

Implementation of Time Stamp as a Form of Legal Certainty Regarding the Cyber Notary Concept

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Abstract. *As time progresses, of course, existing technology also develops. Entering the 4.0 era which begins to require the implementation of digitalization from various sectors. In addition to making it easier, the digitalization era can minimize errors that occur due to human error. In this case, special challenges are encountered in the implementation of Cyber Notary. Explanation of Article 15 Paragraph (3) of the Notary Law only mentions the authority to certify a transaction carried out electronically (Cyber Notary). However, unfortunately, regarding the authority of the Notary in terms of Cyber Notary, there are no further regulations. This study uses a normative legal research method with a conceptual approach and focuses on the use of time stamps in the duties of a notary related to the duties and authorities of a notary, namely making authentic deeds. The time setting on the time stamp provides a sign that the authentic document or deed was made in a unit of time that can be accounted for by using the services of a third party, namely the time stamp authority. The existence of a third party is needed because the time on each computer can vary. Therefore, a third party is needed who can guarantee this. In this case, the Ministry of Law and Human Rights can be trusted to overcome this problem.*

Keywords: *Cyber; Certainty; Notary; Stamp.*

1. Introduction

Indonesia has entered a period of globalization marked by advances in technology, information and communication (ICT) which brings communication with paperless electronic media and the introduction of cyberspace (also called cyberspace via the

internet network. Through electronic media, those who have entered the abstract global cyberspace are able to transcend space and time or be unlimited.¹As time progresses, of course, the technology available is also more advanced. Moreover, now we have entered the 4.0 era which requires digitalization from various sectors. In addition to making things easier, the digitalization era can also minimize errors that occur due to human error. Seeing the development of other countries, starting from those that adopt the Common Law system and Civil Law, the majority of countries have implemented the role and function of Notaries, especially in digital transactions. Therefore, whether we like it or not, our country must adjust or follow developments in the form of organizing Notary services in electronic transactions and even providing notary services electronically.²

The legal profession, especially the notary field, is greatly affected by the implications related to this delay. A notary is someone who makes an authentic deed, witnesses the signing process of another person, and validates it by affixing their signature and stamp on the signed deed. The current dominant paper-based notary method requires the notary to physically sign and stamp or affix a seal to the notarized paper document. Such traditional notarization is difficult to forge, modify, or remove, because the signature and stamp are printed or embossed into the paper fibers, and explicitly trace back to a notary assigned by the government who can verify the facts related to the notarial deed. Although paper-based notarization serves its purpose well, many documents that now require notarization are increasingly expected to be part of an electronic process. This shows that electronic notarization is increasingly in demand.³

Cyber Notary provides a special challenge in this regard. The purpose of the new role of Notary as explained in Article 15 Paragraph (3) of Law No. 30 of 2004 concerning the Position of Notary as amended by Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning the Position of Notary (hereinafter referred to as UUJN) is to validate transactions carried out electronically (Cyber Notary). However, unfortunately the regulation of Notary authority in relation to Cyber Notary is not specifically regulated, therefore in the explanation of Article 15 of the UUJN it is stated that the term "Cyber Notary" can only be used but there is no precise definition. Related to the Concept of Cyber Notary is related to the implementation of notary authority based on information technology. As according to Emma Nurita who explained, that Cyber Notary can be interpreted as a notary who utilizes information technology in carrying out his duties and authorities, especially in making deeds⁴. Then according to Brian Amy Prastyo, the essence of Cyber Notary currently has no definite definition. However, it

¹ Badruzaman, Mariam Darus. (2001). *Mendambakan Kelahiran Hukum Saiber (Cyber Law) Di Indonesia: Pidato Upacara Purna Bhakti Sebagai Guru Besar Tetap Pada Fakultas Hukum Universitas Sumatra Utara*. Medan: USU Press

² Makarim, Edmon. (2013). *Notaris Dan Transaksi Elektronik: Kajian Hukum Tentang Cyber Notary Atau Electronic Notary*. 2nd ed. Jakarta: Raja Grafindo Persad

³ Greenwood, Daniel J. (2006). *Electronic Notarization*. Massachusetts: National Notary Association

⁴ Nurita, Emma. (2012). *Cyber Notary, Pemahaman Awal Dalam Konsep Pemikiran*. Bandung: Refika Aditama

can be interpreted as a Notary who can carry out the duties or authority of his position based on information technology. Of course, it is against the law for a notary to communicate with a client via smartphone or fax. However, this is related to the responsibilities and functions of a Notary, especially in making deeds.⁵

In addition, in the era of digitalization that has penetrated the world of notaries, it not only functions to facilitate the making of deeds but also functions to increase security so that in the future the evidence in the form of deeds made by Notaries becomes safer in order to guarantee legal certainty between the parties. The law often struggles to maintain balance with the dynamics of life that continue to develop beyond its boundaries. Therefore, laws and regulations often undergo revisions and modifications. Indonesia, as a country of law, is no exception in the development of modern law, inevitably has to follow developments. In the National Legislation Program (Prolegnas) in 2024, one of the legal frameworks that is the target for change and will be revised is the UUJN. As part of the changes to the UUJN, the concept of Cyber Notary has emerged as an interesting topic and is worthy of discussion for the progress of the development of the UUJN in the future.

A Notary in carrying out his duties and office makes a deed as regulated by the laws and regulations. A deed is one of the products of legislation that can be an official evidence. In this case, the state gives authority to public officials to make an authentic deed to be able to meet the needs of the community for the existence of such an authentic deed. This also includes authentic civil deeds made by Notaries, by PPAT for certain land deeds and by Auction Officials for public sale deeds.⁶ Administrative authentic deeds, such as birth certificates, death certificates, and others, are authentic deeds whose creation is not within the authority of a Notary.

The ratification of a deed by a Notary is highly dependent on its legal certainty. At present, there are no clear legal regulations regarding electronically created time stamps that have the potential to involve Notaries and cause problems for the parties if losses occur. Given that a notary is someone whose job requires them to act honorably, maintain integrity, be careful, thorough, independent, independent of others, impartial, impartial, and carry out their duties professionally. Therefore, notaries must provide services and assistance to the community that are fully based on a fair and certain legal position. Notary public officials are required by law to be accountable account for all authority and responsibility to the government and society.⁷

Notaries as public officials who have exclusive authority to make authentic deeds for every agreement, provision, or deed required by general regulations or by parties

⁵ Prastyo, Brian Amy. "Peluang Dan Tantangan Cyber Notary Di Indonesia." Accessed June 12, 2014. <http://staff.blog.ui.ac.id/brian.amy/2009/11/29/peluang-cyber-notary-di-indonesia/>

⁶ Utomo, Hatta Isnaini Wahyu. (2020). *Memahami Peraturan Jabatan Pejabat Pembuat Akta Tanah*. Jakarta: Kencana

⁷ Kholidah, Putra Halomoan Hasibuan, Muhammad Reza Alamsyah, Ade Fitri Ramadani, and Amil Keramat. (2023). *Notaris Dan PPAT Di Indonesia*. Yogyakarta: Semesta Aksara

whose interests are represented in an authentic deed; they also ensure that the date is certain, keep the deed and provide a copy; and In other words, a deed cannot be excluded or transferred to the authorities or other people if it is made according to a general norm.⁸

Notaries need a benchmark that can be used as a guideline in approving deeds that are affixed with electronic time stamps in order to create legal certainty in the creation of time stamps electronically.⁹Therefore, with the existence of certain benchmarks to guarantee legal certainty that can be used as a guideline for Notaries who are bound by these regulations, these actions can be referred to as regulations made by parties who have the capacity to do so. Considering that a deed is a legally binding document made, signed, and witnessed by an official authorized by law to carry out the duties of the position. Various legal transactions, such as credit agreements, marriage agreements, and so on. In addition, each deed has binding and authentic legal force.

One of the main requirements of an authentic deed is that it must be completely true both in substance and in form. Notaries and civil registry officers have the authority to make valid deeds according to their authority. One of their duties is to ensure that all parties involved in the transaction are real people, ensure that the notary is aware of the contents of the transaction, and sign the document. In addition, the minutes of the deed are usually kept in an archive to be used as evidence in court in the future when needed.¹⁰

Because his authority (authority) is based on the provisions of laws and regulations, the notary has an important position and function both in national and state life. The authority of a notary is also called *de notary autoriteit* in Dutch, referring to the power inherent in a notary. The position of Notary cannot be separated from his authority and responsibility.¹¹Every society that needs it can benefit from the work of a notary, namely an official who makes legal documents and communications related to legal agreements. Notaries have a heavy duty because of their authority and rights, so they must be able to be responsible for all their actions. This accountability can be in the form of legal and moral accountability. Therefore, if the object produced in this case a valid deed becomes evidence of an unlawful act or confiscated goods to be used as evidence in court, then the Notary as the official who made the deed must of course be held accountable.the answer.¹²

Economic development requires practicality, namely the ease and efficiency of trade practices in terms of time and place. To meet this practical suitability requires that in

⁸ Harpa Sugiharti and Kholida Atiyatul Maula, "The Influence of Financial Literacy on Students' Financial Management Behavior," *Accountthink: Journal of Accounting and Finance*, 2019, <https://doi.org/10.35706/acc.v4i2.2208>.

⁹ Hatta Utomo, *Op.cit*

¹⁰ Kholidah et al., *Op.cit*

¹¹ Hatta Isnaini Wahyu Utomo, *Loc.cit*

¹² Kholidah et al.,*Op.cit*

order to respond to technological developments, it can be included in legal regulations. This implementation occurs when countries with high technology such as Japan and the Netherlands adopt the concept of Cyber Notary into their laws. Because of the phenomenon of economic and technological development, the need for modernization in the world of notaries is also increasing.

Based on Article 67 of Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions (hereinafter referred to as PP No. 71 of 2019), it has been explained that electronic time stamps are legal and legally binding actions in terms of time stamps including certified time stamps and must contain accurate dates and times and the integrity of information and/or electronic documents related to the date and time. However, there are several guidelines that make it easier for notaries to actually contradict the duties of notaries who require signing deeds directly and affixing a wet stamp.

UUJN also does not regulate the use of stamps in real terms according to the time the deed is signed. It only regulates that the notary is required to read the Deed in front of the person appearing in the presence of at least 2 (two) witnesses, or 4 (four) witnesses specifically to prepare a private will, and the signing is carried out at that time by the person appearing, witnesses and notary, as stated in Article 16 paragraph (1) letter m UUJN and because of this, it becomes difficult to implement Cyber Notary.¹³

The use of time stamps in relation to securing data or documents can be a solution to the need for security in relation to the implementation of Cyber Notary. The security referred to is related to the authority of a legitimate person over data or documents provided by someone, in this case a Notary. The use of the time stamp is related to the duties and positions of a Notary, namely in the process of making an authentic deed. The time information stated in the time stamp can provide a sign that the document or authentic deed was made at a time that can be accounted for its truth and certainty by using the existence of a third party, namely the time stamp authority.

The existence of a third party, in this case the time stamp authority, is very necessary. This is related to enabling there is a time difference on each computer used. Therefore, to ensure the same time in the process of giving a time stamp to a document or deed, a trusted third party is needed and in this case it can be done by the Ministry of Law and Human Rights. Authentic Deeds in this case are not only those made by Notaries, but also authentic deeds made by other officials such as civil registrars, bailiffs and auction officials. However, in this study the subject studied is authentic deeds made by Notaries.

The idea that will be offered is about time stamp and its use in securing a document or data. The security in question is the authority of a legitimate person over a document or data provided by someone in this case a Notary. The use of time stamps related to

¹³ W. Isnaini, H., & Utomo, "The Existence of the Notary and Notarial Deeds within Private Procedural Law in the Industrial Revolution Era 4.0. *International Journal of Innovation, Creativity and Change*," *International Journal of Innovation, Creativity and Change* 10, no. 3 (2019): 128–139.

the work of a notary is related to the duties and functions of the notary himself, namely making authentic deeds. The time on the time stamp provides a sign that the document or deed was made at a time that can be accounted for by using the services of a third party, namely the time stamp authority. A third party is needed because the time on each computer can vary. Therefore, a third party is needed, possibly in this case the Ministry of Law and Human Rights, which can be trusted to overcome this problem. However, this authentic deed is not only made by a notary but also an authentic deed which includes deeds made by public officials such as civil registrars, bailiffs, and auctioneers. However, the subject of this study is an authentic deed made by a notary.

2. Research Methods

This study uses a normative legal research method with a conceptual approach and focuses on the use of time stamps in the duties of a notary related to the duties and authorities of a notary, namely making authentic deeds. To face the rapid advancement of technology, society is required to immediately adapt to the transformation. In order to accommodate the ongoing developments effectively, the legal system must strive to achieve the desired balance and make changes to its framework. Although the legal field has always developed over time, unfortunately until now the law is still often lagging behind, including what happens in the Notary Office. Based on these conditions, it is necessary to discuss the urgency of using time stamps on notarial deeds and the concept of time stamping on cyber notaries as a basic form of legal accuracy.

3. Results and Discussion

3.1. Urgency of Using Time Stamps in Notarial Deeds

A notary is a person who is authorized by the government to validate and witness various types of agreements, wills, deeds, and other documents, according to the Great Dictionary of the Indonesian Language (KBBI). A notary is a state official or public official appointed by the state to carry out state duties in the context of legal services to the community with the aim of achieving legal certainty. A notary is also referred to as *van notary* in Dutch and *notary* in English. A notary functions as an official who validates deeds in civil cases.¹⁴

- a. Public Officials: People appointed by the government to perform certain legal duties are called notaries. After passing special exams and training, they are usually appointed by the government.
- b. One of the main duties of a notary is to make authentic deeds. "Authentic deeds" is a term used to describe a legal deed made by a notary with strict examination procedures. This document is often used in property transactions, credit, marriage, wills, and other legal agreements.

¹⁴ Kholidah et al., Op.cit

c. **Ensuring Legal Compliance:** Notaries must ensure that all documents and transactions they handle are in accordance with the law. They must ensure that the agreement is valid and enforceable, that all parties to the transaction have the necessary legal capacity, and that the parties understand the legal consequences of the agreement.

d. **Neutrality:** Notaries must act neutrally and impartially when handling transactions; they must be independent and impartial, and must not have any conflict of interest.

e. **Archive and Registration:** In addition to making the deed, the notary must keep a duplicate of it and register it with the authorities. This is done to ensure that the legal documents are accessible and can be viewed in the future.

Article 1320 of the Civil Code does not specify the form of media used in the agreement and does not constitute an obligation to use a particular media. Therefore, contracts can also be made and completed electronically. This can also be associated with the principle of freedom of contract contained in Article 1338 of the Civil Code which states that the parties have the freedom to determine matters related to the contents of a contract based on good faith. As an agreement applies like a law to the parties who make it, the form of media agreed upon in the agreement is also binding on the parties. Based on this, it is clear that agreements can be made electronically.

With regard to deeds issued by a Notary, there is an urgent need for the accuracy of the date and time stated in the title of the Notarial deed, in accordance with paragraph (1) of Article 38 of the UUJN which states that every Notarial deed consists of:

- a. the start of a business or the leadership of a business;
- b. action content;
- c. completion or closing of a transaction.

Then continue to point 2 which states that the beginning of an act or chapter of an act contains:

- a. Document name
- b. Action number
- c. Hour, day, month and year
- d. Full name and position of Notary

As regulated in UUJN, it can be explained that the obligation of a Notary is to provide services to the public regarding the need for written evidence that can be accounted for. In its implementation, the power of a Notary is currently increasing because of the need for formal contract requirements required by regulations, in this case formalized

with a Notarial deed. For example, in issuing a limited liability company (PT) deed, as well as a fiduciary deed, articles of association, and deed of establishment, a Notarial deed must be used. The need to include formal references for the implementation of a notarial deed, not only as a recommendation (evidence), but also mandatory for the recognition of the validity of a contract according to the law. The absence of formal requirements is a reason for an agreement to be void by law.

In some cases that are often encountered, namely notary problems in the form of fiduciary guarantee deeds, the number of orders related to fiduciary guarantees can reach 100 or even 1000 orders per day. If you pay attention, notaries continue to make so many notarial deeds, then basically the time needed should be more than a day. If we adjust to a particular field, for example starting from the arrival of the representative, reading the deed, and ending with the signing of the document, then the time interval required is 30 minutes to 1 hour per markerhand. So doing charity in a day should be around 20 or a maximum of 30 deeds. However, what always happens in the field is that the Notary still insists that 100 or 1000 deeds are made in one day, so that this can result in the loss of legal certainty regarding the time and date of making the deed and can result in the loss of legal certainty. the document becomes a deed whose evidence is classified as confidential as explained in Article 41 of the UUJN which states that violations of the provisions. as stipulated in Article 38, Article 39, and Article 40 result in the Law having evidentiary power only as an underhand act.

To minimize the occurrence of such acts and ensure the certainty of the law contained in the deed, in this case related to the time of implementation of the deed, changes or new breakthroughs are made in the form of a time stamp. required. If in the concept there is a clause regarding the time and date specified in the deed, so that the process and its efficiency can provide greater security in the notary system. More than one type of electronic document is an option that can be stored in a safer state without a time limit, including responsibility for files or minutes that will later be stored in the archives of the Notary concerned. This is then also a special form of digitalization that can be the basis for storing notary records electronically. In addition to storing electronic documents related to notary power of attorney, the Ministry of Agrarian Affairs and Physical Planning/National Land Agency issues electronic certificates, in this case related to the position of Notary-PPAT, because electronic certificates are related to the transfer of land rights managed by PPAT.

Time Stamp is an electronic seal and also includes a time indicator applied to the document. Each document has a different display time. different because the timestamp indicates when the document was printed. According to Krisnabayu et al.: "A more detailed explanation of timestamps is that basically timestamps will show the actual time of an event recorded in a computer and are used as a guarantee that the event at that time was valid or can be accounted for by the person who affixed the timestamp.

Time is calibrated in seconds by the computer to ensure accuracy”.¹⁵

The use of timestamps is intended to identify businesses or non-profit organizations that play an important role in verifying certain documents or files. Digital stamps on regular invoices are regulated by each company's invoice printing application or system. If it is not available in the company's system or application, you can use an external application or create a company stamp image in media such as Microsoft Word or Photoshop and then print it on paper when you issue the invoice.

The validity (legality) of digital stamps has been regulated in PP No. 17 of 2019. To obtain certification from the Electronic Certification Organizer (PSrE), a digital stamp from the company is required. This certification must be renewed annually so that the digital stamp remains valid. Article 42 paragraph (1) of PP No. 17 of 2019 states that electronic transaction organizers are required to use electronic certificates issued by Indonesian electronic certificate organizers.

As time goes by, the increasing number of needs that require the use of technological devices, it is necessary to regulate Cyber Notary, especially the use of timestamps in Notary services in Indonesia, which is a very urgent matter and must be a legal tool developed immediately. Solutions have been created and found, especially for problems that require the existence of timestamps, so that notary services are carried out by notaries as a renewal and legal innovation for the development of the notary world. Determination of timestamps in notary services in Indonesia is very urgent, considering that notaries must adapt to increasingly dynamic changes in society, such as the emergence of an e-commerce trading system in Indonesia which of course will require a workforce from notaries.

Modern Indonesian society has a sense of desire every strong year. Indonesia is one of the largest Internet service users in the world. At this time, laws and regulations in the field of Information and Electronic Transactions can be used as a basis for making special rules that regulate the arrangement of Time Stamps. In the service provision sector, the government targets Indonesia to achieve a minimum ranking of 40 (forty) in the Ease of Doing Business (EODB), which aims to ensure ease of doing business so that Indonesia becomes an attractive country for doing business and investing for foreign investors. Openness of information and technology for Notaries will greatly facilitate them. Several experts have put forward explanations regarding cyber notaries, especially the use of time stamps in developing countries, which can improve security. Socialization of provisions regarding the mechanism for using electronic signatures can guarantee legal certainty as a reference for justice and security.

By way of comparison, Article 1322 of the Belgian Civil Code states that “data in electronic form that can be linked to a specific person and that preserves the integrity

¹⁵ Krisnabayu, N. D., N. P. Sastra, K. O. Saputra, and N. M. A. E. D. Wirastuti. (2017). “Clock Skew Sebagai Dasar Autentifikasi Keamanan Pada Jaringan Sensor Nirkabel.” *Jurnal Program Studi Teknik Elektro Universitas Udayana*

of the content of the document meets the legal requirements for a signature.” The electronic format meets the legal requirements for a valid signature when applicable to the party wishing to preserve the integrity of the content of the document. Likewise, the Belgian Notary Act of 16 March 1803 (hereinafter referred to as the Belgian National Notary Act) regulates the decisions aimed at improving the conditions for the application of the Cyber Notary Act under the supervision of the Belgian Council of State that have been taken and taking into account all expenses related to notaries. In this regard, the Belgian law “Potpourri Law V of 6 July 2017” came into force. This law concerns Cyber Notaries and specifically emphasizes that notarial acts can be performed remotely or via video conference.¹⁶

Today there is a similar but not identical condition, namely that more than 70% of transactions received by French notaries are now paperless. The first official document signed on electronic media occurred in 2008. The world of notaries now includes video conferencing via computer networks, making it possible to create certificates remotely with clients. Article 1317 of the French Civil Code states: "An official document is a document that is received by the official authorized to issue the document, after going through the necessary procedures at his domicile, and can be made and stored in electronic media under certain conditions." According to Edmon Makarim: "In principle, the French state considers that the making of notarial deeds can be done electronically, provided that the notarial deed is maintained and the conditions for obtaining an electronic signature are met. In this condition, the act can maintain all its elements or qualities, such as date, evidentiary force, and validity."¹⁷This is confirmed in Article 1316 of the French Civil Code which states that “Documents in electronic form are admissible as evidence in the same way as paper documents, provided that the person who created them can be identified, they are properly produced and stored” in appropriate conditions to guarantee their integrity.

The laws and regulations in Belgium and France clearly regulate the legality of notaries in making authentic deeds electronically. In fact, notaries in both countries have also trained notaries to do their work without using paper and video conferencing with interested clients. Since Belgium and France have a clear legal framework regarding Cyber Notary, the implementation and regulation of Cyber Notary in Indonesia must be compared between the two countries. In order to maintain a strong legal basis regarding the rules regarding cyber notary, especially timestamps, Indonesia has established several regulations, including the Notary Law, Article 1868 of the Civil Code, and Article 5 paragraph (4) of Law No. 11 of 2008 concerning Information and Electronic Information as amended several times, most recently by Law No. 1 of 2024 about Second Amendment to Law No. 11 of 2008 concerning Electronic Information and Transactions (hereinafter referred to as the ITE Law). All these laws

¹⁶ Loyens Loeff, “Belgian Notaries and Digitalisation: A (New) Love Affair,” 2019, <https://www.loyensloeff.com/ch/en/news/belgian-notaries-and-digitalisation-a-new-love-affair-n15833/>.

¹⁷ Makarim, Loc.cit

need to be reviewed to realize legal reform in Indonesia. With the changes to certain rules, the implementation of these rules in Indonesia will guarantee and prioritize the principles of security, practicality, and legal order, as well as provide a clear legal basis regarding timestamps in notarial deeds.

Article 15 paragraph (1) of the UUJN defines a notary in general as follows:

"Notaries have the authority to make authentic deeds in connection with all deeds, agreements, and provisions required by law and/or desired by the interested parties, expressed in authentic form. A deed that guarantees the certainty of the date of making the deed, stores the deed, provides grosse, copies, and extracts of the deed, and provides grosse, copies, and extracts of the deed and all things with the provision that the making of the law is not entrusted or excluded to other officials or to other people determined by law."

Regarding the special powers of a Notary, paragraph (2) of Article 15 of the UUJN regulates the powers of a Notary to carry out certain legal acts, including:

- a. Confirm the signature and ensure the date of the private letter by noting it in a special book;
- b. Doing bookkeeping by recording letters under hand in a special book;
- c. By using a copy of the original private letter containing the information written and conveyed in the letter in question;
- d. Validate the correctness of the photocopy by comparing the original letter;
- e. Providing legal advice in making deeds;
- f. Carrying out activities related to land; or
- g. Drafting auction minutes (auction minutes). The notary is legally authorized to determine all documents, agreements, and provisions desired by the party or parties who intend to ask the notary to document their statements in an original deed and guarantee that the deed he signed is complete and has the power of proof.

Along with all the developments and new habits that have occurred after the Covid-19 pandemic, it has become urgent that the implementation of Cyber Notary in Indonesia must be implemented immediately. As an initial step in implementing Cyber Notary in Indonesia, a legal basis is needed to start using Time Stamp on deeds made by Notaries. The urgency of using Time Stamp on deeds made by Notaries can be seen from the aspect of benefits, both from the perspective of the community and from Notaries as officials authorized to make deeds.

3.2. The Concept of Time Stamping in Cyber Notary as a Basic Form of Legal Accuracy

In accordance with paragraph (1) of Article 15 UUJN, the Notary's authority includes making authentic deeds regarding all deeds, agreements and provisions required by law and/or interested parties wish to be stated in an authentic deed. As long as the implementation of the deed is not entrusted or excluded to another official or other person according to the method determined by law, through the deed he carries out, the Notary guarantees the correctness of the date of the deed, maintains the deed, provides a grosse, copy and quotation of the deed. According to Article 1868 of the Civil Code, an authentic deed is an act carried out in a form determined by law by a public official or in the presence of someone who is authorized to do so at the place where the deed was made.

Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that everyone has the right to recognition, guarantees, protection, and certainty of fair law, as well as equal treatment before the law. Given that a Notary is a representative of the state who is authorized to make deeds and other legal documents, a Notary plays an important role in the legal system, especially in the field of civil law. A Notary is a public official whose existence represents the state in civil matters.¹⁸ Thus, the implementation of legal certainty through actions carried out by a Notary is an obligation in carrying out its functions. According to Rathbruch, the objectives of justice, benefit, and legal certainty are the main objectives of law.¹⁹

Based on the provisions of Article 41 UUJN, if the provisions of Articles 38, 39, and 40 are violated, then the act loses its evidentiary value as an original act and is equated with an act underhand. Furthermore, in Article 38 paragraph (2) UUJN, one of the important elements in carrying out an act is the beginning of the deed. At the beginning of the deed, the time, day, month and year of the deed are stated. So, to maintain the authenticity of a transaction carried out by a Notary, there needs to be certainty regarding the time, day, day, month and year of the transaction.

In addition, Article 38 paragraph (2) letter d of the UUJN is also a requirement for a Notarial deed to be binding. And there must also be trust in the agreement between the Notary's residence and the place of signing the deed. Considering the provisions of Article 19 paragraph (3) of the UUJN which states that a Notary does not have the right to continue to carry out his activities outside his domicile, namely the city/district, even though the Notary's area of office is one province, as referred to in Article 19 paragraph (2) of the UUJN. In addition, Notaries are prohibited from carrying out their duties outside their position, according to Article 17 letter a of the UUJN. Based on the discussion in this article regarding the scope of the Notary's authority to carry out transactions, it can be said that Notaries cannot carry out acts outside their authority.

¹⁸ Kholidah et al., Op.cit

¹⁹ Yanto, Oksidelfa. (2020). *Negara Hukum: Kepastian, Keadilan Dan Kemanfaatan Hukum*. Bandung: Pustaka Reka Cipta

There is a concern that the criteria for material truth of the transaction will not be met, because the notary is not in his authority.

The notary's obligation to maintain the authenticity of his deeds aims to maintain the strength of the evidence required by the client.²⁰ If the Notary is negligent in maintaining the authenticity of the deed, the Notary can be sued for an unlawful act as regulated in Article 1365 of the Civil Code, which includes the elements: violation, error, loss, and cause and effect. The person whose rights are violated, according to Article 1865 of the Civil Code, is required to provide evidence of loss. In order for a claim for compensation to be successful, all requirements must be met. Article 1246 of the Civil Code explains the costs and losses incurred. The actual losses incurred are sufficient to meet the claim for compensation; these losses do not have to be met in full.

Notaries will be subject to administrative sanctions in addition to verbal and written warnings if they are proven to have violated the applicable laws and regulations relating to the position of Notary. The sanctions can be in the form of temporary suspension, respectful dismissal, or even dishonorable dismissal if the Notary's mistake is considered a serious error that clearly violates the applicable laws and regulations. Notaries need legal protection in carrying out their duties as public officials, including maintaining the honor and dignity of their position through information and examinations.²¹ Notaries need legal protection in carrying out their duties as public officials, including maintaining the dignity of their position by giving testimony and participating in interrogations and trials. There are three ways to dismiss a notary from his position:

- a. Honorable discharge,
- b. Temporary suspension and
- c. Dishonorable discharge.

Notaries in Indonesia use the Civil Law system which believes that deeds made by and before a Notary are genuine. The original deed made based on Article 1867 of the Civil Code is perfect evidence. A notarial deed can be authentic if the legal requirements contained in Article 1868 of the Civil Code include:²²

- a. Made according to the procedures determined by law, meaning that its manufacture must comply with the provisions of the law.

²⁰ Hatta Isnaini and Hendry Dwicahyo Wanda, "The Principle of Caution of Land Deed Officials in the Transfer of Uncertified Land," *IUS QUIA IUSTUM Law Journal* 24, no. 3 (July 2017): 467–87, <https://doi.org/10.20885/iustum.vol24.iss3.art7>.

²¹ Rizky, Fahim Muhammad, and Aminah. (2023). "Akibat Hukum Terhadap Notaris Yang Membuat Akta Diluar Wilayah Jabatan Notaris Ditinjau Dari Undang-Undang Nomor 2 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 30 Tahun 2004 Tentang Jabatan Notaris." *Al-Manhaj: Jurnal Hukum Dan Pranata Sosial Islam* 05, no. 01

²² Kie, Tan Thong. (2007). *Studi Notariat & Serba-Serbi Praktek Notaris*. Jakarta: PT Ichtiar Baru van Hoeve

b. The condition for its implementation must be carried out in the presence of or by a public official, namely the implementation of the action in front of shows that the action is carried out at the request of someone, while the implementation of the action is conditioned by a public official. events, evidence, decisions, and others. For example, minutes of a meeting for documents made by a notary are called joint documents, while documents made in advance are documents called agreements of the parties.

c. The official must have authority in the place where the act was committed. What is meant by authority here concerns three things, namely:

- 1) His position and the type of deed he made;
- 2) Day and date of making the deed and;
- 3) Four deeds were made.

The requirements that must be met in making an authentic deed make the Cyber Notary concept more difficult to implement in Indonesia compared to common law countries. This also conflicts with several laws and regulations that make the Cyber Notary concept difficult to accept, such as the Civil Code. An original deed is a form of evidence which according to the Civil Code must be made in accordance with the provisions of the law, of course at this time *Cyber Notary* contrary to the provisions of UUJN. Notaries in making deeds must be able to create legal certainty and provide maximum protection to the parties. Fulfillment of these requirements will affect the evidentiary power of the invalidity of a Notary deed.

According to Ramalus: "There is a close relationship between UUJN and a number of provisions of laws and regulations.-The invitation makes the concept of legal change a very important thing to pay attention to in the context of revising the UUJN."²³ Because an original deed has perfect and binding evidentiary value which is the result of a combination of the powers contained in it, then if one of these powers is lost, then the original deed does not have perfect and binding evidentiary value. . There are three strengths to prove that an action is serious, namely:²⁴:

a. External Evidence Strength: The ability of a Notarial deed to prove its validity as an authentic deed is called external validity. A valid document is original until proven otherwise, that is until someone proves that the document is not original, if from the outside (it seems) it is original and in accordance with applicable laws and regulations. The requirements for the authenticity of the deed are determined, the burden of proof in this case is borne by the party suing the validity of the Notarial deed. The parameters that determine the authenticity of a Notarial deed

²³ Ramalus, Alex. (2023). "Kepastian Hukum Cyber Notary Dalam Kaedah Pembuatan Akta Notaris Dan PPAT Terkait Berhadapn Oleh Para Pihak." *Jurnal Hukum Dan Keadilan* 01, no. 01

²⁴ Kholidah et al., Op.cit

are the signature of the Notary concerned both on the protocol and the copy, as well as the beginning of the deed (starting with the title) to the end of the deed.

b. Formal evidentiary power: Notarial deeds must guarantee that the facts and events mentioned, in accordance with the deed-making process, were actually carried out by the Notary or explained by the people present at the time specified in the deed. Formally find out the truth and accuracy of the date, day, month, year, time of attendance, parties involved, names and signatures of the parties/present, witnesses and Notary; in addition to showing in the deed or minutes what was seen, heard and recorded by the Notary; and finally, document the statements of the parties/appearance in the deed party.

c. Evidence of Material Strength: The contents of the act must have legal certainty; Unless there is evidence to the contrary, the parties who carry out the act or obtain the rights should be able to rely on it as valid evidence, and the community must also be able to accept it (*tegenbewijs*). All statements or explanations given or given to the Notary and the parties, including those recorded in the deed (or notes), must be believed to be true. The words spoken or contained in the deed are true and valid, or anyone who appears before the Notary and whose statement is then mentioned or contained in the deed is deemed to have made a valid statement. The parties concerned are responsible; if it turns out that the claims of the parties present are not true, the Notary is not involved and becomes the responsibility of the parties themselves. Thus, the contents of the notarial deed are guaranteed to be true and become valid evidence between the parties and their heirs or other heirs.

Judges use the evidence stage to inform the decision-making process. Some argue that the evidentiary procedure in court is essential to the interrogation procedure in court. Evidence is essential because the evidentiary stage tests the arguments of the parties to determine which law will be applied (*rechtopasing*) or determined (*rechtwending*) in a particular situation. Because evidence is historical, it seeks to identify past events that are currently accepted as true. Only relevant events need to be proven; irrelevant events can be denied. In essence, events that lead to the establishment of the truth in question as determined by law are things that must be proven at this evidentiary stage. Determining whether or not the defendant is guilty of the crime charged is the most important aspect of criminal procedure law. In this situation, human rights are at risk. The development of criminal procedure law has a history that shows the existence of various systems or ideas that justify the behavior of the defendant. This method of proof varies depending on the period and location (nation).²⁵

Based on the theory of legal certainty put forward by Gustav Radberch as one of the objectives of law, it can be said to be part of an effort to create justice. The application or enforcement of the law against an act without regard to the perpetrator is the true

²⁵ Kholidah et al.

definition of legal certainty. In addition, when there is legal clarity, everyone knows what is expected from carrying out a certain legal activity. Certainty is needed to realize the principle of equality before the law without discrimination. Based on the Theory of Legal Certainty, what is meant by the authority of a Notary in this case a Cyber Notary who previously did not know whether or not an act could be carried out due to a legal vacuum (*rechtsvacuum*) becomes clear, namely that it applies only to electronic transaction certification.

The concept of implementing Cyber Notary in Indonesia is closely related to archiving, where the provisions of archiving in Indonesia are regulated in Law No. 43 of 2009 concerning Archives (hereinafter referred to as the Archives Law). As for its relation to Cyber Notary and the Archives Law, this is part of the regulations regarding Cyber Notary, because notary protocols can be part of Cyber Notary because they are a collection of documents or archives of all work carried out by the duties and authorities of a notary. Notary work always involves documents, archives, documents (additional documents attached to the deed). Article 1 paragraph (2) of the Archives Law also states that archives are records of activities or events in various forms and on various media in accordance with advances in information and communication technology, which are created and adopted by government agencies, local governments, educational institutions, companies, political organizations, public organizations, and individuals in organizing community, national, and state life.

One of the duties of a notary is to obtain a transaction protocol (original deed) from the previous notary, and the definition of the protocol itself is a record of a series of events or legal acts that are stated in the contents of the deed. Likewise with other notary records, for example the *gentabook* is a book that contains a list of bearers who appear before the notary, the book is arranged alphabetically and contains the serial number, deed number, names of the bearers, nature of the deed. and the date of implementation of the case action. The *gentabook* records every day all legal acts recorded by the Notary in the form of a deed.

The presence of Cyber Notary which emerged in connection with events in the era of globalization has caused many changes in Notary service activities, where Cyber Notary is regulated in the explanation of paragraph (3) of Article 15 of the new UUJN. The explanation in this article provides a legal basis for Notaries in carrying out their activities through Cyber Notary. Cyber Notary is a general concept that is often used to refer to the function of Notaries in relation to electronic transactions or relationships via the Internet or it can be said that Cyber Notary is an idea to integrate technological advances with the implementation of daily Notary duties.

Cyber notary simplify the implementation of information technology-based transactions, not limited by time and distance. This means that the notary process can be carried out via teleconference without having to meet in person. The *akad* process carried out by a notary will make it easier to verify the authenticity of the signature, store documents, provide the number, copies and citations of documents and archives

of existing letters. The signing process is also simplified by transferring the electronic signature to an independent institution tasked with storing digital signatures, ensuring that data is exchanged and stored properly. Notaries must be ready to adapt to current circumstances. This is an effort to create a practical, efficient and easily accessible service system. In addition, the use of electronic media contained in the GMS of Limited Liability Companies makes a significant contribution to the implementation of Cyber Notary in Indonesia. The implementation of Cyber Notary in Indonesia will also play an important role in improving the national economy.

There are several concepts offered related to Cyber Notary, namely in the form of a time stamp. Seeing or being inspired by the process of the Limited Liability Company (PT) Establishment Ordinance issued by the Directorate General of the Ministry of Law and Human Rights (Kemenkumkham) and the camera application with a time stamp owned by Bumi. Kantor Badan (BPN) each of which has the following procedures:

- a. Process/procedures for issuing orders from the Ministry of Law and Human Rights regarding the establishment of limited liability companies on the website <https://www.ahu.go.id/> begins with the making of a notarial deed, then signed by the parties, and if the signatures of the parties are complete, the short process of copying the deed of departure is then continued with the entry of company data into the AHU Online system, where details of the company members are uploaded, including copies of their documents. After the establishment documents are uploaded, all data requested by the AHU online system will wait some time to be verified by the Ministry of Law and Human Rights, if deemed appropriate. The company establishment decision will be issued. The decision form contains a time stamp associated with the letter number and the date of ratification of the establishment decision, as well as signatures on behalf of the Minister of Law and Human Rights of the Republic of Indonesia, the Director General of the General Legal Office, and the date the decision was printed.
- b. The process/procedure of the Time Stamp Camera application called GPS Map Camera (Geotag Photo) owned by the BPN office is in the process of obtaining certification. If one of the main requirements is to attach a photo of the land and buildings being worked on, taken through the time stamp application, where in the form of an image or photo there is a sign related to the coordinates of the point, the complete address of the land and building, and the time the photo was taken.

So look at the form of time stamp from both systems, it is worth considering as a reference for the Cyber Notary concept in Indonesia. There is another efficiency if this concept is applied to the notary process, such as the time stamp printed on the AHU general administration system, if the notary has a similar system where the copy of the deed entered can receive time. The stamp in the form of a number, date and time, then the time stamp causes the recording of data about the deed entered, thus affecting the efficiency of notary reporting, which is submitted every month to the Ministry of Law and Human Rights, where the reporting process is carried out manually by compiling a

table containing the number, date and name of the parties. However, because the time recording process is carried out in the notary system that can be provided by the Ministry of Law and Human Rights, notaries no longer need to make or compile notary reports manually.

In addition, the effectiveness of the application owned by BPN, if the notary has the application, the security and legal certainty of signing the deed will be more accurate because the application displays the address and time the image was taken. He was taken. Moreover, if the notary has this application, the image taken can be printed and made into a document included in the transaction protocol.

When someone wants to time stamp a document, they go through the Time Stamp Authorization (TSA) process, which acts as a trusted third party. To ensure that the recipient of the document is confident in the time stamp on the document, this party facilitates the document's existence by preventing the document owner from changing the time stamp on the time stamp. Trusted Digital Time Stamp is the term for applying a time stamp to a document using the TSA service because most people who want to do this trust the TSA. A time stamp is applied to a document by sending it to the TSA to be time stamped, and the TSA then returns the time stamped document to the original sender. The procedure that ensures the security of document creation and modification is called trusted time stamping. Because the time stamp on these documents is provided by the TSA, security means that no one, not even the document owner, can change it. TSA is also used when proving the existence of certain documents (such as contracts, research datasets, or medical records). Trusted time stamps are used because they prevent the document owner from changing the time stamp. Multiple TSAs can be used to reduce vulnerabilities and increase reliability.

TSA, a third party offering TSS (Time Stamping Service), is used in the time stamping scheme in question. In each system, documents have different time stamps. When a client wants to time stamp a document, it sends the hash code of the document to the Time stamp service (TSS). After adding the time and date to the hash value, TSS signs it and sends the signing result via email to the client. The client verifies that the hash value provided to the Time stamp Service matches the hash value of the decrypted signature sent to it.

This is expected to help notaries provide transaction certainty regarding the time and position of the notary in completing the transaction. The solution using a time stamp, namely through a "digital storage box", can be done as follows. If a Notary has a deed that is given a time stamp, be it a notarial deed, varmerking, or legalization, the Notary can submit the deed to the Time Stamp Service (TSS). This service records the date and time the document was received and stores a copy of the document for safekeeping. If the integrity of the client's document is questioned, it can be compared with the copy stored in the TSS. If the same, this is evidence that the document has not been changed after the date listed in the TSS record. This procedure actually meets the basic requirements for a time stamp on a digital document. However, this approach raises a

number of concerns:²⁶

a. Confidentiality This method compromises the confidentiality of documents in two ways: third parties can eavesdrop while the documents are being transmitted, and after transmission, the documents are available indefinitely to the TSS itself. Therefore, clients need to pay attention not only to the security of the documents under their control, but also to the security of the documents in the TCC. Taking into account the provisions of Article 16 paragraph f of the UUJN which requires Notaries to maintain the confidentiality of all matters relating to transactions and other documents, in order to protect the interests of all parties related to the transaction. Therefore, in order to ensure the security and confidentiality of the actions taken, the TSS system will be under the jurisdiction of the Ministry of Law and Human Rights. As with the actions of PT as previously explained.

b. *Bandwidth* and storage. The time required to submit documents for time stamping and the amount of storage required in the TSS depends on the length of the document that needs to be time stamped. Therefore, the time and cost required to time stamp large documents can be very expensive. So this time the TSS will be made based on a converter system so that it is not stored in the system but only a file conversion is carried out by giving a time stamp to the scanned document signed by the owner, parties, witnesses and notaries.

c. TSS document files can be damaged or lost altogether at any time while stored in TSS. Any of these events will invalidate the application of the customer's time stamp. Therefore, the TSS system will not create a document storage system, but only for conversion, so there is no problem if it is damaged or lost.

d. TSS does not specify the residence of the notary who made the transaction. So this will be combined with the GPS Map Camera (Geotag Photo) ID concept which is commonly used at BPN when making certificates.

There are two methods for setting a time stamp on a document: absolute and relative. Absolute authentication contains information about the actual date and time that are the same as those actually used, while relative authentication contains information about checking whether a document has a time stamp before or after another document. Both of these authentication patterns can be used to time stamp a document, but the absolute pattern indicates that the time stamp service is a trusted party. The relative pattern does not require trusting the party, so there are several mechanisms that guarantee that the document will always be time stamped with the current date and time, although it does not rule out the possibility that the time stamp service is free from irresponsible parties.

According to Chastra: "To develop further provisions regarding the Cyber Notary

²⁶ Stuart Haber and W. Scott Stornetta, (1991). "How to Time-Stamp a Digital Document," Springer-Verlag Berlin Heidelberg,

concept, it is necessary to pay attention to the legal aspects of evidence, which must meet the principle of positive legal certainty. The renewal of this evidence law is mainly related to the Cyber Notary concept which is something new in the legality of remote examination procedures, this is absolutely necessary because several laws in force in Indonesia have actually provided great support, such as including electronic documents as evidence, one example of which is the ITE Law". Furthermore, according to Chastra: "This is regulated in Article 5 of the ITE Law. Article 6 of the ITE Law stipulates that the requirements or elements of information must be functionally the same as information written on paper, namely as long as the information contained in electronic media can be accessed, displayed, its integrity is guaranteed and can be observed. because in a way that explains the situation. So, it can be said that its existence must be equated or equated with written evidence, be it letters, private deeds, or original documents."²⁷

Below is a time stamp system, Time Stamp Service (TSS) with a combination of location recognition systems:

- a. Upload a scan of the signed deed to the Ministry of Law and Human Rights system in pdf format;
- b. In this system, the Ministry of Law and Human Rights will conduct an audit to provide a time stamp on signed documents;
- c. *Time stamp* not only contains the document loading time, but also the TSS system access location, city/region coordinates and location, and access address;
- d. Upload the converted document file results, and the scanned document file data will not be stored in the system, but will be encrypted;
- e. Files encrypted in code form will be registered with the Ministry of Law and Human Rights (Kemenkumkham), as well as for monthly reports on case lists and other lists provided to the Regional Supervisory Board (Article 61(1) UUJN) as well as monthly reports on lists of actions related to wills (letter "k" part (1) Article 16);
- f. Document encryption can only be opened by the Ministry of Law and Human Rights and the Regional Supervisory Board (with permission from the Ministry of Law and Human Rights).

When working with time stamps from different time zones or locations, it is recommended to use Coordinated Universal Time (UTC) as the primary reference. This allows for accurate conversions and avoids confusion regarding time zone differences. Time offsets can also be used as an alternative to UTC. Time offsets are the time difference between a given time zone and UTC. This allows converting a time stamp to the desired time zone.

²⁷ Deny Fernaldi Chastra, (2021). "Legal Certainty of Cyber Notary in the Rules for Making Authentic Deeds by Notaries Based on the Notary Law," Jurnal Indonesian Notary 03

A better understanding of the use of time stamps has important implications for modern information technology. Time stamps are a critical element in event tracking and time management, both in the context of databases and computer systems in general. The ability of time stamps to accurately record time allows for more accurate data analysis and provides transparency and accountability in the management of information.

Therefore, learning the use of time stamps is an important aspect to understand and apply effectively in the world of information technology. One of the main uses of time stamps is in databases. Time stamps play an important role in recording data additions or updates. This facilitates auditing and tracking of data change history, allowing every record of information in the system to be clearly recorded.

In addition, in the context of computer networks, time stamps are used to track when data packets are sent and received. This means that time stamps are useful for troubleshooting and optimizing network performance. The use of time stamps is also very important when recording and verifying logs. Time stamps record when events occur in the system. This is important for security analysis and troubleshooting.

4. Conclusion

The concept of Cyber Notary is something that needs to be implemented immediately considering that Indonesia has entered the digitalization era where everything is electronic. In relation to this development, Notaries need to immediately implement the concept of Cyber Notary. The implementation of Cyber Notary can be integrated with the use of Time Stamp which can be a means to provide legal certainty and protection. Notaries in carrying out their duties must always be guided by the principle of caution in carrying out their authority and duties in accordance with the provisions of the Laws and Regulations. Determination of the time and place of residence of the Notary at the time of signing the deed will also affect the authenticity of the deed. The existence of a time stamp with a location mark will provide legal certainty regarding the time and place of the act. The implementation of the use of Time Stamp in the implementation of Cyber Notary can be adopted from the AHU online system in the process of issuing the Decree of the Minister of Law and Human Rights concerning the Establishment and Amendment of Legal Entities and the timestamp camera belonging to the Land Agency, the process of which is used to process certificates required to attach pictures of land and buildings. The Cyber Notary concept by implementing the use of Time Stamp will be able to be implemented immediately if the government can provide and support Notaries in Indonesia to be able to have additional regulations regarding the implementation of the Cyber Notary concept and provide services in the form of applications and websites or links specifically intended for this purpose. In addition, to support the creation of the Cyber Notary concept, Notaries in Indonesia must also be technology literate so that in the future when Cyber Notary has been implemented, Notaries can easily access it.

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