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Notary's Responsibility for the Validity of Deeds in the Implementation of Cyber Notary in Indonesia

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ABSTRACT

The development of digital technology has brought significant changes to the legal services system, including notarial practices in Indonesia. The implementation of cyber notary emerged as a form of modernization of the notary profession through the use of information technology in the electronic creation, storage, and validation of deeds. However, this practice has given rise to debate regarding the validity of deeds and notary accountability due to the lack of harmonization between the Notary Law (UUJN), the Civil Code (KUH Perdata), and the Electronic Information and Transactions Law (ITE Law). This lack of synchronization of norms results in electronic deeds not being categorized as authentic deeds, thus creating legal uncertainty and potential civil liability for notaries if the deeds are disputed. This study uses a normative juridical method with a statutory and conceptual approach to analyze the limits of notary responsibility and the urgency of regulating the implementation of cyber notary in Indonesia. The results indicate that the establishment of regulations is necessary to regulate the procedures for the legal creation, verification, and validation of electronic deeds. Thus, the government and notary officials also need to actively participate in establishing operational standards that provide legal clarity for notaries when working with digital technology. This is key to realizing a digital notary system that is efficient, adaptive, and still ensures legal certainty.

Keywords: authentic deed; cyber notary; notary liability.

INTRODUCTION

Advances in the digital era have brought significant changes to various aspects of human life, particularly in the field of information and communication technology. Activities previously conducted conventionally and based on physical presence have now shifted to fast and efficient online systems, including legal services. This digital transformation requires every sector to adapt to remain relevant and able to provide effective services in the digital age.¹

In this situation, the digital world has influenced and even encompassed nearly every activity, from professional to daily life.

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¹ Sicilia Firdaus Setiawati, Tetti Samosir, and Fitrai Deni, 'Politik Hukum Cyber Notary dalam Era Digitalisasi 5.0 di Indonesia', *Notarius* 18, no. 3 (2025): 905, <https://doi.org/10.14710/nts.v18i3.74376>.

This development demonstrates that advances in information and communication technology have become a crucial factor in public service. In the digital era, administrative processes that initially required long periods of time, complex procedures, and reliance on physical documents are now being conducted electronically, not only with broader reach but also providing greater time efficiency.² In the context of legal services, digitalization presents a new fundamental concept where information delivery, legal document registration, and consultation processes can be conducted electronically.

Digitalization also encourages the creation of good governance based on the principles of efficiency, transparency, and accountability. Technology-based public services enable the public to obtain easier and faster legal access, thereby strengthening trust in legal institutions. However, on the other hand, this change also requires the legal system to be adaptive, meaning it must be able to adapt to technological developments without neglecting basic legal principles such as certainty, justice, and benefit.³ In response to this phenomenon, one of the professional fields impacted by technological advances is notary public affairs. Under Law Number 2 of 2014, specifically Article 1 paragraph (1) pertaining to Notary Positions, Indonesian notaries serve as public functionaries. Their primary authority lies in drafting authentic deeds, which constitute official legal instruments endowed with comprehensive evidentiary force. These deeds cover various important legal matters such as the sale and purchase of land, the establishment of legal entities, or the creation of agreements. Thus, the existence of notaries plays an important role in ensuring legal certainty and protection for the community.

When electronic deeds are executed, the absence of a face-to-face meeting between the notary and the appearing parties creates juridical problems concerning official accountability. From a civil law standpoint, a notary may be compelled to provide financial restitution upon proof that statutory duties were breached, thereby inflicting harm upon the involved individuals. This is particularly pertinent when digitally created documents fail to retain their probative value or become susceptible to annulment. Furthermore, violations of the formal provisions for its creation can also result in administrative liability in the form of sanctions as stipulated in Article 85 of the UUJN. This condition indicates that the implementation of electronic deeds through

² Nanda Dwi Rizkia and Hardi Fardiansyah, 'Peran Notaris dalam Transformasi Digital dalam Rangka Kesejahteraan Masyarakat Indonesia', *Jurnal Hukum Sasana* 8, no. 2 (2022): 314, <https://doi.org/10.31599/sasana.v8i2.1097>.

³ R.M. Iman Rifai Rusdy and Suci Flambonita, 'Penerapan Sistem Pemerintahan Berbasis Elektronik (SPBE) di Pemerintah Daerah untuk Mewujudkan Good Governance', *Lex LATA* 5, no. 2 (2023): 220-221, <https://doi.org/10.28946/lexl.v5i2.2351>.

cyber notary without a clear legal basis actually has the potential to increase legal risks for notaries.⁴

In Indonesia's development in the era of digital transformation, there is an idea to modernize the notary system through the implementation of cyber notary, namely the use of information technology in carrying out the duties and authorities of a notary, including the creation, storage and validation of deeds electronically.⁵ This concept aims to create notarial services that are fast, precise,

deed-making process is no longer limited to face-to-face meetings but can be conducted online with identity verification and digital signatures.⁶ the implementation of notarial authority by utilizing electronic media in the process of creating and managing deeds. This concept is considered capable of meeting the need for fast and efficient legal services. However, its implementation in Indonesia still raises debate regarding legality (legal basis of authority) and validity (legitimacy and evidentiary power), considering that the Notary Law still emphasizes the physical presence of the parties and the direct reading of deeds by the notary. Therefore, a study is needed to assess the implementation of Cyber Notary.⁷

Although conceptually, cyber notary is seen as a form of modernization that can adapt to the needs of modern society, its implementation still raises legal debate. One of the main issues is the validity of deeds made electronically, due to the lack of synchronization between the provisions of the Notary Law (UUJN), the Civil Code (KUH Perdata), and the Information and Electronic Transactions Law (ITE Law). This situation has raised questions about the extent of notary accountability for deeds made through digital mechanisms and the urgency of establishing regulations that explicitly govern the implementation of cyber notary in Indonesia.⁸

The opportunities for implementing Cyber Notaries should increase the efficiency of notarial services, reduce administrative costs, expand the reach of services, and support a more modern and responsive legal system. Behind these opportunities,

⁴ Dian Cahayani, 'Implikasi Hukum Digitalisasi Akta Notaris Terhadap Validitas Hukum di Indonesia', *Jurnal Cakrawala Ilmiah* 4, no. 5 (2025): 813-815.

⁵ Wiji Achmat Efendi and Rusdianto Sesung, 'Transformation of the Notary's Role in Electronic Deed Regulations Based on Digital Technology', *Journal of Law, Politic and Humanities* 5, no. 5 (2025): 3764-3772, <https://doi.org/10.38035/jlph.v5i5.1946>.

⁶ Habib Adjie and Yessy Artha Mariyanawati, 'Faculty of Law, Surabaya State University, Surabaya, East Java, Indonesia', *PERSPEKTIF: Kajian Masalah Hukum dan Pembangunan* 27 (2022): 44-45, <https://www.kemenkopmk.go.id/index.php/>.

⁷ Chelsya Manik and Pieter E Latumeten, 'Legal Review of the Effect of Technological Developments on Notary Services in Making Authentic Deeds', *Asian Journal of Engineering, Social and Health* 3, no. 11 (2024): 2574-2576, <https://doi.org/https://doi.org/10.46799/ajesh.v3i11.475>.

⁸ Fabela Rahma Monetery and Budi Santoso Program Studi Magister Kenotariatan, 'Keabsahan dan Kekuatan Pembuktian Akta Notaris: Perspektif Cyber Notary di Indonesia', *Notarius* 16, no. 2 (2023): 666-668, <https://doi.org/10.14710/nts.v16i2.41120>.

however, lie a number of regulatory challenges. The current legal framework for notaries, particularly that governed by the Notary Law, still emphasizes the principle of physical presence and direct reading of documents, thus not fully supporting digital-based notarial practices. Furthermore, issues such as data security, the validity of electronic documents, legal protection for all parties involved, and the limits of notary liability in cyberspace are issues that require regulatory updates. Regarding the opportunities and challenges in Cyber Notary regulation, it is crucial to evaluate the readiness of the Indonesian legal system to adopt digital innovations in the notary sector, as well as to formulate regulations that can ensure legal certainty, protect public interests, and maintain notary professionalism in this digital era.⁹

This may be due to the lack of uniform legal norms in Indonesia that should explicitly regulate the procedures, validity, and legal responsibilities for implementing cyber notary services. The existing statutory framework, comprising both the Notary Law and the Electronic Information and Transactions Law, acknowledges the integration of technology into notarial functions. However, these legislative instruments fail to prescribe specific operational protocols for critical processes such as participant authentication, application of electronic signatures, or remote deed recitation. This normative gap creates ambiguity regarding the evidentiary weight of digitally created documents and the corresponding accountability of notaries when conflicts arise. It is therefore imperative to formulate comprehensive regulations governing digital notarial services. Such legal instruments would establish a definitive foundation ensuring predictability and protection for both practitioners and service recipients. Strengthening the notarial institution through adoption of digital mechanisms must be paralleled by rigorous legal refinement and infrastructural preparedness. These measures are essential to preserve conformity with the foundational requirements of authentic instruments within Indonesia's civil law tradition.¹⁰

Therefore, this study seeks to answer the following research questions: First, how are notaries accountable for the validity of deeds created through the implementation of cyber notary in Indonesia as a form of modernizing information technology-based legal services? Second, how urgent is the regulation of cyber notary in response to the development of digital technology and the needs of today's society?

⁹ Tetti Samosir, Anindita Prameswari, Fildza Nur Amalia, and Wahyu Dwi Utami, 'Tantangan Hukum dan Peluang Penerapan Cyber Notaris di Era Transformasi Digital', *Journal of Mandalika Literature*, 6, no. 2 (2024): 316–317, <https://doi.org/10.36312/jml.v6i2.3948>.

¹⁰ Dini Anggraeni and Siti Mahmudah, 'Urgensi Peningkatan Peran Notaris Melalui Implementasi Konsep Cyber Notary dalam Pembuatan Akta di Era Cyber Society 5.0', *AL-MANHAJ: Jurnal Hukum dan Pranata Sosial Islam* 5, no. 2 (2023): 2307–2320, <https://doi.org/10.37680/almanhaj.v5i2.3870>.

RESEARCH METHOD

The research method used normative juridical study is used in this study by using a statutory and conceptual approach, which is selected by the method of analyzing the application of the function of legal norms contained in the Law No. 30 of 2004 jo. Law No. 2 of 2014 (Notary Office Law), the Civil Code (KUH Perdata), and Law No. 11 of 2008, last revised by Law No. 1 of 2024 (ITE Law), to show the conformity of the general practical functions of notary activities with notary behavior. Based on research aimed at providing a clearer picture of the clarification of notary responsibilities regarding the legality of authentic deeds in the implementation of cyber notary practices, as well as the formation of clearer regulations to adapt the Indonesian notary system to the development of digital technology and the needs of today's society. Thus, this study concludes that it is necessary to harmonize understanding and establish new regulations as a strong legal basis for the implementation of cyber notary in Indonesia.

DISCUSSION

Analysis of Notary's Responsibility for the Validity of Deeds in the Implementation of Cyber Notary

Modern notary services Cyber notary Many things basically remember that now the law is very behind the development of technology so that from any side it seems that this manifestation is not an attitude of notary that is open to self-improvement, besides that it is also a response to the community's need for fast and efficient legal services. In the legal umbrella of cyber notaries, Article 15 paragraph (3) of Law Number 2 of 2014 concerning Notaries stipulates that notaries can do other things including certification of agreements using electronic devices (cyber notary). However, this regulation is still being debated because it conflicts with Article 16 paragraph (1) letter m of Law Number 2 of 2014 concerning the Position of Notary (UUJN) which requires: Notaries must read the deed in front of the parties and two witnesses directly.¹¹

Among other things, this situation indicates a conflict between those who support the digitalization of notaries and those who still maintain the principle of physical existence. Furthermore, formally, deeds made through an online system without direct face-to-face meetings cannot be considered original deeds because they do not fulfill the element of "before an official" as stipulated in Article 1868 of the Civil Code (KUH Perdata). Consequently, for these electronic deeds, the evidentiary force is only the same

¹¹ Mahfuzatun Ni'mah Sona, 'Penerapan Cyber Notary di Indonesia dan Kedudukan Hukum Akta Notaris yang Bebas Cyber Notary', *Jurnal Officium Notarium* 2, no. 3 (2022): 498–501, <https://doi.org/10.20885/jon.vol2.iss3.art12>.

as a private deed. However, if there are no problems, that's okay.¹² This uncertainty of legal status poses a risk of legal liability for notaries if the deed is ever challenged. The unclear boundaries of the authentic of electronic deeds and their formal procedures place notaries in a legally weak position if they practice cyber notarization.

One of the main obstacles in the effort to implement cyber notary in Indonesia is the lack of understanding and inconsistency between the laws and regulations governing notaries and electronic transactions. This inconsistency arises because on the one hand, UUJN states that notaries are required to read and sign deeds in the presence of a physical party as formulated in Article 16 paragraph

(1) letter m, while on the other hand, Article 15 paragraph (3) UUJN actually states that notaries have the opportunity to carry out other actions, including using the assistance of electronic devices (cyber notary) indirectly. This inconsistency also creates uncertainty as to whether the implementation of cyber notary can be considered valid or whether it is in conflict with the principle of direct presence in the making of deeds. This inconsistency in laws and regulations is one of the reasons why cyber notary regulations cannot be implemented optimally, because there is no clarity regarding the normative limits of the use of electronic technology in the notarial process.¹³

This legal vacuum also raises doubts about the legal accountability of notaries. To date, there are no clear regulations governing the limits of notary responsibility in the use of electronic systems, data security, and validation of digital signatures of parties. This problem arises because the perspective of digital notaries has not been fully achieved. Therefore, there is no harmonization of norms between the UUJN, the ITE Law, and the Civil Code, resulting in legal inconsistencies regarding the legality of electronic deeds and legal protection for notaries. Therefore, regulatory synchronization is needed so that cyber notary can be implemented legally, measurably, and can provide legal certainty for both parties and notaries themselves.¹⁴

In the context of cyber notary, the notary's civil liability covers the scope of being sued. In civil law, a notary can be sued if his negligence in making an electronic deed harms another party, also the same as Article 1365 of the Civil Code concerning unlawful acts. This negligence may appear in various forms: refusal or failure to verify digital identity; slow electronic data protection; using and installing electronic systems that are not comparable to legal security standards. In practice, these forms of civil liability are generally expressed as mandatory compensation to the party who suffers a loss due to

¹² Burhanuddin, *Tanggung Jawab Notaris Perlindungan Minuta Akta dengan Cyber Notary* (CV. AZKA PUSTAKA, 2022).

¹³ Khusnul Hitaminah, *Kekuatan Pembuktian Protokol Notaris yang Disimpan Secara Elektronik dalam Konsep Cyber Notary* (CV. Bintang Semesta Media, 2024).

¹⁴ Patricia Jessica, *Cyber Notary dan Digitalisasi Tanda Tangan* (Deepublish, 2024).

the not authentic of the deed or by formal limitations that are indicative. In addition, the exercise of notarial authority through electronic media without a clear legal basis also has the potential to give rise to disputes regarding the validity of the deed in the future, so the principle of prudence (prudential principle) is the main obligation for notaries in implementing cyber notary so as not to cause legal consequences that are detrimental to the parties concerned.¹⁵

In the context of electronic deeds, this condition has the potential to cause losses for the parties, especially if the deed is used as a basis for evidence in a civil dispute. The elements of civil liability include the existence of an unlawful act, the existence of an error, the occurrence of a loss, and a causal relationship between the notary's actions and the losses suffered by the parties. If the notary continues to make an electronic deed without the physical presence of the parties, even though they know that this provision has not been explicitly legalized in the UUJN, then this action can be considered a form of professional negligence. The civil liability of a notary is inherent and personal, meaning that the notary can still be held accountable even if the deed is made in an official capacity. This aligns with the view that notaries, as public officials, are not only institutionally responsible but also individually for the deeds they produce. If it is proven that the loss of authentic of the document was due to the notary's negligence, the injured party has the right to file a claim for compensation.¹⁶

Beyond civil liability, notaries who contravene statutory requirements or the professional code of ethics while performing official functions may incur administrative penalties pursuant to prevailing regulations. Such accountability in the administrative sphere stems directly from their status as public functionaries. When breaches of professional obligations occur, the Notary Supervisory Council possesses authority to adjudicate and impose appropriate sanctions. Available administrative penalties range from verbal admonitions and written reprimands to temporary suspension and dishonorable dismissal, with severity determined by the infraction's nature and consequences. These disciplinary measures serve to preserve institutional prestige, professional integrity, and societal confidence in the notarial office.¹⁷

From the perspective of professional integrity, notaries are required to be aware of the limits of their authority. The application of the cyber notary concept without an

¹⁵ Kadek Indra, Prayoga Dinata, and I Gede Agus Kurniawan, 'Jurnal Keabsahan Akta Relass yang Dibuak dengan Vidio Conference Berbasis Notary Study Pngadilan Tinggi Noor 35_pdt_2021_pt Kdi', *Jurnal Pembangunan Hukum Indonesia* 6, no. 3 (2024): 343, <https://doi.org/10.14710/jphi.v6i3.328-351>.

¹⁶ Nabilah Apriani, Irgi Alfian, and Melia Putri Purnama Sari, 'The Application of Cyber Notary in Indonesia', *Jurnal Ius Constituendum* 9, no. 1 (2024): 101-113, <https://doi.org/10.26623/jic.v9i1.8129>.

¹⁷ Ratna Dewi and Sandy Ekki Wiratama Buana, 'Urgensi Pengaturan Terhadap Kewenangan Notaris dalam Melakukan Sertifikasi Transaksi Elektronik', *Jurnal Officium Notarium* 2, no. 2 (2022): 200-215, <https://doi.org/10.20885/jon.vol2.iss2.art3>.

adequate legal basis can be seen as an act of exceeding authority, which has direct implications for administrative responsibility. Failure to comply with formal requirements in the deed-making process can be categorized as a violation of notarial ethics, considering that this has the potential to harm the parties and undermine public trust in the notarial profession. From the perspective of *ius constituendum*, regulations regarding physical presence in the preparation of authentic deeds need to be interpreted and developed adaptively to advances in information technology. This condition indicates a gap between applicable positive law (*ius constitutum*) and the public's need for digital-based legal services. Therefore, *ius constituendum* requires an update to notarial regulations that expressly recognize electronic presence with adequate security and authentication standards, while simultaneously establishing proportional limits on notary responsibilities.¹⁸

Research by Batubara et al. (2021) sources argue that when a notary makes a deed online without the physical presence of the parties, he or she does not fulfill the provisions of Article 1868 of the Civil Code, which requires the deed to be made before an authorized public official. This kind of law clearly violates fundamental provisions. In notarial practice, the physical presence of the parties before the notary is part of the principle of *verlijden*, namely the notary's obligation to see, hear, and witness directly the deed-making process as a guarantee of the document's authentic. The definition of a notary who is only in his or her own home without being able to know the external symptoms of the surrounding community. In other words, a person views the need for clarification as part of himself. Violation of this principle has the potential to lower the deed's status from an authentic deed to a private deed, thereby weakening its evidentiary force before the law.¹⁹

The action of a notary who makes a deed openly without a strong legal basis can be labeled as a form of crime in carrying out his position, which in the realm of civil law can be included in unlawful acts (*onrechtmatige daad*) as regulated in Article 1365 of the Civil Code. This action also not only creates a special bias against the notary himself, but is a threat to those who are interested in the evidentiary power contained in the deed because since the deed was made its power has been lost by Article 11 paragraph 3 of the UUJN. Therefore, there is a firm responsibility where the notary can be asked for compensation, can also be subject to sanctions by the Notary Supervisory Board because

¹⁸ A. Raditya, A., Resentia, R., Shafa Azzahra, 'Ius Constituendum Principle of Facing Notary in Making Authentic Deed in the Perspective of Virtual Electronics (Cyber Notary)', *Journal of Law, Politic and Humanities* 4, no. 5 (2024): 101-116, <https://doi.org/10.38035/jlph.v4i5.555>.

¹⁹ F.A. Batubara, S.A., Tanwin, and M.S., Yosephine, 'Perbuatan Melawan Hukum (Onrechtmatige Daad) Terhadap Akta Notaris Berbasis Cyber Notary', *Diversi Jurnal Hukum* 7, no. 1 (2021): 112-115, <https://doi.org/10.32503/diversi.v10i1.4936>.

it has been proven to have violated the provisions of his position. The regulations regarding the signing of authentic deeds by notaries do not have a clear normative basis, The regulations regarding the signing of authentic deeds by notaries do not have a clear normative basis, so that the creation of deeds openly risks not meeting the requirements for electronic authentic.²⁰

Electronic deeds made without a clear legal basis are invalid and have consequences for the notary's legal responsibilities. The lack of clarity regarding electronic verification mechanisms, digital signatures, and online presence leaves cyber notaries in a legal gray area. In this situation, notaries face a dilemma between the demands for efficient legal services in the digital era and the obligation to uphold the principle of authentic deeds, which are still based on the conventional legal system. Therefore, the existence of derivative regulations containing clear procedures for creating, reading, and validating electronic notaries is crucial to ensure that cyber notary practices can be terminated legally, ethically, and in accordance with the principles of legal duplicity.²¹

On the one hand, Indra et al. (2024) also consider the use of cyberspace notaries permissible, especially for release documents. The release document is marked by the notary as a direct description of what was witnessed. This legal instrument is carried out through a video conference platform. The provisions of Article 15 paragraph (3) and Article 16 paragraph (7) of the UUJN can be interpreted as a legal basis for notaries to certify digital transactions, without requiring physical reading of the deed, if the entire process of identity verification, document authentication, and determination of the parties' agreement is carried out in accordance with statutory infrastructure law. In this context, the virtual presence of the parties can also be seen as "presence before the notary" as long as the notary can assure that the identities and intentions of the parties are real and that the electronic signatures of the parties are not forged.²²

However, Article 5 paragraph (4) in conjunction with Article 5 paragraph (1) of the Electronic Information and Transactions Law (ITE Law) clearly excludes notarial deeds. With this provision, there is actually a normative limit that notarial deeds cannot be made or realized completely in digital form. The demands of the times are technological developments that increasingly allow for the digitalization of documents. However, notarial deeds must still be made in physical form in accordance with the provisions of applicable laws and regulations. That means that norms are no longer fluctuating

²⁰ Hermin, *Regulasi Penandatanganan Secara Elektronik Terhadap Akta Autentik* (Uwais Inspirasi Indonesia, 2024),

²¹ Anggraeni and Mahmudah, 'Urgensi Peningkatan Peran Notaris', 2307-2320. (Refers to note 10)

²² Indra, Dinata, and Kurniawan, 'Jurnal Keabsahan Akta Relass', 332-349. (Refers to note 15)

because they have been recognized as a stable state. However, if done in the right way, it will produce a drastic difference. Building a solid partnership based on trust, is done in openness, honesty, and integrity.

Article 5 paragraph (4) of the ITE Law also expressly excludes notarial deeds from the category of electronic documents that can be equated with written documents. This exception shows that lawmakers still view notarial deeds as documents that have special characteristics that cannot be completely equated with ordinary electronic documents. Thus, legally, the legality of Cyber Notary in Indonesia is still in a normative gap or legal vacuum. The concept of Cyber Notary has been normatively recognized in the explanation of the UUJN, but has not been followed by adequate technical and substantial regulations. The absence of this special regulation implies a lack of legal certainty for notaries in implementing Cyber Notary practices, so that any action that exceeds the authority expressly regulated in the law has the potential to give rise to legal consequences for notaries.²³

The legal standing of a notarial instrument is contingent upon strict adherence to formal and substantive prerequisites enumerated within the Notary Law. A fundamental formal condition requires the notary to articulate the deed's contents before the appearing parties accompanied by witnesses, followed by simultaneous subscription by all participants. Within Cyber Notary implementation, party attendance typically occurs through electronic platforms such as video conferencing.²⁴ Nevertheless, under current Indonesian positive law, virtual attendance remains juridically distinct from physical appearance. Consequently, instruments executed without the tangible presence of parties and witnesses may fail to satisfy formal requirements for authentic deeds, potentially resulting in degradation to private deed status with corresponding evidentiary limitations. Beyond attendance considerations, incorporation of electronic signatures within notarial instruments presents distinct juridical complications. Absent explicit statutory recognition validating virtual presence and digital signatures as compliant with formal requirements for authentic deed execution, the legal validity of instruments created through Cyber Notary mechanisms remains contestable. This circumstance demonstrates that implementing Cyber Notary without adequate statutory foundation creates substantial legal exposure for both practitioners and affected parties.²⁵

²³ Syafira Paramita, 'Legalization of Cyber Notary-Based Notary Deeds as Authentic Deeds Syafira', *AUTHENTICA* 6, no. 1 (2023): 72-75, <https://doi.org/10.20884/1.atc.2023.6.1.363>.

²⁴ Cahayani, 'Implikasi Hukum Digitalisasi Akta', 816-817. (Refers to note 4)

²⁵ Manik and Latumeten, 'Legal Review of the Effect', 2576-2577. (Refers to note 7)

According to Mariyanawati & Adjie (2022), cyber notary was launched in response to the challenges of meeting during the COVID-19 pandemic. Notaries, in this case, were unable to work as they should, due to social restrictions being the primary reason. Cyber notary is an effort to modernize notaries by implementing information technology in carrying out their functions, from the initial stage of document creation to electronic storage and legalization. With this system, notaries can sign digital transaction documents, review electronic signatures, and conduct online meetings as if they were manual without the presence of all parties. However, it should also be noted that this digital change has not been balanced with comprehensive legal regulations, so it tends to cause confusion in practice.²⁶ If, during a trial, this draft law is challenged because its format does not meet legal standards or because the transaction was not properly executed, it is considered a negligence of an official's duties. In such a situation, notaries may also be subject to administrative, civil, or criminal penalties. This situation demonstrates the urgency of issuing legislation that can provide a legal framework for notaries to exercise their position in the digital era, without simultaneously eliminating the principles of authentic and professional responsibility under the UUJN.²⁷

In connection with what was explained above, Anggini Husnul Amirah (2023) reminded that the reading of a deed via video conference does not have legal force as an authentic deed because it does not fulfill the provisions of Article 16 paragraph (1) letter m of the UUJN which requires the reading of the deed to be witnessed by the pengling and two witnesses in person. The absence of the element of direct face-to-face between the participants in the deed and the Notary results in the complete loss of one important element in the process of making an authentic deed, namely the principle of *verlijden* which requires the real presence of the notary to see, hear, and state that he has received the signature of the deed directly. Although Article 15 paragraph (3) of the UUJN provides the authority for notaries to translate electronic transactions, this provision only means the activity of certifying digital documents, not the practice of making deeds electronically as a whole.²⁸

This legal vacuum will create uncertainty about the limits of a notary's authority and obligations online, particularly in determining the extent to which an electronic deed can be recognized as authentic. In the case of cyber notaries, without implementing regulations explaining how to protect security, notaries will generally be in a difficult

²⁶ Adjie and Mariyanawati, 'Keabsahan Akta Otentik', 42-48. (Refers to note 6)

²⁷ I Made Hendra Wijaya and Setiadewi, Kadek, 'Legalitas Akta Notaris Berbasis', *Jurnal Komunikasi Hukum (JKH)* 6, no. 1 (2020): 126-134, <https://doi.org/10.23887/jkh.v6i1.23446>.

²⁸ Anggini Husnul Amirah, 'The Legal Validity of Reading A Notary Deed in Front of The Confronter Via Video Conference', *International Significance of Notary* 3, no. 1 (2023): 58-67, <https://dx.doi.org/10.2020/ison.v4i1.24334>.

position if the legality of online deeds is challenged. Therefore, concrete action is needed, including updates to the UUJN, the ITE Law, and the Civil Code so that the notarial system can continuously adapt to the ever- evolving direction of information technology. These updates are expected to provide legal certainty, protect the professional responsibilities of notaries, and enable the authentication of electronic deeds as a legal instrument with the same evidentiary force as conventional authentic deeds.²⁹

This analysis reveals that cyber notary implementation within Indonesia confronts fundamental predicaments insufficiently addressed through either normative frameworks or practical application. Juridical ambiguity manifests through inconsistent statutory interpretation involving the Notary Law, Civil Code, and Electronic Information and Transactions Law. Such circumstances engender legal uncertainty concerning the validity of electronic documents, particularly absent presumptions regarding party attendance before or witness by a notary. Moreover, in the current information age, there is no specific law that explicitly covers the aspects, form, and evidentiary power of electronic notaries. Therefore, the practice of cyber notaries remains in a legal grey area.³⁰ In reality, addressing this issue of clarity requires the assistance of the entire community. Because it's not advisable for either the creator of an electronic deed or the recipient of such a deed to have their own legal basis, legal ambiguity arises. Furthermore, there's the potential danger of legal liability for notaries if the electronic deed, even though it was drafted by them, is later challenged regarding its validity. This situation demonstrates the need for legal regulation to ensure that legal provisions for all parties, and for notaries as public officials, can be truly observed.

The Urgency of Cyber Notary Regulation in Electronic Deed Certification in Indonesia

A cyber-notary system, as defined by Tiara et al. (2024), is the application of information technology to the implementation of notarial powers, allowing all pledges, records, and participation to be electronic. This system will enable notaries to be more efficient, fast, and secure without violating the basic rules or principles of authentic deeds as stipulated in Article 1868 of the Indonesian Criminal Code.³¹ Through this idea, Efendi and Sesung (2025) also echoed that notary modernization is not only

²⁹ Batubara, Tanwin, and Yosephine, 'Perbuatan Melawan Hukum (Onrechtmatige Daad)', 129-150.

³⁰ Adjie and Mariyanawati, 'Keabsahan Akta Otentik', 44-46. (Refers to note 6)

³¹ Miqdad Nidhom Fahmi Tiara Novita Aisyah Putri, Sinta Annisa Qotrunnada, Habibah Fatihatur Rizqo, and Hais Subaga Athazada, 'Legal Validity of Authentic Deeds Based on Cyber Notary According to Law Number 2 of 2014 Concerning The Position of A Notary', *Journal of Law, Politic and Humanities* 4, no. 4 (2024): 682-688, <https://doi.org/10.38035/jlph.v4i4.409>.

administrative in nature, but also a form of routine change in the legal structure that forms public trust through a legal system that adapts to technological advances.³²

The application of cyber notary allows notaries to certify legal transactions online, while maintaining the authentic of identities, document integrity, and legal compliance through the use of certified digital signatures. However, as explained by Sona (2022), this innovation remains largely conceptual as numerous regulatory obstacles still hinder the legal recognition of electronic deeds as authentic.³³ Therefore, the implementation of cyber notary services in Indonesia requires technology, information, and qualified human resources. Furthermore, it is essential to create a legal framework that ensures efficiency and certainty in notary services, as well as authentic and legal protection for notaries. Before the immaterial regulatory framework became a heatmap, the implementation of cyber notary services only resulted in normative and demographic losses regarding the validity of the resulting deeds.

This situation creates uncertainty at the normative level, which in this case requires the question of whether a physical presence is required in the notary's deed-making process. Judging by its form, notarial deeds are divided into two types: relaas deeds and partij deeds. A relaas deed is a deed witnessed by a notary based on specific information about an event or matter that he or she has judged, such as the minutes of a General Meeting of Shareholders (GMS) held online. This deed tends to be accommodated in the cyber notary system, because its validity rests on the truth of the facts recorded and witnessed by the notary as a public official.³⁴ Conversely, any instrument memorializing party declarations requires execution through physical attendance before a notary, as the official must verify identity, authenticate genuine consensus, and witness actual signatures of the participating parties. This direct appearance is also appropriate to prevent the statement of will being given without coercion, less than consciously, according to the principles inherent in the process of making a letter of instruction.³⁵

The consequences of disharmony between these regulations, according to Indah Kinasih (2024), actually show that Indonesian positive law has not yet reached the level. In fact, Article 15 paragraph (3) is the starting point for adjusting notary law to digitalization. Therefore, it is necessary to consider establishing new regulations that clearly suggest the legal validity of electronic document processing, ways to break

³² Wiji Achmat Efendi and Rusdianto Sesung, 'Transformation of the Notary's Role in Electronic Deed Regulations Based on Digital Technology', (*JLPH Journal of Law, Politic and Humanities* 5, no. 5 (2025): 3764–3772, <https://doi.org/10.38035/jlph.v5i5>).

³³ Sona, 'Penerapan Cyber Notary di Indonesia' 497–505. (Refers to note 11)

³⁴ Indra, Dinata, and Kurniawan, 'Jurnal Keabsahan Akta Relass', 330–333. (Refers to note 15)

³⁵ Lili Julianti and Gunawan Djajaputra, 'Opportunities For Cyber Notary Implementation in A Legal Perspective', *Journal of Law, Politic and Humanities* 4, no. 4 (2024): 803–809, <https://doi.org/10.38035/jlph.v4i4.430>.

digital signatures and online procedures for certification of loads by the Notary's oath of office. With the principle of *principium certum*, data protection privacy and professional notarial functions must be carried out in accordance with procedures with the data of accreditation that applies on the Internet at all. There will be no cyber notary activities that are legally valid or can effectively be canceled.³⁶

Applying Lawrence M. Friedman's theoretical framework concerning legal systems, effective cyber notary implementation depends upon three fundamental components: substantive provisions, institutional apparatus, and societal legal attitudes. Substantive components comprise explicit and thorough regulations directing digital notarial practice. Institutional elements encompass executing agencies including notaries, the Ministry of Law and Human Rights, the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, and electronic certification authorities. Disproportion among these constituent elements inevitably produces juridical lacunae.³⁷ In establishing legal regulations, four fundamental aspects need to be addressed: law, technology, human resources, and data security. From a legal perspective, clear rules governing the methods, authorities, and valid electronic deeds are essential. From a technological perspective, a secure and reliable digital infrastructure is required, including a cloud-based storage system and the use of encryption technology to maintain the integrity of the document itself.³⁸

From a human resources perspective, a notary must be digitally competent, as they are digital notaries. From a data security perspective, regulations must guarantee the protection of personal data, the recognition of authentic documents, and monitoring by an electronic certification authority. In this regard, blockchain technology can also be an option for greater transparency and legal data integrity.³⁹ There are many reasons for the enactment of Law Number 2 of 2014, which amends Law Number 30 of 2004 concerning the Office of Notary. Primarily, there is now a need to provide a specific and precise legal basis for the validity of legal entity decisions. Without this, the continuity of notarial relations in this field will be questionable if it is limited to notarial practice. The development of digital notarial services demands the design of comprehensive digital notarial procedures, from electronic identification to how to create electronic agreements. Without specific regulations, the practice of cyber notary ultimately faces

³⁶ Nadia Pitra Kinasih, 'Kepastian Hukum Notaris Menerapkan Cyber Notary dalam Verlidjen Akta Notaris Secara Digital', *Acten Journal Law Review* 1, no. 3 (2024): 231-252, <https://doi.org/10.71087/ajlr.v1i3.7>.

³⁷ Sarah Fadhillah et al., 'Harmonisasi Pengaturan Cyber Notary dalam Undang-Undang Jabatan Notaris di Era Digitalisasi', *Notarius* 18, no. 3 (2025): 611-26, <https://doi.org/10.14710/nts.v18i3.65545>.

³⁸ Julianti and Djajaputra, 'Opportunities For Cyber Notary', 803-809. (Refers to note 35)

³⁹ Panca O. Hadi Putra, et al., 'A Framework for Integrated E-Notary Services Based on Blockchain for Civil Law Notaries: The Case of Indonesia', *International Journal on Informatics Visualization* 9, no. 1 (2025): 153-162, <https://doi.org/10.62527/joiv.9.1.3170>.

legal uncertainty that can be detrimental to the public, and even notaries themselves as public officials.

Article 16, Article 44, and Article 48 and other aspects need to be updated not only to regulate deeds with media or physical, but also to recognize and legitimize electronic deeds through the Cyber Notary system which lacks legal certainty. Without the amended UUJN, a notary is potentially exposed to night risks, risks related to violations of the code of ethics and the validity of digital deeds. Efficient public services where the public requires remote and fast legal access and can reach a wide geographical area. Aspects of harmonization of national law, especially with the ITE Law and the Personal Data Protection Law, have recognized digital signatures and digital data lifters.⁴⁰

Cyber Notaries open up opportunities to expand access to legal services. People in remote areas or with limited mobility can still obtain notarial services without having to be physically present. This aligns with the principle of access to justice and the modernization of technology-based public services. Another opportunity lies in strengthening the legal administration and evidence system. With the support of technologies such as certified electronic signatures, digital timestamps, and secure electronic storage systems, notarial deeds have the potential to have a higher level of security and traceability than conventional documents. Digitization also enables integration with the national population system and other government electronic systems, thereby minimizing the risk of identity and document forgery. From a legal development perspective, the implementation of Cyber Notaries can be a crucial instrument in supporting national digital transformation and increasing the competitiveness of the Indonesian legal system globally.⁴¹

Notwithstanding considerable promise, cyber notary implementation throughout Indonesia confronts persistent regulatory impediments. The fundamental obstacle resides in the unpreparedness of existing notarial legislation. Current statutory provisions mandate parties' physical appearance, in-person deed recitation, and traditional manuscript subscription, thereby precluding accommodation of electronic instrument creation. Additionally, disharmony persists between the Notary Law and the Electronic Information and Transactions Law. Although the latter acknowledges electronic documents and digital signatures as probative instruments, it contains no explicit stipulations addressing notarial functions or authority within electronic

⁴⁰ Deny Fernaldi Chastra, 'Chastra, Deny Fernaldi (2021) "Kepastian Hukum Cyber Notary Dalam Kaidah Pembuatan Akta Autentik Oleh Notaris Berdasarkan Undang-Undang Jabatan Notaris," Indonesian Notary: Vol. 3, Article 17.', *Indonesian Notary* 3, no. 2 (2021), <https://scholarhub.ui.ac.id/notary/vol3/iss2/17>.

⁴¹ Samosir, Prameswari, Amalia, and Utami, 'Tantangan Hukum dan Peluang Penerapan'. 316–317. (Refers to note 9)

document attestation procedures. This circumstance generates juridical ambiguity concerning the legal status of digitally executed notarial instruments.⁴²

Challenges relate to data security and personal data protection. Cyber Notary practice involves managing sensitive data between parties, making it vulnerable to data leaks. Without clear electronic system security standards and strict oversight, notaries potentially face legal and ethical risks in exercising their authority. From a government perspective, the lack of a standardized national digital notary system also poses an obstacle. These various opportunities and challenges demonstrate that the implementation of Cyber Notaries cannot be separated from the need for regulatory harmonization. Government reform of the UUJN is necessary to accommodate the concept of electronic deeds without eliminating the principles of prudence and authentic of notarial deeds. Without clear and comprehensive regulatory harmonization, the implementation of Cyber Notaries has the potential to create legal vacuums and future disputes. Therefore, regulatory updates are a key prerequisite for optimal utilization of the opportunities for notarial digitalization while ensuring legal certainty and protection for all parties.⁴³

Relevant governmental bodies, especially the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, given their institutional proximity to notarial functions concerning land registration and associated services, bear responsibility for formulating more detailed operational guidelines. These implementing regulations will be used to implement Cyber Notary services in Indonesia, covering standards for digital notary information systems, identity verification procedures as a key element, provisions for the use of certified electronic signatures, data security, storage of electronic notary documents, and interoperability between government services. From a technical perspective, the development of these regulations will be the core of Cyber Notary implementation in Indonesia and, at the same time, will encourage a computerized overhaul of notary services to better align with legal changes in the digital era.

Satjipto Rahardjo explained that, from his legal perspective, law is not only seen as a set of rigid rules, but also as a tool for achieving justice and social benefits. Therefore, the creation of cyber notary regulations is an act of legal reform that is more efficient as a principle. With these regulations, it is hoped that a notary system can be formed that can keep up with technological developments while still maintaining the basic legal

⁴² Indri Meiliawati and Zulfikar, 'Tantangan Yuridis dan Harmonisasi Regulasi Kedudukan Akta Notaris Dalam Pembuktian Perjanjian Elektronik di Era Digital Indonesia', *Lex Lectio : Jurnal Kajian Hukum* 04, no. 01 (2025): 2-4, <https://doi.org/10.61715/jll.v4i1.121>.

⁴³ Meiliawati and Zulfikar, 'Tantangan Yuridis dan Harmonisasi', 5-6. (Refers to note 42)

values of justice and certainty. Consequently, integration of cyber notary provisions within Indonesia's existing legal framework is imperative. Achieving congruence among the Notary Law, Electronic Information and Transactions Law, Civil Code, and Personal Data Protection Law constitutes an essential prerequisite for establishing foundational legislation governing digital notarial practice. With these broad-ranging regulations, it is hoped that the authentic of electronic deeds, personal data protection, strengthening notary accountability, and building public trust in notarial principles in the digital era.

CONCLUSION

Within Indonesia, operationalizing cyber notary mechanisms continues encountering substantial juridical obstacles stemming from the absence of explicit and thorough provisions regulating electronic instrument creation protocols. Based on the analysis conducted, the notary's responsibilities in implementing cyber notaries remain bound by the provisions of the Notary Law (UUJN), the Criminal Code, and other relevant regulations. If an electronic deed is created without fulfilling the formal requirements stipulated in these laws—particularly the requirement for physical presence and direct reading of the deed—the deed risks losing its authenticity and may only have evidentiary value as a personal deed. In such circumstances, the notary may bear civil liability for losses suffered by the parties and may also face administrative sanctions for violating the provisions governing notary offices. Furthermore, the urgency of regulating cyber notaries in Indonesia arises from the growing demand for efficient, technology-based legal services. Existing discordance among the Notary Law, Civil Code, and Electronic Information and Transactions Law generates juridical ambiguity concerning the legal standing and probative weight of digitally executed instruments. Remedial legislative revision and systematic harmonization are consequently essential to establish definitive statutory authority for cyber notarial procedures. Establishing comprehensive regulations governing electronic identity verification, digital signatures, electronic deed procedures, and data protection standards is crucial to ensuring legal certainty, protecting public interests, and maintaining the professionalism and accountability of notaries in the digital era.

Facilitating the advancement and juridical predictability of cyber notarial functions throughout Indonesia requires the government and legislative bodies to pursue amendment and synchronization of current statutory instruments, specifically the Notary Law, the Civil Code, and the Electronic Information and Transactions Law. These revisions should explicitly regulate the procedures, authorities, and legal validity of electronic deeds, including mechanisms for electronic identity verification, digital signatures, online deed reading, and secure electronic document storage. Explicit

statutory provisions are essential to furnish juridical predictability for both practitioners and society when utilizing digital notarial services. Responsible agencies, encompassing the Ministry of Law and Human Rights, the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, together with other pertinent authorities, must formulate detailed operational guidelines and technological infrastructure facilitating cyber notary implementation. Such development encompasses establishing standardized electronic platforms, accredited digital signature facilities, and robust data protection protocols safeguarding the integrity and authenticity of electronically executed instruments. Notaries themselves are expected to continuously improve their professional competencies, particularly in the areas of digital technology and electronic legal administration. Strengthening digital literacy and adherence to legal and ethical standards will help minimize potential legal risks and ensure that notary services remain reliable and accountable in the digital age. With these innovative steps, the implementation of cyber notaries in Indonesia can be more effective while maintaining the fundamental principles of authentic deeds, legal certainty, and public trust in the notary profession.

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