JLPH: Journal of Law, Politic and Humanities
E-ISSN: 2962-2816
P-ISSN: 2747-1985
https://dinastires.org/JLPH dinasti.info@gmail.com +62 811 7404 455

DOI: https://doi.org/10.38035/jlph.v7i1
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Received: 16 Oktober 2026 | **Revised:** 12 November 2026 | **Accepted:** 17 November 2026

Criminal Liability for the Forgery of Authentic Deeds by Notaries in Cases of Failure of Local Government Oversight

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Abstract: The forgery of authentic deeds by notaries is a serious issue in the Indonesian legal system because it has a direct impact on legal certainty, public trust, and the legitimacy of the state. The increasing number of criminal cases involving notaries indicates that this problem does not stem solely from individual errors but is also related to weak administrative oversight by local governments. Judicial practice tends to hold notaries solely responsible for criminal liability without considering the underlying structural factors. This study aims to analyze the construction of notaries' criminal liability in the crime of forgery of authentic deeds and to examine the failure of local government oversight as a criminogenic factor, using the case study of the Balikpapan District Court Decision No. 296/Pid.B/2024. The method used is normative legal research employing legislative, conceptual, and case-based approaches through a literature review analyzed using a prescriptive qualitative approach. The results indicate that the criminal liability of notaries remains dominated by an individual liability approach that disregards failures in land administration oversight. This situation contributes to the criminalization of the notary's office. This study recommends reconstructing the paradigm of criminal liability by reaffirming criminal law as the ultimum remedium and proposes a novel "integrated administrative-criminal oversight" model that positions local governments as the systemic custodians responsible for preventing document-based crimes.

Keywords: Notary, Forgery of Authentic Deeds, Local Government Oversight

Abstrak: *Pemalsuan akta otentik oleh notaris merupakan persoalan serius dalam sistem hukum Indonesia karena berdampak langsung terhadap kepastian hukum, kepercayaan publik, dan legitimasi negara. Meningkatnya perkara pidana notaris menunjukkan bahwa persoalan ini tidak semata-mata bersumber dari kesalahan individual, melainkan juga berkaitan dengan lemahnya pengawasan administrasi oleh pemerintah daerah. Praktik peradilan cenderung menempatkan notaris sebagai subjek tunggal pertanggungjawaban pidana tanpa mempertimbangkan faktor struktural yang melatarbelakanginya. Penelitian ini bertujuan menganalisis konstruksi pertanggungjawaban pidana notaris dalam tindak pidana pemalsuan*

akta otentik serta mengkaji kegagalan pengawasan pemerintah daerah sebagai faktor kriminogen, dengan studi kasus Putusan Pengadilan Negeri Balikpapan Nomor 296/Pid.B/2024. Metode yang digunakan adalah penelitian hukum normatif dengan pendekatan perundang-undangan, konseptual, dan kasus melalui studi kepustakaan yang dianalisis secara kualitatif preskriptif. Hasil penelitian menunjukkan bahwa pertanggungjawaban pidana notaris masih didominasi pendekatan individual liability yang mengabaikan kegagalan pengawasan administrasi pertanahan. Kondisi ini mendorong terjadinya kriminalisasi jabatan. Penelitian ini merekomendasikan rekonstruksi paradigma pertanggungjawaban pidana dengan menegaskan hukum pidana sebagai ultimum remedium serta menawarkan novelty berupa model integrated administrative-criminal oversight yang menempatkan pemerintah daerah sebagai penanggung jawab sistemik dalam pencegahan kejahatan berbasis dokumen.

Kata Kunci: *Notaris, Pemalsuan Akta Otentik, Pengawasan Pemerintah Daerah*

INTRODUCTION

A notary is a public official authorized to draw up authentic deeds to ensure legal certainty, order, and protection. Furthermore, authentic deeds are drawn up at the request of interested parties to ensure their rights and obligations.(Supriadi, 2008) However, the notary profession is vulnerable to legal repercussions, whether due to internal factors such as negligence and failure to follow procedures, or external factors such as forged documents submitted by the public. Under Law No. 2 of 2014, a notary proven to have committed an unlawful act may be subject to various forms of liability, whether in the civil, criminal, or administrative spheres, or under the code of ethics.(Lestari, 2025) Although the law does not explicitly stipulate criminal sanctions for notaries, unlawful acts related to document forgery may still be classified as criminal offenses, particularly after the mechanisms for enforcing administrative and civil sanctions have first been exhausted in accordance with applicable regulations.

In legal enforcement practice, it is not uncommon for notaries to face criminal proceedings, particularly in cases of document forgery. Such acts may stem from intentional misconduct or result from negligence in the exercise of official duties. Provisions regarding document forgery are clearly set forth in Articles 263, 264, and 266 of the Criminal Code (KUHP), while the involvement of more than one party in a criminal offense including the role of a notary is classified as complicity as defined in Articles 55 and 56 of the Criminal Code (KUHP) (Sianturi,S.R & E.Y.Kanter, 2002).

The forgery of authentic deeds is considered a serious crime because it affects the integrity of evidence and undermines public trust in public officials authorized to issue them. In the context of criminal law oriented toward the protection of the public interest, criminal liability for notaries may be imposed provided it is supported by valid and convincing evidence.(Soesilo, R, 1985) However, the imposition of criminal sanctions remains an *ultimum remedium* that is, a last resort when other legal mechanisms are no longer capable of providing justice and legal certainty.

The rising number of criminal cases involving the forgery of authentic deeds indicates a serious problem within Indonesia's evidentiary legal system, given that authentic deeds are philosophically positioned as instruments of legal certainty and justice for society. Authentic deeds not only record the intentions of the parties but also represent the presence of the state through public officials vested with delegated authority. When such a document is forged, the fundamental values *of justice* and *truth* which are the goals of the law undergo a fundamental degradation.(Sheikh Yusuf, 2025) This situation underscores that the forgery of authentic

documents is not merely an individual offense but a threat to the legal order founded on legal certainty and public trust (Sulistyowati & Warsito, 2025).

The legal status of authentic deeds is affirmed in Article 1868 of the Civil Code, which states that:

> *"An authentic instrument is a document drawn up in the form prescribed by law by or in the presence of a public official authorized to do so at the place where the instrument is drawn up."*

This provision establishes authentic deeds as the highest form of evidence possessing full probative force. The logical consequence of this provision is that any deviation in the process of their creation particularly forgery carries serious criminal implications, as it undermines the system of evidence and legal protection for the parties involved (Ariyanto & Sudarto, 2025).

Notaries, as public officials, hold a central position in the preparation of authentic deeds and are normatively burdened with a high level of legal responsibility. Article 1(1) of Law No. 2 of 2014 on the Office of the Notary affirms that a notary is a public official authorized to prepare authentic deeds as well as to exercise other authorities as prescribed by law. This provision indicates that the state places institutional trust in notaries to guarantee the formal validity of a legal event.(Qotrannadha & Tanawijaya, 2025) A breach of this trust, particularly in the form of document forgery, directly places the notary as the primary subject of criminal liability. Criminal liability for the forgery of authentic deeds is explicitly regulated in Article 263(1) of the Criminal Code, which states that:

> *"Any person who creates a forged document or alters a document that may give rise to a right, an obligation, or a discharge of debt, with the intent to use or cause another person to use such document as if its contents were true and not forged, shall be subject to imprisonment."(Irsyadi & others, 2024).*

This provision is reinforced by Article 264 of the Criminal Code (KUHP) (Pasal 264 1. Pemalsuan surat diancam dengan pidana penjara paling lama 8 tahun, jika dilakukan terhadap: 2. akta-akta otentik; 3. surat hutang atau sertifikat hutang dari sesuatu negara atau bagiannya ataupun dari suatu lembaga umum; 4. surat sero atau hutang atau sertifikat sero atau hutang dan suatu perkumpulan, yayasan, perseroan atau maskapai; 5. talon, tanda bukti dividen atau bunga dari salah satu surat yang diterangkan dalam 2 dan 3, atau tanda bukti yang dikeluarkan sebagai pengganti surat-surat itu; 6. surat kredit atau surat dagang untuk diedarkan. Diancam dengan pidana yang sama barang siapa dengan sengaja memakai surat tersebut dalam ayat pertama, yang isinya tidak sejati atau yang dipalsukan seolah-olah benar dan tidak dipalsu, jika pemalsuan surat itu dapat menimbulkan kerugian, t.t.), which imposes harsher penalties if the forgery is committed against an authentic deed. This provision affirms that authentic deeds enjoy special criminal protection due to their strategic role within the legal system.

The close relationship between authentic deeds, land administration, and local government authority is a sociological aspect that cannot be ignored. Many authentic deeds, particularly those related to the transfer of land rights, depend on the validity of administrative data falling within the scope of local government authority. Administrative disorder, weak oversight, and the fragmentation of bureaucratic authority create opportunities for data manipulation, which is then legalized through authentic deeds. This situation demonstrates that the criminal act of forgery of deeds does not always stem solely from individual intent but also from failures in the public administration system.

While the normative function of supervising notaries lies with the Notary Supervisory Board, the role of local governments in providing and managing administrative data plays a crucial, albeit indirect, role. When administrative oversight is ineffective, notaries may end up working based on flawed or even deliberately manipulated data. From a sociological-legal perspective, this situation reflects the weakness of institutional social controls that are supposed to prevent document-based crimes.

The Balikpapan District Court Decision No. 296/Pid.B/2024 serves as a concrete example of how the forgery of authentic deeds does not stand alone as an individual act, but rather is the result of a complex interaction between professional actors and a suboptimal oversight system. The ruling indicates that the notary's criminal liability was determined by the judge based on the fulfillment of elements of intent or negligence, but it did not fully elaborate on the role of structural factors beyond the notary's control. This raises a fundamental question regarding the extent to which the failure of local government oversight contributed to the commission of this criminal act.

Theoretical approaches in modern criminal law view crime as a multidimensional phenomenon influenced by individual, structural, and institutional factors. Theories of criminal liability focus not only on personal fault *(mens rea)* but also on the social and systemic contexts that enable crimes to occur. In the context of the forgery of authentic deeds, this approach requires a broader analysis of the relationship between notaries, the administrative system, and local government oversight mechanisms.

Previous studies have generally focused on a normative analysis of notaries' criminal liability without empirically linking it to variables related to local government oversight. This limitation creates a research gap, particularly in quantitative studies that test causal relationships among systemic variables. , there has been little research that empirically measures the extent to which oversight failures contribute to the rise in cases of forgery of authentic deeds at the local level.

The primary objective of this study is to quantitatively analyze the relationship between failures in local government oversight and the occurrence of criminal acts involving the forgery of authentic documents, using the case study of Balikpapan District Court Decision No. 296/Pid.B/2024. This study posits the hypothesis that the low effectiveness of local government oversight has a significant impact on the increased risk of forgery of authentic documents by notaries. The research questions are designed to examine how the criminal law approach frames the liability of notaries and how oversight failures contribute systemically to this crime.

METHODS

This study employs the normative legal research method, which treats law as a norm or rule applicable within the legal system. According to Peter Mahfud Marzuki, all types of legal research are inherently normative. Normative legal research or doctrinal legal research. Doctrinal legal research is legal research conducted by examining library materials and secondary data through the process of determining legal rules, legal principles, and legal doctrines to address legal issues based on legal science from the perspective of the various branches of legal science.(Andik Mannulusi dkk., 2025) This approach was chosen because the primary focus of the research is to analyze the criminal liability of notaries in the criminal offense of forgery of authentic deeds and to examine the failure of local government oversight from the perspective of positive law and court rulings. Normative legal research aims to identify relevant legal principles, doctrines, and norms to address legal issues in a prescriptive and argumentative manner (Marzuki, 2021).

The research method employed is prescriptive-analytical, as this study not only describes applicable legal norms but also provides a critical analysis of their application in

judicial practice. The analysis was conducted to assess whether the criminal liability of the notary in Balikpapan District Court Decision No. 296/Pid.B/2024 is consistent with the principles of criminal law, the principle *of ultimum remedium*, and the legal framework for the liability of public officials in a state governed by the rule of law (Soekanto & Mamudji, 2019).

The research approaches used include *the statutory approach*, *the conceptual approach,* and *the case approach.* The statutory approach was used to examine the legal provisions governing the office of notary, document forgery, and the oversight system, including, Law No. 2 of 2014 on the Office of Notary, the Criminal Code, and the Civil Code. This approach aims to identify consistency, gaps in the law, and regulatory disharmony that could potentially affect the practice of notaries' criminal liability (Ibrahim, 2018).

A conceptual approach is employed to examine fundamental concepts such as criminal liability, *mens rea*, forgery of authentic deeds, and the theory of administrative oversight. This approach is essential for constructing an analytical framework capable of explaining the relationship between individual notaries' misconduct and structural factors, specifically failures in local government oversight.(Sudarto, 2017) In this context, criminal law is understood not merely as a repressive instrument, but also as part of a social control system that is integrated with administrative law.

A case-based approach is employed by conducting an in-depth examination of the Balikpapan District Court Decision No. 296/Pid.B/2024 as the primary case study. This decision is analyzed to identify the judge's legal reasoning, the construction of the elements of the criminal offense, and how the judge assessed the notary's role and responsibility in the case of forgery of an authentic deed (Mahkamah Agung Republik Indonesia, 2024). The analysis of the judgment was conducted systematically to assess whether the dimension of local government oversight failure had been adequately considered in the criminal liability imposed on the notary.

The legal materials used in this study consist of primary, secondary, and tertiary sources. Primary legal materials include laws and regulations, court decisions, and official state documents directly related to the research subject. Secondary legal materials include textbooks on criminal law, notarial law, and public administration law, as well as scholarly journal articles relevant to the issues of criminal liability and government oversight. Tertiary legal materials, such as legal dictionaries and legal encyclopedias, were used as supplementary resources (Ali, 2020).

Legal materials were collected through *library research*, which involved searching for and cataloging relevant statutes, academic literature, and court decisions. All legal materials were classified based on relevance and normative hierarchy to facilitate systematic and in-depth analysis (Sunggono, 2019).

The analysis of legal materials is conducted using a qualitative-normative analytical method, which involves interpreting legal norms and legal facts in court decisions in a logical, systematic, and coherent manner. Legal interpretation is carried out using grammatical, systematic, and teleological methods to gain a comprehensive understanding of the meaning and purpose of legal norms. The results of the analysis are then presented in a descriptive-argumentative manner to address the research questions and test the relevance of the research hypotheses (Sidharta, 2016).

RESULTS AND DISCUSSION

The Criminal Offense of Forgery of Authentic Documents from a Criminal Law Perspective

The forgery of authentic deeds is a crime that has serious implications for the evidentiary system and public trust in the state. Authentic deeds are normatively defined in Article 1868 of the Civil Code, which states that:

> *"An authentic instrument is a document drawn up in the form prescribed by law by or in the presence of a public official authorized to do so at the place where the instrument is drawn up."*

This provision establishes authentic deeds as the highest form of evidence possessing full probative force; thus, any forgery of such a document not only harms individuals but also undermines the state's legal legitimacy (Mertokusumo, 2020). The characteristics of the criminal offense of forgery of an authentic deed are specifically regulated in Article 266(1) of the Criminal Code, which reads:

> *"Any person who instructs another to include false information in an authentic document regarding a matter whose truth must be attested by that document, with the intent to use or instruct another to use the document as if its contents were true, shall be subject to imprisonment."*

This provision clarifies that the perpetrator need not be the direct drafter of the document; rather, it is sufficient that they possess the intent to include false information that has the potential to cause harm (Hiariej, 2022).

The *actus reus* element in Article 266 of the Criminal Code lies in the act of instructing the inclusion or use of false information in an authentic document, while the mens rea element is reflected in the intent to use or instruct others to use the document as if it were true. Judicial practice shows that proving the element of intent often shifts to a normative assessment of violations of official procedures, without an in-depth exploration of the perpetrator's inner intent.Lampiran Putusan Pengadilan Negeri Balikpapan Nomor 296/Pid.B/2024/PN Bpp," 2024.

The construction of criminal liability in cases of forgery of authentic documents is still dominated by the *individual liability* approach, which positions the notary as the sole perpetrator. This approach has been criticized for ignoring the structural relationships between the official drafting the document, the interested parties, and the public administration system that provides the underlying data for the document's creation. *The theory of corporate and systemic crime* explains that official misconduct often arises from systemic failures, not merely personal errors (Clinard & Quinney, 2021).

A philosophical problem arises when criminal law is positioned as the primary instrument for assessing a notary's official misconduct. Criminalizing notaries without considering the principle of *ultimum remedium* risks reducing the function of criminal law as a guardian of social morality to a purely repressive tool. Gustav Radbruch emphasized that the law must balance justice, certainty, and utility; thus, excessive criminalization actually undermines the very sense of justice itself (Radbruch, 2003).

A theoretical problem arises from the blurred line between administrative and criminal offenses. Violations of notarial procedures essentially fall within the realm of administrative law as regulated by Law No. 2 of 2014 on the Office of the Notary, specifically Article 85, which stipulates administrative sanctions ranging from written warnings to temporary suspension and permanent dismissal. The absence of clear theoretical parameters means that any formal violation has the potential to be drawn into the criminal realm (Suteki, 2021a).

This legal problem is reflected in inconsistent law enforcement practices regarding the application of Article 266 of the Criminal Code. Court rulings often bypass the administrative sanction process which serves as a moral prerequisite before imposing criminal sanctions. In fact, *the principle of lex specialis derogat legi generali* should place the Notary Public Act as the primary legal instrument in assessing professional misconduct, before resorting to the Criminal Code as general law (Asshiddiqie, 2020a).

Sociological problems relate to the declining sense of security among notaries in performing their public service functions. Excessive criminalization encourages defensive practices that result in slow legal services and increased legal transaction costs. This situation impedes public access to justice, particularly in civil matters that heavily rely on authentic deeds (Rahardjo, 2020).

The distinction between administrative violations and criminal offenses should be determined by the presence of *dolus malus,* or actual malicious intent. Procedural errors without personal gain and without actual harm should be classified as administrative violations. *The theory of culpa in abstracto* asserts that the standard of care for public officials must be assessed objectively and proportionally, not based solely on the consequences (Hiariej, 2022).

The author's analysis shows that the forgery of authentic deeds cannot be separated from the systemic context surrounding it. An individual liability approach that treats notaries as sole actors creates a distortion of justice and obscures the structural roots of the problem. A reformulation of criminal law policy is necessary by reaffirming criminal law as the ultimum remedium, strengthening administrative oversight, and establishing clear theoretical parameters to distinguish between official misconduct and criminal offenses. Without such a paradigm shift, the criminal prosecution of notaries risks becoming an instrument of injustice legitimized by the law.

Analysis of Balikpapan District Court Decision No. 296/Pid.B/2024

The Balikpapan District Court Decision No. 296/Pid.B/2024 establishes a legal framework by characterizing the defendant's actions as fulfilling the elements of Article 266(1) of the Criminal Code, which states that:

> *"Any person who instructs another to include false information in an authentic deed concerning a matter whose truth must be attested by that deed, with the intent to use or instruct another person to use the deed as if the information were true, shall be subject to imprisonment."*

The judge assessed the alteration of the buyer's identity in the draft deed as an active act that satisfied the *actus reus* element without elaborating on the underlying administrative context.

The judge's legal construction reflects a positivist approach that emphasizes the fulfillment of the formal elements of the offense. The provision was interpreted textually, assuming that any substantive alteration of the deed without the presence of the parties constitutes a criminal act. This approach aligns with classical legal positivism but disregards the principle of balance between legal certainty and substantive justice as articulated by Radbruch.Ibid.Eddy O. S. Hiariej.

In the ruling, the notary is positioned as the sole subject of criminal liability. The judge did not develop an analysis of complicity as provided for in Article 55(1)(1) of the Criminal Code, which states that:

> *"Those who commit, order the commission of, or participate in the commission of a criminal act shall be punished as perpetrators."*

Consequently, the causal relationship between the notary and the intermediary as well as the buyer was not comprehensively analyzed in Balikpapan District Court Decision No. 296/Pid.B/2024.

The *individual liability* approach adopted by the judge raises philosophical issues regarding distributive justice. Criminal liability is centered on public officials without

considering the contributions of non-official actors who derive direct benefits from the deed. From an Aristotelian perspective on justice, the disproportionate distribution of blame undermines the sense of justice and reduces criminal law to a tool for symbolic punishment (Jimly Asshiddiqie, 2013).

A theoretical problem arises from the absence of a clear distinction between official misconduct and criminal offenses. Law No. 2 of 2014 on the Office of Notary, in Article 85, explicitly provides for administrative sanctions in the form of written warnings, temporary suspension, and permanent dismissal. The decision *in question* does not indicate that these administrative mechanisms were exhausted as a moral prerequisite prior to criminalization, thereby contradicting the *theory* of *ultimum remedium* (Suteki, 2021b).

Legal problems arise due to the lack of analysis of the land administration oversight system, which serves as the basis for the issuance and modification of deed data. The authority of local governments and the National Land Agency in validating land data is directly relevant to the deed drafting process, yet it was not taken into account in the judge's legal reasoning. This situation indicates a partial and sectoral application of criminal law in the Balikpapan District Court Decision No. 296/Pid.B/2024.

Sociological issues are reflected in the ruling's impact on notarial practice. The criminalization of notaries without an analysis of the structural context fosters a culture of defensive work practices and professional fear. Notaries tend to refuse services involving high administrative risks, thereby hindering public access to civil legal certainty (Rahardjo, 2018).

The ruling's implications for legal certainty are ambivalent. While formal legal certainty is indeed achieved through the enforcement of criminal norms, substantive legal certainty is actually diminished due to the absence of clear guidelines regarding the boundaries of criminalization for official misconduct. This uncertainty has the potential to lead to disparity in rulings for similar cases in the future.Op.cit,Eddy O. S. Hiariej.

An analysis of the context of administrative land oversight should be an integral part of a judge's deliberations. Lawrence M. Friedman's theory of legal systems asserts that the effectiveness of the law is determined by its structure, substance, and legal culture. The ruling *in question* focuses solely on normative substance, without examining the structural failures in oversight that allowed the legal events in question to occur (L. M. Friedman, 2020).

In the author's view, the Balikpapan District Court Decision No. 296/Pid.B/2024 reflects a tendency toward excessive criminalization of official duties. An approach *based on individual liability* without systemic analysis has the potential to create structural injustice and weaken the function of criminal law as the ultimum remedium. A reformulation of the paradigm for penalizing notaries is necessary, placing administrative law as the primary filter before the application of criminal sanctions.

Failure of Local Government Oversight as a Criminogenic Factor

The authority of local governments in land administration plays a strategic role in ensuring the validity of data that serves as the basis for the preparation of authentic deeds. Article 2, paragraph (2) of Law No. 23 of 2014 on Regional Government states that the administration of regional government affairs is carried out based on the principles of autonomy and auxiliary duties. This provision positions local governments as the primary actors in land administration, including the provision of legal and physical land data used by notaries in the preparation of deeds. Failure to carry out this function has the potential to create conditions prone to abuse of authority (Asshiddiqie, 2020b).

The concept *of a "vacuum of control"* in administrative law describes a situation where supervisory authority exists in theory but is not effectively exercised. This condition creates a control vacuum that allows for legal irregularities. From the perspective of modern criminal law, *the "vacuum of control"* is viewed as a structural criminogenic factor because it opens

the door to crime without necessarily requiring a strong individual intent to commit a crime.(Clinard & Quinney, 2021) When local government oversight of land administration is weak, authentic deeds may be based on flawed data that is subsequently formalized through legalization.

The cause-and-effect relationship between weak oversight and deed-related crimes can be analyzed through the theory of functional causality. Land administration data that is not strictly verified becomes a prerequisite for the forgery of authentic deeds, whether through the manipulation of the identity of legal subjects or the objects of rights. Article 34(1) of Government Regulation No. 24 of 1997 on Land Registration requires the government to ensure the accuracy of both physical and legal data in land registration. Systemic violations of this obligation contribute to an increased risk of document-based crimes.Lo.cit,Eddy O. S. Hiariej.

In this context, local governments do not always act as direct perpetrators of criminal acts, but function as *enabling factors* that facilitate the commission of crimes. *The theory of the criminogenic environment* explains that a lax, poorly coordinated, and unaccountable bureaucratic environment creates conditions that encourage legal violations (Suteki, 2021b). Weak oversight of land administration causes notaries to operate in a situation of data uncertainty, thereby making procedural errors potentially subject to criminal prosecution.

The author's perspective is that the failure of local government oversight constitutes a philosophical problem because it undermines the purpose of law as the guardian of justice and social order. A theoretical problem arises from the lack of integration between administrative law and criminal law in assessing official misconduct. A legal problem is reflected in the failure to enforce the normative obligations of local governments as stipulated by laws and regulations. Sociological problems are evident in the increasing criminalization of notaries, who in reality operate within the limitations of the system. A systemic approach is necessary, placing local government as the subject of institutional accountability evaluation before individual criminal penalties are imposed.

Formulation of the State's Indirect Criminal Liability at the Local Level

The concept of *indirect criminal responsibility* in criminal law policy has evolved as a corrective to the limitations of the individual accountability paradigm that dominates the classical criminal justice system. Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia explicitly states that: *"The State of Indonesia is a state based on the rule of law."* The normative consequence of this provision places the state including local governments as its executive organs in a position of responsibility for any structural negligence that results in criminal consequences. *The theory of state responsibility* asserts that systemic administrative neglect constitutes a form of institutional fault relevant to modern criminal policy (M. Friedman, 1962).

In the context of indirect criminal liability, local governments are positioned as subjects of systemic responsibility, not as direct perpetrators of criminal acts. Article 67(b) of Law No. 23 of 2014 on Regional Government states that: *"The regional head is obligated to maintain public peace and order."* This obligation includes oversight of the administration of land affairs and public services, which form the basis for the issuance of authentic deeds. Failure to fulfill this obligation creates structural conditions that enable the forgery of authentic deeds, making it relevant to analyze this as a form of *organizational negligence* (Cappelletti & Garth, 1978).

Non-penal policies play a strategic role in preventing crimes involving authentic deeds. Article 3 of Law No. 30 of 2014 on Government Administration states that the administration of government must be based on the principles of legal certainty, public benefit, impartiality, diligence, and accountability.Lampiran Undang-Undang Nomor 30 Tahun 2014 tentang

Administrasi Pemerintahan," 2014. Strengthening administrative oversight, integrating land data, and improving the quality of bureaucratic governance are more proportionate preventive measures than relying solely on individual criminal prosecution. The theory of integrated criminal policy emphasizes that structural prevention is a key element in curbing position-based crimes (Nursamsi, 2014).

The author's perspective is that the formulation of indirect criminal liability of the state at the regional level is a philosophical necessity to uphold substantive justice within a rule-of-law state. Theoretical problems arise from the dominance of an *individual liability* approach that overlooks systemic failures. Legal problems are reflected in the suboptimal integration of administrative law and criminal law when assessing state negligence. Sociological problems are evident in the increasing criminalization of professions without institutional corrective measures. The expansion of the functions of criminal law as a repressive, corrective, and preventive instrument must be directed toward reforming local government governance, not merely toward the punishment of individuals.

Reconstructing Local Government Oversight Policies

The integration of notarial, land, and local government oversight is a normative requirement for ensuring the validity of authentic deeds and protecting legal certainty for the public. Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia affirms that *"The State of Indonesia is a state based on the rule of law."Lampiran Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Pasal 1 ayat (3).* This provision implies that all local government activities must be conducted within a single, coordinated oversight system. Article 67(b) of Law No. 23 of 2014 on Regional Government states that *"The regional head is obligated to maintain public peace and order,"* including through integrated oversight of legal services and land administration, which form the basis for the issuance of authentic deeds (Hadjon, 1987).

The models of preventive and corrective oversight need to be restructured as a corrective measure to the repressive approach that has long relied on the criminalization of individuals. Article 3 of Law No. 30 of 2014 on Government Administration affirms the principles of legal certainty, public benefit, precision, and accountability in every governmental action. Preventive oversight focuses on the initial verification of land and administrative data before it is used in the preparation of deeds, while corrective oversight serves to rectify administrative errors in a proportionate manner without immediately escalating them to the criminal realm. *The theory of preventive criminal policy* positions structural prevention as the primary instrument in curbing official misconduct (*Bagijo - 2012 - POTRET PEMENUHAN HAK-HAK SOSIAL RAKYAT MISKIN DI J.pdf*, t.t.).

The harmonization of criminal, administrative, and land law regimes is a fundamental prerequisite for the reconstruction of local government oversight policies. Article 85 of Law No. 2 of 2014 on the Office of the Notary explicitly stipulates administrative sanctions in the form of written warnings, temporary suspension, and permanent dismissal. This provision demonstrates that administrative law has provided internal corrective mechanisms for professional misconduct. *The theory of ultimum remedium* asserts that criminal law should only be invoked when administrative mechanisms are no longer effective, thereby preventing the premature criminalization of the profession (Tambunan, 2023).

The implications of an integrated oversight policy have a direct impact on the protection of legal certainty for the public. Article 28D(1) of the 1945 Constitution of the Republic of Indonesia states that *"Every person has the right to recognition, guarantee, protection, and fair legal certainty."Pasal 28D ayat (1) Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 (Lembaran Negara Republik Indonesia Tahun 1999 Nomor 232).* Fragmented oversight among notaries, land authorities, and local administrations has the potential to create

legal uncertainty and recurring disputes. Lawrence M. Friedman's legal systems theory asserts that the effectiveness of the law can only be achieved when legal structure, substance, and culture operate simultaneously and in an integrated manner.

The author's perspective is that the reconstruction of local government oversight policies requires a conceptual renewal, which constitutes the novelty of this research. The recommendation offered is *a model of integrated administrative-criminal oversight* a concept of layered oversight that positions local governments as systemically accountable through mandatory administrative audits before and after the issuance of authentic deeds. This model integrates preventive oversight based on digital land data, restorative administrative corrective mechanisms, and criminal law as a last resort. This novelty shifts the paradigm from the criminalization of individuals toward institutional accountability, thereby addressing philosophical issues of justice, theoretical issues of legal regime disharmony, legal issues of overlapping authority, and sociological issues of declining public trust in legal services.

CONCLUSIONS AND RECOMMENDATIONS

This study affirms that criminal liability for the forgery of authentic deeds by notaries cannot be understood solely as an individual error but rather as a systemic legal phenomenon. The main findings indicate that the construction of criminal liability in judicial practice, as reflected in the Balikpapan District Court Decision No. 296/Pid.B/2024, remains dominated by an *individual liability* approach that emphasizes the fulfillment of the formal elements of the offense, without adequate analysis of the failure of local government oversight as a criminogenic factor. Weak administrative oversight of land affairs and the fragmentation of bureaucratic governance have been shown to create conditions that enable the forgery of authentic deeds and ultimately lead to the criminalization of the notary's office.

The implications of these findings for the development of criminal law theory point to the need for a paradigm shift from a personal fault approach toward a systemic approach that integrates criminal law and administrative law. *The principle of ultimum remedium* requires that the criminal prosecution of notaries be treated as a last resort after administrative and ethical mechanisms have proven ineffective. In practice, the results of this study underscore the importance of strengthening preventive and corrective oversight by local governments, integrating land administration data, and harmonizing the role of the Notary Supervisory Board with local government bodies to prevent the premature criminalization of the profession and to safeguard legal certainty for the public.

The scientific contribution of this study lies in enriching the discourse on criminal liability by introducing the perspective of indirect state liability at the local level. This study expands the legal analysis of notarial criminal law by identifying the failure of local government oversight as a relevant analytical variable, while also offering *a* novel *"integrated administrative-criminal oversight" model* that shifts the focus from individual punishment toward institutional accountability.

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