

## IMPLEMENTATION OF THE INCLUSION OF SELF-PROTECTION CLAUSES IN THE MAKING OF NOTARY DEEDS (STUDY AT THE NOTARY OFFICE DIMITRI DANANG SAWITRAWAN, S.H., M.KN.)

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### ABSTRACT

Notaries play a crucial role in drafting deeds, as they are legally authorized under the UUJN to perform this function. However, in practice, even when fulfilling their duties, obligations, and authority properly, notaries are often drawn into disputes between the parties involved. To prevent such risks, notaries frequently include a self-protection clause in the deeds they draft. This research addresses two main issues: (1) how the inclusion of self-protection clauses is implemented in notarial deeds, and (2) what form of legal protection is provided to notaries when clients disregard these clauses. The study employs an empirical legal research method with a sociological approach, using interviews and observations conducted at the office of Dimitri Danang Sawitrawan, S.H., M.Kn., a notary in Malang City. Data were analyzed deductively, moving from general legal provisions to specific cases. The findings reveal that a notary is not considered a party to the deed. Therefore, if disputes arise, the notary should not be implicated, either in criminal liability or as a defendant in civil cases. Legal protection remains valid even if the self-protection clause is absent, as long as formal requirements are met. As a precaution, notaries request supporting documentation—such as photos, videos, or thumbprints—to confirm parties' approval of the deed.

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## INTRODUCTIONS

Notary is a public official whose authority in making deeds is explained in Article 1 number 1 of Law Number 2 of 2014 amendments to the UUJN (hereinafter referred to as UUJNP) is a public official who is authorized to make authentic deeds and has other authorities as referred to in this law or based on other laws. The profession of Notary is a noble profession (*nobile officium*). It is called *nobile officium* because the Notary profession is very closely related to humanity. A deed that has been made by a Notary can be a legal reason for a Notary deed that can cause the revocation of a person's right to an obligation. (Haryanto et al., 2025)

Notaries in carrying out their duties, especially in the process of drafting and making deeds, are obliged to pay attention to the applicable legal corridors, namely in the UUJN, laws and regulations, the code of ethics of the position

and also the principle of prudence, namely by paying attention to the provisions of article 1320 of the civil code (hereinafter referred to as the Civil Code) concerning the legal conditions of agreements, 1337 of the Civil Code concerning the limitation of agreements and article 1338 paragraph (1) of the Civil Code related to the principle of freedom contract. This is intended not to cause conflicts or disputes in the future that have an impact on the loss of the legal force of the authentic deed as perfect evidence, and not to harm the parties to the deed or third parties who are related to the deed. ( *Civil Code* , 2009)

Regarding authentic deeds, it is regulated in Article 1868 of the Civil Code (hereinafter referred to as the Civil Code) which states that:

"An authentic deed is an act which, in the form prescribed by law, is made by or before the public officers authorized for it in the place where the deed is made."

The position of the Notary as a general official, in the sense that the authority that exists in the Notary is not always given to other officials, as long as the authority does not become the authority of other officials. In accordance with these provisions, the Notary is the only official authorized to make an authentic deed regarding all acts, agreements, and determinations that are required by a general regulation or by the interested party are required to be stated in an authentic deed, all as long as the making of the deed by a general regulation is not also assigned or excluded to an official or other person. (Aulia et al., 2025)

Notaries have material and formal responsibility for the deeds they make. The Notary is responsible for the validity of the authentic deed he makes and if it turns out that there is a legal defect so that the deed loses its authenticity and harms the interested party and the Notary can be sued to reimburse costs, damages and interest. Meanwhile, considering the material responsibility for the deed made before the Notary, it needs to be emphasized that the notary's authority in the making of an authentic deed does not mean that the Notary can freely make an authentic deed according to his will without the parties to whom the deed was made. (Hanaan & Anwary, 2025)

The notary is obliged to be responsible for all aspects of the formality of the deed made by or in front of him. And as for the contents of the deed which are the will of the parties themselves, not only the will of the parties must be granted. The responsibility of the Notary is explicitly stated in Article 65 of the UUJNP which states that the Notary (Substitute Notary, Special Substitute Notary, and Notary Servant) is responsible for every deed he makes, even if the Notary protocol has been handed over or transferred to the Notary protocol provider. (Delzanty et al., 2025)

Based on Article 1 Number 1 of Law of the Republic of Indonesia Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary, it is stated that what is meant by a Notary is a public official who is authorized to make authentic deeds and has other authorities as referred to in this Law or based on other laws. From the above article, it can be seen that a notary has the authority to make an authentic deed. In article 1868 in the Civil Code, it has been determined about the meaning of authentic deed itself. An authentic deed is "a deed made in a form that has been determined by or before the public official authorized for it at the place where the deed was made."

In this case, the notary has a very important role in making the deed, because the notary has been appointed by law to make the deed. Notaries are constructed as public officials. What is meant by public officials is a person who performs work or duties to serve the interests of society as a whole. Notary authority or in English called notary *authority* is the power given to notaries to make authentic deeds and other powers. Power of attorney can be interpreted as the ability of a notary to carry out the position he has. The authority is divided into 2 (two) types, namely:

1. Authority to make an authentic deed
2. Other Authorities

What is meant by other restrictions is the authority granted by other laws and regulations, other than those specified from 1 Law of the Republic of Indonesia Number 2 of 2014 concerning Amendments to Law Number 30 of

2004 concerning the Office of Notary (hereinafter referred to as UUJN). Another example of authority is that a notary is given the authority to make a cooperative deed. ( *Amendments to Law Number 30 of 2004 concerning the Office of Notary* , 2014)

In carrying out his duties in his position, especially in the process of drafting and making deeds, he is obliged to pay attention to the applicable legal corridors, namely the UUJN, laws and regulations, the code of ethics of the position and also the principle of prudence, namely by paying attention to the provisions of Article 1320 of the Civil Code (hereinafter referred to as the Civil Code) concerning the legal conditions of agreements, 1337 of the Civil Code concerning the limitation of agreements and Article 1338 paragraph (1) of the Civil Code related to the principle of freedom of contract. This is done to avoid conflicts that arise in the future that can be detrimental to the parties.

But in reality, even though a notary has done his duties, obligations and authorities well, in the process, the notary is often involved in the problems of the parties. For example, notaries who are questioned by the police are asked to be witnesses and notaries are often used as co-defendants. So in this case as a form of prevention, the Notary includes a self-protection clause in the deed he makes as a form of self-security. "The clause generally contains that: "the witnesses declare and affirm that the parties will release the Notary, both his position as a person and as a Notary in relation to the deed made by him from all legal claims, both civil, criminal or state administrative. Furthermore, if there is a dispute or conflict related to the deed, it is the full responsibility of the witnesses."

Overcoming this because the position of Notary is a personal position, the Notary is obliged to protect himself by carrying out his duties and positions according to the Law and other laws and regulations. But Notaries sometimes ask to include security or personal protection for the Notary in case of disputes or other things that are later proven to be untrue from the witnesses.

The inclusion of a self-protection clause in the body of the deed is questionable in its validity and legal force. This is because there is no rule that explicitly regulates the provisions for the inclusion of the clause. Therefore, the researcher aims to analyze the implementation of the inclusion of self-protection clauses and to analyze the form of notary legal protection from the self-protection clause. Based on the description of the facts that have been explained in the background above, in this case the researcher is interested in further researching the problems related to "Implementation of the Inclusion of Self-Protection Clauses in the Making of Notary Deeds (Study at the Notary Office of Dimitri Danang Sawitrawan, S.H., M.Kn.)."

Based on the background description that has been presented, the formulation of the problem in this study is focused on two main things, namely: first, how to implement the inclusion of self-protection clauses in the making of notary deeds; and second, what is the form of legal protection provided to notaries against clients who do not heed the notary's self-protection clause.

To maintain the focus and scope of the research so that it is not too broad, the following problem limits are set: first, this study only discusses the implementation of the inclusion of self-protection clauses in the making of notary deeds; and second, only discussing the form of legal protection provided to notaries against clients who do not heed the existence of the self-protection clause.

The purpose of this study is to analyze the implementation of the inclusion of self-protection clauses in the making of notary deeds and to analyze the form of legal protection provided to notaries against clients who do not heed the self-protection clauses included in the deed.

## METHOD

This research is included in the type of empirical legal research, which is research that aims to examine and analyze the work of law in society as reflected through people's behavior towards applicable legal norms. In this context, law is understood as something that lives and operates in real terms in the midst of society. Empirical legal research is conducted to examine how the law is executed, obeyed, or even ignored by legal subjects in daily life.

Therefore, the main focus of this study is to look at how the self-protection clause in the notary deed is implemented and how the form of legal protection is given to the notary in practice in the community. (Efendi & Rijadi, 2016)

The approach used in this study is a sociological approach, where the researcher observes and collects data directly in the field to obtain a real picture of the legal practice that occurs. This approach is focused on observing the legal behavior of the relevant parties, especially in the Notary Office and PPAT Dimitri Danang Sawitrawan, S.H., M.Kn. which is located on Jl. Lumajang No. 1, Gading Kasri, Klojen District, Malang City, East Java. This location was chosen because it was considered representative to illustrate the practice of including self-protection clauses in the making of notary deeds.

The types of data used in this study consist of three main categories, namely primary data, secondary data, and tertiary data. Primary data is obtained directly from the first source, namely through an interview with the notary concerned. Secondary data were obtained from literature studies that included laws and regulations, law books, scientific articles, and other papers relevant to the research topic. Meanwhile, tertiary data serves as additional supporting data sourced from dictionaries and encyclopedias to clarify the understanding of certain terms or concepts.

The data collection technique in this study uses the interview method, which is direct data collection by asking questions to resource persons who have competence and relevance to the issue being researched. An in-depth interview was conducted with notary Dimitri Danang Sawitrawan, S.H., M.Kn., to find out information about the application of the principles of notary prudence and accuracy in the making of deeds, as well as his response to the self-protection clauses included in the notary deed.

The sample extraction technique used is purposive sampling, which is a sampling technique based on certain considerations that are relevant to the purpose of the research. This technique was chosen so that the researcher can obtain data from subjects who truly understand and experience firsthand the problem being researched, in this case notaries who have experience in compiling and including self-protection clauses in deeds.

The data that has been collected is then analyzed with qualitative descriptive analysis techniques. The data is presented in the form of a detailed narrative, then interpreted by referring to relevant literature and applicable laws and regulations. The results of interviews and observations are linked to legal theories and underlying norms, so that a comprehensive understanding of the practices that occur in the field is obtained. The conclusions of this study are drawn through the deductive method, which is the drawing of conclusions from general statements to specific things, to answer the formulation of the problem that has been determined.

## RESULT AND DISCUSSIONS

### Implementation of the Inclusion of Personal Protection Clauses in the Making of Notary Deeds

The Notary and PPAT Office of Dimitri Danang Sawitrawan, S.H., M.Kn. which was established in 2018 is located on Jl. Lumajang No. 1, Gading Kasri, Klojen District, Malang City, East Java. The office is supported by seven staff with a structured division of duties. Office staff are divided into two main parts, namely staff who handle notary deeds such as the establishment of CV and PT, and staff who handle PPAT deeds such as AJB and PPJB. In addition, there are field staff who are in charge of taking care of the needs related to the National Land Agency (BPN). Based on the results of the interview, Mr. Dimitri revealed that at first he did not include a self-protection clause in the deed, but over time, the clause began to be included as a form of legal protection for notaries against the possibility of things outside the content of the deed that had been made.

The form of the sentence listed by Mr. Dimitri Danang Sawitrawan, S.H., M.Kn is as follows:

"The parties hereby declare to guarantee the correctness of the identities and data provided and also guarantee that what is described in this deed is true, if it turns out that there is no data, identity and/or what is described is not true, then all consequences arising therefrom become the responsibility and risk of the witness himself. The Witness further declares and affirms that it will release I, PPAT and the witnesses who witnessed the making of this deed and the deeds related to this deed from all legal claims, whether Civil, Criminal or State Administration, including but not limited to the demands made by lawyers regarding the making of this deed and the deeds related to this deed".



The disputing party cannot reject him as a defendant or witness despite the existence of such a sentence. However, the sentence is a precautionary measure and increases the trust of the Notary in question. Related to the power of the Notary's legal protection against the implementation of this self-protection clause is entirely left to the judge, because the judge is not bound by this self-protection clause and the judge does not rely on the self-protection clause. The judge has discretion during the course of the court process. The self-protection clause is a form of Notary's attempt to protect himself, the judge's decision remains on the facts of the trial.

Basically, the inclusion of the name of the Notary on the Notary deed, does not mean that the parties in it participate, instruct or help to carry out a certain legal action carried out by the parties or the witnesses, but it is a formal aspect of the Notary deed according to the Law of the Notary Position and the Notary is not bound by the content of the deed and also has no legal interest with the content of the deed concerned. If the Notary deed is disputed by the parties or interested parties for any reason, there is absolutely no legal reason to place or sit the Notary as a defendant, co-defendant, suspect or witness. (Adjie, 1994)

This is also in accordance with the results of an interview with Mr. Dimitri Danang Sawitrawan, S.H., M.Kn he explained that the use of self-protection clauses is very important for notaries in making notary deeds. Because in this case, as the purpose is, to affirm that the notary is not a party to the making of the deed, if in the future there is a difference between the parties, the notary cannot be made a defendant or co-defendant. However, in this case, the use of a self-protection clause is also not mandatory for notaries. However, at the Notary Office, Mr. Dimitri Danang Sawitrawan, S.H., M.Kn usually use self-protection clauses only on cooperation deeds, debts and receivables deeds, or deeds that are prone to differences between the parties. (Adjie, 2022)

So in this case, Article 38 paragraph (3) letter c of the UUJNP emphasizes that the content of the deed is the will and desire of the interested party. The content of the deed which is the will of the parties themselves, the Notary does not have to grant all the wishes of the parties considering the provisions in:

1. Article 1335 of the Civil Code states that an agreement without cause, or made on the basis of a false or prohibited cause, has no force.
2. Article 1336 of the Civil Code states that if a cause is not stated, but there is indeed an unlawful cause, or if there is another non-prohibited cause other than the one stated, the consent is valid.
3. Article 1337 of the Civil Code states that a cause is forbidden, if it is prohibited by law or if the cause is contrary to decency or public order.
4. Article 1338 of the Civil Code states that all consents made in accordance with the law shall be binding on those who make them. The consent is irrevocable
5. Article 1339 of the Civil Code states that consent is not only binding on what is expressly stipulated in it, but also everything that according to the nature of consent is demanded based on justice, custom or law.
6. Article 1340 of the Civil Code states that consent is only valid between the parties who make it. Consent cannot be detrimental to a third party, consent cannot provide benefits to third parties other than in the case specified in Article 1317.

In this case, what needs to be underlined is that the Notary is not a party to the deed that the witnesses make before the Notary, so even if there is a dispute between them, the Notary should not be included in any way. The Notary is not the perpetrator or party to the deed he made, the Notary remains outside the parties or is not a party to the deed. With such a Notary position, so that if a Notary deed is in question, then the position of the Notary is not as a party or who participates in doing or assisting the parties in the qualification of Criminal Law or as a Defendant or Co-Defendant in a civil case. This has also been affirmed by Mr. Dimitri Danang Sawitrawan, S.H., M.Kn. who said that notaries are not parties, but in fact there are still clients who consider the notary himself as a party to the deed made by the Notary. (Wonggo et al., 2025)

In practice, people who struggle in law enforcement often consider the Notary to be considered a party to the deed. As a result, when the content of the deed is disputed by the person whose name is listed in the deed or by other parties, the Notary is often placed as a defendant, co-defendant, witness, or even a suspect or defendant. The placement of a Notary with such qualifications can be concluded to have been misunderstood or certain parties do not understand or do not understand the position of the Notary in the national legal system, especially as a position that is given certain

authority by the state to make authentic evidence desired by the parties and in accordance with the legal rules applicable to the legal act concerned. (Adjie, 2014)

The Notary is not a party to the deed made by the Notary. Therefore, the placement of the Notary as a party who participates or assists a party who has expertise to make or place false information in an authentic deed or the placement of the Notary as a defendant related to the deed made by or before the Notary injures the deed of the Notary and Notary which is not understood by other legal apparatus about the position of the Notary and Notary deeds in Indonesia.

It is only natural that notaries want to have a sense of security when doing their job. As mentioned above, protect yourself by complying with and complying with the Notary Profession Act, the Notary code of ethics, and other laws governing the job. In addition, an authentic deed made by a notary must be assessed as it is because it has perfect evidentiary strength.

In a notary deed, the self-protection clause aims to provide protection to the notary when issuing a valid deed in accordance with the law. It should be noted that this clause does not imply a requirement; instead, it is the Notary's choice to use it. Because there is a possibility of being sued if there is a problem. In this case, the existence or absence of a self-protection clause in the deed does not cause significant legal consequences, the key is that as long as the Notary follows the rules of the game in the UUJN and the applicable law, then the position of the Notary will be safe. And what is more important is based on the results of the interview with Mr. Dimitri Danang Sawitrawan S.H., M.Kn, the most important thing is to remain based on the principle of prudence.

In making a deed, the attendees must first be known by the Notary, namely by checking and matching the Identity Card. If the person facing is not known to the Notary, there must be two witnesses who introduce the face to the Notary, and the witness must be known by the Notary to avoid the occurrence of document forgery. Both the deed under hand and the authentic deed must meet the formulation of the conditions for the validity of an agreement based on article 1320 of the Civil Code, namely: agreement, competence, certain things, and permissible causes

- a. Agreeing means that the two subjects who enter into the agreement must agree and agree on the main matters of the agreement held.
- b. Proficiency means that the person who makes an agreement must be competent according to the law. Basically, everyone who is an adult or *akilbaliq* and has a sound mind is capable according to the law. A person who is capable or authorized to perform legal acts is an adult.
- c. Certain means that an agreement must be about a certain thing. In the Civil Code, certain things are: only goods that can be traded that can be the subject of an agreement, an item that can be determined by type, or goods that will exist in the future.
- d. Causa that is *halal*, means that it contains *causa/cause* that is justified by law/according to the law in the sense that it does not violate the law, public order and/or morality. (Mulyoto, 2012; Subekti, 2017)

In addition to the conditions for the validity of an agreement that must be fulfilled in making a contract in the deed, the Notary must also pay attention to the principles in the law of the agreement. The principles are as follows:

1. The basis of freedom of contract. In article 1338 paragraph (1) of the Civil Code, it reads: all agreements made legally shall be valid as laws for those who make them. The principle of freedom of contract in the sense of the word material is that the parties are free to enter into a contract about what they want as long as the cause is *halal*. This means that the principle gives the freedom of contract to the parties to make or not make agreements, enter into agreements with anyone, determine the content of the agreement, its implementation and requirements. (Salim et al., 2007)
2. The basics of consensualism. The principle of consensualism gives the view that agreements that are generally not formally made, but agreements are sufficient with an agreement between the parties.<sup>113</sup> In article 1338 paragraph (1) of the Civil Code, it is stated that all agreements made are legally valid as laws for those who make them. In this article, the principle of consensualism is found, namely "an agreement made legally" by referring to article 1320 of the condition for the validity of the agreement, namely agreeing to bind itself (*consensus*). The principle of consensualism means that the agreement is formed or born at the time of the agreement of the parties who bind it.

3. The basis of good faith. The principle of good faith is regulated in article 1338 paragraph (3) of the Civil Code, meaning that this principle acts as a good person and an honest person, namely what lies with a person at the time of the legal act.
4. Principle of Trust. The meaning of this principle is that a person will enter into an agreement with the other party, fostering trust between the two parties that each will keep his promise or will fulfill his achievements. With this trust, both parties will bind themselves so that the agreement has binding force as a law.
5. The principle of pacta sunt servanda (the principle of binding strength). In article 1338 paragraph (1) of the Civil Code, it is stated that all agreements made legally are valid as laws for those who make them. In other words, this principle will get legal certainty for the parties, so since the fulfillment of the conditions for the validity of the agreement, then since then the agreement is binding on the parties like the law. (Roida & Cahyaningsih, 2025)

As described in the previous chapter, in terms of the assessment of the Notary deed, it must be done on the principle of legal presumption. This principle can be used to assess a Notary deed. A Notary Deed must be considered valid until there is a party stating otherwise. Then if there is a party who declares it invalid, it must be filed with the District Court. As long as and throughout the lawsuit runs until there is a court decision that has permanent legal force, the Notary deed remains valid and binding on the parties interested in the deed.

In making a deed, in addition to having to apply the principle of presumption of the validity of a notary deed, the conditions mentioned above, as well as those contained in the UUJN and the Notary Code of Ethics must also be considered. Notaries as officials authorized to certify public documents must not ignore other legal provisions, such as administrative, civil, and criminal law. Because, in making a deed indirectly, the Notary must comply with other legal regulations, including those related to the deed made.

Therefore, in making the deed, it must be in accordance with Law No. 2 of 2014 concerning amendments to Law No. 30 of 2004 concerning the Notary Position. The witness cannot deny because the deed is a perfect piece of evidence, so the witness really has to face us as a Notary and sign the deed in front of us. The notary must really ask for his signature and fingerprint from the audience.

So in this case, notaries also need to be given legal protection by the state. Legal protection is to provide protection to human rights that are harmed by others and such protection is given to the community so that they can enjoy all the rights granted by the law. Legal protection is the protection of dignity and dignity, as well as the recognition of human rights owned by legal subjects based on legal provisions from arbitrariness or as a collection of rules or rules that will be able to protect one thing from another. (Rahardjo, 2012) (Hadjon, 2015)

Regarding the theory of legal protection, all citizens, including notaries, have the right to legal protection. The notary status listed in the law on the status of notaries indicates that the state regulates and provides protection for notaries. Regarding personal safety confiscation, wouldn't it be good if provisions regarding personal safety confiscation were included in the Notary Position Law so that notaries can refer to these provisions. The regulations that regulate the making of a separate attachment called a self-protection attachment, regarding the use of appropriate and appropriate words to be included in the form of a statement, and then the attachment is attached to the Notary deed.

### **Forms of legal protection provided to notaries against clients who do not heed the notary's self-protection clause**

The creation of authentic deeds is required by laws and regulations in order to create certainty, order and legal protection. In addition to authentic deeds made by or in front of a Notary, not only because it is required by laws and regulations, but also because it is required by interested parties to ensure the rights and obligations of the parties for the sake of certainty, order and legal protection for the interested parties as well as for the community as a whole. (Yusvira et al., 2025)

An authentic deed essentially contains the formal truth in accordance with what the parties have notified to the Notary. The Notary has the obligation to include that what is contained in the Notary deed has really been understood and in accordance with the wishes of the parties, namely by reading it so that it becomes clear the content of the Notary deed, as well as providing access to information, including access to relevant laws and regulations for the parties



signing the deed, so that the parties can freely determine and agree to the content of the Notary deed that they will sign. (Irwanto, 2025)

So in this case as an official authorized to make an authentic deed, a notary is also expected to make a self-protection in order to be able to protect himself from false statements or false information submitted by the parties who have been included in the authentic deed. In this case, based on the results of an interview with Mr. Dimitri Danang Sawitrawan S.H., M.Kn, he mentioned that there are also *clients* who consider notaries not to be public officials who are authorized by law to make authentic deeds, but as parties. So in this case, as a notary also has the authority to be able to provide legal counseling in connection with the creation (the authority of the notary so as not to be misinterpreted by the *client*). This is also in accordance with article 15 paragraph 2) letter (e) of the UUJN. However, in fact, many of the inclusion of self-protection clauses are sometimes ignored by *the client*.

Regarding the Client who does not heed the Personal Protection Clause from the Notary, in this case based on the results of the interview, in this case as long as the formal requirements are met and everything is in accordance with the procedure, it will not be a problem if the Personal Protection Clause is not included in it. This means that in this case, the deed made will not include a notary self-protection clause. However, as a form of anticipation from the notary, the notary will ask for documentation from *the client* as proof that everything written in the deed has been approved by the witnesses. The documentation requested is in the form of photos/videos and also client thumbprints (Interview with Mr. Dimitri Danang Sawitrawan, 2023).

In this case, we first need to understand the legal consequences of the inclusion of a self-protection clause in the notary in making a deed. Please note that notaries can be categorized as public officials. The general term (public) in the position of notary can be understood as an official who serves the general public related to the making of authentic deeds and various other authorities. The authority of the notary as a public official who is authorized to make an authentic deed in its implementation must be based on the applicable laws and regulations, because a notary deed is an authentic deed. An authentic deed is the strongest and fullest evidence that clearly determines a person's rights and obligations. There are several elements of a deed, namely: first, that the deed is made and inaugurated (in legal form. Second, that the deed is made by or in the presence of a public official. Third, the deed is made by or in the presence of the official authorized to make it in the place where the deed is made, so the deed must be made in the place of the authority of the official who made it. (Kansil, 2014)

In connection with the inclusion of the self-protection clause, it can be said that the inclusion of the self-protection clause violates the implementation of the law on the position of Notary. The reason is, with these provisions, the value of the notary deed as the original deed will be harmed (Article 41 of the Notary Position Law). Thus, it can be known that the legal consequence of the inclusion of the personal protection clause is the degradation of the value of the notary deed as an authentic deed into a deed under hand.

The basis for the degradation of a notary deed into a deed under hand is as a result of the body of the deed, especially the content of the deed should only contain the will and desire of the interested party (Article 38 paragraph (3) letter C of the UUJN-Amendment). However, the personal protection clause is a notary's wish or will that is contained or added in the body of the deed. So if the notary still believes that the clause must still be included in the authentic deed that he made, then he has indirectly bound himself in the content of the deed. As a result, he has also become a party to the content of the deed he made.

Seen in terms of its purpose, the notary's action does not hurt because it is a form of avoiding conflicts of interest between the two parties in the future. However, in formal juridical terms, the inclusion of the personal protection clause in the authentic deed is still classified as a formal defect. Thus, the authentic deed becomes a deed under hand even though it is issued by a notary official. In this case, it must also be understood that formal defects do not mean that the deed is defective as evidence, but formal defects only have an impact on the value of the notary deed as an authentic deed.

The notary must have a strong stance and must not be willful in the content of the deed he makes. Considering that a notary is not the parties to an authentic deed, the position of the notary in making the deed is as a party who is only in charge of compiling the will and wishes of the parties into an authentic deed with the parameters of the applicable law. Thus, so that the content of the notary deed contained is only the will or desire of the parties. Because



it contains the wishes of the parties, in making an authentic deed, a notary must not take the initiative to include clauses outside the content of the will or desire of the audience (client). If a notary does this, the status of the notary deed changes to a deed under hand.

The inclusion of the self-protection clause in the Notary's deed initially did cause a dilemma considering the provisions of Article 15 paragraph (1), Article 38 paragraph (3) letter c, and Article 53 of the UUN. The essence of Article 15 paragraph (1) of the UUN emphasizes that the authority of the Notary is to make a deed based on the will of the witnesses, Article 38 paragraph (3) letter c emphasizes that the body of the deed contains the contents of the deed containing the will of the witnesses, and Article 53 of the UUN which reads:"

"A Notary Deed must not contain a stipulation or provision that gives a right and/or benefit to:

- a. Notary, wife or husband Notary
- b. Witnesses, the wife or husband of the witness; or A person who has a family relationship with a Notary or witness, either a blood relationship in a straight line up or down without restriction of degree or marital relationship up to the third degree."

The content of Article 15 paragraph (1) and Article 38 paragraph (3) letter c of the UUN explains in its entirety that the Notary has the authority to pour the will or interests of the parties which are then poured into the content of the deed. Habib Adjie (2021) explained that practically the Notary usually asks for approval from the witnesses regarding the inclusion of self-protection clauses in the deed, that if there is a dispute or there are things that one day prove to be untrue from the witnesses themselves, he is responsible and does not involve the Notary. In this case, it is emphasized that it is the witnesses who have the responsibility for the truth of the contents of the deed. And in this case, even though the notary has the initiative to include a self-protection clause, it must actually be based on the parties.

The self-protection clause is not regulated in the UUN/UUNP so this clause does not have legal force in providing legal protection for Notaries (Leoprayogo, 2019). "The inclusion of self-protection clauses in the deed either made by or in front of the Notary does not have legal force or does not have a significant impact on the Notary, but if the Notary wants to continue to include the clause in the deed, it is also not wrong and does not reduce or make the Notary weak (Listiana, 2020). The self-protection clause cannot eliminate the guarantee of the certainty of the notary's prosecution in the future, both civil and criminal, because whether or not there is a self-protection clause, normatively the notary must still be responsible for compensating, responsible in accordance with the provisions of criminal law, or can be subject to administrative sanctions if in carrying out the duties of his office can be proven to have committed errors or violations as applicable legal rules.

During his time as a notary, Mr. Dimitri Danang Sawitrawan S.H., M.Kn has made deeds in accordance with applicable regulations. In this case, in accordance with the notary's obligations contained in article 16 of the UUN letter (m), when the deed is completed, the notary will read it in front of the audience and also witnesses. This is also in accordance with article 16 letter (m) of the UUN which reads as follows:

"Reading the deed in front of the audience in the presence of at least 2 (two) witnesses, or 4 (four) witnesses specifically for the making of a will under hand, and signed at the same time by the witness, witness, and Notary"

After the deed is read in front of the audience and the witnesses in this case as a sign of evidence, the notary will ask for the fingerprints of the presence to be attached to the minutes of the deed (this is in accordance with article 16 letter c of the UUN) as a form of self-protection as well as as a notary if the client is not pleased if the notary includes a self-protection clause.

In this case, the Notary deed has full evidentiary value in civil cases, but if certain provisions are violated, then the evidentiary value, like the deed under hand, does not have evidentiary value so that the Notary clearly has committed the mistake he has. As a result, the documents he produces only have probative value as private documents, or will cause losses to the client or other parties if the document becomes invalid. Therefore, the Notary can be held accountable for his mistakes and is obliged to provide compensation, costs, and interest to the parties who suffer losses. (Hidayah, 2025)

Basically, an authentic deed provides binding and perfect evidence against the parties (and their heirs) or those who obtain rights from the parties, this is in accordance with the provisions of Article 1870 of the Civil Code which reads as follows:

"A deed to give between the parties and their heirs or persons who derive this right from them, a perfect proof of what is contained therein".

The power inherent in an authentic deed is perfect (*volledig bewijskracht*) and binding (*bindende bewijskracht*), which means that if the evidence of the Authentic Deed is submitted meets the formal and material requirements and the opposing evidence presented by the defendant does not diminish its existence, in itself at the same time there is inherent a perfect and binding evidentiary force (*volledig en bindende bewijskracht*), thus the truth of the content and statements contained therein becomes perfect and binding on the parties regarding what is mentioned in the deed. Perfect and binding on the judge so that the judge must make it a perfect and sufficient basis of fact to make a decision on the settlement of the disputed case.

In this case, the form of legal protection received by notaries can be seen based on the theory put forward by Philipus M. Harjon who states that legal protection requires a place or place in its implementation which is often called a means of legal protection. According to Philipus M. Hadjon, there are two types of legal protection facilities, namely:

#### 1. Means of Preventive Legal Protection

In this preventive legal protection, legal subjects are given the opportunity to submit their objections or opinions before a government decision takes a definitive form. The goal is to prevent disputes from occurring. Preventive legal protection is very important for government actions based on freedom of action because with preventive legal protection, the government is encouraged to be careful in making decisions based on discretion. In Indonesia, there is no special regulation regarding preventive legal protection.

#### 2. Means of Repressive Legal Protection

Repressive legal protections aim to resolve disputes. The handling of legal protection by the General Court and the Administrative Court in Indonesia is included in this category of legal protection. The principle of legal protection of government actions is based on and derived from the concept of recognition and protection of human rights because according to western history, the birth of concepts of recognition and protection of human rights is directed to restrictions and the laying down of obligations of society and the government. The second principle that underlies legal protection of government actions is the principle of the rule of law. Associated with the recognition and protection of human rights, the recognition and protection of human rights takes center stage and can be linked to the goals of the rule of law. (Arianto & Djajaputra, 2024)

This notary safeguard clause does not have clear legal force. In the systematics of what is regulated in the law on the position of direct notary of personal security is not found and it is not clear what form it will take. This clause does not include any additional clauses or notary initiatives that in fact provide benefits to the notary.

Article 53 of the law on the position of notary regulates this matter which reads as follows:

"A notary deed must not contain a stipulation or provision that gives a right and/or benefit to:

- a. Notary wife or husband Notary
- b. witness, wife or husband of the witness or
- c. A person who has a family relationship with a notary or witness, either a blood relationship in a straight line up or down without restriction of degree or marital relationship up to the third degree."

Regardless of the Notary's protection, the inclusion of a personal protection clause by the Notary has no legal basis and consequences. As it is understood that the Notary is not the party who makes the deed, and because the Notary is only an official who exercises the power to record the wishes of the interested parties in the original form of the deed, what is agreed by the parties is Fully protected. Notaries are not allowed to make deeds that contain provisions that provide benefits to them.

The desire of notaries to have a sense of security in carrying out their duties and positions is a natural thing, but it needs to be considered so that the desire for a sense of security is not created from the arbitrariness of the notary and must still follow the rules that there is a systematic point in the form of an authentic deed in the law of the notary position does not regulate such a clause, even it is clearly said that the content will be the will of the parties concerned

so that it is not appropriate And we shouldn't have to include a self-defense clause in the deed. (Larashati & Rahayu, 2024)

In this case, to increase the security of Notaries in carrying out their duties and positions, it is necessary to pay more attention to matters that reduce the Notary's sense of security so that there is a need for a self-protection clause. In this case, notaries usually lose trust because they feel that there is a lack of understanding from government officials and other law enforcement officials. In this case, misunderstanding means that the notary must agree on several things, such as the correctness of the contents of the deed. In addition, the notary is also required to declare that the documents contained by the notary are correct and the notary must be responsible for it. In fact, in this case, the documents used by notaries in the general legal entity administration system are documents brought by the parties whose truth and authenticity are not known to the notary because the notary only pours the data submitted by the witnesses and does not have the right to declare an original or false document. (Seruni et al., 2025)

In practice, it is still difficult to equalize the perception between the government and other law enforcement officials, so in this case notaries want to protect themselves more. In this case, the form of security carried out by the notary is to attach a statement stated by the parties regarding the guarantee of the correctness of the documents submitted or shown to the notary. This statement is a supporting document of the deed signed by the parties as well as the attendance list document of the parties making the deed which contains the fingerprints of the witnesses which is made as a separate attachment and is required to be attached to the minutes of the deed. (Mahandry et al., 2025)

In this case, the existence of a fingerprint sheet on the deed has a preventive benefit and a repressive benefit, meaning that the benefit is preventive, meaning that the fingerprint can prevent the person facing the situation in front of the notary while the repressive benefit is that the finger cannot be a means of proving to act face-to-face when facing still denying the situation facing in front of the notary notary.

In this case, the presence of the fingerprint attachment facing can provide legal protection for the notary if in the future a dispute arises related to the state of civilization in the notary deed, where the fingerprint has an important meaning as a fortress that states that the notary has carried out the function of his position in accordance with the provisions of the applicable law.

## CONCLUSION

Based on the results of the research, it was found that the implementation of self-protection clauses in the making of notary deeds is a form of legal protection for notaries that is preventive. In practice, the notary is not a party to the deed made, but only as a public official who ratifies the agreement of the parties. Therefore, if there is a dispute between the parties, the notary should not be involved as a perpetrator, defendant, or co-defendant, either in criminal or civil cases. However, the reality is that there are still clients who consider notaries as part of the parties to the deed. Along with the increasing awareness of these legal risks, notaries began to include self-protection clauses in each deed as a form of protection.

Regarding legal protection for clients who do not heed the self-protection clause, the results of the interview show that as long as the formal requirements are met and the procedures are carried out according to the provisions, the absence of these clauses does not necessarily cause legal problems. However, as an anticipatory step, the notary asks for supporting documentation from the parties, such as thumbprints, photos or videos, as well as fingerprint attachments in the deed. This documentation serves as evidence that the contents of the deed have been fully approved by the witnesses. Thus, the notary has authentic evidence that he has carried out his duties in accordance with the applicable laws and regulations, as well as strengthening his legal position if disputes arise in the future.

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