

THE POSITION OF NOTARIES IN LAND ACQUISITION CORRUPTION CASES: BETWEEN ABUSE OF AUTHORITY AND CRIMINALIZATION OF PROFESSION

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Abstract

The Notary profession plays a crucial role in Indonesia's legal system, particularly in land procurement cases often linked to corruption crimes. This study highlights the legal dilemma faced by Notaries in cases of abuse of authority and the potential criminalization of their profession. With the enactment of the new Penal Code (Law No. 1 of 2023), the concept of corruption crimes has been reformulated, which could significantly impact Notaries' accountability mechanisms. This research aims to analyze the boundaries of Notary authority abuse within criminal and administrative law and assess to what extent administrative law mechanisms can be utilized as the primary instrument before proceeding to criminal prosecution. This study adopts a normative juridical approach by analyzing legislation and court decisions, particularly Decision No. 90/Pid.Sus-TPK/2022/PN Smg, which implicated a Notary in a corruption case related to land procurement. The findings indicate that the lack of a clear definition of authority abuse in the Anti-Corruption Law and the Notary Law creates the risk of over-criminalization of Notaries. Therefore, regulatory revisions are necessary to differentiate between administrative violations and actions that can be classified as corruption crimes. Clearer legal reforms will provide legal certainty for Notaries and ensure that legal proceedings are fair and do not hinder Notaries from performing their duties.

Keywords: notary; abuse of authority; profession criminalization; new Penal Code; administrative law.

1. Introduction

Along with the development of law and its enforcement, the number of Notaries involved in corruption cases has increased. Based on data from Indonesia Corruption Watch (ICW) from 2020 to 2022, the number of Notaries prosecuted for corruption

increased from zero in 2020, to one case in 2021, and three cases in 2022 (Indonesia Corruption Watch, 2022). . The Notary profession, which should be based on integrity, is now facing serious challenges, both in terms of regulations, government policies, as well as economic pressures and professional competition (Nanjong, 2023, p. 6317).

In the context of criminal law, the role of Notary is often associated with corruption cases, especially in land acquisition for public interest. Notaries have the authority to make authentic deeds and legalize documents, which in some cases are used as a tool to facilitate corruption. One case of concern is the case of Notary PC in Decision Number 90/Pid.Sus-TPK/2022/PN Smg (Direktori Putusan Mahkamah Agung Republik Indonesia, 2022), where the Notary was charged with abusing his authority by legalizing documents that led to the transfer of funds that harmed the state (Umam, 2023, p. 42).

Although the role of Notary in land acquisition is very important to ensure the legality of the transaction, the lack of clarity of regulations related to abuse of authority creates the potential for criminalization of this profession. Article 3 of the Law on the Eradication of Corruption (UU PTPK) mentions abuse of power as one of the elements of corruption, but does not provide a clear definition of the limits and scope of the act. Article 3 of the Anti-Corruption Law mentions abuse of power as one of the elements of the crime of corruption, but without a clear definition (Indonesia, Pemerintah Pusat, 1999). The judge in this case interpreted the act of legalization by the Notary as a form of abuse of power that resulted in state losses, thus ensnaring him under the article. This raises the dilemma of whether the Notary actually abused his authority or was criminalized in carrying out his duties (Taufik Effendi, 2021, p. 71). Regulatory ambiguity is also seen in relation to administrative law. The Law on Government Administration (UU AP) should be the main instrument in determining abuse of authority before proceeding to the criminal realm, but there is no similar instrument governing Notaries (ANT, 2016). The Notary Honor Council (MKN) which is supposed to provide legal protection for Notaries in facing legal cases has also not been optimal in carrying out its role.

The enactment of the new Criminal Code (Law No. 1 of 2023) which will replace several provisions in the PTPK Law further complicates this issue. One of the main consequences of the enactment of the new Criminal Code is the elimination of the status of corruption as an extraordinary crime and treated as an ordinary criminal offense. This has the potential to change the Notary's accountability mechanism, especially in cases of abuse of authority that were previously handled specifically through corruption criminal law (Rodliyah & H. Salim, 2024, p. 5). Article 3 of the GCPL Law as a *lex specialis* will be replaced by new provisions in the Criminal Code, which has the potential to change the mechanism of Notary's liability in similar cases in the future. This further strengthens the urgency of an in-depth study of the position of Notaries in criminal law, especially in determining whether Notaries who are caught in corruption cases actually abuse their authority or are simply victims of professional criminalization.

The dilemma faced by Notaries in law enforcement is also caused by the absence of a clear examination mechanism to determine whether an action can be categorized as an abuse of authority or merely an administrative violation. In some cases, Notary actions that are actually administrative errors or carelessness in carrying out their duties are qualified as criminal offenses without a thorough evaluation of the elements of intent and legal consequences.

In this study, a normative juridical approach is used to examine aspects of criminal law and administrative law related to abuse of authority by Notaries in corruption cases. The main focus of this study is to analyze the extent to which administrative law mechanisms can be used as the main instrument before entering the realm of criminal law, as well as providing recommendations for regulatory improvements to avoid disproportionate criminalization of the Notary profession.

With this study, it is hoped that a more appropriate legal solution can be found in handling cases of abuse of authority by Notaries, so that legal certainty for the Notary

profession can be better guaranteed. In addition, clearer regulatory reforms will help distinguish between administrative offenses and corruption crimes involving Notaries, so that the law can be enforced fairly without causing negative effects on the sustainability of the Notary profession.

2. Material and Methods

This research uses the normative juridical method, which is legal research that places the law as a system of norms. This method involves analyzing legislation, doctrine, and court decisions that are relevant to the problem under study (Soerjono Soekanto & Sri Mamudji, 2003, p. 13)

The approaches used in this research include statute approach and case approach. The statutory approach is carried out by inventorying and examining various laws and regulations relating to the position of notaries in land acquisition corruption cases, such as Law Number 31 of 1999 concerning Corruption Eradication and Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Position. Meanwhile, the case approach is carried out by analyzing court decisions involving notaries in corruption crimes, one of which is Decision Number 90/Pid.Sus-TPK/2022/PN Smg, which will be studied to understand how judges consider the involvement of notaries in corruption crimes and how legal aspects are applied in similar cases.

The types of legal materials used in this research consist of primary, secondary, and tertiary legal materials (Muhammad, 2004, p. 81). Primary legal materials include laws and regulations that serve as the legal basis for this research, such as Law No. 31/1999 on the Eradication of Corruption and Law No. 2/2014 on the Amendment to Law No. 30/2004 on the Office of Notary. Furthermore, secondary legal materials include literature, legal journals, and expert opinions relevant to the issues under study, in order to provide an academic perspective and a more in-depth analysis of the implementation of the applicable law. Meanwhile, tertiary legal materials consist of legal dictionaries and encyclopedias used to support the understanding of the concepts used in this research, so as to clarify the definition and interpretation of legal terms that are part of this study.

The collection of legal materials is done through literature study by tracing relevant sources. Data analysis is carried out descriptively qualitatively, by interpreting the legal materials that have been collected to answer research problems. This method was chosen to deeply understand the position of notaries in land acquisition corruption cases, as well as to distinguish between abuse of power and criminalization of the profession.

In this research, the theory of authority is the basis for understanding the position of Notary in the crime of corruption in land acquisition, especially in examining the abuse of authority alleged against Notary. Abdul Latif explains that authority is a core concept in administrative law and constitutional law which is the basis for public officials in carrying out their duties (Latif, 2016, p. 6)

In the context of administrative law, Prayudi in Jum Anggriani distinguishes the concepts of authority (authority, gezag) and competence (bevoegdheid). Authority is a formal power granted by the legislature or administrative executive, which usually includes several powers within a particular sphere of government. An example is judicial authority or the power to adjudicate. Meanwhile, authority is the specific power to perform public legal acts, such as signing or issuing a license (Anggriani, 2012, p. 88)

Indroharto added that authority is the ability given by laws and regulations to cause legal consequences. This is in line with the view of Bagir Manan quoted by Aminuddin Ilmar, that in law, authority is not the same as power (macht). Power only describes the right to act or not act, while authority includes the rights and obligations of officials in carrying out government duties (Ilmar, 2016, p. 103)

In the Notary Position Law (UUJN), Notaries are given the authority to make authentic deeds and perform legalization, but it does not explicitly regulate the limits of

abuse of authority in the realm of criminal law. This caused the judge in Decision Number 90/Pid.Sus-TPK/2022/PN Smg to interpret Notary PC's actions as an abuse of authority based on Article 3 of the PRC Law. In fact, the theory of authority in administrative law states that abuse of authority should be resolved through administrative mechanisms before entering the criminal realm.

In criminal law, the doctrine of causality is used to determine the causal relationship between an act and its consequences, which is the basis for determining the criminal liability of the perpetrator of an offense (Sofian, 2018, p. 17). The concept of causality has long been recognized in legal science, but the Indonesian Criminal Code does not provide explicit limitations on the theory of causality or the method used in determining the causal relationship in a criminal offense (Hamzah, 2008, p. 169).

In the case of Notary PC in the corruption of land acquisition, the doctrine of causality is important in determining whether the Notary's actions in legalizing documents can be considered as the main cause of state losses, or whether there are other factors that are more dominant in causing corruption offenses. The judge in Decision Number 90/Pid.Sus-TPK/2022/PN Smg considered that Notary PC's legalization actions were the direct cause that allowed the overbooking of funds that harmed the state, thus making it part of the elements of abuse of authority under Article 3 of the PRC Law.

The doctrine of causality in criminal law becomes very important in analyzing the liability of Notary in the crime of corruption. In the civil law system, which separates criminal acts and criminal liability, causality cannot be directly linked to criminal liability without additional factors. In other words, not all actions that have a causal relationship with the consequences that occur can automatically lead to criminal liability.

In this research, the doctrine of causality will be used to analyze the relationship between the Notary's actions in land acquisition and the resulting legal consequences, as well as to determine whether the elements of abuse of power in Article 3 of the GCPL Law can be applied to Notary PC based on the causality approach. In addition, this study will also consider the impact of the enactment of the new Criminal Code (Law No. 1 of 2023) on the mechanism of legal liability in similar cases in the future.

Legal certainty is one of the main principles in a state of law that aims to provide order and clarity in the application of law. The rule of law was born from the demand for legal certainty, which is guaranteed through legislation and judicial institutions (Moh. Fadli & Syofyan Hadi, 2023, p. 35). In the context of this research, legal certainty becomes an important issue in analyzing the liability of Notaries in corruption cases, especially related to the application of Article 3 of the PTPK Law to the abuse of authority of Notaries in land acquisition.

H. Margono quoting the opinion of Sudikmo Mertokusumo explained that, legal certainty is basically the implementation of the law in accordance with its wording so that the public can ensure that the law is implemented, legal certainty is essentially the law being obeyed and implemented (Hamzah, 2008, p. 171). In the case of Decision Number 90/Pid.Sus-TPK/2022/PN Smg, the application of the law against Notary PC raises questions regarding legal certainty for Notaries as public officials, especially regarding the boundaries between abuse of administrative authority and actions that can be qualified as criminal acts of corruption.

Legal certainty when viewed from the judge's decision in the judicial process, legal certainty is nothing but what a person can or may do and the extent to which a person can act without being punished or the consequences of the desired action. The judge's decision must provide legal certainty without leaving behind aspects of a sense of justice and expediency.

The theory of legal certainty is used to analyze whether the application of Article 3 of the PTPK Law against Notaries is in accordance with the principle of legal certainty, or it creates uncertainty in legal practice for Notaries in Indonesia. Margono emphasized that the judge's decision must provide legal certainty without overriding aspects of justice

and expediency. Therefore, this research will examine whether the PC Notary actually abused his authority or was criminalized in legal practice, as well as the implications of the enactment of the new Criminal Code (Law No. 1 of 2023) on the mechanism of Notary's liability in similar cases in the future.

3. Results and Discussion

In the Indonesian legal system, Notary is a public official who has the authority to make authentic deeds and provide legal certainty for certain legal acts as stipulated in Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Notary Position (UUJN). However, in practice, Notary's authority often intersects with legal issues, especially when Notary's involvement in legalizing documents or making deeds becomes a tool for other parties to commit criminal acts of corruption in land acquisition (Dahnir et al., 2022, p. 257)

Cases of corruption in land acquisition that implicate Notaries as defendants have created a legal dilemma regarding the boundary between the performance of Notary duties and abuse of authority. In some cases, Notaries are considered to have abused their authority by facilitating transactions that lead to state losses. However, on the other hand, the absence of explicit legal provisions regarding the mechanism for assessing abuse of authority by Notary raises the potential for criminalization of this profession (Ma'ani, 2024, p. 31)

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The concept of abuse of authority in administrative law has been regulated in Law Number 30 of 2014 concerning Government Administration (UU AP), which includes three forms of abuse of authority, namely exceeding authority, mixing authority, and acting arbitrarily (Indonesia, Pemerintah Pusat, 2004). However, the AP Law does not specifically regulate Notary as a legal subject subject to these provisions. As a result, allegations of abuse of authority by Notaries in corruption cases still rely on the interpretation of judges in the criminal justice system, in the absence of a more objective administrative law mechanism in assessing Notary actions.

The absence of a specific legal instrument in assessing abuse of authority by Notary becomes a gap for legal uncertainty and has the potential to criminalize the Notary profession. Therefore, a more comprehensive legal construction is needed to distinguish between abuse of authority that is truly an unlawful act and the performance of Notary duties carried out in accordance with their authority under the UUJN.

This research aims to analyze the legal construction of abuse of authority by Notary in cases of corruption in land acquisition by examining aspects of criminal law and administrative law. In addition, this research will also identify the weaknesses of existing regulations and provide recommendations for regulatory improvements to avoid

criminalization of the Notary profession in corruption cases involving land acquisition.

Abuse of authority is one of the main elements in the crime of corruption, as regulated in Article 3 of Law Number 31 of 1999 jo. Law Number 20 of 2001 on the Eradication of Corruption (UU PTPK)(Indonesia, Pemerintah Pusat, 1999) . However, this provision does not provide a clear definition of what is meant by «abuse of authority» or how it can be qualified as a criminal offense. This lack of clarity creates difficulties in law enforcement, especially in cases involving public officials, including Notaries

In the context of notaries, the Law on Notary Position (UUJN) also does not explicitly regulate abuse of authority. Notaries, as public officials who are given broad authority to make authentic deeds and provide legality to various legal transactions, have great potential to abuse their authority. However, to date, UUJN does not provide clear boundaries regarding what can be categorized as abuse of authority by a Notary, nor the examination mechanism that must be carried out(M. Fadly, 2023, p. 47)

This lack of clarity is exacerbated by the fact that the Notary Code of Ethics and the Notary Honor Council (MKN) only regulate administrative sanctions, without touching the criminal realm. Administrative sanctions, while important, are insufficient to address cases of abuse of authority that have a broad impact on the public interest. The absence of a criminal investigation mechanism in UUJN creates legal uncertainty, which in turn can harm the public and undermine the integrity of the Notary profession(Ridodi, 2017, p. 101)

One of the conditions for the realization of legal certainty is the existence of legal norms that are formulated in a complete, coherent and consistent manner. Without this clarity, gray areas in the implementation and enforcement of the law will continue to emerge, triggering excessive use of discretion by law enforcement officials. This can lead to injustice and legal uncertainty in the community.

To overcome this problem, it is necessary to improve regulations related to the office of Notary, especially in terms of defining abuse of authority and its examination mechanism. Researchers suggest that the UUJN be updated to include clearer provisions regarding the limits of Notary authority and criminal sanctions for violations committed. In addition, it is necessary to establish an independent supervisory mechanism that can ensure the accountability of Notaries in carrying out their duties.

Thus, it can be concluded that the unclear provisions regarding abuse of authority in the GCPL Law and the JN Law create serious challenges in law enforcement. Regulatory improvements and the establishment of more effective oversight mechanisms are needed to create legal certainty and protect the public interest.

Abuse of authority by notaries poses a dilemma in law enforcement, especially in relation to the boundaries between the realms of administrative law and criminal law. The case of Notary PC in Decision Number 90/Pid.Sus-TPK/2022/PN Smg is a concrete example where the notary was charged for legalizing documents that allegedly facilitated the transfer of funds, causing state losses. The absence of a special mechanism to assess the abuse of authority by a notary causes the examination to be conducted based on general criminal law, which has the potential to lead to the criminalization of the notary profession.

Criminalizing notaries shows the lack of understanding of the notary world by external parties. This indicates the need for clear legal instruments to assess allegations of abuse of authority by notaries, in order to avoid undue criminalization(Adjie, 2014, p. 13)

In the context of administrative law, Law Number 30 of 2014 concerning Government Administration (AP Law) regulates abuse of authority in three forms(Indonesia, Pemerintah Pusat, 2014b)

- 1) Exceeding authority: Action beyond the limits granted by law.
- 2) Mixing up authority: Using authority in one field for purposes that are not in accordance with regulatory provisions.

3) Acting arbitrarily: Taking decisions or actions without a clear legal basis.

Although the AP Law does not directly apply to notaries, the concept of abuse of authority in it can be a reference to form specific regulations related to notaries. Legalization actions by notaries can be evaluated based on the concept to determine whether there is an abuse of authority. If no such elements are found, then the notary's actions should not be categorized as abuse of authority in the criminal realm.

The concept of Abuse of Authority in the Perspective of Administrative Law in Indonesia, emphasizes that abuse of authority must be seen from an administrative law perspective before entering the criminal realm. This is important to ensure that there is no overcriminalization of administrative actions that should be resolved through administrative mechanisms (Jiwantara et al., 2022, p. 355). In addition, regarding «Criminal Liability of Notaries in the Making of Deeds Based on False Information» states that notaries can be held criminally liable if it is proven that they intentionally make deeds based on false information that they know. However, if the notary only performs his/her function without knowing the existence of false information, then criminal liability should not be imposed (Ramadhan & Suhardini, 2019, p. 30). Therefore, more specific regulations are needed to assess and handle allegations of abuse of authority by notaries, so as to distinguish between administrative violations and criminal acts, and prevent inappropriate criminalization of the notary profession.

Abuse of authority by Notaries is a complex legal issue because it falls between two legal domains, namely administrative law and criminal law. The lack of clarity of regulation regarding the limits of abuse of authority in the Notary Position Law (UUJN) can lead to overcriminalization of Notaries, where administrative actions that should be resolved through administrative mechanisms are instead prosecuted as criminal acts. This not only threatens the sustainability of the Notary profession, but also creates legal uncertainty in the enforcement of justice.

In the administrative law system, Law Number 30 of 2014 concerning Government Administration (UU AP) has regulated the concept of abuse of authority more clearly. Abuse of authority in administrative law is categorized into three forms: exceeding authority, mixing authority, and acting arbitrarily (Indonesia, Pemerintah Pusat, 2014a). However, Notaries are not included in the scope of officials regulated in the AP Law, so the protection mechanism for Notaries in the event of alleged abuse of authority is not available in the law (Soeprapto, 2020, p. 27).

When there are allegations of abuse of authority by a Notary, the more appropriate mechanism should first be through an examination process by the Notary Honor Council (MKN) as part of the internal supervisory system of the Notary profession. If after going through the administrative mechanism, there is an element of intent that can be categorized as a criminal offense, then law enforcement officials can conduct further investigations in the criminal realm. However, currently MKN does not have strong enough authority to determine whether a Notary's actions fall into the category of abuse of authority or not. Therefore, there needs to be clearer legal reform in the UUJN.

In «Amendments to a law are made if there are provisions in the law that are no longer in accordance with the situation or conditions prevailing in society» (Ariyanti, 2012, p. 429). Based on this principle, revisions to the UUJN are needed to add provisions regarding abuse of authority by Notaries, clearer limitations on the concept of abuse of authority, prohibition of abuse of authority, and more specific examination mechanisms for alleged abuse of authority by Notaries. Clearer regulations should also include protection for Notaries in carrying out their duties, so that not every alleged violation in their profession is immediately categorized as a criminal offense.

In addition, professional organizations such as the Indonesian Notary Association (INI) and the Association of Land Deed Officials (IPPAT) have an important role in proposing more specific regulations regarding abuse of power in the office of Notary. They can play an active role in advocating for the establishment of more comprehensive

regulations to ensure legal certainty for Notaries, while ensuring that Notaries remain responsible in carrying out their profession in accordance with the code of ethics and applicable law (Jiwantara et al., 2022, p. 360)

In some international jurisdictions, such as in the Netherlands and France, regulations regarding Notary liability are clearer, where any alleged abuse of authority is first examined through administrative law mechanisms and professional ethics before entering the criminal realm. This system can be used as a reference in the reform of UUJN in Indonesia so that law enforcement against Notaries is more objective and does not directly lead to the criminalization of the profession.

Without clearer regulations, Notaries will remain in a vulnerable position to criminalization, while legal certainty for the Notary profession and users of Notary services will also be weak. Therefore, the revision of UUJN or the establishment of special regulations governing the mechanism for examining allegations of abuse of authority by Notaries is an urgent need.

The unclear concept of abuse of authority by Notaries in the Corruption Eradication Law (UU PTPK) and the Notary Position Law (UUJN) has created legal uncertainty in the examination mechanism of alleged abuse of authority. This opens the gap for overcriminalization of Notaries who should be subject to administrative law mechanisms first before entering the criminal realm. In some cases, Notary actions that are actually administrative errors or carelessness in carrying out their duties are qualified as criminal offenses, without a thorough assessment of the elements of intent and legal consequences.

This issue is even more complex because the Government Administration Law (UU AP), which regulates the concept of abuse of authority, does not include Notaries as part of its legal subjects. In fact, administrative law offers a more objective and tiered mechanism in assessing allegations of abuse of authority, by providing an opportunity for Notaries to defend themselves before being named as a suspect in a criminal case. Without a strong administrative law mechanism, Notaries will remain in a vulnerable position to professional criminalization, which has the potential to hamper the sustainability of notarial practice in Indonesia.

The enactment of Law Number 1 Year 2023 on the Criminal Code (New Criminal Code) brings fundamental changes to the law enforcement of corruption crimes, including for notaries. The reformulation of the provisions in Article 2 and Article 3 of the Corruption Eradication Law (UU PTPK) in the New Criminal Code has broad implications. The transitional provisions in the New Criminal Code revoke Article 2 and Article 3 of the PTPK Law, so that starting January 2, 2026, the applicable corruption provisions will refer to the New Criminal Code (Indonesia, Pemerintah Pusat, 2023)

The New Criminal Code brings several legal consequences, one of which is the change in the status of corruption crimes, which were previously categorized as extraordinary crimes, to ordinary crimes. This means that corruption crimes now have an equal position with other common crimes such as theft and embezzlement. In addition, all provisions in the New Criminal Code and KUHAP apply equally in every process of investigation, investigation and prosecution, whether carried out by the Police, Prosecutor's Office or court. Another consequence is the reduced authority of the Corruption Eradication Commission (KPK), which is no longer able to conduct wiretapping without court permission (Hidayat, 2023)

Notaries as public officials have an important role in various legal transactions, including in the land acquisition process. In some cases, Notaries may be implicated in allegations of corruption due to their role in legalizing transactions involving the transfer of state assets or third parties. The provisions in Article 154 of the New Criminal Code classify Notaries as officials who can be subject to criminal liability, especially if there are indications of abuse of authority in their capacity as authentic deed makers (Indonesia, Pemerintah Pusat, 2023)

One example of a case that reflects the potential involvement of Notary in corruption is the case of Notary PC in Decision Number 90/Pid.Sus-TPK/2022/PN Smg. In this case, the Notary was charged with abuse of authority for legalizing documents that allowed the overbooking of funds that resulted in state losses. The panel of judges decided that the legalization action fulfilled the elements of abuse of power based on Article 3 of the PRC Law, although in administrative law practice, such actions should first be assessed through administrative law mechanisms before entering the criminal realm (Decision Number 90/Pid.Sus-TPK/2022/PN Smg).

The application of the *ultimum remedium* principle in the New Criminal Code emphasizes that criminal law should be the last resort in dealing with allegations of abuse of authority. Thus, before naming a Notary as a suspect in a corruption case, an examination through administrative law instruments is required first. The principle of *lex specialis derogat lex generalis* must also be considered, where the provisions in the Government Administration Law (UU AP) should be a reference in assessing the presence or absence of abuse of authority before entering the criminal investigation stage.

The granting of authority to the criminal court to assess and prosecute abuse of authority without a clear concept of such abuse creates uncertainty in the application and enforcement of the law. This uncertainty has the potential to cause criminalization of the Notary profession, which in practice is often involved in various legal events, both as a witness and as a suspect.

Laurentius, citing Mulyoto's opinion, states that a Notary is often faced with legal cases due to errors in the deeds he makes, either due to his own negligence or due to the fault of the parties who do not provide correct information or documents. Furthermore, the involvement of a Notary in a case can be caused by the absence of good faith from one of the parties or because of an agreement with certain parties that ultimately harms other parties (Laurensius Arliman S, 2015, p. 5)

Referring to this opinion, the involvement of a Notary in a legal case can occur because of his/her obligation to provide testimony or because of allegations that he/she has violated the law. This is increasingly evident in the case of Notary PC, who became part of a corruption case in land acquisition. This case is not the only one, but reflects a broader trend where Notaries are becoming vulnerable to criminalization.

In land acquisition for the public interest, the role of Notary as a public official is crucial, as he is responsible for making authentic deeds that serve as the basis for the legality of the parties' transactions. However, in practice, land acquisition is often associated with acts of corruption involving various parties, including government officials and the private sector. Thus, the Notary's position becomes very vulnerable to blame or even criminalization.

In addition, there is also a risk that the authority of Notaries can be misused by certain individuals to facilitate corrupt practices, which in turn can lead to state losses. Therefore, it is important to ensure legal certainty for Notaries so that they can carry out their duties safely and professionally without the threat of unfounded criminalization. This legal certainty must be realized by improving the existing regulations to more clearly define the abuse of Notary's authority and its supervision mechanism.

Moh. Fadli and Sofyan Hadi argued that quality legislation must meet several main criteria, one of which is the completeness of legal norms. According to them, a good law is a complete law, so that it does not cause problems in its implementation. In addition, good regulations must ensure certainty in law enforcement procedures. As they explain:

«The potential for legal violations is very large. Therefore, the law must also regulate clearly, definitively and completely the dispute resolution procedures. In other words, material law requires adequate formal law. The purpose of the establishment of formal law is to maintain material law and so that law enforcement remains within the framework of the rule of law (due process of law) (Moh. Fadli & Syofyan Hadi, 2023, p. 86)

As a public official with authority, a Notary can certainly commit administrative errors or even abuse of authority that contains criminal elements. However, in the context of abuse of authority, an objective evaluation must be carried out using administrative law instruments first before entering the criminal realm. If there are indications that abuse of authority leads to corruption, then the criminal law process must begin with an objective assessment, not just based on the subjective perceptions of law enforcement. Thus, the law enforcement system against Notaries can be fairer and does not lead to disproportionate criminalization.

To ensure legal certainty and avoid criminalization of the Notary profession, additional provisions are needed in the existing regulations. First, it needs to be emphasized that a Notary cannot be convicted simply for exercising his/her authority, unless it is proven legally and convincingly that he/she has abused the authority. Allegations of abuse of authority must first be examined by an authorized institution before entering the criminal law process. This is in line with Adjie's opinion which emphasizes the importance of legal protection for Notaries in carrying out their duties (Habib Adjie, 2015, p. 15)

In addition, Notaries must be prohibited from abusing their authority for personal or other parties' interests. Abuse of authority must be distinguished from administrative errors to avoid excessive criminalization. Synchronization between the Government Administration Law and the Corruption Law is important to avoid overlap in handling cases of abuse of authority (Dewi & Yudanto, 2017, p. 33)

The definition of abuse of power in the office of Notary needs to be clarified, including *ultra vires*, interfering with authority, and acting arbitrarily. This should be distinguished from ordinary administrative errors to ensure fairness in law enforcement. Jiwantara, highlights the importance of a proper understanding of the concept of abuse of authority in the perspective of administrative law in Indonesia (Jiwantara et al., 2022, p. 352). The mechanism for examining allegations of abuse of authority should include the determination of a Notary as a suspect based on sufficient evidence and a review by an authorized institution. The evaluation of abuse of authority should first be conducted by an administrative body or administrative court before criminal proceedings are initiated. The results of the administrative examination should be the basis for determining whether or not there are elements of a criminal offense. If it is proven that there is only an administrative error, the Notary is subject to administrative sanctions without criminal proceedings. However, if the abuse of authority leads to a criminal offense, then the legal process can proceed to criminal justice. The administrative decision must be part of the consideration in the criminal court decision. This is in accordance with the views of Adonara (2016) who emphasizes the implementation of the principle of the rule of law in providing legal protection to Notaries.

Lastly, there should be a provision stipulating which institution is authorized to assess and supervise allegations of abuse of authority by Notaries. This is important to ensure there is a clear authority in law enforcement related to the Notary profession. Purwadi (2014) emphasized the need for legal protection of Notaries in the criminal justice process in accordance with Law Number 2 Year 2014 (Utami et al., 2015, p. 82)

The guarantee of legal protection for Notaries is very important in ensuring the professionalism and integrity of this profession. With clearer and non-overlapping mechanisms between administrative law and criminal law, Notaries can exercise their authority more safely. Regulatory reforms that clarify the limits of abuse of authority as well as the supervision mechanism will prevent Notaries from excessive potential criminalization.

4. Conclusions

Notaries as public officials have a unique legal position in the Indonesian legal system, especially in land acquisition which is often associated with corruption. The unclear

definition of abuse of authority in the Corruption Eradication Law (UU PTPK) and the Notary Position Law (UUJN) has the potential to overcriminalize Notaries, as in some cases, Notaries are criminalized on the basis of alleged abuse of authority without a clear administrative law mechanism to assess whether the action is an administrative violation or a criminal offense. The enactment of the New Criminal Code (Law No. 1 of 2023) brings significant changes in the law enforcement of corruption, especially with the elimination of the status of corruption as an extraordinary crime and the inclusion of Notaries in the category of officials who can be subject to criminal liability under Article 154 of the New Criminal Code, thus increasing the risk of criminalization of the Notary profession in transactions that have the potential to harm the state. To avoid disproportionate criminalization, regulatory revisions are needed to clarify the limits of abuse of authority by Notaries and prioritize administrative law examination mechanisms before entering the realm of criminal law, according to the *ultimum remedium* principle. Examination by administrative institutions such as the Notary Honor Council (MKN) must be strengthened in order to provide an objective assessment before the Notary is further processed criminally. With more specific regulations related to the limits of abuse of authority and the examination mechanism, legal certainty for Notaries can be more assured, so that clearer legal reforms are expected to provide protection for Notaries so that they can carry out their duties professionally without worrying about being entangled in unnecessary criminal cases. Therefore, it is important for the government and related institutions to formulate a more comprehensive legal policy to ensure that law enforcement against Notaries is fair, proportional, and does not hamper the sustainability of the Notary profession in Indonesia.

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