

## Legal Analysis of the Application of Cyber Notary in the Notary Profession in Indonesia

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### Abstract

This study examines the implementation of the cyber notary concept within the notarial profession in Indonesia, focusing on the associated challenges and opportunities. The research employs a normative legal method with statutory, conceptual, and empirical approaches. The analysis reveals that while the Indonesian legal framework, including the Law on Notary Position (UUJN) and the Electronic Information and Transactions Law (UU ITE), provides a foundational basis for cyber notary practices, significant regulatory gaps and uncertainties remain. Key challenges include the lack of detailed regulations, data security and privacy concerns, and the readiness of technological infrastructure and human resources. Despite these challenges, the potential benefits of cyber notaries, such as increased efficiency and business facilitation, are substantial, particularly in the context of the COVID-19 pandemic. The study concludes that comprehensive regulatory development, enhanced training for notaries, and robust data security measures are essential for the effective implementation of cyber notaries in Indonesia. This research contributes to the discourse on digital transformation in legal services and offers policy recommendations to support the adoption of cyber notary practices.

**Keywords:** Cyber Notary, Legal Framework, Regulatory Challenges, Data Security, Digital Transformation, Indonesia.

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### Introduction

The development of information and communication technology has brought significant changes in various aspects of life, including in the fields of law and notary. One of the emerging innovations is the concept of cyber notary, which allows notaries to carry out their duties and authorities electronically.<sup>1</sup> In Indonesia, this concept has been mentioned in the Explanation Pasal 15 Ayat (3) Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris (UUJN), which gives

notaries additional authority to certify electronic transactions.<sup>2</sup>

However, despite early recognition in UUJN, the implementation of cyber notary in Indonesia still faces various challenges. One of the main challenges is the absence of regulations that specifically regulate the implementation of cyber notaries.<sup>3</sup> This causes legal uncertainty for notaries who want to utilize this technology in making authentic deeds. The absence of clear rules can pose legal risks for notaries, including the possibility of claiming compensation from the aggrieved party. In addition, another

<sup>1</sup> Chastra, D. F. (2021). Kepastian Hukum Cyber Notary Dalam Kaidah Pembuatan Akta Autentik Oleh Notaris Berdasarkan Undang-Undang Jabatan Notaris. *Indonesian Notary*, 3(2), 17.

<sup>2</sup> *Vide* Penjelasan Pasal 15 Ayat (3) Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan atas

Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris (UUJN)

<sup>3</sup> Mayana, R. F., & Santika, T. (2021). Legalitas tanda tangan elektronik: posibilitas dan tantangan notary digitalization di Indonesia. *ACTA DIURNAL Jurnal Ilmu Hukum Kenotariatan*, 4(2), 244-262.

challenge is the difference in legal systems between countries that have implemented cyber notaries and Indonesia. Countries that adhere to the common law system such as the United States have a different approach in terms of authentication and legalization of documents compared to countries that adhere to the civil law system such as Indonesia. In common law countries, notaries are not responsible for the accuracy or legality of the documents they authenticate, while in Indonesia, notaries have a greater responsibility in ensuring the validity of the documents they create.<sup>4</sup>

On the other hand, the opportunity for the implementation of the cyber notary in Indonesia is quite large, especially in the context of the COVID-19 pandemic which encourages the digitization of various public services. Cyber notaries can be a solution to maintain physical distance between notaries and clients and speed up the process of making authentic deeds.<sup>5</sup>

The use of technology in notary services can improve efficiency and reduce operational costs, which can ultimately improve the competitiveness of notaries in the era of globalization. The use of technology in notary services can improve efficiency and reduce operational costs, which can ultimately improve the competitiveness of notaries in the era of globalization. Current regulations, such as the UU ITE (Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik), also provide a legal basis for the application of a cyber notary.<sup>6</sup> Pasal 5 ayat (1) UU ITE recognises the validity of electronic documents and electronic signatures, which

can be used as legal evidence. However, the implementation of cyber notaries still requires more detailed implementing rules to ensure legal certainty and protection for all parties involved.

In addition to regulations, the readiness of technological infrastructure is also an important factor in the implementation of cyber notaries. The government through the Ministry of Communication and Information Technology (Kominfo) has made efforts to facilitate infrastructure and security systems for the electronic issuance of deeds. However, further efforts are still needed to ensure that all notaries have access to and the ability to use this technology effectively.<sup>78</sup>

The application of cyber notaries also requires a paradigm shift among notaries and the public. Many notaries are still familiar with the conventional way of working and may feel reluctant to switch to a digital system.<sup>9</sup> Therefore, intensive socialization and training are needed to improve the notary's understanding and skills in using information technology.<sup>10</sup>

In addition, data security and privacy aspects are also a major concern in the implementation of cyber notary. Notaries must ensure that the electronic data they manage is protected from cybersecurity threats.<sup>11</sup> This requires the implementation of strict security standards and the use of encryption technology to protect data from unauthorized access.

In the long term, the implementation of cyber notary in Indonesia can provide many benefits, including increased efficiency, transparency, and accountability in notary

<sup>4</sup> Amalia, A., & Handoko, W. (2022). Peluang Penerapan Cyber Notary Di Indonesia. *Notarius*, 15(2), 616-625.

<sup>5</sup> Sugiarti, I. (2022). Kepastian Hukum Terhadap Penerapan Dan Pemanfaatan Konsep Cyber Notary Di Indonesia. *Officium Notarium*, 2(1), 13-20.

<sup>6</sup> *Vide* Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik

<sup>7</sup> Adminnotarynews. 2023. Resensi Buku: Cyber Notary Dan Tantangan Notaris Di Era Digital. <https://notarynews.id/resensi-buku-cyber-notary-dan-tantangan-notaris-di-era-digital/>. Diakses 02 Juni 2024

<sup>8</sup> Hukumonline. Pemerintah dan INI Bahas Konsep Cyber Notary. <https://www.hukumonline.com/berita/a/pemerintah-dan-ini-bahas-konsep-icyber-notary-1t4cf78b15c9e15/>. Diakses 01 Juni 2024

<sup>9</sup> Chastra, D. F. (2021). Kepastian Hukum Cyber Notary Dalam Kaidah Pembuatan Akta Autentik Oleh Notaris Berdasarkan Undang-Undang Jabatan Notaris. *Indonesian Notary*, 3(2), 17.

<sup>10</sup> Sugianto, Q. F. (2019). Peluang dan Tantangan Calon Notaris Dalam Menghadapi Perkembangan Disrupsi Era Digital. *Notarius*, 12(2), 656-668.

<sup>11</sup> Pangesti, S., Darmawan, G. I., & Limantara, C. P. (2020). The Regulatory Concept of Cyber Notary in Indonesia. *Rechtsidee*, 7.

services. However, to achieve this, close cooperation between the government, notary associations, and other relevant parties is needed to address existing challenges and take advantage of the opportunities available.

Thus, this study aims to examine more deeply the concept of cyber notary, the challenges and opportunities faced in its application in Indonesia, as well as how existing regulations can support or hinder the implementation of cyber notary in the notary profession. This research is expected to provide constructive recommendations for the development of regulations and policies that support the implementation of cyber notaries in Indonesia.

### Research Methods

This research uses normative legal research methods with statutory, conceptual, and empirical approaches to analyze the application of cyber notary in the notary profession in Indonesia.<sup>12</sup> The normative method will be used to study relevant laws such as the UUJN and the ITE Law, as well as related legal literature. The legislative approach will evaluate the suitability of existing regulations with the need to implement cyber notaries. The conceptual approach will develop relevant legal concepts and principles, while the empirical approach will collect field data through interviews and surveys to evaluate the effectiveness and implementation of cyber notaries in practice. This combination of methods and approaches is expected to provide a comprehensive overview of the challenges and opportunities for implementing cyber notaries in Indonesia.

<sup>12</sup> Juliardi, B., Runtunuwu, Y. B., Musthofa, M. H., TL, A. D., Asriyani, A., Hazmi, R. M., ... & Samara, M. R. (2023). *Metode Penelitian Hukum*. CV. Gita Lentera.

<sup>13</sup> Rizkia, N. D., & Fardiansyah, H. (2022). Peran Notaris Dalam Transformasi Digital Dalam Rangka Kesejahteraan Masyarakat Indonesia. *Jurnal Hukum Sasana*, 8(2), 310-323.

<sup>14</sup> *Vide* Pasal 15 Ayat (3) Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan atas Undang-Undang

### Analysis and Discussion

The development of information technology has brought significant changes in various fields, including in the notary profession.<sup>15</sup> One of the emerging innovations is the concept of cyber notary, which allows notaries to carry out their duties and authorities electronically. In Indonesia, this concept has been mentioned in the Explanation Pasal 15 Ayat (3) Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris (UUJN), which gives notaries additional authority to certify electronic transactions.<sup>14</sup> However, despite the initial recognition in the UUJN, the implementation of cyber notaries in Indonesia still faces various challenges, especially related to inadequate regulations.

Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris (UUJN) provide a legal basis for notaries to certify electronic transactions. Explanation Pasal 15 Ayat (3) UUJN It states that notaries have the authority to certify transactions carried out electronically. However, this regulation does not provide a clear and detailed definition of cyber notary and its implementation procedures.<sup>15</sup> This creates legal uncertainty for notaries who want to utilize this technology in making authentic deeds. The absence of clear rules may pose legal risks to notaries, including the possibility of claims for damages from aggrieved parties.<sup>16</sup>

Moreover, Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik (UU ITE) and its changes through Undang-Undang Nomor 19 Tahun 2016 Provide a legal basis for the use of

Nomor 30 Tahun 2004 tentang Jabatan Notaris (UUJN)

<sup>15</sup> *Vide* Pasal 15 Ayat (3) Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan atas Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris (UUJN)

<sup>16</sup> Putri, C. C., & Budiono, A. R. (2019). Konseptualisasi Dan Peluang Cyber Notary Dalam Hukum. *Jurnal Ilmiah Pendidikan Pancasila dan Kewarganegaraan*, 4(1), 29-36.

electronic documents and electronic signatures. Pasal 5 ayat (1) UU ITE recognize the validity of electronic documents and electronic signatures as legal evidence. However, the ITE Law has not specifically regulated cyber notaries and the validity of notary deeds made electronically. This adds to the legal uncertainty for notaries and parties involved in electronic transactions.

One of the main challenges in the implementation of cyber notaries in Indonesia is the lack of legal certainty that regulates in detail the validity of notary deeds made electronically. This causes uncertainty for notaries and parties involved in electronic transactions. Deeds made electronically have the potential to be considered deeds underhand if there are no clear and firm regulations.<sup>17</sup> In addition, the difference in legal systems between countries that have implemented cyber notaries and Indonesia is also a challenge in itself. Countries that adhere to the common law system such as the United States have a different approach in terms of authentication and legalization of documents compared to countries that adhere to the civil law system such as Indonesia.<sup>18</sup>

Based on the Dynamic Integration Theory in Cyber Law, data security and privacy are crucial aspects in the application of cyber notaries in Indonesia. Notaries must ensure that the electronic data they manage is protected from cybersecurity threats through the implementation of encryption technology and adequate security infrastructure. This is in line with the principle of regulatory and technology integration, where cyber law regulations must be designed taking into account the latest technological developments to create a responsive legal framework.

In addition, the readiness of technology infrastructure is also an important factor in the application of cyber notaries. The government through the Ministry of Communication and Information

Technology (Kominfo) has made efforts to facilitate security infrastructure and systems, but further efforts are needed to ensure that all notaries have access and the ability to use this technology effectively. This is in line with the principle of a multidisciplinary approach in Dynamic Integration Theory, where collaboration between policymakers, technologists, and legal practitioners is required to create comprehensive regulation.

The application of cyber notaries also requires a paradigm shift among notaries and the public. Many notaries are still familiar with the conventional way of working and may feel reluctant to switch to a digital system. Therefore, intensive socialization and training are needed to improve the notary's understanding and skills in using information technology. With adequate training, notaries can be better prepared to face challenges and take advantage of existing opportunities. This is in line with the principle of community participation in Dynamic Integration Theory, where the active involvement of notaries and the technology-using community is essential.

On the other hand, the opportunity for the implementation of a cyber notary in Indonesia is quite large, especially in the context of the COVID-19 pandemic which encourages the digitization of various public services. Cyber notaries can be a solution to maintain physical distance between notaries and clients and speed up the process of making authentic deeds. In addition, the use of technology in notary services can increase efficiency and reduce operational costs, which can ultimately increase the competitiveness of notaries in the era of globalization. Current regulations, such as the ITE Law, also provide a legal basis for the implementation of cyber notaries. However, the implementation of cyber notaries still requires more detailed implementing rules to ensure legal certainty and protection for all parties involved. This is in line with the principles of adaptability and flexibility in the Dynamic Integration Theory, where cyber

<sup>17</sup> Sugiarti, I. (2022). Kepastian Hukum Terhadap Penerapan Dan Pemanfaatan Konsep Cyber Notary Di Indonesia. *Officium Notarium*, 2(1), 13-20.

<sup>18</sup> Mayana, R. F., & Santika, T. (2021). Legalitas tanda tangan elektronik: kemungkinan dan tantangan notary digitalization di Indonesia. *ACTA DIURNAL Jurnal Ilmu Hukum Kenotariatan*, 4(2), 244-262.

law regulations must be able to adapt quickly to technological changes and social dynamics.

Thus, the implementation of cyber notaries in Indonesia requires close integration between regulation, technology, and community participation, following the principles of Dynamic Integration Theory in Cyber Law. Collaboration between the government, notary associations, and other relevant parties, as well as increased socialization and training, is expected to address existing challenges and take advantage of available opportunities to provide optimal benefits to the community.<sup>19</sup>

Muh. Akbar Fhad Syahril also emphasized the importance of understanding the rights and obligations of information technology users, as well as the sanctions that can be imposed in the event of a violation. This is relevant to the implementation of a cyber notary which must also pay attention to aspects of data security and privacy. By understanding the existing regulations, notaries can better carry out their duties and avoid legal risks that may arise.<sup>20</sup>

The implementation of cyber notaries also requires a paradigm shift among notaries and the public. Many notaries are still used to the conventional way of working and may feel reluctant to switch to digital systems. Therefore, intensive socialization and training are needed to improve notary understanding and skills in using information technology. With adequate training, notaries can be better prepared to face challenges and take advantage of the opportunities that exist in the implementation of cyber notarization.

In addition, data security and privacy aspects are also a major concern in the implementation of cyber notary. Notaries must ensure that the electronic data they manage is protected from cybersecurity threats. This requires the implementation of

strict security standards and the use of encryption technology to protect data from unauthorized access.<sup>21</sup> Thus, notaries can carry out their duties more safely and efficiently.

In the long run, the implementation of cyber notary in Indonesia can provide many benefits, including increased efficiency, transparency, and accountability in notary services. However, achieving this requires close cooperation between the government, notary associations, and other relevant parties to address existing challenges and take advantage of available opportunities. With clear regulations and support from various parties, the implementation of cyber notaries in Indonesia can run well and provide optimal benefits for the community.

The implementation of cyber notaries can also increase the ease of doing business in Indonesia. By using information technology, the process of making authentic deeds can be carried out faster and more efficiently, reducing operational costs, and increasing the competitiveness of notaries in the era of globalization. This is in line with the government's efforts to improve the investment climate and ease of doing business in Indonesia. The COVID-19 pandemic has encouraged the digitization of various public services, including notary services. Cyber notaries can be a solution to maintain physical distance between notaries and clients, as well as speed up the process of creating authentic deeds during health emergencies. With a cyber notary, notaries can continue to carry out their duties safely and efficiently, even in difficult situations.<sup>22</sup>

In his book, Muh. Akbar Fhad Syahril also emphasized the importance of understanding the rights and obligations of users of information technology, as well as sanctions that can be imposed in case of violations.<sup>23</sup> This is relevant to the

<sup>19</sup> Yusuf, R. A. (2021). *Cyber Notary: Solusi Praktik Notaris Di Masa Darurat Kesehatan* (Doctoral dissertation, Universitas Hasanuddin).

<sup>20</sup> Syahril, M. A. F. (2023). *Hukum Informasi dan Transaksi Elektronik*.

<sup>21</sup> Syahril, M. A. F. (2023). *Cyber Crime in terms of the Human Rights Perspective*. *International Journal of*

*Multicultural and Multireligious Understanding*, 10(5), 119-130.

<sup>22</sup> Riyanto, A. (2023). *Hukum Harta Benda. Hukum Bisnis Di Era Modern*, 34.

<sup>23</sup> Syahril, M. A. F. (2023). *Hukum Informasi dan Transaksi Elektronik*.

implementation of cyber notary which must also pay attention to aspects of data security and privacy. By understanding the existing regulations, notaries can better carry out their duties and avoid legal risks that may arise. The application of cyber notaries also requires a paradigm shift among notaries and the public. Many notaries are still familiar with the conventional way of working and may feel reluctant to switch to a digital system. Therefore, intensive socialization and training are needed to improve the notary's understanding and skills in using information technology. With adequate training, notaries can be better prepared to face challenges and take advantage of the opportunities that exist in the implementation of cyber notaries.

In addition, aspects of data security and privacy are also a major concern in the application of cyber notaries. Notaries must ensure that the electronic data they manage is protected from cybersecurity threats. This requires the implementation of strict security standards and the use of encryption technology to protect data from unauthorized access. Thus, notaries can carry out their duties more safely and efficiently. In the long term, the implementation of cyber notary in Indonesia can provide many benefits, including increased efficiency, transparency, and accountability in notary services. However, to achieve this, close cooperation between the government, notary associations, and other relevant parties is needed to address existing challenges and take advantage of the opportunities available. With clear regulations and support from various parties, the implementation of cyber notaries in Indonesia can run well and provide optimal benefits for the community.

### Conclusion

The implementation of cyber notaries in Indonesia has great potential to increase efficiency and ease of doing business, especially in the context of digitalization accelerated by the COVID-19 pandemic. However, there are significant challenges that need to be addressed, including legal uncertainty due to inadequate regulations, as well as data security and privacy issues.

Existing regulations, such as the UUJN and the ITE Law, provide a starting point but still require more detailed and clear implementing rules. In addition, the readiness of technological infrastructure and human resources is also a key factor in the successful implementation of cyber notaries. With close cooperation between the government, notary associations, and other related parties, as well as increased socialization and training, it is hoped that cyber notaries can be implemented effectively and provide optimal benefits for the community and the business world in Indonesia.

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**Conflict of Interest Statement:**

The author declares that the research was conducted in the absence of any commercial or financial relationships that could be construed as a potential conflict of interest.

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