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Evidentiary Power of Authentic Deed Copies by Notary Protocol Holders: A Normative Legal Study in Indonesia

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ABSTRACT

Indonesian notarial law does not explicitly define the evidentiary hierarchy of authentic deed copies issued by Notary Protocol Holders following a transfer of custodial responsibility, creating legal uncertainty that threatens community civil rights. This study reassesses the evidentiary standing of such copies and delineates the normative boundaries of the Notary Protocol Holder's authority within the Indonesian civil evidence framework. A normative legal methodology is employed, integrating statutory, conceptual, and comparative approaches, drawing on primary legal materials including the UUJN and Civil Code, and comparative reference to Dutch and German notarial law. The protocol holder's authority, grounded in Articles 62 and 64 of the UUJN, is strictly custodial and confined to verbatim reproduction of the archived minute. Where formal requirements are satisfied, protocol-issued copies are capable of maintaining evidentiary equivalence across the three dimensions of external, formal, and material evidentiary power; however, this equivalence is not legislatively presumed, rendering continuity contingent on demonstrable procedural correctness. The normative gap disproportionately affects vulnerable groups, including women in inheritance disputes, indigenous communities, and low-income parties. Legislative amendment of the UUJN to affirm evidentiary equivalence explicitly, enhanced protocol administration standards, and progressive digitalization of notarial archives are necessary conditions for a more inclusive and legally certain civil evidence system in Indonesia.

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1. INTRODUCTION

Within the civil law tradition, authentic deeds occupy the apex of the hierarchy of documentary evidence. Unlike privately executed instruments whose probative value depends on acknowledgment by the parties, authentic deeds derive their evidentiary force directly from their creation by or before an authorized public official in a form prescribed by law (Isnaini & Utomo, 2019). This force is tripartite in nature, encompassing external, formal, and material evidentiary power, which collectively render authentic deeds virtually incontestable unless challenged through prescribed legal procedures (Anrova et al., 2021). Under Indonesian positive law, this evidentiary status is grounded in the Civil Code and reinforced by Law Number 2 of 2014 on the Position of Notaries, which serves as the *lex specialis* governing the authority, obligations, and accountability of notaries as public officials authorized to produce authentic instruments. The elevated evidentiary standing of authentic deeds thus constitutes a foundational pillar of legal certainty in civil transactions, providing parties with a reliable documentary basis for asserting and defending their civil rights.

The evidentiary integrity of authentic deeds rests, in a structural sense, on the preservation of the deed minute, that is, the original signed document bearing the signatures of the parties, witnesses, and the notary, which is retained within the notarial protocol as part of the state archive. The copy issued to interested parties derives its probative equivalence to the original solely from its conformity with the minute held in the protocol (Fendri & Mannas, 2019). As Pogosyan (2022) observes in examining the evidentiary dimensions of notarial activity, the normative significance of a notarial deed and its copies is contingent on the clarity of the procedural standards governing what the notary has verified and recorded, and on the existence of a coherent evidentiary presumption attached to the result of that verification. Accordingly, the continuity and integrity of the notarial protocol constitute an indispensable precondition for the sustained evidentiary value of authentic deeds across time and across changes in the custodial office.

A normatively underexamined problem arises when the notary who originally executed a deed ceases to hold office by reason of retirement, death, or dismissal. In such circumstances, the relevant protocol is transferred to a Notary Protocol Holder designated by the Regional Supervisory Council pursuant to Article 62 of the Law on the Position of Notaries. The Notary Protocol Holder thereby acquires the administrative authority to issue copies of deeds from the archived minutes in their custody. However, the Law on the Position of Notaries does not explicitly define the evidentiary standing or probative hierarchy of copies issued under this custodial authority within the framework of civil procedural law. This normative omission generates a structural ambiguity: while the issuance of such copies is administratively sanctioned, their probative equivalence to the original authentic deed remains legislatively undefined, creating conditions for divergent judicial interpretation in proceedings where those copies constitute the primary or sole available documentary evidence (Mashdurohatun et al., 2024).

The absence of doctrinal clarity on this issue stands in marked contrast to the treatment accorded to authentic instruments in more developed civil law systems. In

the European legal context, the evidentiary status of authentic instruments, including copies and derivative documents issued by authorized custodians, has received comprehensive and systematic legal regulation both at the domestic and cross-border levels (Fitchen, 2020). Rodziewicz (2023) demonstrates that European legal frameworks governing authentic instruments consistently address not merely their creation but also the mechanisms for their recognition and enforcement across custodial transitions, ensuring that evidentiary continuity is maintained through administrative change. Popescu (2011) further establishes that within the continental civil law tradition, the evidentiary authority of authentic instruments derives from the convergence of the public official's institutional authority and the integrity of the archival system that ensures documentary authenticity over time. The absence of equivalent doctrinal precision in Indonesian notarial law represents a regulatory gap that undermines the coherence of the civil evidence framework and warrants systematic legislative attention.

The consequences of this normative gap extend well beyond the domain of legal doctrine, producing tangible effects on the civil rights of the community. Authentic deeds constitute the evidentiary foundation for a broad range of transactions of substantial personal and economic significance, including land registration, inheritance settlements, marital property arrangements, credit agreements, and commercial contracts (Silviana & Fuadi, 2023). Upon the departure of the original notary from office, the public becomes exclusively dependent on the Notary Protocol Holder as the sole institutionally authorized source of copies drawn from the relevant protocol. Where the evidentiary validity of such copies is not legislatively secured, parties who rely on those documents to assert or defend their civil rights in court are exposed to a degree of legal uncertainty that they ought not bear. Sihombing et al. (2024) caution that legal uncertainty in civil rights protection systems tends to produce disproportionate effects on segments of the population with limited access to legal assistance, underscoring that what appears to be a purely technical doctrinal deficiency carries genuine implications for substantive justice.

Prior scholarship on Indonesian notarial law and the evidentiary force of authentic deeds has predominantly addressed the authority of active notaries, the formal requirements for valid deed creation, and the probative value of deeds issued by the notary who also retains the relevant protocol (Fendri & Mannas, 2019; Isnaini & Utomo, 2019). Studies specifically examining the normative standing of copies issued by a Notary Protocol Holder, and the hierarchical position of those copies within the Indonesian civil evidence framework, remain scarce. This lacuna is particularly consequential given that, in judicial practice, protocol-issued copies frequently constitute the sole written evidence available in disputes concerning land rights transfers, inheritance claims, and contractual enforcement, as illustrated by the analysis of Mappong and Lili (2023) of inheritance proceedings involving parties subject to different civil law regimes in Indonesia. The absence of systematic doctrinal assessment of this issue amplifies the risk of inconsistent judicial interpretation and erodes the legal certainty that the civil evidence system is designed to guarantee.

It is against this backdrop of normative lacuna and academic gap that the present study undertakes a systematic normative legal analysis of the regulatory framework governing the issuance of authentic deed copies by Notary Protocol Holders in

Indonesia, with the aim of determining the evidentiary standing of such copies within the civil evidence hierarchy and delineating the normative boundaries of the protocol holder's authority, including in situations where the original minute is unavailable, damaged, or contested. The analysis draws on statutory interpretation, doctrinal examination, and comparative legal assessment. The contribution of this study is twofold: doctrinally, it addresses a normative gap that has received insufficient scholarly attention; practically, it offers recommendations intended to inform regulatory reform toward a more coherent, legally certain, and socially equitable civil evidence system in Indonesia.

This study employs a normative legal research methodology, which treats law as a system of norms accessible through the examination of statutory provisions, legal doctrine, and relevant legal principles (Hamzani et al., 2024). This methodological choice is grounded in the nature of the research problem, which is fundamentally normative: the study addresses a regulatory gap and interpretive ambiguity in the positive law governing the evidentiary standing of authentic deed copies issued by Notary Protocol Holders. Normative legal research constitutes the most appropriate methodological framework when the central concern is how law ought to be understood, applied, and developed within an existing normative system, rather than how law operates as a social phenomenon in practice (Budianto, 2020a).

The analysis proceeds through three complementary approaches. The first is the statutory approach, which involves a systematic examination of the legislative provisions directly and indirectly governing the authority of the Notary Protocol Holder and the evidentiary status of copies issued under that authority, including the Law on the Position of Notaries, the Civil Code, civil procedural law, state archival regulations, and related statutory instruments (Mahardika, 2024). The second is the conceptual approach, which entails a critical examination of the doctrinal principles and legal concepts underlying the civil evidence system, including the hierarchy of evidentiary instruments, the principle of legal certainty, documentary authenticity, and notarial evidentiary continuity (Ali & Yulia, 2023). The third is the comparative approach, which involves an assessment of the legal frameworks of civil law jurisdictions that provide more comprehensive regulation of the evidentiary status of authentic deed copies, particularly the Netherlands and Germany, in order to derive comparative insights that may inform regulatory reform recommendations for Indonesia (Konca, 2021).

The legal materials employed in this study are organized across three tiers. Primary legal materials consist of statutory instruments that form the direct normative basis of the research problem, including Law Number 2 of 2014 on the Amendment of Law Number 30 of 2004 on the Position of Notaries, the relevant provisions of the Civil Code on civil evidence, and the *Herzien Inlandsch Reglement* as the operative civil procedural law. Secondary legal materials comprise academic publications, peer-reviewed journal articles, and doctrinal works addressing notarial authority, authentic deeds, civil evidentiary hierarchy, the principle of legal certainty, and archival integrity in the notarial system. Tertiary legal materials, including legal

dictionaries and explanatory commentaries, are consulted to ensure terminological consistency throughout the analysis.

The analytical framework operates qualitatively through systematic legal interpretation, encompassing grammatical interpretation to determine the precise textual meaning of legal provisions, systematic interpretation to understand the interrelationship between provisions within a coherent legal system, and teleological interpretation to identify the legislative purpose and underlying ratio legis of the relevant regulatory framework. The reasoning technique employed is deductive, proceeding from general legal principles to specific conclusions regarding the problem of evidentiary continuity following the transfer of notarial protocols. This integrated methodological framework enables the development of structured and legally grounded normative findings concerning the position of authentic deed copies within the Indonesian civil evidence hierarchy and the normative boundaries of the Notary Protocol Holder's authority.

2. METHODS

This study employs a normative legal research methodology, which treats law as a system of norms accessible through the examination of statutory provisions, legal doctrine, and relevant legal principles (Hamzani et al., 2024). This methodological choice is grounded in the nature of the research problem, which is fundamentally normative: the study addresses a regulatory gap and interpretive ambiguity in the positive law governing the evidentiary standing of authentic deed copies issued by Notary Protocol Holders. Normative legal research constitutes the most appropriate methodological framework when the central concern is how law ought to be understood, applied, and developed within an existing normative system, rather than how law operates as a social phenomenon in practice (Budianto, 2020b).

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procedural law. Secondary legal materials comprise academic publications, peer-reviewed journal articles, and doctrinal works addressing notarial authority, authentic deeds, civil evidentiary hierarchy, the principle of legal certainty, and archival integrity in the notarial system. Tertiary legal materials, including legal dictionaries and explanatory commentaries, are consulted to ensure terminological consistency throughout the analysis.

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3. RESULTS AND DISCUSSION

The Regulatory Framework Governing the Issuance of Authentic Deed Copies by the Notary Protocol Holder

The legal basis for the Notary Protocol Holder's authority to issue copies of authentic deeds is grounded in the designation of notarial protocols as state archives under Indonesian law. Article 1, point 13 of the Law on the Position of Notaries (UUJN) stipulates that the notarial protocol constitutes a state archive and is therefore subject to statutory obligations of preservation, management, and utilization (Rangkuti, 2023; Setiawan & Octarina, 2022). This designation carries normative implications that extend beyond administrative recordkeeping: it affirms that all minute documents and their derivative copies carry legal accountability inherently tied to the authority of the custodial office. The UUJN accordingly defines the parameters of notarial authority and legitimizes each act related to the creation or preservation of an authentic deed, including acts performed by the protocol holder following a transfer of custodial responsibility (Nurwulan, 2018).

From an archival governance perspective, legal archives function not merely as administrative repositories but as institutional mechanisms for sustaining public trust in recorded evidence. Archival science establishes that documentary materials acquire evidentiary value through controlled custody and documented provenance (Bastian & Alexander, 2009; Duranti & Rogers, 2012). Applied to the notarial context, this principle requires that the authority of the Notary Protocol Holder be assessed not solely by reference to legislative delegation but also by reference to the standards of archival integrity that guarantee the authenticity, trustworthiness, and traceability of documents over time. The intersection of legal and archival frameworks thus defines

the normative conditions under which protocol-issued copies may be considered reliable evidentiary instruments.

The mechanism for the transfer of notarial protocols is regulated by Article 62 of the UUJN, which delineates the specific conditions under which a notary is required to submit the protocol to another notary designated by the Regional Supervisory Council, including cases of retirement, relocation, dismissal, or death (Budify et al., 2020). The Notary Protocol Holder who receives the protocol assumes custodial responsibility for all archived minutes and acquires the authority, under Article 64 paragraph 2 of the UUJN, to issue grosse deeds, deed copies, and deed citations based on the minutes in their possession. Critically, however, this provision confers administrative custodial authority and does not reassign substantive liability for the contents of the deed, which remains with the notary who originally executed it, as confirmed by Article 65 of the UUJN. This legislative architecture creates a functional separation between custodial authority and substantive accountability that must be carefully observed in the assessment of copy issuance.

The centrality of the minute to the entire system of notarial documentation is established both doctrinally and legislatively. Article 1, Number 9 of the UUJN requires that a copy constitute a verbatim reproduction of the minute, and mandates the inclusion of a certification statement confirming its conformity with the original. The notary must first verify the existence, legal validity, and physical integrity of the minute before proceeding with reproduction (Sari & Lisdiyono, 2024). No other document may substitute for the minute as the foundational basis of the copy, as the minute alone contains the original handwritten signatures of the parties, witnesses, and the executing notary. The inviolability of the minute as the primary record is therefore a precondition for the legal validity of any copy, and any deviation from its text, including minor typographical alterations, constitutes a violation of the evidentiary integrity of the instrument (Syamsuddin, 2020).

Where the original minute has been lost, destroyed, or rendered unavailable, the UUJN provides a structured administrative procedure to govern the response. The custodian is required to file a loss report with the competent police authority as the mandatory administrative step for formally registering the document as missing, after which a notarial declaration detailing the chronological history and content of the lost minute may be prepared (Nurjaya et al., 2020). Only upon the completion of these procedures may a reconstituted original be produced. The rationale for this procedural framework is the prevention of unauthorized alteration or fabrication of notarial records, and the preservation of the chain of evidentiary custody (Hadju, 2021). The loss of a minute is accordingly treated not as an administrative inconvenience but as a legally significant event requiring formal documentation and institutional accountability (Budify et al., 2020).

The authority of the Notary Protocol Holder to issue copies is thus not unlimited. It is bounded by the condition of the archived minutes, by the prohibition on deviation from the original text, by the obligation to notify interested parties of any reconstitution, and by the requirement to register all relevant administrative actions in the notarial register. These constraints collectively define the normative perimeter of the protocol holder's custodial function and establish the conditions under which

issued copies may legitimately claim the evidentiary characteristics of the original authentic deed. The state's interest in maintaining the integrity of notarial archives is reflected in the ethical obligations imposed on the protocol holder, which require accountability, honesty, and diligent care in the safekeeping and distribution of official documents (Afwija et al., 2025; Sunaryanto, 2018).

Notwithstanding the foregoing regulatory framework, a significant normative gap persists. While the UUJN provides the administrative basis for the transfer of protocols and the issuance of copies by the protocol holder, it does not explicitly define the evidentiary hierarchy or probative status of such copies within the civil evidence framework. This omission creates a structural ambiguity: copies are administratively authorized but their evidential equivalence to the original authentic deed is not unequivocally established by statute (Setiawan & Octarina, 2022). In legal contexts where evidentiary certainty is essential, including disputes over property transfers, inheritance settlements, and contractual enforcement, this ambiguity generates interpretive uncertainty that directly threatens the stability of civil transactions and the security of the civil rights dependent on them (Khusna et al., 2025).

The Evidentiary Power of Authentic Deed Copies Issued by the Notary Protocol Holder

The concept of evidence in civil procedural law is not reducible to the mere production of documents; it encompasses a systematic legal process governed by formal evidentiary standards that assign differential probative weight to different categories of documentary proof. Authentic deeds occupy the apex of this hierarchy, recognized as perfect written proof until effectively and formally contested (Budianto, 2020b). The central question that this sub-section addresses is whether a copy issued by a Notary Protocol Holder from archived minutes is capable of maintaining the same formal and substantive evidentiary position as the original authentic deed within this hierarchical system.

In comparative evidentiary scholarship, authentic instruments in civil law systems are distinguished by their capacity to establish a presumption of both formal and material truth (Taruffo, 2003). This presumption derives from the combined effect of the public official's institutional authority and the integrity of the archival system in which the instrument is preserved. The hierarchy of documentary evidence accordingly reflects a structural commitment to legal certainty, whereby public documents command probative supremacy until displaced by legally admissible counter-evidence (Damaska, 1997). The critical doctrinal question is whether copies issued by the Notary Protocol Holder, whose authority is derived and custodial rather than original and executing, are capable of sustaining that same protected evidentiary presumption.

Under Indonesian positive law, an authentic deed executed by a notary public constitutes legal proof of incontrovertible evidentiary value with respect to the matters recorded within it. This attribute derives from the fact that an authentic deed does not merely record the intentions of the parties but subjects them to formal legal verification by a public official representing the state (Rahman, 2019). The deed is

executed in a singular original, retained in the notarial protocol, and incorporates the handwritten signatures of the parties, witnesses, and notary as indicia of authenticity and finality. The concept of authenticity loses its normative significance if a document identical in appearance to the original can be treated as evidentiary equivalent without reference to the conditions under which it was produced and the authority of the person who produced it.

The evidentiary value of a protocol-issued copy is accordingly mediated by its relationship to the minute from which it was produced. The civil procedure law acknowledges that where a copy of an original deed is placed before a court, the court possesses authority to examine the copy against the minute to assess its conformity and evidentiary weight. The certainty of the copy's probative value is thus directly proportional to the demonstrable integrity of the archival chain: where the minute is intact, properly archived, and the copy has been produced in strict conformity with the legislative requirements of Article 1, Number 9 of the UUJN, there is a strong normative basis for treating the copy as evidentiary equivalent to the original (Sari & Lisdiyono, 2024). Where the minute is absent, damaged, or its provenance disputed, the copy cannot independently validate itself and its evidentiary weight becomes subject to judicial discretion.

The three-dimensional evidentiary force of authentic deeds, encompassing external, formal, and material evidentiary power, presents differentiated considerations in the context of protocol-issued copies. The external evidentiary power, which relates to the formal appearance and structural characteristics of the document, including its format, notarial formula, and certification statement, is generally maintainable provided the copy has been produced by a duly appointed Notary Protocol Holder in compliance with prescribed procedures. The formal evidentiary power, which concerns the authenticity of the acts and declarations recorded within the deed as having occurred before the notary, is equally capable of being sustained by a protocol-issued copy, as it derives from the content of the minute rather than the identity of the issuing notary. The material evidentiary power, which relates to the truth of the substantive declarations of the parties, is not dependent on the identity of the issuing notary and is equally applicable to protocol-issued copies, subject to the general presumption applicable to authentic deeds (Anrova et al., 2021).

The role of witnesses and corroborating documentation in the judicial assessment of contested copies warrants specific attention. Where the original minute is unavailable and the evidentiary value of the copy is contested, courts have regard not merely to the text of the copy but to the broader evidentiary context surrounding its production and history. Witness testimony from parties present at the execution of the original deed, powers of attorney, personal identification documents, and contemporaneous records may all contribute to the judicial assessment of whether the copy faithfully represents the original legal transaction (Purwaningsih, 2015). As Keane and McKeown (2022) observe, supporting documentation and witness testimony are not merely ancillary elements but fundamental enhancements of evidential integrity that may substitute in part for the absent minute as corroborative foundations of probative equivalence.

Civil law jurisdictions with more developed notarial frameworks provide instructive reference points for resolving the normative ambiguity identified above. Dutch notarial law explicitly acknowledges legally issued copies as possessing evidentiary equivalence to the original deed, provided they are issued by the authorized custodian and produced in strict conformity with formal reproduction requirements (Humaira & Latumeten, 2022). German law similarly recognizes notarized copies as legally legitimate reproductions that preserve evidentiary continuity when the original is retained in archive (Wolf, 2008). In both systems, legislative clarity regarding the evidentiary status of custodially issued copies eliminates the interpretive uncertainty that characterizes the Indonesian framework and provides parties and courts with a normatively secure basis for treating such copies as probatively equivalent to the originals from which they derive.

Indonesian judicial practice has generally affirmed that authentic deeds command absolute evidentiary force until disproven (Butt & Nathaniel, 2024). In disputes involving copies produced from transferred protocols, however, courts have been observed to evaluate procedural compliance, archival record authenticity, and supporting evidence before endorsing evidentiary equivalence. This pattern of judicial assessment indicates that evidentiary continuity in the context of protocol-issued copies is treated not as inherent but as contingent on demonstrable procedural correctness, and that the absence of explicit legislative guidance has expanded rather than constrained judicial interpretive authority in this area. The practical consequence is that the evidentiary standing of a protocol-issued copy may vary depending on the judicial forum and the interpretive approach adopted, generating systemic unpredictability that is incompatible with the legal certainty that the civil evidence system is designed to guarantee.

The societal implications of this evidentiary uncertainty extend directly to the community's capacity to assert and defend civil rights. Authentic deeds are indispensable instruments in land registration proceedings, inheritance settlements, marital property arrangements, credit agreements, and commercial transactions (Trayama & Adhari, 2025). When the original notary is no longer in office, the protocol holder becomes the sole institutional source of the documentary continuity on which these transactions depend. Divergent judicial interpretations of the evidentiary value of protocol-issued copies create conditions in which individuals may be unable to establish property ownership, execute contractual obligations, or defend inheritance rights through the legal mechanisms nominally available to them (Gandžalová, 2024). Clarifying the evidentiary character of such copies through explicit legislative provision would directly strengthen legal certainty and protect the community's civil rights within the overarching civil justice system. As Christians and van Apeldoorn (2018) observe, the predictability of documentary evidence is not merely a technical concern but a foundational element of the access to civil justice that democratic legal systems are obligated to provide.

Legal Uncertainty, Vulnerable Groups, and Inclusive Access to Civil Justice

The normative ambiguity surrounding the evidentiary status of copies issued by Notary Protocol Holders is not a concern confined to doctrinal debate. When legislative frameworks fail to define clearly the probative hierarchy of documentary evidence, the consequences are borne most heavily by those who lack the institutional resources to navigate prolonged civil litigation. The absence of an explicit statutory provision affirming the evidentiary equivalence of protocol-issued copies generates a structural vulnerability that disproportionately affects specific segments of society, particularly those whose civil rights depend on the uninterrupted continuity of notarial documentation.

Fineman and Grear (2013) advance through vulnerability theory the proposition that legal systems must move beyond formal equality and attend to the embedded, structural sources of disadvantage that render certain individuals more susceptible to institutional harm. Vulnerability, in this theoretical framework, is not an exceptional or temporary condition but a universal human characteristic mediated differently according to the social, economic, and institutional resources available to each person. Applied to the present context, the regulatory gap in Indonesian notarial law does not affect all parties equally. Those with access to competent legal counsel, financial capacity for extended litigation, and proximity to urban notarial infrastructure are substantially better positioned to contest or remedy evidentiary deficiencies than those without such resources.

Among the groups most structurally exposed to the consequences of this normative gap are women involved in inheritance disputes. Research by Irianto (2004) on inheritance litigation in Indonesia documents how women, particularly widows and daughters, confront compounded barriers in seeking to enforce their civil rights through state courts, with cases extending over prolonged periods and the evidentiary framework itself frequently disadvantaging those who do not hold direct custody of property documents or authentic deeds. When the notary who originally executed the relevant deed has retired or died and the protocol has been transferred, women asserting inheritance claims become dependent on copies issued by a protocol holder whose evidentiary authority remains normatively undefined. In the absence of legislative clarity, this dependency translates into elevated litigation risk and increased vulnerability to adverse judicial interpretation. Agarwal and Naik (2024) similarly demonstrate through empirical case analysis that even where substantive inheritance rights are legally recognized, procedural and evidentiary barriers faced by women in civil courts remain substantial, and that the gap between legal entitlement and effective access to civil justice persists as a structural phenomenon resistant to resolution through formal equality alone.

Rural and indigenous communities constitute a second group whose exposure to the consequences of notarial evidentiary ambiguity is particularly acute. Hidayat et al. (2018) and Nuhidayah et al. (2020) document that in Indonesian legal practice, the interface between formal legal documentation and customary land governance is persistently fraught with procedural uncertainty. Indigenous communities in geographically remote areas have historically had limited access to notarial services, and the turnover of notarial protocols in such areas tends to be more frequent and less

administratively stable than in urban centers. Nugroho et al. (2022) further illustrate that claims to land and property rights in Indonesia's indigenous regions are often substantiated through combinations of formal and non-formal evidence, making the integrity and legal clarity of any available documentary proof particularly consequential. Where the evidentiary status of a protocol-issued copy is subject to judicial discretion rather than normative certainty, the legal position of indigenous communities in civil disputes becomes correspondingly precarious (Sukirno & Wibawa, 2024).

The dimension of economic inequality cannot be separated from the analysis of access to civil justice in this context. Sandefur (2009) has extensively documented that access to civil justice is not uniformly distributed across social class and that the unequal distribution of legal resources produces systematic disparities in civil justice outcomes. Low-income parties are less able to sustain extended litigation, less likely to engage professional legal representation, and more dependent on the formal evidentiary value of documents as substitutes for institutional advocacy. When those documents, specifically authentic deed copies issued by notary protocol holders, carry uncertain evidentiary standing, low-income litigants bear a disproportionate share of the resulting legal risk. The normative gap identified in this study thus functions not as a neutral regulatory omission but as a structural mechanism through which existing economic inequalities are reproduced within the civil justice system. Lillo Lobos (2022), drawing on the foundational work of Cappelletti, underscores that procedural and evidentiary barriers to civil justice are among the most persistent structural obstacles to genuine legal inclusion, and that their resolution requires not merely doctrinal clarification but deliberate legislative intervention.

The procedural dimension of this analysis is reinforced by Negishi (2020), who demonstrates that the rules governing documentary evidence and access to proof are integral to the substantive enjoyment of civil and social rights. Where procedural frameworks are ambiguous or inconsistently applied, the rights of vulnerable groups are exposed to erosion not through direct legislative exclusion but through the practical inaccessibility of the legal mechanisms through which those rights are enforced. The evidentiary ambiguity analyzed in this study operates precisely in this procedural register, generating conditions under which substantive civil rights, including rights to property, inheritance, and contractual enforcement, are effectively weakened for those least equipped to contest adverse evidentiary determinations.

From a comparative standpoint, the regulatory frameworks of the Netherlands and Germany demonstrate that legislative clarity regarding the evidentiary status of notarial deed copies is not only achievable but practically essential for maintaining systemic public trust in civil documentation. Nazran et al. (2024) observe that Indonesia's current legal framework acknowledges administrative authority in notarial transitions but fails to provide equivalent doctrinal clarity regarding evidentiary continuity. This comparative deficit has direct implications for legal inclusion: where evidentiary equivalence is presumed by law, vulnerable parties are protected by the normative framework itself; where it must be demonstrated case by

case, the burden falls most heavily on those with the least institutional capacity to discharge it.

The digitalization of notarial protocols represents one concrete structural response to the vulnerabilities identified above. Neira et al. (2024) document that the digitization of public deeds in comparable civil law systems has contributed meaningfully to legal certainty by reducing dependence on physical archival continuity and enabling more reliable verification of documentary provenance. Fendri and Mannas (2019) similarly identify the digitization of notarial instruments as a mechanism for reducing the legal uncertainty that arises from administrative transitions in notarial practice. For Indonesia, the establishment of a centralized digital protocol archive, accessible to authorized parties and subject to independent regulatory oversight, would substantially reduce the conditions under which the loss, deterioration, or disputed custody of minutes exposes vulnerable parties to evidentiary uncertainty. Nazran et al. (2024) further demonstrate through comparative analysis that integrated digital notarial platforms enable real-time verification of documentary provenance in ways that substantially diminish the interpretive ambiguity currently surrounding protocol-issued copies.

Normative clarity in this domain is, in the final analysis, a precondition for substantive legal inclusion. Authentic deeds constitute the evidentiary foundation of civil transactions involving property transfers, inheritance allocations, marital property arrangements, and commercial contracts. When the original notary is no longer in office, the community's dependence on the protocol holder for documentary continuity is total. The evidentiary ambiguity analyzed throughout this study does not affect all members of that community equally. It falls most severely on those, including women asserting inheritance rights, indigenous communities relying on formal documentation of customary land relationships, and low-income parties navigating civil disputes without professional legal support, who bear the greatest structural disadvantage in accessing the civil justice system. Addressing this normative gap through explicit legislative reform, enhanced professional standards in protocol administration, and the progressive digitalization of notarial archives would constitute a meaningful and necessary step toward the just and inclusive civil legal system to which this study is directed.

4. CONCLUSION

This study set out, as its first objective, to determine the evidentiary standing of authentic deed copies issued by Notary Protocol Holders within the Indonesian civil evidence hierarchy, including in circumstances where the original minute is unavailable, damaged, or contested. The analysis establishes that, upon satisfaction of the formal requirements prescribed by the UUJN, namely verbatim reproduction of the archived minute, inclusion of a conformity certification, and issuance by a duly appointed protocol holder, such copies are capable of maintaining evidentiary equivalence to the original authentic deed across all three dimensions of evidentiary power: external, formal, and material. This evidentiary equivalence is not, however, legislatively presumed. The UUJN authorizes the issuance of copies without unequivocally affirming their probative hierarchy, with the consequence that evidentiary continuity is treated in judicial practice as contingent on demonstrable

procedural correctness rather than as an inherent attribute of the custodial authority. Where the original minute is absent or its provenance disputed, the copy loses its independent evidentiary foundation and its probative weight becomes subject to judicial discretion, introducing systemic unpredictability incompatible with the legal certainty the civil evidence framework is designed to guarantee.

The second objective of this study was to delineate the normative boundaries of the Notary Protocol Holder's authority in the issuance of authentic deed copies. The analysis establishes that this authority is strictly custodial in character. Grounded in Articles 62 and 64 of the UUJN, it extends to the administrative reproduction and distribution of archived minutes but does not encompass substantive modification, reconstruction, or the reassignment of liability for the content of the deed, which remains with the notary who originally executed it pursuant to Article 65 of the UUJN. The protocol holder's authority is bounded by four normative constraints: the physical integrity of the archived minute as the inviolable documentary foundation of any copy; the absolute prohibition on deviation from the original text; the obligation to notify interested parties upon issuance; and the requirement to register all relevant administrative acts in the notarial register. Where the minute has been lost, the UUJN prescribes a structured procedure comprising a formal police loss report and a notarial declaration before any reconstituted instrument may be produced. These boundaries collectively reflect the state's interest in maintaining the integrity and public trustworthiness of notarial archives as institutional foundations of civil legal certainty.

Doctrinally, this study contributes to the literature on evidentiary continuity in notarial transition by identifying and systematically analyzing a normative gap that has received insufficient scholarly attention in Indonesian legal discourse. The UUJN's silence regarding the evidentiary hierarchy of protocol-issued copies stands in marked contrast to the regulatory treatment accorded to equivalent instruments in more developed civil law systems. Comparative analysis of Dutch and German notarial law demonstrates that legislative presumption of evidentiary equivalence for custodially issued copies is both achievable and practically essential: where equivalence is normatively presumed, parties and courts operate within a framework of certainty; where it must be judicially assessed case by case, interpretive inconsistency becomes structurally embedded in the civil justice system. This comparative deficit confirms that the Indonesian framework requires deliberate legislative attention and that doctrinal development alone is insufficient to resolve the evidentiary ambiguity identified.

Practically, this study offers three recommendations directed toward regulatory reform for a more coherent, legally certain, and socially equitable civil evidence system in Indonesia. First, the UUJN should be amended to include an explicit provision affirming the evidentiary equivalence of authentic deed copies issued by Notary Protocol Holders in conformity with prescribed formal requirements, thereby establishing evidentiary continuity as a normative presumption. Second, professional standards governing protocol administration should be strengthened to ensure consistent custodial practices, archival integrity, and procedural accountability across all notarial jurisdictions. Third, the progressive digitalization of notarial archives

should be pursued as a structural mechanism to reduce the evidentiary risks generated by physical archival vulnerability. These recommendations are particularly urgent in light of the disproportionate consequences of the current normative gap for vulnerable groups, including women asserting inheritance rights, indigenous and rural communities with constrained access to notarial services, and low-income parties who depend on documentary evidence as the primary means of exercising their civil rights. As a normative study, this research is confined to doctrinal analysis; future research should empirically examine judicial practice in evidentiary disputes involving protocol-issued copies and assess the structural access-to-justice barriers experienced by affected communities in Indonesian civil proceedings.

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