



JURIDICAL ANALYSIS OF LEGAL PROTECTION AND LIMITS ON NOTARIES' AUTHORITY TO DISCLOSE PROFESSIONAL SECRETS (A STUDY IN BATAM CITY)

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Received: 03/08/2026 | **Revised:** 10/08/2026 | **Accepted:** 29/08/2026 | **Published:** 25/09/2026

Abstract

Notaries play a central role in various legal activities within society, particularly those involving contracts, land matters, corporate affairs, banking, and other business activities. They are also required to maintain the confidentiality of all matters relating to deeds and information obtained in the performance of their official duties. However, problems frequently arise in law enforcement practice when law enforcement officials require access to notarial deeds or request information from notaries during criminal investigations. This study aims to analyze the legal framework, implementation, obstacles, and solutions concerning legal protection for notaries in relation to the disclosure of professional secrets. It employs normative and empirical legal research methods, using statutory, conceptual, case-based, and sociological approaches. The findings indicate that the legal framework protecting notaries in maintaining professional secrecy has a sufficiently strong normative foundation in the Notary Office Law, the Criminal Code, the Notary Code of Ethics, and the provisions governing the Notary Honorary Council. Nevertheless, practical challenges remain, including differing interpretations of the scope of the right to refuse testimony, the approval mechanism of the Notary Honorary Council, and coordination between notaries and law enforcement officials. This study recommends strengthening legal protection for notaries by refining regulations, establishing clear procedures for disclosing professional secrets, and improving coordination among the Notary Honorary Council, professional organizations, and law enforcement officials.

Keywords: Notarial Authority, Notaries, Legal Protection, Professional Secrets.

INTRODUCTION

A. Background of the Study

Indonesia's rule-of-law principle requires legal certainty, order, and protection in legal relationships. Notaries contribute to these objectives as public officials authorized to prepare authentic deeds under Law No. 30 of 2004 on the Office of Notary, as amended by Law No. 2 of 2014 (UUJN). Their deeds provide strong written evidence in contracts, corporate affairs, land matters, banking, and other transactions. The notarial office therefore combines a documentary function with a preventive role in avoiding disputes.¹

An essential condition of this public role is professional confidentiality. Article 16(1)(f) of the UUJN requires notaries to keep confidential all matters concerning deeds and all information obtained for their preparation, unless otherwise provided by law. The oath of office under Article 4 reinforces this legal and ethical obligation. Professional secrecy protects the parties' interests and preserves trust in the notarial institution.²

¹ Habib Adjie, *Hukum Notaris Indonesia (Tafsir Tematik Terhadap UU Jabatan Notaris)*, Refika Aditama, Bandung, 2021, hlm. 12.

² Habib Adjie, *Memahami Majelis Kehormatan Notaris*, Refika Aditama, Bandung, 2022, hlm. 57.

Professional secrecy also concerns the constitutional protection of personal information and security under Article 28G(1) of the 1945 Constitution. Parties entrust personal or confidential information to notaries because they expect legal protection. Confidentiality therefore safeguards the civil rights of the parties and prevents information in deeds from being used by persons without a legitimate interest.³ The protection is not merely a privilege of the profession: it preserves the legal interests of the public as users of notarial services and the relationship of trust on which those services depend.⁴

Difficulties arise when investigators require notarial information or documents as evidence. Requests may concern suspected fraud, document forgery, money laundering, land disputes, or corporate crime. Notaries must respond to law enforcement while remaining bound by confidentiality. Refusing information may be regarded as obstructing an investigation, whereas disclosure without a lawful procedure may breach official obligations. The problem is therefore to determine when disclosure is permitted, who may request it, and how its scope is limited.

Article 66 of the UUJN provides a protective mechanism through the Notary Honorary Council (MKN), which approves or rejects requests by investigators, public prosecutors, or judges to summon notaries and obtain photocopies of original deeds (*minuta akta*). Requests made directly without observing this mechanism create uncertainty about institutional authority.⁵ Implementation is also affected by lengthy procedures, inadequate coordination, and different interpretations of the MKN's role.⁶

The MKN mechanism provides administrative and ethical oversight of access to notarial documents. The Council examines whether a request to summon a notary or obtain deed documents meets the legal requirements and is relevant to the case. Its function is to balance investigative interests with the dignity and independence of the profession. In practice, some law enforcement officials consider that approval procedures can impede investigations requiring prompt action, underscoring the need for an agreed understanding of the Council's role.

These issues are important in Batam City, where investment, industry, trade, and services generate substantial demand for notarial transactions. Deeds may consequently become evidence in civil disputes or criminal investigations. Previous studies discussed confidentiality, liability, and the right to refuse testimony largely from normative perspectives. This study examines the relationship between those rules and their implementation in Batam, particularly the interaction among notaries, the MKN, and the police.

B. Research Questions

1. How are legal protection and the limits on notaries' authority to disclose professional secrets regulated?
2. How are legal protection and the limits on notaries' authority to disclose professional secrets implemented?
3. What obstacles arise, and what solutions are available, in efforts to provide legal protection and define the limits on notaries' authority to disclose professional secrets?

C. Research Objectives

The study aims to identify and analyze the legal framework, practical implementation, and obstacles and solutions concerning legal protection and the limits on notaries' authority to disclose professional secrets.

D. Significance of the Study

Theoretically, the study contributes to notarial and criminal law by examining confidentiality and the relationship between professional and investigative authority. Practically, it provides guidance for notaries, a basis for evaluating the procedures followed by the MKN and law enforcement officials, and a clearer understanding of confidentiality for users of notarial services.

E. Originality of the Study

The study's contribution lies in combining normative analysis with an empirical examination in Batam City. It focuses on requests for deed-related information, the exercise of MKN authority, and protection for notaries confronting law enforcement interests, rather than duplicating a general discussion of professional confidentiality.

³ Yoyon M. Darusman, "Perlindungan Hukum terhadap Rahasia Jabatan Notaris dalam Perspektif Hak Konstitusional," *Jurnal RechtsVinding*, Vol. 11, No. 2, 2022, hlm. 214.

⁴ R. Soegondo Notodisoerjo, *Hukum Notariat di Indonesia Suatu Penjelasan*, RajaGrafindo Persada, Jakarta, 2019, hlm. 89.

⁵ Tri Firdaus Akbarsyah, "Kewenangan Majelis Kehormatan Notaris dalam Proses Peradilan Pidana," *Jurnal Ius Constituendum*, Vol. 8, No. 1, 2023, hlm. 67.

⁶ Ridwan Khairandy, *Pokok-Pokok Hukum Kenotariatan Indonesia*, FH UII Press, Yogyakarta, 2021, hlm. 156.

LITERATURE REVIEW

A. Theoretical Framework

1. Legal Certainty Theory as the Grand Theory

Gustav Radbruch's legal certainty theory serves as the grand theory. Law must balance justice (*gerechtigheit*), utility (*zweckmäßigkeit*), and legal certainty (*rechtssicherheit*), enabling individuals to understand their rights and obligations.⁷ Clear, consistent, and predictable rules are necessary to protect legal subjects against arbitrary action. In this study, the theory assesses whether the UUJN defines notaries' confidentiality obligations and the limits of investigative access sufficiently clearly.

Its application concerns both the formulation of rules and their consistent enforcement. Notaries need to know when confidentiality must be maintained and when disclosure is lawfully required. Different interpretations of Article 66 may undermine that certainty even where written safeguards exist. The theory therefore guides examination of summonses, requests for deed documents, and the relationship between notaries, the MKN, and law enforcement officials in Batam.

2. Legal Protection Theory as the Middle Theory

Philipus M. Hadjon's legal protection theory serves as the middle theory. Legal protection recognizes the dignity, rights, and legitimate interests of legal subjects.⁸ It encompasses preventive measures that avoid violations and repressive measures that resolve disputes or provide remedies after a violation. For notaries, preventive protection includes confidentiality rules, the right to refuse testimony, and the MKN approval mechanism. Repressive protection concerns remedies where rights are infringed or procedures are disregarded.

The theory examines whether these mechanisms actually protect notaries from improper pressure while allowing lawful investigations to proceed. Protection is not directed solely at individual practitioners: it also safeguards the parties who entrust information to them. Accordingly, the analysis considers the balance between professional independence, the confidentiality of authentic deeds, and investigators' need to obtain relevant evidence.

Complementary views explain the interests protected by these safeguards. Satjipto Rahardjo regards law as a means of protecting human interests and the rights of the public.⁹ CST Kansil describes legal protection as the legal measures needed to secure legal subjects physically and psychologically against threats or arbitrary action.¹⁰ These perspectives emphasize a balance between the exercise of state authority and individual rights. Applied to notarial practice, they direct attention to whether examination procedures allow notaries to fulfill their official obligations without improper pressure while preserving protection for clients.

3. Authority Theory as the Applied Theory

Authority theory serves as the applied theory. Authority is a legally conferred power accompanied by rights, obligations, and limits. It may arise through attribution, delegation, or mandate. Attribution grants authority directly through legislation; delegation transfers authority; a mandate entrusts its exercise without transferring responsibility.¹¹ The authority of notaries and the MKN is treated in this study as attributed authority under the UUJN.

Indroharto explains authority as the legal capacity granted to a governmental body to undertake particular actions with legal consequences.¹² Such authority cannot be exercised freely without oversight: its legal basis and limits must be identifiable, and its exercise must be accountable. Bagir Manan further emphasizes legality, legal certainty, and due care, requiring authority to be used for the purpose for which legislation grants it.¹³ These principles provide criteria for examining whether a request for confidential information stays within the powers assigned to each institution.

This framework distinguishes the powers of notaries, the MKN, and investigators. Notaries prepare authentic deeds and preserve confidentiality; the MKN considers requests within its statutory competence; law enforcement officials exercise investigative powers with due regard to the specific notarial rules. The analysis asks whether each institution acts within its legal limits and whether unclear procedures permit conflicts of authority or abuse of power.

⁷ Satjipto Rahardjo, *Ilmu Hukum*, Citra Aditya Bakti, Bandung, 2020, hlm. 19.

⁸ Philipus M. Hadjon, *Perlindungan Hukum bagi Rakyat Indonesia*, Bina Ilmu, Surabaya, 2020, hlm. 25.

⁹ Satjipto Rahardjo, *Hukum dan Perubahan Sosial*, Genta Publishing, Yogyakarta, 2021, hlm. 54.

¹⁰ CST Kansil, *Pengantar Ilmu Hukum dan Tata Hukum Indonesia*, Balai Pustaka, Jakarta, 2020, hlm. 102.

¹¹ Ridwan HR, *Hukum Administrasi Negara*, RajaGrafindo Persada, Jakarta, 2022, hlm. 101.

¹² Indroharto, *Usaha Memahami Undang-Undang tentang Peradilan Tata Usaha Negara*, Pustaka Sinar Harapan, Jakarta, 2021, hlm. 90.

¹³ Bagir Manan, *Dasar-Dasar Perundang-Undangan Indonesia*, Ind-Hill Co, Jakarta, 2020, hlm. 58.

Police authority to investigate criminal offenses derives from the Criminal Procedure Code, but its exercise must take account of the specific provisions of the UUJN.¹⁴ The relationship between these powers is therefore not resolved by treating investigative authority as unlimited. The study examines whether summonses and requests for documents comply with the relevant notarial procedures and whether the MKN's protective role operates consistently with its statutory purpose. Clear boundaries help prevent conflicts of authority and arbitrary demands for disclosure.

B. Conceptual Framework

Juridical analysis examines legal events against legislation, principles, doctrine, and judicial decisions. Legal protection refers to safeguards for notaries in fulfilling confidentiality obligations, while authority denotes the legally limited powers of notaries and the MKN. Professional secrets include deed contents, documents, data, and statements obtained in preparing deeds, which must remain confidential unless the law provides otherwise.¹⁵

A notary is a public official authorized to prepare authentic deeds and required to act honestly, independently, and impartially. An authentic deed is drawn up in the legally prescribed form by or before an authorized public official and has full evidentiary force.¹⁶ Law enforcement is examined here in relation to criminal investigations involving requests for deed documents and statements from notaries.

C. Research Assumptions

The research proceeds from three assumptions: legal protection is established normatively but its interpretation and implementation remain uncertain; disclosure authority is limited rather than absolute and is subject to prescribed procedures; and coordination problems require clearer rules, synchronized powers, and consistent procedures to prevent abuse of authority.

RESEARCH METHODS

A. Type of Research

This study combines normative and empirical legal research.¹⁷ The normative component examines legislation, legal principles, theories, and doctrines concerning notarial secrecy and law enforcement. Its principal materials include the UUJN, the Criminal Procedure Code (KUHP), the Criminal Code (KUHP), and provisions governing the MKN. The empirical component examines how those rules are implemented in Batam City, particularly summonses, access to deed documents, and coordination among institutions.

B. Research Approaches

a. Statutory Approach

The statutory approach examines the synchronization, consistency, and application of the UUJN, criminal procedural and substantive legislation, and ministerial regulations concerning the MKN.¹⁸

b. Conceptual Approach

The conceptual approach examines professional secrecy, legal protection, and authority through legal doctrine and scholarly opinions in notarial and administrative law.¹⁹

c. Case Approach

The case approach examines cases involving the summoning of notaries and access to deed documents to understand the application of legal provisions and the reasoning used in resolving disputes.²⁰

d. Sociological Approach

The sociological approach examines implementation within society and law enforcement institutions, including coordination among notaries, the MKN, and the police in Batam City.²¹

C. Research Sites and Data Sources

The research was conducted at notarial offices in Batam City and Bareleng City Police (Polresta Bareleng), which are directly connected with notarial authority and investigations involving notaries. Primary data were obtained

¹⁴ Jimly Asshiddiqie, *Perihal Undang-Undang*, Rajawali Pers, Jakarta, 2021, hlm. 233.

¹⁵ Habib Adjie, *Hukum Notaris Indonesia: Tafsir Tematik terhadap UU Jabatan Notaris*, Refika Aditama, Bandung, 2021, hlm. 87.

¹⁶ R. Subekti, *Hukum Pembuktian*, Pradnya Paramita, Jakarta, 2020, hlm. 27.

¹⁷ Mukti Fajar ND dan Yulianto Achmad, *Dualisme Penelitian Hukum Normatif dan Empiris*, Pustaka Pelajar, Yogyakarta, 2021, hlm. 34.

¹⁸ Johnny Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif*, Bayumedia Publishing, Malang, 2022, hlm. 302.

¹⁹ Zainuddin Ali, *Metode Penelitian Hukum*, Sinar Grafika, Jakarta, 2021, hlm. 24.

²⁰ Dyah Ochtorina Susanti dan A'an Efendi, *Penelitian Hukum (Legal Research)*, Sinar Grafika, Jakarta, 2022, hlm. 115.

²¹ Bahder Johan Nasution, *Metode Penelitian Ilmu Hukum*, Mandar Maju, Bandung, 2021, hlm. 126.

from interviews with members of the Riau Islands Regional Notary Honorary Council, police investigators at Polresta Barelang, notaries in Batam, and academics and practitioners with expertise in notarial and criminal law.

Secondary data comprised primary legal materials, including legislation and ministerial regulations; secondary legal materials, including books, journals, theses, dissertations, articles, and previous research; and tertiary materials, including legal dictionaries, the Indonesian dictionary, encyclopedias, and supporting sources. These materials provided the normative and conceptual basis for examining the field information.

D. Data Collection Techniques

Data were collected through library research, interviews, and documentary research. Library research examined the legal framework and related literature. Interviews followed prepared questions while allowing informants to explain their experiences in greater detail. Semi-structured interviews were used to explore the exercise of authority, professional protection, and disclosure procedures in practice.²²

Documentary research examined legislation, requests to summon notaries, MKN approval documents, examination records, administrative archives, and other documents concerning proceedings involving notaries.²³ These materials supported the information obtained from interviews and the legal analysis.

E. Data Analysis

Data obtained through library research, interviews, and documentary research were analyzed qualitatively to understand legal protection and the limits on notaries' authority to disclose professional secrets. The analysis systematically organized and interpreted the information in relation to the research objectives.²⁴

1. Qualitative Analysis

Data analysis in this study was conducted in several stages: data reduction, data presentation, and conclusion drawing.²⁵

a. Data Reduction

Data reduction involves selecting, focusing, and simplifying data obtained from the field and library materials in accordance with the needs of the research. At this stage, data unrelated to the subject of the study are separated out, leaving data directly relevant to legal protection for notaries and the limits of authority to disclose professional secrets.

b. Data Presentation

Data presentation involves systematically organizing data in descriptive form to facilitate understanding and analysis. The reduced data are arranged according to the research questions and focus of the study to provide a clear account of the practical implementation of legal protection for notaries in law enforcement proceedings in Batam City.

c. Conclusion Drawing

The final stage involves drawing conclusions from the analysis of the data obtained and presented. Conclusions are drawn to answer the research questions and explain the legal framework, limits of authority, obstacles, and remedies concerning the implementation of legal protection for notaries in law enforcement practice.

2. Method of Drawing Conclusions

This study draws conclusions deductively, using a reasoning process that moves from general provisions to specific events or cases.²⁶ The deductive method is applied by analyzing general provisions in legislation, legal theories, and legal principles.

RESULTS AND DISCUSSION

A. Legal Regulation of Legal Protection and Limits on Notaries' Authority to Disclose Professional Secrets

Deeds provide written evidence of legal acts, events, and relationships, including agreements, transfers of rights, the establishment of legal entities, and credit transactions. Indonesian civil evidence law distinguishes private deeds, prepared by the parties without a public official, from authentic deeds, prepared by or before an authorized official in the form prescribed by law. This distinction affects evidentiary force and the protection available when disputes arise.

²² Sugiyono, *Metode Penelitian Kualitatif, Kuantitatif dan R&D*, Alfabeta, Bandung, 2022, hlm. 233.

²³ Burhan Ashshofa, *Metode Penelitian Hukum*, Rineka Cipta, Jakarta, 2021, hlm. 104.

²⁴ Salim HS dan Erlies Septiana Nurbani, *Penerapan Teori Hukum pada Penelitian Tesis dan Disertasi*, RajaGrafindo Persada, Jakarta, 2022, hlm. 19.

²⁵ Matthew B. Miles, A. Michael Huberman, dan Johnny Saldana, *Analisis Data Kualitatif*, UI Press, Jakarta, 2021, hlm. 14.

²⁶ Johnny Ibrahim, *Metode Penelitian Hukum Normatif dan Empiris*, Bayumedia Publishing, Malang, 2021, hlm. 249.

Under Article 15(1) of the UUJN, notarial authority to prepare authentic deeds is attributed by the state. Authenticity therefore depends not only on the expression of the parties' intentions but also on compliance with the prescribed preparation process. The study interprets Article 1868 of the Civil Code together with the UUJN: the requirement of a legally prescribed form concerns the procedure through which a deed is created as well as its physical format.

The notaries interviewed understood that the notary's presence during the reading of a deed is part of the process of creating an authentic deed, rather than an administrative formality. They also regarded authentic deeds as a principal means of preventing disputes, because users of notarial services expect reliable legal evidence. Accordingly, the quality and validity of the preparation procedure are central to the protection that a deed provides.

Authentic deeds possess three related forms of evidentiary force: external, formal, and substantive evidentiary force.

a. External Evidentiary Force (Uitwendige Bewijskracht)

External evidentiary force means that a deed appearing on its face to be authentic must be regarded as authentic until proven otherwise. In other words, unless the deed is proven defective or forged, the judge must recognize it as an authentic deed.

In relation to this study, reading a deed in the notary's absence may create problems concerning the external aspect of its authenticity. Although the deed may physically comply with the format of a notarial deed, its authenticity may be challenged if the procedure used to create it did not comply with the law.

b. Formal Evidentiary Force (Formele Bewijskracht)

Formal evidentiary force means that everything stated by the public official in the deed is presumed to have actually been performed and witnessed by that official. In a notarial deed, formal proof encompasses certainty regarding the date, the parties' identities, their presence, and the performance of the reading and signing procedures.

This aspect is particularly vulnerable when the deed is read in the notary's absence. When the notary is not personally present during the reading, questions arise about the formal truth of the statement that the notary read the deed before the parties. If the actual circumstances indicate otherwise, its formal evidentiary force is weakened.

c. Substantive Evidentiary Force (Materiele Bewijskracht)

Substantive evidentiary force means that the contents of a deed are presumed true and binding on the parties and their heirs unless proven otherwise. This force follows from the legal guarantee attached to the process through which a public official creates the deed.

Substantive evidentiary force depends heavily on the validity of the deed preparation procedure. Where that process contains a substantial formal defect, the legitimacy of the deed's contents may also be questioned. Reading a deed in the notary's absence may therefore affect not only formal proof but also the substantive aspect of proof.

According to the researcher's analysis, these three forms of evidentiary force constitute an inseparable whole. A breach of the deed-reading procedure may undermine the evidentiary structure on which legal trust in authentic deeds rests. The requirement that the notary be present during the reading must therefore be regarded as a safeguard for the integrity of the civil evidence system.

Interviews revealed that the public generally chooses notarial deeds for stronger legal guarantees than ordinary documents provide. Notaries and the Notary Supervisory Council nevertheless expressed concern about reading deeds in a notary's absence. Some informants acknowledged a tendency to assign stages of preparation and reading to office staff. The study emphasizes that public-official status entails personal responsibility for essential legal acts and that evidentiary force depends on compliance with the applicable procedures.

Articles 1 and 15 of the UUJN establish notaries' status and authority. The authority to prepare a deed is understood as a sequence that includes identifying the parties, examining documents, drafting, reading, and obtaining signatures, rather than merely typing or signing. Article 16(1)(m) provides the basis for the notary's duty to read the deed before the appearing parties in the presence of the prescribed witnesses and have it signed immediately. The study treats this duty as a central connection between authority and official responsibility.

Reading enables the parties to verify that the wording corresponds to their intentions and to understand their rights and obligations before signing. The notaries interviewed explained that corrections often emerge at this stage. Reading therefore supports preventive protection and the prudential principle by allowing clarification, correction, and renewed examination of the parties' identities and supporting documents. It safeguards the quality of the deed and helps prevent subsequent misunderstandings and disputes.

Alongside these procedural responsibilities, professional confidentiality protects deed contents, supporting documents, and statements entrusted to notaries. Article 16(1)(f) of the UUJN and the oath of office establish the duty to preserve that information unless legislation provides otherwise. The study also relates professional secrecy to the

Criminal Code and the Notary Code of Ethics. Unauthorized disclosure may harm the parties, undermine public trust, and expose the notary to administrative, ethical, civil, or criminal consequences.

Notaries may nevertheless become involved in criminal proceedings arising from disputes among the parties or allegations of document forgery or abuse of authority. The existence of an allegation does not remove the need for lawful examination procedures. Clear protection is necessary to preserve professional independence and prevent pressure that may affect the quality of authentic deeds. Protection also serves the public by maintaining confidence in the legal instruments produced by notaries.

The right to refuse testimony (*verschoningsrecht*) permits notaries to withhold information protected by professional secrecy. Its purpose is to preserve the confidential relationship with clients and the dignity of the notarial office. It is not absolute: disclosure may be required in circumstances prescribed by law through the applicable procedure. The MKN approval mechanism is therefore important in reconciling the confidentiality obligation with judicial requests for statements or photocopies of original deeds.

B. Implementation of Legal Protection and Limits on Notaries' Authority to Disclose Professional Secrets

The findings indicate that legal protection in Batam City has generally been implemented through the UUJN and the Notary Code of Ethics. Notaries understand confidentiality as both a legal and an ethical obligation covering deed contents and information received from appearing parties. They provide information when a clear legal basis permits it, rather than treating disclosure as a matter of unrestricted personal discretion.

Preventive protection operates through MKN approval before investigators, public prosecutors, or judges summon notaries for statements concerning deeds or notarial protocols or obtain photocopies of original deeds. The mechanism is intended to prevent arbitrary examination while maintaining access to evidence needed for proceedings. Its effectiveness depends on the notary, the requesting authority, and the MKN observing their respective responsibilities.

Implementation is not without difficulties. Notaries and law enforcement officials differ in their understanding of summons procedures, the scope of the right to refuse testimony, and the information that may be requested in investigations or trials. In some circumstances, requests exceed the limits of notarial authority. These differences create uncertainty about how notaries should respond while complying with both their confidentiality obligations and lawful investigative requirements.

In Batam practice, professional secrets are disclosed only in specific circumstances, where required by law or for judicial proceedings after the statutory mechanism has been followed. Notaries remain obliged to limit the information provided to matters relevant to the case and keep unrelated information confidential. Disclosure is therefore an exception to the principal duty of secrecy and must remain proportionate, lawful, and attentive to the public interest and the parties' rights.

1. Legal Substance

Legal substance affects implementation because confidentiality is addressed across several legislative provisions. Different readings of those provisions persist, particularly concerning the right to refuse testimony and the MKN approval mechanism. The existence of legal rules alone does not ensure consistent protection when their meaning is disputed by the institutions applying them.

2. Legal Structure

Legal structure concerns coordination among notaries, the MKN, police, prosecution offices, courts, the Regional Office of the Ministry of Law, and professional organizations. Weak coordination may delay the approval process and create uncertainty over institutional responsibilities. Effective protection therefore requires cooperation rather than isolated action by individual institutions.

3. Legal Culture

Legal culture concerns the understanding of notaries, law enforcement officials, and the public. Different perceptions of confidentiality and the right to refuse testimony affect compliance. The continuing assumption that a notary must disclose every requested detail demonstrates the need for a shared understanding of the protective function of professional secrecy.

4. Notarial Professionalism

Notarial professionalism is reflected in integrity, independence, and compliance with the UUJN and professional ethics. Careful performance of duties and a clear understanding of disclosure procedures reduce the risk of breaches and preserve trust in the profession. Professional protection must therefore be accompanied by responsibility in maintaining confidential information.

Hadjon's theory explains the preventive role of confidentiality duties, the right to refuse testimony, and MKN approval, alongside repressive remedies where rights or obligations are violated. Radbruch's theory emphasizes that legal certainty requires consistent application, not merely the presence of written provisions. The discussion also uses

Lawrence M. Friedman's legal system perspective to relate implementation to legal substance, structure, and culture. These perspectives show why the strength of the normative framework does not automatically eliminate practical difficulties.

The legal framework thus has a sufficiently strong normative foundation, but its effectiveness depends on resolving differences of interpretation and improving coordination. Notaries receive protection while remaining legally responsible for breaches of confidentiality. Regulatory harmonization and clearer implementation mechanisms are needed to balance the protection of professional secrecy with the collection of relevant evidence, rather than allowing one objective to displace the other.

The study also discusses a civil case before the Bandung District Court involving Denny Andrian Kusdayat as plaintiff and the Chief of Sukabumi Police as Defendant I. The account refers to No. 251/Pdt.G/2024/PN Bdg. The Court rejected Defendant I's preliminary objections, declared both the plaintiff's claim and the counterclaim inadmissible, and ordered the plaintiff in the original action/Defendant I in the counterclaim to pay costs of Rp7,590,000. The judges deliberated on 6 January 2025, and the judgment was pronounced on 9 January 2025.

C. Obstacles and Solutions Concerning Legal Protection and Limits on Notaries' Authority to Disclose Professional Secrets

The obstacles identified in Batam concern the interpretation of rules, institutional procedures, legal understanding, and risks faced by practitioners. Although the UUJN establishes confidentiality, notaries still confront uncertainty in deciding whether a request falls within a lawful exception. Inadequate protection at the implementation level may weaken professional independence even where the normative basis is established.

1. Unclear limits on notaries' authority to disclose professional secrets.

Although the obligation to keep deed contents confidential is regulated by the Notary Office Law (UUJN), interpretations differ concerning the particular circumstances in which notaries may disclose professional secrets, especially during investigations, prosecutions, and trials.

2. Inconsistency among legislative provisions.

Differences between the Notary Office Law, the Criminal Procedure Code (KUHP), and other provisions on the obligation to testify as a witness create legal uncertainty for notaries.

3. Pressure from law enforcement officials.

In practice in Batam City, notaries frequently receive requests from investigators or law enforcement officials to surrender original deeds or provide statements without due regard to the mechanism prescribed by the UUJN.

4. Limited understanding among the parties of notaries' right to refuse testimony.

Many parties do not understand that notaries have both a right and an obligation to maintain the confidentiality of deed contents and therefore assume that notaries must disclose all requested information. Some members of the public assume that all documents held by notaries can be accessed whenever needed. In fact, deed confidentiality is an important principle for providing legal certainty, legal protection, and trust for parties using notarial services.

5. The Notary Honorary Council (MKN) has not yet fulfilled its role optimally.

The process of granting investigators approval to summon a notary or obtain photocopies of original deeds sometimes takes considerable time, creating obstacles both to law enforcement and to the protection of the notarial profession.

6. Limited outreach and professional guidance.

Not all notaries receive ongoing guidance on developments in legislation, court decisions, and the limits of their authority in maintaining or disclosing professional secrets.

7. Potential legal proceedings against notaries.

Notaries risk facing civil lawsuits, criminal complaints, or administrative sanctions if they disclose professional secrets without a clear legal basis or refuse to provide information whose disclosure is actually permitted by legislation.

8. The absence of uniform technical guidelines.

The absence of detailed operational standards governing the disclosure of professional secrets leads to differing practices among notaries, law enforcement officials, and the Notary Honorary Council. Unclear technical requirements can weaken legal certainty and diminish protection for notaries' independence in performing their duties.

The principal solution is to harmonize the rules on professional secrecy with criminal procedural law. Clearer provisions should identify the circumstances permitting disclosure, the parties authorized to request it, and the procedures to be followed. The objective is legal certainty for both notaries and investigators, so that maintaining

professional secrecy is not confused with obstructing a lawful investigation and access to evidence does not disregard the parties' rights.

The MKN's role should be strengthened through effective, transparent, and accountable working mechanisms. Requests to summon notaries or obtain photocopies of original deeds should be processed professionally within clearly defined time limits. Better administration and coordination are needed to avoid unnecessary delay while preserving the institution's protective function. Institutional efficiency and professional independence should be pursued together rather than treated as opposing objectives.

Coordination forums and joint guidelines should involve the Indonesian Notary Association (INI), the MKN, police, prosecution service, and courts. These arrangements would promote a shared understanding of the right to refuse testimony and lawful disclosure procedures. Continuing education for notaries and law enforcement officials should address legislation, professional ethics, court decisions, and practical boundaries of authority, while public outreach should explain why deed confidentiality protects users of notarial services.

Detailed Standard Operating Procedures should specify disclosure requirements, the sequence of action, the types of documents that may be supplied, and safeguards for the parties' data. The study also recommends secure, integrated electronic archival systems to strengthen record protection, reduce misuse, and facilitate evidentiary access where a lawful request is made. These measures require cooperation among government, professional organizations, the MKN, law enforcement officials, and notaries themselves.

The analysis concludes that improved legal protection requires coordinated regulatory, institutional, and professional measures. Harmonization, stronger MKN procedures, common technical guidance, continuing training, and secure record management are expected to reduce interpretive differences and protect notarial independence without diminishing law enforcement effectiveness. This combination supports the legal objectives of certainty, justice, and utility in notarial practice in Batam City.

CONCLUSION

A. Conclusions

1. Legal protection and the limits on notaries' authority to disclose professional secrets are regulated by the Notary Office Law, the Notary Code of Ethics, and related legislation. In principle, notaries must maintain the confidentiality of all information obtained in the performance of their duties. Professional secrets may be disclosed only under particular circumstances prescribed by law, such as for judicial proceedings through the specified mechanism. These provisions provide legal certainty, safeguard the trust placed in notaries by the parties, and preserve notaries' independence, professionalism, and integrity in performing their duties.
2. Legal protection and the limits on notaries' authority to disclose professional secrets have been implemented in accordance with the Notary Office Law and the Notary Code of Ethics. In practice, notaries remain obliged to maintain the confidentiality of deed contents and all information obtained from the parties. Professional secrets may be disclosed only pursuant to an applicable legal order or provision and through lawful procedures. This implementation therefore balances legal protection for notaries, the interests of law enforcement, and legal certainty and public trust in the notarial profession.
3. Obstacles to legal protection and to defining the limits of notaries' authority to disclose professional secrets continue to be influenced by differing interpretations of legal provisions, insufficient coordination among law enforcement officials, and a limited understanding of notaries' rights and obligations. These conditions may create legal uncertainty and affect notaries' independence in performing their duties. Solutions to strengthen legal protection and clarify the limits on notaries' authority to disclose professional secrets include refining regulations, standardizing implementation mechanisms, improving coordination between notaries and law enforcement officials, and strengthening guidance and supervision by professional organizations and relevant institutions. These measures are expected to establish legal certainty, protect notaries' independence, and maintain public trust in the notarial profession.

B. Recommendations

1. The government and legislators should refine the provisions governing legal protection and the limits on notaries' authority to disclose professional secrets by formulating more explicit and clear rules that do not give rise to multiple interpretations. These provisions should provide legal certainty regarding the requirements, procedures, and parties authorized to request the disclosure of professional secrets, ensuring that notaries remain protected without obstructing law enforcement.
2. Legal protection and the limits on notaries' authority to disclose professional secrets should be implemented consistently in accordance with the Notary Office Law through improved coordination among notaries, the Notary Honorary Council, and law enforcement officials. Continuing guidance and outreach are also needed

to ensure that procedures for disclosing professional secrets are properly applied, guarantee legal certainty, protect notaries' independence, and continue to support law enforcement.

3. To address obstacles to legal protection and to defining the limits on notaries' authority to disclose professional secrets, legislation should be harmonized, coordination between the Notary Honorary Council and law enforcement officials should be strengthened, and the parties' understanding should be improved through outreach and training. These measures are expected to reduce differences in interpretation, establish legal certainty, and preserve notaries' independence in performing their duties.

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