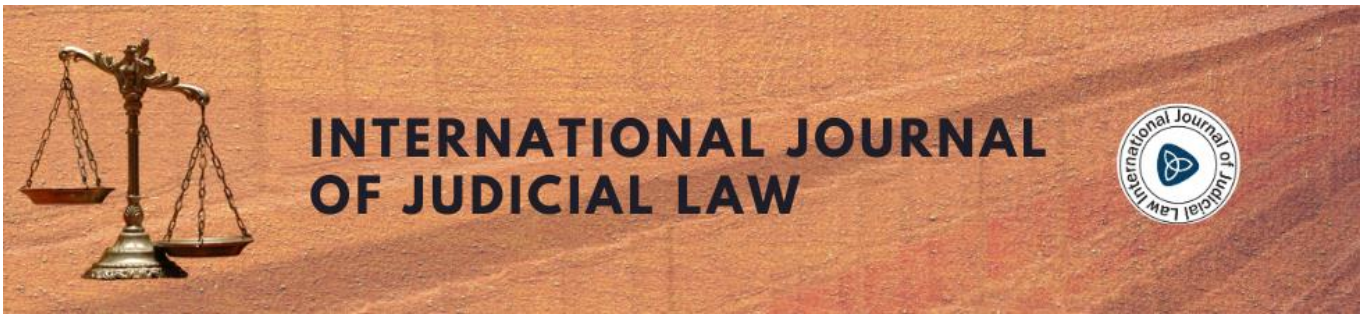




The Effectiveness of Implementing Electronic Deeds in Indonesian Notarial Practice

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Abstract

This research aims to analyze the legal standing of electronic notarial deeds in Indonesia, along with their effectiveness and potential implementation in notarial practice. The study is prompted by advancements in information and communication technology, which have significantly impacted various sectors, including the legal and notarial fields. The concept of the cyber notary has emerged in response to the need for increased efficiency and effectiveness in notarial services within the digital era. This study employs a normative-empirical legal research method, utilizing statutory, conceptual, and sociological approaches. The research draws from primary, secondary, and tertiary legal sources. Data collection was conducted through literature reviews, documentary studies, and field research. The acquired data were analyzed using a qualitative-deductive method, drawing conclusions from general principles to specific findings. The results indicate that the standing of a notarial deed in Indonesia as an authentic deed grants it absolute and binding evidentiary strength. The effectiveness of electronic deeds lies in their efficiency, speed, cost reduction, facilitation of digital evidence, and support for remote transactions. Pursuant to Article 1, Paragraph (1) of the Law on Notarial Positions (UUJN), a Notary is a public official authorized to create authentic deeds and exercise other powers as prescribed by law. Furthermore, electronic authentic deeds prepared by a notary enhance time and distance efficiency while supporting remote digital transactions in legal administration between notaries and their clients.

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1. Introduction

Developments in information and communication technology have significantly impacted various sectors, including the legal and notarial fields. The concept of the cyber notary has emerged in response to the need for enhanced efficiency and effectiveness in notarial services within the digital era. ^[1] The notary is a public official who plays a pivotal role in Indonesia's law of evidence. This essential role involves witnessing, acknowledging, and validating legal events and acts, which are then formalized through authentic deeds possessing absolute evidentiary strength. ^[2]

Pursuant to the prevailing laws, a notary is authorized to draw up authentic deeds regarding all acts, agreements, and stipulations required by regulations and/or desired by interested parties. The notary further ensures the certainty of the deed's date, preserves the deed, and issues *grosse* (executory copies), copies, and extracts of the deed provided that the creation of such deeds is not assigned or reserved for other officials by law. Beyond these primary duties, a notary is authorized to:

¹ M. A. F. Syahril & N. Hasan, "Legal Analysis of the Application of Cyber Notary in the Notary Profession in Indonesia," *Jurnal Litigasi Amsir*, 11, no. 3 (2024): 352-358.

² Febri Rahmadhani, "Kekuatan Pembuktian Akta di Bawah Tangan yang telah Di-waarmmerking berdasarkan Peraturan Perundang-Undangan di Indonesia" [The Evidentiary Strength of Certified Private Deeds Based on Indonesian Laws and Regulations], *Recital Review* 2 (2020): 93-111.

1. Certify signatures and establish the date of private deeds (*underhanded deeds*) by registering them in a special book;
2. Record private deeds by registering them in a special book;
3. Produce copies of original private deeds containing descriptions as written and depicted in the respective documents;
4. Certify the conformity of photocopies with original documents;
5. Provide legal counseling in connection with the drafting of deeds;
6. Create deeds related to land/property matters;
7. Create deeds for auction minutes.

In addition to the aforementioned powers, notaries possess other authorities regulated under statutory laws. The government has introduced a new authority for notaries to certify electronically conducted transactions, as stipulated in the Elucidation of Article 15, Paragraph (3) of Law No. 2 of 2014 concerning the Amendment to the Law on Notarial Positions. Article 15, Paragraph (3) states: "*In addition to the authority referred to in paragraphs (1) and (2), Notaries shall have other authorities regulated in laws and regulations.*"

Based on Article 1, Paragraph (1) of the Law on Notarial Positions (UUJN-P), a Notary is defined as a public official authorized to create authentic deeds and exercise other powers as prescribed by this law or other statutes. In essence, a notary serves as a government representative in civil matters defined as affairs between one or more individuals or legal entities.^[3] To protect the interests of these parties, an authentic deed drafted by a notary is required. As the strongest form of evidence, an authentic deed provides legal certainty by clearly defining the rights and obligations of each party, thereby serving as a resolution mechanism in the event of a dispute.^[4] Article 1870 of the Indonesian Civil Code (*Kitab Undang-Undang Hukum Perdata / KUHPerdata*) explicitly states that an authentic deed provides conclusive and binding evidence between the parties and their heirs regarding its contents.

The principle of *Tabellionis Officium Fideliter Exercebo* emphasizes that a notary must operate traditionally. The manifestation of this principle in the Civil Code can be found in Article 1868, where notarial practice necessitates direct interaction with the parties.^[5] Furthermore, this principle is enshrined in Article 16, Paragraph (1), Point (m) of the Law on Notarial Positions, which mandates the notary's physical presence during the drafting of the deed to ensure the veracity of what is presented before them.

However, it is undeniable that in the current technological era, nearly all societal activities and mobility rely on

technology as a primary foundation. The legal field must likewise adapt to the needs of society. If statutory regulations provide opportunities and facilitate notaries in utilizing information technology to exercise their legal authority, the cyber notary concept will positively impact the advancement of public services.^[6]

Nevertheless, the rapid development of information technology regarding electronic legal acts creates a conflict with Article 1, Point (7) of the UUJN-P, which stipulates that a "Notarial Deed is an authentic deed made by or before a Notary according to the forms and procedures established by this Law." The use of terms such as "appearing before" or "in the presence of" is a translation of the Dutch term *verschijnen*, which implies a physical presence in a juridical sense.^[7] Consequently, the cyber notary concept poses a challenge to the authenticity of deeds. While authentic deeds should possess absolute evidentiary strength under Article 1868 of the Civil Code (*Burgerlijk Wetboek*), the use of cyber notary concepts might diminish this strength, rendering them non-authentic due to potential doubts regarding the veracity of the information and data contained therein.

The term "Cyber Notary" is indeed mentioned in the Elucidation of Article 15, Paragraph (3) of the new UUJN, yet it remains absent from the body of the articles themselves. The lack of further detailed regulation regarding Cyber Notary causes hesitation among notaries to adopt the concept, thereby hindering the professional evolution of the notary in serving public needs. Although the concept exists within the new UUJN, the current regulations do not yet guarantee its practical implementation or provide sufficient legal certainty. Based on the background above, the author formulates two primary research problems:

1. The legal standing of electronic notarial deeds in Indonesia.
2. The effectiveness and opportunities for implementing electronic notarial deeds in notarial practice.

2. Research Method

This study employs a normative-empirical legal research method. Normative research, or *normatief juridisch onderzoek* in Dutch, conceptualizes law as what is written in statutes (*law in books*) or as a set of rules and norms that serve as benchmarks for appropriate human behavior.^[8] Normative legal research is an approach conducted based on primary legal materials, examining theoretical aspects concerning legal principles, conceptions, perspectives, legal doctrines, and legal systems. It utilizes secondary data, including norms and rules found in legislation and other regulations, by studying relevant literature and documents.^[9]

In contrast, empirical legal research focuses on legal facts existing within society, legal entities, or government institutions. These facts are gathered through interviews and

³ Bachrudin, "Jabatan Notaris di Indonesia dalam Jerat Liberalisasi" [The Notary Position in Indonesia within the Trap of Liberalization], *Jurnal Pembaharuan Hukum* 2, no. 2 (May-August 2015): 87-185.

⁴ Huddhan Ary Karuniawan & I.A. Budhivaya, "Keabsahan Pemberian Barcode pada Minuta Akta dan Salinan Akta Notaris" [The Validity of Applying Barcodes on Minutes of Deeds and Copies of Notarial Deeds], *JKH* 4, no. 3 (August 2018): 5-102.

⁵ Bintang Rahmatullah, Cindy Alisia Artanty, & Dedy Muharman, "Konsep Cyber Notary dalam Perspektif Asas Tabellionis Officium Fideliter Exercebo" [The Cyber Notary Concept from the Perspective of the Tabellionis Officium Fideliter Exercebo Principle], *Jurnal Review Pendidikan dan Pengajaran* 7 (2024): 10114-10123.

⁶ Indah Sugiarti, "Kepastian Hukum terhadap Penerapan dan Pemanfaatan Konsep Cyber Notary di Indonesia" [Legal Certainty regarding the Application and Utilization of the Cyber Notary Concept in Indonesia], *Officium Notarium* 2, no. 1 (April 2022): 13-20.

⁷ Habib Adjie, *Hukum Notaris Indonesia: Tafsir Tematik Terhadap UU No. 30 Tahun 2004 Tentang Jabatan Notaris* [Indonesian Notarial Law: A Thematic Interpretation of Law No. 30 of 2004 on Notarial Positions], 3rd ed. (Bandung: Refika Aditama, 2011).

⁸ Muhaimin, *Metode Penelitian Hukum* [Legal Research Methods], 1st ed. (Mataram: Mataram University Press, 2020), 45.

⁹ Soerjono Soekanto, *Penelitian Hukum Normatif* [Normative Legal Research] (Jakarta: PT RajaGrafindo Persada, 2006), 24.

observations of actual behavior through direct field research.^[10]

This study utilizes several approaches, as follows:

- **Statute Approach:** This approach is used to examine and analyze all laws and regulations relevant to the legal issues being addressed.^[11] It treats legislation as the primary guideline for the research.
- **Conceptual Approach:** This approach provides a conceptual framework illustrating the relationship between the concepts being studied and expert perspectives regarding the legal issues at hand.^[12]
- **Sociological Approach:** This approach is used to determine how legal rules are implemented in practice. Specifically, it is applied to identify the challenges and opportunities in implementing electronic deeds within notarial practice in Indonesia.

The legal materials were collected through a literature review, which involved analyzing scientific works, legislation, books, journals, dictionaries, internet sources, and other relevant readings. Furthermore, this study utilizes documentary studies and field research.¹³ Field data collection was conducted via structured interviews, an interpersonal face-to-face method involving pre-prepared questions to obtain relevant answers from authorized or related parties.

Once the data were systematically organized according to the research topics, they were processed and analyzed using a qualitative-deductive method. This analysis begins with general legal issues and progresses toward specific observations, from which final conclusions are drawn.

3. Discussion

3.1. The Legal Standing of Electronic Notarial Deeds in Indonesia

The creation of electronic authentic deeds in Indonesia is rooted in the necessity to balance technological advancements with fundamental legal principles specifically legal certainty, utility, and justice. The transformation from conventional to electronic-based deeds is not merely a technical shift but reflects a paradigm shift in notarial practice. This transition must rigorously maintain the authenticity, validity, and evidentiary strength of the deeds. Consequently, the implementation of electronic deeds must remain anchored in fundamental legal values, where the notary's role as a public official serves not only as a drafter but as a guardian of public trust and legal certainty in every electronic legal act.

Adaptation to social and technological developments is crucial for the Indonesian legal framework. Digitalization enhances the efficiency and effectiveness of the law. The Indonesian legal system must integrate digital technology to keep pace with evolving legal substance and culture, meeting

the public demand for legal processes that are faster, more transparent, and accessible. This digitalization reshapes how legal institutions operate and how society interacts with the legal system, facilitating changes oriented toward justice and efficiency.^[14]

As a developing nation, Indonesia is undergoing comprehensive development, including in the field of notarial and land law. A significant milestone is Government Regulation No. 18 of 2021 concerning Management Rights, Land Rights, Flat Units, and Land Registration. Article 86 of this regulation explicitly states that the creation of deeds by Land Title Registrars (PPAT) can be conducted electronically. This indicates a legislative move toward digitalizing authentic documents.

Digitalization simplifies legal processes in Indonesia, significantly reducing time and costs. Electronic solutions such as *e-filing*, online courts, and digital case management improve judicial efficiency. Electronic court systems (*e-court*) accelerate legal proceedings by eliminating the need for physical document submission. Furthermore, digitalization facilitates court case management, addressing case backlogs and speeding up the decision-making process. The concept of the cyber notary implies that a notary's duties and authorities are supported by information technology innovations. This includes the drafting of deeds without the requirement for physical presence, utilizing audio-visual media such as video conferencing or encrypted digital platforms that transcend regional boundaries.^[15] Under this framework, a notary can draft deeds and verify identities without the parties being physically present in the office. Signatories and witnesses may utilize digital signatures or electronic stamps. Moreover, the storage of *minuta* (original deeds) and copies would no longer require physical paper, as they could be stored on microchips, microfilm, or other printable digital media, potentially reducing the need for large physical office spaces.^[16]

The implementation of the cyber notary concept must be linked to legal certainty. Clear general regulations allow individuals to distinguish between permitted and prohibited actions. For the law to function effectively, the cyber notary concept must be formally integrated into the Law on Notarial Positions (UUJN). This would enable notaries to understand the extent of their authority and the limits of cyber notary applications in producing authentic deeds. This clarity is essential, particularly regarding the term "cyber notary" found in the Elucidation of Article 15, Paragraph (3) of the UUJN, which refers to the certification of deeds as part of the notary's authority as a public official.

The amendment to Article 16, Paragraph (1), Point (c) of the UUJN imposes an additional commitment on notaries to attach the fingerprints of the appearers (*penghadap*) to the *minuta* of the deed. The term "attach" (*melekatkan*) implies a physical connection. In practice, this means imprinting a

¹⁰ Mukti Fajar and Yulianto Achmad, *Dualisme Penelitian Hukum Normatif & Empiris* [The Dualism of Normative & Empirical Legal Research] (Yogyakarta: Pustaka Pelajar, 2010), 280.

¹¹ Salim HS and Erlies Septiana Nurbani, *Penerapan Teori Hukum Pada Tesis dan Disertasi* [The Application of Legal Theory in Thesis and Dissertations] (Jakarta: RajaGrafindo, 2013), 17-18.

¹² Amirudin and Zainal Asikin, *Pengantar Metode Penelitian Hukum* [Introduction to Legal Research Methods] (Jakarta: Rajawali Pers, 2013), 47.

¹³ Abdulkadir Muhammad, *Hukum dan Penelitian Hukum* [Law and Legal Research] (Bandung: Citra Aditya Bakti, 2004), 81-84.

¹⁴ D. Putra, "A Modern Judicial System in Indonesia: Legal Breakthrough of E-Court and E-Legal Proceeding," *Jurnal Hukum dan Peradilan* 9, no. 2 (2020): 275-297.

¹⁵ Habib Adjie, "Konsep Notaris Mayantara Menghadapi Tantangan Persaingan Global" [The Concept of Cyber Notary Facing the Challenges of Global Competition], *Jurnal Hukum Respublica* 16, no. 2 (2018): 218.

¹⁶ Habib Adjie and Rusdianto Sesung, *Tafsir, Penjelasan, dan Komentar Atas Undang-Undang Jabatan Notaris* [Interpretation, Elucidation, and Commentary on the Law on Notarial Positions] (Bandung: Refika Aditama, 2020), 639.

thumbprint or fingerprint onto a separate sheet of paper and joining it with the original deed. This requirement serves as a safeguard for both the notary and well-intended parties during court proceedings if a dispute arises. It acts as a preventive measure against the falsification of signatures.

While physical fingerprinting is straightforward when parties are physically present, the cyber notary concept necessitates an electronic equivalent. Although Law No. 11 of 2008 (as amended by Law No. 19 of 2016) on Electronic Information and Transactions (UU ITE) regulates electronic authentication and signatures, it does not specifically address electronic fingerprints. Current implementing regulations, such as Government Regulation No. 71 of 2019 and Minister of Communications and Informatics Regulation No. 11 of 2018, also lack specific guidelines on this. To fill this legal vacuum (*rechtsvacuum*), legal development through analogical interpretation may be applied, extending the meaning of existing rules to cover technological equivalents in the interest of legal protection.^[17]

The primary objective of a cyber notary is to perform certification and authentication within an electronic framework. In terms of certification, a notary acts as a Certification Authority (trusted third party), authorized to issue digital certificates to relevant parties.^[18] This differs from the authentication function, which relates to the legal validity required for electronic transactions. Given the notary's authority to certify activities via cyber notary, the resulting "print-out" or digital output of such certification can be classified as an electronic document. To achieve the status of an authentic deed, these electronic documents must fulfill the criteria set forth in Article 1868 of the Civil Code and the procedural requirements of Article 38 of Law No. 2 of 2014. Consequently, when a notary certifies a transaction using cyber notary protocols, the resulting deed should legally hold the status of an authentic deed.

In Indonesia, digitalization has begun to permeate the notarial sector, exemplified by the execution of General Meetings of Shareholders (GMS) via video conferencing. This mechanism is regulated under Article 77 of the Law on Limited Liability Companies (UUPT). A GMS conducted through video conferencing may be recorded in a Notarial Deed or maintained as an electronic document. The legal understanding of electronic documents is further elucidated in Article 1, Point 4 of the Law on Electronic Information and Transactions (UU ITE) and the Government Regulation on the Implementation of Electronic Systems (PP PSTE).

The drafting of an authentic deed in the form of GMS Minutes (*Berita Acara RUPS*) conducted online must involve a competent public official in this case, a Notary.

The Notary bears the responsibility of being present throughout the proceedings, from commencement to

conclusion, alongside the Board of Directors, the Board of Commissioners, and the shareholders. Minutes of a GMS fall under the category of a *relaas deed (akta pejabat)*. It does not constitute a significant legal issue if participants who are present fail to sign the deed, particularly if they leave the meeting before its adjournment, provided there are specific and limited justifiable grounds.^[19]

Notaries are required to apply a profound principle of prudence (*prinsip kehati-hatian*) regarding the GMS venue, time, quorum of participants, and the resulting resolutions. Article 16, Paragraph (1), Point 1 of the UUJN reaffirms this obligation. In a *relaas deed*, it is sufficient for the Notary alone to sign the document, as the deed represents the official report of what the Notary witnessed.

Given that various government sectors in Indonesia have actively adopted technological advancements, the concept of a Cyber Notary becomes highly relevant. As service providers closely linked to both public and private sector affairs, Notaries must expand their expertise and utilize technology to remain competitive. The fact that numerous legal fields have integrated digitalization, supported by regulations that open opportunities for such progress, makes the notarial sector increasingly adaptable to contemporary changes.

Under Article 1, Paragraph (1) of the UUJN, a Notary is designated as a public official; consequently, notarial deeds are granted authentic status and possess executory power (*sifat eksekutorial*). The authenticity of a deed is derived from the fact that its drafting process complies with the forms prescribed by law and is conducted by or before a competent official.^[20]

A moderate Notary is one who maintains a steady perspective, acting not only in accordance with positive legal standards but also actively exploring various valid legal activities that can be structured into authentic legal acts. Therefore, advancements in information and communication technology should catalyze improvements in notarial performance. Notaries must ensure they are not left behind by the rapid evolution of modern culture and society. As a consequence, Notaries must be skilled in offering superior services and achieving maximum public satisfaction in line with modern demands, embodying the professional conduct and expertise expected of the office.^[21]

Theoretically, Notaries may deviate from traditional statutory arrangements in exercising their duties and expertise, provided they remain within the boundaries established by the Law on Notarial Positions and Article 1868 of the Indonesian Civil Code. Regarding the execution of notarial duties through electronic means, such as the use of Teleconferencing, it is fundamentally feasible under the authority granted by Article 15, Paragraph (1) of the UUJN.

¹⁷ M. K. Ardiansyah, "Pembaruan Hukum oleh Mahkamah Agung dalam Mengisi Kekosongan Hukum Acara Perdata di Indonesia" [Legal Reform by the Supreme Court in Filling the Vacuum of Civil Procedural Law in Indonesia], *Jurnal Ilmiah Kebijakan Hukum* 14, no. 2 (2020): 361-384.

¹⁸ Edmon Makarim, "Modernisasi Hukum Notaris Masa Depan: Kajian Hukum Terhadap Kemungkinan Cyber Notary di Indonesia" [Modernization of Future Notarial Law: A Legal Study on the Possibility of Cyber Notary in Indonesia], *Jurnal Hukum dan Pembangunan* 41, no. 3 (2011): 499.

¹⁹ [1] Ikhyari Fatuti Nurudin and Agus Nurudin, "Kepastian Hukum Pada RUPS yang Dilakukan Melalui Video Conference Selama Masa Pandemi" [Legal Certainty in GMS Conducted via Video Conference During the Pandemic], *Notarius* 15, no. 2 (December 27, 2022): 785-802, <https://doi.org/10.14710/nts.v15i2.36742>.

²⁰ M. Luthfan Hadi Darus, *Hukum Notariat Dan Tanggung Jawab Jabatan Notaris* [Notarial Law and the Responsibility of the Notary Position], 1st ed. (Yogyakarta: UII Press Yogyakarta, 2017), 22.

²¹ Habib Adjie, *Sanksi Perdata dan Administratif Terhadap Notaris Sebagai Pejabat Publik (Buku 2)* [Civil and Administrative Sanctions Against Notaries as Public Officials (Book 2)] (Surabaya: PT Refika Aditama, 2013), 11.

However, the core issue remains whether the legal validity of a notarial deed produced through electronic concepts can be justified under substantive positive law concerning the Notary's power to create authentic deeds.

3.2. The Effectiveness and Opportunities of Implementing Electronic Notarial Deeds in Notarial Practice

Notaries must be able to adapt to developments in the business world by utilizing technological assistance through the cyber notary concept. This concept is anchored in Article 1, Paragraph (1) of the Law on Notarial Positions (UUJN), which defines a Notary as a public official authorized to create authentic deeds and exercise "other authorities" as prescribed by law. The term "other authorities" encompasses the power to certify transactions electronically (cyber notary). Furthermore, Article 15, Paragraph (3) of the UUJN states: *"In addition to the authorities referred to in paragraphs (1) and (2), Notaries shall also have other authorities regulated in laws and regulations."*^[22] The elucidation of this article specifies that these authorities include drafting deeds for *waqf* pledges and aircraft mortgages, as well as the capacity to certify transactions conducted electronically.

The use of online technology offers significant benefits to Notaries by making the deed-making process faster, easier, and more efficient. As we enter the era of free trade and evolving social environments that demand rapid and accurate solutions, the notarial profession is increasingly sought after. Consequently, the mandate to complete deeds swiftly and accurately has become a professional necessity. Modern demands also require flexibility regarding the time and place of signing deeds, necessitating further detailed legal regulations. The public's need for fast, efficient, and accessible legal services intensified following the COVID-19 pandemic, which forced many sectors to adopt digital services. Physical distancing mandates required remote work (work from home) to mitigate infection risks. Essentially, for tasks not strictly requiring physical presence, legal acts should be performable through electronic communication systems. However, the existing normative requirement for physical presence and paper-based deeds under Law No. 30 of 2004 (as amended) often makes Notaries, as public officials, hesitant to fully transform their services into a digital format.

Although the authority to certify electronic transactions in Article 15, Paragraph (3) is not explicitly detailed in the body of the UUJN, Stephen Mason notes that the cyber notary concept originated from the American Bar Association (ABA) Information Security Committee in 1994. It is based on internet transactions, transmission security, and integrity, grounded in the belief that electronic transactions are binding and enforceable when granted legal recognition.^[23] Pursuant to Article 1, Paragraph (1) of the UUJN, once parties agree to create a deed before a Notary, the Notary's role as a public official—authorized to record the parties' will (*konstantir*), qualify it legally (*kualifisir*), and constitute the deed

(*konstitusi*) begins.^[24]

The technological era, or Society 5.0, profoundly influences the notarial profession. Article 22 of the UUJN demonstrates the close link between notarial practice and business activities. Implementing the cyber notary concept is a strategic way to accelerate the creation of authentic deeds. Notaries play a vital role in ensuring legal certainty and protection for parties regarding acts, stipulations, agreements, and legal events facilitated by technology.

Under Article 1, Point 10 of Law No. 19 of 2016 (Amendment to the UU ITE) and Minister of Communications and Informatics Regulation No. 11 of 2018 (Permenkominfo 11/2018), electronic certification is a cycle of actions managed by independent, reliable, and government-supervised professional bodies. This includes the management of infrastructure and the auditing of electronic certificates. Notaries are responsible for the completeness of requirements submitted by certificate applicants, pursuant to Article 27 of Permenkominfo 11/2018. In this capacity, Notaries serve as Registration Authorities (RA). Under Article 24 of the same regulation, they verify identities and document completeness, including Names, National ID Numbers (NIK), passport numbers, tax IDs (NPWP), email addresses, security questions, and biometric data. Once synchronized, this data is submitted to the Electronic Certification Provider to issue the Electronic Certificate (Article 30 Permenkominfo 11/2018).

As a Registration Authority, the Notary works alongside the Certification Authority as a trusted third party to validate and secure electronic transactions. The electronic certificate issued indicates the owner's identity and provides the public and private keys used for electronic signatures, authenticating the signer, and verifying the signed document.^[25]

The existing legal landscape supporting cyber notary services and technological utilization in Indonesia includes:

- **Article 5, Paragraph (1) UU ITE:** Establishing Electronic Information and Documents as valid legal evidence.
- **Article 77, Paragraph (1) in conjunction with Article 90, Paragraph (2) of Law No. 40 of 2007 (UUPT):** Permitting General Meetings of Shareholders (GMS) via teleconference or video conference.
- **Legal Entity Administration System (SABH):** A computerized system for establishing legal entities under the Ministry of Law and Human Rights (Article 29 UUPT).
- **Government Regulation No. 21 of 2015:** Concerning online Fiduciary Registration.
- **Permenkumham No. 17 of 2018:** Online administration for establishing CVs, Firms, and Civil Partnerships.
- **Permenkumham No. 14 of 2019:** Ratification of Cooperatives.
- **OJK Regulation No. 58/POJK.04/2017:** Electronic submission of registration statements for corporate actions.^[26]

²² Law No. 2 of 2014 concerning the Amendment to Law No. 30 of 2004 concerning the Law on Notarial Positions.

²³ Edmon Makarim, *Op. Cit.*, 472.

²⁴ Achmad Ali, *Menguak Tabir Hukum* [Unveiling the Veil of Law] (Bogor: Ghalia Indonesia, 2011), 120.

²⁵ Dedi Nurhidayat, "Kajian Hukum Peran dan Fungsi Notaris Sebagai Pihak Pengemban Kepercayaan dalam Transaksi Elektronik: Perbandingan antara Trusted Third Parties dan Trusted Enrollment Agent" [Legal Study on the Role and Function of Notaries as Trusted Parties in Electronic Transactions], (Master's Thesis, Faculty of Law, University of Indonesia, 2012), 99.

²⁶ [5] Petra Bunawan, *Pelaksanaan dan Implikasi Konsep Cyber Notary Berdasarkan Hukum Positif di Indonesia* [Implementation and Implications of the Cyber Notary Concept Based on Indonesian Positive Law] (Bandung: Refika Aditama, 2023), 22-27.

The evolution of technology opens the possibility for deed preparation in the digital era. Referring to Law No. 40 of 2007 (UUPT), a GMS can be conducted remotely. The corporate organs—the GMS, the Board of Directors, and the Board of Commissioners each have distinct authorities as defined in Article 1, Points 4, 5, and 6 of the UUPT. The GMS holds the highest authority; according to M. Yahya Harahap, it is the forum where shareholders, as owners, exercise oversight over the management conducted by the directors.^[27]

The normative definition of a GMS in Article 1, Point 4 of the UUPT describes it as the corporate organ holding authority not granted to the directors or commissioners within the limits of the law and the articles of association. Consequently, GMS Minutes often take the form of a *relaas deed (akta pejabat)*. The use of teleconferencing for a GMS is specifically permitted by Article 77, Paragraph (1) of the UUPT, which allows participants to see, hear, and interact directly via electronic media.

The implementation of the cyber notary concept is typically utilized by notaries in the execution of General Meetings of Shareholders (GMS), where the resulting document is a *relaas deed (notarial minutes)*.^[28] Pursuant to Article 77 of Law No. 40 of 2007 concerning Limited Liability Companies, a GMS may be conducted via teleconference, video conference, or other electronic media that allows all participants to see and hear each other directly and participate in the meeting. Notaries drafting deeds for a GMS conducted via teleconference to amend a company's Articles of Association may employ two methods: drafting a Deed of Meeting Minutes (*Akta Berita Acara/Ambtelijke Akten*) or a Deed of Meeting Resolution Statement (*Akta Pernyataan Keputusan Rapat/Partij Akten*).

If the GMS is conducted via teleconference and formalized as a Deed of Meeting Resolution Statement, a proxy is granted to one of the attendees to declare the meeting's results before a notary. This method typically does not raise future legal issues because the deed itself is drafted by the notary in a conventional, physical manner.^[29]

Regarding the implementation of cyber notary, although it adheres to the principles of deed preparation, there must be a review of how notarial protocols are stored. The opportunity to store notarial protocols in electronic form is supported by several regulations from the Ministry of Law and Human Rights (MoLHR), such as Regulation No. 4, No. 5, and No. 6 of 2014, which govern electronic procedures for legal entity approvals and data changes for companies, foundations, and associations. However, shifting to electronic data storage currently serves primarily as a backup rather than a substitute for physical copies with binding legal force. Normatively, while the UUPT opens the door for electronic GMS minutes and digital protocols, a conflict remains with Article 16, Paragraph (1), Point (m) of the UUJN, which mandates that a notary must be physically present and sign the deed in the presence of the appearers and witnesses.

The core role of a Cyber Notary is to authenticate electronic-based documents. It is a concept that adapts conventional notarial functions to electronic applications. Notarial services, traditionally conventional, are now pressured to evolve alongside information technology. Electronic transactions allow for notarial intervention as a trusted third party, giving rise to the "cyber notary" function.^[30] Notaries are encouraged to adopt this concept to provide fast, accurate, and efficient services that stimulate economic growth.^[31] Article 15, Paragraph (3) of the UUJN-P provides the legal opening for this through electronic documents and deeds, specifically regarding:

1. The authority to certify transactions conducted electronically.
2. The drafting of deeds for *waqf* pledges and aircraft mortgages.

In the context of dispute resolution, electronic evidence including emails with electronic signatures and stamps, microfilmed corporate records, electronic files, and witness testimonies provided via teleconference is increasingly significant. Storing data archives as electronic documents, such as CCTV footage on Hard Disk Drives (HDD) connected to a DVR, is now standard practice. The growth of technology has inevitably led to a rise in civil disputes arising from internet-based interactions, such as e-commerce. Electronic transactions, as defined by the UU ITE, are legal relationships conducted via computers or electronic networks. Under this law, electronic contracts are binding and possess the legal force of an obligation (*perikatan*).

The notary is a profession for individuals with legal education who are commissioned by the government to facilitate legal relations professionally, particularly as witnesses to the signing of documents. The nature of the profession varies by legal system, but generally, the office of the notary does not fall under the executive, legislative, or judicial branches. Notaries must remain impartial; if they were placed within one of the three branches of government, their impartiality would be compromised. From this neutral position, notaries provide legal socialization and ensure that the legal acts of their clients are formalized without bias, acting primarily to prevent future legal disputes.

Cyber notary is interpreted as a means to facilitate or analyze the notary's duties in drafting authentic deeds regarding all acts, agreements, or stipulations required by law or desired by parties. The notarial realm is fundamental to daily legal activities, providing essential services to clients. The office exists to serve the public's need for authentic written evidence concerning legal conditions and acts. Under Law No. 30 of 2004, notaries hold crucial authority over the validity of transactions.

The shift toward modernizing notarial practice requires a clear legal structure to guarantee protection and legal certainty. Currently, there is a "vagueness of norms" (*kaburnya norma*) regarding the authority and duties of

²⁷ Musriansyah and Sihabudin, "Perlindungan Hukum Terhadap Pemegang Saham Dalam Penjualan Aset Perseroan Berdasarkan Pasal 102 Ayat (4) UU Nomor 40 Th.2007 Tentang Perseroan Terbatas," *JIPPK* 2, no. 2 (2017).

²⁸ [Ahmad Zaenul, Kurniawan, and Hirsanuddin, "Keabsahan Akta Notaris Yang Menggunakan Cyber Notary Sebagai Akta Otentik," *Jurnal Unes Law Review* 6, no. 2 (2023): 32-4524.

^[4] *Ibid.*

²⁹ Herlien Budiono, *Demikian Akta Ini: Tanya Jawab Mengenai Pembuatan Akta Notaris di dalam Praktik* [Thus This Deed: Q&A Regarding the Drafting of Notarial Deeds in Practice] (Bandung: PT Citra Aditya Bakti, 2018), 142-144.

³⁰ Fabela Rahma and Budi Santoso, "Keabsahan Dan Kekuatan Pembuktian Akta Notaris: Perspektif Cyber Notary Di Indonesia," *Jurnal Notarius* 16, no. 2 (2023): 85-666.

³¹ *Ibid.*,

notaries in relation to electronic archives as authentic evidence. In the digital era, the law must adapt to progress to ensure justice and certainty for society.

The future outlook for Cyber Notary suggests it will become a catalyst for notarial activity. In the digitalization era, conventional systems are merging with computerized and networked systems to formalize legal acts. This requires legal renewal, echoing Roscoe Pound's theory of law as a "tool of social engineering."^[32] To establish an adequate legal basis for cyber notary, Indonesia needs to amend the Law on Notarial Positions, Article 1868 of the Civil Code, and Article 5, Paragraph (4), Point (b) of the UU ITE. These amendments would ensure that cyber notary implementation prioritizes the principles of certainty, utility, and legal order.

Based on an interview with Dr. Nining Herlina, SH., M.Hum., a Notary and Land Title Registrar (PPAT) in West Lombok, several insights regarding the opportunities for electronic deeds in Indonesia were gathered. According to her:

"The public need for electronic-based notarial services is real and increasing. Social and business interaction patterns have shifted drastically toward the digital. Transactions are conducted across cities and nations instantaneously. The public demands efficient, fast, and transparent services that still provide legal certainty. In this context, notaries can no longer rely solely on a conventional model. Electronic services have become a necessity, not an option."

Furthermore, Dr. Herlina explained that electronic deeds possess great potential to increase efficiency in terms of time, coordination, and documentation. However, a distinction must be made between administrative efficiency and the formal aspects of creating an authentic deed. Efficiency must still yield to the principle of prudence (*lex stricta*) and the formal requirements of the UUJN. She suggested that administrative and corporate services such as electronic GMS minutes, corporate document ratifications, circular resolutions, and digital *waarmerking* are most suitable for electronic transition. Deeds requiring direct reading and physical presence still necessitate caution.

Dr. Herlina views the use of video conferencing in GMS practice as a realistic "entry point" toward broader cyber notary application. While technical effectiveness is high, legal validity must be viewed normatively, and regulation must clarify the notary's role. The most determining factor for success is regulatory certainty. Without a firm legal umbrella and harmonization between the UUJN, UU ITE, and implementing regulations, notaries remain in a vulnerable position. Beyond technology, this transformation requires a change in mindset and a boost in digital competence for notaries.

Despite existing barriers such as regulatory inconsistency, infrastructure limitations, and data security risks Dr. Herlina remains optimistic. In the long term, Indonesia's notarial system is expected to move toward a hybrid model, combining conventional procedures with electronic innovations, while maintaining the dignity (*marwah*) of the notary as a public official.^[33]

In conclusion, the opportunity for implementing electronic deeds in Indonesia is significantly open, driven by technological necessity. However, its optimization depends heavily on regulatory strengthening, technical readiness, and building trust among all parties involved.

4. Conclusion

Based on the research and analysis regarding the legal standing and effectiveness of electronic notarial deeds in Indonesia, the following conclusions are drawn:

4.1. Legal Standing and Authentication

The legal standing of electronic notarial deeds in Indonesia is currently in a transitional phase. While the Law on Notarial Positions (UUJN-P) and the Electronic Information and Transactions Law (UU ITE) provide a preliminary framework for the "Cyber Notary" concept, there remains a normative conflict with the traditional requirement of physical presence (*verschijnen*). Under Article 1868 of the Civil Code, an authentic deed must be drafted in the form prescribed by law and before a competent official. For an electronic deed to maintain its status as an "authentic deed" with absolute evidentiary strength, it must not only fulfill administrative digital requirements but also align with the formal procedures of the UUJN, particularly regarding the certification of electronic transactions as authorized under Article 15, Paragraph (3).

4.2. Effectiveness and Opportunities in Practice

The implementation of electronic deeds offers significant opportunities to enhance the efficiency, transparency, and accessibility of notarial services. The practice of conducting General Meetings of Shareholders (GMS) via video conference—as regulated by the Limited Liability Company Law (UUPT)—serves as a successful "entry point" for broader cyber notary applications. Electronic deeds are highly effective for corporate and administrative legal acts, such as circular resolutions and digital legalizations (*waarmerking*), which facilitate faster business transactions in the Society 5.0 era. However, the effectiveness of this transition is contingent upon the notary's role as a Registration Authority and a trusted third party who ensures the integrity of biometric data and electronic signatures.

4.3. Future Prospects and Regulatory Needs

The future of the Indonesian notarial profession lies in a hybrid model that integrates conventional principles with digital innovation. To achieve full legal certainty and prevent the degradation of an authentic deed's evidentiary value, Indonesia urgently requires regulatory harmonization. This includes amending the UUJN to explicitly define the mechanisms for "virtual presence" and electronic fingerprinting. By adopting a proactive mindset and enhancing digital competence, the notarial profession can adapt to technological progress without compromising its fundamental dignity (*marwah*) as a public official and guardian of legal certainty.

³² Salim HS, *Perkembangan Teori Dalam Ilmu Hukum* [Developments of Theory in Legal Science] (Jakarta: PT RajaGrafindo Persada, 2010), 41.

³³ Interview with Notary Nining Herlina, February 27, 2026, 16:00 WITA.

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