

Cyber Notary and the Digital Transformation of Authentic Deed Formation in Indonesia

Putri Afifa, Anggreany Arief, Muhammad Arsy

Fakultas Hukum, Universitas Muslim Indonesia

Email : putriafifahhhhh11@gmail.com

Abstract: *This research aims to examine and describe the regulatory issues encountered by notaries in the process of drafting authentic deeds online, as well as to identify and analyze the main challenges in regulating the online execution of authentic deeds by notaries. The study adopts an empirical research method, which is based on direct observation and actual experiences in the field. The primary objective is to obtain concrete data or evidence through scientific methods such as observation, interviews, surveys, experiments, or case studies.*

The research findings indicate that the regulation of Cyber Notary is stipulated in Article 15, Paragraph (3) of the UUJN; however, its implementation in Indonesia is still hindered by the lack of clear regulations. Changes are required in the definition of notarial deeds, the authority of notaries concerning electronic deeds, and adequate digital procedures. Furthermore, data security and the verification of parties' identities are crucial to prevent cybercrime. Therefore, harmonization between the UUJN, the Electronic Information and Transactions Law (UU ITE), and other relevant regulations is key to the successful implementation of Cyber Notary. The challenges in implementing Cyber and Electronic Notary encompass substantive, structural, and legal culture aspects. Substantively, regulations must be updated to include provisions on online presence and electronic identity verification. Structurally, secure technology, integrated infrastructure, and capacity building for notary human resources are necessary. Meanwhile, from the perspective of legal culture, public trust in the security and validity of electronic transactions must be established. Consequently, inter-institutional collaboration and regulatory adjustments are essential steps to support the readiness of notaries and a reliable system.

Keywords: *cyber notary, notary, authentic deed*

Abstrak: *Penelitian ini bertujuan untuk mengetahui dan menggambarkan pengaturan yang dihadapi oleh notaris dalam proses pembuatan akta otentik secara online serta untuk mengetahui dan menggambarkan tantangan utama yang ada dalam mengatur pembuatan akta otentik secara online oleh notaris. Penelitian ini menggunakan metode penelitian empiris, yaitu penelitian yang didasarkan pada pengamatan langsung atau pengalaman nyata di*

lapangan. Tujuan utama dari penelitian ini adalah untuk memperoleh data atau bukti konkret melalui metode ilmiah, seperti observasi, wawancara, survei, eksperimen, atau studi kasus.

Hasil penelitian menunjukkan bahwa Pengaturan Cyber Notary diatur dalam Pasal 15 Ayat (3) UUJN, namun penerapannya di Indonesia masih terhambat oleh kurangnya regulasi yang jelas. Diperlukan perubahan pada definisi akta notaris, kewenangan notaris terkait akta elektronik, serta prosedur digital yang memadai. Selain itu, aspek keamanan data dan identitas para pihak sangat penting untuk mencegah kejahatan siber. Oleh karena itu, harmonisasi antara UUJN, UU ITE, dan regulasi lainnya menjadi kunci keberhasilan penerapan Cyber Notary. Tantangan implementasi Cyber dan Electronic Notary mencakup aspek substansi, struktur, dan kultur hukum. Secara substansi, regulasi harus diperbarui agar mencakup kehadiran online dan verifikasi identitas elektronik. Dari segi struktur, dibutuhkan teknologi yang aman, infrastruktur yang terintegrasi, serta peningkatan kapasitas SDM notaris. Sementara itu, dari sisi kultur hukum, perlu dibangun kepercayaan masyarakat terhadap keamanan dan keabsahan transaksi elektronik. Untuk itu, kolaborasi antar lembaga dan penyesuaian regulasi menjadi langkah penting dalam mendukung kesiapan notaris dan sistem yang andal.

Kata Kunci : Notaris Siber, Kenokhtariatan, Akta Otentik

INTRODUCTION

Considering that technological progress today is developing very rapidly due to the emergence of numerous innovations and creative ideas, technology has provided society with convenience in telecommunications, helping human relationships become faster, easier, and more practical. In the digital era, many conveniences can be experienced, such as easy access to knowledge and technology as well as communication without limitations of time and place. The various conveniences brought about by advances in information technology are a blessing from Allah SWT in the form of technological benefits that we are able to enjoy today. In this context, although humans may use technology to explore and understand the universe, they must remain aware that all of it is part of the greater creation of Allah. This verse also serves as a reminder that no creature can escape accountability before Allah.[1]

The legal basis for Cyber Notary is found in Article 15 paragraph (3) of the Law on Notary Position (UUJN) through the phrase “other authorities as regulated by laws and regulations,” as explained in the elucidation of Article 15 paragraph (3), which states: “What is meant by other authorities as regulated by laws and regulations includes, among others, the authority to certify transactions conducted electronically (cyber notary), to draw up deeds of waqf pledge, and aircraft mortgages.[2]

The definition of an authentic deed is regulated in Article 1868 of the *Burgerlijk Wetboek*, which in Indonesia is known as the Civil Code (hereinafter referred to as the BW), and according to Article 165 of the *Herzien Inlandsch Reglement* (HIR) or Article 285 of the *Rechtsreglement voor de Buitengewesten* (RBG), an authentic deed is defined as “a deed drawn up in the form prescribed by law, made by or before a public official who is authorized to do so at the place where the deed is executed.” These provisions establish that an authentic deed has perfect evidentiary value. This means that what is stated in an authentic deed, which is made by an

authorized official (for example, a notary), is deemed true and legally valid as evidence in court. In other words, the contents of an authentic deed do not need to be proven again unless a party can present evidence to the contrary.[3]

With the COVID-19 pandemic (*Coronavirus Disease 2019*) spreading across the world from 2019 to 2022, human life was deeply affected, as the existence of COVID-19 brought about serious negative impacts. These negative impacts were not only felt in the health sector but also in the economic, tourism, and education sectors. Moreover, one business sector that experienced significant disruption due to the negative effects of the COVID-19 pandemic was notarial services. In order to protect the interests of the parties concerned, an authentic deed drawn up by a notary is required. An authentic deed, as the strongest form of evidence, provides legal certainty because it clearly defines the rights and obligations of each party and is capable of serving as a means of dispute resolution when a dispute arises.[4] So important is the role of authentic deeds as the strongest means of evidence in society, and the development of the times has led to demands for notaries to work more flexibly. Such flexibility can be supported by the utilization of technology by notaries in carrying out their profession and authority. This is evidenced by the emergence of a concept known as the cyber notary. The concept of the cyber notary first emerged in 1994, introduced by the Information Security Committee of the American Bar Association.[5]

The number of legal cases related to the implementation of Cyber Notary in Indonesia during the 2019–2024 period amounted to four cases. Within the 2019 to 2024 timeframe, there were four major cases associated with the application of cyber notary in Indonesia. In 2024, a case emerged involving a notary who used the Zoom application to draw up a deed without the physical presence of the parties. This gave rise to legal issues because it was deemed inconsistent with the provisions of the Notary Office Act, and it was ultimately reported to the police by the Indonesian Notary Association (Ikatan Notaris Indonesia/INI). Previously, in 2021, issues related to the provisions of the Notary Office Act also arose and were ultimately reported to the police by the Indonesian Notary Association (INI). Previously, in 2021, a legal dispute arose regarding the validity of a deed resulting from a General Meeting of Shareholders (GMS) conducted online. The court ruled that the deed remained valid, provided that the reading was carried out online and the signing was conducted physically. In 2020, the Indonesian Notary Association (INI) also experienced internal debates concerning the legality of the digitalization of notarial deeds, which at that time did not yet have a clear legal basis. Although these debates did not reach the courts, they reflected concerns among notaries regarding cyber notary practices. Subsequently, in 2019, an academic study revealed that notarial deeds created digitally still lacked strong legal certainty and were at risk of being deemed invalid if used in dispute resolution. Although there have been no major litigation cases that explicitly mention “cyber notary,” these four events reflect the growing urgency for clear and detailed regulations governing the implementation of cyber notary in Indonesia.[6] Although there have been no major legal cases involving Cyber Notary during the 2024–2025 period, this issue remains a major concern in the Indonesian notarial field. Various studies and case analyses indicate that

the implementation of Cyber Notary faces legal and technical challenges that need to be addressed through regulatory updates and improvements in technological infrastructure.

Based on the above description of the background of the problem, the issues formulated as the scope of discussion in this study are as follows: How is the legal regulation of cyber notary as a new era in the making of authentic deeds in Indonesia? What are the main challenges faced by notaries in the process of creating authentic deeds online?

RESEARCH METHOD

This study constitutes an empirical legal research that seeks to understand law not merely as a set of normative rules, but as a living reality that operates and develops within society. In this context, law is examined in its practical dimension—how it is applied, interpreted, and experienced by legal actors and the public in everyday life. The research focuses on examining and analyzing the role of Cyber Notary in addressing and overcoming various obstacles encountered in the process of creating authentic deeds through online or electronic means. This includes identifying legal, technical, and procedural challenges, as well as evaluating the effectiveness of existing mechanisms in facilitating digital notarial services.

Furthermore, this study is conducted through a comprehensive analysis of relevant laws and regulations, particularly those governing notarial practices and electronic transactions, along with their actual implementation in society. The research also considers how these legal frameworks interact with the rapid development of technology and the transformation toward a digital society. By combining empirical findings with normative analysis, this study aims to provide a holistic understanding of the readiness, limitations, and future prospects of Cyber Notary in Indonesia, especially in responding to the demands of technological advancement and the increasing need for efficient, secure, and legally certain digital services.

RESULT AND DISCUSSION

The regulation of Cyber Notary has been stipulated in Article 15 paragraph (3) of the new Notary Office Act (UUJN); however, its implementation in Indonesia is still hampered by the lack of clear regulations. This concept requires changes to the definition of a Notarial Deed, the authority of notaries in the creation and storage of electronic deeds, as well as regulations concerning digital procedures. In addition, it is important to pay attention to transaction security and the identities of the related parties in order to prevent cybercrime. Harmonization between the new Notary Office Act (UUJN), the Electronic Information and Transactions Act (UU ITE), and other related regulations is required to ensure the successful implementation of Cyber Notary. The main challenges in implementing Cyber Notary and Electronic Notary in Indonesia lie in the aspects of legal substance, legal structure, and legal culture. From the substance perspective, existing regulations, such as the UUJN, need to be updated to include provisions on online presence and electronic identity verification. The structural aspect requires secure technological support and integrated infrastructure, as well as the enhancement of notaries' human resource capacity and competence. Meanwhile, from the perspective of legal culture, it is important to build public trust in the security and validity of electronic transactions. This

implementation requires collaboration among relevant ministries and regulatory adjustments to support notary readiness and a secure system.

DISCUSSION

A. Legal Regulation of Cyber Notary as a New Era in the Making of Authentic Deeds in Indonesia

The emergence of Cyber Notary as a result of developments in the era of globalization has led to significant shifts in notarial service activities. Cyber Notary is regulated in the Elucidation of Article 15 paragraph (3) of the amended Notary Law (UUJN). This elucidation serves as a legal umbrella for Notaries in carrying out their services through Cyber Notary practices. Essentially, Cyber Notary is a general concept frequently used in scholarly writings to describe notarial functions applied in electronic transactions or relationships conducted through internet-based media.

Based on the results of an interview with Notary Mrs. Ria Trisnomurti, she explained that: “Article 15 paragraph (3) of the UUJN, which refers to the authority of notaries to certify transactions conducted electronically in relation to Cyber Notary, still lacks clarity both in its regulation and implementation. However, it does not rule out the possibility that in the future Cyber Notary may be implemented, provided that there are clear regulations, for example, a specific provision within the UUJN governing Cyber Notary.”

Based on the explanation above, it is clear that although the Elucidation of Article 15 paragraph (3) of the amended UUJN has introduced the concept of Cyber Notary within the authority of Notaries, the amended UUJN still does not provide legal certainty and therefore does not yet offer a viable opportunity for the implementation of the Cyber Notary concept in Indonesia.

Based on the results of an interview with Notary Mr. Supriyanto, he explained that. “The authority of Notaries to certify transactions conducted electronically (Cyber Notary) can currently be regarded as merely a discourse proposed by the Government for future implementation, as there are no further regulations governing such authority at present.”

According to a legal expert from the Faculty of Law, University of Indonesia (FH UI), Edmon Makarim, the concept of Cyber Notary in Indonesia remains a subject of debate. Although technology enables notaries to perform their roles online (connected via the internet) and remotely, from a legal standpoint, such practices appear not yet feasible. Therefore, the functions and roles of Notaries within the Cyber Notary concept are crucial to be examined in depth, so that Indonesian Notaries can provide the best services to the public. In formulating further regulations regarding the Cyber Notary concept, particular attention must be given to the legal aspects of evidentiary law.[7]

Based on the results of an interview with Notary Mr. Anshar Amal, he explained that: “At present, there are no guidelines regarding the use of Cyber Notary, as the legal requirements for an authentic deed under the UUJN stipulate that the deed must be made by a notary at the place where the deed is executed, and its execution must be conducted through direct, face-to-face interaction with the appearer.”

Based on the explanation above, the regulation of Cyber Notary, if implemented, would be closely related to the validity of signatures made by the notary. This differs from the use of platforms such as Zoom, which facilitate appearers or General Meetings of Shareholders (GMS) in the making of deeds. For example, if shareholder A is in Jakarta, shareholder B is in Batam, and shareholder C is in Makassar, the deed can be executed through teleconference, and the notary will subsequently record the proceedings in the official minutes.

In the concept of Cyber Notary, physical presence or direct face-to-face appearance is no longer required, as it can be replaced by audiovisual media such as teleconferencing or Skype without territorial limitations (borderless), whether across countries or between cities/provinces. Thus, Notaries perform their duties by applying them to electronic transactions or relationships through the internet as the primary medium in executing their functions to produce a deed. This development leads from deeds that were originally considered valid only when set out on paper toward electronic deeds or documents in digital form.

In particular, when associated with the Cyber Notary concept, this represents a new development in the legality of remote verification procedures, which becomes necessary given that several laws in Indonesia have, in fact, provided support—such as recognizing electronic documents as valid evidence. One example is Law Number 11 of 2008 concerning Electronic Information and Transactions (hereinafter referred to as the ITE Law), as regulated in Article 5 of the ITE Law.[8]

According to Mr. Supriyanto, in addition to considering the evidentiary legal aspects, it is also necessary to revise the definition of the term “before” (*dihadapan*) as stated in Article 1 point 7 of the amended UUJN. Based on this provision, the appearer is understood in a physical sense—namely, being physically present before the Notary without the use of any media. Therefore, the required documents must still be presented in their physical form.[7]

B. The Main Challenges Faced by Notaries in the Process of Making Authentic Deeds Online

The social conditions of society as a result of the pandemic have significantly influenced people’s way of life, where the use of digital technology and electronic systems has become highly dominant as a practical and logical solution during such circumstances. Electronic systems essentially function to facilitate processes and services; even under normal conditions without a pandemic, the use of digital infrastructure has been seriously promoted by the government. However, the pandemic has accelerated digital transformation, relying

heavily on the internet as a global electronic system, representing a concrete manifestation of the convergence of communication, media, and informatics technologies (telematics).[9]

The concept of Cyber Notary as well as e-Notary requires comprehensive legal components for its implementation, based on legal system theory. According to the results of an interview with Notary Mr. Anshar Amal, the success of law enforcement depends on three elements of the legal system, namely legal substance, legal structure, and legal culture.

First, from the aspect of legal substance, the UUJN as the umbrella regulation governing the implementation of the notarial office presents several challenges to the implementation of Cyber Notary and Electronic Notary. For instance, Article 15 paragraph (1) stipulates that Notaries are authorized to draw up authentic deeds concerning all acts, agreements, and determinations required by laws and regulations and/or desired by the parties concerned to be stated in an authentic deed, to guarantee the certainty of the date of the deed, to store the deed, and to issue *grosse*, copies, and excerpts of the deed, provided that the making of the deed is not assigned or excluded to other officials or persons as determined by law.

Furthermore, Article 1 point 7 defines a Notarial Deed as an authentic deed made by or before a Notary in accordance with the form and procedures stipulated by law. This provision emphasizes that, as an authentic deed, a notarial deed is strictly bound by the legal requirements concerning its form and the procedures for its execution.

Furthermore, Article 16 paragraph (1) letter m stipulates that one of the obligations of a Notary in performing their duties is to read the deed before the appearers in the presence of at least 2 (two) witnesses, or 4 (four) witnesses specifically for the making of a private will, and that the deed must be signed at that very moment by the appearers, the witnesses, and the Notary.

From this provision, it can be concluded that the Notary, the appearers, and the witnesses must be physically present together and sign the deed simultaneously at the same time.

The ITE Law provides a sufficiently strong legal basis for Electronic Information/Electronic Documents as well as their printouts. According to the provisions of Article 5 paragraphs (1) and (2) of the ITE Law, Electronic Information and/or Electronic Documents and/or their printouts constitute valid legal evidence and represent an extension of admissible evidence under the procedural law applicable in Indonesia.

Furthermore, Article 7 of the ITE Law stipulates that any person who asserts a right, strengthens an existing right, or denies another person's right based on the existence of Electronic Information and/or Electronic Documents must ensure that such Electronic Information and/or Electronic Documents originate from an Electronic System that complies with the requirements set forth by laws and regulations. The Elucidation of Article 7 further

explains that this provision is intended to affirm that Electronic Information and/or Electronic Documents may serve as the basis for the emergence of a legal right.

In relation to notarial deeds, there is an exception under Article 5 paragraph (4) of the ITE Law, which stipulates that the provisions regarding Electronic Information and/or Electronic Documents do not apply to: (a) documents that, according to the law, must be made in written form, and (b) letters and their documents that, pursuant to the law, must be executed in the form of a notarial deed or a deed drawn up by an authorized deed official.

These provisions indicate that, in order to implement Cyber Notary or Electronic Notary, it is necessary to undertake regulatory reform and harmonization of related laws, such as the UUJN, the Civil Code (KUHPerdata), and the ITE Law, supported by comprehensive and applicable implementing regulations.

Second, from the structural aspect, beyond matters of substance or legal norms, the implementation of the digitalization of notarial services requires structural support in the form of facilities and infrastructure, particularly related to legal risk management that may arise. This entails the need for general methods or procedures that can be widely applied to verify the process of appearance, signatures, and the dating/archiving of notarial deeds by notaries, both in physical and electronic forms, as well as the capacity of notaries to conduct such verification. These aspects are essential to ensure the evidentiary strength and binding force of notarial deeds.

RESULT AND DISCUSSION

The regulation of Cyber Notary is stipulated in Article 15 paragraph (3) of the UUJN; however, its implementation in Indonesia continues to face significant challenges due to the absence of clear, detailed, and comprehensive regulatory frameworks. The current provision merely introduces the concept without providing sufficient technical guidelines or legal certainty regarding its practical application. Consequently, there is an urgent need for legal reform, particularly in redefining the concept of notarial deeds to accommodate electronic formats, clarifying the scope of notarial authority in relation to electronic deeds, and establishing standardized digital procedures that can be uniformly applied. In addition, the issues of data security, confidentiality, and the verification of the identity of the parties involved become critically important, as the transition to digital systems increases the potential risk of cybercrime, data breaches, and identity fraud. Therefore, harmonization and synchronization between the UUJN, the ITE Law, and other related regulations are essential to ensure coherence, legal certainty, and effectiveness in the implementation of Cyber Notary in Indonesia.

Furthermore, the challenges in implementing Cyber Notary and Electronic Notary can be analyzed through the framework of the legal system theory, which consists of three key elements: legal substance, legal structure, and legal culture. From the perspective of legal substance, existing regulations must be reformed and expanded to explicitly recognize and regulate online presence, remote verification, and electronic signatures as valid components in the process of making authentic deeds. This includes revisiting provisions that currently require

physical presence and face-to-face interaction, which are no longer fully compatible with technological advancements. From the structural perspective, the successful implementation of Cyber Notary requires robust technological support, including secure digital platforms, reliable authentication systems, integrated national databases, and effective legal risk management mechanisms. In addition, the capacity and competence of notaries must be enhanced through continuous education and training in digital literacy, cybersecurity, and the use of electronic systems, so that they are able to carry out their duties professionally and in compliance with applicable legal standards.

Meanwhile, from the perspective of legal culture, one of the main challenges lies in building public trust in the security, authenticity, and legal validity of electronic transactions and digital notarial services. The shift from conventional, paper-based practices to digital systems requires not only regulatory readiness but also a change in mindset among legal practitioners, notaries, and society at large. Public confidence can be strengthened through consistent law enforcement, transparent procedures, and the demonstration of reliable and secure systems. In this regard, collaboration among government institutions, professional organizations, and technological stakeholders becomes indispensable in creating an ecosystem that supports the implementation of Cyber Notary.

Moreover, rapid technological advancements have increasingly encouraged the adoption of Cyber Notary as a means to enhance efficiency, accessibility, and effectiveness in notarial services. Digitalization offers significant advantages, such as reducing geographical barriers, accelerating administrative processes, and improving service delivery to the public. However, to fully realize these benefits, existing regulations—including the UUJN, the ITE Law, and other relevant legal instruments—must be adjusted and aligned to explicitly accommodate digital practices, including legally recognized online presence and electronic identity verification. In addition, notaries must be equipped with adequate technological skills and knowledge through structured training and professional development programs, enabling them to operate digital systems securely, responsibly, and in accordance with legal and ethical standards in the making of electronic deeds.

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