JSH
Jurnal Smart Hukum
https://ejournal.ipinternasional.com/index.php/jsh
Open Access Journal
by Inovasi Pratama Internasional. Ltd
Member of Crossref
ISSN. 2961-841X

Legal Protection for Notaries in Controversies over Deeds Suspected of Forgery

Ida Ayu Mas Sri Patni[1*)], I Ketut Kasta Arya Wijaya[2], I Wayan Kartika Jaya Utama[3]
[123]Magister Kenotariatan, Fakultas Pascasarjana, Universitas Warmadewa, Denpasar, Indonesia
*Author Correspondence: gekmas722@gmail.com
DOI: https://doi.org/10.55299/jsh.v5i3.2063
***Article history:** Received July 31, 2026: Revised August 20, 2026: Accepted September 10, 2026*

ABSTRACT
This study analyzes the forms of legal protection available to Notaries when deeds they draw up are subsequently suspected of containing elements of forgery and determines the legal consequences for such deeds. It employs normative legal research using statutory, conceptual, and case approaches. Primary, secondary, and tertiary legal materials were collected through a literature review and analyzed qualitatively using descriptive-analytical and evaluative methods. The findings show that legal protection for Notaries includes preventive protection through the regulation of official powers and duties, the principle of due care, the right of refusal, professional confidentiality, and the approval mechanism of the Notary Honorary Council; and remedial protection through evidentiary proceedings in which the Notary's fault and involvement constitute the basis of liability. Indications of forgery do not automatically eliminate a deed's authenticity. A deed retains its status as an authentic deed when the formal requirements have been fulfilled and the Notary neither knew of not participated in the forgery. Conversely, a defect in the subjective requirements renders the agreement voidable, whereas a defect in the objective requirements may render it null and void by operation of law. The novelty of this study lies in a tiered test that links the source of the forgery, the Notary's formal compliance, the form of fault, and the type of contractual defect to determine the protection afforded to the Notary and the legal consequences for the deed.

***Keywords:** Authentic deed, Forgery, Legal consequences, Legal protection, Notary*

INTRODUCTION

Legal certainty in civil law relationships requires evidentiary instruments capable of clearly recording the legal subjects, intent, timing, and form of a legal act. Within a state governed by the rule of law, this need is met, inter alia, through the office of a notary as a public official authorized to draw up authentic deeds. A notarial deed is not merely an administrative record; it performs a decisive evidentiary function by providing certainty regarding matters formally stated or performed before an authorized official, as noted above. This status makes the integrity of the deed-drafting process central to protecting the interests of the parties, third parties, and orderly conduct of civil law transactions.

A Notary's authority is limited by Law Number 30 of 2004 concerning the Office of Notary, as amended by Law Number 2 of 2014 (hereinafter referred to as the Law on the Office of Notary or UUJN). Article 16(1)(a) of the UUJN requires a notary to act in a trustworthy, honest, thorough, independent, and impartial manner and to safeguard the interests of the parties. This duty requires the application of the principle of due care from identity verification, assessment of legal capacity and authority to act, and examination of supporting documents to the drafting, reading, and signing of the deed. Pratama, Wisnaeni, and Cahyaningtyas (2021) show that reading the deed is not a formality that may be disregarded but part of a procedure that ensures the appearing parties understand and approve its contents. Simultaneously, the code of ethics safeguards professional integrity so that public authority is not exercised carelessly (Prasetyawati & Prananingtyas, 2022).

Problems arise when documents, identities, signatures, or statements submitted by the appearing parties are proven to be false. In such circumstances, notaries are often summoned during investigations, asked to testify in court, sued in civil proceedings, or subjected to administrative examinations. However, a notary's authority primarily concerns formal truth: ensuring that the appearing parties are present, identifying them or having them introduced in accordance with procedure, recording the intent they express, and observing the statutory form of the deed. A Notary is not an investigator authorized to establish the entire material truth underlying every document. This tension between public expectations of flawless deeds and the limits of a notary's verification authority gives rise to controversy over notarial liability.

Recent literature demonstrates that a notary's legal position cannot be determined solely by the presence of false statements in a deed. Vergano and Retnaningsih (2022) place the responsibility for the material statements of the appearing parties on those who provide the statements, provided that the Notary has complied with the formal procedures. Depriani, Ridwan, and Trisaka (2021) likewise demonstrate the need to protect a substitute notary who is unaware that a false identity has been used. Conversely, failure to examine legal aspects that should reasonably have been identified or a breach of official procedures may provide a basis for liability, as shown by Samosir, Harlina, and Vicky (2024). Thus, the dividing line is not merely whether forgery occurred but whether the notary diligently performed the formal duties, knew of the falsity, or participated in producing the forged document.

The second issue concerns the legal status of the deeds. In practice, suspected forgery is often immediately equated with the loss of authenticity, annulment, or nullity by the operation of law. Such equivalence is incorrect because the legal consequences must be distinguished according to defects in the form of the deed, defects in the parties' consent or capacity, defects in the object or cause, and the Notary's involvement. Santoso and Priyono (2023) emphasize that a deed's authenticity must be assessed based on the authorized official, the form prescribed by law, and the territorial scope of authority. Meanwhile, Sakina and Santoso (2024) and Sabrina and Musyafah (2024) demonstrate that notarial liability and the validity of the deed must be determined by the relationship among procedural faults, false statements, and the resulting consequences, rather than by automatic assumptions.

Previous studies have tended to be fragmented. Some focus on professional protection, official confidentiality, and approval by the Notary Honorary Council (MKN), including the studies of Maharani, Puspadma, and I Wayan Kartika Jaya Utama (2023), and Puspitasari and Efendi (2022). Other studies emphasize criminal or civil liability arising from false statements and forged signatures (Qodarrahman, Febrian, & Sagita, 2022; Raihan & Hertanto, 2024). Research on the consequences of annulment generally begins with a notary's fault in a particular case, as in the study by Ivena, Saptanti, and Kusumawati (2026). There remains room for an analysis that connects both dimensions: the parameters for protecting a good-faith notary and the parameters for determining the legal consequences of a deed suspected of forgery.

This need is increasingly relevant because Indonesian criminal law now expressly regulates document forgery and the forgery of authentic documents. Wulandari and I Ketut Kasta Arya Wijaya (2024) emphasize that actus reus, intended use, and potential loss must be proven in document-forgery cases. In the context of notarial deeds, such proof must be connected to the Notary's capacity as a public official and the limits of the office's authority. Legal protection must not become immunity, but legal proceedings must likewise not criminalize a notary merely because a deed drawn up on the basis of statements by appearing parties is later disputed.

The novelty of this study lies in the development of a tiered test to assess notarial protection and the legal consequences of a deed in an integrated manner. The test begins by identifying the source of the forgery, examining compliance with the formal requirements of the UUJN and Article 1868 of the Indonesian Civil Code (KUHPerdata), proving the notary's knowledge or involvement, and classifying contractual defects under Article 1320 of the Indonesian Civil Code. Through this framework, this study aims to analyze the forms of legal protection available to a notary who draws up a deed subsequently suspected of containing elements of forgery and to analyze the legal consequences for that deed.

RESEARCH METHOD

This study is normative legal research that treats law as norms, principles, concepts, and judicial decisions used to address issues concerning the protection of notaries and the legal consequences of deeds. This design follows the underlying thesis research and has not been converted into an empirical study. The analysis focuses on the consistency among the rules governing the notarial office, contract law, the law of evidence, and criminal law when a deed is suspected of containing elements of forgery.

This study employs statutory, conceptual, and case approaches. The statutory approach examines the 1945 Constitution, UUJN, Indonesian Civil Code, Law Number 1 of 2023 concerning the Criminal Code, Law Number 20 of 2025 concerning the Criminal Procedure Code, Regulation of the Minister of Law and Human Rights Number 17 of 2021, and Notary Code of Ethics. The conceptual approach examines legal protection, legal certainty, fault-based liability, deed authenticity, and contractual invalidity issues. The case approach examines legal rules developed in judicial decisions, including Supreme Court Decision Number 702 K/Sip/1973, which the thesis uses as the basis for distinguishing statements made by appearing parties from the Notary's formal responsibility.

Legal materials consist of primary, secondary, and tertiary sources. Primary legal materials include legislation, codes of ethics, and judicial decisions. Secondary legal materials include books on notarial law, contract law, the law of evidence, previous studies, and relevant journal articles. To strengthen the currency of the discussion, this study uses articles published between 2021 and 2026 with verified DOIs, including two articles from Jurnal Smart Hukum and publications featuring the work of I Ketut Kasta Arya Wijaya and I Wayan Kartika Jaya Utama. Tertiary legal materials include legal dictionaries and supporting sources used to clarify the terminology.

Legal materials were collected through a literature review by inventorying, classifying, and tracing the relationships among legislation, doctrines, and judicial decisions. The materials were qualitatively analyzed using descriptive-analytical and evaluative methods. The analytical stages comprised: (1) identifying the type and source of the forgery; (2) testing the notary’s formal compliance; (3) assessing knowledge, intent, negligence, or participation; (4) classifying contractual defects under Article 1320 of the Indonesian Civil Code; and (5) determining the consequences for authentic status, evidentiary force, and notarial liability. Conclusions were drawn deductively from general norms to resolve the problem configurations examined.

RESULTS AND DISCUSSION

Formal Truth, Statements of Appearing Parties, and Elements of Forgery

An authentic deed has evidentiary force because it is drawn up by or before a public official in a form prescribed by law. Article 1868 of the Indonesian Civil Code establishes three essential elements: the deed must be made in the form prescribed by law, drawn up by or before an authorized public official, and made in the place where that official has the authority. In the notarial office, these elements are elaborated in the UUJN through provisions on the identities of appearing parties, witnesses, the structure of the deed, reading, signing, retention of the original deed, and the issuance of copies. Therefore, authenticity is, in the first instance, a formal legal quality attached to the deed-drafting process.

The distinction between a deed of record (akta relaas) and a party deed (akta partij) helps to define the scope of responsibility. In a deed of record, the notary certifies events or acts personally observed, witnessed, and performed in an official capacity. In a party deed, the notary formulates and records the statements and intentions expressed by the appearing parties. In the latter type, the truth of the factual relationships underlying the statements originates, in principle, from the appearing parties themselves. The Notary must ensure that the statements are not manifestly contrary to the law and must provide the necessary legal advice but has no investigative powers to verify every concealed material fact.

Supreme Court Decision Number 702 K/Sip/1973, as analyzed in this thesis, affirms the rule that a notary’s function is to record what the parties intend and state, not to investigate the material truth of everything they assert. This rule does not permit the notary to remain passive. The limits of formal responsibility still require the notary to examine the reasonableness of documents, match identities, assess legal capacity, read the deed, and refuse service when circumstances are manifestly suspicious or contrary to the law. In other words, formal truth does not excuse negligence; it is an institutional boundary that must be read in conjunction with the principle of due care.

Under Article 391 of Law Number 1 of 2023, document forgery includes making a document falsely or forging a document that may give rise to a right, an obligation, or a discharge of debt, or that is intended to serve as evidence, with the intent to use it or cause another person to use it as if it were genuine, where such use may cause a loss. Article 392 provides for aggravated punishment when the object is, among other things, an authentic deed. These provisions contain the elements of falsely making or forging a document, a document with a legal function, an intended use, and potential losses. The presence of false data in a file does not, by itself, prove every element against every person involved in the deed-drafting process.

In the notarial context, the source of forgery can be divided into four configurations. First, the appearing party independently forges an identity or document without the notary's knowledge. Second, the appearing party provides false information concerning material facts that the notary cannot verify through ordinary official authority. Third, the Notary negligently disregards signs of irregularity that should have been examined under the applicable standard of due care. Fourth, the Notary knows of, assists, or actively falsifies the deed, signature, date, or circumstances of appearance. Each configuration has different consequences. Qodarrahman, Febrian, and Sagita (2022) and Raihan and Hertanto (2024) demonstrate that signature forgery involving a notary is fundamentally different from an appearing party's use of false documents without the notary's knowledge.

This distinction is important to avoid two errors. The first is the assumption that an authentic deed guarantees the material truth of every statement, so that every falsity is attributed to the notary. The second is the assumption that a notary is always exempt from liability because the notary merely records the appearing parties' intentions. A proportionate approach examines the notary's concrete conduct: which documents were examined, whether identities were matched, whether the parties appeared, whether the deed was read aloud, whether it was signed at the proper time and place, and whether any facts indicate knowledge of or cooperation in the forgery. This approach is consistent with the principle of fault-based liability and preserves the function of the deed without granting official immunity to the public servant.

Preventive Legal Protection for Notaries

Preventive protection operates before disputes arise by establishing clear standards of conduct. Hadjon distinguishes preventive protection as a means of preventing violations and disputes from remedial protection, which operates after a dispute arises. In the notarial office, preventive protection does not consist merely of privileges; it arises from compliance with the official powers and duties. The more thoroughly the formal process is documented, the stronger the basis for demonstrating that the deed was drawn up professionally and in good faith.

First, a Notary must act within the limits of their attributive authority. Article 15 of the UUJN authorizes a notary to draw up authentic deeds concerning acts, agreements, and determinations required by legislation or desired by the parties, insofar as such authority has not been assigned exclusively to another official. Territorial limits, substantive authority, and prohibitions on conflicts of interest are used as initial filters. A deed drawn up by an unauthorized official or outside the official's territorial jurisdiction may lose its authentic character; therefore, protection cannot rest on official status alone.

Second, the principle of due care must be translated into clear steps. These steps include examining original documents, matching identity data, using identifying witnesses where required, verifying legal capacity and authority to act, confirming the object and supporting documents, explaining the legal consequences, reading the deed, and completing the signing in accordance with the procedure. Samosir, Harlina, and Vicky (2024) show that a lack of care in examining the legality of documents may result in unlawful acts and losses to another party. Conversely, adequate documentation of the examination demonstrates that the Notary met a reasonable standard within the scope of the office's authority.

Third, a Notary must refuse service upon knowing that the requested act contravenes legislation, public order, morality, or involves a conflict of interest. Refusal forms part of legal protection because it prevents the notary's office from being used to legitimize a defective transaction. This principle also confirms that the parties' wishes are not the sole criterion; the notary performs a normative gatekeeping function. However, refusal must be based on legally defensible grounds to avoid arbitrary conduct.

Fourth, reading and signing the deed constitute direct confirmation mechanisms. Through reading, the appearing parties have an opportunity to correct their identities, the object, their rights and obligations, and the formulation of their intent. This duty reduces the scope for subsequent denial and strengthens the evidence that the contents of the deed are known. Pratama, Wisnaeni, and Cahyaningtyas (2021) regard reading as central to procedural authenticity rather than a ceremonial activity. If the reading or signing is not conducted in accordance with the applicable requirements, the notary loses one of the most important grounds for legal protection.

Fifth, professional confidentiality and the right of refusal protect both parties' trust and the dignity of the office. A Notary must keep the contents of deeds and information obtained in the performance of official duties confidential unless otherwise provided by law. The right of refusal is not a right to obstruct law enforcement; it is an instrument that ensures that information is disclosed through lawful procedures and only to the extent required by the case. Puspitasari and Efendi (2022) demonstrate the close relationship between deed confidentiality, the summoning of a Notary as a witness, and the role of the MKN in balancing investigative interests against professional confidentiality.

Sixth, the management of the notarial protocol, recording in the repertory register, retention of original deeds, and documentation of supporting materials should be treated as a legal audit trail. When a dispute arises, the notary's protection depends not merely on an assertion that procedures were followed but on the evidence available. Records of identity checks, attendance, signing time, witnesses, legal communications, and the reasons for accepting or refusing a request can clarify the notary's position. Yetniwati, Yahya, and Amir (2021) emphasize that the responsibility for the notarial protocol requires clear limits of protection because the protocol preserves continuity and evidence of official acts.

Therefore, preventive protection is conditional. The UUJN provides the institutional framework, but its effectiveness depends on notaries compliance. The code of ethics reinforces this framework by requiring the preservation of dignity, independence, and integrity of the elderly. Prasetyawati and Prananingtyas (2022) showed that professional integrity becomes increasingly important as technology accelerates document exchange and increases the risk of manipulation. In cases involving false identities or documents, the principle of due care should require reasonable and measurable verification, not that a notary guarantees matters beyond the office's investigative authority.

Remedial Legal Protection and the Role of the Notary Honorary Council

Remedial protection applies when a notary is already involved in civil, criminal, administrative, or ethical proceedings. Its central elements are fair procedures and proof of fault. A Notary may still be examined and held accountable, but the examination must distinguish among the notary's status as the drafter of the deed, a witness concerning official acts, and a person suspected of misconduct. These statuses determine the permissible scope of questioning, documents that may be accessed, and relevance of professional confidentiality.

Article 66 of the UUJN requires investigators, public prosecutors, or judges to obtain approval from the MKN before obtaining photocopies of the original deed and/or documents attached to the original deed or notarial protocol and before summoning a notary for examination in relation to a deed or protocol. The MKN's working procedures are further regulated by the Regulation of the Minister of Law and Human Rights Number 17 of 2021. This mechanism is not a forum for determining guilt or innocence but a form of procedural control intended to balance the needs of justice, deed confidentiality, and the dignity of the office.

Maharani, Puspadma, and I Wayan Kartika Jaya Utama (2023) show that protection in the summons process also raises issues for substitute notaries because the normative framework does not always provide equivalent certainty. This finding indicates that official protection should not depend narrowly on personal status but on the public function performed and the deed drawn up under lawful authority. Depriani, Ridwan, and Trisaka (2021) reinforce the proposition that a substitute Notary who is unaware of a false identity requires protection in the absence of fault or involvement.

The MKN must assess the direct relationship between law enforcement requests and the performance of notarial duties. Approval must not be granted mechanically, but refusal must not be used to obstruct proof of a criminal offense. Relevant criteria include an alleged procedural violation, the relevance of the original deed or other documents, the necessity of the Notary's testimony, and the proportionality of disclosing confidential information. At this stage, the preventive documentary trail becomes important because it enables the MKN and law enforcement authorities to determine whether the notary acted within the framework of the UUJN.

In criminal proceedings, the presumption of innocence and the principle of no criminal liability without fault require proof of the Notary's mental state and contribution to the crime. The mere fact that a notary's name and signature appear in the deed does not prove knowledge that a document is false. Wulandari and I Ketut Kasta Arya Wijaya (2024) emphasize that document forgery requires proof of the constituent act and intended use. In cases of participation, there must be proof of intent to perpetrate, order, jointly perpetrate, or assist in the offense. Without such a connection, criminal responsibility cannot be shifted from the forger to the notary.

In civil proceedings, liability requires an unlawful act or breach of contract linked to a fault, loss, and causation. A Notary may be sued when a breach of official duty causes loss, for example, by drawing up a deed without the appearing party's presence, forging a signature, disregarding a prohibition on conflicts of interest, or failing to comply with the prescribed form. However, when the loss arises solely from an appearing party's deception that could not have been detected through a reasonable examination, a causal connection with the notary's conduct must not be presumed.

In the administrative and ethical domains, violations are assessed by reference to compliance with the UUJN and the Notary Code of Ethics (NCE). Sanctions may be imposed even when the conduct does not satisfy the elements of a criminal offense because professional standards differ from the criminal standards of proof. Conversely, ethical proceedings cannot replace criminal or civil evidence. Separating the domains of liability prevents an administrative finding from being automatically treated as a criminal offense while ensuring that genuine professional violations are still addressed.

Ultimately, remedial protection is not protection from the law but protection through the law. Rahardjo and Ismelina (2025) emphasize that liability for false statements made by appearing parties must be confined to the formalities of deed preparation, as long as the Notary is not involved. This position is consistent with the thesis findings: a good-faith notary who has fulfilled the formal duties cannot be held liable merely because an appearing party used a false identity or document. If it is subsequently proven that the notary knew, facilitated the conduct, or disregarded fundamental duties, official protection cannot be used to eliminate liability.

Fault-Based Liability and the Limits of Criminalization

Notarial liability must be grounded in the relationship between authority, duty, fault, and consequences. Public office confers authority while simultaneously imposing standards of conduct; accordingly, faults may take the form of intent or negligence. Intent exists when a notary knows that an identity, signature, date, or stated circumstance is false but nevertheless draws up or uses the deed. Negligence arises when the notary fails to take a clearly required formal step, and that failure is causally connected to the loss. Outside these two forms of fault, the risk of an appearing party's dishonesty cannot automatically be transferred to the notary.

Sakina and Santoso (2024) distinguish a notary's responsibility from that of parties who provide false statements. This distinction is appropriate because the contents of a party deed originate from the statements of the appearing parties, whereas the Notary is responsible for its form and process. The boundary becomes blurred, however, when the notary helps formulate false statements, allows an appearing party to be absent, or signs the deed outside the prescribed procedure. In such circumstances, formal violations are indicators of involvement and may cumulatively give rise to criminal, civil, administrative, and ethical liabilities, subject to the evidentiary requirements of each domain.

Sabrina and Musyafah (2024) demonstrate that errors in drawing up a deed may affect its validity and give rise to various liabilities. Their findings underscore the importance of distinguishing purely administrative errors from errors that undermine the elements of authenticity or satisfy the elements of a criminal offense. Not every drafting imperfection reduces a deed to a private deed, nor does every procedural violation constitute forgery. Proportionality in sanctions requires an assessment of the nature of the duty breached, the degree of fault, the consequences for the parties, and the purpose of the conduct.

Ivena, Saptanti, and Kusumawati (2026) studied a decision concerning a deed recording a resolution of a general meeting and showed that when a notary is proven to have violated the UUJN and the code of ethics, the deed may be declared invalid and without legal force. This study provides an important comparison: notarial protection does not operate in a vacuum but depends on compliance. Conversely, protection must remain available when the forgery originated with the appearing party and there is no indication that the notary knew or reasonably should have known of the falsity.

The limits of criminalization may be formulated through three levels of proof. First, there must be an offense of forgery that satisfies both objective and subjective elements. Second, there must be a contributory link between the Notary and the offense, not merely an administrative connection arising because the deed was drawn up before the Notary public. Third, the form of the Notary's fault must be proven. This layered approach prevents criminal law from being the first response to every dispute involving a deed. Criminal law is reserved as an ultimum remedium for conduct involving genuine intent or serious negligence, whereas disputes over contractual validity are first assessed under civil law and the law of evidence.

Fault-based analysis also maintains a balance between legal certainty and the pursuit of justice. Legal certainty requires that deeds not be readily undermined by unilateral allegations, whereas justice requires redress when notarial authority is misused. Overly broad protection may deny victims access to remedies, while overly easy criminalization may weaken notarial independence and public confidence in authentic deeds. Balance is achieved through individualized proof, separation of the domains of liability, and consistency between the notary’s fault and the consequences imposed.

Legal Certainty, Justice, and the Proportionality of Protection

In cases involving deeds suspected of forgery, legal certainty cannot simply mean that every notarial deed is always factually correct. Rather, it requires predictable parameters for determining when a deed remains authentic, when its evidentiary force is reduced, and when the agreement contained in it is voidable or null and void by the operation of law. These parameters must be derivedfrom pre-existing norms, applied consistently, and produce judicial reasoning that is open to scrutiny. Without such parameters, good-faith parties risk having a deed invalidated by mere allegations, while notaries face uncertainty regarding the limits of their verification duties.

The theory of justice requires consequences to be imposed on the person who actually committed a fault. Where forgery is committed by an appearing party, that party obtains a benefit or intends to use the false document, whereas the Notary merely acts as the official who formulates the expressed intent. Treating them alike is inconsistent with corrective justice because liability does not correspond to each person's contribution to the loss. Conversely, absolving a notary who knew of the forgery would also be unjust to the victim. Therefore, justice requires individualized liability, examination of causation, and remedies tailored to each party's position.

The theory of legal protection positions procedures as a bridge between certainty and justice. MKN approval, professional confidentiality, the right of refusal, and examination under the UUJN provide safeguards against the arbitrary treatment of notaries. Nevertheless, these procedures must allow victims to obtain evidence and access justice. Yetniwati, Yahya, and Amir (2021) demonstrated that the limits of protection must be defined so that the responsibility for the notarial protocol does not become an uncertain burden. In the context of forgery, these limits are achieved through the principles of necessity, relevance, proportionality, and limited disclosure according to the needs of the case.

Proportionality is also required for the imposition of sanctions. Minor administrative violations, negligence that undermines formal elements, and intentional forgery are qualitatively different. Sanctions must reflect the importance of the duty breached, degree of fault, resulting consequences, and possibility of restoration. A proportionate approach prevents criminal sanctions from being used for administrative errors without diminishing the firmness required in cases of abuse of office. At this point, legal protection performs a balanced function: it protects the independence and dignity of compliant notaries while ensuring accountability for those who violate their duties.

These three theories yield one operational principle: protection follows compliance and liability follows fault. This principle explains why the MKN cannot be regarded as an obstacle to law enforcement and why a deed cannot be immediately considered void. The process must gradually proceed from a formal examination to proof of the material facts. Under this model, the notarial system can continue to provide stable evidentiary instruments, while the courts can correct deviations based on relevant facts and legal norms.

Legal Consequences for Deeds Suspected of Forgery

An indication of forgery is not equivalent to a judicial determination that a deed has been forged. The term 'suspected' denotes an allegation that still requires proof. Until there is an admission, evidence, or a legally binding judgment appropriate to the context of the dispute, the deed must be assessed according to its formal status. This principle is important because an authentic deed has full evidentiary force regarding matters formally certified in it, and that force cannot be displaced by allegations alone.

The determination of legal consequences must distinguish the deed as an evidentiary instrument from the agreement or legal act contained there. A deed may satisfy the requirements of an authentic form while the agreement it contains remains subject to annulment because of a defect of consent. Conversely, the parties' agreement may continue to exist, while the deed loses its authentic character because of a defect in form and has value only as a private deed if it is signed by the parties. Habib Adjie identifies the distinction between contractual invalidity and degradation of evidentiary force as the basis for avoiding the indiscriminate use of the term 'void.

Article 1320 of the Indonesian Civil Code sets out four requirements for a valid agreement: consent, capacity, determinate object, and lawful cause. Consent and capacity are subjective requirements of the law. If the use of a false identity gives rise to a mistake, fraud, duress, or incapacity, the agreement is, in principle, voidable (vernietigbaar) at the request of the entitled party. The agreement is not automatically treated as if it had never existed; annulment requires action by the interested party, and when disputed, a judicial decision. This construction protects the stability of legal relationships while providing a remedy for a party whose consent is defective.

A determinate object and lawful cause are objective requirements. If forgery is used to create a transaction with an indeterminate object, an object beyond a party's authority, or a cause contrary to law, the agreement may be null and void by operation of law (nietig van rechtswege). This consequence concerns the substance of the agreement, not merely the fact that a false identity document was used. Therefore, it must be explained how forgery affects the object or cause. Without such a connection, the use of a false identity is more appropriately analyzed as a defect of consent, a criminal violation by the appearing party, or an evidentiary issue.

Article 1868 of the Indonesian Civil Code governs the assessment of authenticity. If the Notary is authorized, the prescribed form is fulfilled, the appearing parties are present or introduced in accordance with the applicable requirements, and the deed is read and signed, material forgery by an appearing party does not automatically eliminate the deed's authentic form. Santoso and Priyono (2023) emphasized that authenticity must be assessed based on the formal elements constituting the deed. Depriani, Ridwan, and Trisaka (2021) likewise demonstrate that a false identity unknown to the notary should not immediately extinguish official protection. However, the elements of authenticity may be impaired if formal identity checks are omitted entirely, presence is fabricated, a signature is forged by the notary, or the deed is drawn up outside the notary’s authority.

At least four possible consequences may arise from this. First, the deed remains authentic and the agreement remains binding when the formalities are fulfilled, the parties have the requisite authority, and the forgery does not affect the validity requirements or has not been proven. Second, the deed remains authentic as formal evidence, but the agreement is voidable because of a defect in the subjective requirement. Third, the agreement is null and void by operation of law because an objective requirement is not satisfied, even though the instrument was physically drawn up in an authentic form. Fourth, the deed loses or suffers a degradation of evidentiary force because of a breach of the form prescribed by the UUJN, and the Notary may be held liable where fault and loss are established.

Criminal consequences for the perpetrator of forgery do not automatically determine civil consequences for the entire legal relationship. A criminal judgment may constitute important evidence of the existence of a forged document and the identity of the perpetrator, but a civil court must still assess the effect of forgery on consent, capacity, the object, the cause, and the rights of good-faith third parties. Conversely, the annulment of an agreement does not necessarily prove that the notary committed a criminal offense. This separation is essential to prevent one area of law from displacing another without proof of its elements.

Samosir, Harlina, and Vicky (2024) show that a notary's lack of care may have civil and administrative implications when the legality of documents is not adequately examined. Ivena, Saptanti, and Kusumawati (2026) demonstrated more extensive consequences when a violation of the UUJN was proven and the deed was declared invalid. Conversely, Rahardjo and Ismelina (2025) attribute false statements by appearing parties to those parties when the notary has complied with the formalities. This comparison reinforces the thesis finding that legal consequences cannot be determined by the label 'forgery' alone, but must reflect the type of defect, the source of the conduct, formal compliance, and the notary's involvement.

The protection of third parties must also be considered in this context. Authentic deeds are frequently used in subsequent transactions, registrations, financing, or changes in the legal status of rights. Annulments without regard to good-faith third parties may create further uncertainty. Therefore, ajudgment must specify the object of annulment, the relationships among the parties, the restoration of the prior position, and the status of third parties. Judicial care in determining the consequences is as important as notarial care in drawing up a deed.

Synthesis of the Tiered Test for Notarial Protection and the Legal Consequences of Deeds

Based on the foregoing analysis, notarial protection and the legal consequences of a deed can be determined through a tiered test. The first stage identifies the source of the forgery: the appearing party, a third party, staff, or the notary. The second test is formal compliance under the UUJN and Article 1868 of the Indonesian Civil Code. The third establishes the notary's knowledge, intent, negligence, or participation. The fourth examines the validity requirements of agreements under Article 1320 of the Indonesian Civil Code. The fifth determines the consequences for two distinct objects: the status of the deed as evidence and the enforceability of the agreement contained there. The sixth separately determines the form of the Notary's liability in the civil, criminal, administrative, and ethical domains.

This test synthesizes the thesis findings without adding empirical data. Its novelty lies in the more systematic mapping of causal relationships. Under this test, law enforcement authorities do not stop at the fact that a deed contains false data; they assess who committed the forgery, whether the notary complied with the procedures, whether fault existed, and how the forgery affected the contractual requirements. The following matrix summarizes the principal possibilities:

Table 1. Matrix for Determining Notarial Protection and the Legal Consequences of Deeds

Established condition	Notary's position	Consequences for the deed/agreement
The appearing party committed the forgery; the formalities were fulfilled; and the Notary neither knew of nor participated in it.	The Notary is entitled to legal protection; no criminal liability arises without proof of fault.	The deed remains authentic. The consequences for the agreement are assessed separately under Article 1320 of the Indonesian Civil Code.
The forgery causes a defect in consent or capacity.	The Notary is protected if the formal duties were fulfilled and the Notary was not involved.	The agreement is voidable (vernietigbaar); formal authenticity is not automatically lost.
The forgery results in an indeterminate object or an unlawful cause.	The Notary is protected only if the Notary neither knew of nor participated in the forgery.	The agreement may be null and void by operation of law (nietig van rechtswege); restoration is determined according to the case.
The Notary violated the formal requirements of the UUJN without proof of an intent to forge.	The Notary may incur administrative or civil liability where fault, loss, and causation are established.	The deed may be degraded to a private deed or lose specified evidentiary force, depending on the violation.
The Notary knew of, assisted, or committed the forgery.	Official protection does not operate as immunity; criminal, civil, administrative, and ethical	The deed/agreement may be annulled, declared invalid, deemed null and void by operation of law, or deprived

Established condition	Notary's position	Consequences for the deed/agreement
	liability may arise.	of evidentiary force by judicial decision.

The matrix demonstrates that legal protection is both functional and conditional. It protects notaries who act professionally, independently, and in good faith from arbitrary summonses or the arbitrary imposition of liability. Protection ends when evidence establishes abuse of authority or involvement in forgery. In contrast, the consequences of the deed must correspond to the type of defect. This approach produces more equitable legal certainty because it does not sacrifice victims, disregard the responsibility of appearing parties, or turn notaries into absolute guarantors of material truth.

In practical terms, notarial offices should maintain standard operating procedures for identity and document verification, records of examination steps, confirmation of attendance, and refusal mechanisms to prevent such incidents. The government can strengthen secure and proportionate integration between notarial services and the population administration system while continuing to protect personal data. The MKN requires consistent assessment criteria so that the approval of a summons is based on relevance and indications of a violation rather than merely on the existence of a complaint. Law enforcement authorities and judges should apply the tiered test to avoid conflating the status of the deed, the enforceability of the agreement, and the Notary's fault.

The academic implication is that the theories of legal certainty, justice, and legal protection must be considered together. Legal certainty protects the stability of deeds, justice requires responsibility to be imposed on the actual wrongdoer, and legal protection ensures proportionate procedures. These theories converge on the principle that legal consequences must follow proven fault and defect type. Accordingly, controversies involving deeds suspected of forgery should not be resolved through the binary propositions that ' notaries are always liable' or ' notaries are never liable,' but through a contextual and testable analysis.

Implications for Policy and Notarial Practice

For policymakers, the findings indicate the need for minimum identity-verification standards that do not transform notaries into investigators. These standards may include matching original documents, confirming data through lawful official channels, examining the authority to act, and recording verification results in the supporting file. The standards should distinguish ordinary transactions from high-risk transactions based on value, the complexity of the parties' structure, the use of powers of attorney, data inconsistencies, or other rational indicators. Risk-based differentiation is more proportionate than imposing the same procedure on every deed.

Integration with population administration can improve a notary's ability to detect false identities, but it must be designed around the principles of personal data protection, purpose limitation, access security, and audit logging. Access does not mean exposing all population data; the Notary requires confirmation only of specific elements relevant to identity and authority to act. The system should also provide a mechanism for data discrepancies so that a notary can postpone or refuse to draw up a deed without inviting allegations of discrimination. This recommendation is consistent with the thesis proposal for secure and proportionate system integration.

Professional organizations should periodically develop document examination guidelines and examples of red flags. The guidelines may address damaged or inconsistent identity cards, powers of attorney, corporate documents, signature discrepancies, elderly or vulnerable parties, and unusual requests for deeds. Training should not merely repeat the provisions of the UUJN, but should use case simulations to enable notaries to distinguish irregularities requiring additional examination from circumstances beyond the office's verification capacity.

For MKN and law enforcement authorities, the tiered test can be translated into a checklist. A request to summon a notary should identify the relevant deed, the alleged formal violation, the documents required, and the relationship between the notary's testimony and the elements of the case. The MKN can then assess the necessity and proportionality. Once approval is granted, the examination should focus on official acts and should not automatically treat the notary as a suspect. Any change in status must be based on new evidence indicating fault or participation, not on the Notary's lawful exercise of the right of refusal.

For judges, the operative orders and reasoning of a decision should explicitly distinguish the status of the deed, the status of the agreement, the responsibility of the appearing parties, and the notary’s responsibility. A decision that merely declares a deed 'void' without explaining whether the invalidity concerns the authentic form, the agreement, or the legal act may create problems regarding enforcement and subsequent transactions. The decision should also explain the consequences for good-faith third parties, restitution or restoration of rights, and administrative obligations arising from the judgment. The clarity of the structure of judicial decisions is part of the legal certainty that authentic deeds are intended to provide.

For Notaries, the strongest protection continues to arise from procedural discipline. The use of checklists, documentation of communications, records of the reasons for refusal, continuing legal education, and control over staff constitutes an investment in protecting the legal office. Delegation to staff does not remove the Notary's responsibility for processes within the Notary's authority. Therefore, internal supervision must ensure that documents are not processed, signatures are not affixed, and copies are not issued outside the notary’s instructions and control. These practices simultaneously preserve the quality of service and public confidence.

CONCLUSION

Legal protection for notaries who draw up deeds that are subsequently suspected of containing elements of forgery comprises preventive and remedial protection. Preventive protection is implemented through limits on authority, the duty to act carefully, reasonable identity and document verification, reading and signing of deeds, duty of professional confidentiality, right of refusal, management of the notarial protocol, and the MKN mechanism. Remedial protection is implemented through fair evidentiary proceedings, the presumption of innocence, and the imposition of liability based on fault and the Notary's concrete involvement. Such protection is not immunity; a notary remains liable when proven to have known of, assisted, or committed the forgery, or to have breached formal duties in a manner that caused loss. The legal consequences of a deed cannot be determined automatically, merely because indications of forgery exist. The assessment must distinguish formal authenticity under Article 1868 of the Indonesian Civil Code from contractual validity under Article 1320. When the formalities are fulfilled and the Notary is not involved, the instrument retains its status as an authentic deed. A defect in a subjective requirement renders the agreement voidable, whereas a defect in an objective requirement may render it null and void by operation of the law. A breach of formal requirements may reduce evidentiary force, while the notary’s involvement may give rise to criminal, civil, administrative, and ethical liability. The tiered test linking the source of forgery, formal compliance, the notary’s fault, and the type of contractual defect provides a more concrete basis for the MKN, law-enforcement authorities, courts, and notarial practice to ensure legal certainty, justice, and protection of the parties.

REFERENCES

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

Adjie, H. (2011). *Kebatalan dan pembatalan akta Notaris*. Refika Aditama.

Budiono, H. (2013). *Kumpulan tulisan hukum perdata di bidang kenotariatan: Buku kedua*. Citra Aditya Bakti.

Depriani, W., Ridwan, R., & Trisaka, A. (2021). Perlindungan hukum Notaris pengganti yang tidak mengetahui adanya identitas palsu dari para pihak sedangkan Notaris yang digantikan meninggal dunia. *Repertorium: Jurnal Ilmiah Hukum Kenotariatan, 10*(1), 17–27. https://doi.org/10.28946/rpt.v10i1.949

Hadjon, P. M. (1987). *Perlindungan hukum bagi rakyat Indonesia*. Bina Ilmu.

Indonesia. (2014). *Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris*.

Indonesia. (2021). *Peraturan Menteri Hukum dan Hak Asasi Manusia Nomor 17 Tahun 2021 tentang Tugas dan Fungsi, Syarat dan Tata Cara Pengangkatan dan Pemberhentian, Struktur Organisasi, Tata Kerja, dan Anggaran Majelis Kehormatan Notaris*.

Indonesia. (2023). *Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana*.

Indonesia. (2025). *Undang-Undang Nomor 20 Tahun 2025 tentang Kitab Undang-Undang Hukum Acara Pidana*.

Ivena, S. F., Saptanti, N., & Kusumawati, E. D. (2026). Notary responsibility in making a deed of statement of resolution of the GMS: Problems and legal consequences (Study of Decision No. 373/Pdt. G/2022/PN Jkt.Sel). *Jurnal Smart Hukum (JSH), 5*(1), 106–114. https://doi.org/10.55299/jsh.v5i1.1953

Kitab Undang-Undang Hukum Perdata [Burgerlijk Wetboek].

Lumban Tobing, G. H. S. (1983). *Peraturan jabatan Notaris*. Erlangga.

Maharani, N. P. A. B. D., Puspadma, I. N. A., & Utama, I. W. K. J. (2023). Perlindungan hukum bagi Notaris pengganti dalam hal pemanggilan berkaitan dengan kepentingan proses peradilan pidana. *Jurnal Analogi Hukum, 5*(1), 61–66. https://doi.org/10.22225/ah.5.1.2023.61-66

Marzuki, P. M. (2005). *Penelitian hukum*. Prenada Media.

Prasetyawati, B. I., & Prananingtyas, P. (2022). Peran kode etik Notaris dalam membangun integritas Notaris di era 4.0. *Notarius, 15*(1), 310–323. https://doi.org/10.14710/nts.v15i1.46043

Pratama, I. P., Wisnaeni, F., & Cahyaningtyas, I. (2021). Tanggung jawab Notaris terhadap kewajibannya dalam hal pembacaan akta. *Notarius, 14*(2), 809–817. https://doi.org/10.14710/nts.v14i2.43806

Puspitasari, A. M., & Efendi, A. (2022). Perlindungan hukum Notaris pengganti dalam pemeriksaan sebagai saksi di pengadilan berdasarkan rahasia jabatan Notaris. *Jurnal Kajian Konstitusi, 2*(2), 124–156. https://doi.org/10.19184/jkk.v2i2.33974

Qodarrahman, A., Febrian, F., & Sagita, A. (2022). Tanggung jawab Notaris terhadap akta yang dibuat terkait pemalsuan tanda tangan penghadap oleh Notaris. *Repertorium: Jurnal Ilmiah Hukum Kenotariatan, 11*(2), 209–219. https://doi.org/10.28946/rpt.v11i2.2434

Rahardjo, L., & Ismelina, M. (2025). Legal protection of notaries against acts against the law on false testimony by presenters. *Journal of Law, Politic and Humanities, 5*(3), 2205–2215. https://doi.org/10.38035/jlph.v5i3.1396

Raihan, I., & Hertanto, H. (2024). Pertanggungjawaban Notaris terhadap pemalsuan tanda tangan penghadap atas akta kuasa jual beli: Studi Putusan Nomor 773/Pid.B/2021/PN.Smg. *Unes Journal of Swara Justisia, 8*(1), 26–37. https://doi.org/10.31933/ujsj.v8i1.475

Sabrina, R. R., & Musyafah, A. A. (2024). Pertanggungjawaban Notaris dalam kesalahan pembuatan akta. *Notarius, 17*(2), 731–748. https://doi.org/10.14710/nts.v17i2.54095

Sakina, N., & Santoso, B. (2024). Pertanggungjawaban Notaris dalam pembuatan akta otentik yang mengandung keterangan palsu. *Notarius, 17*(3), 2415–2429. https://doi.org/10.14710/nts.v17i3.47166

Samosir, T., Harlina, I., and Vicky. (2024). Implications of the power of attorney to sell deed made by a Notary due to inaccuracy. *Jurnal Smart Hukum (JSH), 3*(2), 157–165. https://doi.org/10.55299/jsh.v3i2.1090

Santoso, E. A., & Priyono, F. J. (2023). Analisis yuridis autentisitas akta Notaris yang dipalsukan. *Notarius, 16*(1), 18–35. https://doi.org/10.14710/nts.v16i1.37244

Subekti, R. (2005). *Hukum perjanjian*. Intermasa.

Vergano, R., & Retnaningsih, S. (2022). Ruang lingkup tanggung jawab Notaris terhadap keterangan palsu yang termuat pada akta autentik. *Kertha Semaya: Journal Ilmu Hukum, 10*(4), 782–793. https://doi.org/10.24843/KS.2022.v10.i04.p06

Wulandari, N. M. N., & Wijaya, I. K. K. A. (2024). Juridical review of criminal law arrangements in document forgery cases. *Pemuliaan Keadilan, 2*(1), 93–104. https://doi.org/10.62383/pk.v2i1.406

Yetniwati, Y., Yahya, T., & Amir, D. (2021). Perlindungan hukum terhadap Notaris penerima protokol: Bentuk dan batasan. *Undang: Jurnal Hukum, 4*(1), 213–244. https://doi.org/10.22437/ujh.4.1.213-244