

Legal Analysis of the Use of Barcodes in Notarial Deeds in Order to Improve Security Aspects

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Abstract. *This study aims to determine and examine the position of notarial deeds in relation to the use of barcodes in order to improve security aspects, and to determine and examine the legal consequences of the use of notarial deed barcodes in order to improve security aspects. The research approach method is normative juridical. The research specifications are descriptive analytical. Data sources consist of primary data, secondary data in the form of primary legal materials and secondary legal materials, and tertiary data. Data collection techniques are in the form of literature studies using library research techniques. Then all data is analyzed using qualitative descriptive methods. The results of the study indicate that the legal analysis of the use of barcodes in notarial deeds in order to improve security aspects: First, the position of notarial deeds in relation to the use of barcodes in order to improve security aspects is that as long as notarial deeds that use barcodes do not change, replace, and do not add words that can lead to other interpretations with the substance of the head of the deed, the contents of the deed, and the closing of the deed, it means that it is valid. Second, the legal consequences of the use of barcodes in notarial deeds in order to improve security aspects are that there are no prohibitions, so that the purpose of securing notarial deeds can be carried out properly and correctly as long as they do not conflict with the UUJN.*

Keywords: Barcode; Deed; Security.

1. Introduction

The legal system in a country is inseparable from the development factors in people's lives. This development has progressed very rapidly in the modern era today. An example of this development is the progress of technology. Technological progress results in changes in the cultural, social, economic, and

other areas. The impact of technological progress is to make it easier for people to carry out their daily activities.¹

The progress in the field of information and technology that grows and develops in society is basically related to where Indonesia has provided protection to the community. This is regulated in the opening of the 1945 Constitution, paragraph four, which reads: "Protecting the entire nation and all of Indonesia's blood." From this, it can be concluded that the state has the right to protect starting from the people, wealth, and values of the nation. However, this is not only the duty of the state, but also the participation of citizens in protecting the nation.

This progress can also lead to increasing crime. One of the crimes that occurs in the legal profession is the position of notary. This is because in the authentic deeds that are made, there are indications of elements of criminal acts that occur due to the notary's lack of caution in making the authentic deed. Notaries are appointed by the government not for the notary's own interests, but also for the interests of the community. Notaries are given trust in carrying out their duties, meaning they can bear responsibility both legally and morally.²

Article 1 Paragraph (1) of Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning the Position of Notary states that the authority of a notary is: "A notary is a public official who has the authority to make authentic deeds and has other authority as referred to in this law or based on other laws."³The purpose of a deed made before a notary is to ensure legal certainty for the parties in making an agreement or contract, as long as this does not conflict with the law regarding what is stated in the deed.

The many cases of forgery of deeds involving the position of notary have resulted in notaries being able to carry out their responsibilities regarding the authenticity of the authentic deeds they have made. So that with the emergence of several cases related to forgery of deeds, security is provided by using technology to avoid dynamic crimes. The use of this technology is by using barcodes, where this barcode can distinguish and provide information regarding original or non-original deeds. In Indonesia itself, barcodes have been used in legal products such as the legal entity administration information system, a technology that has integration.

¹Yudha Sri Wulandari, 2018 "Legal Protection for Consumers in E-Commerce Buying and Selling Transactions," *Journal of Legal Studies*, Vol 2, No 2, p. 200, <https://e-jurnal.lppmunsera.org/index.php/ajudication/article/view/687> accessed on August 28, 2023 at 10.00 WIB.

²RA Emma Nurita, 2012, *Cyber Notary Initial Understanding in the Concept of Thinking*, PT Refika Aditama, Bandung, p. 2.

³Habib Adjie, 2017, *Thematic Interpretation of Indonesian Notary Law based on Law Number 2 of 2014 concerning amendments to Law Number 30 of 2004 concerning the Position of Notary*, Volume 2, Refika Aditama, Bandung, page 1.

Barcode is a geometric pattern that is generally vertical, has the function of scanning and tracking an item or property. In addition, barcodes are usually in the form of signs such as symbols or numbers attached to the product. Products marked with barcodes come from people or companies that have an identity. Barcodes can be used to identify the origin of the product, the manufacturer that issued it, the serial number, when it was made, and others. Barcode technology has developed into QR Code or Quick Response Code which is a two-dimensional barcode and also stores more information.⁴

However, the use of barcodes on an authentic deed has an impact on the original form in general which has been stated in Article 1868 of the Civil Code which reads: "An authentic deed is a deed made in the form determined by law by/or before a public official authorized for that purpose, at the place where the deed is made". The impact on authentic deeds is found on each page of the deed, there is a barcode containing information into the barcode database system. Notaries in carrying out their duties and positions have a principle of caution in the process of making authentic deeds, because there are often legal problems with authentic deeds made by Notaries, there are parties who commit crimes such as providing fake letters and false information on the deed.

Barcode technology is used in the legal profession by the Directorate General of General Legal Administration Online for the purpose of Decrees. The barcode listed on the legal entity's decree sheet will later contain information related to the legal entity.⁵The existence of barcode technology can make it easier for Notaries and parties to obtain the authenticity of the deed information. Law No. 19 of 2016 concerning Amendments to Law No. 11 of 2008 concerning Electronic Information and Transactions (UU ITE) which opens up opportunities related to the use of information technology.

The role of notaries in the development of functions using electronic transactions is the term Cyber Notary.⁶The use of cyber notary aims to provide fast, accurate and efficient service. Article 15 Paragraph (3) of Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning the Position of Notary states that "What is meant by "other authorities regulated in laws and regulations" includes,

⁴Huddan Ary Karuniawan & IA Budhivaya, 2018, "The Validity of Barcode Granting on Minutes of Deeds and Copies of Notary Deeds", Journal of Legal Communication, Vol. 4, No. 2, page 108, https://www.researchgate.net/publication/332981348_KEABSAHAN_PEMBERIAN_BARCODE_PADA_MINUTA_AKTA_DAN_SALINAN_AKTA_NOTARIS accessed on August 20, 2023 at 12.00 WIB.

⁵Edmon Makarim, 2015, "The Authenticity of Electronic Public Documents in Government Administration and Public Services," Journal of Law and Development, No. 11, p. 52, <https://www.e-jurnal.com/2017/02/keautentikan-document-publik-elektronik.html> accessed on August 28, 2023 at 10.12 WIB.

⁶Edmon Makarim, 2013, Notaries and Electronic Transactions: Legal Study on Cyber Notary or Electronic Notary, PT Raja Grafindo Perkasa, Jakarta, p. 117.

among others, the authority to certify transactions carried out electronically (Cyber Notary), make deeds, waqf oaths, and airplane mortgages."

Based on the article, it can be seen that a notary has the authority to certify transactions carried out electronically. Cyber notary has a concept to be able to provide law with the intention of facing the actions of the parties or the parties before the notary without having to meet physically in a certain place, but the parties are in a different place from the notary's domicile or area of office, the parties can be in different places too.⁷

The addition of a barcode system as a security measure to prevent crimes that can cause Notaries to be involved in legal problems, thus requiring precision and caution in the process of making authentic deeds. This is a major advancement in the world of Notaries. Because in the future, technological advances will certainly have an impact on the legal and notarial fields. So it is hoped that Notaries can improve their knowledge and professional skills so that they are not limited.⁸

2. Research Methods

The research approach method is normative juridical. This type of research is a research conducted by using a method of researching library materials (library research) which is the basis for research by tracing legislation and literature that is related to the problem being studied.⁹The research specification is in the form of descriptive analysis. Data sources consist of primary data, secondary data in the form of primary legal materials and secondary legal materials, and tertiary data. Data collection techniques are in the form of literature studies using library research techniques. Then all data is analyzed using qualitative descriptive methods.

3. Results and Discussion

3.1. The Position of Notarial Deeds Regarding the Use of Barcodes to Improve Security Aspects?

The increase in technological developments in the community environment has an impact on the ease of information accessed via the internet using electronic media. This influence has an impact on the notary field, where notaries are required to be able to follow technological developments that will later be

⁷RA Emma Nurita, Op., Cit. p. 17.

⁸Kamilia Savira & Fitriani Ahlan Sjarif, 2022, Effectiveness of Barcode System in Securing Authentic Deeds, USM Law Review Journal, Vol. 5, No. 1, p. 162, <https://journals.usm.ac.id/index.php/julr/article/download/4630/2511> accessed on August 24, 2023 at 12.00 WIB.

⁹Amiruddin and Zainal Asikin, 2018, "Introduction to Legal Research Methods", Raja Grafindo Persada, Depok, p. 133.

applied to services in the community. However, the more advanced the technology, the higher the level of fraud that occurs in the notary sphere.

Notary as an official who is authorized to make authentic deeds as regulated in Article 1 number 1 of Law No. 30 of 20014 concerning Amendments to Law No. 2 of 2014 concerning the Position of Notary has stated that: "Notary is a public official who is authorized to make authentic deeds and has other authorities as referred to in this Law or based on other laws."

Notaries have an important role in determining whether an action can be stated in the form of a deed or not. Before making this decision, notaries should be able to consider and see all documents shown by the parties to the notary. These documents include all evidence shown to him, listening to the statements or statements of the parties who appear.

According to Article 1 paragraph (7) of Law no. 30 of 20014 concerning Amendments to Law no. 2 of 2014 concerning the Position of Notaries which reads: "Notarial deed, hereinafter referred to as an authentic deed, is made by or before a notary according to the form and procedures stipulated in this law."

Notaries when carrying out their duties must comply with the provisions contained in the Notary Law and the notary code of ethics. However, there are still some notaries who do not comply with these rules. So that there are notarial deeds that are disputed by the parties which then become the cause of conflicts arising from errors in the deed made by the notary or caused by other parties.

If reviewed based on judicial practice, in essence, a notary when carrying out his/her duties must be in accordance with the law, the notary's code of ethics, paying attention to aspects of caution, accuracy, honesty and trustworthiness in fundamental dimensions. However, if some of these aspects are ignored by the notary in making a notarial deed, then the notary must bear the consequences and mistakes caused by the violation of fundamental principles that should be fulfilled.

Notarial deeds that have been barcoded by a notary do not reduce the elements stated in the provisions of Article 1868 of the Civil Code and Article 38 of the UUJN-P which contain the formal form of an authentic deed made by a notary. In addition, the installation of a barcode on a notarial deed must contain all the requirements of the laws and regulations. If this is not fulfilled by Article 1868 of the Civil Code and also Article 38 of the UUJN, then the deed is considered a deed under hand.

The prohibition against installing barcodes in Article 1868 of the Civil Code and in Article 38 of the UUJN was not found. If the law is incomplete and unclear, then it

should be sought and found.¹⁰The barcode installed on the deed that has a box symbol form on each page of the authentic deed has changed the form externally, but does not change the content because the requirements for an authentic deed that have been regulated in Article 1868 of the Civil Code and Article 38 of the UUJN have been met. The basic action of a notary in installing a barcode on an authentic deed is in accordance with customary law such as a copy of a deed that is bound and each volume has a state symbol.

Sudikno expressed his opinion that an act, even though it is not regulated by law but is contrary to public order and morality, is prohibited. While acts that are not regulated by law but are good for justice, benefit, and legal certainty are permitted. Because legal gaps must be filled and must be completed.¹¹The use of barcodes is the use of technology with the aim of proving fake deeds that do not violate public order and morality and do not have legal implications on the weight of authentic deeds.

The fulfillment of the power of proof if the legal certainty is perfect in accordance with Article 1870 BW, because of the predicate of an authentic deed in accordance with Article 1868 BW. The legal certainty that has been fulfilled is the fulfillment of the requirements in Article 1868 BW, 1870 BW, Article 38 UUJN, and Article 44 UUJN which help in creating certainty and legal protection for the community by using the method of issuing an authentic deed which in front of it has the function as perfect evidence in court.

3.2. Legal Consequences of Using Barcodes in Notarial Deeds to Improve Security Aspects?

Rapid technological advances have resulted in developments in society that have an impact on daily activities related to the use of electronic media. The actions that occur can be actions that do not have legal consequences, as well as actions that can have legal consequences. These actions lead to legal actions that are actions that arise due to legal consequences. If referring to the legal actions that occur due to the use of electronic media in accordance with the provisions stated in the Electronic Information and Transactions Law (UU ITE) which are known as Electronic Transactions.¹²

Based on Article 1 number 2 of the ITE Law, it states that: "Electronic transactions as legal acts carried out using computers, computer networks,

¹⁰Agus Sudaryanto, 2015, *Introduction to Legal Science*, Setara Press, Jakarta, p. 82.

¹¹Sudikno Mertokusumo, 1999, *Indonesian Civil Procedure Law*, Liberty, Jakarta, 84.

¹²Cyndiamis Cahyaning Putri & Abdul Rachmad Budiono, 2019, "Conceptualization and Opportunities of Cyber Notary in Law, *Scientific Journal of Pancasila and Citizenship Education*," *Scientific Journal of Pancasila and Citizenship Education*, Vol. 4, No. 1, p. 32, <https://journal2.um.ac.id/index.php/jppk/article/view/10482/4724> accessed on December 12, 2023 at 18.00 WIB.

and/or other electronic media." So that with the development of technology, it also has an impact on the increase in the economy that occurs in the needs of the community. When viewed from the perspective of legal acts, there are legal acts that provide the requirement that the legal act must be stated in the form of an authentic deed.

The theory of legal certainty according to Sudikno Mertokusumo states that legal certainty is a guarantee that the law can be implemented using good methods.¹³Based on the theory of legal certainty, it can be seen that the meaning of the notary's authority in the form of a cyber notary which was initially unknown regarding the act being permitted or not permitted if it is carried out due to a legal vacuum by providing clear limitations and applying in a limited manner to electronic transaction certification.

The rules regarding the proof of authentic deeds as valid legal evidence refer to Article 1868 of the Civil Code. However, the existence of elements before public officials that cause problems for authentic deeds made by cyber notary results in fatalities because they are not recognized as authentic deeds by public officials who have the power as valid legal evidence. The presence of technological advances is expected to be able to reduce the criminal act of forgery of letters made by notaries as authentic deeds, so that this is expected to no longer occur in people's lives related to fraud. In addition, it is also hoped that no party will be harmed by what is stated in a deed that is executed correctly.

Through changes to Article 15 paragraph (3) UUJN, it explicitly states that notaries have other authorities regulated in legislation, one form of authority of which is to carry out electronic transaction certification according to the cyber notary concept. This authority can be implemented in the implementation of the General Meeting of Shareholders which is usually held conventionally and attended by shareholders.

The validity of using certification through the application of the cyber notary concept when viewed from the aspect of the procedure for making notarial deeds has 3 (three) things:¹⁴

1. The notarial deed is contained in Article 1 number 7 of the UUJN Amendment Law, where a notarial deed which is called a deed is an authentic deed made by or before a notary according to the form and procedures stipulated in the law.

¹³ <http://tesishukum.com/pengertian-asas-kepastian-hukum-menurut-para-ahli/>, accessed on October 14, 2023, at 14.00 WIB.

¹⁴Zinatun Rossalina, Moh. Bakri, and Itta Andrijani. "The Validity of Notarial Deeds Using Cyber Notary as Authentic Deeds." Thesis. Malang: Master of Notary Study Program, Faculty of Law, Brawijaya University, p. 19.

2. If the certification contained in the explanation of Article 15 paragraph (3) of Law No. 2 of 2014 is equated with a private letter that has been legalized by a notary, then the certification is not an authentic deed. The reason is because in legalization, the notary must provide certainty of the date and also the signatures of the parties who are physically present, not via electronic media. The notary is responsible for providing certainty of the date and signature carried out by the parties involved.

3. If the certification has the same meaning as a private letter registered by a notary or warmeking. If this is what is meant, then this certification is not a kind of authentic deed. Even though it is carried out using a cyber notary, it will not cause problems because the notary does not have the responsibility to provide confirmation of the date, time or contents as well as the form of the Certificate made by the parties.

Notaries have other authorities, meaning that they act as the power of attorney for the establishment of a Limited Liability Company or PT, fiduciary management, and other matters that require the signature or role of a notary where the document becomes legally valid. At the time of the establishment of a PT, the Decree of the Minister of Law and Human Rights (SK Menkumham) already uses an electronic application. However, notaries have obstacles in managing and storing it electronically due to the legal validity of the electronic SK.

When viewed from the perspective of legal formation where legal instruments can adjust to the progress of information and communication technology development as a form of formalization of dynamics in society. This means that the law can adapt according to technological developments in the community environment. This is in accordance with the view of the futuristic approach which views the law must be able to follow the development of the times which includes legal activities and legal actions.

Barcode technology used as security for notarial deeds, although not yet regulated in UUJN, is not contradictory. The existence of technology will make it easier and safer because there is a digital deed storage process. Of course, it can reduce the occurrence of criminal acts of forgery of deeds, reduce the risk of loss, damage, and provide more legal certainty to the parties concerned. A good policy is a policy that has the greatest benefits for many people.

An example of a comparison is the use of a notary's name stamp and the position or address of the notary on each page of the notary deed for which there are no provisions regulated in the UUJN. These provisions are contained in Article 38 of the UUJN which contains the beginning of the deed, the body of the deed, and the end of the deed, does not regulate the stamp. The use of a stamp is not

contradictory because it does not cause losses even though there is no legal basis for it. Meanwhile, the use of barcodes makes it easier for notaries to store deeds digitally. Where the deed contains electronic information that provides a small chance of forgery because there is concrete information that is only known to the notary.

Law No. 2 of 2014 concerning Amendments to Number 30 of 2004 concerning the Notary Law should add strict rules regarding the use of the barcode system which aims to secure notarial deeds. So that later it has a legal basis and creates legal certainty. The theory of legal certainty is a state that is certain, both provisions and provisions. Legal certainty can answer questions that are only normative.¹⁵

Legal certainty refers to the implementation of fixed, clear, consistent and consequent laws that cannot be influenced by subjective circumstances. The existence of certainty and justice is not only for moral demands, but in fact as a characteristic of law. In addition, legal certainty is a legal guarantee that contains justice. According to Gustav Radbruch, justice and legal certainty are permanent parts of law. Justice and legal certainty must be considered and maintained for security. According to the theory of legal certainty, the values to be achieved are justice and happiness.¹⁶

4. Conclusion

The position of a notarial deed regarding the use of barcodes in order to improve the security aspect is that as long as the notarial deed that uses a barcode does not change, replace, and does not add words that can give rise to other interpretations with the substance of the deed head, the contents of the deed, and the closing of the deed, it means it is valid. UUJN does not regulate the prohibition on the use of barcodes in notarial deeds that are used to secure the deed from forgery. The barcode contains text containing the deed, title of the deed, deed number, date of the deed, name of the notary, address of the notary's office, and telephone number. The legal consequences of using barcodes in notarial deeds in order to improve the security aspect are that notarial deeds must be made in accordance with the provisions contained in UUJN and laws that are related to authentic deeds. If the use of barcodes in notarial deeds is intended as security to avoid forgery of the deed. Notarial deeds that use barcodes are legally not prohibited, so that the purpose of securing notarial deeds can be carried out properly and correctly as long as they do not conflict with UUJN.

¹⁵Dominikus Rato, 2010, *Philosophy of Law Seeking: Understanding and Understanding the Law*, Laksbang Pressindo, Yogyakarta, p. 59.

¹⁶Achmad Ali, 2002, *Unveiling the Veil of Law (A Philosophical and Sociological Study)*, Gunung Agung Shop, Jakarta, p. 95.

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