



THE IMPORTANCE OF USING ELECTRONIC DEEDS TO FACILITATE THE SERVICE AND STORAGE OF NOTARY ARCHIVES

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ABSTRACT

The rapid progress of the development of information technology has made many changes in human life on earth. Work and activities that used to be done manually are now shifting to using a technological approach. This has been applied in assisting tasks in government and business such as banking, and trading in cyberspace. The rapid advancement of technology in this age of informatics that can provide speed, accuracy, and certainty is a solution to solving various problems and at the same time providing benefits for its users. Notarial deeds play a very important role in facilitating business transactions in the form of trade contracts or other deeds in banking. But unfortunately, in the midst of the advancement of information technology, it turns out that the notarial deed currently does not support the rapid progress of the technology. The question is whether it important to make an electronic deed in carrying out the duties of a notary. The research method used in this paper is a normative juridical method because the results of legal research on electronic deeds that have been carried out so far are still in the form of literature

Keywords: electronic deed; implementation; notary duty

INTRODUCTION

Notary institutions entered Indonesia at the beginning of the 17th century with the entry of the Verenigde Oost Indische Compagnie (VOC).¹ In 1860, the regulations regarding notaries in Indonesia were adjusted to the laws in force in the Netherlands with the promulgation of Staatblad number 3 concerning Regulation of Notary Positions (PJN) on January 26, 1860, which came into effect on July 1, 1860. With the promulgation of the Notary Regulations, a solid foundation is laid for the development of notaries in Indonesia.² From this history, it is known that the existence of a Notary in Indonesia was originally for the purposes of supporting VOC's business in doing trading until finally this Notary institution was maintained in order to provide services to the community in making deeds.

P.J.N was enforced in Indonesia for 144 years and was replaced by Law no. 30 of 2004 concerning Notary Positions. In Notary Position Law, the legislators intend to accommodate notaries in one organization.³ Since 1948 the authority to appoint a Notary has been carried out by the Minister of Justice (now Minister of Law and Human Rights), based on Government Regulation of 1948 Number 60, dated October 30, 1948, concerning Employment, Composition, Leaders, and Duties of the Ministry of Justice.⁴ In its development, the government revises Notary Position Law no. 30 of 2004 by issuing Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions (in this paper both are abbreviated as Notary Position Law).

The authority of a Notary is regulated in Article 15 of the Notary Position Law, namely making authentic deeds and other authorities.

1 Ghansham Anand, *Karakteristik Jabatan Notaris Di Indonesia*, 1st ed. (Jakarta: Prenadamedia Group, 2018), 6.
2 Nenny Madja Siarni, "Harmonisasi Pengaturan Pengangkatan Notaris Dan Pejabat Pembuat Akta Tanah (PPAT)" (Program Studi Magister Kenotariatan Universitas Airlangga, 2016), 33.

3 Shidqi Noer Salsa, *Hukum Pengawas Notaris Di Indonesia Dan Belanda*, 1st ed. (Jakarta: Kencana, 2020), 9–10.
4 Afriandi Bangka, "Analisis Hukum Tanggung Gugat Notaris Sebagai Pejabat Umum Pembuat Akta Dalam Bidang Hukum Keperdataan," *Jurnal Ilmu Hukum Legal Opinion* 2 (2014): 1.

In Article 42 of the Notary Position Law, it is stated that the Notarial deed is written clearly in an unbroken relationship and does not use abbreviations (paragraph 1). Referring to the provisions of Article 16 paragraph (1) of the Notary Position Law, it is stated that in carrying out his office, a Notary is obliged to make a Deed in the form of a Minutes of Deed and keep it as part of the Notary Protocol (letter b), bundles the Deeds he made in 1 (one) month into a book that contains no more than 50 (fifty) Deeds, and if the numbers of Deeds cannot be contained in one book, the Deeds can be bundled into more than one book, and record the numbers of Minutes of Deed, month, and year of execution on the cover of each book (letter g). So, all notarial deeds must be made in writing, including the minutes of the deed that must be bundled with a maximum of 50 deeds, a list of deeds (repertorium), a register of letters privately executed before a notary, a register for letters privately made (waarmerking), and so on are stored in the Notary protocol.

Since the introduction of the notary institution in Indonesia from the 17th century to the 21st century today, there has been no change. Notarial deeds and other Notary's works are still made in writing in accordance with the provisions of the Notary Position Law, making it difficult to store Notary archive documents. The progress of information technology in the Industrial Revolution Era 4.0 should have changed world civilization towards the disruption of digitalization in work, services, and data storage. It turns out that the development of information technology is not followed by Notaries in making the deed, they continue to work conventionally, including in storing documents that are bundled in the Notary protocol. Seeing this fact is certainly very ironic because the law that regulates the duties of Notaries in the Notary Position Law is lagging behind, does not keep up with legal developments in the community, who are already accustomed to using electronic technology in their daily activities.

The relationship between law and technology in the development of the Industrial Revolution 4.0 era. The era of the industrial revolution 4.0 with the development of advances in digital technology has transformed various

sectors of life, both economic, political, and legal, from conventional to digital models (Barton, 2011).⁵ With the development of computer hardware and software as well as internet connections, the world community is starting to enter the real digital era. This is evidenced by the increasing number of activities in the real (physical) world that are being transferred to the internet. For example, teaching and learning activities in classrooms at schools and universities can now be done online, remotely by using an internet connection (E-Learning). Likewise with business activities in the form of E-Business and E-Commerce.⁶ The stock exchange has implemented scripless trading, which is a procedure for trading securities without physical securities in the form of stock certificates, bonds, and others.⁷ Scripless stock trading on the Jakarta Stock Exchange (JSX) has been started since mid-2000.

Archival documents in the form of a Notary Protocol are in practice a problem, especially for senior Notaries who have produced many deeds. It takes space and storage for these protocols in the form of cabinets or Filing Cabinets in large quantities. The results of the author's research on Notary supervision obtained input and information from senior Notary P. Sutrisno A. Tampubolon who stated the need to reduce the numbers of minutes bundles, by allowing the issuance of electronic deeds, must also amend the Electronic Information and Transactions Law. Learn to make electronic deeds from France which already use electronic deeds. Here, the rules are still paper, practice is electronic.⁸ Furthermore, the Dean of the Faculty of Law, Udayana University, Prof. Dr. I Made Arya Utama, SH., M. Hum said that in the era of the Industrial Revolution, the administration of government and services to the public must be based on information technology or electronically,

- 5 S Sukirno Basoeky, Unggul, Fx Joko Priyono, Siti Malikhatun Badriyah, "Law and Technology: Legal Technology Model under the Authority of the Indonesian Notary Position in the Industrial Revolution Era 4.0," *Legal Brief* 11, no. 1 (2021): 353.
- 6 I Putu Agus Eka Pratama, *E-Commerce, E-Business Dan Mobile Commerce* (Bandung: Informatika Bandung, 2015), 2.
- 7 wikipedia, "Perdagangan Tanpa Warkat," https://id.wikipedia.org/wiki/Perdagangan_tanpa_warkat.
- 8 Dkk Henry Donald Lbn Toruan, *Efektivitas Pengawasan Notaris*, 1st ed. (Jakarta: Balitbangkumham Press, 2019), 151.

including notarial deeds. Although some of the contents of the Deed require modification and expansion of meaning such as the words “before a notary”, and “signature”. This is certainly very easy in the supervision of a notary because it is real-time and between those who are supervised and the supervisor avoids direct contact so that it can be more objective.⁹ He further said that the 25-year time limit for notary protocol storage by manual method does not need to be maintained because, in addition to taking up a large space, technology has also provided an electronic-based convenience as long as the infrastructure for developing notary protocol storage electronically is ready, at least from its security not to be changed, tampered with, even counterfeited. And it should have shifted to digital because it is simple and durable as long as it is supported by devices that guarantee confidentiality and security.¹⁰

Members of the Regional Supervisory Council of West Bandung conveyed the problem of the Notary protocol by saying that when a notary retires, the notary protocol must be considered. However, in reality, many notaries do not want to accept notary protocols, even though there are already appointed notaries. There are several things that make notaries refuse to accept protocols. First: The appointed notaries do not have proper space to store the protocol because many notary offices are also narrow. Second, there are concerns from the appointed notary that to keep the protocol of the deeds may cause problems in the future. The appointed notary will certainly object if the police call back and forth every day regarding the problematic deed made by the previous notary. The final solution should have been stored in the Regional Supervisory Council but again the Regional Supervisory Council had no storage space.¹¹

The complexity of the issue of notary protocol archive storage is because the making of the deed is still manual. So the minutes of the deed archive in the Notary protocol is very vulnerable to damage due to age, loss, scattered, and so on. If a Notary dies due to death, according to Notary Position Law, the protocol must be submitted to a more junior Notary. But if the appointed Notary is

not willing to accept the deceased Notary protocol, then what will happen to the bundle of deeds in the Notary protocol? Archival documents in the Notary protocol are likely to be scattered or damaged or even lost because the deceased’s family will not bother to take care of the protocol. In the case of the notary protocol archive is evidence, which may later be needed in the event of a dispute in the future. Therefore, the question becomes what is the importance of making electronic deeds in Indonesia?

RESEARCH METHOD

The approach used in writing this article is a normative research method. Normative research methods is library research.¹² The research in this paper is descriptive. Descriptive research aims to systematically and accurately describe facts and characteristics about the population or certain fields. The data collected is purely descriptive so it does not intend to seek explanations, test hypotheses, make predictions, or study implications.¹³ Legal research is conducted to find solutions to legal issues that arise. Therefore, legal research is research within the framework of legal know-how. The result achieved is to give a prescription about what should be on the issue raised.¹⁴ To solve legal issues, research sources are needed. Legal research sources can be divided into research sources in the form of primary legal materials and secondary legal materials. Primary legal materials consist of legislation, official records, or minutes in the making of legislation and judges’ decisions. Meanwhile, secondary materials are all publications on the law which are not official documents.¹⁵ In solving these legal issues, the author will use a statutory approach which will examine the laws and regulations related to the legal issues being discussed.

The research data sources used consist of books (literature) and research results, scientific

9 Ibid., 152.

10 Ibid., 177.

11 Ibid., 178.

12 Soerjono Soekanto dan Sri Mamuji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Jakarta: Raja Grafindo Persada, 2001), 23.

13 Suteki dan Galang Taufani, *Metodologi Penelitian Hukum*, 1st ed. (Depok: Rajawali Pers, 2011), 41.

14 Peter Mahmud Marzuki, *Penelitian Hukum*, 7th ed. (Jakarta: Kencana Prenada Media Group, 2011), 41.

15 Ibid.

journals related to writing, laws, and regulations, data from the internet, etc. The data collection procedure was carried out by browsing the data on the internet. All the data collected will be assembled and analyzed using Posner's theory of Economic Analysis of Law. According to Posner, AKH can be used as an approach to answering legal problems by expressing different definitions and different assumptions to get a picture of satisfaction and maximization of happiness. This approach is closely related to justice in law. To do so, the law is used as an economic tool to achieve the maximization of happiness. The approach and use of this analysis must be prepared with economic considerations without eliminating the element of justice so that justice can become an economic standard based on three basic elements, namely value and efficiency based on human rationality.¹⁶

DISCUSSION AND ANALYSIS

Public service

According to Paul Spicker (2009), Public Service can be explained by diving deeper into the two words contained in the term. The first is to ask what is the substance of the 'Public' in Public Service? According to Spicker, there is a common misconception in society that equates the term public service with the public sector. The public sector is fully controlled by the government, such as the legislature and courts. While public services are not all controlled by the government, there are public services that are operated and developed by non-profit and private organizations. Examples are libraries and universities which are included in the public sector but some are managed by non-profit organizations of these institutions. Both are 'public' in one sense, but the differences in the organizations that run and make decisions in them can explain the differences that exist in public services with other organizations. The second is to ask what is the substance of the word 'service' in public service. According to Spicker, the difference that distinguishes public services from other organizations in this regard is that public services focus entirely on the welfare of the community, in contrast to commercial

services which focus on personal or organizational gain.¹⁷ Based on this definition, a notary is categorized as a public official, who is assigned by Notary Position Law to provide services to the community in making deeds and other services and for that, he gets a reward or an honorarium.

The government as the holder of power has the task of providing services to the general public. This state service is divided into two major parts, namely: (1) Public service in the field of public law and (2) Public service in the field of civil law.¹⁸ Services to the general public in the field of public law are carried out by the implementing government (executive)/State Administration Officers/State Administration Officials/State Officials. While services to the general public in the field of civil law in state organs are called public officials. The authority of public officials is obtained directly from the highest power, namely the state. This implies that public officials have an independent position in civil law.¹⁹ Services in the field of civil law are the domain of notary authority mandated by Notary Position Law, namely in making deeds and other services. However, the service in making the deed is still conventional and has not followed the development of information technology.

The Directorate General of General Laws Administration of the Ministry of Law and Human Rights as an institution that has a working relationship with Notary, has long used electronic technology to ratify business entities, such as Civil Partnerships, Firms, and CVs, through the Legal Entity Administration System (SABU) according to Permenkumham Number 17 of 2018 concerning Registration of Limited Partnerships, Firm Partnerships, and Civil Partnerships. Likewise, the legalization of legal entities is carried out through the Legal Entity Administration System. A legal Entity Administration System is a type of legal service that is provided to the business community in the process of legalizing a legal entity of a Limited Liability Company, granting approval for changes to the articles of association of a Limited Liability Company, receiving notification of

16 Fajar Sugianto, *Economic Analysis of Law*, 1st ed. (Jakarta: Kencana, 2014), 45.

17 Muhammad98, "Defenisi-Konsep-Pelayanan-Publik," <https://blog.ub.ac.id/muhammad98/2019/02/08/definisi-konsep-pelayanan-publik/>.

18 Freddy Haris & Leny Helena, *Notaris Indonesia*, 2nd ed. (Jakarta: PT Lintas Cetak Djaja, 2017), 45.

19 Ibid.

changes to the articles of association of Limited Liability Company, and changes to Limited Liability Company data, as well as providing other information electronically (via computer networks and the internet), which is organized by the Directorate General of General Legal Administration at the Ministry of Law and Human Rights of the Republic of Indonesia.²⁰ The enforcement of the Legal Entity Administration System began on October 4, 2000, based on the Decree of the Minister of Justice and Human Rights of the Republic of Indonesia Number M-01.HT.01.01 of 2000. The implementation of the Legal Entity Administration System was based on considerations to anticipate the very fast and competitive business development in the era of globalization. In the era of globalization, it is necessary to increase the function of legal services within the Directorate General of General Legal Administration to support business progress in the country.²¹ These provisions have been amended with the issuance of Minister of Law and Human Rights Number 21 of 2021 concerning Terms and Procedures for Registration of Establishment, Amendment, and Dissolution of Legal Entity of Limited Liability Company. The two Permenkumham authorize Notaries to make the deed of establishment of business entities and legal entities, including changes and dissolution of legal entities, by filling out the electronic form through SABU for business entities and Legal Entity Administration System for legal entities.

In anticipating the phenomenon of the development of information and communication technology, the government has implemented information and communication technology in government activities with the issuance of Presidential Regulation (Perpres) Number 95 of 2018 concerning Electronic-Based Government Systems. The use of information technology is not only for the government but also applies to parties who take care of business licensing with the issuance of Government Regulation Number 24 of 2018 concerning Electronically Integrated Business Licensing Services. Electronically Integrated Business Licensing or Online Single

Submission (OSS) is a Business Licensing issued by the OSS Institution for and on behalf of the minister, agency head, governor, or regent/mayor to Business Actor through an integrated electronic system. This OSS institution is under the Investment Coordinating Board which will issue a Business Identification Number (NIB). Usually, business actors will ask a notary to assist them to carry out the registration.

Notary in making the deed of establishment of the business entity will match the aims and objectives as well as the business activities in accordance with the business field in the 2017 KBLI. Laws such as CVs, Firms, and Individual Partnerships are then registered in the Business Entity Administration System (SABU). This also applies to business entities that have been running or operating, they are required to adjust the aims and objectives, and business activities of business entities with the 2017 KBLI so that they can be integrated into the OSS system.²² KBLI is a classification of Indonesian economic activities/activities that produce products/outputs, both in the form of goods and services, based on business fields to provide uniformity in concepts, definitions, and classifications of business fields in the development and shift of economic activities in Indonesia. In practice, it is the Notary who make registration to OSS. After going through various processes, the OSS Institution based on the provisions of Government Regulation No. 24/2018 for and behalf of the minister, head of the institution, governor, or regent/mayor issues Business Licensing in the form of Electronic Documents accompanied by Electronic Signatures.

Notaries are required to follow and adjust to the developments of the globalization era that is happening at this time, this is due to the existence of civil relations in the form of transactions carried out by electronic media or transactions carried out online, as well as increasingly experiencing developments and being integrated with each other, for example, is the relationship between the Ministry of Law and Human Rights is integrated with the Coordinating Ministry for Economic Affairs, this relationship is integrated through the latest licensing system, namely OSS

20 Cita Yustisia Serfiyanti Iswi Hariyani, R. Serfianto Diby Purnomo, *Panduan Praktis SABH (Sistem Administrasi Badan Hukum)*, 1st ed. (Yogyakarta: Pustaka Yustisia, 2011), 13.

21 Ibid.

22 Anton Sudjarot, "Peran Dan Kewenangan Notaris Terhadap Pendaftaran Izin Usaha Melalui Sistem Online Single Submission," *FIAT IUSTITIA* 3 (2022): 99.

(Online Single Submission) in accordance with Government Regulation No. 24 of 2018. The government is currently promoting a policy of facilitating and accelerating the implementation of investment and business procedures applicable in the Republic of Indonesia. The Republic of Indonesia requires a program or system, namely Online Single Submission (OSS), which is an electronic system containing business permits issued by OSS institutions for and on behalf of ministers, institutions, governors, or regents/mayors to business actors.²³ In principle, the licensing process through the online OSS institution aims to eliminate obstacles in the licensing process as a form of ease of doing business, in order to accelerate the entry of investment in Indonesia. The problem is that the duties of a Notary as determined by the Notary Position Law must be done in writing so it does not support the demands of services in the government that is done electronically.

In practice, notary services in Indonesia are still conventional, which means that the activities between the notary and the appearers are still carried out face-to-face. In the current Industrial Revolution 4.0 Era, as a generation that often faces digital transformation, it is mandatory to be technologically literate about developments in society. This can also be applied in legal life in the form of notary services based on information technology or known as a cyber notary. The idea of a cyber notary has a concept, namely utilizing advances in information technology for notaries to carry out their notarial duties, including digitizing documents, signing authentic deeds electronically, utilizing teleconference in the implementation of the company's General Meeting of Shareholders (GMS).²⁴ The conventional notary service is a legal problem for notary arrangements in the Notary Position Law which is the basis for carrying out the duties of a notary, which orders notaries to work conventionally.

If the legal problem is studied using

23 Aris Yulia, "Profesi Notaris Di Era Industrialisasi Dalam Perspektif Transendensi Pancasila," *Law and Justice* 4 No.1 (2019): 61.

24 Fadhila Rizqi dan Siti Nurul Intan Sari D., "Implementasi Cyber Notary Di Indonesia Ditinjau Dalam Upaya Reformasi Birokrasi Era 4.0," *Jurnal Hukum dan Kenotariatan* 5 (2021): 40.

Posner's theory, then the problem can be investigated using economics tools based on two basic elements, namely value, and efficiency based on human rationality. The theory of value in economics is a theory that tries to explain the origin of the value of goods and services, why something is valuable and can be traded at a certain price, and how humans can make a profit. Then this value is further divided into use value and exchange value. Use value also called use value (utility) is a tangible feature possessed by a commodity to satisfy human needs or desires.²⁵ While efficiency in economics is used to refer to a number of concepts related to maximizing utility and utilization of all resources in the production of goods and useful behavior.²⁶

Efficiency is maximizing the results of a job with few resources in the form of funds, effort, or time.²⁷ While human rationality is said by Fajar Sugianto that "The concept of rationality is the main frame of mind in understanding human behavior. Economics assumes that all humans have rationality (except children and those who are retarded). Despite the fact that not all rationality in every individual is the same, human rationality in economics is more emphasized on the equality of human desires. This desire is a human effort to meet their needs and achieve satisfaction so that humans are said to be rational maximizers."²⁸ From the legal and economic approach, it can be concluded that if the notary service has been carried out in the form of an electronic document, it will provide value in fulfilling the satisfaction and desires of the parties dealing with a notary, because the public is quite familiar with the use of information technology, such as Mobile Phone and Notebook.

People who deal with notaries are people who are very rational, and who understand the importance of every legal action as stated in a deed

25 "Teori Nilai Dalam Ilmu Ekonomi (Theory of Value)," accessed November 3, 2022, <https://www.tentorku.com/teori-nilai-dalam-ilmu-ekonomi/#nilai-guna>.

26 P2K.unkris, "Efisiensi (Ekonomi)," accessed November 3, 2022, http://p2k.unkris.ac.id/id3/1-3065-2962/Efisiensi_22767_p2k-unkris.html.

27 gamedia.com, "Efisiensi: Pengertian, Konsep, Jenis, Manfaat, Dan Tolak Ukurnya," accessed November 3, 2022, <https://www.gamedia.com/best-seller/efisiensi/>.

28 Fajar Sugianto, "EFISIENSI EKONOMI SEBAGAI REMEDY HUKUM," *DIH, Jurnal Ilmu Hukum* Vol. 9, No (2013): 87.

for the benefit of evidence in the future. If the services provided by the notary are electronically based, the people who deal will be happy and satisfied. Services in electronic form will be more efficient and can save costs, energy, and time. Fadhila Rizqi and Siti Nurul Intan Sari D. said that the meeting between the Notary and the Appearer was replaced by electronic video conferencing, the Notary and the Appearer only had to open a computer from their respective locations without the need to spend money to go out. This certainly affects the efficiency of the time needed, with digital transformation, everything will be more practical and time-saving. The process of making a deed by a Notary conventionally such as a deed of sale and purchase takes approximately one month to complete the file processing. However, if the file management is done through electronic media, it will be more effective and efficient, the required files can be uploaded through the official website or the destination database which can then be processed immediately.²⁹ Therefore, notaries must follow the steps taken by the government in providing electronic services to the public, so that there is synergy in advancing business in the country.

Electronic Deed (Electronic Notary/Cyber Notary)

The history of the development of cyber notary was first raised in 1989, at the Trade Electronics Data Interchange System Legal Workshop organized by the European Union, the phrase “electronic notary” was first initiated by a delegation from France, which has the meaning: “Various industry associations and related peak bodies could act as an “electronic notary” to provide an independent record of electronic transactions between parties, i.e., when company A electronically transmits trade documents to company B, and vice versa.” (Smith, 2006:1). The definition of the phrase “cyber notary” was then put forward in the United States by the Information Security Committee of the American Bar Association in 1994, which reads: “The committee envisaged that this proposed new legal professional would be similar to that of a notary public but in the case of the Cyber notary his/her function would involve electronic documents as

29 Fadhila Rizqi dan Siti Nurul Intan Sari D., “Implementasi Cyber Notary Di Indonesia Ditinjau Dalam Upaya Reformasi Birokrasi Era 4.0,” 45.

opposed to physical documents. This would be an office, which would be readily identifiable and recognized in every country throughout the world: i.e., as a legal professional who has been placed in a position of a heightened level of trust. They would have the responsibility to undertake certain types of legal transactions than that of the public officer generally referred to in the United States as a notary.” (Smith, 2006:1). The definition of the electronic notary and cyber notary basically have the same thing, that the media used in the act is electronic media (intangible) as a substitute for paper documents (tangible) in general. However, the idea of a cyber notary by the Information Security Committee of the American Bar Association provides a more specific definition, namely that a cyber notary is a new legal profession similar to a public notary, but a cyber notary, it has functions that involve electronic documents.³⁰ Perhaps in Indonesia, it is not possible to form a legal profession like in America which has a similar job to a Notary.

The global agreement in the forum of The United Nations Commission on International Trade Law (UNCITRAL) has long provided recommendations on the need for recognition of the legal value of information and/or electronic documents. UNCITRAL has rolled out the Model Law on E-Commerce and the Model Law on E-Signature, which can be used by all countries in developing their national legal systems to accommodate the dynamics of electronic commerce and the regulation of electronic signatures.³¹ In its development, an international convention on e-commerce was born within the scope of business actors (B2B), namely the United Convention on the Use of E-Communication Contracts. The urgency of notarial authority electronically was stated at the International Congress XXIV of Latin Notaries in 2004 and discussed in the second working group theme (working group theme II) which at the core of the discussion was to open oneself up by accommodating developments and

30 Cyndiarnis Cahyaning Putri dan Abdul Rachmad Budiono, “Konseptualisasi Dan Peluang Cyber Notary Dalam Hukum,” *Pendidikan Pancasila dan Kewarganegaraan* 4 (2019): 32.

31 Edmon Makarim, *Notaris Dan Transaksi Elektronik, Kajian Hukum Tentang Cybernotary Atau Electronic Notary*, 3rd–4th ed. (Depok: Rajawali Pers, 2021), 10.

realizing the possibility of making authentic deeds electronically. This indirectly requires a notary to be immediately ready to face digital transformation, because the involvement of information technology affects the ease of various community needs.³² Developed countries have long realized how important it is to use a cyber notary by a Notary in carrying out their duties and authorities. Even UNCITRAL under the auspices of the United Nations has launched a model that can be used as a reference in online commercial trade and electronic signatures. The meeting at the International Congress of Latin Notaries in 2004 made a stronger voice for the importance of making authentic deeds electronically.

The concept of cyber notary that was initiated has not yet reached the making of a deed in electronic form. Respati Nadia Putri in her thesis said that “The idea of a cyber notary has a concept, namely by utilizing advances in information technology for notaries to carry out their notarial duties, including digitizing documents, signing authentic deeds electronically, utilizing teleconferencing in the implementation of the company’s General Meeting of Shareholders (GMS)”³³ With the development of advanced electronic technology, technically there seems to be no obstacle in applying information technology in making deeds. If it is associated with Posner’s theory, the making of a Notarial deed in electronic form will provide value for the satisfaction of the parties dealing with the notary. Making a deed in electronic form will be more efficient because it does not take a long time so it can save energy and costs.

The norms governing cyber notary in Notary Position Law are not clear about their purpose and objectives. Shinta Pangesti et al in their writings said that “The authority which is the starting point for the concept of the cyber

notary in Indonesia is contained in Article 15 paragraph (3) of the Notary Position Law 2/2014, which reads: “In addition to the authority as referred to in paragraph (1) and paragraph (2), the Notary has other authorities regulated in the legislation”. In the Elucidation of the article, it is stated that: “Other authorities regulated in laws and regulations” include, among others, the authority to certify transactions made electronically (cyber notary), to make waqf pledge deeds, and aircraft mortgages. ..., then in a limited basis, what is categorized as a cyber notary is the matter of certification of transactions carried out electronically.”³⁴ Ni Kadek Ayu Ena Widiasih said that the word certifies in the Elucidation of Article 15 paragraph (3) of the Notary Position Law gives rise to various interpretations such as equating the word certify with verifying, giving rise to an interpretation of the form of authority to certify carried out by a notary, and interpreting the word to certify as making a certificate for a transaction or legal actions carried out through electronic media by a notary, so that in this case there is vagueness of legal norms.³⁵ Referring to the Information and Electronic Transactions Law No.19/2016 and Government Regulation No.71/2019 concerning the Implementation of Electronic Systems and Transactions (PTSE) it states that “Electronic Certificates are electronic certificates containing Electronic Signatures and identities that indicate the status of the legal subjects of the parties in Electronic Transactions issued by Electronic Certification Operators.”

If the electronic transaction certification as referred to in Article 15 paragraph (3) of the Notary Position Law only verifies or validates electronic data, it is clearly not the same as the electronic certificate referred to in Information and Electronic Transactions Law No.19/2016 and Government Regulation No.71/2019, because electronic certification according to this provision must contain an electronic signature and be issued by the operator of the electronic certification. Meanwhile, Notaries do not issue electronic certificates, nor do they issue electronic signatures, nor are they the organizers of

32 Fadhila Rizqi dan Siti Nurul Intan Sari D., “Implementasi Cyber Notary Di Indonesia Ditinjau Dalam Upaya Reformasi Birokrasi Era 4.0,” 42–43.

33 Respati Nadia Putri, “Konsep Cyber Notary Dalam Perubahan Undang-Undang Jabatan Notaris Sebagai Hasil Program Legislasi Nasional” (Fakultas Hukum Universitas Padjadjaran, 2017), 13.

34 Cynthia P. Limantara Shinta Pangesti, Grace I Darmawan, “Konsep Pengaturan Cyber Notary Di Indonesia,” *Jurnal Rechtsidee* 7 (2020): 9.

35 Ni Kadek Ayu Ena Widiasih, “Kewenangan Notaris Dalam Mensertifikasi Transaksi Yang Dilakukan Secara Elektronik (Cyber Notary),” *Acta Comitatus* 05 No. 01 (2020): 152.

electronic certification. This is because to make an electronic signature based on the Information and Electronic Transactions Law and Government Regulation on Electronic Transaction System Operator it must be made with an Electronic Signature Making Tool, namely Software or Hardware that is configured and used to create an Electronic Signature. Electronic Signature Creation Data consists of personal code, biometric code, cryptographic code, and/or code generated from converting manual signatures into Electronic Signatures, including other codes generated from the development of Information Technology.

There are several inhibiting factors in making notarial deeds and documents as legal evidence. First, the certification of electronic transactions as regulated in the explanation of Article 15 paragraph (3) of the Notary Position Law, if it is intended to only verify or validate electronic data, is certainly not the same as the electronic certificate formulated in the provisions of the Information and Electronic Transactions Law and Government Regulation on Electronic Transaction System Operator mentioned above. Therefore, the Information and Electronic Transactions Law in Article 5 paragraph (4) expressly states that the provisions regarding Electronic Information and/or Electronic Documents do not apply to: (a) the letter which according to the law must be in written form; and (b) the letter and its documents which according to the law must be made in the form of a notarial deed or a deed made by the deed making official. In other words, notarial deeds and other documents made electronically by a notary, according to the provisions of the Information and Electronic Transactions Law, do not have legal force as legal evidence. This is because documents or contracts, and deeds made by a Notary are not the same as the electronic documents referred to in the Information and Electronic Transactions Law. Where electronic documents are Electronic Information that when stored must be in the form of analog, digital, electromagnetic, optical, or the like, which can be seen, displayed, and/or heard through a computer.

Second, the next inhibiting factor is because the Notary Position Law still refers to the issue of making authentic deeds in the Civil Code where in Article 1867 of the Civil Code it is stated that "Proof in writing is done with authentic writings or with writings executed privately". What is

meant by an authentic deed in Article 1868 of the Civil Code states that "An authentic deed is a deed in the form determined by law, made before public officials who have power for that at the place where the deed was made". Therefore, in the consideration of the Notary Position Law, it is stated that to ensure certainty, order, and legal protection, authentic written evidence is needed regarding legal acts, agreements, stipulations, and events made before or by authorized officials. In Notary Position Law Article 42 the Notarial deed is written clearly in an uninterrupted relationship with one another and does not use abbreviations (paragraph (1)). The form of the deed itself, as stipulated in Article 1868 of the Civil Code, can be found in Article 38 of the Notary Position Law. Then Article 16 paragraph (1) of the Notary is obliged to "read the Deed in front of an audience in the presence of at least 2 (two) witnesses, or 4 (four) witnesses specifically for the making of a private will, and signed at the same time by appearers, witnesses, and notaries (letter m). Thus, it is clear that the concept of the Notary Position Law is still oriented to the 17th-century Civil Code. In terms of the face-to-face concept, it can be done by utilizing current electronic technology, without the direct physical presence of the appearer. For example, zoom meetings or video calls are often used for meetings or communicating, the same as the concept of face-to-face.

Third, Shandi in the webinar entitled "The Potential of Blockchain Technology in the Notary Field" explained the obstacles that occur in the notary profession, namely the difficulty of senior notaries to understand new technology and tend to stick with old technology. He gave an example that currently there are still notaries who use the Wordstar software to archive letters.³⁶ In addition to technological stuttering, maybe some Notaries feel more comfortable in written form because they can make changes according to the "order" of the party who wants to benefit. So it is not surprising that a Notary is involved in legal problems because the deed made is detrimental to one party.

If there is political will from the government to change the Notary Position Law, it can actually be done by means of transparency, adopting cyber

36 Blockchainmedia.id, "Potensi-Teknologi-Blockchain-Di-Bidang-Kenotariatan," <https://blockchainmedia.id/potensi-teknologi-blockchain-di-bidang-kenotariatan/> diakses 28/10/2022 11:55.

notary regulations from other countries, including regulations from the Anglo-Saxon legal system. For this reason, it is necessary to study the making of electronic deeds in countries with civil law and Anglo-Saxon sects, who have experience in the cyber notary field, as has been done in Japan and England. The concept of cyber notary has been anticipated by several countries that also adhere to the continental European system or civil law legal system, one of which is Japan. As a developed country, which also adheres to a civil law legal system, Japan started the era of the Electronic Notary System since 2000. This is as explained by Indra Pranajaya, SH in his thesis entitled “A Comparative Study of the Position and Code of Ethics of Notaries in Indonesia and Japan” at the Faculty of Law, the University of Indonesia in 2012. Since 2000 the Japanese Notary, who in Japanese is called kooshoonin (公証人) has carried out his duties and positions using an electronic system. In carrying out their duties and positions, kooshoonin are subject to the Japanese Notary Office Law No. 53 of 2011 which one of them is authorized to ratify Digital Documents. In addition to the authority to make deeds in the form of *relaas* and *partij* deeds as well as Indonesian notaries, with methods and procedures as required by the notary profession in Indonesia, Japanese kooshoonin are also authorized to make digital deeds. This Digital Deed is made with the Electronic Notary System and is stored and managed by the Japan National Notary Association (JNNA), an official notary professional organization in Japan as well as the Indonesian Notary Association (INI).³⁷

Meanwhile in England, as stated by Michael Lightowler in his writing, “In November 2002, an E-Commerce Pilot Project for Notaries in England and Wales was started to accelerate the development of Cyber-Notary services. The project was independently run through a company incorporated under the name Notaries For E-Commerce (“NEC”) for the sole purpose of completing the pilot and was supported by members of the Notaries Society, the Society

of Scrivener Notaries of London, and Notaries in the Channel Islands. A contract was signed with Software Box Limited to provide certification authority (CA) services. The 2006 Project: With major advancements in applicable technology and the availability of mainstream software at a reduced cost (compared with five years earlier), a new project was undertaken in 2006 culminating in a practical demonstration to members of the profession. The program was evolved through meetings between The Notaries Society and one of Adobe’s CDS (Certified Document Services) partners utilizing Adobe Acrobat pdf to create a Certified Document Service for Notaries”³⁸ The UK has piloted the Cyber Notary project in 2002 by appointing a private company to provide certification authority services. The project was then resumed in 2006 culminating in a practical demonstration to members of the profession. This program was developed through a meeting between The Notaries Society and one of Adobe CDS (Certified Document Services) partners utilizing Adobe Acrobat pdf to create Certified Document Services for Notaries. Reflecting on projects that have been carried out in the UK and in other countries that have implemented cyber Notary. Of course, we in Indonesia can do the same thing by preparing a program and a trusted third party as a certification authority (CA). But most importantly the government must intervene in supporting changes to the Notary Position Law regulations that adopt the creation of a Cyber Notary and also make changes to the Information and Electronic Transactions Law to be in harmony and unlawful with the Notary Position Law.

By observing developments in several countries, both in the form of Common Law and Civil Law, many countries have empowered the function and role of Notaries in electronic transactions. Therefore, like it or not, Indonesia must also stimulate the implementation of its Notary services in electronic transactions, even up to the implementation of notarial services itself electronically.³⁹ Freddy Haris and Leny Helena said that Cyber Notary is a Notary who can certify a

37 Hukumonline.com, “Antisipasi Terjadinya Disrupsi Terhadap Jabatan Dan Kewenangan Notaris,” <https://www.hukumonline.com/berita/a/antisipasi-terjadinya-disrupsi-terhadap-jabatan-dan-kewenangan-notaris-lt5dcba9a949a8c?page=all>.

38 Michael Lightowler, “E-Commerce for Notaries in England & Wales,” *Digital Evidence and Electronic Signature Law Review* (2007): 42–43.

39 Denny Fernaldi Chastra, “Kepastian Hukum Cyber Notary Dalam Kaidah Pembuatan Akta Autentik Oleh Notaris Berdasarkan Undang-Undang Jabatan Notaris,” *Indonesian Notary* 3 No.2 (2021): 249.

document electronically. So there is a system that is recognized as a means of digital certification or deed.⁴⁰ So, every step in acting as a Notary is completely done digitally so that it can be called a Cyber Notary. Cyber Notary has an electronic signature (electronic signature) or digital (digital signature).⁴¹ Digital signatures are the most secure means of signature or authentication. Because digital signatures use cryptographic asymmetric technology applications. Asymmetric cryptography is a system of randomizing a message by using a key pair consisting of a series of numbers. This key is called a pair because it is of two types. The public key and private key. In simple terms, a private key is a key that must be kept secret and should not be shared with anyone. This key is used to “encrypt” the document. Then the document can be read by a certain person who is intended, and the holder of the private key provides the public key so that the document can be “decrypted” This two-way communication has an undeniably high level of authenticity because of its high level of security.⁴² In digital signature communication, there is a Certification Authority (CA) function that regulates and authenticates documents. This Certification Authority, if implemented in Indonesia, can be carried out by the Directorate General of General Legal Administration as a government organ in charge of the notarial field.⁴³

So, the concept of changing the Notary Position Law in the future must open up opportunities where the notary in carrying out his duties and positions uses an electronic system. So that notaries can make party deeds (*partij acten*) and official deeds (*relaas acten*) in electronic form including certifying documents electronically. Partij deed is a deed that includes information or wishes of the parties in the deed. G.H.S Lumbun stated that the relaas deed or official report deed were; “Contains a description of the notary who is seen and witnessed by the notary himself at the request of the parties so that the actions or actions of the parties are poured into the form of a

notarial deed.”⁴⁴ The deed makers do not need to be face to face but are carried out virtually using technological devices. Likewise, the making of the deed of the release of the minutes of the shareholders’ meeting in the GMS can use the means of teleconference technology. Regarding the signature, you must change the manual signature to an electronic digital signature according to the rules of the Information and Electronic Transactions Law and Government Regulation on Electronic Transaction System Operators. To realize a cyber notary in Indonesia, in addition to comparative studies to experienced countries, of course, it must involve information technology experts who will be tasked with making programs so that they can be implemented by Notaries and related parties.

Evidence

One of the uses of making a Notarial deed is as a means of proof in court proceedings. The law of proof as regulated in Article 1866 of the Civil Code are Written evidence; Evidence with witnesses; conjectures; Confession; Oath. Then in Article 1867 of the Civil Code, it is stated that “Writing proof is carried out with authentic writings...” In order to comply with the provisions of the Civil Code, the Notary Position Law determines that the making of a deed by a Notary must be made in writing as regulated in Article 42 paragraph (1) that a Notarial deed written clearly in relation to each other that is not broken and does not use abbreviations. Judges in the proceedings at the Court in handling a case will of course refer to the evidence according to the provisions of Article 1886 of the Civil Code. According to Ramli, the provisions on evidence that mentions as limited evidence need to be revised so that they can accommodate the existence and role of electronic evidence in e-commerce transactions. Evidence no longer has to be limited, but wider possibilities must be opened up, as regulated in the Dutch BRV.⁴⁵ It is necessary to study further about the possibility of acknowledging the authentication of electronic deeds through a Cyber Notary mechanism.⁴⁶ In the concept of changing the

40 Freddy Harris dan Leny Helena, *Notaris Indonesia*, 2nd ed. (Jakarta: PT. Lintas Cetak Djaja, 2017), 202.

41 Ibid.

42 Ibid., 203.

43 Ibid.

44 Salim HS, *Teknik Pembuatan Akta Satu* (Depok: PT Rajagrafindo Persada, 2015), 90.

45 H. Ahmad M. Ramli, *Cyber Law Dan HAKI Dalam Sistem Hukum Indonesia*, 3rd ed. (Bandung: Refika Aditama, 2010), 37.

46 Ibid., 38.

Notary Position Law, electronic documents made by a Notary must be declared as valid evidence.

Regarding electronic evidence, the legal evidence in Indonesia has not formally accommodated documents or electronic information as evidence in dispute resolution through the courts, as well as regarding the use of teleconferences in witness examination. Civil procedural law has not yet regulated electronic evidence, but matters concerning electronic documents in Indonesia have begun to be accommodated in several laws...⁴⁷ Actually, in Indonesia, there have been several actions that lead to the use and recognition of electronic documents as legal evidence, for example with the introduction of online trading on the stock exchange and the regulation of microfilm as well as electronic means as a medium for storing company documents as regulated in Law Number 8 of 1997 concerning Company Documents.⁴⁸ The Company Documents Law can be said to be the beginning of the regulation of electronic evidence because it has provided the possibility for company documents that have been given the position of authentic written evidence to be secured through storage in the form of microfilm. Furthermore, the documents stored in electronic form (paperless) can be used as legal evidence in the event of a dispute in court.⁴⁹ However, more firmly regarding the regulation of electronic evidence has also been regulated through Law No. 11 of 2008 concerning Electronic Information and Transactions (Information and Electronic Transactions Law), which specifically regulates electronic evidence. In Article 5 of the Information and Electronic Transactions Law, it is expressly stated that information and or electronic documents and or their printouts are legal evidence and have legal consequences. Furthermore, it is said that this arrangement is an extension of valid evidence in accordance with the procedural law in force in Indonesia.⁵⁰ Recognition of electronic documents as a means of proof in the regulation mentioned above, it

47 Efa Laela Fakhriah, *Bukti Elektronik Dalam Sistem Pembuktian Perdata*, 1st ed. (Bandung: Refika Aditama, 2017), 150.

48 Ibid., 151.

49 Ibid.

50 Ibid., 152.

is actually possible in future amendments to the Notary Position Law to state electronic documents, such as Notarial deeds, as evidence.

Therefore, it is important to amend the Notary Position Law in order to accommodate arrangements for making electronic deeds following the dynamics of community development, especially business development. So automatically even this electronic deed will be used by the judge as a means of proof in court. Freddy Haris said, "I hope that Notaries need not be afraid of income land if they are sincerely sincere in carrying out their positions for community service. The existence of a Cyber Notary will be very useful for people who really need certification in an efficient, fast, and accountable manner. The use of technology will also make the work of a Notary more efficient, fast, and up-to-date."⁵¹ When the author attended the discussion meeting on the preparation of the Academic Manuscript amendments to the Notary Position Law in 2019 and 2020, he already suggested the importance of making an electronic deed in the concept of changing the Notary Position Law. It turned out that the author's proposal was strongly rejected by a team member from the Indonesian Notary Association (INI) with various arguments. We do not know whether the Notary is very comfortable with making this manual deed because it is easy to change according to the request of one party. It is different when using an electronic deed, where the making of the deed will be recorded and not easily changed like a manual system.

Notary Protocol

In Notary Position Law No. 2 of 2014 Article 1, number 13 defines a Notary Protocol as a collection of documents that are state archives that must be stored and maintained by a Notary in accordance with the provisions of the legislation. The Notary Position Law does not explain what state documents and archives are. Reporting from the Merriam-Webster website, historically and etymologically, the word document comes from the English document. The word document comes from the Latin documentum which means paper or official document. The word documentum is derived from the word docere or docile which means to teach. According to the Kamus Besar Bahasa Indonesia (KBBI), documents are written or printed letters that can be used as evidence, such as birth certificates,

51 Freddy Harris dan Leny Helena, *Notaris Indonesia*, 204.

marriage certificates, and agreement letters. In general, a document is a record or capture of an event or thing so that information about it will not be lost. Documents are a form of information. Usually, the information on the document is handwritten but can also be made from images and sound. A document can be entered into electronic form and stored on a computer.⁵² Meanwhile, the notion of archives can be found in Law Number 43 of 2009 concerning Archives. In the general provisions of Article 1 point 2 defines archives as recordings of activities or events in various forms and media in accordance with the development of information and communication technology made and accepted by state institutions, regional governments, educational institutions, companies, political organizations, community organizations, and individuals in the implementation of social, national and state life.

Archives Law No. 43 of 2009 regulates the definition and types of archives. In addition, it is also regulated in Government Regulation Number 28 of 2012 concerning the Implementation of Law Number 43 of 2009 concerning Archives. These two regulations regulate the retention period of state institution archives before they are destroyed, namely Article 48 of the Archives Law and Article 54 paragraph 3 of Government Regulation 28/2012.⁵³ Archive Retention is a mandatory storage period for a type of archive. While the notary protocol does not have a retention period. A notary Protocol is an archive that, even though its retention has expired and has no use value, must be kept by a Notary. Substitute Notary, Temporary Official, Notary holding protocol, and Regional Supervisory Council (Article 62-64 Notary Position Law). This shows that the archive must be kept for an indefinite period, even though it is not explicitly regulated in the Notary Position Law.⁵⁴ Archival storage is indefinite because archival documents are evidence for the parties, perhaps within fifty years later, the posterity of the archive owner is needed in a dispute. Notary

archival document storage is still manual not in the form of digitization, making it difficult to store for a long time.

The cessation of a person's position as a Notary, among others, is due to retirement or death. With the death of a Notary, all his responsibilities end and the protocols of the Notary concerned must be immediately submitted to the Regional Supervisory Council through his heirs to be stored by the Notary who holds the appointed protocol. This information is confirmed in Article 63 paragraph (2) of Law Number 30 of 2004 in conjunction with Law Number 2 of 2014 namely: "In the event that what is referred to in Article 62 letter a, the submission of the Notary Protocol is carried out by the heirs of the Notary to another Notary appointed by the Regional Supervisory Council." The Notary Protocol is a state archive, so it must be stored and maintained by the Notary with full responsibility.⁵⁵ The notary protocol storage by the notary holding the protocol is an effort to maintain the legal age of the Notarial deed as perfect evidence for the parties or their heirs regarding all matters contained in the deed.⁵⁶ So far, the minutes of the deed have been written in paper media, which has very limited durability, even though it is carried out in a manner that is stored in a place protected from natural conditions.⁵⁷

Notary Protocols as evidence and state archives have an important position in the law of evidence. However, if the Notarial deed is made in written form on paper and stored in a filing cabinet or cupboard, it certainly cannot be stored for a long time. In fact, the notary protocol must be kept for an indefinite period, exceeding the time limit for other office archives. If this manual is related to Posner's theory, it is clearly inappropriate, because the heirs of the archive owner, which are stored in the protocol, if they need the archival documents in the future, may no longer exist. Of course, they are disappointed and dissatisfied because of the files they need don't know where they are. The manual storage is clearly inefficient, in addition to not being able to last a long time, requiring space, space, and maintenance costs. If

52 Kompas, "Dokumen-Pengertian-Syarat-Ciri-Fungsi-Dan-Arti-Pentingnya," <https://www.kompas.com/skola/read/2020/01/01/080000269/dokumen-pengertian-syarat-ciri-fungsi-dan-arti-pentingnya?page=all> diakses 10/10/2022 14:41.

53 Freddy Harris dan Leny Helena, *Notaris Indonesia*, 117.

54 *Ibid.*, 118.

55 Sjaifurrachman dan Habib adjie, *Aspek Pertanggungjawaban Notaris Dalam Pembuatan Akta*, Cet 1. (Bandung: Mandar Maju, 2011), 8-9.

56 Anand, *Karakteristik Jabatan Notaris Di Indonesia*, 70.

57 *Ibid.*, 71.

it takes time to find it. Therefore, it is necessary to amend the Notary Position Law in order to allow the making of electronic deeds and at the same time facilitate the storage of documents in the form of files.

Currently, modern offices are already using archive storage called paperless. A paperless office is a work environment that uses very little paper and switches to digital documents instead. The process of switching from physical paper to electronic files is known as digitization. Benefits of Implementing Paperless Office, namely: 1. Save Time in Searching documents; 2. Save Space; 3. Cost Saving; 4. Ease of Transfer of Information; 5. Environmentally Friendly; 6. Improve Security.⁵⁸ The key is to amend the Notary Position Law by including electronic deed arrangements. For the preparation of the amendments to the Notary Position Law to proceed quickly, of course, one must learn from countries that have implemented cyber notaries. If it is possible to use an electronic deed, then it is easy to save the Notary protocol document in an electronic file (paperless office).

CONCLUSION

The importance of electronic notary services is to facilitate notaries in dealing with government agencies that have implemented electronic form services, such as registration of business entities and legal entities and licensing through the OSS page. Electronic services also include the making of deeds (partij and relaas), to be more effective and efficient in terms of time and cost. So that notary archival documents can be stored in the form of electronic files or Paperless Offices in order to improve services to the public and maintain data security.

The development of information technology has changed many human activities from manual to electronic. Likewise, in the service of making deeds, many countries have switched to using electronic deeds. However, in Indonesia, it is still difficult for us to switch to electronic deeds because Notary Position Law still refers to the

58 Inixindojogja.co.id, "Paperless-Office-Untuk-Kemajuan-Perusahaan-Anda-Dan-Lingkungan-Yang-Lebih-Baik," <https://inixindojogja.co.id/paperless-office-untuk-kemajuan-perusahaan-anda-dan-lingkungan-yang-lebih-baik/> diakses 20/12/2022 19:33.

Civil Code which states that authentic deeds must be made in writing in accordance with written evidence (Articles 1866, 1867, and 1868 of the Civil Code). If it is still based on the Civil Code, at any time the form of deed in Indonesia will remain conventional. Based on the Civil Code, it is difficult to harmonize with the Information and Electronic Transactions Law which has declared electronic documents as legal evidence, except for what is stipulated in the Notary Position Law that the deed must be made in writing.

SUGGESTION

It is necessary to re-initiate changes to the Notary Position Law, adjusting to the current development of electronic technology. In making these changes, a comparative study is needed of countries that have implemented electronic deed-making. If necessary, adopt existing arrangements in other countries and adapt them to conditions in Indonesia. The future amendments to the Notary Position Law, it has recognized electronic documents created by notaries as valid evidence, so that they are in harmony with other laws that have recognized electronic documents as legal evidence. Thus, the Notarial deed in electronic form can be stored in a file or paperless office, which will later be referred to as the electronic notary protocol.

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