

The Validity of Notarial Deeds Using Cyber Notary in Making Authentic Deeds Based on Legal Perspectives in Indonesia

Julia Monika ¹⁾ & Jawade Hafidz ²⁾

¹⁾ Master of Notary Law, Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia, E-mail: juliamonikka@gmail.com

²⁾ Master of Notary Law, Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia, E-mail: jawadehafidz@unissula.ac.id

Abstract. *This study employs normative legal research with a statutory, analytical, and theoretical approach. Secondary data includes primary legal materials (the Electronic Information and Transactions Law, the State Law on the Provision of State Assets, the Civil Code, and other implementing regulations), secondary legal materials (literature and previous research), and tertiary legal materials (dictionaries and encyclopedias). Library research was used as the data collection method, while prescriptive data analysis provides arguments and legal assessments of the findings. The results of this study are expected to provide both theoretical and practical contributions to the development of digital notary law in Indonesia. Theoretically, this research can enrich scientific studies in the legal field, particularly regarding the adaptation of notary legal norms to developments in information technology. Meanwhile, practically, the findings of this study are expected to serve as a reference for policymakers, notary professional organizations, and legal practitioners in formulating more comprehensive and applicable regulations related to the implementation of Cyber Notary, thereby ensuring legal certainty, legal protection, and efficiency in the implementation of notary duties in the digital era.*

Keywords: *Authentic Deeds; Cyber Notary; Notary Law; Validity of Deeds.*

1. Introduction

The development of Information and Communication Technology (ICT) has had a positive impact on various aspects of life, slowly but surely. The development of communication media is increasingly advanced and can provide more effective and efficient services and uses for communication. Some devices that can

support this are computers, gadgets, and other devices, all of which now easily access the internet.

One sector that hasn't been left behind in this change is the legal sector, particularly notary practice. Digitalization has become a necessity, especially in the context of public services that increasingly prioritize efficiency, transparency, and accountability. A notarial deed is a legal document that has strong evidentiary power and is recognized by law. The traditional notarial deed creation process is often considered...¹

Along with the development and advancement of technology, Notaries in carrying out their duties and functions as public officials certainly cannot be separated from technological progress as a development in society, namely in terms of making authentic deeds which can be implemented by making authentic deeds electronically (cyber notary), as explained in the explanation of Article 15 paragraph 3 of the UUJN which states that: "What is meant by other authorities regulated in statutory regulations include: the authority to certify transactions carried out electronically (cyber notary), making deeds of pledge of waqf and aircraft mortgages."

Cyber notary is a concept where a Notary utilizes technological advances to create authentic deeds in cyberspace in order to carry out daily duties as a public official. Cyber notary can be understood as a Notarial deed made by electronic means or a Notary who validates an agreement whose reading and signing of the deed is not carried out before a Notary. This raises the question of whether a Notarial deed has fulfilled the requirements as an authentic deed based on Article 16 paragraph (1) letter m UUJN, which mandates that a Notary must be present to read the deed before the person appearing in the presence of at least 2 witnesses and signed immediately by the person appearing, the Notary and the witnesses. This is the same as that regulated in Article 1868 of the *Burgerlijk Wetboek*, namely: "an authentic deed is a deed in the form determined by law, made by or before authorized public officials for that purpose at the place where the deed is made."

The position of cyber notary here is that the person appearing is not directly in front of the notary but through electronic means such as teleconference or video call. Verification of notarial deeds carried out using cyber notary can actually be misused by parties with bad intentions. In addition, if a dispute arises, the interested parties can state that the deed reading process was not carried out before a notary, thereby eliminating its validity. In addition, authentic deeds made by cyber notary can give rise to a conflict of norms that occurs in Article 15 paragraph (3) with Article 16 paragraph (1) letter m UUJN. Validation of transactions through cyber notary is an explanation of Article 15 paragraph (3) UUJN which is felt to be less understandable. If it is considered as validation of a transaction carried out through cyber notary, it can result in the transaction being

¹Badruzaman, M, 2001, *Longing for the Birth of Cyber Law in Indonesia*, Retirement Speech, Medan, p. 24.

recognized as a notarial deed which is in direct conflict with Article 16 paragraph (1) letter m UUJN

The presence of cyber notary as a digital innovation in the implementation of notarial duties offers efficiency and accessibility in the creation of authentic deeds. However, this also raises legal challenges regarding the validity of deeds made electronically, considering that the Indonesian legal system still strongly emphasizes the importance of the physical presence of the parties and wet signatures in the process of creating authentic deeds in accordance with the provisions of Law No. 2 of 2014 in conjunction with Law No. 30 of 2004 concerning the Position of Notary. This study aims to answer these questions and explore more deeply the potential and challenges faced in notarial practice in Indonesia.

Therefore, an in-depth study is needed regarding the validity of authentic deeds made with the help of cyber notary technology, both from a formal and material aspect, considering the growing need for digitalization in notarial practice. The concept of cyber notary is important to implement to address the challenges of efficiency, accessibility, and security in the creation of authentic deeds in the digital era. This study also aims to analyze how the validity of authentic deeds made through cyber notary is viewed from a legal perspective in Indonesia, as well as its implications for the evidentiary power of deeds in national legal practice.

2. Research Methods

This research applies a normative legal research method with a statutory approach.² The analysis focused on secondary data including primary legal materials (the 1945 Constitution of the Republic of Indonesia, the Civil Code, Law Number 2 of 2014 concerning the Position of Notary, Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions, and Government Regulation Number 24 of 2016 concerning Integrated Electronic Administrative Services), secondary legal materials (related literature, previous research results), and tertiary legal materials (legal dictionaries, encyclopedias, and reference sources for scientific writing procedures). Data collection was carried out through literature studies, observations, and selected interviews (purposive sampling) with informants who have relevant competencies. Data analysis used a qualitative descriptive-analytical approach with a deductive-inductive thinking framework, guided by the rules and procedures applicable in legislation.

² Peter Mahmud Marzuki, 2008, *Introduction to Legal Science*, Kencana, Jakarta. p. 35.

3. Results and Discussion

3.1. The Cyber Notary Concept is required to be applied in the process of making authentic deeds.

Adapting to social and technological developments is crucial for Indonesian law. Technology, particularly digitalization, can improve legal efficiency and effectiveness. The Indonesian legal system must utilize digital technology to keep pace with changes in legal substance and legal culture and meet public demand for faster, more transparent, and more accessible legal processes. This digitalization is transforming the way legal institutions operate and how the public interacts with the legal system, enabling changes oriented toward justice and efficiency.³

Legal processes in Indonesia can be simplified thanks to digitalization, reducing time and costs. Various electronic solutions, such as e-filing, online courts, and digital case management, can improve efficiency. With the advent of electronic courts, legal processes in Indonesia have become faster. Online filing systems reduce time and costs by eliminating the need for physical document delivery. Furthermore, digitalization also simplifies case management in court, addressing case backlogs and accelerating the decision-making process.

There are several digitalization developments that have begun to be implemented by the government sector in Indonesia.⁴ namely Online Passport; E-Samsat; E-Billing; Online BPJS Health Registration; Online Taxpayer Identification Number Registration; REPORT⁵Cyber Notary has become highly relevant in this ever-evolving modern era, as all sectors, both government and private, have actively adopted and refined this technological advancement. As service providers closely linked to government and private sector affairs, notaries should begin striving to develop their insights and utilize technology. Furthermore, various legal fields have begun implementing digitalization, coupled with a number of regulations that have opened up opportunities for such advancement. This makes the notary sector increasingly adaptable and able to develop along with the changing times.

Cyber Notary can help with ease and efficiency. Currently, this technology has spread to many countries, including Indonesia. It offers various benefits such as: simplifying the transaction process, saving time and costs; reducing the risk of human error; and guaranteeing legality.

³D. Putra, 2020, "A modern judicial system in Indonesia: legal breakthrough of e-court and e-legal proceedings," J. Huk. Dan Peradilan, vol. 9, no. 2, pages. 275–297.

⁴Qiwii Queue Application, "Online Services from the Government, Did You Know?," accessed August 5, 2025 at 14.45 WIB, <https://qiwiid.id/layanan-online-dari-pemerintah/>.

⁵Ita Wijayanti, "Electronic-Based Government in Public Services," accessed August 5, 2025, at 6:45 PM WIB <https://ombudsman.go.id/artikel/r/artikel--pemerintahan-berbasis-elektronik-dalam-pelayanan-publik>.

1. Security: The security technology used in Cyber Notary makes it difficult to forge or alter, providing additional protection. It also helps users verify the identity of the person signing it.
2. Accuracy: *Cyber Notary* It can also increase accuracy and precision in transactions and agreements, because there is no human error in writing and signing documents.
3. Reduce time and effort: *Cyber Notary* It allows you to stay connected from anywhere, anytime, and on any internet-connected device. This makes it easier to use and access than traditional deed creation, thus reducing the time and effort typically required for the signature process.⁶
4. Environmentally friendly: Using Cyber Notary helps reduce paper usage and waste generation. This makes the deed-making process more environmentally friendly.
5. Time and Cost Efficiency: This technology will save time and costs when used on a large scale. It will simplify processes and shorten the time required.
6. Speed *Cyber Notary*: Compared to manual methods, Cyber Notary is much faster. Its relatively simple and concise process makes it perfect for a variety of situations.

The application of the Cyber Notary concept in the creation of Authentic Deeds is essential to address the challenges of the digital era, which demands efficiency, security, and legal certainty. By utilizing digital signatures and encryption technology, Cyber Notary can maintain integrity, authenticity, and expedite the deed creation process without the physical presence of the parties. However, this concept also has weaknesses, such as the risk of technology misuse, cyberattacks, and the potential difficulty of digital identity verification if the infrastructure is inadequate. Therefore, the implementation of Cyber Notary must be accompanied by separate, clear and comprehensive legal regulations, so that its implementation is legally valid and does not create loopholes that could harm the parties.

3.2. The validity of authentic deeds made using Cyber Notary from a Positive Legal Perspective in Indonesia

Indonesia as a modern legal state certainly cannot escape from developments outside the law. This can be seen from the presence of the term Cyber Notary in the Explanation of Article 15 Paragraph (3) of the UUJN, however the application of the Cyber Notary concept should be adjusted to the national legal culture in line with changes in effective law where legal changes must be in accordance with the legal culture. Therefore, according to the author, harmonization is needed between the Explanation of Article 15 Paragraph (3) of the UUJN and Article 1 Number 7 of the UUJN. If harmonization is not carried out, Notaries will

⁶Mansur, Dikdik M. Arief & Elisaris Gultom. 2005, *Cyber Law: Legal Aspects of Information Technology*. Refika Aditama, Bandung.

be afraid to provide their services that utilize technological advances in making Authentic Deeds in cyberspace and carrying out their duties every day, even though, the community really needs the alertness and dynamism of the function and role of Notaries in facing situations such as the COVID-19 pandemic several years ago, where according to a Legal Expert from the Faculty of Law, University of Indonesia (FH UI), Edmon Makarim, Notaries should be able to provide their services online (online, connected via computer networks, the internet, and so on).⁷.

According to the author, another reason why Notaries are afraid to provide their services that utilize technological advances in making authentic deeds in cyberspace and carrying out their duties every day is that by not fulfilling the physical presence that is perceived as an absolute requirement and cannot be replaced by electronic face-to-face, it is feared that it will have legal consequences for Notaries. This is because there is a norm requiring physical presence in making a Deed, meaning that it cannot be done electronically because the Deed must be made on paper as stated in Article 1 Number 7 of the UUJN.

Based on the explanation above, it is clear that although the Explanation of Article 15 Paragraph (3) of the UUJN has presented the concept of Cyber Notary within the authority of a Notary, the UUJN still does not provide legal certainty and therefore does not provide an opportunity for the implementation of the Cyber Notary concept in Indonesia. The authority of a Notary to certify transactions carried out electronically (Cyber Notary) can currently be said to be just a discourse by the Government to be implemented, because the authority of a Notary to certify transactions carried out electronically has not yet been further stipulated. According to a Legal Expert from the Faculty of Law, University of Indonesia (FH UI), Edmon Makarim, the concept of Cyber Notary in Indonesia is still under debate, although technology allows the role of a Notary online (connected to the internet) and remotely (far away), but legally this seems impossible.⁸Therefore, the function and role of Notaries within the Cyber Notary concept are crucial and require in-depth study so that Indonesian Notaries can provide the best possible service to the public.

According to the author, in making further provisions regarding the concept of Cyber Notary, what must be considered is the legal aspect of evidence. The renewal of the law of evidence, especially related to the concept of Cyber Notary, is a new thing in the legality of remote examination procedures which is absolutely necessary because several laws in force in Indonesia have actually provided a lot of support such as including electronic documents as evidence,

⁷KlikLegal.com, "The Urgency of E-Notary During the Pandemic, the Turmoil Between Legal Certainty and Legal Benefit," <https://kliklegal.com/urgensi-e-notary-di-saat-pandemi-pergolakan-antarakepastian-hukum-dengan-kemanfaatan-hukum/>, accessed August 5, 2025.

⁸Edmon Makarim, 2011, "Modernization of Future Notary Law: A Legal Study of the Possibility of Cyber Notary in Indonesia," *Law and Development* 3, Jakarta, p. 468.

one example is Law Number 11 of 2008 concerning Information and Electronic Transactions (hereinafter referred to as the ITE Law). This is regulated in Article 5 of the ITE Law. Article 6 of the ITE Law has determined that the conditions or elements for information to be functionally equivalent to information written on paper, namely as long as the information contained in the Electronic can be accessed, displayed, guaranteed its integrity, and can be accounted for so that it explains a situation. So, it can be said that its existence should be equalized or equalized with written evidence, whether as a letter, a private deed or an authentic deed.

Regarding the similarity or equality, this is known as the functional equivalent approach, namely functionally equating electronic information to written evidence if it meets at least three bases, namely:⁹:

1. Information is considered written if it can be stored and retrieved;
2. The information is considered authentic if the substance of what is stored, found and read again does not change, or in other words its authenticity and integrity are guaranteed; and
3. The information is considered signed if there is information that explains the existence of a legal subject who is responsible for it or there is a reliable authentication system that explains the identity and authorization or verification of a particular party.

The three basic similarities of electronic information are the same as written evidence when connected with the provisions of Article 5 Paragraph (4) of the ITE Law which states that the provisions regarding electronic information and/or electronic documents as referred to in paragraph (1) do not apply to letters which according to the Law must be made in written form and letters and documents which according to the Law must be made in the form of a Notarial Deed or a Deed made by a Deed Making Official. Based on the provisions of Article 5 Paragraph (4) of the ITE Law, it can be said that the ITE Law limits the case that electronic documents do not apply to Notarial documents or Deeds or Deeds made by Land Deed Making Officials (hereinafter referred to as PPAT), meaning that Notarial Deeds made electronically do not have legal force as valid evidence according to the provisions of the ITE Law. With the limitation of the meaning of electronic information and/or electronic documents regulated in Article 5 Paragraph (4) of the ITE Law, Authentic Deeds made electronically by Notaries are considered unable to be valid evidence so that the authenticity of the Deed made by Notaries is not fulfilled.

Therefore, according to the author, it is necessary to harmonize the regulations related to the authority of Notaries in making deeds electronically as stated in

⁹Edmon Makarim, 2013, *Notaries and Electronic Transactions: Legal Studies on Cyber Notaries or Electronic Notaries*, 2nd ed., 2nd ed., RajaGrafindo Persada, p. 32.

the new UUJN and the ITE Law so that Notaries no longer experience legal problems regarding their authority in making deeds electronically (Cyber Notary).

4. Conclusion

The implementation of Cyber Notary in Indonesia is an urgent strategic step in order to increase the efficiency, accessibility, and security of notary services in the digital era, however, the validity of authentic deeds made electronically through this technology still raises legal debate because it has not been explicitly regulated in the Notary Law (UUJN), so that a revision of the UUJN or the formation of special regulations is needed to provide legal certainty and ensure that deeds made through Cyber Notary remain valid as authentic deeds and have perfect evidentiary power according to legal principles in Indonesia.

5. References

Journals:

- Ita Wijayanti, "Pemerintahan Berbasis Elektronik dalam Pelayanan Publik," <https://ombudsman.go.id/artikel/r/artikel--pemerintahan-berbasis-elektronik-dalam-pelayanan-publik>. Accessed August 3, 2025, at 6:45 PM WIB
- Putra. "A Modern Judicial System in Indonesia: Legal Breakthrough of E-Court and E-Legal Proceeding." *Jurnal Hukum dan Peradilan*, Vol. 9, No. 2, 2020.
- Qiwii Aplikasi Antrian, "Layanan Online dari Pemerintah, Sudah Tahu?," <https://qiwoo.id/layanan-online-dari-pemerintah/>. Accessed August 2, 2025, at 2:45 PM WIB
- Urgensi E-Notary di Saat Pandemi, Pergolakan Antara Kepastian Hukum dengan Kemanfaatan Hukum." <https://kliklegal.com/urgensi-e-notarydi-saat-pandemi-pergolakan-antara-kepastian-hukum-dengan-kemanfaatanhukum/>. Accessed August 5, 2025, at 3:29 PM WIB.

Books:

- Badruzaman, M., Mendambakan Kelahiran Hukum Saiber (Cyber Law) di Indonesia, Pidato Purna Bhakti, 2001.
- Makarim, Edmon, Notaris dan Transaksi Elektronik: Kajian Hukum tentang Cyber Notary atau Electronic Notary, RajaGrafindo Persada, 2013.
- Mansur, Dikdik M. Arief & Elisaris Gultom. *Cyber Law Aspek Hukum Teknologi Informasi*. Refika Aditama, Bandung, 2005.
- Peter Mahmud Marzuki, *Pengantar Ilmu Hukum*, Pustaka Kencana, 2008.