

## The Effectiveness of Electronic Deed Minutes Storage in Notarial Practice in the Digital Era

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**Abstract.** *This study aims to analyze: 1) Legal regulations in Indonesia that support the storage of electronic minutes of deeds in notarial practice. 2) The effectiveness of storing electronic minutes of deeds in notarial practice if implemented in the digital era. This type of research falls within the scope of normative legal research. The approach method in this study is a statute approach. The type of data in this study is secondary data, which consists of primary, secondary and tertiary legal materials. The data collection method was obtained through literature studies. The analysis in this study is prescriptive. The results of the study concluded: 1) Legal regulations in Indonesia have basically provided a sufficient basis to support the storage of electronic minutes of deeds in notarial practice, although they still require further strengthening and adjustment. The Notary Law (UUJN) has not explicitly regulated the technical aspects of storing minutes of deeds in electronic form, however, legal regulations in Indonesia have actually provided space for the digitalization of notarial archives through systematic interpretation of several provisions, such as Article 15 paragraph (3) of the UUJN and significant changes in Article 5 of the ITE Law which now no longer excludes notarial deeds from being recognized as valid electronic documents. 2) In the digital era, storing minutes of deeds electronically is considered very effective, especially from the aspects of efficiency, security, and ease of access. This effectiveness will be optimal if supported by regulatory updates, reliable digital infrastructure, increased digital literacy of notaries, and the acceptance of the legal culture of the community towards electronic systems.*

**Keywords:** *Effectiveness; Electronic Deed Minutes; Notary.*

## 1. Introduction

Notaries, who are among the law enforcers in Indonesia, play a crucial role in protecting and providing legal certainty to the public, particularly in matters related to authentic deeds. Civil law and notaries are closely linked, so in carrying out their work, notaries are entrusted with various tasks that involve the relationship between the public and this branch of law.<sup>1</sup>

The office of Notary is an institution created by the state. The position of Notary is a field of work or task specifically created by law for specific purposes and functions (certain authorities) and is sustainable as a permanent work environment.<sup>2</sup> Notaries in helping to create legal certainty and protection for the community, are more preventive in nature or prevent the occurrence of legal problems, by regulating authentic deeds made before them related to the legal status, rights and obligations of a person in law and so on, which function as the most perfect evidence in court, in the event of a dispute regarding related rights and obligations.<sup>3</sup> Notaries are required to keep minutes of deeds as stated in Article 16 paragraph (1) letter b of the Notary Law, which states that one of the obligations of a notary is to make deeds in the form of minutes of deeds and keep them as part of the notary's protocol. Minutes of deeds are the original deed which includes the signatures of the parties, witnesses and the notary. Minutes of deeds, registers and supporting documents for making these deeds are kept as part of the notary's protocol. This is stated in the Notary Law.<sup>4</sup> One of the State Archives in the vital category includes Notary Protocols. Law Number 43 of 2009, which is a special regulation (*lex specialis*) that regulates archives, stipulates that Notary Protocols are State Archives that must be stored and maintained by a notary.<sup>5</sup>

In this regard, the provisions of the Notary Law have not yet fully accommodated the procedures for storing Minutes of Deeds and only require a notary to store them as a protocol without any regulations regarding where and how the Minutes of Deeds should be stored. The practice of storing all notary protocols to date still uses conventional media in the form of paper and is stored manually. Physical storage for a long period of time is often prone to loss and damage. This results in the Minutes of Deeds being vulnerable to damage and loss caused by several

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<sup>1</sup>Dewi Ajeng Wulansari & Anis Mashdurohatun, (2022), Peran Notaris Dalam Pembuatan Akta Badan Hukum Perkumpulan Nelayan, *Prosiding KONSTELASI ILMIAH MAHASISWA UNISSULA (KIMU)* 7, Universitas Islam Sultan Agung Semarang, p. 140

<sup>2</sup> Denny Saputra & Wahyuningsih, (2017), Prinsip Kehati-Hatian Bagi Notaris/Ppat Dalam Menjalankan Tupoksinya Dalam Upaya Pencegahan Kriminalisasi Berdasarkan Kode Etik, *Jurnal Akta*, Volume 4 Nomor 3, p. 348.

<sup>3</sup>Sjaifurrachman & Habib Adjie, (2011), *Apek Pertanggung Jawaban Notaris dalam Pembuatan Akta*, Bandung : Mandar Maju, p. 7

<sup>4</sup>R. Soegondo Notodisoerjo, (1993), *Hukum Notariat di Indonesia*, Jakarta : Raja Grafindo Persada, p. 176.

<sup>5</sup>Afipuddin, *Implikasi Hukum Protokol Notaris Sebagai Arsip Negara*, Tesis Program Studi Magister Kenotariatan, Universitas Narotama, p.7

obstacles such as limited storage space, natural disasters (force majeure), or errors from the notary himself, whether intentional or unintentional.<sup>6</sup> The advent of the digital era is marked by the availability of information and communication technology, which has introduced internet networks and paperless electronic communication. With this development, society believes that information and communication technology can contribute to improving public welfare and legal, economic, social, and cultural development, as technological developments outside the law bring about change and displacement.<sup>7</sup>

The development of digital technology has influenced various aspects of life, including legal and notarial practice. Digitization in various fields brings opportunities to increase the efficiency, speed, and accessibility of information. In the notarial context, digitalization has the potential to change the way notaries store and manage deeds, including the electronic storage of minutes of deeds. Although digital storage can facilitate access and speed up administrative processes, the practice of storing minutes of deeds electronically still raises several legal questions. Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary Public does not expressly regulate the storage of minutes of deeds in electronic format. As a result, there are concerns about whether electronic minutes of deeds have the same legal force as minutes of deeds stored in physical form, and how the authenticity and validity of such deeds can be guaranteed. Therefore, it is important to review the effectiveness of storing minutes of deeds electronically in notarial practice in the digital era. This study aims to evaluate whether digitalization in storing minutes of deeds can be carried out effectively and in accordance with applicable legal provisions.

## 2. Research Methods

This type of research falls within the scope of normative legal research. The approach used is a statute approach. The data used is secondary data, consisting of primary, secondary, and tertiary legal materials. Data collection was conducted through literature review. The analysis is prescriptive in nature.

## 3. Results and Discussion

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<sup>6</sup>Litha Nabila, (2023), Peluang Penerapan Penyimpanan Minuta Akta secara Elektronik menuju Era E-Notary berdasarkan Undang- Undang No. 2 Tahun 2014 tentang Jabatan Notaris, *Nolaj*, Volume 2 Issue 1, p.57

<sup>7</sup>Junita Faulina, Abdul Pim Barkatullah, & Djoni Sumardi Gozali, (2022), Kedudukan Hukum Akta Notaris Yang Menerapkan Konsep Cyber Notary Di Masa Pandemi Covid-19 Di Indonesia, *Notary Law Journal*, volume 1, nomor 3, p. 252

### 3.1. Legal Regulations in Indonesia Support the Storage of Electronic Minutes of Deeds in Notarial Practice

Based on Article 16 paragraph (1) letter b Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary (UUJN), states that in carrying out his/her position, a Notary is obliged to make a Deed in the form of Minutes of Deed and keep it as part of the Notary Protocol.

Maintaining the data of the parties stated in the Minutes of the Deed is one of the essential obligations of a Notary. Notary is a position given to a person who has passed and is entitled to hold the position. Referring to Article 1 paragraph (1) of the UUJN, a 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. Referring to this provision, it is emphasized that one of the functions of a Notary is to harmonize and confirm the existence of certain agreements made by the parties, in written form with a certain form and is called an authentic deed.<sup>8</sup> This authentic deed then contains data of the parties which is confidential or can be disclosed to the public which must always be maintained by the Notary and may not be distributed without the consent of the parties.<sup>9</sup>

Notarial deed minutes are state archives that must be carefully maintained to ensure their quality and integrity as the strongest and most complete evidence. As long as the notary keeps and maintains the minutes, any consequences that arise are the responsibility of the notary. However, legally, the deed is not only kept by the Notary. There are several provisions in the UUJN that require the minutes of the deed to be kept by the Regional Supervisory Council (MPD).<sup>10</sup>

The Notary Law (UUJN) explicitly requires notaries to keep minutes of deeds as part of the notary protocol. However, this norm only establishes general obligations, without technically specifying the permitted or required forms, methods, or storage media. To date, the UUJN does not contain any explicit provisions governing how minutes of deeds may be stored.

Storage of deed minutes in Indonesia is currently still carried out conventionally in physical form. Completed deed minutes are printed on paper, numbered, and stored in a physical paper archive at the notary's office. These documents are arranged and placed in a filing cabinet or special storage room. Storage is carried out systematically based on the date the deed was created or a specific

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<sup>8</sup>Runisari & Tanaya, (2022), Hak Ingkar Notaris Pengganti Atas Akta Otentik Yang Dibuatnya. *Acta Comitas: Jurnal Hukum Kenotariatan*, Volume 7 Nomor 01, p. 82

<sup>9</sup>Mahadewi, I., Laksmi, G. A. I., & Purwanto, I. W. N. (2021). Tanggung Jawab Notaris Pengganti yang Melakukan Perbuatan Melawan Hukum dalam Pembuatan Akta Autentik. *Acta Comitas Jurnal Hukum Kenotariatan Universitas Udayana*, Volume 6 Nomor 2, p. 451

<sup>10</sup>Naily Zahrotun, Aspek Legalitas Penyimpanan Minuta Akta Notaris Secara Elektronik, *Jurnal Civic Hukum*, Volume 5, Nomor 2, p. 205

classification system determined by the notary to facilitate document retrieval when needed. The notary is fully responsible for the maintenance and security of the protocol, including ensuring the integrity and confidentiality of the deed minutes from damage, loss, theft, or access by unauthorized parties. A current problem is that the method used to store deeds can be said to be very conventional or does not seem to keep up with technological developments, so the risk of conventional storage is quite high.<sup>11</sup>

Filing practices using conventional paper media and stored manually for long periods of time are often prone to loss and damage. For example, when a notary's office moves, many files or minutes are often scattered and lost. Lack of storage space results in scattered notary files, and fires and natural disasters can occur.<sup>12</sup>The loss and damage of minutes of deeds are not properly accommodated in the UUJN, thus causing problems in the future for the client's interests.<sup>13</sup>

This demonstrates that the conventional archiving system currently in use is unable to meet the challenges of modern legal requirements, which demand speed, reliability, and data security. The absence of a clear protection mechanism in legislation, particularly the UUJN (National Law on Deeds), against the risk of damage or loss of minutes of deeds creates legal uncertainty for both notaries and stakeholders. This situation further reinforces the urgency of updating the archiving system with a digital technology-based approach.

Several legal experts believe that legal services provided by notaries in Indonesia are still slow to respond to technological developments. In the digital era, the use of technology should provide notaries with an opportunity to improve work efficiency, particularly in legal services and filing systems. However, many notaries appear to be hesitant and reluctant to undertake the digital transformation due to concerns about the potential impact and legal certainty.<sup>14</sup>

Legal regulations in Indonesia do not yet explicitly regulate the storage of minutes of deeds in electronic form. However, there are a number of legal instruments that can be interpreted as a normative basis for the possibility of digitizing notarial documents. Article 15 paragraph (3) of the UUJN states that notaries can have other authorities as regulated in statutory regulations. According to Habib Adjie, notaries are allowed to have authorities that will be determined later, according to Article 15 paragraph 3 of the Amendment to the Notary Public Law, which stipulates that the authorities that will be determined later are the authorities of

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<sup>11</sup>Rifaldi & Habib Adjie, (2022), *Minuta Akta Notaris Dalam Bentuk Elektronik*, *Jurnal Hukum Bisnis*, Volume 6 Nomor (1), p. 717

<sup>12</sup>Imtiyaz, Lana., Santoso, Budi., & Prabandari, Adya P., (2020), *Reaktualisasi Undang - Undang Jabatan Notaris Terkait Digitalisasi Minuta Akta Oleh Notaris*, *Jurnal Notarius*, Vol. 13 No. 1, p. 97

<sup>13</sup>Triyanti, (2015), *Kekuatan Pembuktian Dokumen Elektronik Sebagai Pengganti Minuta Akta Notaris*. *Jurnal Repertorium*, Volume 2 Nomor 2, p. 20-30

<sup>14</sup>Naily Zahrotun, *Op.cit.*, p. 206

notaries based on other legal regulations that will be issued later (*ius constituendum*).<sup>15</sup>Based on this understanding, what is meant by this authority is that this authority occurs when another statutory regulation is made.<sup>16</sup>Article 15 paragraph (3) of the UUJN provides space for the development of notary authority to adapt to technological developments, including in terms of electronic data storage.

Electronic documents as legal evidence are regulated in Article 5 of Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law). This provision underwent significant changes through Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions. Previously, Article 5 paragraph (4) of Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law) expressly excluded notarial deeds from being recognized as valid electronic documents, by stating that electronic information does not apply to:

"Documents which according to law must be made in written form and a notarial deed or deed of the official who made the deed"

However, after the amendment in Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions, the wording of the article was changed to:

"The provisions regarding Electronic Information and/or Electronic Documents as referred to in paragraph (1) do not apply in cases regulated otherwise in the Law."

This change allows for more flexible legal interpretation, as it no longer explicitly states that notarial deeds are excluded from electronic evidence. This means that electronic notarial deeds have the potential to be recognized as valid legal evidence, provided there are no other laws or regulations stating otherwise.

Electronic minutes of deed still do not have specific regulations, so the term electronic minutes of deed still does not exist and its legality is still doubtful. So currently it is better known as an electronic document. Article 1 paragraph (4) of the ITE Law explains that an electronic document is any information created or stored in digital, analog, or similar form that can be displayed via a computer device or electronic system. To measure the authenticity of an electronic document, authentication is required which at least includes:<sup>17</sup>

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<sup>15</sup>Habib Adjie, (2015), *Penafsiran Tematik Hukum Notaris Indonesia Berdasarkan Undang-Undang Nomor 2 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 30 Tahun 2004 Tentang Jabatan Notaris*, Jakarta : Refika Aditama, p. 82

<sup>16</sup>Girsang & Ruth Tria Enjelina, (2018), *Perlindungan & Kepastian Hukum Terhadap Anak Angkat Yang Proses Pengangkatannya Melalui Akta Notaris Di Luar Sistem Pengangkatan Anak Angkat/Adopsi Yang Aktanya Wajib Dibuat Dengan Akta Notaris (Stb. 1917 No 129)*, Universitas Brawijaya, *Law Review*, Volume 17 Nomor 3, p. 72

<sup>17</sup>Edmon Makarim, (2015), *Keautentikan Dokumen Publik Elektronik dalam Adminitrasi Pemerintahan & Pelayanan Publik. Jurnal Hukum & Pembangunan*, Volume 4, p.508



1. Identifying and ensuring the truth of the identity of the legal subject who conveys the information.
2. Check and guarantee the validity of the identity of the information content.

The authentication process for electronic documents cannot stand alone so it is necessary to involve:

1. Data that functions as a specific identity as a parameter of the validity or identity of a party;
2. The authority of the competent party to carry out the check;
3. The presence of certain tools;
4. Claims regarding quality assurance levels in processes involving other parties and confirmation/proof of them;
5. There is a guarantee of authenticity of documents/information.

From this, it can be concluded that the authentication process requires the assistance and intervention of a competent third party to carry out the certification process. This party is authorized to issue a certificate as a form of authenticity to guarantee the integrity and accuracy of a document or electronic information throughout its entire process, from creation to storage. Therefore, the document can be considered authentic.<sup>18</sup> Technical authenticity in Indonesia has been recognized in the UUITE, which is stated in Article 5 paragraph (1) that electronic documents are recognized as valid evidence, and Article 5 paragraph (2) states that electronic documents and their printouts are an extension of the evidence that is legally recognized by procedural law in Indonesia.

Printed deed minutes can be converted to electronic media using a scanning process, and then stored on an electronic storage device. The process of storing deed minutes from print to electronic media begins with a scanning process using a scanner. A scanner is a device that reads data in the form of bright light and then captures the reflected text or images on a matrix of photoelectric cells.<sup>19</sup> The scanned results are then neatly and systematically arranged and saved with a Portable Document Format (hereinafter referred to as PDF) file extension. In PDF files, notaries can lock the file to prevent anyone from changing it as an effort to maintain its security. The deed minutes file stored on a computer or laptop device is transferred to electronic storage media. The hope is that the deed minutes stored on electronic media can represent damaged or lost deed minutes if an interested party requests a copy or can be used as supporting evidence in the legal process. Meanwhile, the storage of deed minutes created electronically can go through the e-identification and e-authentication system process on the website

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<sup>18</sup>Syamsir., Rahmi, Elita., & Yetniwati, (2019), *Prospek Cyber notary Sebagai Media Penyimpanan Pendukung Menuju Profesionalisme Notaris*, *Jurnal Recital Review*, Volume 1 Nomor 2, p.147.

<sup>19</sup>Suyanto, (2005). *Multimedia: Alat untuk Meningkatkan Keunggulan Bersaing*, Yogyakarta : Andi, p.xx

or on electronic media. Of course, notaries in the process of archiving deed minutes with electronic media must pay attention to security aspects and caution.

Electronic storage of deed minutes through e-identification and e-authentication systems is an innovative step in supporting digital transformation in the notary sector. The e-identification system serves to verify the identity of users accessing or managing electronic documents, while e-authentication serves as a verification mechanism for the validity and integrity of the documents. In the notary context, these two systems are crucial for maintaining the authenticity of electronic deed minutes, as notarial documents have high evidentiary power as authentic deeds. However, the implementation of these systems should not be carried out carelessly. Notaries have a legal obligation to maintain the confidentiality and integrity of the deeds they create. Therefore, in the process of digitalizing storage, notaries must ensure that the electronic systems used are equipped with encryption technology, certified digital signatures, and a strict access control system to prevent illegal access or data changes by unauthorized parties.

Referring to the substance of Article 6 of the ITE Law, minutes of a deed in the form of an electronic document are considered valid if:<sup>20</sup>

1. Accessible, meaning that the minutes of the deed made digitally are considered written if they are easy to store and easy to search for or find.
2. Displayable, meaning that the minutes of the deed can be displayed by the electronic system.
3. Its integrity is maintained, meaning that the integrity of the contents of the minutes of the deed can be guaranteed through the process of checking, examining and analyzing.
4. Accountable, meaning that everything obtained, from the deed creation process to storage and, if there is a delivery/reporting process, for example, to the MPD, can be guaranteed to be authentic. Therefore, to maintain the technical authenticity of electronic deed minutes, support is needed in the form of infrastructure that is based on a government or national root CA and the use of a national encryption algorithm to clarify this.

### **3.2. The Effectiveness of Electronic Deed Minutes Storage in Notarial Practice If Implemented in the Digital Era**

The profession of notary as a skill can of course only be carried out if the person concerned has undergone special education, in fact the implementation of notary duties is the implementation of esoteric job duties, namely a profession that

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<sup>20</sup>Edmon Makarim, *Op.cit.*, p. 508



requires special education and adequate skills to carry it out.<sup>21</sup>

Electronically stored minutes of deeds can be considered effective if they meet legal, technical, and administrative requirements that guarantee their security, validity, sustainability, and evidentiary value. This effectiveness is measured not only in terms of technical convenience and space efficiency, but also in their ability to maintain the minutes' authentic function as legal evidence in notarial practice.

In general, electronic storage of minutes of deeds is superior in terms of efficiency and digital security. With the support of technologies such as certified electronic signatures, encryption, and digital backup systems, the risk of loss or damage due to natural factors, document age, or human error can be minimized. Furthermore, searching and accessing electronic archives is much faster and more controlled, as it can be restricted through authorization and tracking systems (audit trails). This provides added value in terms of oversight and accountability. However, this effectiveness is highly dependent on an adequate legal basis. Currently, regulations regarding electronic minutes of deeds are not explicitly stipulated in the Notary Law (UUJN), resulting in a lack of uniform procedures and legal recognition for minutes in digital form. Without a clear legal basis and an official national repository system, electronic minutes of deeds have the potential to be unrecognized as authentic documents in the event of a dispute in court. This creates a loophole that can reduce their effectiveness in the legal realm.

Effectiveness can also be measured by the readiness of implementers, in this case notaries and the Supervisory Board, to understand and master the digital system. Low digital literacy, uneven distribution of technological infrastructure, and a lack of training are real challenges that must be overcome to ensure this system is not merely a formality but truly functional. Therefore, electronically stored minutes of deeds can be highly effective if supported by strong regulations, secure technology, prepared human resources, and a robust oversight system. If all these prerequisites are met, digitizing minutes of deeds will actually improve the quality of notarial services, accelerate legal access, and strengthen the evidentiary system in court.

#### **4. Conclusion**

Legal regulations in Indonesia have essentially provided a sufficient basis to support the electronic storage of minutes of deeds in notarial practice, although they still require further strengthening and adjustment. The Notary Law (UUJN) has not explicitly regulated the technicalities of storing minutes of deeds in electronic form, but legal regulations in Indonesia have actually provided space for the digitization of notarial archives through systematic interpretation of several

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<sup>21</sup>Habib Adjie, (2009), *Sanksi Perdata & Administratif Terhadap Notaris sebagai Pejabat Publik*, Bandung : Refika Aditama, p.1

provisions, such as Article 15 paragraph (3) of the UUJN and significant changes in Article 5 of the ITE Law which now no longer excludes notarial deeds from being recognized as valid electronic documents. This opens up legal opportunities for the implementation of electronic minutes of deeds, as long as the principles of authenticity, accessibility, integrity, and accountability are guaranteed through adequate digital security mechanisms and rely on competent authorities. Therefore, the legal regulations in Indonesia can be said to be quite supportive of the storage of electronic minutes of deeds in notarial practice, as long as it is carried out with caution and follows legal principles and is supported by reliable digital infrastructure, while awaiting updates to the UUJN which explicitly accommodates a digital-based notarial system. The effectiveness of electronic deed minutes storage in notarial practice if implemented in the digital era, namely electronic deed minutes in notarial practice in the digital era has the potential for very high effectiveness, especially in terms of efficiency, security, and ease of access. When compared with conventional systems that are prone to physical damage, loss, and require large storage space, electronic systems offer a more modern and adaptive solution to the needs of the increasingly technology-based legal community. However, this effectiveness will only be optimally realized if supported by several important prerequisites, namely: (1) the existence of a strong and clear legal basis, through updates to the Notary Law, the Civil Code, and the ITE Law; (2) the readiness of a secure and nationally integrated digital-based storage technology infrastructure; (3) increasing digital literacy and competence of notaries and supervisory officials; and (4) changes in the legal culture of society that is starting to accept and trust the electronic-based legal system. In other words, electronic deed minutes storage can be an effective system, provided that its implementation is carried out comprehensively, systematically, and based on regulations that are able to guarantee its legal validity and protection.

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