



Riau University Faculty of Law, Jalan Pattimura Number 9 Gobah, Kel. Cinta Raja, Kec. Sail, Pekanbaru, Riau,
Postal Code 28127. Tel: (+62761)-22539, Fax: (+62761)-21695
Email: melayunesialaw@dosen.unri.ac.id
Website: <https://myl.ejournal.unri.ac.id>

Position of Notary in the Industrial Revolution Era 4.0

Muhana Atikah^a, Aditya Yuli Sulistyawan^b

^a Faculty of Law, Diponegoro University, Indonesia, Email: muhanaatikah1232@gmail.com

^b Faculty of Law, Diponegoro University, Indonesia, Email: adityayuli38@gmail.com

Article Info

Article History:

Received : 26-01-2023

Revised : 06-05-2023

Accepted : 28-06-2023

Published : 30-06-2023

Keywords:

Legal consequences

The validity of the deed

Cyber Notary

Abstract

The Industrial Revolution 4.0 era encouraged utilization in various sectors and professions, including the position of Notary. Notaries have other authorities, one of which is cyber notaries. This creates a normative contradiction that appears in Article 15 paragraph (3) and Article 16 paragraph 1 letter m of Law no. 02/2014 which stipulates that a notary must read the deed before an audience witnessed by two witnesses. The normative juridical approach is the approach that the authors use in this study. The purpose of this research is to determine the legal consequences of notarial deeds not being read because the parties were not present and to determine the validity of notarial deeds that use the cyber notary concept as authentic deeds.

INTRODUCTION

Development of style of life which is more modern which is marked with an increase in connection between colleagues, residents, or institutions, country and institution social, so will feel the importance of serving Notary Public. Wrongly, one product of Notary Public is the deed of Notary Public, a deed of Notary Public is needed for them which do a transaction or a civil law activity which needs proof to protect the interests of all parties involved. However, therefore, Notary Public and Notary Public which use the service of Notary Public must see the system method of making a deed of Notary Public (deed certification) to ensure the authenticity of the deed is fulfilled.

Document which is correct is proof which is finished (tie) it means truth which is written on a document that is correct during NO there is another party which can prove it to produce a document which is original, it means it can be trusted. Something of a deed which is made by Notary Public in a certain way authentic describes all deeds, agreements and agreements which are witnessed by the Master of Ceremony and the witness.¹

¹ Alam, Wawan Tuggal, *Law of Case Discussions in Everyday Life*, (Jakarta: Milenia Populer, 2001), 146

Notary is a position created by the State based on law. A person who has a legal academic degree cannot become a Notary unless they have an appointment determined by the Minister.²Article 1 point 1 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary (hereinafter referred to as Law Number 2 of 2014 Amendments to UUJN) provides an understanding of Notary, which reads as follows:

"A notary is a public official who has the authority to make authentic deeds and has other authorities as intended in this law or based on other laws."

Notaries in carrying out their authority are bound by the provisions that must be obeyed, as stated in Article 15 paragraphs (1), (2) and (3) of Law Number 2 of 2014 Amendment to UUJN, including:

- 1) Notaries have the authority to make authentic deeds regarding all deeds, agreements and provisions required by statutory regulations and/or which are desired by interested parties to be stated in authentic deeds, guaranteeing the certainty of the date of making the deed, except deeds, providing grosses, copies and Excerpt from the deed, everything during the making of the deed is not entrusted or excluded to another official or other person as determined by law.
- 2) In addition to the authority as intended in paragraph (1), the Notary has the authority to:
 - 1) Validate the signature and determine the certainty of the date of the letter under the hand by registering it in a special book.
 - 2) Order personal letters by registering them in a special book
 - 3) Make a copy of the original under the hand in the form of a copy containing the information as written and described in the relevant letter
 - 4) Check the conformity of the photocopy with the original letter.
 - 5) Providing legal counseling regarding the making of the deed.
 - 6) Make deeds relating to land or;
 - 7) Make a deed of minutes of the auction.
- 3) Apart from the authority referred to in paragraph (1) and paragraph (2), a Notary has other authorities as regulated in laws and regulations.

The other authorities referred to in the Article have been explained in the elucidation of Article 15 paragraph 3 of Law Number 02 of 2014 which states that:

² Rifiani, H. S, *Basic Principles of the Notary Profession Based on the Latest Legislation*, (Jakarta: Smart World, 2013), 54

"What is meant by other authorities regulated in statutory regulations includes statutory regulations, among others: authority to ratify transactions, authority to ratify transactions carried out electronically (cyber notary), making waqf pawn deeds and airplane mortgages."

In the operate task, Notary Public Also own obligation Which related with present strength Which must obeyed in accordance with Regulation Notary Public And System Orderly Notary Public. Task Notary Public is intertwined connection law Between para party in a certain way written And in the form Certain so that Become something deed. He is maker documentary Which strong in the court.³ So the main task of a Notary is to make an authentic deed, as stated in Article 1868 of the Civil Code.

Notary Public own not enough answer real And official on deed Which he makes. Notary Public responsible answer on validity deed Which he makes, And If it turns out with disabilities law, If deed That is lost authenticity And hurt party Which interested, So Notary Public responsible answer on cost. demand For replacement lost. In the other party, in connection with not enough answer Which heavy to deed Which made in the in front of Notary Public, fact That Notary Public own strength For make deed authentic method Notary Public free For make deed authentic based on his will Alone. must emphasized That That NO method That You Can. Without need action What even Which taken by para party.

Supply Chapter 15 verse 3 Constitution Number 02 Year 2014 arranged in the regulation legislation with base That Notary Public Also own strength other. Object This explain in the clarification Chapter 15 verse3 UU NO. 02 Year 2014, Wrong only one about cyberspace Notary Public. In the Object Notary Public use Notary Public world virtual For Do deed, based on Chapter 15 verse 3 Constitution NO. 02 Year 2014, authority other Which arranged by regulation legislation including: say. Good electronic (cyberspace Notary Public), Oath Waqf And Mortgage Aircraft Fly. Object This NO happen Because Constitution Number 02 Year 2014, Chapter 16 Paragraph 1, M, country That Notary Public must present For read And sign deed. Because supply Chapter 1868 Civil code is condition authenticity something document Which show That something deed serve is something deed, So deed authenticity deed Which arranged in the Chapter 1868 KUH Civil own published made in the something form Certain by or in the in front of official Which authorized in the something place.⁴

³ TT, Kie, *Various Notary Sciences*, (Bandung: Alumni, 2000), 83

⁴ R. Tjitrosudibio, R. S, *Civil Code*, (Jakarta: Pradnya Paramita, 2009), 64

Object This increase contradiction normative Which arise in the Chapter 15 (3) And Chapter 16 paragraph 1 letter M UU NO. 02/2014. Authentication transaction by Notary Public cyberspace explain in the Chapter 15 verse 3 UU NO. 02/2014. If considered Notary Public, Object This clear violate Chapter 16 (1) UU NO. 02 Year 2014. Constitution Number 02 Year 2014 Chapter 16 Paragraph 1 Alphabet m Supply This arrange That Notary Public must read deed in the in front of hearing with attended two people witness. In the Here, cyberspace Notary Public NO come on stage life in the in front of Notary Public, But through method electronic as conference calling or videos calling. Authentication document Notary Public by Notary Public cyberspace Can abused in the Exercise by party wicked. In the Object happen dispute, para party Can reject process read Which NO held with truly face Notary Public.

The theory used in this journal is the theory of legal consequences which are the consequences given by law to an event or legal action of a legal subject. According to Jazim Hamidi. The word legal impact/legal effect means direct, strong, or real legal consequences or consequences.⁵ In the legal science literature, three types of legal consequences are known, namely as follows:

- a) Legal consequences in the form of the emergence, change, or disappearance of a certain legal situation;
- b) Legal consequences in the form of the emergence, change, or disappearance of a certain legal relationship;
- c) Legal consequences in the form of sanctions that are not desired by the legal subject (acts against the law).

Talking about legal consequences begins with the existence of legal relations, legal events, and legal objects. According to Soedjono Dirdjosisworo in his book Introduction to Law, namely legal consequences arise because of a legal relationship where in a legal relationship there are rights and obligations.⁶ Events or incidents that can give rise to legal consequences between parties who have legal relations, these legal events are contained in various legal aspects, both public law and private law.⁷

Then the author also uses validity theory. According to Hadjon, the legitimacy of government actions is based on aspects of authority, procedural aspects and substantive

⁵ Jazim Hamidi, *Indonesian Legal Revolution: Meaning, Position and Legal Implications of the Text of the Proclamation of 17 August 1945 in the Indonesian Constitutional System*, (Yogyakarta: Prentice Hall, 2006), 78

⁶ S, Dirdjosiswono, *Introduction to Law*, (Jakarta: Raja Grafindo Tinggi, 2010), 33

⁷ *Ibid*, 34

aspects.⁸ The authority aspect requires that every government action must rely on legitimate authority, whether attribution, delegation or mandate.⁹ Each authority is limited by content (material), area, and time. Defects in these aspects cause defects in authority (onbevoegdheid).¹⁰ The theory of validity mentioned above, when associated with the formulation of the problem in this study is used to understand the authority possessed by a Notary as a public official appointed by the government. Notaries are expected to be able to provide services in accordance with aspects of their authority, aspects of procedures and aspects of substance as referred to in this theory. The concepts and theories described above are used to answer the problem formulation in this journal.

Based on the author's research, there are several previous studies related to Notaries in the 4.0 era, but they do not mention the legal consequences of not reading the notarial deed because it is not faced by the parties and the validity of notarial deeds that use the Cyber Notary Concept as an Authentic Deed as in Desy Rositawati's research, Students of the Master of Notary Program at Udayana University entitled "Electronic Storage of Notary Protocols in Relation to Cyber Notaries" with the problem What is the urgency of storing notary protocols electronically? in connection with cyber notaries? The research results focus on the urgency of storing notary protocols electronically in order to improve services by utilizing information technology in relation to cyber notaries.¹¹ Then research conducted by Prayudicia Tantra Atmaja / Sebelas Maret University Surakarta / 2019 with the title "Legitimacy of Electronic Notary Deeds in E-Commerce" the results of the research focus on the legal basis of electronic notary deeds and notaries can make deeds electronically¹²

Taking into account the results of these previous studies, the author brings up something new, namely the position of a notary in the vortex of the 4.0 industrial revolution era. Therefore, it is hoped that this article can contribute to knowledge. The issues that will be raised in this paper are what are the legal consequences of a notarial deed that is not read out because the parties do not deal with it and what is the validity of the notary deed that uses the Cyber Notary concept as an authentic deed, what is the urgency of updating the notary's code

⁸ Philipus M. Hadjon, et., al., *Introduction to Indonesian Administrative Law*, (Yogyakarta: Gadjah Mada University Press, 1993) 123.

⁹ *Ibid.*

¹⁰ *Ibid.*, 124

¹¹ D, Rositawati, "Notary Protocol Electronic Storage in Relation to Cyber Notaries", *Scientific Journal 2*, no.2 (2018):15.

¹² PT Atmaja, "Legality of Notary Deeds Electronically in E-Commerce", (Thesis, Sebelas Maret University Surakarta, 2019), 69.

of ethics for Indonesian notary practice in Indonesia? era 4.0. The expected aim of this research is to explain the role of a code of ethics in building the integrity of a Notary.

LEGAL CONSEQUENCES OF A NOTARIAL DEED THAT IS NOT READ BECAUSE THE PARTIES DO NOT ACCEPT IT

The implementation of the Notary profession is determined by statutory regulations relating to the duties, authority and prohibitions on notaries carrying out their positions. Apart from statutory regulations, there is also a Notary Code of Ethics which describes moral norms regarding the behavior that is applied and must be followed by notaries in carrying out their profession. In connection with advances in the field of information technology, artificial intelligence will continue to develop and have an impact on notaries in carrying out their positions. The practice and procedures for making authentic deeds emphasize preventive justice which creates and maintains legal certainty in the interests of society and avoids prosecution. The influence of advances in information technology on the position of notary in the future in Indonesia will be determined by two factors,¹³

As time goes by, various legal problems are increasingly developing, notaries as public officials who carry out their duties in providing legal services to the public need to receive protection and guarantees in order to achieve legal certainty. The regulations governing the position of Notary are Law Number 30 of 2004 concerning the Position of Notaries as amended by Law Number 2 of 2014 concerning amendments to Law Number 30 of 2004 concerning the Position of Notaries (hereinafter referred to as the Law on Position) . Notary Public).

A notary, according to the definition in the Notary Office Law (UUJN), is a public official who has the authority to make authentic deeds, legalize them with a seal, and provide copies and show the originals.¹⁴This notary profession arises because of the need in society for legal certainty and guarantees for agreements made. With a notary, the agreement made will have greater legal force and certainty, so that conflicts between parties can be minimized.¹⁵

It can be understood that, implementing the provisions of the applicable laws and regulations, especially UUJN, is a legal umbrella for Notaries so that they do not get involved

¹³ Muhammad Akbar and Fadhil Yazid, "Legal Certainty at Ease in the Era of Industrial Revolution 4.0 Related to the Notary Profession", *Scientific Research Journal: Law Journal* 1, no.2 January, (2021):121.

¹⁴ T. Felix, "Legal Protection of Criminalization of Notaries", *Legal Issues* 46, no. 3, (2017): 227.

¹⁵ Sriwati, "Problematics of the Application of Article 66 of the Law on Notary Positions to Criminal Law Enforcement", *Legal Reform* 26, no. 1 (2022):217

in legal problems in the future. The notary must be guided normatively by the rules of law relating to all actions that will be carried out to then be stated in the deed. Acting based on applicable legal regulations will provide certainty to the parties, that the deed made before or by a Notary is in accordance with applicable legal regulations, so that if a problem occurs, the Notary's deed can be used as a guide by the Notary. The parties. At the beginning of the deed, the Notary states the date/time the deed was made. The inclusion of the date/time is very important in relation to the strength of the formal proof of the Notary's deed.¹⁶Notaries can also take preventive measures to avoid the risk of fake documents from Service Users. These preventive measures include ensuring the identity of the Service User and the documents submitted, checking the validity of the document by verifying the original source of the document, and checking with the bodies related to the document.¹⁷

In practice, there are many cases where the signing of the deed cannot be carried out simultaneously between the parties present before the Notary. Thus, the Notary cannot state in the relevant deed according to its truth, that the deed is immediately after being read to the appearers, it is signed by them, the witnesses and the Notary. In the provisions of Article 16 paragraph (1) letter m of the Notary Office Law it is stated, "The notary is obliged to read the deed before being present before at least 2 witnesses and signed simultaneously by the appearer, witness and notary." The validity of the notarial deed, which includes the form, content, authority of the official who draws up and draws up the deed, must meet the conditions specified in the applicable laws and regulations.

A notarial deed provides assurance that the events and facts in the deed were actually carried out by a notary or explained by the parties present at the time stated in the deed in accordance with the procedures specified in making a notarial deed. Formally, to prove the truth and certainty regarding the day, date, month, year, time (time) at hand, and the parties appearing, initials and signatures of the parties/parties present, witnesses and the Notary (in official deeds/minutes), and record the information or statements of the parties/those present (in the deed of the parties). The notary must guarantee the certainty of the day, date, month, year and face-to-face time listed or stated at the beginning of the Notarial deed, as proof that the parties were present and signed the deed on the day, date, month, year, and the time stated

¹⁶ H, Adjie, *Civil and Administrative Sanctions Against Notaries as Public Officials*, (Bandung: Refika Aditama, 2009), 59.

¹⁷ KM Putri, "Notary's Obligation to Read and Sign the Deed in Front of All Parties Together", *NoLaJ* 1, no. 2, (2022): 157-175.

in the deed and all the procedures for making the deed have been carried out in accordance with the legal provisions in UUJN. In the event that the notary deed is not read and signed jointly by the parties present before the notary because one of the parties is not present, then it is contrary to the UUJN provisions and the notary's code of ethics which of course will have legal consequences for both the deed and the deed. concerned notary. Reading and signing the deed that is not done before a Notary will result in a reduced value of proving an authentic deed to become a private deed as referred to in Article 16 paragraph (9) UUJN and violate the provisions of Article 4 paragraph (6) of the Code of Ethics of the Indonesian Notary Association which has consequences namely sanctions.

One form of such violation is to commit an act that is not in accordance with the facts. Then what often happens and is a concern for the author is related to the deed not being read and the notary not signing the deed together in front of the client. A Notarial Deed is a means of evidence, so that it can have perfect evidentiary power if all the provisions or procedures for making the deed have been fulfilled. If there are procedures that have not been fulfilled and the procedures that have not been fulfilled can be proven, then the deed can be declared by court proceedings as a deed that has the power of proof as a private deed. If it is located like that, then the evidentiary value is left to the judge.¹⁸

If we understand what is stated in the UUJN, it can be understood that Notary is a position that is very closely supervised. The government supervises the implementation of the position regulations contained in the UUJN and also the Notary's code of ethics through the Notary Supervisory Board at regional, regional and central levels. From the internal organization of the Notary's position, namely the Indonesian Notary Association (INI), it has an Honorary Council to supervise and examine violations of the Notary's code of ethics at both regional, regional and central levels. Article 1866 of the Civil Code states that written evidence is written evidence. Likewise, Article 1867 of the Civil Code states that written evidence is one type of written evidence. Likewise, Article 1867 of the Civil Code states that written proof is carried out in authentic writing or written underhand. The evidentiary strength of a Notarial deed as an authentic deed has 3 types of evidentiary strength values, namely external, formal and material. Reviewing the evidentiary strength of a Notarial deed where the presenters (parties) are not present and is not read and signed by the presenters together, it must be

¹⁸ *Ibid.*, 60.

understood that the Notary in carrying out his duties and position formulates the wishes/actions of the presenters. the parties into an authentic deed, taking into account applicable law. The evidentiary strength of a Notarial deed as an authentic deed has 3 types of evidentiary strength values, namely external, formal and material. Reviewing the evidentiary strength of a Notarial deed where the presenters (parties) are not present and is not read and signed by the presenters together, it must be understood that the Notary in carrying out his duties and position formulates the wishes/actions of the presenters. the parties into an authentic deed, taking into account applicable law. The evidentiary strength of a Notarial deed as an authentic deed has 3 types of evidentiary strength values, namely external, formal and material. Reviewing the evidentiary strength of a Notarial deed where the presenters (parties) are not present and is not read and signed by the presenters together, it must be understood that the Notary in carrying out his duties and position formulates the wishes/actions of the presenters. the parties into an authentic deed,

According to Soedjono Dirdjosisworo in his book Introduction to Law, legal consequences arise because of a legal relationship where in a legal relationship there are rights and obligations.¹⁹ Events or incidents that can give rise to legal consequences between parties who have legal relations, these legal events are contained in various legal aspects, both public law and private law.²⁰In the legal science literature, three types of legal consequences are known, namely as follows:

- a. Legal consequences in the form of the emergence, change, or disappearance of a certain legal situation;
- b. Legal consequences in the form of the emergence, change, or disappearance of a certain legal relationship;
- c. Legal consequences in the form of sanctions that are not desired by the legal subject (acts against the law).

A Notary who does not comply with the provisions of Article 16 paragraph (1) letter m and paragraph (7) UUJN who does not appear before the parties and does not read the deed in front of the present before signing the deed means that the Notary has been negligent. and make mistakes in carrying out their duties and positions. One of the legal consequences if the parties are not actually present before the Notary so that the Notary does not read the deed when

¹⁹ S, Dirdjosiswono, *Loc. Cit*

²⁰ *Ibid.*

signing the deed will result in the deed being degraded. The degradation of this deed causes a change in the status of the deed which should be an authentic deed to become a private deed.

Based on this explanation, it can be concluded that a deed made by and in the presence of a Notary can be reduced to a private deed if in the process of making the authentic deed it does not fulfill the formalities specified in the Law on the Notary's Office, then the Notary's deed can lose its value. the proof is perfect and only becomes a private deed, and if in court it can be proven that the deed contains legal defects, then the Notarial deed can be canceled based on a court decision which has permanent legal force.

THE TRUTH OF A NOTARY'S DEED USING CYBER NOTARY AS AN ORIGINAL DEED

The provisions of Article 1 paragraph (4) of Law Number 11 of 2008 provide an understanding of electronic documents, namely any electronic information that is created, forwarded, sent, received, stored in analog, digital, electromagnetic, optical or the like which can be seen, displayed and heard through a computer or electronic system but not limited to writing, sound, pictures, maps, plans, photographs or the like, letters, signs, numbers, access codes, or symbols that have meaning and can be understood by people who are able to understand them. Electronic documents can be used as legal evidence. This is in accordance with Article 5 paragraph (1) of the ITE Law.

In connection with other authorities granted to a Notary, namely to validate transactions using a cyber notary, the printout of the attestation can also be categorized as an electronic document. Where the electronic document must also fulfill the elements in Article 1868 of the Civil Code regarding the authenticity of the deed.

The conventional stages of making a deed are as follows:

- a) The appearers/parties come to the Notary's room and then face the Notary with the aim of conveying their wishes to be included in the Notary's deed,
- b) After the Notary has listened to the intentions and objectives of the parties, the Notary must be able to take whatever legal action the parties desire and at the same time provide legal counseling regarding whether the deed to be made is in accordance with the law or not. ,
- c) After the notary knows the legal action desired by the parties, the notary then makes a deed whose form and method are stated in article 38 of Law Number 2 of 2014.

The form and procedure for making a notarial deed can be said to be valid if it meets the provisions stated in Article 38 of Law Number 2 of 2016 above. So it can be concluded that the Notary's authority to validate transactions using a cyber notary has the consequence that the deed is valid to be called an authentic deed.

Related to reading the deed by a Notary is an obligation in making an authentic deed. This has been regulated in the provisions of Article 16 paragraph (1) letter m of Law Number 2 of 2014 so that the reading of the deed is part of the *verlijden* or inauguration of the reading and signing of the deed in question. If the deed is drawn up by a notary, it must also be read out by the notary concerned, not by a third party, for example a notary's employee. *Verlijden* is a verb taken from the word *verleden* which means to have made. This last word comes from old Dutch and is no longer used in everyday language and is only used in the legal field, especially in the world of notaries.²¹

If the reading above is related to the function of an authentic deed as proof, it can be seen that in making a notarial deed, reading the deed is something that must be done by a notary in carrying out his duties. Agreeing with the above, according to Tan Thong Kie, reading the deed has benefits, including:

- a) When the inauguration (*verlijden*) of the deed is about to end, there is still an opportunity for the Notary to correct mistakes in writing words/sentences that were not seen before because fatal or embarrassing mistakes may occur.
- b) The presenters are given the opportunity to ask questions that are unclear or do not understand the contents of the written/read deed,
- c) The notary and presenter have the opportunity at the last moment before the deed is signed by the presenter, witness and notary to rethink the contents of the deed, ask questions or change the contents of the deed.

As for the violations committed if the deed is not read by a Notary, then the deed has the power of proof as a private deed or in other words the deed loses its authenticity. This has been regulated in Article 16 paragraph (9) of Law Number 2 of 2014 which reads: ³ "if one of the conditions as intended in paragraph (1) letter m and paragraph (7) is not fulfilled, then the relevant deed only has the evidence is a private deed."

²¹ TT Kie, *Lok.Cit*

Based on the theory of legitimacy in the aspect of authority, the notary has attribution authority, where the notary is given direct authority by law to make the deed including reading the deed and as long as the object of the agreement is still within its working area. Notary, Notary still has the authority to make the deed, even though the deed is read and signed using a cyber notary and the deed remains valid as long as the form of the deed is in accordance with the provisions of Article 38 of the Law. Number 2 of 2014 and Article 1868 of the Civil Code. In connection with Article 15 paragraph (3) of Law Number 2 of 2014 and its explanation that a notary has other authorities, one of which is validating transactions using electronic devices (cyber notary), the terms meant by the definition of certification itself are not explained, resulting in an ambiguous understanding. However, Emma Nurita explained that certification is a procedure in which a third party provides a written guarantee that a product, process or service meets certain standards, based on an audit carried out with an agreed procedure.²²

The provisions of Article 1868 of the Civil Code which regulates authentic deeds, including notarial deeds, must be made in the form determined by law and the deed is made by or made in the presence of an authorized public official at the place where the deed is made, so that if the deed made is in accordance with the form is determined by law and the public official who made the deed is in accordance with his/her authority, then the deed can be classified as an authentic deed. However, it will be a problem if the process of reading and signing the deed uses a cyber notary or in other words uses electronic means such as teleconferencing or video calls. Because, In Article 16 paragraph (1) letter m of Law Number 2 of 2014 it is stated that the reading of the deed must be carried out in the presence of people present and attended by at least 2 (two) witnesses, and in the explanation it is stated that the Notary must be physically present and signed the Deed in front of the audience and witnesses. The word is physically present, if translated word for word, that is, it is physically present. Present means there or coming.²³ Meanwhile, the word physical means body, so it means physically present, that is, physically present, in other words, tangible or physically visible. The explanation of physical presence creates a conflict with norms in Law Number 2 of 2014, because cyber notaries as part of technological advances can bring together two or more parties in different places with actual sound and image facilities, so that the shape of the face, voice and condition are correct. -really

²² Barassi, T.S. (nd). "Cyber Notaries: Public Key Registration and Certification and Authentication of International Legal Transactions", *Abanet*, Retrieved September 9, 2022, <http://www.abanet.org/sgitech/ec/en/cybernote.html>.

²³ R. Soeroso, *Underhand Agreement*, (Jakarta: Sinar Grafika, 2010), 97

visible. This provision ultimately limits the performance of notaries from being more effective, because in practice notaries must utilize existing technology to facilitate their performance and improve the services provided to the public.

This means that there needs to be an update to Law Number 2 of 2014, especially regarding the process of making deeds in a broad sense and making cyber notarial deeds in particular. Apart from that, it is also necessary to explain the meaning of ratification using a cyber notary or making a deed using a cyber notary is the same as making a notarial deed. This is intended so that in carrying out their duties, the Notary can use technological sophistication without having to violate the laws and regulations governing the implementation of the duties of his position and other laws and regulations related to this matter.

and after the deed has been read and understood by the parties concerned, the deed is signed by the parties. Parties, witnesses and notaries using digital signatures.

With regard to electronic signatures, the signature requires 2 stages which are explained as follows:²⁴ The formation of a digital signature uses a kind of fingerprint produced from the document and private key as well as digital signature verification, which is a process of checking the digital signature by referring to the original document and public key that has been provided, so that it can be determined. whether a digital signature is created for the same document that uses the private key. If these two processes have been fulfilled, digital signatures can also fulfill the juridical elements contained in conventional signatures. A person who adds his digital signature is deemed to acknowledge everything he has written in the relevant electronic document.

Based on the description above, the content of the transaction certification itself must contain legal acts, agreements and provisions that are not prohibited by law. Regarding legal actions that are prohibited by law are actions that cause harm to other parties or actions that violate the law. The act in question is subject to Article 1365 of the Civil Code which states that responsibility must be based on guilt. So, the article requires that there is an element of error and the element of error must be proven by the aggrieved party. Meanwhile, unlawful acts committed by Notaries are not only acts against the law, but also acts that violate other regulations where these acts are in the field of morality, religion and etiquette in society.²⁵

²⁴Agung Fajar Matra, "Implementation of Cyber Notaries in Indonesia Considering Law Number 30 of 2004 concerning the Position of Notaries", (Thesis, Indonesia University, Depok, 2012), 54.

²⁵ RW, Prodjodikoro, *Unlawful Acts Seen from the Perspective of Civil Law*, (Bandung: Mandar Maju, 2000), 134.

Based on the theory of validity in terms of substance, the contents of the certification itself must not contain prohibited legal acts, prohibited agreements and must also fulfill elements of 1320 of the Civil Code. Not only the three things mentioned above, the substance itself also includes the form of transaction certification itself. Where the form must also be in accordance with what is regulated in Article 38 of Law Number 2 of 2014. If the form is not appropriate, then ratifying the transaction using a cyber notary will be invalid to be categorized as an authentic deed. Apart from that, certifying transactions using cyber notaries also does not fulfill legal objectives which include legal certainty, benefit and justice. Legal certainty in this case has not been fulfilled because there are no clear regulations regarding other authorities given to Notaries. This could result in legal violations of other laws and regulations relating to the laws and regulations for the position of Notary. Regarding the legal benefits related to certification carried out using cyber notaries, it is felt that it has provided benefits in carrying out the position of notary. This is because the implementation of notarial deeds using cyber notary can provide convenience for interested parties and also for the notary himself. For parties who cannot appear before the Notary because they are out of town or because they have work that cannot be missed, Regarding the legal benefits related to certification carried out using cyber notaries, it is felt that it has provided benefits in carrying out the position of notary. This is because the implementation of making a notarial deed using cyber notary can provide convenience for interested parties and also for the notary himself. For parties who cannot appear before a notary because they are out of town or because they have work that cannot be missed, regarding the legal benefits related to certification carried out using cyber notary, it is felt that they have provided benefits in carrying out the position of notary. This is because the implementation of making a notarial deed using cyber notary can provide convenience for interested parties and also for the notary himself.

Based on Article 1867 of the Civil Code, it is stipulated that written evidence is carried out in authentic writing, or in private writing. So, deeds as evidence (form) consist of authentic deeds and private deeds. Private deeds are signed deeds, such as letters, registers, household documents and other writings made without the mediation of a civil servant (Article 1874 of the Civil Code). So, a private deed is a deed that is deliberately made by the parties themselves and not made by a public official who has the authority to make a deed that is used by the parties as evidence that a legal act has occurred. Thus, the evidentiary power of a deed is only limited to the party who made it.

Based on the previous description, the author concludes that ratifying transactions using a cyber notary remains valid as long as it meets the elements of authenticity of the deed and the form of the deed as regulated in the law relating to the position of the deed. Notary Public. However, not all obligations and powers of a notary can be carried out by using a cyber notary. For example, the authority of a Notary to make a legalized private deed.

CONCLUSION

The explanation of this article produces two conclusions. First, notaries in carrying out their positions are required to always act professionally and always comply with laws and regulations relating to Notaries, such as UUJN and the Civil Code. Looking at the current conditions, the position of a Notary is required to be able to take advantage of technological advances so that in the current era of industrial revolution 4.0 it can really be put to good use in the field of professional work such as a Notary in carrying out its duties and authority. . Second, the Law on the Position of Notaries does not recognize audio visuals so that the deed that is made is not in accordance with an authentic deed or becomes a private deed.

Conflicting norms between Article 15 paragraph (3) and Article 16 paragraph (1) letter m of Law Number 2 of 2014 can be resolved by continuing to use Article 15 paragraph (3) of Law Number 2 of 2014 and also by making a notary. deeds in general as long as the implementation of the article is in accordance with Article 16 paragraph (1) letter m and Article 38 of Law Number 2 of 2014 and must also fulfill the elements of Article 1868 of the Civil Code which are conditions for the authenticity of the deed. This is because in one law it is prohibited to override other articles and ratifying transactions using a cyber notary is legal because it is regulated in Article 15 paragraph (3) of Law Number 2 of 2014 which gives notaries the authority to ratify transactions automatically.

So it is necessary to amend (revise) the UUJN and ITE Law, as well as legal harmonization between various related laws and regulations, so that there is legal synchronization between existing laws, which regulate the authenticity of authentic deeds and the strength of electronic deeds as proof. which has been an obstacle in making deeds electronically by Notaries.

BIBLIOGRAPHY

- Adjie, H. *Civil and Administrative Sanctions Against Notaries as Public Officials*. Bandung: Refika Aditama, 2009.
- Alam, Wawan Tunggal. *Law of Case Discussion in Everyday Life*. Jakarta: Milenia Populer, 2001.
- Atmaja, P. T. "Legality of Electronic Notarial Deeds in E-Commerce". Thesis, Sebelas Maret University, Surakarta, 2019.
- Barassi, T.S. (nd). "Cyber Notary: Public Key Registration and Certification and Authentication of International Legal Transactions". *Abanet*. Retrieved September 09, 2022. <http://www.abanet.org/sgitech/ec/en/cybernote.html>.
- H. S, Rifiani. *Basic Principles of the Notary Profession Based on the Latest Legislation*. Jakarta: Smart World, 2013.
- Hadjon, Philipus M., et., al. *Introduction to Indonesian Administrative Law*. Yogyakarta: Gadjah Mada University Press, 1993.
- Hamidi, Jazim. *Indonesian Legal Revolution: Meaning, Position and Legal Implications of the Text of the Proclamation of 17 August 1945 in the Indonesian Constitutional System*. Yogyakarta: Prentice Hall, 2006), 78
- Kie, TT. *Various Notary Sciences*. Bandung: Alumni, 2000
- KM, Putri. "Notary's Obligation to Read and Sign the Deed in Front of All Parties Together". *NoLaJ* 1, no. 2, (2022) :157-175
- Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions.
- Matra, Agung Fajar. "Implementation of Cyber Notaries in Indonesia Considering Law Number 30 of 2004 concerning Notary Positions". Thesis, Indonesia University, Depok. 2012.
- Muhammad Akbar and Fadhil Yazid, "Legal Certainty at Ease in the Era of Industrial Revolution 4.0 Related to the Notary Profession". *Scientific Research Journal: Law Journal* 1, no.2 January, (2021).
- Prodjodikoro, RW. *Unlawful Acts Seen from the Perspective of Civil Law*. Bandung: Mandar Maju, 2000.
- Rositawati, D. "Electronic Storage of Notary Protocols Related to Cyber Notary". *Scientific Journal* 2, no.2 (2018).
- S, Dirdjosiswono. *Introduction to Law*. Jakarta: Raja Grafindo Tinggi, 2010.

Soeroso, R, *Underhand Agreements*, Jakarta: Sinar Grafika, 2010.

Sriwati, “Problematics of the Application of Article 66 of the Law on Notary Positions to Criminal Law Enforcement”. *Legal Reform* 26, no. 1 (2022).

T. Felix, “Legal Protection of Criminalization of Notaries”. *Legal Issues* 46, no. 3, (2017).

Tjitrosudibio, R, RS. *Civil Code*. Jakarta: Pradnya Paramita, 2009.

