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The Position of Digital Signatures in Notarial Practice According to The Principle of Tabelionis Officium Fideliter Exercebo

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Abstract: This research aims to investigate the role of digital signatures in notarization, focusing on their implementation and impact. Against the backdrop of developments in information technology, the use of digital signatures by Notaries is becoming increasingly relevant but also poses challenges in the process of making notarial deeds. The implementation of digital signatures can increase efficiency and security in making notarial deeds, but there are still obstacles related to certainty of time, place of deed making, and the need for more specific regulations related to cyber notary in Indonesia. The results of this study provide an in-depth understanding of the role of digital signatures in notaries and provide a basis for further development in integrating information technology in notarial practice.

Keyword: Digital Signature, Kenotariatan, Asas Tabelionis Officium Fideliter Exercebo.

INTRODUCTION

As society evolves, so must the law governing information and communication technology. Unfortunately, traditional laws often struggle to keep up with the rapid pace of technological advancements. Notaries, however, have a guiding principle to navigate their responsibilities. According to (Hiariej, 2014), it is referred to as the *Tableionis Officium Fideliter Exercebo*. The essence of this principle is that Notaries are required to adhere to traditional practices. This implies that the Notary must personally attend, observe, and listen to every transaction, and ensure that the document is signed in their presence and at the location where the transaction takes place (Girsang et al., 2024). The signature required must be an authentic signature, not an electronic one. This rule ensures that the Notary upholds the formal integrity expected of their role (Indrajab & Hiariej, 2014).

Notaries who are public servants have the duty and authority to make a deed. There are two types of documents: those created "by" a notary, also known as a public servant, and those created in the presence of a notary. A document created "by" a notary is an official record of an act or event performed by the respective public servant. Examples include notarial deeds created during a limited liability company meeting, deeds made at public

auctions, police bond proceedings, court reports by court clerks, and bond proceedings by bailiffs. The use of "by" in this context signifies that the contents of the document are not initiated by the person being reported on. Instead, the public official explains what the participants witnessed and did during the meeting. On the other hand, a document created "in front of" a notary is a report of an act or event requested by the involved parties (Samudera, 1992).

An authentic deed, as defined by Article 1868 of the Civil Code (referred to as BW) and Article 165 HIR or Article 285 RDS, is a legally prescribed document created by a public servant authorized to do so in the location where the deed is executed (Subekti, 2002).

Given the numerous innovations and creative ideas that have emerged, technological progress is advancing at an unprecedented pace. This progress has greatly benefited human communication, making it faster, easier, and more practical. To keep up with this rapid development, the government has enacted the ITE Law, also known as Law Number 11 of 2008 concerning Electronic Information and Transactions, which was later amended by Law Number 19 of 2016. The ITE Law aims to ensure that technological advancements enhance the effectiveness and efficiency of public services. Moreover, technology is not only evolving in the realm of social media but also in the field of law (Rossalina et al., 2016).

The advancement of technology has made it possible for General Meetings of Shareholders (GMS) in limited companies to be conducted electronically through video conferencing or other electronic media. This allows for electronic signatures to be used in the GMS minutes. The rapid growth of electronic information systems and transactions in the era of globalization has had a significant impact on human life. Today, technology provides various conveniences, such as easy communication. This has made human relationships more accessible and practical, impacting various aspects of human life.

With the rapid advancement of information and electronic technology, electronic media has become a crucial platform for communication, coordination, teaching and learning, as well as various types of work. Work involving information and electronic technology includes online business transactions, such as e-commerce and import-export processes. These activities rely on electronic transaction systems, allowing for digital approval through electronic or digital signatures. These digital signatures are legally recognized under the ITE Law and Government Regulation Number 71 of 2019 on Electronic Systems and Transactions.

The emergence of cyber notary as a technological advancement undoubtedly has an impact on the responsibilities and authority of the Notary. The duties and authorities of a Notary are rooted in traditional principles, making it a respected profession that ensures the authenticity of deeds. Honesty and prudence are the core values that guide Notaries in their work. While Notaries have incorporated computer systems in their offices, the focus on the authenticity of a deed still lies in the printed, signed, and sealed document, rather than the electronic format that is prevalent today. However, it is important to recognize the need for change, particularly in the field of notary, as times evolve (Makarim, 2020).

Legal professionals are currently engaged in discussions about the implementation of electronic deeds. The introduction of these digital documents can greatly enhance the efficiency of Notaries in serving the community's interests. As technology continues to advance, it is crucial for Notaries to actively support the growth and development of technology in our country. One way to achieve this is by embracing the concept of cyber notary and incorporating it into the Indonesian notarial legal system in the coming years (Nurita & Ayu, 2012). With the rapid advancement of information and communication technology, the implementation of the cyber notary concept in the field of notary services has become extremely essential. Nowadays, anyone can effortlessly access information and communicate without any limitations of time or location. Similarly, notaries have a crucial

role to play, and they must carry out their duties diligently and efficiently to serve the best interests of all parties involved.

The idea of cyber notary, also known as digital notary, is set to make its way into Indonesia. Therefore, notaries need to equip themselves for the digital era (Nurita & Ayu, 2012). In regards to e-notary, it is crucial to establish proper regulations for the Implementation of Electronic-Based Notarial Administration in Indonesia. These regulations will provide assurance, organization, and legal safeguarding for both the parties involved and the Notaries responsible for creating the deeds (Dari & Bawono, 2022). Digital signatures are created using asymmetric cryptography systems and public key infrastructure. In this process, both public keys and private keys are utilized (Dari & Bawono, 2022). Each person is assigned a unique private key, which is paired with a systematically connected key. This pair of keys is known as the public key. The public key, along with the encrypted electronic document using the private key, is included in the electronic certificate.

The signer is the only one who knows and possesses the private keys, while the public keys are accessible to everyone and serve the purpose of verifying a person's digital signature. The electronic certification authority (CA) is responsible for issuing and managing the key pair and electronic certificate, as stated in the ITE Law and its amendments, as well as Government Regulation Number 71 of 2019 regarding the Implementation of Electronic Systems and Transactions (PTSE). Article 1 number 5 of the Minister of Communication and Information Technology Regulation number 11 of 2018 provides a detailed explanation, stating that an Electronic Certification Provider is a trustworthy entity that offers and audits Electronic Certificates. The recipient can utilize the public key mentioned in the electronic certificate to authenticate the digital signature of the signer. It is impossible for signatories A and B to have the same signature because the private and public keys are generated uniquely.

This research aims to analyze the implementation of notaries in conducting digital signing according to the principle of tabellionis officium fideliter exerceb o and the effectiveness of Digital Signing on Notary Obligations According to the Tabellionis Officium Fideliter Exercebo principle.

METHOD

The author employs normative legal research in this study, utilizing both a statutory and conceptual approach. Legal Materials are categorized into Primary Legal Materials and Secondary Legal Materials. The data collection method involves a literature study or document study. After obtaining legal materials, they are systematically classified based on the subject matter of the study for further analysis.

RESULTS AND DISCUSSION

Implementation of Notary in Conducting Digital Signing According to the Principle of Tabellionis Officium Fideliter Exercebo

The principle of tabellionis officiumm fideliter exercebo guiding principle followed by Notaries in fulfilling their responsibilities and exercising their authority in serving the public who engage in legal transactions. Throughout history, humans have been familiar with the practice of writing, dating back to prehistoric times, as a means to document significant matters. In earlier times, when written evidence was not yet prevalent, reliance was placed solely on witness testimony. The establishment of Notariats can be traced back to 12th century Italy (Rumengan, 2021). During that period, the role of a Notary held great prestige as it was bestowed upon individuals by either the Emperor or the Pope. These individuals were entrusted by the Pope to handle important tasks such as drafting land deeds and other legal documents. Notaries were primarily stationed in cities with bustling ports like Genoa, Pisa, and Milan, which were located within the expansive Roman territory (Doly, 2016). The notary is also an instrumenta publica or public instrument because it is in charge of making

deeds. The Pope stipulates that deeds made by Notaries are Probatio Plena (have a full and perfect burden of proof). Notaries are also considered as officium nobile (a noble and honorable profession) because they have a full and perfect burden of proof given by the Pope. In other areas of Europe, it initially regulated issues regarding the existence of notarization only. However, in the 15th century AD, deeds created by notaries gained recognition as public documents with evidentiary power (Eddy, 2016).

The term "public writers" (*publieke schrijvers*) like "*badals*" (*zaakwaarnemers*) was already known in ancient Roman times. Nowadays, the term is known by the following designations or functions: (Indrajab & Hiariej, 2014)

1. "*notaries*" (a kind of shorthand writer), derived from the word "*notae*".
2. "*tabularius*" comes from the word "*tabula*" (the board on which the scribe takes notes).
3. *tabellio*"/"*tabelliones*", had a job/function similar to today's "*notariats*" (although with many differences) and was noticed by Emperor Justinianus (527-565 BC).

The distinction between tabularii, tabelliones, and notarii has ceased to exist, resulting in the amalgamation of these three terms into a single entity known as "*notarii*" (Indrajab & Hiariej, 2014). The establishment of notarial institutions was not limited to Italy, but also extended to various other nations. For instance, in France, notaries emerged during the reign of King Louis. Initially, notaries were designated as officials by King Louis, but their jurisdiction was confined to the city of Paris. Subsequently, King Philip expanded the appointment of notaries across France in 1304 and implemented laws and regulations governing their practice (Anshori, 2009).

The principle of Tableionis Officium Fideliter Exercebo is a principle that states that Notaries must work traditionally. This means that the parties are obliged to physically come, see, and hear in every deed and be signed by the Notary himself in the presence of the faces directly at the place where the deed is read out by the Notary. In relation to the UUJN, the principle of Tableionis Officium Fideliter Exercebo is reflected in Article 16 paragraph (1) letter "L" which reads "reading out the deed in the presence of the confronter in the presence of at least 2 (two) witnesses and signed at that time by the confronter, witnesses, and Notary". The signature that must be done is an original signature, not an electronic signature. This principle aims to ensure that the formal truth is maintained by the Notary as a form of accountability for his/her office as the principle of Tableionis Officium Fideliter Exercebo.

The principle of Tabelionis Officium Fideliter Exercebo in the UUJN is a lex specialist for Notaries in carrying out their duties and authorities, meaning that the Notary Position Law is the main reference for Notaries in their work. In the practice of Notary work, for example, dealing directly with clients and witnesses. This practice is also a requirement for a deed to becalled an authentic deed.(Samudera et al., 2021)

The rapid development of information and communication technology has had a major impact on various types of professions. In these conditions, one's profession is made more practical and easier. Things that were previously done conventionally or manually can now be done digitally or electronically, such as buying and selling activities, teaching and learning, and meetings. Considering that activities influenced by advances in information and communication technology have become more practical and easier, it is necessary to pay more attention to their implementation. This is because there are important activities, such as agreements or agreements that can also be made electronically. Whereas in it there is an important point, namely the execution of a signature as a form of consent of the parties to an agreement.

Signatures, in general, hold a wide range of significance. They serve as codes or signs that validate signed documents, ensuring their legality. On the other hand, electronic signatures have a more specific purpose. They involve the application of various computer techniques to safeguard document security (Abdulkadir, 2000). E Electronic signatures, also known as digital signatures, play a crucial role in streamlining business transactions. These

signatures are utilized to validate documents. According to Article 1 point 19 of Government Regulation Number 82 of 2012 on Electronic Systems and Transactions, an electronic signature is defined as electronic information linked to other electronic data, serving as a tool for verification and authentication. Additionally, Article 1 point 20 of the same regulation states that electronic signatures are essential for authenticating the identity of signatories and ensuring the integrity and authenticity of electronic information.

Electronic signatures in digital transactions represent the signers' consent to electronic data and/or digital documents signed with electronic signatures. These signatures utilize algorithms and advanced computer methods to ensure the document's contents remain unchanged. As stated in Article 11 paragraphs 1 and 2 of ITE Law Number 11 of 2008, electronic signatures serve as legal evidence

There are currently three distinct notarial systems in place, each with its own unique characteristics. In Latin law countries, civil law notaries play a crucial role. English-speaking countries, on the other hand, have common law notaries. The United States has its own notarial system, which is derived from English common law but has some minor differences. Japan has its own unique process for notarization, particularly when it comes to electronic notary services. In Japan, clients create a digital document in PDF format and include a digital signature. This document is then submitted online through the Ministry of Justice's website and forwarded to the JNAA Electronic Notary Center (Japan National Notary Association). In Indonesia, the legal system follows civil law, influenced by the Dutch legal system. Notaries in Indonesia are public officials who hold positions within the state and possess general powers. They are authorized to create written and authentic evidence in the field of civil law (Setiawan, 2001).

Notaries are part of the elements of society that require juridical norms so that their actors and activities remain in the corridor of applicable legal norms (Purwaningsih, 2019). The 1945 Constitution of the Republic of Indonesia and Pancasila serve as the foundation for this nation, ensuring legal certainty and protection for all its citizens. The state achieves these guarantees through a comprehensive set of laws, regulations, and other provisions. Plato once said that a well-governed country is one that is built upon sound regulations and laws. Notaries play a crucial role in upholding security within the realm of civil law by issuing legally binding documents known as authentic deeds. These deeds serve as tangible evidence of events that establish rights and obligations, created with the intention of providing proof from the very beginning (Mertokusumo, 2019).

Evaluating the economic and legal implications of utilizing electronic signatures is crucial. Economically, electronic signatures are intended to streamline processes, cut costs, and enhance security. On the other hand, legally, electronic signatures should simplify the legal validation of electronic evidence. Furthermore, the advancement of information technology has prompted the government to enact the ITE Law to ensure that technological progress boosts the efficiency of public services (Anshori et al., 2022).

Cyber notary leverages technology to help Notaries authenticate deeds online, streamlining their daily tasks. For instance, teleconferencing can be used for electronic deed signings and shareholder meetings (Wawan, 2007). The Notary Position Law grants Notaries the power to authenticate transactions conducted by Cyber notaries. The concept of authentication originates from the English term 'certification', denoting validation or confirmation. Essentially, certification involves a third party offering written assurance that a product, process, or service has adhered to specific standards following an audit conducted using established procedures. Initially, it was envisioned that cyber notaries would be incorporated into one of the sections of the Notary Law.

Notary services in Indonesia follow a different approach compared to Anglo Saxon countries like the United States. In Indonesia, Notaries act as public officials under civil law, serving the public by creating deeds. While traditional methods have been the norm, the rise

of information technology is pushing for a shift towards electronic-based Notary services, also known as cyber notary

The Notary Position Law offers various opportunities for the implementation of Notary services through electronic systems. According to Article 15 paragraph (3), these systems can be utilized by "other authorities stipulated in laws and regulations". This includes the authority to certify transactions conducted electronically (known as cyber notary), create deeds of pledge for waqf and aircraft mortgages, and more. However, Article 5 paragraph (4) of the Electronic Information Law states that certain types of letters and documents must still be made in written form or in the form of a Notarial deed. On the other hand, Law Number 2 of 2014 defines a Notarial deed as an authentic document made by or before a Notary, following the prescribed form and procedure. To ensure legal certainty and efficiency in society, it is crucial to harmonize the laws and regulations governing the authority of Notaries in the use of electronic signatures. This harmonization should take place between the Notary Position Law and the ITE Law. By doing so, Notaries can avoid any juridical problems related to their authority when using electronic signatures.

The definition of an electronic signature in the ITE Law includes electronic information linked to other electronic data for verification and authentication. This flexibility allows various methods and formats to be legally accepted, as long as they adhere to the requirements. Despite the legal framework in place, the low adoption of electronic signatures in Indonesia may be attributed to challenges in certification and liability. Organizing electronic signatures in practice poses difficulties.

Electronic signature services need a robust security and reliability framework to ensure the integrity of electronically signed documents. In case of any disagreements, the service provider must be able to demonstrate the trustworthiness of their system with expert validation. This involves a third party certifying the electronic signature, confirming the legal identity of the signer, and preventing any denial of the signed document in the future.

This certification role is akin to that of a Notary who performs in-person physical verification and retains the original document to ensure its authenticity. Government Regulation No. 82 of 2012 on the Implementation of Electronic Systems and Transactions (PP 82/2012) has outlined two types of electronic signatures: uncertified (like a scanned signature image attached to a document) and certified. Certified signatures require the use of an electronic certification provider's services and are supported by an electronic certificate. Utilizing asymmetric cryptography technology via Public Key Infrastructure (PKI) can be viewed as a digital signature, offering the highest level of verification and authentication available today. Apart from these methods, there are other verification methods like PIN, username/password with authorization token, or biometric methods (fingerprint or retina).

The Ministry of Communications and Information has recently unveiled Sivion, a cutting-edge electronic signature (digital signature) that is fully certified. However, acquiring a Sivion certificate is no walk in the park, as it entails a meticulous face-to-face verification process during the submission of the digital certificate. Interestingly, not all transaction schemes necessitate a comprehensive authentication system involving in-person requirements, as well as the implementation of asymmetric cryptography and PKI.

Fintech is all about creating new financial distribution channels tailored for retail customers, especially those dealing with small amounts of money. To achieve this, a system must be in place to categorize transactions according to their certification requirements. GR 82/2012 already covers different levels of electronic certification: registered, certified, and indented. The financial authority's role is to offer guidance on transaction standards based on these certifications. While full digital certification might be necessary for high-value transactions, smaller transactions may need quicker and more cost-effective verification methods. Ultimately, fintech aims to promote financial inclusion by providing fast, convenient, and affordable technology solutions.

In order to ensure legal certainty and benefits for the community, it is crucial to align the laws and regulations governing the authority of Notaries in creating electronic deeds. This alignment should bridge the gap between UUJN and ITE Law, as well as between UUPT and UUJN. By doing so, Notaries will no longer face legal challenges when it comes to creating electronic deeds. This will also provide the public with the necessary reassurance regarding electronically conducted legal transactions.

To gain a clear understanding of the practical measures required to implement the advancement of information technology in the creation of authentic legal documents, certain steps need to be taken. From a legal standpoint, the first step involves revising the UUJN (Notary Law) and ITE (Information and Electronic Transactions Law) to ensure harmonization between the two laws, aligning them with the provisions outlined in Civil Law. Substantially, there are several articles within the UUJN that must be carefully revised. These articles currently pose challenges for Notaries when it comes to creating electronic deeds. They include Article 1, numbers 7, 8, and 9, Article 16, paragraph (1), Article 38, paragraph (4), Article 48, paragraph (1), and Article 50. By addressing these specific articles, we can pave the way for a smoother transition towards electronic documentation in the legal field.

With the rapid advancement of technology and the changing landscape of modern society, Notaries are now expected to take on a crucial role in facilitating electronic deeds. To adapt to this shift, it is imperative for the government to update the UUJN to empower Notaries to better serve the needs of today. In order to stay ahead of the curve, Notaries must enhance their skills in electronic data management, ensuring that they are well-equipped to handle the demands of the digital age. Additionally, the Notary Supervisory Council and Notary Organization must establish effective electronic monitoring systems to ensure compliance with legal standards. Investing in the training and development of future Notaries, particularly in the realm of Information Technology, is essential to meet the growing demand for electronic Notarial services. It is crucial that ongoing legal guidance on electronic Notarial deeds is provided to Notaries, with the support of various supervisory bodies such as the Indonesian Notary Association (INI).

Effectiveness of Digital Signing on Notary Obligations According to the Principle of Tabellionis Officium Fideliter Exercebo

Signatures, in general, hold a wide range of significance. They serve as codes or signs that validate signed documents, ensuring their legality. On the other hand, electronic signatures have a more specific purpose. They involve the application of various computer techniques to safeguard document security (Muhamad, 1993). Electronic signatures, also known as digital signatures, play a crucial role in streamlining business transactions. These signatures serve as a secure and efficient way to authorize important documents. According to Article 1 point 19 of Government Regulation No. 82/2012 on the Implementation of Electronic Systems and Transactions, an electronic signature is defined as a signature that consists of electronic information linked, associated, or connected to other electronic information. It serves as a tool for verification and authentication. Furthermore, Article 1 point 20 of the same regulation defines a signatory as a legal entity associated or connected to an electronic signature. In accordance with Article 53 paragraph (1) of PP No. 82/2012, electronic signatures serve two primary functions. Firstly, they authenticate and verify the identity of the signatory. Secondly, they ensure the integrity and authenticity of electronic information. In an electronic transaction, the act of using an electronic signature signifies the signatory's agreement to the electronic information and/or electronic document being signed.

Electronic signatures utilize algorithms and specialized computer techniques to prevent any tampering with document contents. According to Article 11 paragraph (1) and (2) of the ITE Law and Article 53 paragraph (2) of PP No. 82/2012, electronic signatures are considered as

evidence. Article 11 of the ITE Law specifies that electronic signatures are legally binding if they fulfill the following criteria:

1. The electronic signature creation data is linked to the signer;
2. The electronic signature creation data is solely under the control of the signer during the signing process;
3. Any modifications made to the electronic signature after signing can be identified;
4. Any alterations to the electronic information associated with the electronic signature post-signing can be detected;
5. There is a specific method to verify the identity of the signatory; and
6. There are defined procedures to demonstrate that the signatory has consented to the electronic information in question.

The Government Regulation will establish additional guidelines for electronic signatures, as mentioned in paragraph (1). These guidelines will cover various aspects of electronic documents, which are the tools used for electronic signatures. According to the ITE Law article 1 point 4, electronic documents encompass any form of electronic information that can be created, transmitted, received, or stored using analog, digital, electromagnetic, optical, or similar mediums. These documents can be viewed, displayed, and/or heard through a computer or electronic system. They include a wide range of content such as writings, sounds, images, maps, designs, photographs, letters, signs, numbers, access codes, symbols, or perforations that hold meaning and can be understood by individuals who are capable of interpreting them.

The Office of Notary embodies two fundamental qualities: impartiality and independence. These qualities are not just principles, but rather a core belief that they are ingrained in the very essence of the individuals who serve in this esteemed position (Budiono, 2007). Habib Adjie suggests that barcodes can be utilized as a security measure for Notary deeds, such as authentic deeds, to ensure their legal weight and high economic value. By incorporating barcodes on the minutes and copies of these deeds, the expensive technology behind barcodes can be effectively balanced. Originally used in the realm of trade, barcodes can now be explored as a means of enhancing security for Notarial deeds. The primary objective of creating Notarial deeds is to establish legal certainty and safeguard the interests of all parties involved (Adjie, 2018).

The barcode serves as a crucial identifier for the Notary, ensuring that the deed is indeed authentic and created by the respective Notary. In the event that the deed is required in the future, both the involved parties and fellow Notaries can easily verify its legitimacy by scanning the barcode (Adjie, 2018). The barcode system serves as a safeguard for both the minutes and copies of the deed. Its primary function is to authenticate these documents and ensure that they are genuine, having been created by the relevant Notary and containing specific data stored within the system. By employing the barcode system, the aim is to establish legal certainty and protect the interests of all parties involved in the Notarial deed.

Barcodes are essentially a way to encode data in a visual format that can be easily read by machines. Traditionally, they consist of vertical lines of varying thickness separated by specific distances. These lines are scanned by a barcode reader, which is a type of optical device. While barcodes are typically one-dimensional, there are also more complex two-dimensional matrix codes that have been developed to store even more information. These advancements have expanded the capabilities of barcodes beyond simple numeric characters to include all ASCII codes (Adjie, 2018)

In addition to the use of barcodes to ensure the security of minutes and copies of deeds, in its development there are now arrangements regarding electronic signatures or digital signatures which according to the ITE Law and other Government Regulations can be valid and legally binding regardless of one's position and profession. Regarding signatures are regulated in BW in Book Four Chapter II concerning Proof by Writing in Articles 1867-1894

BW.

A signature placed by an individual can transform the status of a private document into a valid deed for those with a stake in it. Additionally, although there is no specific law governing electronic signatures in relation to a Notary's role, it can be considered legitimate if it meets the requirements outlined in Article 11 of the ITE Law and Article 53 of the PSTE Regulation, irrespective of the individual's occupation.

Notaries must stay updated with the current times, particularly in relation to Article 15 paragraph (3) of the UUJN which highlights that Notaries have additional authorities as regulated by laws and regulations. As per the explanation of Article 15 paragraph (3) of the UUJN, this means that Notaries have the authority to create electronic deeds based on cyber notary. However, in practice, this provision may conflict with the provisions in the UUJN because according to Article 1 paragraph 7 of the UUJN, a Notarial deed must be created by or in the presence of a Notary in order for it to be considered an authentic deed with full evidentiary power. Furthermore, Article 16 paragraph (1) letter m emphasizes the Notary's obligation to read out the Deed in the presence of the confronter along with at least 2 (two) witnesses, or 4 (four) witnesses specifically for the creation of a testamentary Private Deed, and it must be signed at that time by the confronter, witnesses, and Notary. Therefore, based on Article 1 point 7 and Article 16 paragraph (1) letter m, it can be concluded that a Notarial deed holds evidentiary power only if it is created by or in the presence of a Notary and signed directly at the time the deed is read out by the proponent, witnesses, and Notary. If these requirements are not met, the deed in question only holds evidentiary value as a handwritten deed according to Article 16 paragraph (9) of the UUJN. Additionally, it should be noted that notarial deeds, which are created in electronic form, are not considered electronic information or documents under Article 5 paragraph (4) letters a and b of the ITE Law. Therefore, electronically created notarial deeds do not possess legal validity as valid evidence in accordance with the provisions of the ITE Law. Considering the limited definition of electronic information/documents stated in Article 5 paragraph (4) letters a and b, an electronically created authentic deed by a Notary is deemed incapable of serving as valid evidence. In this case, the authenticity of the deed created by the Notary is considered unfulfilled.

There are two types of notary deeds: partij deeds and relaas deeds. Partij deeds involve direct interaction between the parties and the notary, with the party signing the deed. On the other hand, *relaas* deeds describe an event and are signed by the notary. Partij deeds cannot use electronic signatures due to the unavailability of a trusted digital certificate, which is necessary for digital signatures. Additionally, there are concerns regarding the certainty of the time and place of making the deed, as well as the problem of implementation. Until these three requirements are met, electronic signatures cannot be used in notary deeds. However, digital signatures or electronic signatures can still be used in *relaas* deeds.

CONCLUSIONS

Notary is an office that has the authority to make an authentic deed, but with the rapid development of technology, there is no relevance to be applied in the present era. Cyber notary has actually been implemented by Notary by using a computer system in carrying out its duties and authorities, but related to electronic deeds, reading deeds online and digitizing deed signatures cannot be done yet, because there are no special rules that provide rules regarding cyber notary. In addition, the notary also pays attention to Article 16 paragraph (1) letter m, which contains the principle of Tabelionis Officium Fideliiter Exercebo, namely the conventional principle of performing duties and authorities conventionally.

Digital signatures are considered as valid as manual signatures according to the ITE Law and Government Regulation Number 71 of 2019 PP PSTE. This means that electronic signatures can be legally recognized. In the context of the GMS, electronic signatures have a

unique role due to the responsibilities of a Notary in creating authentic deeds. The Notary must uphold the principle of *Tabelionis Officium Fideliter Exercebo*, ensuring the integrity of the documents despite the use of electronic signatures. It is essential for Cyber Notaries in Indonesia to have specific regulations governing the use of digital signatures to maintain the authenticity of documents and uphold the role of a Notary as a public official.

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