

DIGITALIZATION OF NOTARY SERVICES TOWARDS LEGAL CERTAINTY FOR THE PARTIES IN MAKING DEEDS

A DIGITALIZAÇÃO DOS SERVIÇOS NOTARIAIS VISA PROPORCIONAR SEGURANÇA JURÍDICA ÀS PARTES NA CELEBRAÇÃO DE ESCRITURAS

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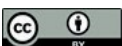
Abstract

This study analyzes the extent to which Indonesia's positive law accommodates the digitalization of notarial services in the making of authentic deeds and evaluates the legal certainty of digitally created notarial acts. Using a normative juridical approach, the research examines relevant legislation, including Law No. 2 of 2014 on the Position of Notary Public (UUJN), Law No. 11 of 2008 on Electronic Information and Transactions (UU ITE) as amended by Law No. 1 of 2024, and Ministerial Regulation No. 21 of 2021. The findings show that Indonesia's legal framework still maintains a formalistic concept of notarial procedure that requires the physical presence of parties before the notary, without explicit recognition of digital mechanisms such as electronic signatures, video conferencing, or online identity verification. Consequently, deeds created through digital means cannot yet be classified as authentic and only possess the evidentiary value of private deeds. This legal vacuum weakens legal certainty and creates potential disputes for both notaries and clients. The study concludes that regulatory reform is urgently needed to legitimize cyber notary practices by establishing clear standards for virtual appearances, certified digital signatures, and secure electronic document systems to ensure justice and legal certainty in Indonesia's digital legal environment.

Keywords: Authentic Deed. Cyber Notary. Digital Notary. Law Reform. Legal Certainty.

Resumo

Este estudo analisa em que medida o direito positivo da Indonésia acomoda a digitalização dos serviços notariais na lavratura de escrituras autênticas e avalia a segurança jurídica dos atos notariais criados digitalmente. Utilizando uma abordagem jurídico-normativa, a pesquisa examina a legislação pertinente, incluindo a Lei nº 2 de 2014 sobre a Função de Tabelião (UUJN), a Lei nº 11 de 2008 sobre Informação e Transações Eletrônicas (UUITE), conforme alterada pela Lei nº 1 de 2024, e o Decreto Ministerial nº 21 de 2021. Os resultados mostram que o arcabouço jurídico indonésio ainda mantém uma concepção formalista do procedimento notarial, que exige a presença física das partes perante o tabelião, sem o reconhecimento explícito de mecanismos digitais como assinaturas eletrônicas, videoconferência ou verificação de identidade online. Consequentemente, as escrituras criadas por meios digitais ainda não podem ser classificadas como autênticas e possuem apenas o valor probatório de escrituras particulares. Essa lacuna jurídica enfraquece a segurança jurídica e cria potenciais litígios tanto para tabeliães quanto para clientes. O estudo conclui que é urgente a necessidade de uma reforma regulatória para legitimar as práticas de cartório cibernético, estabelecendo padrões claros para comparecimentos virtuais, assinaturas digitais certificadas e sistemas seguros de documentos eletrônicos, a fim de



garantir justiça e segurança jurídica no ambiente jurídico digital da Indonésia.

Palavras-chave: *Escritura Autêntica. Cartório Cibernético. Cartório Digital. Reforma da Lei. Segurança Jurídica.*

1 INTRODUCTION

In the past 20 years, advances in information and communication technology have occurred at a rapid pace, bringing significant changes to almost all areas of modern society, including the way public services are provided and legal activities are carried out (Fauzi *et al.*, 2023). The emergence of digital technology is no longer seen as a complement but rather as a primary means of accelerating administrative processes, increasing efficiency, and reducing the potential for manual errors (Ahimsya, 2025). The world is moving toward an era where legal transactions and interactions can be conducted without the constraints of space and time. This situation requires the legal system to adapt to technological developments in order to continue to effectively protect the rights of the people (Almahdali *et al.*, 2024).

In Indonesia, the current legal system is still predominantly built on a traditional paradigm based on physical documents, face-to-face meetings, and formalistic procedures (Saragi & Wiryomartani, 2022). In the Indonesian civil law system which adheres to tradition *civil law*, legal documents such as authentic deeds have a very important position as the strongest and most perfect evidence in court (Demak, 2024). Authentic deeds have recognized legal force and can be used as valid evidence in court. In addition to serving as evidence, these deeds provide legal protection for the parties involved in the agreement or transaction, as the contents of the deed are considered true until proven otherwise. The process of creating these documents must follow clear and strict rules in order for them to be legally valid. Notaries, as public officials, are responsible for ensuring that every authentic deed is created in accordance with the provisions of the UUJN (Law Number 30 of 2004 concerning the Position of Notaries) so that the legal rights of the parties are protected to the maximum extent possible.

Social reality shows that the public's need for legal services has shifted. People now tend to want services that are fast, efficient, and not limited by geographic location (Cahyarini, 2021) This is especially evident after the COVID-19 pandemic, which forced

almost all community activities, including legal services, to be conducted online. In this situation, many notaries have begun providing digital services, such as online consultations, sending electronic documents, and even recording and printing deeds through information systems (Saragi & Wiryomartani, 2022). This phenomenon indicates a push from below (*bottom-up pressure*) to change the way notaries work towards digital.

Changes related to the creation of authentic deeds can cause legal problems because the old rules still emphasize physical presence. The concept of “in the presence of” a notary means that all parties must be present in person for the deed to be legally valid. Notaries have the responsibility to compile the minutes of the deed as an official document that records the statements and agreements of the parties. Copies of the deed are then given to the parties present, so that they have official proof of the rights and obligations stated in the deed. The deed is then prepared and notarized in physical document form (Rumadanu *et al.*, 2022). To date, there are no positive legal regulations that explicitly govern the use of electronic means in the creation of authentic deeds. However, other regulations, such as Law No. 11 of 2008 concerning Electronic Information and Transactions (ITE Law), recognize electronic documents and electronic signatures as legally valid evidence. This lack of harmony between the laws and regulations creates a legal vacuum (*legal gap*) or even overlapping regulations that could reduce legal certainty for the parties. In this case, a fundamental question arises as to whether deeds created digitally by a notary retain their authentic force as stipulated in the UUJN.

Legal behavior of society (*legal behavior*), the way we approach legal services has shifted. Today's society is more technologically savvy and expects legal services to be delivered flexibly and modernly. The public's reluctance to engage in lengthy, bureaucratic, and time-consuming legal processes has created a social need for reform of the notary system. This phenomenon is not unique to Indonesia, but also in various other countries that have begun to adopt the notary system. As an illustration, several regions in the United States have adapted notary practices to developments in digital technology through the RON system. In this system, deeds can be created and signed online without the physical presence of the parties, as their identities are verified through biometric methods such as facial recognition or fingerprints, and using valid digital signatures. *Cyber notary* in Belgium and France, this is clearly regulated in their laws. In practice, notaries in both countries have created paperless deeds and utilize video conferencing

with their witnesses (Rizqi, 2021). This has created social pressure that requires legal reform in Indonesia to keep up with the times.

Cyber notaries offer a modern approach to creating authentic deeds by utilizing digital means. The integration of information technology allows documents to be created, stored, and signed electronically, thereby facilitating access, speeding up the process, and increasing efficiency compared to conventional methods. This innovation has emerged in response to legal needs that are adapting to digital developments, where remote interactions and electronic transactions are becoming increasingly common.. It enables the electronic execution of notarial duties, such as identity verification via video conference, digital signatures, and electronic document storage, without eliminating the principles of prudence and authenticity that are the main characteristics of notarial deeds. The presence of this concept reflects the notarial profession's adaptation to the digital transformation that demands efficiency, accessibility, and security in legal services *cyber notary* developed in response to this need, but its implementation in Indonesia is still hampered by rigid formalities, such as the physical presence of the parties and direct signing before a notary (Pramudyo *et al.*, 2021) *cyber notary*. This has long been discussed in Indonesia, but has not been fully implemented because there is no more specific legal umbrella (Rumadanu *et al.*, 2022).

In Indonesia, digital certificates and electronic signatures provide a strong legal basis for electronic deeds, ensuring the security and validity of these documents. The integration of cyber notaries with the principles of bureaucratic reform, namely innovation, collaboration, and the use of ICT, is a major driver in the implementation of cyber notary bureaucracy, thereby supporting the achievement of good governance (Rizqi, 2021). The application of cyber notaries accelerates the completion of notary tasks, enables electronic transactions or agreements without physical presence, reduces transportation costs, and improves the effectiveness and efficiency of public services compared to traditional systems (Rizqi, 2021).

The practice of digitalization in notarial services is already underway, despite the lack of an adequate legal basis. This demonstrates that legal norms no longer fully control public behavior (*law in books* with *law in action*). Many notaries have taken the initiative to use digital platforms to expedite services, such as consultations via Zoom, sending documents via email, and even using certified digital signatures. The government, through the Ministry of Law and Human Rights, has even provided the Legal Entity

Administration (SABH) system and the AHU Online system, allowing notaries to manage legal entity registration online. However, all of these processes remain administrative and do not address the substance of authentic deeds. This is a crucial issue: when field practices have changed while legal norms have not adapted, legal uncertainty will arise, which can be detrimental to the public.

The need for this research is becoming increasingly important because authentic deeds are one of the main forms of evidence in court. If digitally created authentic deeds are questioned, their legal status becomes problematic because the use of digital deeds has not been explicitly recognized in the applicable legal system. This situation not only has the potential to undermine the validity of deeds, but also affects the legal protection of the parties and the legal responsibility of notaries. Therefore, an in-depth academic study is needed on Indonesia's positive legal regulations regarding digital notary services and the legal status of electronic authentic deeds.

This study aims to understand two crucial aspects related to digital notaries. The first aspect is Indonesia's positive legal regulations regarding the drafting of deeds through digital services, so that the practice of notary digitization remains in accordance with applicable laws. The second aspect is legal certainty for deeds made digitally, including the protection of the rights of the parties and the responsibilities of notaries, which is important because digital deeds still cause legal uncertainty. A normative juridical approach allows this study to examine primary legal materials (such as laws), secondary materials (literature and legal doctrine), and tertiary materials (guidelines, encyclopedias, or legal commentary), thereby assessing the compatibility between notary digitization practices and positive law. Thus, this study aims to produce a strong legal argument regarding the legal position of digital deeds in the Indonesian notary system, while also providing a scientific basis for the development of regulations and digital notary practices in the future.

This research's contributions are both academic and practical. Academically, this research enriches the legal literature on the adaptation of notarial norms to digital transformation and fills the research gap regarding technology integration in formal legal practice in Indonesia. Practically, the research findings are expected to provide recommendations for policymakers, notary professional organizations, and other stakeholders in formulating comprehensive regulations regarding notarial laws. *Cyber notary* appropriate legal reform will ensure a balance between technological innovation

and the principle of legal certainty, so that digital transformation in notarial services can be realized legally, responsibly, and fairly for all parties.

2 METHOD

The normative legal approach, according to Soekanto (1984), emphasizes analysis of written legal norms, including applicable laws and regulations, without collecting field data. In this study, the focus is on examining regulations governing notary services, the digitization of legal services, and provisions regarding authentic deeds in Indonesia (Muhaimin, 2020). In this way, the study can assess the extent to which the practice of digital notary services complies with the principles of positive law. In addition, this approach allows researchers to evaluate the existing legal capacity to provide legal certainty for electronic deeds, including the protection of the rights of the parties and the responsibilities of notaries in the digitization of legal services.

The research method involved a literature review to collect primary, secondary, and tertiary legal materials (Soekanto, 2014). The primary materials, used for legal analysis, consisted of: Law No. 2/2014 on Notary requirements; Law No. 11/2008 and its amendments recognizing electronic documents; Law No. 5/1986 for assessing public official acts; Law No. 27/2022 on data protection; and Government Regulation No. 71/2019 on electronic transactions.

The study also uses Minister of Law and Human Rights Regulation No. 21/2021 because it gives a practical look at the procedures for electronically reporting and ratifying deeds for Limited Liability Companies (LLCs) through the Ministry's digital system, illustrating the notary's role in the digital notarial process.

To obtain a complete legal understanding of digital notary services and electronic authentic deeds, the research utilized secondary materials (textbooks, journals, and articles) for interpretation and tertiary materials (Soekanto & Mamudji, 2004) for definitions. All sources were subjected to systematic legal interpretation methods: grammatical, systematic, and teleological analysis.

The legal materials obtained were then analyzed using qualitative normative analysis methods. The analysis was conducted by interpreting, explaining, and evaluating the content of legal norms through several approaches: systematic, grammatical, teleological, and historical. (Sugiyono, 2020) This study also used a vertical comparison

method of norms within the legal hierarchy system, to find the relationship between higher and lower regulatory provisions. (Soekanto & Mamudji, 2004).

3 RESULTS AND DISCUSSION

3.1 Positive legal regulations in Indonesia regarding the implementation of digital notary services in the preparation of deeds

Notaries hold a strategic position in the Indonesian legal system because the deeds they draw up are considered legally valid and have full evidentiary force. Article 1868 of the Civil Code emphasizes that authentic deeds are evidence with a high degree of legal certainty. The Notary Law reinforces this by providing a clear legal framework regarding the authority, procedures, and responsibilities of notaries in drawing up deeds. Thus, deeds drawn up by or before a notary serve as legal protection for the parties involved, as every legal event recorded has legal force that can be accounted for in court. In addition, this regulation ensures that notaries act professionally and in accordance with legal procedures, so that legal certainty and security for the community are maintained.

A face-to-face meeting between the notary and the parties is an important requirement in the process of creating an authentic deed, because the notary must explain the contents of the deed, verify the data, and ensure that the parties understand and agree to the document being created. This procedure supports the legal legitimacy of the deed, as the presence of a notary provides certainty that the document has been drawn up in accordance with legal procedures, is valid, and is legally accountable. Thus, notaries not only record facts, but also provide active legal protection for the parties involved.

Law Number 2 of 2014 concerning the Office of Notaries (UUJN) does not provide an explicit definition or regulation regarding the digitalization of notary services. Not a single article in the UUJN regulates the mechanism for electronically drafting deeds, the implementation of notarial services through digital means, or the validity of the use of electronic signatures in the process of drafting authentic deeds. The phrase "before" a notary in the articles concerning deed-making procedures is still formally interpreted as a physical meeting at the notary's office.

The UUJN officially expands the role of notaries by granting them the authority to certify electronic documents, in addition to their traditional powers. Article 15

paragraph (3) stipulates that notaries can certify digital transactions and draw up special deeds such as waqf deeds and aircraft mortgages, which are part of the additional powers granted by law. This certification process provides written assurance of the documents and agreements of the parties, thereby providing legal certainty and protection for all parties involved. The notary's responsibility does not stop at formal ratification; they also ensure the authenticity of the document's contents, so that the deed created has full legal force and is accountable in court (Rumadanu *et al.*, 2022).

Although the UUJN grants notaries the authority to certify electronic documents, its implementation faces significant obstacles. One of the main challenges is the formal requirement that still requires the physical presence of the parties and witnesses during the creation of authentic deeds, as stipulated in Article 16 paragraph (1) letter m. This provision requires the deed to be read aloud in front of the parties concerned and witnesses, as well as the physical signing of the document. This is an obstacle to the implementation of electronic notaries because it does not allow for a fully remote procedure (Rumadanu *et al.*, 2022).

The reading of the deed by a notary is a crucial step in ensuring that the document has legal validity. This stage requires the notary to verify that all parties understand the contents of the deed, as well as to ensure that the document is signed formally and in accordance with procedure. The notary's obligation to be present in person affirms their professional responsibility, as the deed cannot be certified by any other party, including staff or employees. This maintains the legitimacy and validity of the deed, allowing the document to serve as authentic evidence in court (Putu *et al.*, 2025)

This shows the importance of direct presence (*personal appearance*) in guaranteeing the authenticity and validity of the deed. Etymologically, the term *to pass away* comes from the verb "has been made," in Dutch, which in notarial practice refers to an official legal act completed by signing a deed by all parties involved before a notary. This provision not only guarantees legal formality but also protects the rights and interests of the parties involved in a legal act (Aimelia & Rasji, 2025).

Although technological developments have encouraged the digitization of legal documents, the UUJN still does not explicitly regulate electronic deeds. Meanwhile, the ITE Law (Law Number 1 of 2024) and Government Regulation Number 71 of 2019 have recognized electronic documents and digital signatures as legally valid. This provides a legal basis for the use of technology in electronic transactions, but does not specifically

regulate how notaries can issue electronic deeds. In practice, the use of electronic signatures by notaries poses a legal dilemma because it must comply with the formal requirements of authentic deeds, namely the physical presence of the parties, the reading of the deed by the notary, and the signing in accordance with the UUJN (Law Number 2 of 2014). Thus, even though technology enables electronic documents, the application of digital signatures in notarial deeds must be done carefully to remain valid and legally accountable.

The ITE Law provides a legal basis for the use of electronic documents as valid evidence in court, thereby supporting the digitization of transactions and legal documents. However, this law explicitly excludes notarial deeds from the application of electronic signatures through Article 5 paragraph (4) of the ITE Law (Law Number 1 of 2024). This is because notarial deeds are specifically regulated in the Notarial Deed Law (UUJN) and have different formal requirements, including the physical presence of the parties and the notary, as well as the procedure for reading the deed. Thus, although electronic documents are generally recognized, notarial deeds must still comply with specific legal provisions in order to have legal force and be used as authentic evidence in court. This gives rise to a contradiction because even though technically and legally an *e-signature* valid, this exception means that notarial deeds cannot use *e-signature* even though the parties were present and the e-signature has met the legal requirements. Thus, the use of *e-signature* in notarial deeds cannot be implemented according to the current regulations (Yurika, 2025).

The recognition granted in the ITE Law is more generic and applies to general civil obligations, such as electronic agreements, commercial documents, or online transactions. The ITE Law does not specifically address the creation of authentic deeds by public officials such as notaries. Therefore, although in principle, technology law has been recognized, its application has not yet reached the legal realm of notarial law, and therefore cannot automatically serve as a legal basis for the validity of digital notarial deeds.

In the current legal reality, the limitations of this norm have led to a legal interpretation that online or digital deed creation fails to meet the requirement of presence and, therefore, potentially loses its validity as an authentic deed. However, on the other hand, the public's need for convenience, speed, and efficiency in legal services has led to demands that notarial processes adapt to developments in information technology.

The digitization of notary practices in Indonesia has begun to be implemented through administrative regulations that support the use of electronic systems. Regulation of the Minister of Law and Human Rights Number 21 of 2021 provides a legal basis for notaries to register company establishment deeds online through AHU Online. In practice, notaries upload company establishment deed data to the electronic system, making the registration process faster, more efficient, and digitally documented. The result of this process is an official deed and approval decision from the Ministry of Law and Human Rights, which has the same legal force as the manual process, but with easier access and reduced bureaucracy.

While this system demonstrates an effort to digitize notarial administration, it should be noted that this process only addresses the administrative level, not the substance of the authentic deed creation process itself. In other words, this digital system does not regulate how the parties' wills are recorded, the deed reading process, or the parties' presence in the digital space are legally executed. Therefore, this system does not necessarily change or replace the formal deed creation procedures as defined in the UUJN.

Therefore, Indonesia's current legal system has not fully adapted to the practice of notary digitization. The UUJN regulates the procedures for creating authentic deeds in a conventional manner, while the ITE Law and its derivative regulations recognize electronic documents and digital signatures. However, these regulations do not specifically confirm how digital notarial deeds can be considered valid and have the same evidentiary value as conventional deeds. This ambiguity creates legal uncertainty for parties using digital deeds, as there is no certainty that such documents will be fully recognized in court. This legal vacuum is an obstacle to providing fast, efficient, and technology-based notary services, which are greatly needed by modern society.

The current legal system's lack of norms demonstrates that the use of information technology in notarial practice remains a legal gray area. The lack of clear provisions regarding procedures for electronic deed creation leaves notaries vulnerable when required to participate in digital service systems. Consequently, there is doubt about the evidentiary validity of deeds created electronically, even though formal procedures such as reading and signing are carried out under notary supervision.

When a deed created digitally fails to meet the formal requirements stipulated in the UUJN, its status can be changed to a private deed, with all its limitations in terms of

evidence in court. This clearly contradicts the primary purpose of granting notaries the authority to create authentic legal documents to ensure legal certainty and protection for the parties.

The disharmony between the provisions of the UUJN and the provisions regarding electronic documents in the ITE Law has given rise to a normative conflict that has not yet been resolved by lawmakers. On the one hand, electronic documents are recognized as valid legal evidence; on the other hand, the formation of notarial deeds still requires the implementation of procedures in person with the physical presence of the parties. This conflict opens the way for legal disputes over deeds created electronically, as the normative basis for them is inadequate.

In practice, a number of administrative procedures, such as filling in company establishment data through AHU Online, have demonstrated that notarial services have been digitally integrated. However, this system does not regulate or replace the formal stages of deed preparation, such as reading in front of the parties and signing under the direct supervision of the notary. Therefore, the current digitalization process has not yet addressed the substantial aspects of the notary's function as the maker of authentic deeds.

This situation indicates the need to formulate legislation specifically governing the procedures for implementing electronic notarial services. These regulations must address several crucial issues, including: how to ensure that the virtual presence of parties remains legally valid; the status of electronic signatures within the structure of authentic deeds; and how notaries' work systems can guarantee the integrity, security, and confidentiality of the electronic documents they produce.

The drafting of new legal provisions must consider the principles of formal validity, official responsibility, and protection of the parties, without compromising the quality standards inherent in conventional procedures. In this regard, technical regulations are needed that include procedures for online reading of deeds, the use of media, and the implementation of legal procedures *video conference* recorded documents, as well as the standardization of legally recognized electronic signature technology. Furthermore, it is necessary to define the boundaries of notary responsibility in the use of digital systems, to avoid a blurring of roles between notaries as public officials and system operators.

Without a clear and comprehensive legal basis, the implementation of electronic notarial services for the preparation of authentic deeds risks creating legal uncertainty. This not only complicates notaries' duties but can also erode public trust in the validity of

deeds produced through digital procedures. Therefore, legal regulations guaranteeing the legality and validity of electronic notarial deeds need to be established immediately as part of a national legal system reform based on the real need for efficient and reliable legal services.

3.2 Legal certainty regarding deeds created digitally by notaries in the Indonesian legal system

Legal certainty is crucial in the use of cyber notaries, as the introduction of technology can impact the validity and legal force of authentic deeds in notarial practice. To uphold justice and legal security, the law must adapt to technological advances while maintaining the basic principles of legal certainty. This involves establishing clear legal regulations regarding the use of technology in notarial procedures, as well as ensuring essential principles such as physical presence to create authentic documents to uphold justice and legality in legal proceedings (Affan *et al.*, 2025).

Legal certainty is a fundamental principle of the national legal system. When a digitally created deed is not recognized as authentic, the parties lose the legal protection that should be inherent in such a deed. The legal risk becomes even greater in the event of a dispute or lawsuit, as a deed initially deemed valid may be declared completely devoid of evidentiary force.

The importance of legal certainty in cases *cyber notary* cannot be ignored. Legal certainty is a basic principle in legal practice that guarantees justice, security, and order in a legal society. Utilization *cyber notary* is a major obstacle to legal certainty due to the possibility of various interpretations regarding the authenticity and legality of notarial deeds. Therefore, it is important to ensure legal certainty in this situation by providing clear and strong legal guidelines regarding the use of notarial deeds *cyber notary* for the creation of authentic documents. Legislation must be flexible enough to accommodate technological advances without compromising the fundamental principles of fairness and legal predictability. The creation of appropriate guidelines or regulations can prevent legal uncertainty and ensure that the application of technology in notarial work adheres to the core principles of fairness and legal security that underlie the judicial system (Affan *et al.*, 2025).

In civil law, the position of an authentic deed as the highest form of evidence is affirmed in Article 1868 of the Civil Code, which states that an authentic deed is a deed made in a form prescribed by law by or before an authorized public official. Based on this norm, several absolute elements must be fulfilled for a document to be recognized as an authentic deed, namely:

1. Made by an authorized public official,
2. Done in the form prescribed by law,
3. Conducted through formal legal procedures, including the direct presence of the parties.

The Notary Law (UUJN), specifically Law Number 2 of 2014, mandates the physical presence of parties before a notary during the reading and signing of a deed. This requirement is more than symbolic; it is a vital part of the legal process that verifies the parties' identity and free will. Should this fundamental physical element be disregarded or substituted by technology without explicit legal authorization, the authenticity of the deed will be compromised.

In Indonesia, the requirement for physical presence of the notary, parties, and witnesses during the signing of a deed, as stated in the explanation of Article 16 paragraph (1) letter m of the Notary Law (UUJN), directly impacts the validity of documents. Consequently, a digitally prepared notarial deed is currently not considered authentic. Should this rule not be followed, the document is legally reduced to a private deed, which can still be used as evidence but lacks the strength of an authentic one (Islam *et al.*, 2023). The Civil Code (Article 1874) defines a private deed as any writing, such as a signed letter or list, created without the assistance of a public official.

Although many notaries are attempting to utilize digital tools like video conferencing for client meetings and electronic signatures for faster service, the lack of an explicit legal framework means the resulting documents are only considered private deeds, not authentic ones. This ambiguity leaves the legal status of these electronic deeds unclear, creating legal uncertainty regarding the notary's accountability in cases of errors, manipulation, or disputes (Benuf, 2019).

To be considered an authentic deed under the Notary Law (UUJN), the document must meet specific formal criteria: it requires creation by an authorized public official (a Notary); the involved parties must attend the process; the deed's contents must be read and then immediately signed by the parties, the two witnesses, and the Notary; the Notary

must establish the identity of the parties through personal acquaintance or introduction; and two witnesses must be present throughout the deed-making (Suryandari *et al.*, 2020).

These five conditions are cumulative, not alternative, meaning that all of these provisions must be met simultaneously for the deed to be considered an authentic deed. If even one of these conditions is not met, the deed loses its authenticity and can be categorized as a private deed or even declared formally defective, which can ultimately result in the deed being legally void (*by operation of law*). Basically, electronic transactions are a form of legal agreement or relationship carried out through electronic media, which integrates computer-based information systems with communication systems that utilize network and telecommunication services (Aimelia & Rasji, 2025).

The legal consequences are significant because private deeds lack the force of proof. In the event of a dispute, a judge can freely determine the contents of the deed. Meanwhile, authentic deeds, as long as they have not been proven otherwise through a formal evidentiary process, are considered complete proof of their contents. This means that digital transformation without legal legitimacy impacts not only procedures but also the substance of the legal protections afforded to the parties.

If a notary fails to follow regulations, the deed they produce, as stated in Article 28 paragraph (5) of Staatsblad Number 3 of 1860, will be stripped of its authentic deed status and will only be valid as a private agreement. This penalty is reiterated in Article 84 of the UUJN, which also deems the deed legally void and enables affected parties to demand that the notary pay for costs and compensation. Under the latest Notary job regulations, notaries are obliged to prepare deeds in full accordance with relevant laws and statutes. When a notary is negligent in drafting a deed, leading it to not comply with legal provisions, the document does not qualify as an authentic deed according to Article 1868 of the Civil Code. This failure means the deed is stripped of its evidentiary strength as an authentic public document and is only valid as a private agreement. To prove the content of this private deed, one must rely on the statements and confessions made by the parties, their heirs, and their assigns, in addition to the testimony of any witnesses who signed the document (Wijaya *et al.*, 2024).

On the other hand, uncertainty also arises for notaries as deed makers. If they use digital tools to carry out their duties without a clear legal basis, they could potentially face legal consequences, including ethical and criminal charges if the deed they create results

in losses for the parties. Therefore, notaries must establish the legal standing of digital deeds to avoid legal ambiguity that could be detrimental to various parties.

The creation of deeds that neglect to comply with current regulations due to notary error means the document does not qualify as an authentic deed according to the standards set in Article 1868 of the Civil Code. Consequently, the deed forfeits its full evidentiary power and only maintains validity as a private document. The ability to prove a private deed depends entirely on the admissions and declarations made by the signing parties, their heirs, the individuals who received rights through them, and the witnesses.

Essentially, the function of a notary involves two primary duties: providing services and guaranteeing the legal certainty of the documents they create, and utilizing their granted authority to maintain legal consistency in the realm of civil law, which ultimately ensures public security and tranquility (Aribowo, 2020). This role is supported by Gustav Radbruch's theory, which argues that observing both justice and legal certainty correctly leads to a secure and orderly nation. Adherence to positive law is mandatory for realizing the law's inherent objectives, which are legal certainty and justice.

According to Law Number 2 of 2014 (the amendment to Law Number 30 of 2004 regarding the Notary Office), the core function of a notary is to act as a public official empowered to produce authentic deeds. The purpose of this authority is to establish legal certainty in civil affairs including agreements, contracts, property sales, inheritance matters, and other forms of deeds where the notary has the jurisdiction to do so.

The principle of legal certainty, as articulated by Gustav Radbruch, suggests that correctly applying both justice and legal certainty assures security and order; this goal is met when public officials respect legal norms, such as Article 1868 of the Civil Code regarding authentic deeds, to guarantee legal certainty for citizens. Complementing this, Hans Kelsen's theory of legal certainty stresses that general legal rules provide behavioral guidance for individuals within society, governing their relationships with one another and with the community (Rahardjo, 1991), and the presence and enforcement of these rules are what establish legal certainty.

In his framework on legal certainty, Gustav Radbruch identifies four basic principles that closely relate to its meaning (Rahardjo, 1991).

1. The concept of law is a positive one, which equates positive law directly with statutory law.

2. Law is grounded in facts, which means that its creation is based on real-world situations and observations.
3. To prevent misinterpretations and ensure simple implementation, the facts included or declared within the law must be precisely and clearly formulated.
4. The process of changing positive laws is inherently complex and slow.

Based on these conditions, it can be emphasized that until there is a change in legal norms that recognize digitalization procedures as part of the creation of authentic deeds, the status of digitally created deeds will always be in a weak legal position because they are classified as private deeds. Therefore, there is a need for updates to the norms in the Notary Law or a legal instrument at the level of a law that explicitly regulates:

1. Validity of the online presence of the parties,
2. Requirements for the validity of an electronic signature in an authentic deed,
3. Electronic verification system by notary,
4. Standardization of technology and platforms that can be used by notaries.

Thus, the legal position of deeds made digitally by a notary public cannot obtain authentic status as long as there are no statutory norms that explicitly regulate their form, requirements, and legal consequences *lex certa demands* that every legal act, especially one that produces written evidence, be based on provisions that can be accessed and understood with certainty by every legal subject.

Without such regulations, any innovation in notarial services risks creating accountability gaps. This not only raises uncertainty about the evidentiary validity of a deed but also opens up the possibility of ethical, administrative, and even criminal liability for notaries who issue such deeds without a valid legal basis. Therefore, legislation governing the implementation of digital-based notarial services must contain a binding and non-transparent regulatory framework.

The formulation of these norms should include provisions regarding procedures for virtual deed readings, the use of video conferencing to ensure the presence of the parties, electronic identity verification methods, and electronic authentication methods that meet authenticity requirements. Without these provisions, the deed will remain classified as a private deed, which lacks complete evidentiary power and relies heavily on later confessions from the parties.

This issue also demonstrates regulatory stagnation that is out of step with the evolving needs of legal services. The notary service system has not fully adapted to

technological realities, and is not yet supported by a legal framework that can guarantee the validity of documents created online.

Furthermore, the absence of specific legal norms regarding digital deeds by notaries is not merely an administrative issue, but also touches on the substantial dimensions of the notary's function. The notary's position is based on legal protection, which prioritizes formality and legal clarity. Therefore, innovations not accompanied by legal reformulation will only create chaos in the application of civil procedural principles, particularly regarding the provision of evidence.

Therefore, the establishment of specific, structured, and imperative regulations is necessary to avoid dualistic treatment of deeds between those created manually and those created electronically. If this issue is not resolved promptly, the differences in treatment of the two forms of deeds will continue and lead to unequal legal protection.

The required regulations are not merely administrative in nature; they must be enshrined in statutory regulations to ensure the equal status of digital deeds with conventional ones. This is crucial so that notaries can carry out their duties without fear of lawsuits arising from differing interpretations of the validity of the deed they create.

Thus, as long as there is no change in the positive legal structure that recognizes that all formal elements of authentic deeds can be executed digitally, the status of electronic deeds made by notaries remains weak and cannot be equated with authentic deeds. Therefore, legal reforms in the field of notarial office must be directed at creating a legal system that is not only responsive to technology but also guarantees protection for all elements of the legal process carried out by notaries legally and responsibly.

4 CONCLUSION AND SUGGESTIONS

4.1 Conclusion

The research findings indicate that Indonesia's legal system currently offers insufficient support for implementing digital notarial services when producing authentic deeds. The prevailing Notary Law (Law No. 2 of 2014) mandates a formal, in-person presence of the parties before the notary, thereby not explicitly authorizing digital alternatives such as electronic signatures, video conferencing, or online identity checks. Although Law No. 11 of 2008 on Electronic Information and Transactions validates

electronic records and signatures as legal evidence, it does not specifically apply these norms to the highly regulated and ethically bound procedures of the notarial profession. Finally, the relevant 2021 Minister of Law and Human Rights Regulation only addresses the administrative reporting of deeds electronically, not the substance of how a digital deed is created.

The legal certainty of authentic deeds digitally created by notaries remains weak and is not yet on par with authentic deeds created conventionally. This is due to the lack of the requirement for the parties' direct presence and the failure to adhere to the forms and procedures prescribed by law. Deeds created electronically without a clear legal basis can only be classified as private deeds, thus lacking the full evidentiary force they should. In such circumstances, both the service user and the notary themselves find themselves in an unsafe and uncertain legal position. This uncertainty has the potential to give rise to legal disputes if the digital deed is used as the basis for important legal transactions.

4.2 Suggestions

Regarding positive legal regulations for the implementation of digital notarial services in the preparation of deeds, it is necessary to revise Law Number 2 of 2014 concerning the Notary Office, by adding explicit provisions regarding digital service mechanisms, including procedures for online presence of parties, verification of valid digital identities, and the legitimacy of electronic signatures in the preparation of authentic deeds. The Ministry of Law and Human Rights needs to formulate technical and detailed implementing regulations regarding the electronic-based notarial service system, including standardization of a national notarial information system that is secure, verifiable, and integrated with the state administrative legal system. This system must guarantee the validity of authentication, protection of personal data, and auditable storage of digital documents. In addition, notaries need to receive training to be able to carry out their duties digitally without neglecting the principles of prudence and professionalism that are the hallmarks of this position.

Regarding the legal certainty of deeds created digitally by notaries, professional organizations such as the Indonesian Notaries Association (INI) need to develop a digital professional code of ethics that regulates the limitations and standards for the use of technology in notarial practice, and act as a liaison between notaries and the government

in communicating legal needs in the field. Legal academics and researchers need to conduct further interdisciplinary studies between legal science, information technology, and public administration to formulate a digital notarial system that complies with the principles of the rule of law, respects the principle of legality, and is adaptive to technological developments. With synergy between lawmakers, law enforcers, and academics, the digitalization of notarial services can be realized responsibly, legally, and provides maximum legal certainty for all parties involved in the creation of authentic deeds.

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Authors' Contribution

All authors contributed equally to the development of this article.

Data availability

All datasets relevant to this study's findings are fully available within the article.

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