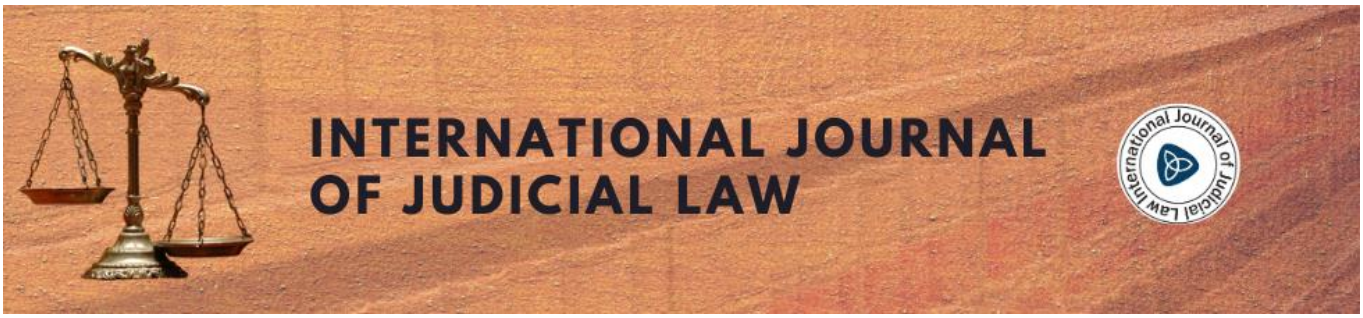




Digitization of Conveyancing Deeds Following the Enactment of the Job Creation Law

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Abstract

Following the enactment of the Job Creation Law, the Indonesian land administration system has undergone significant digital transformation. This study aims to analyze the legal regulation governing the authority of Land Deed Officials (PPAT) regarding the digitization of deeds under Article 86 of Government Regulation No. 18 of 2021 (PP 18/2021), alongside evaluating the legal force and standing of digitized deeds. This study utilizes normative legal research, conceptualizing law as applicable norms and social rules that guide human conduct. The analysis employs a statutory approach, a conceptual approach, and a sociological approach to examine the regulatory framework and practical implications. The findings reveal that Article 86 of PP 18/2021 provides a legal foundation for electronic land services strictly to enhance efficiency, transparency, and accountability in land administration. It does not, however, serve as a direct source of legal authority for PPAT as public officials to execute authentic land deeds. Furthermore, the absence of detailed regulatory procedures regarding the physical "in-presence" (berhadapan) requirement and deed-reading protocols generates legal ambiguity. While Article 86 of PP 18/2021 fails to establish new core authority for PPATs, the "in-presence" requirement can conceptually be interpreted to encompass electronic interaction, provided that the real estate object remains within the PPAT's designated jurisdiction.

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Introduction

The term "digitalization" is no longer unfamiliar to us. The digital era often referred to as the era of digital disruption—has fundamentally transformed human work patterns and daily habits through the leverage of information technology. Digitalization can be applied to every aspect of work, ranging from digital marketing and reporting to public services. Implementing digitalization is widely considered to provide significant benefits across numerous sectors, such as enhanced data accessibility, work effectiveness, and operational efficiency.

The rapid advancement of information technology in shaping societal life prompted the government to enact Law Number 11 of 2008 concerning Information and Electronic Transactions (State Gazette of the Republic of Indonesia of 2008 Number 58, Supplement to the State Gazette of the Republic of Indonesia Number 4843) along with its subsequent amendments, commonly known as the UU ITE. The enforcement of the UU ITE is expected to guarantee the utilization of technology to improve the effectiveness and efficiency of public services.

The digitalization of electronic deeds by Land Deed Officials (hereinafter referred to as PPAT), as stipulated under Law Number 6 of 2023 regarding the Enactment of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law (hereinafter referred to as the Job Creation Law) jo. Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration (hereinafter referred to as PP 18/2021), has opened up

opportunities for digital integration in land services while granting PPATs the flexibility to choose between electronic systems or conventional methods (*paper-based*).

Based on the legal norms stipulated in Article 86 of PP 18/2021, PPATs are given a discretionary choice to draw up deeds either electronically or conventionally (*paper-based*). If a PPAT opts to draft an electronic deed, a fundamental question arises regarding the legal validity of such a deed. This issue has naturally drawn public attention, particularly among legal practitioners and PPATs. The most crucial concern is whether the provisions of Article 86 of PP 18/2021 provide a sufficiently strong legal basis to authorize PPATs to execute electronic deeds. This legal uncertainty is shared by almost all PPATs, given that if an executed deed is legally challenged, litigated by an aggrieved party, or annulled by a court, the respective PPAT may face legal liability in the form of damages. This looming possibility of litigation generates hesitation, causing many PPATs to prefer conventional (*paper-based*) drafting methods.

This rapid technological advancement also presents a substantial challenge for the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) and PPATs to adapt their working methods to the digital era. PPATs are required to actively keep pace with information technology developments in the land sector and upgrade their facilities, infrastructure, and supporting systems for electronic services.

The Job Creation Law is a strategic regulation aimed at fostering a better investment climate and expanding employment opportunities in Indonesia. One of its primary focuses is to streamline bureaucratic processes and existing regulations across various sectors, including labor, investment, and PPAT authority. Meanwhile, the digitalization of PPAT deeds serves as a crucial step toward modernization within the land sector. Through digitalization, the creation and management of land deeds can be conducted electronically, accelerating processes and enhancing transparency. Within the framework of the Job Creation Law, digitalization facilitates bureaucratic reduction, expediting licensing procedures and lowering barriers for investors. With deeds that can be accessed and managed digitally, land and property transactions are expected to run more efficiently, ultimately supporting economic growth and job creation.

Since the issuance of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 9 of 2019 concerning Electronically Integrated Mortgage Services, as amended by the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 5 of 2020 (hereinafter referred to as Permen ATR/BPN 5/2020), the concept of the Electronic Mortgage System (HT-el System) was introduced. As defined under Article 1 Number 8 of Permen ATR/BPN 5/2020:

"The Integrated Electronic Mortgage System, hereinafter referred to as the HT-el System, is an integrated electronic system developed by the technical unit tasked with data and information management to process HT-el services."

The digital era undeniably opens up broad opportunities for business without geographical or national boundaries. Driven by the Ease of Doing Business (EODB) index, land remains a prime investment asset due to its stable value. Large-scale and comprehensive digital bureaucracy implemented by the Ministry across all sectors has simplified business processes making them simpler, faster, easier, and more affordable thereby motivating PPATs to elevate their performance in supporting the digitalization era.

As partners of the Ministry of ATR/BPN, PPATs hold specific duties and authorities in the land sector, particularly in drawing up authentic deeds regarding land rights for initial registration or transfer. Prior to executing an authentic deed, a PPAT is obligated to verify the accuracy of certificate data at the local Land Office to check for any modifications concerning the object of the land.^[1] With the digital transformation of land services, duties performed by PPATs have evolved through electronic channels. This increases the workload of PPATs, as they act as the frontline in verifying data accuracy before electronic uploading. If data discrepancies are identified, PPATs are mandated to suspend the service application and submit a data correction request to the BPN office via the system, which can hinder operational effectiveness.

Alongside the digital transformation of electronic land services and the operational challenges associated with system utilization, it is vital to assist PPATs in performing their duties effectively and efficiently. The challenges faced by PPATs regarding deed digitalization can be analyzed through the lens of Utilitarianism Ethical Theory, which concerns societal welfare as a whole. Utilitarianism is an ethical and moral theory stating that an action is considered good if it increases the overall well-being of humanity.^[2] This teleological ethical concept is inseparable from the ultimate goal (*telos*) to be achieved, while also accommodating professional responsibility incumbent upon a PPAT.

Utilitarianism is an ethical theory that emphasizes the consequences or impacts generated by an action. This theory posits that a good action is one that yields the greatest benefit for the greatest number of people. In the context of digitalization, the personal data of parties involved in PPAT deeds may become vulnerable to breaches or misuse, posing negative consequences for individuals whose data is compromised.

Applying a utilitarian perspective allows us to weigh the positive and negative impacts of PPAT deed digitalization on personal data protection. If digitalization enhances efficiency and transparency in the deed process thereby accelerating procedures and mitigating fraud or error risks it can be deemed an action that maximizes benefits for the greatest number of people. Conversely, if digitalization compromises individual privacy and data security without adequate protective safeguards, it may be evaluated as an action generating more harm than good.

Based on the background elaborated above, the focus of this research is directed toward examining how the regulation of PPAT deed digitalization is structured following the

¹ Nurrudin, "The Urgency of Establishing Time Limits for Examining Land Rights Certificate Conformity at the Land Office Prior to Deed Execution by PPAT", *Compendium of Law Faculty Student Journals*, 2016, <http://hukumstudentjurnal.ub.ac.id/index.php/home/article/view/2079>.

² Aqlaniyah, "The Concept of Utilitarianism: Definition, Types, and Figures", *Journal of Philosophy and Theology*, 2020, <https://www.detik.com/edu/detikpedia/d-6476288/utilitarianisme-pengertian-jenis-dan-tokohnya> (accessed August 28, 2024).

enactment of the Job Creation Government Regulation in Lieu of Law, and what the legal validity is of deeds executed by PPATs following the enactment of the Job Creation Law.

Research Methods

To address the issues examined in this study, the author employs a normative legal research method. Normative legal research is a type of legal study that evaluates law conceptualized as norms or rules applicable within society, serving as a guideline for human behavior.^[3] Normative legal research is also referred to doctrinal legal research. According to Peter Mahmud Marzuki, normative legal research is a process aimed at discovering legal rules, legal principles, and legal doctrines to resolve specific legal issues at hand.^[4] In this type of research, law is conceptualized as written regulations or as norms serving as benchmarks for proper human conduct.^[5] This research is conducted by analyzing the regulations of the Minister of ATR/BPN, the Job Creation Law along with its implementing regulations, and other relevant prevailing laws.

The approaches utilized in this study consist of the following:

1. Statute Approach

The statute approach is conducted by examining legislation and regulations directly relevant to the core issues being discussed.

2. Conceptual Approach

The conceptual approach involves reviewing legal views, doctrines, axioms, and legal principles derived from scholarly doctrines and relevant legal literature concerning the issue under investigation.

3. Sociological Approach

The sociological approach is an analytical method that examines an object or issue based on structural dynamics, interactions, and human relationships within society, focusing on how norms and institutions influence legal behavior and beliefs.

Legal materials are gathered through literature research by tracking primary, secondary, and tertiary legal sources relevant to the legal issues surrounding the digitalization of PPAT deeds following the enactment of the Job Creation Law. This search encompasses statutory regulations, books, scientific journals, dictionaries, and credible online literature, which are subsequently classified according to their sources and hierarchy for comprehensive analysis. The analysis of legal materials is conducted qualitatively through interpretation methods applied to the processed legal data. The purpose of this interpretative method is to examine and interpret whether there are legal vacuums (*vacuum*

normarum), normative contradictions (*antinomy*), or vague norms within the primary legal materials under review.

Discussion

1. Regulation of PPAT Deed Digitalization Following the Enactment of the Job Creation Law

The rapid advancement of technology drives the growth of electronic-based services that offer convenience to their users. This aligns with the digital transformation in land services initiated in 2019 through the enforcement of electronic-based services.^[6] The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) consistently provides comprehension and socialization regarding electronic land certificates to all stakeholders closely involved in land administration including internal ministry personnel, the public, and ministry partners such as Land Deed Officials (PPAT) and Notaries to support smooth implementation among the public.^[7]

As a partner of the Ministry of ATR/BPN, a PPAT holds specific duties and authorities within the land sector, namely drafting authentic deeds concerning land legal actions for initial registration or the transfer of land rights.^[8] Prior to executing an authentic deed, a PPAT is obligated to verify the accuracy of certificate data at the local Land Office to determine whether any modifications have occurred regarding the relevant land object.^[9]

Digital transformation within the land sector has likewise shifted PPAT operational patterns toward electronic services. On one hand, this increases the workload of PPATs as they act on the frontline in verifying data conformity electronically before uploading files into the system. If data discrepancies are identified, PPATs are mandated to suspend the service application and submit a data correction request to the BPN office through the system, which practically can hinder operational efficiency.

Digital transformation represents a strategic policy of the Ministry of ATR/BPN aimed at modernizing land services.^[10] This policy is anchored in robust legal foundations, namely Law Number 11 of 2008 on Information and Electronic Transactions (UU ITE), Law Number 11 of 2020 on Job Creation (Job Creation Law), and Regulation of the Minister of ATR/BPN Number 1 of 2021 on Electronic Certificates.^[11]

Since early 2020, four conventional services have been integrated into electronic systems, namely Electronic Mortgage Services (HT-el), Land Registration Statements (SKPT), Land Certificate Verification, and Land Value Zone (ZNT) Information, with the objective of facilitating public access to land services.^[12] The execution of land services must comply with the fundamental principles of land

³ Muhaimin, *Legal Research Methods*, Mataram University Press, Mataram, 2020, p. 29.

⁴ Peter Mahmud Marzuki, *Legal Research*, Kencana Prenada, Jakarta, 2010, p. 35.

⁵ Amiruddin and Zainal Asikin, *Introduction to Legal Research Methods*, Rajawali Pers, Jakarta, 2013, p. 25.

⁶ Yulia Jaya Nirmawai, Head of Public Relations Bureau (HUMAS) of the Ministry of ATR/BPN, *ATR-BPN Newsletter*, Issue 69, March 2021, p. 2.

⁷ Suyus Windayana, Director General of Land Rights and Land Registration (PHPT) of the Ministry of ATR/BPN, *ATR-BPN Newsletter*, Issue 69, March 2021, p. 3.

⁸ Indonesia, Government Regulation concerning the Office Regulation of Land Deed Officials, PP No. 24 of 2016, Art. 1 number 1.

⁹ Nurruddin, "The Urgency of Establishing Time Limits for Examining Land Rights Certificate Conformity at the Land Office Prior to Deed Execution by PPAT", *Compendium of Law Faculty Student Journals*, 2016, <http://hukum.studentjournal.ub.ac.id/index.php/hukum/article/view/2079>.

¹⁰ Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, Regulation of the Minister of ATR/BPN Number 1 of 2021 on Electronic Certificates (Considerants).

¹¹ Director General of PHPT of the Ministry of ATR/BPN, "Electronic Certificates Towards World-Class Modern Land Services", Presentation Material, <https://ppid.kamparkab.go.id/public/dokumen/2021/02/6d2a83cfe4f546e402919cd76077e589.pdf>, accessed March 17, 2026.

¹² Ministry of ATR/BPN, *ATR-BPN Newsletter*, Issue 69, March 2021, p. 1.

registration, namely:

1. The Simplicity Principle, ensuring that core provisions and procedures are easily understood by interested parties, particularly land rights holders;
2. The Safety Principle, aiming to provide legal certainty guarantees in accordance with the objectives of land registration;
3. The Affordability Principle, ensuring that services are economically accessible, especially for lower-income groups;
4. The Up-to-Date Principle, requiring adequate data completeness and continuous maintenance to reflect current conditions through mandatory registration of subsequent changes;
5. The Openness Principle, ensuring that the public can at any time obtain accurate physical and juridical data information at the Registry/City Land Office.^[13]

The issuance of Regulation of the Minister of ATR/BPN Number 1 of 2021 on Electronic Certificates reinforces the legal basis for transitioning physical certificates into digital (electronic) certificates. This policy is expected to enhance efficiency, legal certainty, and legal protection for the public while reducing the volume of land disputes in Indonesia.^[14]

Digital land services in the form of electronic certificates regulated under Permen ATR/BPN Number 5 of 2020 aim to guarantee speed, punctuality, openness, ease, and affordability. Furthermore, digital land services are expected to support the enhancement of land administration, particularly electronic mortgage services, effectively and efficiently while continuously innovating in tandem with legal and information technology developments.^[15]

Computerization systems within the Ministry of ATR/BPN have existed since 1997 through the Land Office Computerization (LOC) initiative, which aimed to establish orderly land administration, accelerate land services, improve land information quality, save data storage space via paperless digital archiving, and build a reliable land information system.^[16] This digital innovation is continuously expanded through the official website of the Ministry of ATR/BPN (www.bpn.go.id), which provides service features, requirements, timeframes, cost simulations, and application file tracking.^[17]

Additionally, public service systems at Land Offices have undergone several innovative developments, including:

1. Larasita, a proactive mobile land service bringing BPN officers directly to communities;
2. One Day Service, a same-day completion service (1–8 hours) for specific services such as certificate verification, mortgage release (roya), extension of rights, and block annotations;

3. Quick Service, services completed faster than standard timeframes (2–8 hours) without additional fees;
4. Weekend Service, specialized service hours on weekends (Saturdays);
5. The Use of GPS CORS (*Continuously Operating Reference Stations*) for precise land parcel measurements;
6. Online Monitoring Systems to track service workflows transparently;
7. The BPN Go Mobile Application.^[18]

Electronic Land Certificates are defined as documents issued via electronic systems in electronic document formats. The policy implementing electronic land certificates within Indonesian land registration law is an institutional policy issued by the Ministry of ATR/BPN to provide legal certainty and protection for landowners, prevent land ownership disputes and conflicts, and curb the expansion of land mafias.^[19]

In terms of format, an electronic certificate is a digital document containing concise and complete land data protected by a unique code generated through the electronic system of the Ministry of ATR/BPN.

Several key points must be emphasized regarding Regulation of the Minister of ATR/BPN Number 1 of 2021, including:

1. Based on Article 2 of Permen ATR/BPN No. 1/2021, it states that “The implementation of electronic land registration shall be carried out in stages as determined by the Minister”,^[20] taking into account infrastructure readiness, facilities, utilities, and public awareness.^[21]
2. Article 4 paragraph (2) of Permen ATR/BPN No. 1/2021 states that “the organization of the Electronic System for land registration implementation encompasses data collection, data processing, and data presentation”.^[22]
3. Article 4 paragraph (3) of Permen ATR/BPN No. 1/2021 stipulates that “the output of the Electronic System organization shall take the form of electronic documents issued through the Electronic System and/or documents converted into Electronic Documents”.
4. Article 6 of Permen ATR/BPN No. 1/2021 states that “the issuance of electronic certificates for the first time is carried out through initial land registration for unregistered land (Articles 7, 8, 11) or the replacement of Certificates into electronic certificates for registered land pursuant to Permen ATR/BPN No. 1/2021”. Meanwhile, for land that has already been registered, the mechanism is governed by Articles 14–16 of Permen ATR/BPN No. 1/2021.
5. Article 9 paragraph (3) of Permen ATR/BPN No. 1/2021 states that “The Land Parcel Identification Number constitutes the reference number utilized in every land registration activity”.

¹³ Urip Santoso, *Registration and Transfer of Land Rights*, Jakarta: Prenanda Media, 2019, pp. 17–18.

¹⁴ Ministry of ATR/BPN, *ATR-BPN Newsletter*, Issue 69, March 2021, p. 1.

¹⁵ Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, Regulation of the Minister of ATR/BPN Number 5 of 2020 on Electronically Integrated Mortgage Services.

¹⁶ Research and Development Center Research Team of the Ministry of ATR/BPN, *Bureaucratic Reform Policy Paper*, 2015, p. 9.

¹⁷ *Ibid.*, p. 15.

¹⁸ Eliana, “Public Service Administration System for Land Rights Applications at the Land Office”, *Jurnal Surya Kencana Sakti: Dinamika Masalah Hukum dan Keadilan* 7, no. 1 (2007): 136, <https://jdih.go.id/files/414/595-988-1-SM.pdf>.

¹⁹ Ana Silviana, “The Urgency of Electronic Land Certificates in the Indonesian Land Registration Legal System”, *Administrative Law & Governance Journal* 4, no. 1 (2021): 60, <https://ejournal2.undip.ac.id/index.php/alj/article/view/11191>.

²⁰ Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, Regulation of the Minister of ATR/BPN No. 1 of 2021, Art. 4 para. (2).

²¹ Director General of PHPT of the Ministry of ATR/BPN, “Electronic Certificates Towards World-Class Modern Land Services”, Presentation Material on electronic certificates, <https://ppid.kamparkab.go.id/public/dokumen/2021/02/6d2a83cfe4f546e402919cd76077e589.pdf>.

²² Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, Regulation of the Minister of ATR/BPN No. 1 of 2021, Art. 4 para. (2).

6. The operational constraints faced by PPATs regarding the uploading of Deed of Granting Security Rights (APHT) documents drafted by them in PDF or Word formats include not only an increased workload due to document scanning processes, but also the requirement that APHT documents must still be printed for manual signatures. The same applies to PPAT statements concerning their liability for the formal and material accuracy of documents submitted by appearers or clients as supporting documents for APHT drafting.^[23]

The Ministry of ATR/BPN has also affirmed that physical or analog certificates will not be withdrawn and shall remain valid. Certificate replacements will be processed during data maintenance activities.^[24]

Other aspects to note regarding electronic certificates involve three distinctive differences between analog and digital certificates: structural physical differences, where analog certificates take the form of bound books whereas electronic certificates consist of electronic data or electronic files; the information contained within electronic certificates, which includes details on Restrictions and Responsibilities; and finally, security methods, as electronic certificates utilize Hash Codes, QR Codes, and Electronic Signatures.

According to Article 1 number (2) of Permen ATR/BPN No. 1 of 2021, an Electronic Document is defined as “any electronic information created, forwarded, sent, received, or stored in analog, digital, electromagnetic, optical, or similar forms, which can be viewed, displayed, and/or heard through a computer or Electronic System, including but not limited to writing, sound, images, maps, designs, photographs or the like, letters, signs, numbers, access codes, symbols, or perforations possessing meaning or comprehensible by individuals capable of understanding them”.^[25]

Obstacles related to achieving BPN office performance targets involve factors such as personnel comprehension regarding technical and financial perceptions/coordination, excessively high workloads, and constraints on land public services during the migration of the Computerized Land Office (KKP) from computer data to website portals. Actions taken by the Ministry of ATR/BPN or BPN offices to anticipate and handle these obstacles include coordinating internal meetings to discuss technical work activities and procedures/systems for disbursing budgets effectively and efficiently; conducting training and consultations to maximize systems in overcoming application transitions from computer data to website platforms; establishing cooperation and coordination with the central land office, the Ministry of ATR/BPN, or working partners regarding documents or data requiring migration (such as land books) and infrastructure provisions to execute Excellent Service Training aimed at improving customer service quality and standards; and performing consultations with central and provincial levels of the Ministry of ATR/BPN to obtain solutions for arising issues.^[26]

2. Legal Validity of PPAT Deeds Following the Enactment of the Job Creation Law

Theoretically, the drafting of a deed by an individual serves two primary functions. First, a deed fulfills a formal function (*formalitas causa*), meaning that the deed acts as a prerequisite to complete or perfect—though not necessarily validate—a legal act. The deed serves as the formal requirement for the existence of a specific legal action. For instance, a construction contract (Article 1610 of the Civil Code); a loan agreement with interest (Article 1767 of the Civil Code); or a settlement or peace agreement (*dading*, Article 1851 of the Civil Code) are required to be executed underhand (*akta di bawah tangan*). Conversely, certain agreements are strictly mandated to take the form of an authentic deed (*akta otentik*), including mortgages (Article 1171 of the Civil Code); the granting of land security rights (Article 10 paragraph 2 of the Law on Mortgage Rights / UUHT); gift deeds (*schenking*, Article 1682 of the Civil Code); and the establishment deeds of limited partnerships and limited liability companies.

Second, a deed functions as a tool of proof (*probationis causa*), implying that the deed is intentionally drafted from the outset for evidentiary purposes should a dispute arise in the future among the contracting parties. The written nature of an agreement manifested in a deed is not a strict requirement for the validity of the agreement itself, but rather ensures that the agreement can be readily utilized as legal evidence later on. By holding a deed, parties can easily substantiate their claims using pre-established written evidence if a dispute occurs.

When a deed is introduced as evidence in court proceedings, a fundamental question arises regarding its evidentiary weight (*kekuatan pembuktian*). Evidentiary weight is categorized into apparent evidentiary force (*kekuatan pembuktian lahir*), formal evidentiary force (*kekuatan pembuktian formil*), and material evidentiary force (*kekuatan pembuktian materiil*). Apparent evidentiary force refers to the legal presumption derived from external appearance that is, what is visibly manifested. A document that externally resembles a deed is presumed to possess the force of a deed unless proven otherwise.

Furthermore, formal evidentiary force addresses the question: “Are the statements within the deed genuinely made?” Thus, formal evidentiary force is based on whether statements were truly uttered by the signatories beneath the document. Formal evidentiary force guarantees the historical fact that the official and the parties stated and performed the actions recorded in the deed. Meanwhile, material evidentiary force concerns the question: “Is the content of the statements inside the deed true?” Material evidentiary force provides certainty regarding the substantive truth of the deed, assuring that the official or the parties declared and executed the acts precisely as written.

An authentic deed is granted complete evidentiary weight by law. According to Article 165 of the Indonesian Code of Civil

²³ Pandam Nurwulan, “Implementation of Electronic Mortgage Services for Creditors and Land Deed Officials”, *Jurnal Hukum Ius Quia Iustum* 28, no. 1 (2021): 183–202, DOI: 10.20885/iusum.vol28.iss1.art9, p. 197.

²⁴ Director General of PHPT of the Ministry of ATR/BPN, “Electronic Certificates Towards World-Class Modern Land Services”, Presentation Material on electronic certificates, <https://ppid.kamparkab.go.id/public/dokumen/2021/02/6d2a83cfe4f546e402919cd76077e589.pdf>, accessed March 17, 2026, p. 24.

²⁵ Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, Regulation of the Minister of ATR/BPN No. 1 of 2021, Art. 1 no. 2.

²⁶ Eliana, “Public Service Administration System...”, p. 137.

Procedure (HIR) (Article 285 of R.Bg, as well as Articles 1870 and 1871 of the Civil Code), an authentic deed serves as complete evidence for the parties, their heirs, and assigns regarding everything contained within it, and even regarding statements recorded merely as narratives, provided that such narratives have a direct bearing on the core subject of the deed. If narrated matters lack a direct connection to the main subject of the deed, Article 1871 of the Civil Code dictates that they serve merely as a preliminary written proof (*persiapan bukti tertulis*). Pursuant to Article 1872 of the Civil Code, if an authentic deed is suspected of forgery, its execution may be suspended.

Externally, a deed that appears as an authentic deed and fulfills prescribed requirements is valid and treated as an authentic deed unless proven otherwise (under the principle of *acta publica probant sese ipsa* the inherent capacity of an authentic deed to prove its own validity). Externally, the signature of the official affixed to an authentic deed must be presumed genuine until proven otherwise. If the authenticity of an authentic deed or the veracity of the official's signature is challenged, the burden of proof rests entirely upon the challenging party. Authentic deeds possess a distinct advantage in apparent evidentiary force; whoever disputes an authentic deed bears the burden of proof to substantiate their objection (Articles 138 HIR, 164 R.Bg, 148 Rv).

An authentic deed also possesses formal evidentiary force, meaning it proves the truthfulness of the official's actions and conduct as recorded in the authentic deed. Formally, an authentic deed establishes the truth of the date, location, and the authenticity of the official's signature. In an official act (*ambtelijk acte*), the formal evidentiary weight provides legal certainty regarding statements delivered or recorded by the official based on their direct observation or actions. Such statements carry binding legal certainty for all intended recipients. Meanwhile, in a party act (*partij acte*), the deed guarantees legal certainty regarding statements delivered by the parties, which are subsequently recorded by the official. Thus, what is guaranteed is the veracity of the parties' statements and the formal recording (*konstatasi*) conducted by the official.

The material evidentiary force of a deed lies in the substantive truth of its contents. In an official deed where an official declares matters witnessed and executed upon the request of interested parties, the certainty and truth of the official's statements are guaranteed. If any error or falsity arises within statements contained in an official deed, such errors or falsity fall under the responsibility of the parties providing the information. A party act provides complete evidentiary weight for the parties and their legal successors, and all party acts possess material evidentiary force.

Against whomsoever an authentic deed is presented, opposing parties are bound by the truth of its contents. If any opposing party denies the truth of an authentic deed, that party bears the burden of proof. Conversely, the holder of the authentic deed is not required to prove the validity of the challenged deed; rather, the opposing party must prove the validity of their objection. An authentic deed drawn up by a notary can theoretically be annulled by a judge, but this requires exceptionally robust counter-evidence. Because authentic deeds carry complete evidentiary weight, their annulment must rely on counter-evidence (*tegenbewijs*)

possessing an equally high legal value. If an authentic deed executed by a notary violates statutory regulations, its legal consequence is reduced to the evidentiary force of an underhand deed (*akta di bawah tangan*), though the deed itself remains valid and legally binding.

When drafting party acts (*partij acte*), a notary merely records statements presented by appearers and is not mandated to independently investigate the substantive truth of those statements. Consequently, it is legally improper for a court to annul a party deed on the grounds of unverified material facts. The Supreme Court, via Decision No. 702 K/Sip/1973 dated September 5, 1973, ruled that: "A notary's function is solely to record or write down what is desired and stated by the appearers. A notary has no obligation to materially investigate whether the statements made by the appearers are true or false. If errors occur regarding the content of a notarial deed resulting from erroneous information or statements provided by the appearers, such errors cannot be attributed to the notary, provided the contents were previously confirmed with the parties by the notary."

Based on Supreme Court Decision No. 702 K/Sip/1973 regarding the status of a notarial deed as an authentic deed, several core conclusions can be drawn:

1. A notarial deed cannot be arbitrarily annulled by a court judge.
2. The function of a notary is strictly to record, write down, or transcribe the expressed wishes of the appearers into the deed. The notary merely formally acknowledges (*konstatir*) what is presented by the appearers.
3. A notary is under no obligation to materially investigate the truth of statements or declarations made by appearers. Should it be proven that statements provided by an appearer are false or erroneous, liability rests entirely upon the appearer who delivered those statements, not the notary.

An underhand deed acquires apparent, formal, and material evidentiary force once the signatures within the document are acknowledged by the parties. If the parties named in an underhand deed deny the authenticity of their signatures, they must prove the validity of their denial. Likewise, the party utilizing the deed as evidence is required to prove that the signatures are genuine. A judge may order an examination of the authenticity of signatures in an underhand deed through a signature verification procedure (*echtheidsprocedure*). Once the authenticity of signatures in an underhand deed is established, the substantive statements contained within cannot be further contested. According to jurisprudence, if an individual signs an underhand deed without first reading its contents and later claims to have been defrauded, such a statement cannot be recognized as a valid legal defense.

An underhand deed attains formal evidentiary force if the truth and authenticity of its signatures are proven, or if the parties explicitly acknowledge their signatures. Meanwhile, the material evidentiary force of an underhand deed arises only when acknowledged by the person against whom the deed is invoked. The content of statements in an underhand deed is deemed true against its author and for the benefit of the recipient. An underhand deed provides complete proof for the benefit of the person to whom the signatory intended to furnish evidence.

A critical distinction between authentic deeds and underhand deeds lies in the burden of proof: if an authentic deed is challenged, the challenger bears the burden of proof, whereas the user of the deed need not disprove the challenge. Conversely, if an underhand deed is challenged by an opposing party, the user of the deed must prove its authenticity and refute the opponent's challenge. Thus, the burden of proof for an underhand deed rests upon the party utilizing it, whereas for an authentic deed, the burden of proof rests upon the party contesting it.

Conclusion

Based on the comprehensive discussion regarding the digitalization of Land Deed Official (*Pejabat Pembuat Akta Tanah* or PPAT) deeds following the enactment of the Job Creation Law (*Undang-Undang Cipta Kerja*) and related agrarian regulations, several key conclusions can be drawn:

1. Regulatory Framework and Digital Transformation

The transition toward electronic land services and digital deeds anchored by the Job Creation Law, Government Regulation No. 18 of 2021, and Ministry of ATR/BPN regulations (such as Permen ATR/BPN No. 1/2021 and No. 5/2020) establishes a dual framework that grants PPATs the flexibility to choose between electronic and conventional (*paper-based*) methods. While this modernization aims to streamline bureaucratic processes, enhance transparency, and support the Ease of Doing Business (EODB) index, it currently introduces legal uncertainty and operational challenges for PPATs, who act as the frontline in verifying digital data compliance.

2. Ethical Perspective (Utilitarianism)

Analyzing the digitalization of PPAT deeds through the lens of Utilitarianism Ethical Theory reveals a critical need to balance systemic benefits with individual risks. While digital integration maximizes overall public utility by increasing administrative efficiency, reducing fraud, and accelerating transactions, it simultaneously poses vulnerabilities regarding personal data security and privacy. Therefore, digital transformation must be accompanied by robust cybersecurity safeguards to ensure that the aggregate benefits significantly outweigh any potential harms.

3. Legal Validity and Evidentiary Weight of PPAT Deeds

In Indonesian civil law, deeds serve both formal (*formalitas causa*) and evidentiary (*probationis causa*) functions. Authentic deeds (*akta otentik*) executed by authorized officials enjoy complete evidentiary weight possessing apparent, formal, and material force under the principle of *acta publica probant sese ipsa*. In accordance with established jurisprudence (such as Supreme Court Decision No. 702 K/Sip/1973), a notary or PPAT functions strictly to record and formalize (*konstatir*) the wishes and statements of appearers without any legal obligation to independently investigate the substantive truth of those statements. Consequently, errors stemming from false information provided by appearers cannot be legally attributed to the official.

Ultimately, while the digitalization of PPAT deeds represents an essential step toward modernizing Indonesia's land

administration system, its successful implementation requires harmonizing electronic operational procedures with statutory legal certainty to protect both the public and practitioners from liability risks.

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