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The Urgention of Use of Technology...( Mohammad Rizal Zulkifli Ramli)

## The Urgention of Use of Technology as A Minute Protection of Notary Assets That are Lost or Damaged Due to Natural Disasters

Mohammad Rizal Zulkifli Ramli<sup>\*)</sup>, Amin Purnawan<sup>\*\*)</sup> and Ahmad Khisni<sup>\*\*\*)</sup>

<sup>\*)</sup> Student of Master of Notary Law, Faculty of Law, Universitas Islam Sultan Agung Semarang, E-mail: [rizallzulkifli@gmail.com](mailto:rizallzulkifli@gmail.com)

<sup>\*\*)</sup> Lecturer of Master of Notary Law, Faculty of Law, Universitas Islam Sultan Agung Semarang.

<sup>\*\*\*)</sup> Lecturer of Master of Notary Law, Faculty of Law, Universitas Islam Sultan Agung Semarang.

**Abstract.** *This study aims to: to determine how important the application of technology is to protect the minuta notary deeds that are lost or damaged by natural disasters. The approach method in this research is sociological empirical research which is a qualitative research based on primary data. Primary data is data that is obtained directly by the object. Based on the results of data analysis, it can be concluded that the use of technology as an effort to protect notary deeds that are lost or damaged due to natural disasters has not obtained a clear legal basis because the Notary Position Law or other legal provisions do not clearly regulate the procedure for keeping the minimum deed, so that notaries do not have standard rules regarding procedures. How to keep the minuta deed, which results in not providing legal certainty and legal protection for the parties concerned. Along with the development of technology, technology should be used in order to support work, including notaries, storing minuta deeds in the form of soft files to make backup files that can be used if one day a natural disaster occurs which results in the loss or damage of a minimum certificate. The absence of a clear legal basis that regulates the use of technology as a means of storing minimum deeds is one of the obstacles to the use of technology, even though this is done to improve the performance of notaries who are an extension of the government in the field of civil law in terms of services to the public. The potential for disasters or things beyond human capacity that can cause the loss or damage of the deed as part of the notary protocol is very large, so it is necessary to make preventive efforts by the notary in carrying out one of its obligations as mandated in the UUJN. Notaries must take the initiative in keeping the minimum deeds so that their storage is completely safe and not stuck with the old habit of storing notary protocols in a cupboard or vault that is still lost or damaged due to natural disasters or other things beyond human ability. So that efforts to utilize technology should become an internal habit in the notary office while waiting for a clear legal basis.*

**Keywords:** *Natural Disasters; Technology; Minuta Deed; Legal Protection.*

## 1. Introduction

Based on the Law of the Republic of Indonesia Number 2 of 2014 concerning Amendments to Act No. 30 of 2004 concerning the Position of Notary Public, it is explained that Notaries are public officials who are authorized to make authentic deeds and have other powers as referred to in UUJN.

Granting the qualification of a Notary as a General Officer in relation to the authority of a Notary Public, the Notary is authorized to make authentic deeds as long as the deeds are not assigned or excluded to other officials or persons<sup>1</sup>as well as in carrying out its duties the Notary has several obligations as stipulated in Article 16 of the UUJN, one of which is to make deeds in the form of Minute Deeds and keep them as part of the Notary Protocol and the Notary ensures its correctness; Notary is not obliged to keep Minuta Deed if the deed is made in original form.

Minuta Deed is the original Deed which includes the signatures of the parties, witnesses and Notaries which are kept as part of the Notary Protocol, while the Notary Protocol is a collection of documents which is a state archive that must be kept and maintained by a Notary in accordance with the Prevailing Laws.

Authentic deeds as the strongest and most fulfilled evidence have an important role in every legal relationship in people's lives, in various business relationships, activities in the banking sector, social land affairs and others. The need for written evidence in the form of authentic deeds is increasingly gradual in line with the development of demands for legal certainty in various economic and social relations at the national, regional and global levels.

To ensure certainty, order and legal protection, the community's need for an authentic deed is very important. Through authentic deeds that clearly define rights and obligations, guarantee legal certainty and at the same time are expected to avoid disputes. Even though there is an authentic deed dispute as a

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<sup>1</sup> Setiawan, Wawan. *Kedudukan dan keberadaan serta fungsi dan Peranan Notaris sebagai Pejabat Umum dan Pejabat Pembuat Akta Tanah menurut sistem hukum di Indonesia*, Ikatan Notaris Indonesi, Daerah Jawa Timur, May 22-23 ,1998. p.7.

means of written evidence, the strongest and most fulfilled gives a real contribution to the dispute settlement of the parties.<sup>2</sup>

Therefore, considering the importance of authentic deeds for the parties as evidence in the event of a dispute, the Notary is obliged to properly and securely keep the authentic deed in the form of a deed and keep it as part of the Notary protocol with the intention of guaranteeing the authenticity of a deed, so that if there is falsification or abuse *grosse*, copies or quotations can be immediately identified by matching the original.

However, the provisions of the UUJN do not regulate how to keep the Notary protocol, because there are no statutory regulations on how to keep the minuta deed, resulting in notaries having no standard procedure to carry out their duties, for example almost all Notaries keep their Notary protocols in a safe / office cabinet it means that all files are in physical form which is prone to damage, wetness or burns resulting in the destruction of the Notary Protocol.

During his tenure, the Notary may be exposed to an incident that is uncertain or uncertain. An event that is not certain or uncertain can be anything, one example is a natural disaster. If in the future a Natural Disaster occurs in the area of the Notary's office which results in all the physical files or deeds of the parties or the Notary's client being damaged, lost or destroyed as a result of the natural disaster, the only strong and complete written evidence for the parties will also disappear. a party if in the future there is a dispute between the parties.

Even though in the modern era, there are many ways to store data that are much safer, such as storage using a system *Cloud* or save in digital form which is then stored in an account and makes the Minuta Deed a confidential Electronic Document.

The use of technology like this should be carried out by Notaries in terms of keeping the Notary Protocol which is safer and far from the risk of loss, damage

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<sup>2</sup> Adjie, Habib. *Meneropong Khazanah Notaris dan PPAT Indonesia (Kumpulan Tulisan tentang Notaris dan PPAT)*. Bandung : PT.Citra Aditya Bakti. 2009. p. 185.

or destruction of the parties' minuta deeds, in order to create legal certainty for the parties in the event of a dispute and requiring the authentic deed as a tool. Proof.

This is what makes the author interested in conducting research which is then outlined in a thesis entitled, **“The Urgention of Use of Technology as A Minute Protection of Notary Assets That are Lost or Damaged Due to Natural Disasters”**.

## **2. Research methods**

The approach method in this research is sociological empirical research which is a qualitative research based on primary data. Primary data is data that is obtained directly by the object.<sup>3</sup>

## **3. Results and Discussion**

### **3.1 Urgention of Use of Technology as An Effort Minute Protection Of Missing Notary Asset Or Damaged Due to Natural Disaster**

In an age where technology develops, technology is an absolute necessity for everyone to provide convenience and comfort in everyday life. Information and Communication Technology is now also playing an important role for our lives today in the Information age.

The fact that the use of technology in the current information age also encourages many companies and individuals to create technology-based products to support convenience for everyone, both for personal needs and for work needs. Even in the business world, technology is considered as an important instrument in running a business that can facilitate a safer data storage process through data-based storage or electronic documents or commonly known as Papperless.

Based on the mandate of Article 16 paragraph (1) of Act No. 2 of 2004 concerning the Position of Notary Public (UUJN), one of the obligations of a

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<sup>3</sup> Suptranto, J. (2003). *Metode Penelitian Hukum Dan Statistic*, Jakarta: Rineka Cipta.

Notary is to make an authentic deed in the form of a Minute of Deed and keep it as part of the Notary protocol, it is again explained that the Notary's obligation to keep the minimum deed As part of the notarial protocol is to maintain the authenticity of a deed by keeping the deed in its original form, so that if there is falsification or misuse of the notary deed, it can be found easily by matching it with the original.

However, UUJN does not clearly regulate the procedure for keeping the Notary protocol. So that in practice the notary does not have standard rules regarding the procedure for saving it which results in the Notary keeping the Notary Protocol in a safe or office cabinet in physical form even though the Notary Public's obligation to keep Minuta deeds is not only for one year or two years but for years, so that it is vulnerable to damage or even if at any time a natural disaster occurs, the notary protocol in physical form will immediately be destroyed. So that the Notary Public must be responsible for the destruction of the Notary protocol.

An authentic deed made by or before a Notary, not only because it is determined by statutory regulations, but also because it is desired by the parties concerned to ensure the rights and obligations of the parties in order to guarantee certainty, order and legal protection of the parties, which means the parties concerned the party hereby gives its trust to the notary public to secure its rights and obligations in the form of a deed in the event of a dispute between the parties. Therefore, in order to guarantee legal certainty for the parties, the Notary Public in keeping the Minuta deed as part of the notary's protocol is aware of the potential for disaster or other things beyond its capabilities that can result in damage or destruction of the notary's protocol.

According to Tan Thong Kie, the parties who keep documents in the notary protocol have known that the documents are safe in the notary's hands. This means that the public has great trust in the Notary, even if the related Notary moves or retires, then based on the law, appoint another notary who is domiciled in the same city or appoints a new Notary to hold the protocol of the notary who will move or retire. Therefore, the parties keeping documents or their heirs can always ask for a copy or copic collationee of the document.<sup>4</sup>

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<sup>4</sup> Kie, Than Thong. (2000). *Studi Notariat (Serba-Serbi Praktek Notaris)*, Jakarta : Ichtiar Baru Van Hoeve. p.267.

Based on this, the notary should take the initiative to provide more protection for the minimum notary deed as a form of maximizing service to the parties or their actors by utilizing the use of technology, especially in terms of keeping the Minuta Deed. Notaries can save their Backup Minutes in the form of files which are then stored on a computer or into a Cloud system that can be easily accessed by the Notary anytime and anywhere

Keeping the Minuta Deed in the form of a file is expected as an alternative if in the future something happens beyond our capabilities as humans, such as a natural disaster which then destroys or even destroys the Minuta Deed of Notary which is stored in physical form. So that if in the future the Parties want the Minuta Deed as evidence in court even though the Minuta Deed has been destroyed due to the Natural Disaster, the Notary may provide the Minuta Deed in the form of an electronic document or it can be reprinted by the Notary concerned.

The use of technology as a means of storing deeds also indirectly provides legal certainty for the Parties concerned. Due to the missing or destroyed Notary Protocol due to natural disasters. Until now, there is no regulation or government decision regarding what follow-up actions should be taken by a notary if the Minuta Deed is damaged or destroyed due to natural disasters. Because the problem is very detrimental to the Parties, if the Minuta Deed of Notary is damaged or destroyed, the Parties cannot request a copy of the deed back because the Minuta Deed has been lost.

The use or utilization of technology as a means of storing minuta deeds to protect notary deeds damaged or lost due to natural disasters is an *Ius Constituendum*, which means that this is the ideal of law in the future and can be input for legal stakeholders, especially the executive and legislative branches.

The use of this technology is a visionary breakthrough, because if it is only limited to UUJN which does not provide standard rules regarding this matter, the notary will not be aware that the potential for disaster or things beyond their capabilities that can result in damage or loss of the Minuta Notary Deed is very large. According to him, notaries in the era of technological development such as today must be technology literate in order to improve performance and provide more protection and legal certainty for their clients.

Even though the use of technology, for example, using a server like a separate cloud in the notary's office can make work easier because with this cloud system

the data in the notary's office is integrated in one place, thereby reducing the risk of errors related to what is written in the Minuta deed so that it can harm the parties. .

Regarding the copy of the deed's minuta file, if it is used as a means of proof in court, it is still an authentic deed, because when the signing is done which is attended by the parties and directly in front of the Notary, the formal side is perfect to be said as an authentic deed, because of the degradation of the deed from authentic deed becomes deed under hand is if the formal requirements are not fulfilled, not on the presence or absence of Minuta Akta.

The urgency of using technology as an effort to protect Minuta Deeds that are lost or damaged due to natural disasters is very important as a legal goal in the future, because in the era of 4.0, our jobs have been completed through systems that are integrated with technology. Therefore, as a transitional period, the use of this technology should be carried out in stages while waiting for the legal umbrella governing the use of this technology.<sup>5</sup>

## 4. Closing

### 4.1. Conclusion

The use of technology as an effort to protect Minuta Deeds that are lost or damaged due to natural disasters is a legal ideal or the *Ius Constituendum* which in the future is expected to become a positive law or *Ius Constitutum* so that in its application it has its own legal umbrella. Because there are no standard rules regarding the use of this technology, the use of technology as a means of storing Minuta Deeds is very important to be realized immediately, considering that in the era of technological development it will make the work of a notary public easier. This also provides more legal protection and legal certainty for interested parties. Even if the Deed of Loss or Destruction due to Natural Disaster, the softfile of the scanned minuta deed can still be considered as an automatic deed because at the time of signing the deed it has been attended by the Parties and the witnesses so that it has met the formal requirements, so it does not make the deed degradation into a deed. Under hand. Therefore, the Notary should slowly implement the use of technology as a means of storing the Minutes of Deed so that it can become a habit in the Notary Office while waiting for

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<sup>5</sup> Results of Interviews with Notaries and PPAT Muhammad Ishak, SH, M.Kn., MM in Kendari City on January 28, 2020.

Legislation or other legal rules that clearly regulate the procedure for keeping the Minuta Deed.

#### 4.2. Suggestion

An awareness is needed for Notaries in Indonesia that current technology can support their work as a Notary, especially in terms of keeping minuta deeds, because the arrival of the lawyers at the Notary's office means that they believe that their rights and obligations are protected by a Notary, therefore it is appropriate for a Notary. Take the initiative to further secure the Minuta Deed of the Facilitators.

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[3] *Act No. 2 of 2014 concerning Amendments to Act No. 30 of 2004 concerning the Position of Notary (State Gazette of the Republic of Indonesia of 2004 Number 3, Supplement to the State Gazette.*