¹ This normative vacuum creates a potential for abuse, because if renvoi is executed on substantial content that affects the will of the parties, such matter ought to be formalized in a new deed rather than through correction on the existing deed. This aligns with Article 1868 of the Civil Code (KUHPerdata), which affirms that an Authentic Deed acquires its perfect probative force because it is executed in the form stipulated by law and by a competent Public Official. Consequently, any substantial alteration without a formal procedure potentially degrades the deed's authenticity and weakens its probative force.⁴²

From a prescriptive standpoint, the reconstruction of the accountability system must provide both a normative and procedural solution. First, at the normative level, the UUJN should be amended to incorporate an explicit distinction between technical renvoi and substantive renvoi. The former may involve typographical corrections, while the latter must only be executed through re-verification by all appearing parties. Second, at the procedural level, the Notary must be mandated to employ audio-visual recording whenever a renvoi occurs, capturing the explicit consent of the parties during the amendment process. This technological innovation ensures verifiable proof that the alteration was legitimate and

³⁹ Fakhriah, S., & Zahra, D. R. (2025). Upaya Renvoi Terhadap Kesalahan Pengetikan Minuta Akta Yang Di Buat Oleh Notaris. *Repertorium: Jurnal Ilmiah Hukum Kenotariatan*, 14(1), 43-52.

⁴⁰ Elviani, E., Respationo, S., Tartib, M., & Erniyanti, E. (2023). Analisis Yuridis Terhadap Pencoretan Pihak dalam Akta Notaris yang Berindikasi Nominee Serta Menimbulkan Ketidakpastian Hukum (Studi Penelitian di Majelis Pengawas Daerah Kota Batam). *UNES Law Review*, 6(1), 3525-3535.

⁴¹ Adjie, H. (2008). *Hukum Notaris Indonesia: Tafsir Tematik terhadap Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris*. Bandung: Refika Aditama..

⁴² *Ibid.*

consensual. Furthermore, each party should be required to reaffirm their consent via electronic signatures, integrated into the Notary's digital repository, serving as supplemental evidence to the written minuta.⁴³

This model not only strengthens the probative value of the deed but also aligns with the prudential principle (*asas kehati-hatian*) and the concept of strict liability, as introduced by Hans Kelsen, which holds professionals accountable for all consequences of their actions irrespective of intent. By requiring documentary and digital evidence of each correction, the reconstructed system creates a preventive control mechanism against professional negligence and reinforces the public's trust in the notarial institution.⁴⁴

In addition to the formal dimension, the administrative control mechanism must also be reinforced through the introduction of an administrative intervention model. This model, derived from administrative intervention theory, justifies the authority of the Notary Supervisory Council (*Majelis Pengawas Notaris*) to impose temporary suspension or freezing of a deed that has been unilaterally *renvoied*, pending verification. This intervention does not annul the deed *per se* but functions as an early-warning safeguard to prevent the continued use of a potentially defective legal document. The authority to suspend a deed administratively complements judicial review, providing a two-tier protection system, administrative and judicial, that collectively reinforces both procedural and substantive justice.⁴⁵

Within this reconstructed framework, the *verlijnen* theory provides the philosophical justification for treating the act of *renvoi* as an extension of the deed's "birth." If a deed is considered "born" before the Notary, then any subsequent alteration must also occur before the same authority and within the same formal setting. Conversely, the administrative intervention theory legitimizes the supervisory body's authority to intervene when the formal "birth" process is violated. The synthesis of these two theories ensures that accountability extends from the act of drafting to the life cycle of the deed, encompassing creation, alteration, and storage.⁴⁶

The proposed reconstruction can be articulated as an integrated three-stage accountability scheme that operates sequentially and cohesively. At the preventive stage, prior to the execution of any *renvoi*, the Notary is obliged to verify its purpose and classification, whether technical or substantive, and to duly record the entire process through an integrated digital platform equipped with audio-visual documentation as a

⁴³ Abuda, S. *Rekonstruksi Pengaturan Pertanggung Jawaban Notaris atas Akta yang Dibuatnya Berbasis Kepastian Hukum yang Berkeadilan*. Doctoral dissertation, Universitas Islam Sultan Agung, 2023.

⁴⁴ Dwijayanti, E. *Analisa Prinsip Kehati-hatian Notaris dalam Pembuatan Akta untuk Menghindari Terjadinya Keterangan Palsu dalam Pembuatan Akta Keterangan Waris (Studi Kasus Putusan Pengadilan Nomor 121/PID/2017/PT. DKI)*. Doctoral dissertation, Universitas Islam Sultan Agung Semarang, 2024.

⁴⁵ Rizadi, N. *Efektivitas Fungsi Pengawasan bagi Majelis Pengawas Daerah terhadap Keterlambatan Pelaporan Notaris Terkait dengan Hak Wasiat*. Doctoral dissertation, Universitas Islam Indonesia, 2023.

⁴⁶ Mulyanto, Edi. *Konstruksi hukum notaris dalam menghasilkan Covernote sebagai dasar pencairan kredit berbasis nilai keadilan*. Diss. Universitas Islam Sultan Agung (Indonesia), 2024.

safeguard of transparency and due diligence. Subsequently, at the corrective stage, upon the execution of the *renvoi*, all parties are required to reaffirm their consent through wet or electronic signatures, while the Notary must formally register the alteration in both physical and digital repositories to ensure full traceability and legal certainty. Finally, at the supervisory stage, in the event that disputes arise, the Notary Supervisory Council is vested with administrative authority to suspend the use of the deed pending judicial verification, thereby safeguarding the integrity of the Notary while simultaneously protecting the rights and legal interests of the parties involved.

Through this structured mechanism, the reconstruction model effectively bridges the gap between legal certainty (*kepastian hukum*) and substantive justice (*keadilan substansial*). Legal certainty is ensured through formalized and transparent procedures, while substantive justice is realized through the protection of parties' rights and the maintenance of the Notary's professional dignity. Moreover, this dual approach harmonizes the duties of the Notary as a state-delegated official and as a professional bound by ethical accountability.

This reconstructed model of notarial accountability embodies a holistic paradigm that balances the demands of legal certainty with the moral imperative of substantive justice. By integrating procedural innovations such as audio-visual documentation and electronic consent, supported by theoretical foundations from *verlijnen* and administrative intervention, the system provides a preventive, corrective, and supervisory structure that reinforces both public trust and professional integrity. Based on this reconstruction, the subsequent section will elaborate on the implementation framework and institutional coordination required to operationalize this model within Indonesia's positive legal system.

4. CONCLUSION

The study finds that the Notary's accountability system under Articles 48–51 of the UUJN remains normatively weak and procedurally unclear, especially regarding the timing, form, and scope of *renvoi*. This legal gap enables unilateral amendments to authentic deeds, causing them to lose their authenticity and weakening both legal certainty and justice for the affected parties. By integrating the *verlijden* theory and the administrative intervention theory, this research underscores that an authentic deed must not only be born before a competent public official but also be subject to administrative supervision. Theoretically, it strengthens the concept of procedural legitimacy, while practically it ensures both legal certainty and substantive justice through transparent, accountable correction mechanisms. The study proposes reforming the UUJN by mandating that every *renvoi* be conducted with the parties' consent, verified through written and digital means supported by audio-visual recording and electronic signatures as legal proof. Additionally, the Notary Supervisory Council should have the authority to suspend deeds altered unilaterally. This reconstruction model introduces a novel hybrid accountability system that combines procedural discipline, digital verification, and administrative control to uphold both legal certainty and justice.

REFERENCES

- Abuda, S. *Rekonstruksi Pengaturan Pertanggung Jawaban Notaris atas Akta yang Dibuatnya Berbasis Kepastian Hukum yang Berkeadilan*. Doctoral dissertation, Universitas Islam Sultan Agung, 2023.
- Almansyah, Dimas, And Mohamad Fajri Mekka Putra. "Tanggungjawab Notaris Dalam Pembuatan Akta Para Pihak Di Bawah Tekanan Dan Paksaan." *Jurnal USM Law Review* 5.2 (2022): 754-766. <https://doi.org/10.26623/Julr.V5i2.5728>
- Amalia, Rizky, Musakkir Musakkir, And Syamsuddin Muchtar. "Pertanggungjawaban Notaris Terhadap Isi Akta Autentik Yang Tidak Sesuai Dengan Fakta." *Al-Ishlah: Jurnal Ilmiah Hukum* 24, No. 1 (2021): 188–206. <https://doi.org/10.56087/Ajih.V24i1.77>.
- Anshori, Abdul Ghofur. *Lembaga Kenotariatan Indonesia: Perspektif Hukum Dan Etika*. Yogyakarta: Uii Press, 2009.
- Arifin, Miftah, Zaenal Arifin, and Mac Thi Hoai Thuong. "The Principle of Proportionality on Digital Business Agreements: Between Mitigation and Orientation." *Indonesia Private Law Review* 4, no. 1 (2023): 47–56. <https://doi.org/10.25041/iplr.v4i1.2954>
- Ary, Yuniastuti, And Hafidz Jawade. "Tinjauan Yuridis Kebatalan Akta Dan Pertanggungjawaban Notaris (Studi Kasus Putusan Perkara Nomor: 10/Pdt.G/2015 Pn.Dmk) Ary." *Jurnal Akta* 4, No. 2 (2017): 131–34. <https://doi.org/http://dx.doi.org/10.30659/Akta.V4i2.1791>.
- Bashori, Mohamad Syafrizal. "Pertanggung Jawaban Pidana Bagi Notaris Yang Melakukan Tindak Pidana Pemalsuan Surat Dalam Pembuatan Akta Otentik." *Jurnal Supremasi* 6, No. 2 (2016): 27–43. <https://doi.org/10.35457/Supremasi.V6i2.392>.
- Dwijayanti, E. *Analisa Prinsip Kehati-hatian Notaris dalam Pembuatan Akta untuk Menghindari Terjadinya Keterangan Palsu dalam Pembuatan Akta Keterangan Waris (Studi Kasus Putusan Pengadilan Nomor 121/PID/2017/PT. DKI)*. Doctoral dissertation, Universitas Islam Sultan Agung Semarang, 2024.
- Elviani, Elviani, Soerya Respationo, Muhammad Tartib, And Erniyanti Erniyanti. "Analisis Yuridis Terhadap Pencoretan Pihak Dalam Akta Notaris Yang Berindikasi Nominee Serta Menimbulkan Ketidakpastian Hukum (Studi Penelitian Di Majelis Pengawas Daerah Kota Batam)." *Unes Law Review* 6, No. 1 (2023): 3525–35. <https://doi.org/10.31933/Unesrev.V6i1.1153>.
- Fakhriah, Syahriati, And Dela Rahma Zahra. "Upaya Renvoi Terhadap Kesalahan Pengetikan Minuta Akta Yang Di Buat Oleh Notaris." *Jurnal Ilmiah Hukum Kenotariatan* 14, No. 1 (2025): 43–52. <https://doi.org/10.28946/Rpt.V14i1.4753>.
- G.H.S. Lumban Tobing. *Peraturan Jabatan Notaris (Notaris Reglement)*. Jakarta: Erlangga, 1992.
- Gani, Iskandar A., Et Al. "The Constitutional Court's Protection And Fulfilment Of The Citizens' Rights: Constitutional And Islamic Law Perspectives." *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8.1 (2024): 317-338. <https://doi.org/10.22373/Sjkh.V8i1.22215>
- Habib, Adjie. *Sanksi Perdata Dan Administratif Terhadap Notaris Sebagai Pejabat Publik*. Bandung: Refika Aditama, 2008.

- Hamdani, Stefani Christanti, And Endang Pandamdari. "Pertanggungjawaban Hukum Terhadap Kedudukan Akta Otentik Yang Dibuat Selama Masa Cuti (Putusan Nomor: 1/Pts/Mj.Pwn.Dkijakarta/Xi/2017)." *Jurnal Hukum Adigama* 2, No. 1 (2019). <https://doi.org/10.24912/Adigama.V2i1.5277>.
- Iriantoro, Agung. "Kesalahan Notaris Akibat Tidak Seksama Dalam Pembuatan Akta Perjanjian Pengikatan Jual Beli Terhadap Tanah Kas Desa Berakibat Tindak Pidana Korupsi." *Imanot: Jurnal Kemahasiswaan Hukum & Kenotariatan* 4, No. 1 (2024): 194–211.
- Ivan Aji Santoso. "Pertanggungjawaban Notaris Yang Melakukan Pemalsuan Akta Autentik (Studi Kasus Putusan Mahkamah Agung No. 1014 K/Pid/2013)." *Jurnal Akta Notaris* 1, No. 2 (2022): 71–84. <https://doi.org/10.56444/Aktanotaris.V1i2.398>.
- Limbong, Tri Wahyuni. "Analisis Yuridis Keabsahan Akta Sewa Menyewa Yang Divenvoi Secara Sepihak (Studi Putusan Nomor 146/Pdt/2018/Pt.Bdg)." *Iuris Studia: Jurnal Kajian Hukum* 2, No. 3 (2021): 549–58. <https://doi.org/10.55357/Is.V2i3.173>.
- Mahalini, N. L. P. Sariyani, And A. A. A. I Puspawati. "Legalitas Renvoi Terhadap Kekeliruan Dalam Akta Notaris." *Jurnal Pengapdi* 8, No. 1 (2025).
- Mahkamah Agung Republik Indonesia. Putusan Nomor 1003 K/Pid/2015 Tentang Pemalsuan Akta Otentik Oleh Notaris Neni Sanitra (2015).
- Mamminanga, Andi. "Pelaksanaan Kewenangan Majelis Pengawas Notaris Daerah Dalam Pelaksanaan Tugas Jabatan Notaris Berdasarkan Uujn." Universitas Gajah Mada, 2008.
- Marlina L., And A. Habib. "Analisis Pertanggungjawaban Notaris Terhadap Akta Cacat Hukum." *Jurnal Hukum & Etika Profesi* 8, No. 1 (2022): 45–48.
- Mulyanto, E. *Konstruksi Hukum Notaris dalam Menghasilkan Covernote sebagai Dasar Pencairan Kredit Berbasis Nilai Keadilan*. Doctoral dissertation, Universitas Islam Sultan Agung, 2024.
- Munib, Ali, Suratman Suratman, And Diyan Isnaeni. "Tanggung Jawab Notaris Terhadap Pembatalan Akta Atas Terjadinya Tindakan Pemalsuan Oleh Notaris." *Jurnal Usm Law Review* 7.3 (2024): 1241-1259. <https://doi.org/10.26623/Julr.V7i3.9653>
- Nanda, Reza Ria, And Rouli Anita Velentina. "Tanggung Jawab Notaris Dalam Legalisasi Dokumen Warga Negara Asing Menurut Konvensi Apostille." *Jurnal Usm Law Review* 5.1 (2022): 270-281. <https://doi.org/10.26623/Julr.V5i1.4920>
- Philipus M. Hadjon. *Perlindungan Hukum Bagi Rakyat Indonesia*. Surabaya: Bina Ilmu, 1987.
- Rahayu, Derita Prapti, Et Al. "Law Enforcement In The Context Of Legal Culture In Society." *Law Reform* 16.2 (2020): 276-289. <https://doi.org/10.14710/Lr.V16i2.33780>
- Rizadi, N. *Efektivitas Fungsi Pengawasan bagi Majelis Pengawas Daerah terhadap Keterlambatan Pelaporan Notaris Terkait dengan Hak Wasiat*. Doctoral dissertation, Universitas Islam Indonesia, 2023.
- Serena M. A., J. N. Saly, I. R. Sugiarto, R. V. Rambu, R. Wisuta, R. A. Pasyah, And Yulianto H. "Pertanggungjawaban Notaris Terhadap Pelanggaran Kode Etik Terkait Pemalsuan Akta Otentik." *Jurnal Ilmiah Wahana Pendidikan* 9, No. 20 (2023): 353–60.

- Shofianingrum, Rilda, And Maman Sudirman. "Implikasi Hukum Akta Jual Beli Yang Tidak Ditandatangani Di Hadapan Pejabat Pembuat Akta Tanah Sementara." *Jurnal USM Law Review* 7.3 (2024): 1952-1966. <https://doi.org/10.26623/julr.v7i3.10975>
- Soejono, Soekanto, And Mamudji Sri. *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. Jakarta: Rajawali, 2003.
- Thyawarta, Charlie, And Markoni. "Studi Kasus Pertanggungjawaban Hukum Notaris Dalam Pembuatan Akta Otentik Ditinjau Dari Prinsip Kehati- Hatian." *Jurnal Review Pendidikan Dan Pengajaran* 7, No. 1 (2024): 1791–1800.
- Undang-Undang Nomor 2 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 30 Tahun 2004 Tentang Jabatan Notaris, Pub. L. No. 2 (2014).
- Wandayani, Sari Dewi Adhistya, Emmy Latifah, And Anjar Sri Ciptorukmi Nugraheni. "Rekonstruksi Kode Etik Notaris: Menjawab Dilema Publikasi Dan Promosi Jabatan Di Era Digital." *Jurnal USM Law Review* 8.3 (2025): 1710-1742. <https://doi.org/10.26623/julr.v8i3.12790>
- Wulan, Agustini, And Djaja Benny. "Pertanggungjawaban Notaris Terhadap Akta Yang Cacat Hukum." *Journal Presumption Of Law* 6, No. 1 (2024): 17. <https://doi.org/10.31949/jpl.v6i1.3852>.