

Legal Certainty of an Electronic Deed Made by A Notary

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Abstract. *Technology and information that are increasingly advanced and growing rapidly during the industrial revolution 4.0 and society 5.0 today can affect the performance of Notaries. One of them is the idea of implementing a cyber notary, especially an electronic notary deed that can be a solution for Notaries to be able to carry out their duties accurately, quickly, and up-to-date. Opportunities for implementing a cyber notary are contained in the general explanation of Article 15 paragraph (3) of the UUJN regarding cyber notaries, as well as the opportunity to conduct teleconferences/ videoconferences contained in Article 77 of the Company Law. Paragraph (4) letter b, so it must remain in the form of the original notarial deed in the form of paper and not in electronic form. In addition, the general explanation of the UUJN is also different from its body which requires making an appearance or meeting directly with a notary, reading the deed before the parties, keeping the deed secret from other parties who are not interested, etc. So it is necessary to have a uniform legal basis or provide a legal umbrella so that a cyber notary in the form of an electronic deed can be carried out by a notary. The purpose of the research is to find out and find the concept of future arrangements related to the making of an electronic notary deed in order to better guarantee legal certainty and legal protection for the community. The research method used is normative juridical or descriptive literature law research. The results of the research are that Indonesia must implement technological developments and IT systems related to cyber notaries to be able to carry out their duties and authorities, change the substance of articles that hinder the implementation of cyber notaries, delete article 5 paragraph 4 letter b. So that cyber notaries related to electronic deeds can be implemented and have legal certainty and protection.*

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

1. INTRODUCTION

The inhabitants of the world today are directed at the telecommunications era because of the Industrial Revolution 4.0 and *Society 5.0*, namely *the Internet of things (IoTs)*. So that many lines are competing to develop programs on an electronic basis ¹. The main idea of industry 4.0 itself is to use technological capabilities and new concepts such as: internet, digital mapping and real-world virtualization, integration of technical processes and business processes in companies, smart factories which include smart production

¹ Irma Devita, 'Menyongsong Kongres Notaris International', *Irmadevita.Com*, 2019 <<https://irmadevita.com/2019/menyongsong-kongres-international-dunia-notaris/>> [accessed 6 June 2024].

and smart products. Likewise with the technology used in industry 4.0². The purpose of *society* 5.0 is to manifest a society in which humans experience life fully³. When viewed from the comparison of technology used in industry 4.0 and *society* 5.0, it is actually not much different, because the principle of *society* 5.0 is to connect existing technology in industry 4.0 and is currently running⁴.

There are changes in the field of Industry in the future, slowly progress in the field of Information and Communication Technology will also affect the performance of Notaries due to the demands of modern society and the growth of the times that increase very rapidly⁵. This is in line with remarks from President Joko Widodo during the agenda of the Asian Commission Meeting of the Indonesian Notary Association in Bali in 2017. In the event, the President emphasized that the urgent use of technology and IT systems to support capabilities in all fields, this is done so as not to be left behind by other countries. The key lies in providing the most modern applications which are then used to hunt for accuracy and speed of service⁶.

The importance of Notary Public in electronic transactions is the fact that the transition from conventional transactions using paper will turn into transactions with electronic systems. This condition is in line with the global consensus in the UNCITRAL (*United Nations Commission on International Trade Law*) institution which has submitted recommendations on the importance of legalization of legal value in an electronic information and/or document⁷.

The function and role of electronic Notaries has also been raised at the *XXIV International Congress* of Latin Notaries in 2004 and discussed in the *Working Group for Theme II (The Notary and Electronic Contracts)*, and the conclusion in this congress has been to know about the probability for authentic deeds to be made electronically⁸.

But apparently Indonesia is far behind other countries in terms of *e-commerce* and *e-notary / cyber notary*. While some countries with *common law* systems have already implemented it, such as the American State with *the US Federal E-Sign Act 2000* and the *Model Notary Act 2000*, and in 2001 the British state has used the concept of *cyber notary* as well, in these countries Notaries have been allowed to make deeds electronically, which was then followed by Latin Notaries, namely France implementing the concept of *cyber notary*, followed by the Netherlands, Belgium, and Germany. As for the Asian region, countries that have implemented the concept of *cyber notary* are Japan with *J-Notary* in 2000 and Hong Kong⁹.

² Irma Devita.

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⁵ F. R., Mulyoto, M., & Supanto, S. Wijanarko, 'Tinjauan Yuridis Akta Notaris Terhadap Pemberlakuan Cyber Notary Di Indonesia Menurut Undang-Undang Nomor 2 Tahun 2014' (Universitas Sebelas Maret, 2015) <<https://www.neliti.com/publications/213169/tinjauan-yuridis-akta-notaris-terhadap-pemberlakuan-cyber-notary-di-indonesia-me>> [accessed 6 June 2024].

⁶ Irma Devita.

⁷ Edmon Makarim, 'Notaris Dan Transaksi Elektronik: Kajian Hukum Tentang Cybernotary Atau Electronic Notary', 2020.

⁸ Huala Adolf, *Hukum Perdagangan Internasional* (PT RajaGrafindo Persada, 2006).

⁹ Emma Nurita and Raden Ayu, *Cyber Notary: Pemahaman Awal Dalam Konsep Pemikiran* (Refika Aditama, 2012).

Only in 2014 in Indonesian Notary Law, the concept of *cyber notary* was outlined in the General explanation of UUJN and not in the torso, namely based on the explanation of Article 15 paragraph (3) of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions or UUJN is about the authority to certify transactions carried out electronically (*cyber notary*), make a Waqf Pledge Deed, and an aircraft mortgage. So that through the existence of this legal basis, it opens up opportunities for Notaries to be able to make deeds electronically using the concept of *Cyber Notary*.

In addition to UUJN, provisions based on Article 77 of Law Number 40 of 2007 concerning Limited Liability Companies (UUPT) describe a legal signal that shows opportunities also for notaries in working on deeds electronically. The regulation contains information that can be done using teleconferencing intermediaries, videoconferencing or electronic intermediary facilities at the GMS (General Meeting of Shareholders). But unfortunately, this provision is not in sync with the substance of the current ITE Law. Even though the need for short and fast services is a necessity that is needed in today's modern society¹⁰.

Meanwhile, the problem that can hinder or delay the implementation of the concept of *cyber notary* or electronic deed is precisely in Law Number 11 of 2008 concerning Electronic Information and Transactions or the ITE Law which has been amended by Law Number 19 of 2016 in Article 5 paragraph (4) point b which explains that provisions regarding electronic information and / or electronic documents do not apply to letters and documents that under the Law must be made in the format of a Notarial deed or deed made by PPAT.

This has ignored Article 28D paragraph (1) of the Constitution of the Republic of Indonesia Year 1945 which contains that everyone has the right to recognition, protection, guarantee and fair legal certainty and equal treatment before the law. So it can be said that the ITE Law has harmed justice for Notaries to get legal certainty. Because electronic deeds until now do not apply to notarial deeds or deeds made by Notaries in the Law. Meanwhile, UUJN has opened up opportunities regarding *cyber notary* in terms of making deeds electronically.

So if the deed will be made in electronic form or will apply the concept of *cyber notary* in the Law, it is necessary to have legal discovery and uniformity of the umbrella of notarial law and electronic information and transactions in Indonesia to realize new regulations / replace or update / change old regulations to be able to realize electronic deeds with the concept of *cyber notary* about electronic deeds, namely between UUJN and the ITE Law and between UUJN and UUPT, even the ITE Law with UUPT.

So that this notary authority can be added, which originally served the public conventionally, in the future it can also serve the public in an electronic or online service system related to making electronic deeds of authentic value. The existence of making deeds electronically will actually provide new hope for notaries to be able to be more efficient in serving the interests of the community¹¹. From the background listed above, the issues that will be discussed in this journal are: What are the future arrangements related to making notarial deeds electronically in order to better ensure legal certainty

¹⁰ Kadek Setiadewi and I Made Hendra Wijaya, 'Legalitas Akta Notaris Berbasis Cyber Notary Sebagai Akta Otentik', *Jurnal Komunikasi Hukum (JKH)*, 6.1 (2020), pp. 126–34, doi:10.23887/jkh.v6i1.23446.

¹¹ Nurita and Ayu.

and legal protection for the community?

2. RESEARCH METHODS

The type of legal research used is normative juridical or normative legal research or called literature law research, which is legal research that examines written law from various aspects that lead to legal norms contained in laws and regulations and explanations of normative legal research carried out with the rule of examining library materials or mere secondary data. So, in writing this journal will use 4 approaches, namely the statutory approach (*Statute Approach*), *Conceptual Approach* (*Conceptual Approach*), Historical approach (*Historical Approach*), Comparative approach (*Comparative Approach*)

3. RESULTS AND DISCUSSION

Future Regulation of Electronic Notary Deeds in the Framework of Legal Protection and Certainty

3.1 Cyber Notary

In 1989, the concept of cyber notary first appeared in the Trade Electronics Data Interchange System Legal Workshop by the European Union, with the term "electronic notary" initiated by French representatives, meaning industry associations could act as electronic notaries to record electronic transactions independently. In 1994, the term cyber notary was proposed by the Information Security Committee of the American Bar Association in the United States, describing legal professionals who function like public notaries, but handle electronic documents. These two terms basically refer to the use of electronic media as a substitute for physical documents. In Indonesia, the concept of Cyber Notary has existed since 1995 without a clear legal basis, aiming to facilitate the Notary's task in making authentic deeds according to the regulations or the will of the parties.

The concept of *cyber notary* is an idea that uses technological advances for notaries in carrying out daily tasks such as conducting GMS by teleconference, digitizing documents, signing deeds electronically, and others. The benefit of *cyber notary* is to facilitate transactions between parties whose positions are far apart and the existence of *cyber notary*, distance is no longer a problem¹². The formulation of the concept of *cyber notary* in this UUJN must also be considered regarding the application of this concept is able to provide substantive justice, goal-oriented for the benefit of the community at large, emphasizes obligations rather than coercion and opens access for the public to participate¹³.

The existence of *this cyber notary* wants to convey a legal framework so that the actions of the faces in front of the notary and the notary do not have to face in form or *face to face* in a special position. The parties may be in a different place from the notary and different from the area of office or place of the notary. The concept of *Cyber notary* can be the answer to current technological developments. Philosophically, transactions such as electronic transactions are no longer conventional transactions. It could be that this electronic transaction has a cross-border character, as explained in Article 2 of the ITE

¹² Luthvi Febryka Nola, 'Peluang Penerapan Cyber Notary Dalam Peraturan Perundang-Undangan Di Indonesia', *Negara Hukum: Membangun Hukum Untuk Keadilan Dan Kesejahteraan*, 2.1 (2016), pp. 75–101, doi:10.22212/jnh.v2i1.187.

¹³ Nola.

Law, that the achievements of the ITE Law are not to recognize a territorial boundary with the use of information technology, for electronic transactions and electronic information can be cross-territorial or universal ¹⁴.

3.2 Cyber notary in the United States

The authority of the public notary in America is nothing more than the formation of certificates and cannot be expanded, its task until mere legalization, namely ensuring the date provisions and the signature of the person who added it (Budiono, 2017). The American Bar Association's *Information Security Committee* envisions that a "*Cyber Notary*" person will have both a law-savvy person and a computer. They will have a status similar to that of Latin notaries and their main purpose will be to facilitate international trade. As well as understanding that the role of *cyber notary* "will bind the private key of a particular sender with the public key of the intended recipient" and to envelop the entire transaction within an "umbrella of trust". It even concluded that *the cyber notary* would verify the financial responsibility and legal capacity of the parties leading to the requirement that the electronic notary be a lawyer. Advocating for Scottish *cyber notaries* to verify the identity of parties to electronic commerce.

3.3 Cyber notary in Japan

The Notary System in Japan began with the Notary Rules of 1886. The rules were modeled after the French Notary system, but were also influenced by Dutch law. So based on this rule, notary authority is only limited to making notary instruments.

Notaries in Japan are done by the Legal Affairs Bureau (*homukyoku*) and not law firms, therefore these notaries are public officials and they work as full-time staff. People who are eligible to become notaries include judges, public prosecutors, or prosecutors. Likewise, experienced clerks are also qualified. But the reality is that most notaries are retired judges and public prosecutors. Japanese notaries serve clients by fulfilling various duties assigned under the Notary Law of 1908 and other laws. These tasks include:

- a. Execute the deed for the parties interested in the contract, keep an original copy of the deed in the notary's office, and issue a writ of execution so that creditors can go through civil litigation, and initiate mandatory execution in such cases. either built-in or payment;
- b. Take the will and keep the original copy in the notary's office;
- c. Authentication articles of incorporation when a client plans to establish a company;
- d. Test signatures on private documents in any language, and
- e. Take a written statement in any language.

3.4 National Laws and Regulations

Based on the explanation of Article 15 paragraph (3) mentions other authorities in the UUJN in question, namely *cyber notary*. The explanation in this Law is not included in the torso material of UUJN and there is no implementing regulation. Other authorities in question are the authority to certify transactions carried out electronically (*cyber notary*),

¹⁴ Dewa Ayu Widya Sari, R A Retno Murni, and I Made Udiana, 'Kewenangan Notaris Di Bidang Cyber Notary Berdasarkan Pasal 15 Ayat (3) Undang-Undang Nomor 2 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 30 Tahun 2004 Tentang Jabatan Notaris', *Jurnal Ilmiah Prodi Magister Kenotariatan*, 2.2 (2018), pp. 219–27.

make waqf pledge deeds, and aircraft mortgages. But the explanation in this article still does not provide a clear understanding of certification, in the explanation it also still experiences vague meaning or *vague norm*.

The term certification in English is *certification* which means description, endorsement¹⁵. While in Dutch, certification is called *waarmerken* which means to certify, then all letters under the hand or deeds under the signed hand, or explained with fingerprints can be requested for endorsement to the regional head, head of the district court, through the local civil service or to a notary. Meanwhile, the definition of certification based on Emma Nurita's opinion is a process for third parties to submit a written guarantee that a process, product, or service that has carried out the parameters of special provisions, on the basis of an audit carried out with agreed stages¹⁶.

However, there is no direction and normative meaning regarding certification both in UUJN and the ITE Law, so the meaning of certification when viewed from KBBI is certification, the phrase certification is the process, method, or act of certifying. So if the UUJN follows the meaning contained in the KBBI, it can be concluded that the concept of *cyber notary* in the UUJN has a different meaning from what is described in *the Trade Electronics Data Interchange System Legal Workshop* by the European Union or in *the Infomation Security Committee of the American Bar Association*¹⁷. The three main characteristics of making certificates electronically in an electronic transaction are paperless, not present for face-to-face between the parties, and borderless¹⁸.

The criteria for electronic certificates that can be issued by notaries in Indonesia are criteria in accordance with PP Number 82 of 2012 which is now replaced by PP Number 71 of 2019. The definition of electronic certificates in article 1 number 20 is an electronic-based certificate containing Electronic Signatures and identities that show the status of the legal subjects of the parties conducting electronic transactions that have been released by the electronic certification operator. Electronic signatures and identities will be present in electronic certificates have a useful role, because they explain the status of the parties as legal subjects.

Precisely because these conditions make the application of the concept of *cyber notary* related to electronic notary deeds in Indonesia more difficult, because the requirements in making authentic deeds must be met. Otherwise, the deed will become a deed under hand. A notary deed can become a deed under hand according to article 1869 of the Civil Code, the limitation is if it cannot meet the arena¹⁹:

- a. The general officer concerned is not authorized; or
- b. Incompetence of a general official; or

¹⁵ Nurul Muna Zahra Prabu, Endang Purwaningsih, and Chandra Yusuf, 'Problematika Penerapan Cyber Notary Dikaitkan Dengan Undang-Undang Nomor 2 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 30 Tahun 2004 Tentang Jabatan Notaris', *Jurnal Surya Kencana Dua: Dinamika Masalah Hukum Dan Keadilan*, 6.2 (2019), pp. 878–99 <<https://core.ac.uk/download/pdf/337609064.pdf>> [accessed 6 June 2024].

¹⁶ Prabu, Purwaningsih, and Yusuf.

¹⁷ Cyndiarnis Cahyaning Putri and Abdul Rachmad Budiono, 'Konseptualisasi Dan Peluang Cyber Notary Dalam Hukum', *Jurnal Ilmiah Pendidikan Pancasila Dan Kewarganegaraan*, 4.1 (2019), pp. 29–36 <<https://core.ac.uk/download/pdf/287321954.pdf>> [accessed 6 June 2024].

¹⁸ N. K. A. E Widiasih, 'A Kewenangan Notaris Dalam Mensertifikasi Transaksi Yang Dilakukan Secara Elektronik (Cyber Notary)' (Udayana University, 2020).

¹⁹ Setiadewi and Wijaya.

c. The shape is deformed.

So, if it is violated, the notarial deed has the power of proof to incarnate as a deed under hand. Based on Article 16 paragraph (9) which refers to article 16 paragraph (1) letter m and paragraph (7) of the UJUN, the notarial deed becomes defective, because of the responsibility to read the deed before the faces and witnesses for the notary, and explain that the deed is made by the will of the facers. So, whether it is read by a notary or not read, then at the end of the deed section it must be included. If it is not stated, there are unfulfilled formal aspects that cause this deed to be weak in terms of its framework. With regard to the reading of the deed by a notary, it becomes a responsibility in every making of an authentic deed, because the reading of this deed becomes a stage of *verlijden* or inauguration of the deed in which it is in the form of reading and signing. So, the person who must read is the notary concerned as the deed maker, not someone else such as an assistant or notary employee.

The development of information technology and the application of the internet in the business world today led to electronic agreements or contracts²⁰. The definition of an electronic contract or *on-line contract* according to Edmon Makarim, which is an engagement or legal relationship carried out by electronic means that combines a network (networking) of computer-based information systems through communication systems based on telecommunications networks and services (*telecommunicated based*) and also accommodated by the existence of internet networks.

Electronic contracts are not only in the business world, but also developed in the administrative system and public service system owned by the government. A kind of electronic contract when procuring goods/services in government projects. A number of policies issued by the Government in the framework of completing the improvement of the state administration system, one example is the e-PUPNS program or the Civil Servant Re-Data Administration System run by the National Civil Service Agency.

Even PPAT can already make deeds electronically at this time. The legal basis is regulated in Article 86 of the Government Regulation of the Republic of Indonesia Number 18 of 2021 concerning Management Rights, Land Rights, Flats, and Land Registration. This is a positive impact for PPAT because the duties and authorities of PPAT are currently not far from technological developments, such as verification of certificates and skmht that have been online. So that the regulation of electronic deeds in the PPAT will facilitate the PPAT in carrying out its duties and authorities.

Regarding digital signatures, in Indonesia it has been regulated in the ITE Law regarding the mechanism of its use and everyone can use it. The definition of digital signature or Electronic Signature according to the ITE Law is a signature derived from Electronic Information related, embedded or associated with other Electronic Information which functions as an authentication and verification tool based on Article 60 paragraphs (1) and (2) of PP Number 71 of 2019. This e-signature is also supported by an electronic certification provider service. The purpose of electronic signatures and electronic certifications is to make clearer the identity of legal subjects and maintain the security and authenticity of electronic information connected through electronic systems.

Electronic Deed can be equated with an authentic Deed based on Law number 19 of 2016 Article 1 paragraph (9), paragraph (11), and paragraph (12), if the electronic document is signed with an electronic signature, then there is a safe condition of a

²⁰ Tiska Sundani, 'Analisis Hukum Atas Penggunaan Dan Pembuatan Akta Notaris Secara Elektronik', *Premise Law Journal*, 1 (2017), p. 165003.

scheme and the participation of people in the computer scheme. The existence of an electronic signature on an electronic deed needs to be recognized as having legal consequences and legal force similar to a signature on other written documents. Because electronic deeds also have the same legal force as evidence and legal consequences as other written documents. Asymmetric cryptography technology in electronic signatures requires two keys, namely a private key and a public key, so that evidence is obtained that the electronic deed describes the sender's own will.

The existence of an electronic deed affixed with a certified electronic signature, so that it can have evidentiary power in court. Because this electronic signature must be registered with the *Certification Authority* (CA) body. The presence of this CA is suspected and acts as a general official, so the existence of this CA by utilizing infrastructure whose special ability is to understand when electronic transactions are signed. Electronic deeds that affix electronic signatures that have obtained certificates from CA institutions will increase the guaranteed authentication of a deed and digital signatures will be more difficult to imitate because of the unique private key and document combination.

Meanwhile, based on Article 77 of the UUPT, RPUS can be carried out by videoconferencing, teleconference, or other electronic media that can allow all members of the GMS to hear and witness directly and participate in meetings. And minutes of meetings must be signed and approved both electronically and physically by all members of the GMS. This is an opportunity for notaries to be able to attend meetings without attending in person and can make minutes of meetings remotely or in different places and can be read and signed electronically.

Even now electronic stamp duty can be used, because there is already a Minister of Finance Regulation (PMK) Number 134/PMK.03/2021 concerning rules for paying stamp duty using an electronic seal. The use of this electronic stamp is affixed to the document owed stamp duty to be able to make stamp duty payments. The current electronic seal has characteristics in the form of unique codes such as serial numbers and certain information consisting of a sketch of the national emblem in the form of Garuda Pancasila with the words ELECTRONIC SEAL and numbers and writing showing stamp duty rates. The purpose of this E-Seal is to provide legal certainty for electronic documents.

Article 1 number 7 of the UUJN which states about facing a notary in making a notarial deed called an authentic deed with the format and procedure determined by the Law. And the Civil Code Article 1868 concerning the definition of an authentic deed is a deed whose format is affirmed in the Law and carried out in the presence of a competent public official (notary) in accordance with the position in which the deed is carried out. The existence of these restrictions and the requirement to be made before this Notary makes making authentic deeds electronically with the application of information technology developments still difficult to apply. Due to the authenticity of the deed, the legal provisions are still in the UUJN and the Civil Code.

In relation to facing in this *cyber notary* concept, explaining that face-to-face is not needed, but can take advantage of listening viewing facilities such as *teleconferences* or *videoconferences* that have no borders with countries (*borderless*) or city / province boundaries. Regarding this concept, a notary can work on a deed by not dealing directly face-to-face. In this case, the parties will always be served regarding the making of deeds even though there are no regional boundaries in the national, regional, local environment, especially between countries even though they do not come to the notary office.

Article 16 paragraph (1) point b concerning making deeds in the format of deed minuta and filing them in a notary protocol. Regarding the storage of notary protocols in *cyber notary* opportunities can be made storage of notary protocols in electronic form. This electronic data archiving delegation can only be useful as a backup and not a copy that has legal force that must be kept. Currently, everything related to changes in limited liability company data and articles of association, foundation registration, and association body registration has been through the website provided by the Ministry of Law and Human Rights. So that registration becomes faster and minimal from the risk of overlapping data.

There are 3 ministerial regulations that can be used by notaries to be able to store notary protocols in electronic form. Because the three regulations are implemented in the field more or less already using advances in information technology connected to the internet through the website. Using storage media: storage media can be an input tool and output tool, input tool if information and data on archiving media is needed, then it will be opened on a computer or other technological device / equipment and the process becomes an input process, while the purpose of as an output tool is that information and data contained in the computer are transferred or archived on archiving media. Examples of storage media are laser disks, floppy disks, CDs, *Memory Cards*, HD-DVDs and *Hard Disks*, *Blu-Ray*, *Flash Drives*, *DVDs*, *External Hard Disks*, and *USB Flash Drives*²¹.

Cryptography is one of the fractions of mathematics whose application is used to convert the form of messages into a format that cannot be read directly and return to the initial format. The goal is to maintain *confidentiality*, authentication, *integrity* or integrity. This technique keeps in touch without being overtly unknown to others and information to be exchanged cannot be stolen.

It can also fulfill Article 16 paragraph (1) letter f regarding the confidentiality of deeds worked on by notaries and all descriptions obtained in the work on deeds in accordance with the oath or promise of office. Because cryptography aims to maintain confidentiality, integrity and authentication. So that if the notary makes an electronic deed and translated through cryptography, the deed can be kept confidential.

Article 5 paragraph (4) letter b of the ITE Law which contains the invalidity of notarial deeds and PPAT deeds in the form of Electronic Information and/or Electronic Documents. This part of the chapter shows that for the time being electronic notarial deeds cannot be executed. Apart from not being able to be said to be authentic by the Civil Code, dealing with it in the context of making deeds also cannot be translated virtually or online, this article has also warned that notarial deeds in electronic form are not valid. If the notary makes it in electronic form, then the deed becomes a deed under hand. So, if a notarial deed in electronic form will be enforced, this article should be replaced in substance or deleted. So as not to hamper the implementation of making electronic notary deeds in the future.

Legal certainty is because there are rules with a general character that cause an individual to understand what behavior should not and should be done. However, based on the grammatical meaning of *cyber notary* written in Article 15 paragraph (3) of the UUJN, until the act is listed unknown, it cannot or may be done, because there is a legal vacuum (*rechtsvacuum*), because in the UUJN its meaning becomes limited and becomes

²¹ Syamsir Syamsir and Yetniwati Yetniwati, 'Prospek Cyber Notary Sebagai Media Penyimpanan Pendukung Menuju Profesionalisme Notaris', *Recital Review*, 1.2 (2019), pp. 132–46 <<https://online-journal.unja.ac.id/RR/artide/view/7458>> [accessed 6 June 2024].

just certifying electronic transactions. So that there is not only a legal vacuum but also a blurring of legal meaning regarding the definition of certification. There is no further explanation of what is meant by certification whether it is in accordance with the ITE Law, or other regulations. This causes legal uncertainty regarding electronic notarial deeds and certifications.

In addition, UUJN with the ITE Law does not meet legal certainty due to conflicts of norms between the two regulations. Not only between the two laws and regulations, but also with the Civil Code which requires notarial deeds to be made in the presence of authorized public officials (notaries). So that this situation causes incompatibility with the purpose and function of working on authentic deeds that must convey legal certainty and hold evidentiary value. Although the making of a deed based on Article 15 paragraph (1) jo Article 1868 of the Civil Code can actually be made electronically by using video conference communication technology, the authenticity of the notary deed contained in Article 1868 of the Civil Code may not be realized.

So that in the future Indonesia must also have legal and computer experts in order to be able to implement the creation of electronic deeds preceded by making private keys and public keys by certification authorities to be able to validate the identity of digital signatures, validate the identity of signatories, signer capacity, signatory authorities, validate the content or content of the deed, validate digital certificates. So that the Notary must also be registered with Kominfo as an Electronic Certification Organizer in order to be able to make certificates from electronic transactions. As well as being able to be a place for the parties to register his electronic signature.

As for the deed, the electronic deed can be framed as contained in Article 38 of the UUJN via the web or sent via email that has been provided by the Ministry of Law and Human Rights, and the web or email related to this deed is managed centrally, but can be downloaded by the Notary concerned where the Notary is located. As well as the documents required by the notary have been connected to other Ministries/Institutions such as KTP and KK connected to Disdukcapil, Marriage Book or Marriage Card connected to KUA, NPWP connected to the Pratama Tax Office, to make it easier to validate client data or documents. Even the creation of electronic signatures that have been verified by PSrE. Then the web is connected to the Notaries addressed by the client, even though the client is different Regency / City or even different Provinces with Notaries.

4. CONCLUSION

In order for electronic notary deeds to better guarantee legal certainty and legal protection for the people is to apply the current development of information technology in Indonesia such as the United States and Japan. You do this by adopting an electronic notary system from both countries and adapted to conditions in Indonesia. In addition, it is necessary to make changes in the UUJN regarding *cyber notary relating* to electronic notary deeds, such as changing the framework in electronic form, changing or adding the meaning which was originally only listed as an authentic deed, it can be added about electronic authentic deeds, the application of Electronic Signatures, electronic seals, the meaning of facing to face, applying face to face indirectly such as through *teleconference* or *videoconference*. Even the protocol can be stored digitally and can also apply barcodes to ensure legal certainty. Because the beginning of the emergence of *cyber notary* is in UUJN. So there needs to be changes in the body of UUJN including changes in the certification of electronic transactions included in the torso of UUJN

5. REFERENCES

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