

Uncertainty Regarding the Limits of the Authority of the Notary Honorary Council and Its Implications for Criminal Law Enforcement

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Abstract: Article 66 of the Notary Law grants the Notary Honorary Council an important role in the mechanism for summoning and examining notaries by law enforcement officials. This regulation is intended to protect the position of notaries as public officials exercising state authority in the civil sector. However, the formulation of the norms in Article 66 indicates a lack of clarity regarding the limits of the Notary Honorary Council's authority, particularly regarding the scope of assessments that can be performed in granting approvals. This lack of clarity creates a vague norm that has implications for legal uncertainty and the potential for overlapping authority between the Notary Honorary Council and law enforcement officials in criminal proceedings. This study aims to analyze the provisions on the authority of the Notary Honorary Council in Article 66 of the Notary Law and the implications of this unclear norm on the protection of the notary's position and the effectiveness of criminal law enforcement. The research method employed is normative legal research with a statutory and conceptual approach. The results show that the absence of clear normative parameters in Article 66 leaves a space for diverse interpretations and has the potential to hinder the investigation process, while weakening the legal protection that should be provided to notaries. This situation reflects the unbalanced position between the interests of protecting one's position and the principle of due process of law. This study recommends reformulating Article 66 of the

Notary Law by clarifying the limits of the Notary Honorary Council's authority and harmonizing this norm with the criminal justice system.

Keywords: Notary Honorary Council; Article 66 of the Notary Law; authority; position protection; criminal law enforcement.

Introduction

Notaries occupy a strategic position as public officials authorized by the state to translate the will of the parties into an authentic deed (Wibowo, 2022). This authority does not arise from private relationships but rather stems directly from statutory attribution, which positions notaries as extensions of the state in civil law (Navisa & Sunardi, 2024). This function grants notary actions broad and binding legal implications, both for the parties themselves and third parties (Mandagie, 2022). Their status as public officials also places notaries in a sphere of public responsibility distinct from other legal professions. The nature

of this position demands clear, proportional authority regulations that provide legal certainty (Rizky, 2024).

Authentic deeds drawn up by notaries have perfect evidentiary force, as stipulated in civil procedural law. This force lies not only in their formal form but also in the assumption of truth inherent in the deed's contents, as long as the contrary is not proven through legal mechanisms (Rajagukguk, 2025). The position of authentic deeds as primary evidence often makes them a central point in legal disputes, both civil and criminal. Any formal flaw or alleged substantive inaccuracy in the deed has the potential to have serious implications for the notary as the drafter (Dewantara, 2024). This situation explains why authentic deeds often become the entry point for notaries' involvement in criminal proceedings.

Developments in judicial practice indicate a trend toward increasing notary involvement in criminal cases stemming from civil disputes (Fairuzia, 2022). Authentic deeds are often used as the basis for criminal reports, particularly regarding allegations of document forgery or the provision of false information (Fauziannor, 2025). This pattern has resulted in a shift in the orientation of dispute resolution from the civil to the criminal realm. The role of notaries as public officials, who should be neutral, has become vulnerable to criminalization of their position (Achmad, 2025). This situation raises serious concerns about the protection of the notary profession and the continuity of its objective function.

The Notary Honorary Council was established as a mechanism to protect the notary's position during legal proceedings, particularly during criminal investigations and examinations. This institution aims to maintain a balance between the interests of law enforcement and the protection of the dignity of the notary's position (Harianto, 2024). The Notary Honorary Council is empowered to approve or reject requests for summons and examinations of notaries by law enforcement officials (Zaenal, 2022). This function is normatively intended to prevent abuse of the criminal process against notaries. However, this strategic role requires clear boundaries of authority to avoid creating new problems.

Article 66 of Law Number 30 of 2004 concerning the Position of Notary Public, in conjunction with Law Number 2 of 2014, stipulates that summons and examinations of notaries by investigators, public prosecutors, or judges must obtain the approval of the Notary Honorary Council (Zulkhainan, 2022). This provision positions the Notary Honorary Council as the first point of contact in criminal legal proceedings involving notaries. The norm does not explicitly define the scope of assessments permitted by the Notary Honorary Council. This ambiguity has given rise to debate over whether the institution only assesses aspects of job protection or also assesses the substance of criminal cases. This ambiguity opens up room for interpretation, potentially leading to conflicts of authority (Sriwati, 2022).

The unclear boundaries of the Notary Honorary Council's authority directly impact legal certainty for notaries and law enforcement officials. Notaries face uncertainty regarding the extent to which the protection provided by the institution is binding (Ghuto, 2024). Law enforcement officials also face doubts regarding the legal force of the Notary Honorary Council's approval during investigations. This situation has the potential to lead to inconsistent practices in the application of Article 66 of the Notary Law. This disharmony indicates a normative gap that requires in-depth examination.

The theory of authority in state administrative law provides a conceptual basis for understanding the legitimacy of a public institution's actions (Hildawati, 2024). Authority is understood as the legal power granted by statutory regulations to act within a specific scope. Every authority is always bound by normative boundaries that must be respected to prevent abuse of power (Qamar, 2023). Clarity about the source and scope of authority is a primary requirement for creating legal certainty. Without clear boundaries, authority has the potential to transform into uncontrolled power.

The sources of state authority are identified through attribution, delegation, and mandate, each of which has its own legal characteristics (Jurdi, 2023). Attribution creates original authority that is directly inherent in the institution established by law. Delegation and mandate place authority in a derivative position that remains bound by normative regulations (Bimasakti, 2024). The Notary Honorary Council obtains authority through attribution under the Notary Law. This fact demands clarity on the boundaries of authority so that its implementation does not exceed the intent of the lawmakers.

The relevance of the theory of authority to the position of the Notary Honorary Council lies in the need to distinguish the function of protecting one's position from that of enforcing the law. The Notary Honorary Council is neither a judicial institution nor an investigative body. Its authority should be placed within the administrative-professional, protective sphere. The ambiguity of Article 66 raises the risk of shifting this function toward assessing the substance of criminal acts. This situation has the potential to create a conflict of authority with law enforcement officials.

The theory of legal certainty emphasizes the importance of clear norms so that legal subjects can predict the legal consequences of every action. Legal certainty is a fundamental element of a rule of law state that guarantees balanced protection of rights and obligations (Martinelli, 2023). Legal protection for public officials encompasses both preventive and repressive dimensions. Preventive protection aims to prevent abuse of the legal process, while repressive protection serves to provide redress for rights violations (Gotama, 2023). The clarity of the limits of the Notary Honorary Council's authority is directly related to the effectiveness of both forms of protection.

The principle of due process of law in criminal law requires that every law enforcement process be conducted according to fair and rational procedures. This principle requires a balance between the state's interest in upholding the law and the legal subjects' rights to protection (Sutrsino, 2025). The approval mechanism of the Notary Honorary Council should be part of this procedural guarantee. However, the absence of clear normative parameters has the potential to create tension between due process and the effectiveness of investigations. This situation requires restructuring to preserve the integrity of the criminal justice system.

The concept of the notary office positions notaries as independent and impartial public officials. This independence requires a clear distinction between official misconduct, administrative violations, and criminal acts. Official misconduct cannot automatically be treated as a criminal act without a clear normative basis (Wiryanawan, 2025). The protection of the notary's office is based on the need to safeguard the notary's public function from being distorted by external pressures. This conceptual justification reinforces the urgency of clearly and measurably defining the limits of the Notary Honorary Council's authority.

Methodology

This research employs a normative legal research method that focuses on the study of written legal norms and legal principles governing the position and authority of the Notary Honorary Council in the national legal system. Normative legal research was chosen because the problem being studied is directly related to the ambiguity of norms and the unclear provisions of Article 66 of the Notary Law, so the analysis is directed at examining primary, secondary, and tertiary legal materials. A statutory regulatory approach is used to systematically examine the provisions of Article 66 of the Notary Law and their relationship to other relevant regulations, including criminal procedure law and the principles of the rule of law. This approach allows for the identification of normative disharmony, regulatory gaps, and potential overlapping authorities between institutions. This study uses a conceptual approach to examine authority, legal protection, due process of law, and the notary's role as a public official performing a public function. This conceptual analysis is used to construct normative arguments regarding the ideal limits of the Notary Honorary Council's authority and its relationship with law enforcement officials. The legal material collection technique was conducted through literature study, while the legal material analysis was conducted qualitatively using prescriptive and argumentative reasoning patterns. The analysis results are directed at formulating normative recommendations in the form of improvements to the provisions of Article 66 of the Notary Law to achieve legal certainty, protection of the notary's position, and effective enforcement of criminal law in a balanced manner.

Result and Discussion

Regulations and Unclear Limits on the Authority of the Notary Honorary Council

The Notary Honorary Council holds a unique position in the Indonesian notarial system, serving as a protective institution born out of the practical needs of the notarial profession. This institution is not positioned as a routine oversight body, but rather as a special mechanism operating in specific situations, particularly when notaries are faced with criminal proceedings. This position places the Notary Honorary Council between the interests of the profession and the interests of law enforcement. This characteristic distinguishes it from other notary institutions that are purely administrative in nature. This unique position requires clear functional boundaries to avoid ambiguity of authority.

The relationship between the Notary Honorary Council and the Notary Supervisory Council demonstrates a division of roles that, according to normative principles, should complement each other. The Notary Supervisory Council focuses on overseeing the behavior and implementation of notaries' duties administratively and ethically. The Notary Honorary Council exists in a more specific area, namely the protection of notaries in criminal justice proceedings. This difference in function is often not consistently understood in practice. The unclear delimitation of these roles leads to overlapping interpretations of the authority of each institution.

The approval function of the Notary Honorary Council, as stipulated in Article 66 of Law Number 30 of 2004 concerning the Office of Notaries in conjunction with Law Number

2 of 2014, is the primary instrument for protecting the office of notaries. This approval is a prerequisite for law enforcement officials to summon and examine notaries regarding deeds they have drawn up. This norm is intended to ensure that summonses are not carried out arbitrarily. The approval of the Notary Honorary Council is expected to filter cases that are purely civil disputes from those that have a true criminal dimension. This strategic function makes Article 66 a crucial point in the relationship between the notary profession and the criminal justice system.

The substance of Article 66 of the Notary Honorary Council Law regulates the scope of summons and examinations of notaries by investigators, public prosecutors, and judges. This norm emphasizes that every summons must go through the approval mechanism of the Notary Honorary Council. This regulation provides procedural protection not afforded to other legal entities. The scope of Article 66 is limited to the act of summons and examination, not to the assessment of criminal culpability. However, the concise wording of the norm opens the door to diverse interpretations.

The normative meaning of the Notary Honorary Council's approval is not explained in detail in the Notary Law. This ambiguity raises questions about what aspects the Notary Honorary Council can assess before granting approval. Developing interpretations indicates a tendency for the Notary Honorary Council to assess the substance of the case. Such an assessment has the potential to exceed its function of protecting the position. This lack of normative explanation is the main source of problems regarding the Notary Honorary Council's authority.

The relationship between Article 66 of the Notary Law and the authority of investigators, public prosecutors, and judges creates a unique dynamic in judicial practice. Law enforcement officials, on the one hand, have the constitutional authority to conduct investigations and prosecutions. Article 66 places this authority in a position dependent on the approval of non-judicial institutions. This situation has given rise to debate regarding the balance of authority between institutions. The lack of clarity in the regulation has the potential to give rise to resistance in law enforcement practices.

The unclear limits of the Notary Honorary Council's authority are reflected in the lack of clarity regarding the scope of assessments that the institution may conduct. The Notary Law does not explicitly distinguish between administrative, ethical, and criminal assessments. This situation opens the door for the Notary Honorary Council to conduct substantive assessments. Such assessments risk resembling a preliminary investigation. This ambiguity demonstrates the weak normative construction of Article 66.

The ambiguity of the norm is also evident in the absence of provisions regarding what aspects the Notary Honorary Council may and may not assess. There is no limit to whether the Notary Honorary Council can only assess the protection of the office or also assess alleged criminal acts. Emerging practice demonstrates varying approaches among Notary Honorary Councils. These differences create an inconsistent application of the law. This situation has direct implications for legal certainty for notaries.

The absence of objective parameters for granting or denying approval further emphasizes the problematic authority of the Notary Honorary Council. The Notary Law

does not stipulate measurable assessment standards. The decisions of the Notary Honorary Council are heavily dependent on the subjective interpretations of its members. This dependence creates room for inconsistency and potential injustice. This situation has the potential to diminish the legitimacy of the Notary Honorary Council's decisions.

The potential for overlapping authority arises from the risk of the Notary Honorary Council entering the realm of investigation or judicial assessment. The assessment of the substance of criminal cases is the domain of law enforcement officials and the courts. The involvement of the Notary Honorary Council in this area has the potential to obscure the principle of separation of functions. Conflicts of authority can arise between the Notary Honorary Council and law enforcement officials. The ultimate impact is on judicial independence and trust in the legal system.

Implications of the Lack of Firmness of Article 66 for Criminal Law Enforcement

The provisions of Article 66 of the Notary Law are essentially intended as a professional protection instrument to prevent notaries from being easily summoned or questioned in criminal cases related to the performance of their duties. This protection stems from the awareness that notaries perform a public function that demands independence, prudence, and the courage to act in accordance with the law. However, the protection provided is not always consistently realized in practice. Differences in the interpretation of the role of the Notary Honorary Council cause this protection mechanism to rely on subjective, unpredictable assessments. This situation gives the impression that notary protection is situational and does not provide a complete sense of security.

This uncertainty of protection directly impacts the legal position of notaries in criminal proceedings. A notary can find themselves in a dilemma between carrying out their official duties and facing the risk of being summoned by law enforcement officials. Many notaries feel vulnerable because the approval of the Notary Honorary Council is not always uniformly understood by investigators and public prosecutors. This situation weakens the guarantee of legal certainty that should be inherent in the notary profession as a public official. The sense of security that should be the foundation of professional ethics has instead been replaced by concerns about criminal implications. As a result, notaries' independence has the potential to be gradually eroded.

The risk of criminalization of notarial actions also arises as a further consequence of the vagueness of Article 66. Administrative and legal actions taken by notaries based on their official authority can be interpreted as criminal acts without a clear distinction. The assessment of culpability is often conflated with the assessment of administrative compliance, even though the two fall within separate legal regimes. This situation opens up space for the excessive use of criminal law against the notarial profession. Fear of criminal proceedings ultimately affects notaries' courage in making legal decisions. Notarial practice has the potential to become defensive and non-progressive.

Another implication of the vagueness of Article 66 is seen in the effectiveness of criminal investigations. The approval mechanism of the Notary Honorary Council is often perceived as an additional procedure that prolongs the summons and examination process. Law enforcement officials face an unclear boundary between respect for the authority of the

Notary Honorary Council and the need for effective investigations. A process that should move forward quickly is instead slowed by differing views on the scope of approval. This situation creates tension between the interests of protecting the profession and the interests of criminal law enforcement. The effectiveness of the investigation is not optimal because the normative procedures are not designed explicitly.

The differing application of Article 66 in practice exacerbates this problem. Some law enforcement practices place MKN approval as an absolute requirement, while others consider it merely an administrative formality. This inequality creates unequal treatment of notaries across jurisdictions. The principle of equality before the law becomes difficult to achieve due to inconsistent treatment by officials. This situation demonstrates the weakness of norms as definitive guidelines. The law loses its binding power as a tool to control institutional behavior.

The ambiguity of norms may lead to violations of the principles of legal certainty and justice. Legal certainty requires clear, understandable, and consistently applied norms. Article 66, in fact, opens up too much room for interpretation without providing clear boundaries for assessment. Legal justice becomes difficult to achieve because the outcome depends heavily on the subjective judgment of the Notary Honorary Council and law enforcement officials. The situation is detrimental to both notaries and law enforcement institutions where the law seems to be moving without a clear direction.

The ambiguity identified in Article 66 of the Notary Law arises from the absence of a clear doctrinal limitation concerning the authority of the Notary Honorary Council (Majelis Kehormatan Notaris/MKN). This study argues that a strict distinction must be maintained between professional protection and substantive assessment of criminal liability. In principle, the MKN is authorized only to provide procedural and professional protection for notaries, particularly in safeguarding the confidentiality of authentic deeds, ensuring that summons or requests from investigators comply with formal legal procedures, and confirming that the examination relates to actions performed within the scope of official notarial duties. Such authority constitutes procedural oversight intended to protect the dignity and independence of the notarial profession. However, the MKN exceeds its legitimate authority when it evaluates the substance of alleged criminal conduct, including determining the existence of criminal intent, assessing evidentiary sufficiency, or concluding whether a notary has committed fraud, forgery, or other criminal offenses. These matters fall exclusively within the competence of investigators, prosecutors, and the judiciary as part of the criminal justice system. Therefore, the doctrinal boundary emphasized in this study lies in the separation between procedural-professional review and substantive-criminal adjudication, where the MKN may ensure procedural fairness and professional protection but must not function as a quasi-judicial institution that interferes with the independent determination of criminal liability.

Based on these various implications, the need for a reformulation of Article 66 becomes increasingly urgent. Reformulation is not merely about improving wording but also confirming the design of the authority the lawmakers intend to establish. The new norm must explain in detail the scope of the Notary Honorary Council's assessment. The

boundary between the assessment of professional ethics and the assessment of criminal elements needs to be explicitly defined. This clarity is crucial to prevent the MKN's function from shifting to areas beyond its jurisdiction.

The reformulation of the norm must also provide objective parameters for granting or denying approval. These parameters can include administrative criteria, direct links to the performance of the office, and time limits for decision-making. Clarity of parameters will strengthen the accountability of the Notary Honorary Council as an institution exercising public authority. Law enforcement officials will also gain certainty regarding the procedures to be followed. Institutional relationships will become more structured and less suspicious. Legal norms serve as a bridge, not a source of conflict.

The affirmation of the norm should also regulate the legal consequences of the Notary Honorary Council's decisions. Decisions made need to have clear legal standing, whether they are binding or recommendatory. Certainty regarding the nature of these decisions will avoid prolonged debate in practice. Notaries receive measurable, not superficial, protection. Law enforcement officials can continue to carry out their investigative functions professionally and proportionally. A balance between professional protection and the interests of law enforcement can be truly achieved.

The reformulation of Article 66 must ultimately be positioned as part of efforts to strengthen the legal system as a whole. Clear norms reflect the state's commitment to legal certainty, justice, and institutional professionalism. Notaries, as public officials, require clear protection to carry out their duties independently and responsibly. Criminal law enforcement also requires straightforward and unambiguous procedures. This harmonization of interests can only be achieved through carefully designed, honest, and practice-oriented norms. Normative reform is not merely an option but a structural necessity within the Indonesian notary system.

Conclusion

The provisions of Article 66 of the Notary Law demonstrate a lack of clarity in defining the limits of the authority of the Notary Honorary Council, an institution entrusted with a strategic role in the summons and examination of notaries. This lack of clarity is evident in the unclear scope of the Notary Honorary Council's assessments, both regarding ethical aspects of the profession and its relationship to criminal proceedings. This vagueness of the norm creates legal uncertainty, which has implications for differences in implementation at the level of law enforcement practice. This situation opens up the possibility of conflicts of authority between the Notary Honorary Council and law enforcement officials, particularly investigators, public prosecutors, and judges. This situation indicates that the protection of the notary's profession and the interests of criminal law enforcement have not yet reached the ideal normative balance desired by the principle of the rule of law.

Efforts to improve Article 66 of the Notary Law require reformulation that clearly and measurably defines the limits of the Notary Honorary Council's authority. This affirmation needs to be accompanied by objective normative parameters so that the Notary Honorary Council's assessment does not exceed its function of protecting the profession and does not

enter the realm of criminal assessment. Harmonization of Article 66's norms also needs to be aligned with the principle of due process of law to ensure that criminal law enforcement remains fair, proportional, and non-discriminatory. Clarity in these norms is expected to provide legal certainty for notaries while maintaining the effectiveness of the criminal justice system. This regulatory update is a crucial step to ensure that the law functions as a balanced instrument for protecting and enforcing justice, rather than a source of tension between institutions.

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