

## Legal Certainty and Implementation of Non-Submission of 25-Year-Old Notary Protocol To The Regional Supervisory Council Based On The Law On The Notary Position

**Riyati, Yurisa Martanti, Slamet Turhamun**

Universitas Pascasarjana Jayabaya

Email: riyati.antie@gmail.com, ymartanti@yahoo.com, msturhamun@gmail.com

Correspondence: riyati.antie@gmail.com

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### ABSTRACT

In today's society, ethical behavior is increasingly being practiced based on what is permitted or prohibited, rather than on intrinsic values of good and bad. This ethical decline is also observed in corporate environments, where some Christian leaders fail to reflect the character of Christ in their leadership. Such leadership shortcomings are particularly concerning as non-Christian employees often observe and assess the integrity of Christian leaders, who are expected to embody moral and spiritual values. This study aims to explore the role of Christian ethics in shaping effective and spiritually grounded leadership in corporate settings. Using a qualitative research method, the study conducts an in-depth literature analysis of sources related to Christian ethics, leadership principles, and biblical teachings. The findings highlight the importance of the leader-shepherd model, where a Christian leader serves with the heart of a shepherd—caring for employees with love, patience, and sacrifice. This model fosters a spiritually nurturing environment that enhances trust, productivity, and ethical workplace culture. The research implies that integrating Christian ethics into leadership not only strengthens the moral integrity of leaders but also serves as a powerful witness to others in the organization. The study contributes to the discourse on faith-based leadership by offering a biblically grounded perspective on ethical leadership practices in the modern corporate world.

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## INTRODUCTION

The Notary profession in Indonesia has existed since the 17th century, precisely on August 27, 1620, when Melchior Kerchem became the first Notary in Indonesia (Adjie, 2014; Supriyanto & Sulistyono, 2024). Since then, supervision of Notaries has been carried out by judicial institutions and the government to ensure that the duties of the Notary office are carried out in accordance with regulations to protect the interests of the community (Hidayat et al., 2019; Mahanani & Hariyani, 2023; Saifuddin & Maerani, 2021; Suwardi, 2021a, 2021b).

Notaries as public officials have the authority to make authentic deeds and keep notary protocols, which contain legal, historical, administrative, and financial values.

Based on Article 63 paragraph (5) of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Notary Position (hereinafter referred to as UUJN), the Notary Protocol that has reached the age of 25 (twenty-five) years must be submitted to the Regional Supervisory Council (hereinafter referred to as MPD) (Edwar et al., 2019; Humaira & Latumeten, 2022; Manan et al., 2019; Multazam, 2014). This handover aims to ensure legal certainty, archive security, and document accessibility for those in need. The submitted protocol can serve as valid evidence in legal proceedings.

However, in practice, the implementation of this provision still faces various obstacles. such as limited infrastructure in MPD, lack of notary awareness, and weak supervision. As a result, many protocols remain in the hands of notaries who have retired or died. This non-submission creates legal uncertainty and has the potential to trigger disputes due to lost or limited access to legal documents.

The non-submission of a 25-year-old notary protocol not only disrupts the archival system, but also has implications for legal certainty. Protocols that are not submitted can be lost, damaged, or difficult to access, hindering the evidentiary process in legal disputes. Therefore, it is necessary to reformulate the practice of submitting notary protocols to comply with applicable provisions and ensure legal certainty. This research classifies several problems, including:

Notary Sulasiyah Amini is responsible for keeping three Notary Protocols from retired Notaries, who are 25 (twenty-five) years old or older. Over time, the Protocol has suffered physical damage due to age, This condition requires extensive storage space and special care to keep it maintained and accessible. However, because the MPD does not have adequate storage facilities, the Protocol is still stored in the Notary office of the Protocol holder.

The case of Notary Ita Kristiana stated that before receiving the Notary Protocol from Notary Eko Handoko, there had never been any socialization from the MPD regarding the obligation to submit protocols that were 25 (twenty-five) years old or more. As a result, he did not know that the Protocol had to be submitted to the MPD, This has the potential to cause difficulties because the MPD does not have adequate storage facilities.

In the case of Notary Sri Rahayu Hadi Prasetyo, SH handed over his Notary Protocol to the Notary Recipient of the Protocol, but other Notary Protocols that he had held were still kept in his place, because the notary who received the protocol did not have an adequate office for storage.

To distinguish this research from previous studies, a comparison with related theses is necessary. Ega Gustian (2022) focused on the legal certainty of digital notary protocol storage and found that while the UUJN allows various parties to store protocols—including notaries, temporary officials, and the MPD—the absence of clear norms renders digital storage valid only as backup. Vidhea Anugraeni (2022) analyzed the juridical aspects of storing 25-year-old protocols by recipient notaries and found that Article 63 of the UUJN is not effectively implemented, largely because the MPD has limited authority, especially regarding issuing protocol copies. Risalatin Nur Fitri (2021) emphasized the potential use of digital repository systems for long-term storage but noted that protocols are still kept at notaries' offices due to MPD's lack of infrastructure. Anna Marie Asti O. T. (2019) found that even after Presidential Decree No. 21/2004, MPD only began storing protocols in 2017, indicating a significant delay in enforcement. Lastly, Afipuddin (2015) discussed the implications of notary protocols as state archives and pointed out that vague procedures for permanent storage create legal uncertainty for notaries. Compared to these studies, the current research not only reaffirms existing regulatory and infrastructural challenges but also explores the broader legal consequences and proposes

specific regulatory improvements, making it more comprehensive in examining both the normative and practical dimensions of notary protocol submission.

Based on the description above, this study aims to analyze the implementation of legal provisions regarding the obligation to submit notary protocols that are 25 years old to the Regional Supervisory Council (MPD) as stipulated in Article 63 paragraph (5) of the Law on Notary Position (UUJN). Furthermore, the research seeks to assess the extent to which legal certainty is realized in cases where such protocols are not submitted, especially considering existing gaps in infrastructure, awareness, and regulatory enforcement. The research also investigates the real implications of non-submission, including potential legal disputes and the risks of protocol damage or loss.

The benefits of this research are both theoretical and practical. Theoretically, it contributes to the academic discourse on legal compliance, archival governance, and the role of supervisory institutions in notarial practice. Practically, it provides a foundation for policymakers, especially MPD and the Ministry of Law and Human Rights, to evaluate and improve the mechanisms for protocol handover and storage. It also offers insights for notaries in better understanding their obligations, thus enhancing legal awareness and professionalism. In the long term, the research is expected to support the development of clearer, more enforceable regulations and infrastructure for the permanent management of notary protocols, ensuring the preservation of legal documents as state archives and upholding public legal certainty.

## RESEARCH METHODS

### Types of Research

What was carried out was normative juridical legal research supported by interviews. This research was carried out by researching literature materials or secondary data. This research is also called literature law research.

### Research Approach

- a. **The Statute Approach** is an approach that is carried out by examining all laws and regulations related to the legal issues being handled.
- b. **The Case Approach** is a normative legal approach that tries to build legal arguments in the perspective of concrete cases that occur in the field, of course, the case is closely related to legal cases or events that occur in the field.
- c. **The Analytical Approach** is an analysis of legal materials to find out the meaning contained by the terms used in laws and regulations conceptually, as well as to find out their application in legal practices and decisions.
- d. **Conceptual Approach** is a legal approach that provides a point of view of problem solving analysis in legal research from the aspect of the legal concepts behind it, or even can be seen from the values contained in the norm of a regulation in relation to the concepts used.

### Source of Legal Materials

Legal Material Sources used in normative legal research, consist of:

- a. Primary Legal Materials, which are authoritative and binding legal materials, consisting of:
  - 1) Constitution of the Republic of Indonesia in 1945.
  - 2) Civil Code.
  - 3) Law Number 30 of 2004 concerning the Position of Notary.
  - 4) Government Regulation Number 28 of 2012 concerning the Implementation of Law Number 43 of 2009 concerning Archives.

- 5) Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Position Regulations.
- 6) Regulation of the Minister of Law and Human Rights Number 9 of 2016 concerning Notary Supervision Procedures.
- 7) Regulation of the Minister of Law and Human Rights Number 16 of 2021 concerning the Notary Supervisory Council.
- b. Secondary Legal Materials are publications about law that are not official documents but provide explanations of primary legal materials,<sup>19</sup> such as books on notary law and archives, articles or journals that discuss the implementation of Article 63 paragraph (5) of the UUJN, Results of research on the management of notary protocols.
- c. Tertiary Legal Materials are materials that provide instructions and explanations of primary and secondary legal materials, such as encyclopedia dictionaries, cumulative indexes, and so on.

### **Legal Material Collection Techniques**

The collection of legal materials is carried out by identifying and inventorying positive legal rules, researching literature materials (books, scientific journals, research reports), and interviews with Notaries and MPD members to get an overview of practice in the field.

### **Legal Materials Analysis Techniques**

The analysis of legal materials is carried out by conducting legal interpretation (*interpretation*) and legal construction methods.

- a. Some of the legal interpretation techniques used in law are:
  1. Grammatical interpretation, Some call it the interpretation of interpretation based on grammar or linguistics (*de grammatikale of taalkundfge interpretatie*.) Interpreters try to find the meaning of a word, term, phrase, or legal sentence by linking the text to grammatical or everyday usage.
  2. Systematic interpretation, Research on legal systematics can be carried out on certain laws or recorded laws. The purpose is to identify the definitions, principals/bases in law, namely legal society, legal subjects, rights and obligations, legal events, legal relations and legal objects.
- b. Some of the legal construction techniques used, including:
  1. The construction of analogy, is to give an interpretation to a legal regulation by giving an analogy to the words in accordance with its legal principles, so that an actual event cannot be included, and then considered in accordance with the sound of the regulation.
  2. The construction of legal refinement (Reclitsverfijning) is the opposite of the analogy construction, because if on the one hand the analogy expands the scope of a law regulation, then on the other hand the legal refinement actually narrows the scope of the enactment of a law (restrictive).<sup>22</sup> The Gospel of Jesus Christ

## **RESULTS AND DISCUSSION**

The storage of the Notary Protocol is the obligation of the Notary in accordance with Article 1 number 13 of the UUJN-P, which states that the Notary Protocol is a collection of state archive documents that must be stored and maintained by the Notary. The submission of the Notary Protocol must be carried out no later than 30 days from the end of the term of office, dismissal, or death of the Notary.

The Notary Protocol must be properly maintained and kept by the Notary concerned or by the Notary holding the Protocol and will remain valid as long as the Notary's position is still needed by the state. The submission of the Notary Protocol as intended in Article 62 of the UUJN shall be carried out no later than 30 (thirty) days from the date of making the minutes of submission of the Protocol signed by the Notary who submitted and who received the Notary Protocol.

If a Notary dies, the submission of the Notary Protocol is carried out by the Notary's heirs to another Notary appointed by the MPD within a maximum period of 30 (thirty) days from the time of the Notary's death. In the event that the Notary is temporarily dismissed, the submission of the Notary Protocol is carried out by the Notary to another Notary appointed by the MPD, if the temporary dismissal is more than 3 (three) months.

If the Notary has ended his term of office, asks for himself, is spiritually and/or physically unable to carry out the duties of his position as a Notary continuously for more than 3 (three) years, moves the area of office, or is dishonorably dismissed, then the handover

The Notary Protocol is carried out by the Notary to the Notary appointed by the Minister on the proposal of the MPD.

For Notaries who are appointed as state officials, the Notary Protocol is submitted to the Notary appointed by the MPD. When a Notary retires or quits his position as a Notary, the Notary deed must be held or kept by another Notary as the holder of the Notary Protocol and the Notary holder of the Notary Protocol cannot take any action, such as changing the content of the deed, but what can be done by the Notary holding the Protocol is to take care of and issue a copy at the request of the parties whose names are in the deed or their heirs, so that the continuity in the storage of the Notary Protocol is not in the continuity of the implementation of the position by the official, but the continuity of the position of Notary.

Storage of the Notary Protocol by the Notary holding the Protocol is an effort to maintain the juridical age of the Notary deed as perfect evidence for the parties or their heirs about everything contained in the deed, the Notary Deed in the form of a copy will forever exist if kept by the person concerned and in the form of a minuta will also exist forever if kept by the person concerned and in the form of a minuta will also forever exist if kept by the Notary themselves or by the Notary holding the Protocol or by the MPD.

Thus, the Notary deed has a juridical age, which remains valid and binding on the parties whose names are listed in the deed, even though the Notary concerned has stopped carrying out his duties as a Notary. Those who carry out the duties of the office of Notary are limited by biological age. However, the juridical age of the Notary deed can be for all time or as long as the legal rules governing the position of Notary remain.

The storage of this Protocol is in line with Article 70 letter e of the UUJN which states that "determines the place of storage of the Notary Protocol which at the time of the handover of the Notary Protocol is 25 (twenty-five) years old or more". In addition, it is also coherent with Article 23 paragraph (1) letter c of Permenkumham No. 40 of 2015 that "Accept and determine the storage place of the Notary Protocol which at the time of the handover of the Notary Protocol is 25 (twenty-five) years old or more".

Storage of Notary Protocol by Notary Recipient Protocol is an effort to maintain the authenticity of the Notary deed as perfect evidence for the parties or their heirs about everything contained in the deed. The Notary Deed in the form of a copy will be forever available if kept by the person concerned and in the form of minuta will also be forever kept by the Notary himself or the Notary Receiving the Protocol or by the MPD.



### **Obligations of Submission and Storage of Notary Protocols**

Article 63 Paragraph (1) of the UUJN stipulates that the submission of the Notary Protocol must be carried out no later than 30 days after the end of the term of office, dismissal, or death of the Notary. This submission must be accompanied by the preparation of the minutes of the submission signed by the Notary who submitted and the Notary who received the Protocol. This minutes serve as valid proof that the submission has been carried out in accordance with the provisions of the law.

The 2 (two) obligations of Notaries holding Protocols are as follows:

- a. Provide a copy/quotation/grosse when someone requests it in accordance with the provisions of Article 54 of the UUJN-P.
  - (1) A notary may only give, show, or notify the contents of the deed, grosse deed, copy of the deed or deed citation, to a person who has a direct interest in the deed, heirs, or person who acquires rights, unless otherwise specified by laws and regulations.
  - (2) Notaries who violate the provisions as intended in paragraph (1) may be subject to sanctions in the form of:
    - a) Written warning;
    - b) Temporary stops;
    - c) Respectful dismissal; or
    - d) Disrespectful dismissal
- b. Keeping and caring for it in a suitable place Come and attend the trial if there is a lawsuit (civil or criminal) against the Notary who made it, which is addressed to the Notary holding the Protocol as a witness to the fact with the permission of the Notary Honorary Council (MKN) to show the bundle of the deed minuta.

Even if it comes without permission (of one's own volition), it is the responsibility of the Notary concerned. The Notary Protocol is a state archive, whose storage is carried out by the Notary. Archives are divided into several types or categories regulated in the Archives Law, namely:

1. Dynamic archives, which are archives that are stored for a certain period of time and are used directly in the activities of the archivist.
2. Vital archives, namely archives that are a requirement for the continuity of the operation of the archive creator. This archive cannot be updated and cannot be replaced if it is damaged or lost.
3. Active archives, i.e. archives with high or continuous usage.
4. Inactive archives, which are archives whose frequency of use decreases.
5. Static archives, which are archives that have historical value, have exhausted their retention, and have permanent information that has been revised directly or indirectly by the National Archives of the Republic of Indonesia or by archival institutions.
6. Archives are maintained, namely state archives related to the survival of the nation and state so that its integrity, safety, and security must be maintained
7. Public archives, i.e. archives that are not included in the maintained archives. Based on the types of archives mentioned above, Mustari classifies the Notary Protocol as a vital archive, because the archive must remain as long as the Notary performs his position and data storage can be done physically and digitally. Archives have a retention time limit. The arrangement of the storage period (retention) of archives as stipulated in the Archives Law, must be based on the archive retention schedule.

The archive retention schedule is an assessment of an archive, whether it will be transferred to an archival institution, destroyed or permanent. Based on the archive retention

schedule, it will also be known that archives that have run out of retention and do not have utility value can be destroyed.

Meanwhile, the Notary Protocol without the need for an assessment must be kept and maintained by the Notary, Substitute Notary, Temporary Notary Official, Notary holding the Protocol and MPD, so that the storage period (retention) of the Notary Protocol is not limited as long as the Notary Protocol is needed by the related parties/interested parties.

Article 1 Paragraph (13) of the Amendment Law has stated that the Notary Protocol is a state archive, so the Notary Protocol must be treated like a state document that must be stored and maintained so that it remains authentic. The Notary Protocol if it is seen as a state archive, it must have rules about its management.

The Notary Protocol as a state archive, its management must be guided by Law No. 43 of 2009 concerning Archives (hereinafter referred to as the Archives Law) because it is a special rule (*lex specialist*) that regulates archives. Article 1 Number 2 of the Archives Law states that archives are matters related to archives while archives are recordings of activities or events in various forms and media in accordance with the development of information and communication technology made and accepted by state institutions, local governments, educational institutions, companies, political organizations, community organizations, and individuals in the implementation of community life, Nation and State

According to Wirjono Prodjodikoro, accountability for a person's actions only exists if the person commits an act that is not allowed and most such acts are acts that are called unlawful acts in the Civil Code.

Article 1365 of the Civil Code states that any unlawful act that therefore causes harm to another person, obliges the person who, because of his fault, caused the loss, to compensate for the loss. Based on Article 1365 of the Civil Code, the elements of unlawful acts formulated by the article according to J.H. Nieuwenhuis, namely:

1. The act that causes harm is unlawful because it is contrary to the rights of others, morality, and the legal obligations of the perpetrator.
2. Losses incurred as a result of these acts.
3. The perpetrator is guilty.
4. The norm that is violated has a "streking" (general) to compensate for the loss.

Accountability that must be carried out by a Notary if something bad happens such as committing fraud or trickery that comes from the Notary himself.

The Civil Code divides the issue of liability for unlawful acts into 2 (two) groups, namely direct responsibility and indirect responsibility. The provisions of laws and regulations from unlawful acts aim to protect and provide compensation to the aggrieved party. Regarding the Notary's accountability for its Protocols as stated in Article 65 of the UUJN-P, the Notary is obliged and fully responsible for all stored Protocols.

From an administrative point of view, the Notary's liability in relation to the storage and holding of the physical form of each deed made by him which is a Notary Protocol has ended at the same time as the end of the term of office of the Notary concerned

#### Notary Protocol Submission and Storage Process

Article 63 Paragraph (3) of the UUJN stipulates that the submission of the Notary Protocol is carried out by the Notary concerned or his/her heirs (if the Notary has died) to another Notary who has been appointed by the MPD. The appointment of Notaries who receive this Protocol is carried out based on recommendations from the MPD and the approval of the Minister of Law and Human Rights (Menkumham).

The procedure for storing the Notary Protocol with the age of 25 (twenty-five) years and above has actually not been clearly regulated. In exercising the authority to choose the location of the Notary Protocol that reaches the age of 25 (twenty-five) years and above, the UUJN and UUPJN do not regulate more specifically related to the mechanism and requirements of the place where the Notary Protocol is stored by the MPD.

For example, whether MPD must store the Notary Protocol that has reached the age of 25 (twenty-five) years and above in the office owned by MPD, or can it be stored in a special storage place, or can be stored in electronic form and so on. In addition, it is also not regulated how to calculate the right calculation to determine the age of a deed. Because the minutes of the deed kept by the Notary are in the form of a book that has been sealed, and each deed in one volume has a different date even though it was made in the same year. So, if the age of the deed is calculated based on the date of signing the deed, then, each deed in one volume of minuta will reach the age of 25 (twenty-five) years at a different time. Therefore, in order to provide legal certainty regarding the submission of the Notary Protocol, a special calculation provision is needed when one minute of deed stored in the Notary Protocol can be said to be 25 (twenty-five) years old.

Due to legal ambiguity in the arrangement regarding the storage of the Notary Protocol by the MPD, the provisions of Article 63 Paragraphs 5 and 6 of the UUJN and the provisions of Article 70 letter e of the UUJN cannot be implemented properly. Moreover, neither the UUJN nor the UUPJN regulates sanctions against Notaries who receive the Protocol who do not submit the Protocol whose age has reached 25 (twenty-five) years and above to the MPD. Likewise, the MPD also does not exercise its authority to take over the Notary Protocol who has reached the age of 25 (twenty-five) years and above from the Notary who receives the Protocol due to the absence of a storage place.

The uncertainty of the implementation of the storage of the Notary Protocol whose age has reached 25 (twenty-five) years and above causes uncertainty about where the Protocol can be sought by interested parties. The absence of sanctions causes this provision not to be implemented due to technical problems whose solutions have not been sought. Legal provisions without sanctions are often ignored, considering that sanctions are an important instrument in the law enforcement process. This issue will certainly raise problems regarding legal certainty regarding who is responsible for the Notary Protocol who has reached the age of 25 (twenty-five) years or more if the Protocol in question is still kept by the Notary who receives the Protocol.

Article 63 paragraph (5) of the UUJN specifically stipulates that Notary Protocols who are 25 (twenty-five) years old or older must be submitted by the Notary who receives the Protocol to the MPD. This provision aims to ensure that Notary Protocols that have reached a certain age are kept safely and properly managed by the authorized institution.

The storage of state archives is related to the maintenance of state archives. In the field of archives, technical provisions regarding electronic storage by transferring media from paper to digital media have been regulated, namely in the Regulation of the Head of the National Archives of the Republic of Indonesia Number 9 of 2018 concerning Guidelines for Dynamic Archive Maintenance (hereinafter referred to as PERKA Number 9 of 2018). Then in articles 12 – 14 of the Archives Law, it has regulated the legal basis for the National Archives Information System (SIKN) and the National Archives Information Network (JIKN).

The technicality of storing minuta is regulated in article 16 letter g and Article 63 paragraph (5) of the UUJN, the submission of the Notary Protocol that is more than 25 (twenty-five) years old is submitted to the MPD. Because MPD does not have a special office, especially



for the storage of Notary Protocols that are more than 25 (twenty-five) years. Even though the number of Notary deeds will continue to increase from time to time. So that storage space will also need a larger room from time to time. So far, what has been running is the reporting of the Notary Protocol which is carried out every month through the [www.apn.kemenkumhamjatim.com](http://www.apn.kemenkumhamjatim.com) electronic system. This system is an innovation from the Ministry of Law and Human Rights of the East Java Regional Office. Notary Protocol reporting in the system includes the names of parties, types of deeds, date of deeds, deed registration numbers according to what is written in the repertoire book.

The UUJN or other legislation does not regulate electronic storage for Notary Protocols either in electronic systems such as repository systems or other electronic storage systems. In this day and age, technological advances are developing rapidly. Electronic storage of the Notary Protocol cannot be applied if there are no specific rules about electronic Notary deeds. Because basically an electronic Notary deed is made, sent, forwarded, and received in electronic form in an electronic system.

So if you are going to apply electronic storage to the Notary Protocol, it is ensured that there are specific rules about electronic Notary deeds to be the basis. The UUJN has emphasized that the minutes of the deed are State archives. However, the Law on Archives and the National Archives Agency never mentions the minuta of the Notary deed as a state archive. This creates legal uncertainty over the existence of the minuta as a state archive. Therefore, the field of state archives needs to regulate well in the Archives Law that authentic deeds in the form of minutes are included in the State archives with the type of Vital Archives. This is intended so that the position of the minuta as a State archive is clearly stated in the Archives Law.

The arrangement of authentic deeds in the form of minuta as a state archive into the Archives Law is necessary because the framework of the content of the deed minutes has been determined by the UUJN. So it cannot be equated with other forms of authentic certificates, for example birth certificates, marriage certificates, and so on. Thus the maintenance of the minuta as a state archive needs to be specially regulated with reference to the guidelines for the maintenance of state archives or the government makes special regulations on the storage and maintenance of the minuta.

#### **MPD's Authority in Notary Protocol Storage**

Article 70 Letter e of the UUJN gives the authority to the MPD to determine the storage place of the Notary Protocol that has been submitted and is 25 (twenty-five) years old or more. This authority includes determining storage locations that meet security and feasibility standards to maintain the integrity and authenticity of the Notary Protocol as a state archive. Article 63 paragraph (5) of the UUJN specifically stipulates that Notary Protocols who are 25 (twenty-five) years old or older must be submitted by the Notary who receives the Protocol to the MPD. This provision aims to ensure that Notary Protocols that have reached a certain age are kept safely and properly managed by the authorized institution.<sup>6</sup> *The Gospel of Jesus*

#### **Case Analysis**

##### **Legal Certainty Theory**

Legal certainty is a fundamental principle in the legal system that guarantees that legal regulations must be clear, consistent, and can be applied effectively. Hans Kelsen (2006), in *General Theory of Law and State*, emphasizes that legal certainty is closely related to the existence of hierarchical legal norms that bind the subject of law. The non-optimal implementation of the submission and storage of the Notary Protocol has a negative impact on legal certainty for parties interested in the Notary deed.

Based on the theory of legal certainty, the arrangement for the submission and storage of the Notary Protocol Article 63 paragraph (5) of the Law has not been implemented, providing ambiguity that can cause disputes or injustices. In the context of the submission of a Notary Protocol, legal certainty includes the following aspects:

- a. Clarity of the Regulation rules that regulate the obligations of Notaries in handing over the Protocol after the age of 25 (twenty-five) years old. regarding the responsibility of the Notary and MPD for the Protocol that has been submitted, especially if there is an error or negligence in storage that results in losses for interested parties.
- b. Consistency of legal application The applicable provisions must be carried out uniformly by all Notaries without exception.
- c. Definite legal consequences: There are clear sanctions for Notaries who do not comply with this obligation to avoid legal uncertainty.
- d. If the Notary Protocol is not submitted according to the provisions, there will be legal uncertainty for people who need access to the document as legal evidence.

#### **Implementation of Article 63 paragraph (5) of the Law a) The Case of Notary Sulasiyah Amini:**

In this case, Notary Sulasiyah Amini has the responsibility to keep the notary protocol that is 25 (twenty-five) years old or older. However, because MPD does not have adequate storage facilities, the protocol is still stored in the notary's office. This shows that the implementation of Article 63 paragraph (5) of the UUJN has not been effective. The absence of adequate storage facilities results in legal uncertainty, where important documents are not properly maintained and have the potential to be lost or damaged.

#### **The Case of a Christian Notary**

Notary Ita Kristiana did not get socialization regarding the obligation to submit the protocol which is 25 (twenty-five) years old. This lack of clarity of information creates legal uncertainty, where notaries do not know the obligations that must be fulfilled. This shows that existing legal norms are not applied effectively, thus reducing legal certainty for notaries.

#### **The Case of Notary Sri Rahayu Hadi Prasetyo, SH**

Notary Sri Rahayu only handed over his own protocols, while other protocols remained in place. This raises questions regarding transparency and compliance with legal provisions. The absence of an adequate office for the notary recipient of the protocol shows that the implementation of Article 63 paragraph (5) of the UUJN cannot be carried out optimally.

#### **Archival Theory**

In the context of legal document management, 8wursanto stated that archiving must be carried out with a structured system so that documents remain safe, authentic, and easily accessible to interested parties. The Notary Protocol has important historical and legal value, its status as a state archive has not been fully recognized in the Archives Law. This results in a lack of attention and support for the management and preservation of the Notary Protocol as a national asset. Some of the key principles in archival theory relevant to this research include:

- a. The Security Principle of Notary Protocol must be kept with a system that guarantees the integrity and validity of documents. In order not to suffer loss or damage, thereby eliminating legitimate evidence and harming interested parties.
- b. The Principle of Document Accessibility must remain accessible to the right party, such as heirs or legally interested parties. especially if the Protocol is in the hands of a Notary who has retired or died.

- c. Principle of Accountability There is a supervisory mechanism that ensures that the Protocol that is 25 (twenty-five) years old is really submitted and managed properly by the MPD.
- d. If the Protocol is not managed properly, there can be loss of documents, difficulties in legal proof, and potential misuse of documents.<sup>9</sup>

### **Legal Certainty on Notary Protocols Not Submitted to MPD**

#### **Case of Notary Sulasiyah Amini:**

Protocols that are not submitted to the MPD and are kept at the notary's office have the potential to cause legal disputes. In the event of loss or damage to the documents, interested parties cannot access the necessary legal evidence. This creates legal uncertainty, where the rights of certain parties can be overlooked.

#### **Christian Notary Case:**

A lack of understanding of the obligation to submit the protocol can cause notaries to not fulfill their legal responsibilities. If the protocol is not submitted according to the provisions, then the legal certainty of the document becomes doubtful. Parties who need access to the document may not be able to do so, which may result in disputes later on.

#### **Case of Notary Sri Rahayu Hadi Prasetyo, SH:**

Protocols that are not submitted and remain kept in the notary's place can result in legal uncertainty. If the document is required for legal purposes, the interested party may not be able to access it. This shows that existing legal provisions are not implemented properly, thereby reducing legal certainty for all parties involved.

### **Legal Analysis and Implications**

#### **Legal Certainty for Notaries and the Community**

The above provisions provide legal certainty for Notaries, heirs, and the public who need access to the Notary Protocol. With clear rules, the risk of loss or damage to the Protocol can be minimized. The provisions of Articles 1888 and 1889 of the Criminal Code emphasize how important the existence of the Notary Protocol is in the evidentiary process so that its existence needs to be maintained and maintained properly. Therefore, the certainty regarding the accountability of the Notary Protocol that has reached the age of 25 (twenty-five) years or more certainly needs to be clarified and emphasized, so that it does not happen again that the Notary Protocol that should be stored and cared for by the MPD is left in the control of the Notary who receives the Protocol.

This legal certainty can only be achieved if the provisions for the storage of the Notary Protocol are carried out in line with the procedures stipulated in the applicable laws and regulations. As an effort to achieve legal certainty and accountability related to the storage of Notary Protocols that reach the age of 25 (twenty-five) year or more, the problem of storing this Protocol must be overcome first.

#### **MPD Responsibilities**

MPD has a great responsibility in managing Notary Protocols that are 25 (twenty-five) years old or more. This includes ensuring that the Protocol is kept in a secure place and accessible if necessary for legal purposes.

Another responsibility of the Notary in terms of keeping the Notary Protocol is to keep other Notary Protocols based on the appointment of the MPD. The Notary's responsibility in storing other Notary Protocols is a responsibility with a time limit. This is as stated in Article 63 paragraph (5) of the UUJN that the Notary Protocol of another Notary who at the time of submission is 25 (twenty-five) years old or more is submitted by the Notary who receives the Notary Protocol to the MPD.

Based on the provisions of Article 63 paragraph (5) of the UUJN, Notaries who receive other Notary Protocols for up to 25 (twenty-five) years or more, Notaries submit the Notary Protocol to the MPD. So that upon the submission of 72 other Notary Protocols that are 25 (twenty-five) years old or more that were submitted to the MPD, the responsibility for storing the other Notary Protocols shifted to the MPD. The transfer of the responsibility of the Notary in storing other Notary Protocols that are 25 (twenty-five) years old or more to the MPD, provided that the Notary who receives the Protocol submits the other Notary Protocols to the MPD. This means that as long as the Notary does not submit it to the MPD, the responsibility for storing the other Notary Protocols remains attached to the Notary who receives the Protocol.

In general, in practice, MPD does not store Notary Protocols that are 25 (twenty-five) years old or more. One of the factors is that the MPD does not have a container or storage place for the Notary Protocol that is handed over to him. So that the storage of other Notary Protocols submitted to the Notary holding the Protocol is 25 (twenty-five) years old or more, remains the responsibility of the Notary who receives the Protocol. To provide legal certainty for the responsibility of notary protocol storage by Notaries, it is time for the Government to provide clear regulations or legal rules related to the digital storage of Notary Protocols, considering the limited availability of storage places. Another thing that must be considered is the extent to which the Notary holding the Protocol is responsible for the digital storage of the Notary Protocol.

In its development, in the storage of the Notary Protocol (archives), Notaries have utilized cloud computing services such as Google Drive and iCloud in the storage of the Protocol that has been scanned, making it easier for Notaries to upload and download it again. This is proof that Notaries have used a system related to data storage on a large scale (big data) which is a development of the industrial revolution 4.0. However, on the other hand, with the use of cloud services that make it easier to store the Protocol, there are risks that must be considered by Notaries regarding data protection for their Protocols in the event of data leakage or unauthorized access. In addition, society has now developed towards society 5.0, where people are faced with technology that accesses virtual space such as in physical space. In this society 5.0, technology is already based on big data and robots to support human work, so with the rapid development of technology, the Notary profession needs to participate in following such rapid technological developments. The legal certainty of the digital storage of the Notary Protocol, for now is still a gray matter for Notaries, because storage

In addition, society has now developed towards society 5.0, where people are faced with technology that accesses virtual space such as in physical space. In this society 5.0, technology is based on big data and robots to support human work, so with the rapid development of technology, the Notary profession needs to participate in following such rapid technological developments. The legal certainty of the digital storage of the Notary Protocol, for now is still a gray matter for the Notary, because the storage of the legal certainty of the digital storage of the Notary Protocol, for now is still a gray matter for the Notary, because the storage of the MPD's Responsibility to the Notary Protocol as a state archive is to receive a Notary Protocol that is 25 (twenty-five) years old or more in accordance with the provisions in Article 63 paragraph (5) of the UUJN. However, this is a problem for MPD and Notaries in the storage of Notary Protocols. Notaries realize that the Protocol should be 25 (twenty-five) years old

year or more must be submitted to the MPD which has been clearly regulated in Article 63 paragraph (5) of the UUJN. However, this provision cannot run so that it requires a Notary Protocol that is 25 (twenty-five) years old to be held by the Notary who receives the Notary Protocol at the Notary office appointed as the Protocol holder. According to Notary Mr. Rudi

Mulyanto, S.H., M. Kn, who is the MPD of Banyuwangi Regency, in fact until now MPD has never kept the Notary Protocol as stipulated in Article 63 paragraph (5) of the UUJN, MPD only conducts coaching which means fostering Notaries in the work area in order to carry out their duties in accordance with the provisions of the UUJN and supervision so that the Notary in carrying out his obligations in accordance with the provisions of the Law and appointing the Notary who receives the Protocol because The government only gives authority to the MPD but does not provide facilities for the storage of the Notary Protocol.

Holding a Notary Protocol that is 25 (twenty-five) years old or more is not an easy thing and is a burden for Notaries who are appointed as Notary Protocol holders. The obstacles faced are, of course, in terms of storing so many Protocols and Notary Protocols that are 25 (twenty-five) years old require special attention. And MPD has responsibility for the abandoned Notary Protocol because the Notary who receives the Protocol appointed by the MPD does not want to accept the Protocol from another Notary because:

a. Reasons why the archive doesn't exist

b. During his previous tenure, the Notary may not be professional in carrying out his position, so it raises concerns about the number of lawsuits for deeds made by the previous Notary in the future, so that the Notary who receives the Protocol is not willing to accept because he is reluctant to be called by the authorities to be asked for information related to the problems of the Protocol in his possession.

MPD that should receive Notary Protocols that are 25 (twenty-five) years old or more in accordance with the provisions in Article 63 paragraph (5) of the UUJN until now have not been able to carry out the duties that should be carried out by MPD because there is no storage place for Notary Protocols which clearly requires a large place to accommodate thousands of Protocols that are 25 (twenty-five) years old. The obstacle faced by the MPD in implementing Article 63 paragraph (5) of the UUJN is the absence of costs or the absence of government attention to provide a budget in providing a place to store the Notary Protocol that is 25 (twenty-five) years old or more so that until now the MPD is supposed to hold the Notary Protocol which is 25 (twenty-five) years old cannot carry out its duties in accordance with Article 63 paragraph (5) of the UUJN and MPD cannot temporarily keep abandoned Notary photos because Notaries who receive the Protocol do not want to accept the Protocol from other Notaries. MPD has a heavy burden and responsibility to receive a Notary Protocol that is 25 (twenty-five) years old which is required by the Law and Protocol which is abandoned but does not have a storage place.

### **Implementation Challenges**

Although the UUJN has regulated in detail, the implementation of this provision often faces obstacles, such as limited storage facilities in MPD and lack of supporting regulations related to the digitization of the Notary Protocol. The digital Notary Protocol does not yet have implementing rules. In terms of effectiveness, the digital storage of Notary Protocols will make it easier for Notaries in Indonesia and for the public, of course.

Regarding evidence in electronic form, Michael Chissick and Akistair Kelman stated that there are 3 (three) types of evidence made with computers, namely:

1. Real Evidence Real evidence includes calculations or analyses made by the computer itself through the application of software and receiving information from other currencies such as clocks that are buttoned in directly in the computer or remote sender. This tangible evidence emerges from various conditions.
2. Hearsay Evidence This is a document or data produced by a computer that is a copy of the information provided (entered) by a human to a computer.
3. Derived Evidence Derived



evidence is information that combines real evidence with information provided by humans to computers with the aim of forming a composite data, such as making bank bills.

**Regulatory Ambiguity:** Many Notaries reveal that regulations regarding the storage of Notary Protocols that are 25 (twenty-five) years old are still unclear. They want more specific guidelines on storage and delivery mechanisms. The lack of clarity in regulations regarding the storage and submission of the Notary Protocol creates legal uncertainty. This shows the need to revise or add provisions in the Notary Position Law to provide clearer guidelines.

**Storage Practices:** Some Notaries state that they keep the Protocols in their offices, while others use special storage bins. However, there is no general agreement regarding best practices. Varying storage practices among Notaries indicate a lack of standardization. This can lead to problems in the future, especially in the event of a dispute regarding the validity of the document.

**Deed Age Calculation:** There is confusion about how to calculate the age of the deed. Some Notaries argue that the age of the deed should be calculated based on the date of the creation of the first deed in the volume, while others argue that each deed should be counted individually. The confusion in the calculation of the age of the deed shows the need for clear guidelines. Establishing a consistent calculation method will help Notaries and MPDs in managing the Protocol better

**Electronic Storage:** Some respondents stated that electronic storage can be a solution to improve efficiency and security, but there are concerns regarding legal validity and data protection. While there is potential for electronic storage, challenges related to legal validity and data protection must be addressed. Further research is needed to explore how technology can be integrated into Notary practice without sacrificing legal certainty.

**Role of MPD:** MPD members emphasized the importance of supervision in the storage of Notary Protocols and stated that they are ready to provide guidance to Notaries regarding correct procedures. MPD has an important role in providing guidance and supervision. However, they also need to be equipped with adequate resources and training to carry out these tasks effectively.

## CONCLUSION

Based on the findings of this study, it can be concluded that the implementation of Article 63 paragraph (5) of the Law on the Position of Notary (UUJN) regarding the submission of Notary Protocols that are 25 years old to the Regional Supervisory Council (MPD) remains suboptimal in practice. While the legal framework provides clear guidance, the reality reveals several persistent obstacles, particularly in terms of inadequate infrastructure, lack of socialization, and limited legal awareness among notaries. These shortcomings result in Notary Protocols being stored improperly in notary offices, increasing the risk of document loss or damage, and creating difficulties for parties who require access to such documents for legal or administrative purposes. The ineffectiveness of the current implementation underscores the need for regulatory and institutional reform. As a recommendation, future research should explore the feasibility and legal implications of digitalizing the storage of Notary Protocols as a long-term solution. This includes examining the development of a legal framework that guarantees the validity and enforceability of digital archives, as well as addressing the technical and administrative challenges involved. In addition, a comparative study involving other jurisdictions that have implemented digital notarial systems may offer valuable insights into best practices for Indonesia.

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