

The Urgency of Legal Regulation On Investigator Authorization To Seize And Obtain Original Notarial Deeds

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ABSTRACT

This study examines the urgency of regulating and harmonizing the authority for the seizure and confiscation of notarial minutes in the Indonesian legal system. Minutes of deeds, as part of notarial protocol, have a special character as authentic evidence containing high evidentiary value, official confidentiality, and the legal interests of the parties. On the other hand, the need to enforce criminal law requires access to these documents, especially in the context of proving cases. This condition creates a gap between regulations in criminal procedure law and notarial law, especially regarding the authority of the Notary Honorary Council and the Chief Justice of the District Court. This study aims to analyze the philosophical, sociological, and juridical basis of these regulations, and formulate an appropriate form of harmonization to create legal certainty, justice, and benefit. The research method used is normative juridical with a statutory and conceptual approach, which examines various related legal norms and relevant legal doctrines. The results of the study indicate that the current regulations still cause partial disharmony, especially regarding the mechanism for confiscating original minutes of deeds, which has not been explicitly regulated. Therefore, normative harmonization is needed that places protection of deed minutes as a primary principle, while still allowing limited scope for seizure under exceptional circumstances. This harmonization must emphasize the functional relationship between the authority of the Notary Honorary Council as an ethical-professional filter and the Chief Justice of the District Court as a judicial supervisor, thus creating a balance between the protection of the notary's office and the effectiveness of criminal law enforcement.

Keywords: Minutes of Deed, Notary, Confiscation, Harmonization of Law, Authority, Criminal Evidence.

1. INTRODUCTION

As public officials, notaries play a strategic role in the Indonesian legal system, particularly in ensuring legal certainty through the creation of authentic deeds that are admissible in court. This authority is regulated by Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notaries, which affirms that notaries are authorized by the state to serve the public interest in civil law. Authentic deeds produced by notaries serve not only as written evidence but also as an important instrument in ensuring legal certainty and protection for interested parties. (Kusuma, 2021)

In carrying out their duties, notaries are burdened not only with authority but also with the responsibility to maintain the dignity and honor of their position. Therefore, lawmakers provide legal protection through specific mechanisms, one of which is the involvement of the Notary Honorary Council, an institution authorized to grant approval for summoning notaries and obtaining minutes of deeds for the purposes of judicial proceedings. This provision is expressly

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stipulated in Article 66 of the UUJN-P, which requires the MKN's approval before law enforcement officers can access notary documents. On the other hand, the Indonesian criminal justice system, through the Criminal Procedure Code, grants investigators broad authority to undertake various legal actions to uncover a crime. This authority includes arrest, detention, search, and seizure, all of which aim to gather valid evidence to support the evidentiary process in court. In this context, investigators play a central role as the spearhead of criminal law enforcement. (Mappatunru, 2023)

Legal issues arise when the investigator's authority, as stipulated in the Criminal Procedure Code (KUHAP), clashes with specific provisions in the UUJN-P (Law on the Provision of Notaries) governing the position of notary. On the one hand, investigators have the authority to confiscate documents deemed relevant to a criminal offense with the permission of the Chief Justice of the District Court. However, to access the minutes of a notarial deed, investigators must first obtain approval from the Notary Honorary Council, which in practice often presents an administrative obstacle. This conflict of norms between these two laws and regulations creates legal uncertainty in law enforcement practices. Investigators who require quick access to minutes of a deed as evidence are often hampered by multi-layered licensing procedures. This has the potential to hinder the effectiveness of investigations, particularly in cases requiring swift and timely handling. (Marzuki, 2020)

In practice, the administrative obstacles faced by investigators are not only limited to the lengthy licensing process, but also the possibility of no response or even rejection from the Notary Honorary Council. This condition further complicates the investigation process because investigators do not have the authority to directly access required documents without such approval. This problem has become a serious concern in legal practice, as reflected in the submission of a judicial review of the provisions of Article 66 of the UUJN-P to the Constitutional Court of the Republic of Indonesia. In case Number 65/PUU-XXIV/2026, the applicants argued that the provisions regarding MKN approval should be interpreted as a form of notification only, not as an absolute requirement that could hinder the law enforcement process. (Miharja, 2021)

The applicants in the case argued that the requirement to obtain approval from the Notary Public Prosecutor's Office (MKN) had created significant obstacles to the investigation process, particularly in cases involving authentic deeds. The protracted process was deemed contrary to the principles of speedy, simple, and low-cost justice as mandated by the Indonesian justice system. A concrete case also occurred in East Java, where the Regional Notary Public Honorary Council refused to issue a recommendation to an investigator handling a criminal case. The refusal was based on the results of an internal MKN investigation, which stated that no violations were found

by the notary in question, therefore the investigator's request could not be granted. (Muhaimin, 2022)

This rejection raises serious legal issues, as there is no legal mechanism for investigators or complainants to challenge the decision of the Notary Honorary Council. As a result, the investigation process is hampered and has the potential to not run optimally, thus harming the interests of those seeking justice. From a criminal procedure law perspective, confiscation is an important instrument in the evidentiary process. The Criminal Procedure Code defines confiscation as an action by an investigator to take possession of and/or retain objects under his control for evidentiary purposes. This action must be carried out based on legal procedures, including obtaining permission from the Chief Justice of the District Court. (Musadad & Nahidloh, 2023)

In addition to confiscation, the Criminal Procedure Code (KUHAP) also authorizes investigators to search documents or data suspected of being related to criminal acts. This demonstrates that criminal procedure law provides investigators with ample scope to carry out their duties in uncovering criminal acts. However, the existence of specific provisions in the UUJN-P places notaries in a different position compared to other legal entities. Notaries are obligated to maintain the confidentiality of deeds and all information obtained in the course of carrying out their duties, as stipulated in the provisions concerning the obligations of notaries. (Nasrullah, 2024)

The obligation to maintain confidentiality is part of the notary's oath of office and must be upheld. Violation of this obligation not only impacts the legal aspects but also the integrity and public trust in the notary profession itself. As a profession known for its concept of "officium nobile," notaries have a high moral responsibility in carrying out their duties. This profession is oriented not only toward individual interests but also toward the interests of the wider community, thus demanding high standards of ethics and professionalism. (Neonbeni, 2023)

The concept of "officium nobile" reflects the noble status of the notary profession, as it serves the public interest and ensures justice in society. Therefore, protection for notaries in carrying out their duties is essential. Furthermore, the principle of due process of law emphasizes that all law enforcement actions must be carried out legally and in accordance with statutory provisions. This principle requires a balance between the authority of law enforcement officials and the protection of individual rights, including notaries. (S, 2019)

In this context, it is crucial to ensure that investigators' authority to conduct seizures does not violate applicable legal principles, including specific provisions governing the office of notary. Therefore, harmonization of the Criminal Procedure Code (KUHAP) and the UUJN-P is necessary to avoid prolonged normative conflicts. Based on this description, there is an urgency to thoroughly examine the regulations governing the seizure and retrieval of deed minutes by

investigators. The normative conflict between the provisions of UUJN-P and the KUHAP demonstrates the need for clearer and more stringent regulations to ensure legal certainty and effective law enforcement in Indonesia. (Santoso, 2014)

2. RESEARCH METHODS

This research is a normative legal research with a normative juridical approach that examines doctrinal legal sources, in the form of written legal norms and applicable legal principles. The objective of normative research is to provide legal arguments to assess the morality of an event and appropriate legal action. The approaches used in this research include the statute approach and the conceptual approach. The legal materials used consist of primary, secondary, and tertiary legal materials. Primary legal materials include relevant laws and court decisions. Secondary legal materials consist of legal literature, books, scientific journals, and expert opinions related to Islamic law and notaries. Meanwhile, tertiary legal materials include legal dictionaries, encyclopedias, and other supporting sources. The legal material search technique is carried out through library research, while the legal material analysis is analyzed qualitatively using qualitative analysis methods that are described logically and systematically. Qualitative analysis is an analysis that involves non-statistical methods to analyze textual data, such as legal opinions or legislative texts, to identify themes, patterns, or meanings related to a particular legal issue or topic. (Tan, 2025)

3. RESULTS AND DISCUSSION

The Urgency of Regulating Permits for Seizure and Taking Minutes of Deeds by Investigators

1. Regulation of Permission for Taking Minutes of Deeds by Investigators

Notaries as public officials have a unique position in the Indonesian legal system because they carry out public functions while providing legal services to the community. This position is normatively protected in Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notaries, which confirms that a notary is a position that has the authority to make authentic deeds as perfect evidence. In exercising this authority, notaries are also burdened with the obligation to maintain the confidentiality of the contents of the deed as regulated in Article 16 paragraph (1) of the UUJN, so that there is a balance between the authority and responsibility inherent in this position. (Adjie, 2017)

In practice, the notary's role as the maker of authentic deeds cannot be separated from the possibility of his or her involvement in the criminal justice process, particularly when the

deed he or she makes becomes the object or evidence in a case. Minutes of deeds and notarial protocols have very high evidentiary value as regulated in the Civil Code, so their presence is often needed by investigators to uncover a crime. This shows that notaries not only play a role in the realm of civil law, but also have relevance in criminal law. However, the involvement of notaries in the investigative process cannot be carried out freely by law enforcement officials. Based on the provisions of Article 66 of the UUJN, investigators must first submit a request for approval to the Notary Honorary Council before being able to take photocopies of minutes of deeds or summon a notary for examination. This provision indicates a limitation on the investigator's authority aimed at protecting the dignity and honor of the notary's office. (Adjie & Hafidh, 2023)

Normatively, the approval mechanism is intended as a form of protection for notaries so that they are not easily summoned or questioned without a clear basis. The Notary Honorary Council is authorized to assess whether the investigator's request has met certain requirements before granting approval. Thus, the MKN's function is not only administrative, but also substantive in maintaining the integrity of the notary profession. Furthermore, the procedures for collecting minutes of deeds and summoning notaries are regulated in detail in statutory provisions, including in implementing regulations governing the MKN's working mechanism. One important provision is that the collection of photocopies of minutes of deeds may only be carried out if there is an alleged criminal act directly related to the deed. In addition, the application must also meet other requirements such as the prosecution not having expired, a denial of signature, or allegations of manipulation of the contents of the deed. (Ali, 2019)

The authority of the Notary Honorary Council to approve or reject investigators' requests is essentially a form of administrative discretion that must be exercised carefully. This is because decisions made by the Notary Honorary Council have significant legal implications, both for the investigation process and for the notary's position. Therefore, every decision by the Notary Honorary Council must be based on objective considerations and in accordance with applicable legal provisions. From a state administrative law perspective, decisions issued by the Notary Honorary Council can be categorized as state administrative decisions that can be disputed in court. This means that notaries who feel aggrieved by the Notary Honorary Council's decision have the right to file a lawsuit with the State Administrative Court. Thus, the existence of this mechanism guarantees legal protection for notaries against possible abuse of authority. (Asmara et al., 2025)

As a state administrative decision, the MKN decision must comply with the General Principles of Good Governance, which serve as standards in governance. These principles include legal certainty, openness, proportionality, professionalism, and accountability. The application of the AUPB in every MKN decision is crucial to ensure that the authority held is not abused and remains within the legal corridor. The idea of the importance of the AUPB as a basis for administrative decision-making is also in line with the views of state administrative law experts such as Philipus M. Hadjon, who emphasizes that the AUPB is an unwritten legal norm that develops from the practice of governance. The AUPB serves as a guideline for state administrative officials in exercising their authority to prevent arbitrary action. (Atmadja & Budiarta, 2018)

Furthermore, a more specific perspective on the AUPB was also put forward by FH Van Der Burg and GJM Cartigny, who stated that these principles constitute legal principles that must be considered by every administrative official in making decisions. Therefore, the application of the AUPB within the context of the MKN's authority is a necessity to ensure justice and legal certainty. In the context of protecting notaries, the MKN's function as an institution that maintains the dignity and honor of the profession is crucial. Notaries, as an officium nobile profession, must be protected from actions that could damage their reputation and integrity, including unfounded summonses or examinations. Therefore, the MKN's approval mechanism is part of an effort to maintain a balance between the interests of law enforcement and the protection of the profession. (Hasanah, 2019)

However, in practice, there are issues related to the timeframe for granting approval by the MKN. The provision that requires the MKN to provide a response within 30 days of receipt of the application often creates uncertainty if not complied with. Although normatively stipulated that the absence of a response within this timeframe is considered approval, in practice this still gives rise to different interpretations. Based on the results of this study, it can be concluded that the mechanism for obtaining minutes of deeds by investigators through the approval of the MKN provides a form of legal protection for notaries, but on the other hand, it also has the potential to create obstacles in the investigation process. Therefore, clearer and more stringent regulations are needed to avoid multiple interpretations and ensure that the mechanism can operate effectively without ignoring applicable legal principles. (HS, 2018).

2. Regulation of Minutes of Confiscation Permit by Investigators

In law enforcement practice, the implementation of Article 66 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Office of Notaries is inseparable from various administrative and substantive challenges. One of the main

obstacles identified in this study is the licensing procedure through the Notary Honorary Council, which often takes quite a long time, thus directly impacting the effectiveness of the investigation process. In fact, in the criminal justice system, speed and accuracy in obtaining evidence are crucial factors in uncovering a crime. Normatively, the purpose of an investigation, as formulated in the Criminal Procedure Code, is to seek and collect evidence to clarify a crime and identify the suspect. In this context, evidence plays a very important role because it serves as the basis for law enforcement in constructing a criminal case. Without sufficient evidence, the law enforcement process cannot run optimally. (Mappatunru, 2023)

Evidence in criminal procedure law consists of various types, including witness testimony, expert testimony, letters, defendant testimony, electronic evidence, and even judge observations. Of these various types of evidence, written evidence holds a very significant position, especially in cases related to civil legal relations set forth in the form of authentic deeds. In this case, notarial minutes of deeds are included in the category of written evidence that has perfect evidentiary power. Minutes of deeds as part of the notarial protocol are original documents containing the signatures of the parties, witnesses, and the notary, thus having high authentic value. Based on the provisions of the Civil Code, authentic deeds made by notaries have perfect evidentiary power and are binding on the parties. Therefore, in the context of criminal investigations, minutes of deeds are very important evidence in revealing material truth. (Marzuki, 2020)

However, investigators cannot freely access the minutes of the deed. Article 66 of the Notary Public Law requires the approval of the Notary Honorary Council before investigators can obtain a photocopy of the minutes of the deed. While this provision aims to protect the confidentiality of the deed and maintain the dignity of the notary, it also has the potential to hinder the investigation process. In the operational context of an investigation, the stages that investigators must go through, as stipulated in the Chief of Police Regulation, demonstrate that the investigation process is a systematic and hierarchical series of activities. Starting from the investigation and determining the suspect, to filing and submitting the case, all stages require the support of adequate evidence. When access to evidence, such as the minutes of the deed, is hampered, the entire process is also affected. (Miharja, 2021)

One of the important stages in an investigation is coercive measures, which include actions such as arrest, detention, searches, and seizure. Confiscation itself is a legal action taken by investigators to take possession of an object suspected of being related to a crime for evidentiary purposes. In this context, minutes of deed can be categorized as an object that can be confiscated if it has a direct connection to the crime being investigated. Confiscation as a



form of coercive measures has unique characteristics because it directly affects human rights, particularly the right to ownership and protection of property. Therefore, its implementation must be carried out carefully and based on strict legal procedures. The provisions regarding confiscation in the Criminal Procedure Code stipulate that such action must be carried out with the permission of the Chief Justice of the District Court as a form of judicial oversight. (Muhaimin, 2022)

The concept of judicial oversight of seizure proceedings is known as judicial scrutiny, which aims to prevent abuse of authority by law enforcement officials. This oversight can be conducted before (pre-factum) or after (post-factum) the seizure is carried out. In this regard, judicial scrutiny is an important mechanism for ensuring the protection of human rights. However, in practice, the judicial scrutiny mechanism still faces various weaknesses, particularly in terms of the effectiveness of oversight of investigators' actions. This is evident in the potential for procedural violations during seizure proceedings and the limited scope of pre-trial proceedings in testing the legality of such actions. This situation indicates that existing control mechanisms are not yet fully capable of providing optimal protection. (Musadad & Nahidloh, 2023)

In the context of pretrial proceedings, the district court's authority to test the legality of a seizure is a crucial instrument in the criminal justice system. However, as Yahya Harahap points out, the scope of pretrial proceedings regarding seizures tends to be limited to formalities, such as the presence or absence of permission from the Chief Justice of the District Court, and does not address the material aspects of the seizure. This limitation creates its own problems, particularly when the seizure is carried out on objects that are not directly related to the crime. Under these circumstances, protection of individual rights is less than optimal because the available mechanisms are not yet able to accommodate substantial testing of the seizure. (Nasrullah, 2024)

On the other hand, recent developments in the Criminal Procedure Code (KUHP) indicate an expansion of investigators' authority, including regarding requests for documents from public custodians. The new regulation mandates that notaries, as document custodians, comply with requests from investigators who have obtained court approval. This provision creates new legal consequences for notaries, particularly regarding the obligation to provide access to previously confidential documents. However, the lack of clear regulations regarding sanctions for violating this obligation creates legal uncertainty. This potentially creates a dilemma for notaries: on the one hand, they must maintain the confidentiality of deeds, but on

the other, they are obligated to comply with investigators' requests. This situation indicates a disharmony between the provisions of the UUJN and the KUHAP. (Neonbeni, 2023)

From a legal perspective, notaries have the right to protection when asked to testify in court. One form of this protection is through recording all information in the court minutes, which can be used as evidence that the notary has carried out his or her duties in accordance with the law. This is important to prevent accusations of violating official confidentiality. Furthermore, notaries cannot be held responsible for the contents of the deeds they draw up as long as the deed is made based on the wishes of the parties and in accordance with applicable law. Notaries only act as parties who express the wishes of the parties in the form of an authentic deed, and therefore cannot be considered parties involved in the substance of the agreement. (S, 2019)

In the context of criminal law, the principle of criminal law autonomy asserts that the process of resolving a criminal case cannot be halted simply because a resolution exists outside the criminal justice system. Therefore, if a notarial deed is related to a crime, the investigation must continue in accordance with applicable criminal procedure law. However, the exercise of investigators' authority must adhere to established procedures, both in the Criminal Procedure Code (KUHAP) and the UUJN (National Law). This is crucial to maintaining a balance between the interests of law enforcement and the protection of individual rights, including notaries as public officials. (Santoso, 2014)

The provisions regarding the return of confiscated objects also demonstrate the guarantee of legal protection for the owner of the object. If an object is no longer needed for evidentiary purposes or the case is terminated, then the object must be returned to the rightful party. This demonstrates that the state continues to uphold the principles of justice and protection of property rights. Ultimately, the results of this study indicate that the application of Article 66 of the UUJN Law in the context of the confiscation of minutes of deeds by investigators still faces various challenges, both from a normative and practical perspective. Harmonization between the provisions of the UUJN and the Criminal Procedure Code is needed to avoid normative conflicts that could hinder the law enforcement process. Thus, a reformulation of regulations is needed that can bridge the interests of notary protection with the needs of investigators in obtaining evidence. This effort is crucial to creating a legal system that not only guarantees legal certainty but also supports the effectiveness of law enforcement as a whole. (Sulastri, 2024).

3. The Urgency of Regulating Permits for Seizure and Taking Minutes by Investigators

The formation of laws and regulations in the Indonesian legal system cannot be separated from the normative framework stipulated in Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Laws and Regulations, which regulates the stages of planning, drafting, discussion, ratification, and promulgation. In each of these regulatory formations, the existence of considerations is a crucial element, encompassing philosophical, sociological, and legal considerations as the basis for the legitimacy of a legal norm. These three foundations serve as the starting point in assessing the urgency of regulations regarding the seizure and retrieval of minutes of deeds by investigators. (Teguh, 2025)

Philosophically, every statutory regulation must be rooted in the fundamental values of the state, as reflected in Pancasila and the Preamble to the 1945 Constitution. This emphasizes that the law functions not only as a regulatory tool but also as a means to realize justice, order, and prosperity in society. Therefore, the regulation of minutes of deeds cannot be separated from the legal ideal that requires a balance between individual interests and state interests. Pancasila, as the source of all sources of law, places the values of social justice and humanity as the basis for every legal norm formation. Therefore, regulations regarding access to minutes of deeds must take into account the value of justice, both for notaries as public officials and for law enforcement officers who require evidence in the investigation process. This balance is essential to ensure that the law is neither repressive nor overly protective. (Tjandra, 2018)

Furthermore, the 1945 Constitution of the Republic of Indonesia, as the basic law, stipulates that any regulations under it must not conflict with constitutional norms. In this context, protecting the rights to ownership, honor, and security are primary considerations in formulating policies related to the confiscation of documents, including notarial deed minutes, which have a special character. The preamble to the Notary Law emphasizes that the state is obligated to guarantee legal certainty by providing authentic evidence. Notarial deeds serve as a crucial instrument in achieving this certainty. Therefore, protection of deed minutes not only protects notaries but also safeguards the interests of the parties using their services. (Achmad, 2023)

Philosophically, minutes of a deed cannot be positioned as an ordinary document, but rather as a state document that has a high level of authenticity and public trust. This means that any action against minutes of a deed, whether in the form of seizure or confiscation, must be carried out with a careful and proportional approach so as not to damage its basic function as valid evidence. The conflict between the provisions of Article 66 of the UUJN and the provisions of the Criminal Procedure Code, particularly regarding confiscation, essentially



reflects a clash between two major interests: the interest of enforcing criminal law and the interest of protecting the notary profession. Philosophically, these two interests should not be in conflict, but rather must be placed within a framework of harmonious balance. (Adjie, 2017)

From a legal philosophical perspective, protection of minutes of deeds does not grant notaries immunity from legal proceedings. Rather, such protection is intended to ensure that any access to minutes is conducted responsibly, transparently, and in accordance with applicable legal procedures. Thus, the Notary Honorary Council serves as an ethical and professional filter. The provision in the Criminal Procedure Code that allows investigators to request original documents from public custodians must be interpreted restrictively when the object is minutes of notarial deeds. Philosophically, access to original documents can only be justified in certain truly urgent circumstances, such as strong suspicion of forgery. This demonstrates that the principle of prudence must remain upheld. (Adjie & Hafidh, 2023)

Thus, the most ideal approach is to make photocopying the minutes the primary mechanism, while confiscating the original minutes as a last resort (*ultimum remedium*). This approach reflects the principle of proportionality in law, where the action taken must be balanced with the desired goal without causing unnecessary harm. Turning to sociological grounds, the urgency of this regulation cannot be separated from the reality of legal practice in society. Notaries play a crucial role in various legal transactions, from banking and land matters to family law. Therefore, minutes of deeds are often vital documents in the evidentiary process in the event of a dispute or criminal offense. (Ali, 2019)

The public's need for legal certainty and a sense of security when using notary services are key factors in establishing this regulation. The public expects that the data and information they provide to notaries will be kept confidential. If minutes are too easily accessed, public trust in notaries may erode. On the other hand, the public also has an interest in effective law enforcement. When a deed is suspected of being related to a crime, the public expects law enforcement officials to promptly uncover the truth. This demonstrates the need to balance confidentiality protection with investigative effectiveness. (Asmara et al., 2025)

In practice, tensions between investigators and notaries often arise due to unclear procedures. Requests for obtaining minutes of deeds, which must go through the MKN, are often perceived as administrative obstacles. However, from a sociological perspective, this mechanism is actually necessary to maintain the integrity of the notary profession. Comparative studies with other countries show that protection of the notary profession is a common practice in modern legal systems. Countries such as the Netherlands and Germany

also implement oversight mechanisms for access to notarial documents as a means of protecting the profession and public trust. (Atmadja & Budiarta, 2018)

From the public's perspective, trust in notaries is a key factor in the continuity of the civil law system. Therefore, any policy related to minutes of deeds must consider its impact on this level of public trust. Furthermore, the legal basis indicates a disharmony between the provisions of the UUJN and the Criminal Procedure Code. Article 66 of the UUJN specifically regulates the procedure for taking minutes of deeds, while the Criminal Procedure Code generally regulates confiscation. In this case, the principle of *lex specialis derogat legi generali* applies. (Hasanah, 2019)

This means that the provisions of the UUJN, as special regulations, must take precedence over the general provisions of the Criminal Procedure Code. However, this does not mean that the Criminal Procedure Code cannot be applied at all; rather, it must be applied in a limited manner and with due regard to the specific nature of minutes of deeds. Legally, harmonization of the two regulations is necessary to avoid prolonged normative conflicts. This harmonization is crucial to provide legal certainty for investigators, notaries, and the public as users of legal services. (HS, 2018)

Thus, the urgency of regulations regarding the seizure and retrieval of minutes of deeds by investigators lies in the need to comprehensively align these three foundations. Without alignment between philosophical, sociological, and legal foundations, existing regulations will be difficult to implement effectively in practice. Ultimately, this study confirms that ideal regulations must maintain a balance between notary protection and the need for law enforcement. A proportional and harmonious approach is key to realizing a legal system that is just, certain, and beneficial to all of society. (Kusuma, 2021).

Harmonization of the Authority for Seizure Permits of the Head of the District Court and the Taking of Minutes of Deeds by the Regional Notary Honorary Council

1. Definition of Harmonization

Legal harmonization conceptually refers to a process aimed at harmonizing various legal norms to form a complete, coherent, and non-conflicting system. Etymologically, the term harmonization derives from the word harmony, which implies harmony between various elements, whether in ideas, actions, or interests. In a legal context, harmonization not only means the formulation of harmonious norms, but also reflects a systematic effort to create integration between laws and regulations so as to provide legal certainty, justice, and benefits for society. Within the framework of the national legal system, legal harmonization is a necessity given the numerous laws and regulations governing various areas of life. Without

harmonization, the potential for normative conflict will increase, which can ultimately lead to legal uncertainty. Therefore, the harmonization process must be carried out scientifically, taking into account philosophical, sociological, economic, and juridical aspects, so that each regulation formed is not only formally valid but also relevant to the needs of society. (Miharja, 2021)

Legal harmonization efforts in the formation of legislation must be based on the basic values of the state, namely Pancasila, and not contradict the provisions of the 1945 Constitution of the Republic of Indonesia. This is important because Pancasila is the source of all sources of law, so that every legal norm must reflect the values of justice, humanity, and social balance. Thus, legal harmonization is not only technical, but also has a strong ideological dimension. Furthermore, harmonization must also ensure that every law is drafted using consistent terminology and definitions. Inconsistency in the use of legal terms can give rise to multiple interpretations that have the potential to hinder the implementation of the law. Therefore, the harmonization process requires precision in formulating norms to avoid ambiguity that could be detrimental to the parties. (Muhaimin, 2022)

In the practice of drafting legislation, harmonization also includes a comprehensive assessment of the suitability of a draft law with other existing regulations. This aims to ensure that there is no overlap or contradiction between regulations. In this context, harmonization is a crucial instrument for maintaining the consistency of the national legal system and its integration. The quality of legislation that has undergone the harmonization process can be measured using the criteria put forward by Lon L. Fuller, who emphasizes that the law must be clear, non-contradictory, enforceable, and consistently applied. These criteria demonstrate that the success of harmonization is not only seen from the alignment of norms, but also from the effectiveness of their implementation in practice. (Musadad & Nahidloh, 2023)

The legal harmonization process is not only carried out at the regulatory formation stage, but also through mechanisms for evaluating and testing existing legal norms. In this regard, the role of judicial institutions such as the Constitutional Court of the Republic of Indonesia and the Supreme Court of the Republic of Indonesia is crucial in conducting judicial review of regulations deemed to conflict with higher-level regulations. This mechanism is part of efforts to maintain consistency and harmony in the legal system. In addition to judicial review, legal harmonization can also be achieved through the revision or revocation of laws and regulations that are no longer relevant or conflict with other norms. This process requires synergy between the legislative and executive branches to ensure that every legal policy produced truly reflects the needs of society and current developments. Therefore, legal



harmonization within the Indonesian legal system plays a highly strategic role in creating an orderly, consistent, and just legal system. Without effective harmonization, various existing regulations have the potential to create normative conflicts that can hinder law enforcement and harm the public. Therefore, harmonization must be an integral part of every process of formulating and evaluating laws and regulations. (Nasrullah, 2024).

2. Authority of the Regional Notary Honorary Council

Authority, from the perspective of state administrative law, is the primary foundation that determines the validity of a government action, including in the context of the implementation of functions by the Regional Notary Honorary Council in granting approval to investigators' requests. Conceptually, authority cannot be separated from the legal norms that serve as the source of legitimacy for such action, because every action of a public official must have a clear legal basis to avoid legal defects. In this context, the distinction between authority and authority becomes important, because authority encompasses all powers granted by law, while authority is a specific part of that authority that is used in concrete actions. Thus, the authority of the Regional Notary Honorary Council in granting approval does not stand alone, but is part of a broader system of authority granted by law to the Minister and then delegated through certain mechanisms. (S, 2019)

In practice, this authority must be exercised in accordance with the general principles of good governance, which serve as unwritten norms that bind every government action. These principles serve as ethical guidelines and legal parameters for assessing whether an action has been carried out correctly and proportionally. Therefore, in exercising its authority, the Regional Notary Honorary Council must not only grant administrative approval or rejection, but must also consider aspects of justice, legal certainty, and protection of the rights of the parties involved. This is crucial because decisions made by the Notary Honorary Council have direct implications for the criminal justice process and the protection of the notary profession. (Santoso, 2014)

Within the legal framework of governmental action, there are three main aspects that must be met: authority, procedure, and substance. These three aspects are cumulative, so failure to fulfill any one of them can render an action legally flawed. In the context of the Regional Notary Honorary Council, the authority aspect relates to the legal basis for granting authority, the procedure aspect relates to the decision-making process, and the substance aspect relates to the content of the decision itself. Therefore, any approval or rejection given must be based on these three aspects to have strong legal legitimacy and avoid future disputes. The sources of authority in state administrative law come from attribution, delegation, and



mandate, each of which has different characteristics. Attribution is the direct granting of authority by law, while delegation is the delegation of authority from one organ to another, and mandate is the delegation of the implementation of authority without transferring responsibility. In the context of the Notary Honorary Council, the authority held is the result of a delegation mechanism, where the Minister, as the holder of attribution authority, delegates some of his authority to the Notary Honorary Council to carry out certain functions. This shows that the Assembly's authority is not original, but rather derived from higher authority. (Sulastri, 2024)

The consequence of authority derived from delegation is the inherent legal responsibility inherent in the exercise of that authority, as well as the possibility of oversight by the delegator. In this case, the Minister, as the delegator, retains the authority to supervise the implementation of the Notary Honorary Council's duties. Therefore, in exercising its authority, the Council must remain within the corridors determined by statutory regulations and must not deviate from the purpose for which the authority was granted. This is important to maintain the consistency of the legal system and prevent abuse of authority. Limitations on authority are also an important aspect of state administrative law, as unrestricted authority has the potential to give rise to arbitrary actions. These limitations include time limits, territorial limits, and material limits of authority. In the context of the Regional Notary Honorary Council, the time limit is evident in the provision that decisions must be issued within a certain time period, the territorial limit relates to the jurisdiction of the work area, and the material limit relates to the scope of authority, which only includes granting approval or rejection of certain applications. With these limitations, the exercise of authority becomes more focused and accountable. (Tan, 2025)

If a government agency or official exceeds its authority, the action can be categorized as overreach, a mix-up of authority, or even arbitrary action. In the context of the Notary Honorary Council, such potential violations can occur if the Council makes decisions outside the scope of its authority, or is not based on applicable legal provisions. Therefore, it is important for the Council to always adhere to applicable legal norms and the principles of good governance in every action it takes. The authority of the Regional Notary Honorary Council to grant approval to investigators is explicitly regulated in statutory provisions that provide a clear legal basis for the implementation of this function. This provision demonstrates that the state is consciously establishing a special mechanism to regulate access to minutes of notarial deeds and protocols, with the aim of maintaining a balance between the interests of law enforcement and the protection of the notary profession. Thus, this authority is



not merely administrative in nature, but also has a significant legal protection dimension. (Teguh, 2025)

Furthermore, the regulation of the structure, duties, and functions of the Notary Honorary Council through ministerial regulations demonstrates an effort to provide legal certainty in the exercise of this authority. This structure, comprising notaries, government officials, and academics, reflects a multidisciplinary approach to decision-making, ensuring that decisions are made that consider not only legal aspects but also ethical and professional aspects. This is crucial to ensure that every decision truly reflects the principles of justice and balance. Therefore, it can be concluded that the authority of the Regional Notary Honorary Council is legally valid, stemming from a delegation granted by the Minister pursuant to law. However, in its implementation, this authority must be exercised within established limitations and the principles of good governance. This is crucial to maintain the legitimacy of the Council's actions and to ensure that the protection of notaries and the interests of law enforcement can operate in a balanced and harmonious manner. (Tjandra, 2018).

3. Harmonization of Permit Authority

Legal harmonization is a necessity in a complex modern legal system, particularly when there is an overlap between various laws and regulations that regulate the same object from different perspectives. In the context of the seizure and confiscation of minutes of notarial deeds, the need for harmonization becomes very urgent due to the overlap between the provisions of the Notary Law, which places the Notary Honorary Council as the approving authority, and the provisions of criminal procedure law, which grants authority to investigators under the control of the Chief Justice of the District Court. This situation shows that minutes of deeds are not only within a single legal regime, but are objects across regimes that require a systematic approach to avoid norm conflicts. Conceptually, legal harmonization aims to avoid conflicting norms that can lead to legal uncertainty and multiple interpretations in practice. In this case, the norms governing the authority of investigators and the protection of notaries cannot be understood in isolation but must be viewed as a unified legal system. When one norm authorizes coercive action, while another provides protection for the same object, both must be interpreted in a complementary manner. Thus, harmonization is not intended to eliminate one of the norms, but to find a common ground that allows both to run in balance. (Adjie, 2017)

From the perspective of the theory of authority, every action of a public official must fulfill three main elements: authority, procedure, and substance. These three elements serve as parameters in assessing the validity of a legal action. In this context, the authority of the



Regional Notary Honorary Council, which originates from the Minister's delegation, has a different legitimacy than the authority of the Chief Justice of the District Court, which originates from the judicial function. Therefore, although both have a role in granting permits, the basis of their authority and the purpose of their use are different, so it is inappropriate to directly contrast them without considering their respective functions. Judging from the nature of their authority, the Regional Notary Honorary Council has a more protective and preventive function, namely protecting the dignity of the notary office and maintaining the confidentiality of minutes of deeds as part of notarial protocol. Conversely, the Chief Justice functions as a judicial supervisor of coercive actions carried out by investigators. This difference in character indicates that the two authorities actually exist in different dimensions, so the necessary harmonization is not choosing one over the other, but rather integrating both into a complementary mechanism. (Adjie & Hafidh, 2023)

The conflict between these two regulations is essentially partial, not total. This is because the Notary Law only specifically regulates the retrieval of photocopies of minutes of deeds and the summons of notaries, while criminal procedure law regulates general confiscation and the retrieval of original documents under certain circumstances. Therefore, the conflict only arises at a specific point, namely when investigators require access to the original minutes of deeds. It is at this point that careful legal interpretation is required to avoid a conflict of interest between professional protection and the need for criminal evidence. Within the framework of the principle of *lex specialis derogat legi generali*, the Notary Law must be positioned as a special norm that specifically regulates minutes of deeds and notarial protocols. Meanwhile, provisions in criminal procedure law are general norms that regulate confiscation in a broader context. Therefore, in the case of retrieval of photocopies of minutes of deeds, the provisions in the Notary Law must take precedence. However, because there are no clear regulations regarding the confiscation of original minutes in the law, this gap is often filled by provisions in criminal procedure law. (Ali, 2019)

The absence of explicit provisions regarding the confiscation of minutes of deeds in the Notary Law is a major source of legal disharmony. This situation causes practice in the field to tend to rely on the interpretations of individual law enforcement officials, which ultimately can lead to inconsistency and uncertainty. Therefore, it is necessary to update norms that explicitly regulate the mechanism for confiscating minutes of deeds, so that they no longer rely on diverse interpretations or temporary administrative guidelines. The use of outdated guidelines, such as circulars issued by previous judicial institutions, is no longer adequate in the context of the evolving legal system. This is due to changes in criminal procedure law and



the strengthening of protection for notaries through amendments to the Notary Law. Therefore, a more appropriate approach is to establish new, more comprehensive and systematic norms that can address current evolving legal needs. Thus, the required harmonization is not only interpretive but also normative, namely through the establishment or revision of legislation that explicitly regulates the relationship between the authority of the Notary Honorary Council and the Chief Justice of the District Court. These regulations must clearly explain the limitations, requirements, and procedures for the collection and seizure of notarial minutes, as well as guarantee the protection of notary confidentiality. Comprehensive harmonization is expected to create a balance between law enforcement and professional protection, ensuring the legal system operates effectively, fairly, and provides legal certainty for all parties. (Asmara et al., 2025).

4. CONCLUSION

The regulations regarding the retrieval and confiscation of notarial minutes of deeds demonstrate the complexity resulting from the intersection of two legal regimes, namely notarial law and criminal procedure law. Provisions in the Notary Law place the Notary Honorary Council as an ethical and procedural filter in granting approval for the retrieval of photocopies of minutes of deeds and the summons of notaries, while criminal procedure law authorizes investigators, with supervision from the Chief Justice of the District Court, to confiscate and retrieve documents. This situation creates a partial disharmony of norms, particularly when it comes to the need for access to original minutes of deeds as evidence. Within a philosophical, sociological, and juridical framework, these regulations emphasize the importance of maintaining a balance between protecting the confidentiality of the notary's office and dignity with the interests of effective criminal law enforcement. Therefore, the mechanism for retrieval of photocopies of minutes of deeds must remain the primary option, while confiscation of original minutes can only be carried out in a limited, proportional manner, based on strong legal grounds and strict procedures. (Hasanah, 2019)

The need for legal harmonization between the authority of the Regional Notary Honorary Council and the Chief Justice of the District Court is crucial to prevent legal uncertainty in practice. These two authorities have different characteristics and functions, but systematically complement each other, with the Notary Honorary Council acting as an ethical and professional supervisor of access to minutes of deeds, while the Chief Justice of the District Court exercises judicial oversight of coercive measures in the investigation process. The application of the principle of *lex specialis derogat legi generali* places notary regulations as a special norm regarding



access to minutes of deeds, but the lack of norms regarding the confiscation of original minutes still leaves room for diverse interpretations. Therefore, it is necessary to strengthen and affirm norms at the level of legislation that regulate in detail the limitations, conditions, and procedures for the collection and confiscation of minutes of deeds, so as to create a harmonious legal system, provide legal certainty, and guarantee protection for the notary profession without neglecting the effectiveness of criminal law enforcement. (HS, 2018).

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