

# The Urgency of Implementing a Cyber Notary in Indonesia: A Comparative Study with The United States

Winshery Tan<sup>1\*</sup>, Shenti Agustini<sup>2</sup>, Ampuan Situmeang<sup>3</sup>

<sup>1,2,3</sup> Faculty of Law, Universitas Internasional Batam, Batam, Indonesia.

 : winshery@uib.com

Corresponding Author\*



## Abstract

**Introduction:** Current technological developments have an influence on all aspects of human life, including government administration. Notaries are non-governmental public officials who provide public services in providing good governance for the community. However, notarial services in Indonesia are carried out conventionally, which slows down notarial services. Different things happened in America. America is a country that has advanced technology.

**Purposes of the Research:** The aim of this research is to analyze the urgency of implementing cyber notary in Indonesia, find differences in legal regulations and application of law regarding cyber notary in Indonesia and America and find the right solution in organizing cyber notary in Indonesia.

**Methods of the Research:** The research used normative juridical method with secondary data from primary legal sources including various laws and acts like Law Number 2 of 2014, Law Number 30 of 2014, and others related to notarial acts, personal data protection, and blockchain technology in California and Illinois.

**Results of the Research:** The research reveals Indonesia lacks comprehensive laws for cyber notaries. Learning from the US, which has established regulations, Indonesia needs to revise its Notary Law to incorporate cyber notaries and uphold principles of good governance.

**Keywords:** Cyber Notary; Indonesia; United State; Urgency.

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## INTRODUCTION

Indonesia faces various challenges in the current digital era which ultimately requires Indonesia to also face this era. In this era of digitalization, we must realize that the function and role of information technology is very important in economic, social development and other aspects of life. This era also had an impact on various government service lines such as the medical service system, education and other government administration services.<sup>1</sup> In the digital era, rapid changes and developments have had various impacts on various aspects of human life, one of which is the legal and economic aspects. For example, the impact felt on the economic aspect, felt very helped by the rapid development of technology because the development of technology has changed the way of shopping which is usually conventional to online shopping. This online shopping and transaction system or e-commerce has been accommodated in a legal order, namely in Law Number 11 of 2008

<sup>1</sup> Desy Bungdiana and Arsin Lukman, "Efektivitas Penerapan Cyber Notary Dengan Meningkatkan Kualitas Pelayanan Notaris Pada Era Digital," *JISIP (Jurnal Ilmu Sosial Dan Pendidikan)* 7, no. 1 (January 14, 2023), <https://doi.org/10.58258/JISIP.V7I1.4216>.

concerning Information and Electronic Transactions (hereinafter referred to as the ITE Law).<sup>2</sup> A notary is a party who has quite an important function in the economic aspect. Notary is a position given by the state to provide legal certainty to the public. In this case, the notary has the authority to make an authentic deed where the authentic deed is legal evidence that describes all the actions and statements made by the parties. Several types of legal acts that can be stated in the form of authentic deeds include buying and selling, establishing a PT, wills, fiduciary and other agreements.<sup>3</sup>

Making an authentic deed by a notary is one way that a notary can provide legal certainty for the community because an authentic deed can be used as strong evidence in the future if a dispute arises. However, along with current economic developments, the demand for authentic deeds is increasing, for example, legal actions regarding fiduciaries, statements of wills by people during their lifetime also require legal certainty.<sup>4</sup>

Then, in terms of exercising his authority as a notary who provides notarial services to the public, the notary's authority is regulated in Law Number 2 of 2014 concerning the Position of Notaries. Article 16 paragraph (1) letter (m) states that "in carrying out his office, a notary always contacts and interacts directly with stakeholders, specifically in terms of making deeds, the parties must meet with the notary to sign the agreed deed." The sound of this article means that the notary must be physically present in front of the parties to witness the process of signing the deed that has been made. This becomes a requirement to make the deed that is made authentic because if this condition is not fulfilled, the legal impact will be to make the deed that is made into a private deed whose evidentiary strength is not perfect when compared to an authentic deed.<sup>5</sup> This shows that the legal reality or legal events that occur in the field are not able to keep up with the needs of society and technological developments as well as the development of current business needs. Therefore, one of the legal products that will be revised is the Law Concerning Notary Positions, which must begin to consider regulations regarding cyber notaries.

However, basically there are several laws and regulations that provide opportunities for cyber notaries to be implemented as per the authority regulated in Law Number 8 of 1997 concerning Company Documents and Law Number 19 of 2016 concerning Information and Electronic Transactions (ITE). However, on the other hand, there are also several regulations that do not allow the cyber notary concept to be implemented, namely the Civil Law Code which emphasizes that authentic deeds can be strong evidence provided that they must fulfill certain conditions. If these requirements are not met, it will affect the strength of the evidence. The invalidity of a notarial deed is contrary to the regulations in UUJN which emphasize that notaries should produce deeds that are able to provide legal certainty so as to provide protection to the parties. The connection between the UUJN and various other statutory regulations is an important consideration in the context of revising the UUJN.

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<sup>2</sup> Fabela Rahma Monetry and Budi Santoso, "Keabsahan Dan Kekuatan Pembuktian Akta Notaris: Perspektif Cyber Notary Di Indonesia," *Notarius* 16, no. 2 (2023): 666–85, <https://doi.org/10.14710/nts.v16i2.41120>.

<sup>3</sup> Herlien Budiono, "Arah Pengaturan Undang-Undang Nomor 40 Tahun 2007 Tentang Perseroan Terbatas Dalam Menghadapi Era Global," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 1, no. 2 (August 31, 2012): 187, <https://doi.org/10.33331/Rechtsvinding.V1I2.96>.

<sup>4</sup> I Gede Agus Yudi Suryawan and Dewa Nyoman Rai Asmara Putra, "Tanggung Jawab Notaris Menggunakan Layanan Ditjen Adu Online Dalam Hal Pendaftaran Akta Dan Pengesahan Badan Hukum," *Acta Comitatus* 5, no. 3 (December 14, 2020): 492, <https://doi.org/10.24843/AC.2020.V05.I03.P05>.

<sup>5</sup> Luthvi Febryka Nola, "Peluang Penerapan Cyber Notary Dalam Peraturan Perundang-Undangan Di Indonesia," *Negara Hukum: Membangun Hukum Untuk Keadilan Dan Kesejahteraan* 2, no. 1 (August 4, 2016): 75–101, <https://doi.org/10.22212/JNH.V2I1.187>.

There are several previous studies that discuss cyber notaries, one of which is research conducted by David Tan with the research title "Cyber Notaries from A Contemporary Legal Perspective: A Paradox in Indonesian Laws and The Marginal Compromises To Find Equilibrium". From the research results, it was found that the implementation of cyber-notary in Indonesia is still far from expectations. This condition occurs because related laws still create legal paradoxes, resulting in the inability of notaries in Indonesia to develop into cyber-notaries.<sup>6</sup>

Based on the results of previous research conducted by David Tan, due to a legal paradox, notaries in Indonesia are unable to carry out cyber notary services in realizing good public services for society with the current very rapid development of digitalization. Therefore, in this research, we will discuss and provide a legal analysis regarding the urgency of establishing a cyber notary in a legal scheme in order to provide certainty for notaries in implementing cyber notary in providing maximum services to the public in the current era of digitalization.

Then there is also previous research entitled "Implementation of Cyber Notary in Indonesia Reviewed in Efforts for Bureaucratic Reform Era 4.0" written by Fadhila Rizqy and Siti Nurul Intan Sari focusing on Cyber Notary which is a form of technology-based public service bureaucracy that can help government administration to achieve good governance. The results of the research discuss the perspective of the benefits of implementing Cyber Notary which is felt to be more effective and efficient. These two previous studies analyzed the importance of implementing cyber notary, but there has been no discussion to the extent that implementing cyber notary will be very helpful and even become an urgency in realizing good governance in this era of digitalization.

Cyber notary is an urgency in realizing good governance as regulated in Law Number 30 of 2014 concerning Government Administration. Article 5 states that "Government Administration is based on: a. principle of legality; b. the principle of protecting human rights; and c. AUPB". Then Article 10 paragraph (1) of the AUPB referred to in this Law includes the principles of: a. legal certainty; b. expediency; c. impartiality; d. thoroughness; e. does not abuse authority; f. openness; g. public interest; and h. good service. To deepen the analysis, comparisons are needed with settings from countries such as the United States, which is one of the leading countries in technological progress, including digitalization. The use of digital notary services, or what in the United States is usually called e-notary, has developed very well with the support of quite good use of technology, without having to utilize dedicated technology systems, and only utilizing technology that is usually used in small and medium businesses.

## METHODS OF THE RESEARCH

The research method used in this research is normative juridical. This normative juridical research method was carried out through literature study and using a comparative study method with the United States. The type of data used comes from secondary data consisting of primary legal materials, namely Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notaries, Law Number 30 of 2014 concerning Government Administration, Law No. 8 of 1997 concerning Company Documents (DP

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<sup>6</sup> David Tan, "Cyber-Notaries From A Contemporary Legal Perspective: A Paradox In Indonesian Laws And The Marginal Compromises To Find Equilibrium," *Indonesia Law Review* 10, no. 2 (August 31, 2020): 1, <https://doi.org/10.15742/ilrev.v10n2.635>.

Law), Law Number 1 of 2024 concerning Amendments to Law Number 19 of 2016 concerning Electronic Information and Transactions, Uniform Law on Notarial Acts, Revised Uniform Law on Notarial Acts, Uniform Personal Data Protection Act, California Consumer Privacy Act, and Illinois Blockchain Technology Act. Then secondary legal material consisting of scientific journal articles related to discussions of cyber notaries and good governance.

## RESULTS AND DISCUSSION

### A. Implementing a Cyber Notary is an Urgency in Indonesia

In the reform era in Indonesia, Indonesia experienced many changes, especially in government governance, such as the emergence of Good Governance. This arose because of demands during the New Order era, at which time people's trust in the government was reduced. This ultimately resulted in the constitution and other state institutions functioning less than optimally and this was also made worse by the obstruction of social control in the government at that time.<sup>7</sup>

The concept of good governance is a series of processes of exercising power in providing goods and services to society. Therefore, in administering government, both in terms of national development and public services, the principles of good governance must be implemented. Based on the view of regional autonomy as currently adopted by Indonesia, implementing good governance is something that is urgent to be realized. This means that good governance refers to a government management process that involves a wide range of stakeholders in the economic, social and political aspects of a country in accordance with the principles of justice, honesty, equality, efficiency, transparency and accountability.<sup>8</sup>

This concept of good governance exists since there is public dissatisfaction with the performance of the government, which should be responsible for good public administration but has not been carried out properly and as it should be. Therefore, the application of the concept of good governance is very important in the implementation of public services.<sup>9</sup> However, along with current technological developments, the implementation of public services is also required to keep up with these technological developments. This is very important as a manifestation of the implementation of public services that prioritize the principles of Good Governance with the aim of creating a society that is more modern and sensitive to technological developments in the current digital era. The emergence of an innovation or something new usually has pros and cons. This then needs to be discussed further so that the government can find out whether online-based public services or what is usually called E-Government can run and produce services that are efficient, fast, precise and friendly.<sup>10</sup>

Every country is trying to improve its government services to the public by utilizing existing technological developments, namely through e-government. This is considered very important because through e-government it can also increase government

<sup>7</sup> Fitria Andalus Handayani and Mohamad Ichsana Nur, "Implementasi Good Governance Di Indonesia," *Publica* 11, no. 1 (June 1, 2019): 1-11, <https://doi.org/10.15575/JPAN.V11I1.7631>.

<sup>8</sup> Djumadi et al., "Penyelenggaraan Tata Pemerintahan Yang Baik Di Lingkungan Pemerintah Kecamatan Di Kota Samarinda," 2019, <https://doi.org/10.30872/JP.V7I1.1884>.

<sup>9</sup> Gidion Steven Hutagalung, "Peningkatan Mutu Pelayanan Publik Dalam Rangka Mewujudkan Good Governance Di Pelayanan Terpadu Satu Pintu (PTSP)," *Jurnal JURISTIC* 2, no. 01 (April 24, 2021): 99-115, <https://doi.org/10.35973/JRS.V2I01.2141>.

<sup>10</sup> Fitri Ayuningtiyas, "Implikasi Pemerintah Terkait Pelayanan Publik Secara Online Dalam Perspektif Hukum Administrasi Negara," *Education : Jurnal Sosial Humaniora Dan Pendidikan* 2, no. 3 (December 8, 2022): 48-57, <https://doi.org/10.51903/Education.V2I3.259>.

transparency and accountability in realizing the principles of good governance. For example, countries that have implemented it are the Republic of Korea, Singapore, Japan, Australia, Finland. Meanwhile, Indonesia is still included in the Middle E-government Development Index (EDGI) category. Based on the results of the 2016 EDGI survey, the Information and Communication Technology Training and Development Center (BPPTIK) on the website [bpptik.kominfo.go.id](http://bpptik.kominfo.go.id) released that in 2016 Indonesia was ranked 116th in EDGI, down 10 places compared to 2014 which was ranked 106th. This condition is still far below countries in Southeast Asia such as Malaysia (60th), the Philippines (71st), and Brunei Darussalam (83rd).<sup>11</sup>

A notary is one of the parties responsible for providing public services to the community through notarial services. Article 1 point (1) of Law Number 2 of 2014 provides the definition of a notary, namely "a notary is a public official who has the authority to make authentic deeds and has other authorities as regulated in this law or other laws". Public Official comes from the term *OpenbareAmbttenaren*, *ambttenaren* has the meaning of an official while *openbare* means that an official has responsibilities related to the interests of the community. Therefore, a notary who as a public official has the responsibility to make authentic deeds as a form of public service intended for the community.<sup>12</sup>

The responsibilities, authority and duties of a notary have been accommodated in positive law. The authority of a notary is to provide public services in order to realize the ideals of law, namely legal certainty, in the form of the deeds he produces. In the UUJN, as a positive law that accommodates the authority of notaries, it emphasizes that notaries have the authority to produce authentic deeds, then the notary's authority is further accommodated in Article 15 UUJN.

Article 15 paragraph (3) UUJN states that "in addition to the authority as intended in paragraph (1) and paragraph (2), Notaries have other authorities as regulated in statutory regulations." This provision means that the notary has other powers, for example certifying digital transactions, waqf pledges, airplane mortgages. The provisions in this article provide an opportunity or potential for notaries to be able to produce certificates or deeds in digital form. This also means that the potential for holding a cyber notary in Indonesia is not impossible.<sup>13</sup>

Based on this, the implementation of cyber notary is an opportunity and urgency in providing good public services in realizing good government. A cyber notary is someone who has specialization skills in the fields of law and computers.<sup>14</sup> In the case of a notary in making a deed as part of his authority with the cyber notary concept, he must present witnesses as regulated in Article 16 paragraph (1) letter (m) UUJN which confirms that: "the notary is obliged to read the deed in front of an audience with at least 2 people present.

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<sup>11</sup> Khofifatul Ummah and Ilmi Usrotin Choiriyah, "Implementation of E-Government through the Sidoarjo Regency Electronic Office Manuscript Application (E-Buddy) (Case Study in Kajeksan Village Government, Tulangan District, Sidoarjo Regency)," *Budapest International Research and Critics Institute (BIRCI-Journal)*, 2023, <https://doi.org/10.33258/BIRCI.V6I1.7494>.

<sup>12</sup> Jozan Jozan Adolf and Widhi Handoko, "Eksistensi Wewenang Notaris Dalam Pembuatan Akta Bidang Pertanahan," *Notarius* 13, no. 1 (March 6, 2020): 181-92, <https://doi.org/10.14710/nts.v13i1.29313>.

<sup>13</sup> Tamara Dwi Rizki Amanda and Wardani Rizkianti, "Urgensi Penerapan Sistem Cyber Notary Ditengah Pandemi Covid 19," *Yurispruden* 4, no. 2 (June 30, 2021): 144, <https://doi.org/10.33474/YUR.V4I2.9299>.

<sup>14</sup> Friko Rumadanu, Esther Masri, and Oti Handayani, "Penggunaan Cyber Notary Pada Akta Autentik Dan Kekuatan Pembuktiannya Dalam Perspektif Undang-Undang Jabatan Notaris," *Krtha Bhayangkara* 16, no. 1 (April 3, 2022): 89-100, <https://doi.org/10.31599/KRTHA.V16I1.1032>.

"Witness or 4 special witnesses for making a will under the hand and signed at that time by the presenter, witness and notary."

Then, article 5 paragraph (4) of the Information and Electronic Transactions Law provides an exception that a deed made by a notary in digital form is valid evidence. This creates the potential for legal problems both civil and criminal for notaries. If a comparison is made between Article 16 paragraph (1) letter (m) and Article 15 paragraph (3) UUJN, it can be concluded that the two laws and regulations conflict with each other. The implementation of cyber notary cannot yet be implemented because there is no positive law that strictly regulates the implementation of cyber notary, in fact the existing laws and regulations conflict with one another, especially regarding formal requirements, namely regarding the presence of the parties, the deed must be read and signed directly by the parties.

These formal requirements are accumulative in nature, that is, if even one condition is not fulfilled then the notarial deed made by the notary becomes null and void or can be called a private deed. However, if we examine Article 15 UUJN, the concept of cyber notary should be very applicable in Indonesia, but the provisions of this article do not yet have any further provisions or regulations. Therefore, it is an urgency to form positive law in the implementation of cyber notary in Indonesia.<sup>15</sup>

Based on this, from a positive legal perspective the implementation of cyber notary seems to be impossible to implement in Indonesia even though notarial services, as one of the oldest legal professions, are an inseparable part of the legal service system in every country, including Indonesia. Notary can provide legal certainty to the community, especially in various civil issues, which can significantly impact the lives of Indonesian people.<sup>16</sup> This important role makes the Notary profession an essential profession in enforcing the law and guaranteeing legal certainty in Indonesia, as well as ensuring that the activities of many people are carried out in accordance with applicable legal provisions.<sup>17</sup>

Therefore, current notary services do not reflect the principles of good governance as regulated in Article 10 paragraph (1) of Law Number 30 of 2014 concerning Government Administration which emphasizes that a set of principles of good governance must include: a. legal certainty; b. expediency; c. impartiality; d. thoroughness; e. does not abuse authority; f. openness; g. public interest; and h. good service.

Based on the current phenomenon of notarial services in Indonesia, the implementation of notarial services does not yet reflect the existence of: 1) The principle of legal certainty which has the meaning of prioritizing the basic provisions of laws and regulations, propriety, consistency and justice in every government administration policy. If you want to implement cyber notary in the current digital era, then it does not fulfill the principle of legal certainty because the cyber notary provisions do not yet have clear rules because the cyber notary concept is flawed with formal requirements and cannot support the validity of a notarial deed based on the provisions set out in Law Concerning Notary Positions; 2) The principle of benefit has the meaning that it must pay equal attention to: (1) the interests of

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<sup>15</sup> Mahfuzatun Ni'mah Sona, "Penerapan Cyber Notary Di Indonesia Dan Kedudukan Hukum Akta Notaris Yang Bebas Cyber Notary," *Jurnal Officium Notarium* 2, no. 3 (December 1, 2022): 497-505. <https://doi.org/10.20885/Jon.Vol2.Iss3.Art12>.

<sup>16</sup> Marcho Gideon Vicenco Ngongoloy, "Kekuatan Hukum Sertifikat Tanah Sebagai Bukti Kepemilikan Berdasarkan PP Nomor 18 Tahun 2021," *Lex Privatum* 10, no. Pasal 3 (2022): 1-2.

<sup>17</sup> Alidatussadiyah Almuslimah, Mohammad Ryan Bakry, and Chandra Yusuf, "Kepastian Hukum Dalam Penyelesaian Pelanggaran Etika Rangkap Jabatan Notaris Oleh Majelis Pengawas Daerah," *ADIL: Jurnal Hukum* 12, no. 2 (2022): 21-54. <https://doi.org/10.33476/ajl.v12i2.2111>.

one individual and the interests of other individuals; (2) individual interests with society; (3) the interests of community members and foreigners; (4) the interests of one community group and the interests of another community group; (5) government interests with community members; (6) the interests of the current generation and the interests of future generations; (7) the interests of humans and their ecosystem; (8) the interests of men and women. Based on the practice of notarial services that have been running so far, they do not reflect the principle of benefit because services that are still classified as manual are not able to answer the interests of society in the current era of digitalization, especially the interests of the current business world which demands that everything be fast and fast. Efficient; 3) The principle of good service means providing timely service, clear procedures and costs, in accordance with service standards and statutory provisions. Based on the current practice of notarial services, which are still carried out manually to maintain the validity of notarial deeds as stipulated in the law concerning Notary Positions, it is very difficult to provide timely services in the current era of digitalization.

### B. Best practices in America regarding cyber notaries that can be applied in Indonesia

The implementation of digital notarial services in the United States opens opportunities for innovation in the legal system. Digital notary services in the United States are currently still being developed to take advantage of various new technologies available, such as blockchain technology. This technology offers the potential to increase transparency and security in the notarial process, with previously unattainable levels of privacy, using a blockchain ecosystem based on decentralizing data access and control. Meanwhile, Indonesia does not have regulations governing the use of advanced technology such as blockchain, which can also increase the level of data protection and security, like the United States, or more precisely the state of Illinois. The use of this technology is very significant considering the blockchain's ability to form smart contracts that are created and stored in the blockchain ecosystem, which can be used in notarial services. Apart from that, legal regulations in America are more comprehensive than in Indonesia. The following is a set of legal regulations in America that regulate digital-based notary services:

**Table 1. Laws in America Regarding Cyber Notaries**

Legal Basis	Regulatory Terms
Uniform Law on National Act (ULONA) Revised Uniform Law on Notarial Act (RULONA)	This arrangement regulates the validation of documents and legal transactions carried out online
California Consumer Privacy (CCPA), Uniform Personal Data Protection Act (UPDPA)	This setting regulates the protection of personal data
Blockchain Technology Act (BTA)	This regulation regulates the use of blockchain and smart contracts in notary services
Revised Pasal 14 A (k) Uniform Law on National Act (RULONA)	This regulation regulates the obligation to store notary audio-visual recordings
Revised Pasal 23 ayat (a) (6), Pasal 25 Revised Uniform Law on Notarial Act	These settings regulate the advertising and promotion of legal notarial services

**Table 2. Laws in Indonesia Regarding Cyber Notaries**

Legal Basis	Regulatory Terms
Law Number 27 of 2022 concerning Personal Data Protection	The regulations are complex but not comprehensive because there are no regulations regarding data management in the form of cookies.
Law Number 11 of 2008 concerning Information and Electronic Transactions	Electronic Signature as a service guarantees the legal force of Electronic Signatures and/or in Electronic Information and/or Electronic Documents.
Law no. 43 of 2009 concerning Archives (Archive Law).	Retention of district/city and provincial inactive archives for 10 years.
Notary Code of Ethics.	Notaries are prohibited from promoting their services

Based on these two tables, there are significant differences between Indonesia and America in terms of legal instruments. America has more complete legal instruments to accommodate digital notary services compared to Indonesia. Based on Indonesian law, a notary is a public official, a non-government service official who participates in providing public services as regulated in Law Number 2 of 2014 concerning the Position of Notary Public, which is specifically regulated in Article 1 paragraph (1) that "a notary is an authorized official. authorized to make authentic deeds". However, notarial services in Indonesia have so far been carried out conventionally. Along with current technological developments, notary services should be integrated with increasingly advanced technological developments to realize good public services and good governance, namely through cyber notary institutions. Through the cyber notary concept, notary services are believed to be able to provide fast, precise and efficient public services to support the current pace of economic growth.

Notaries expressly have authority in terms of cyber notary in the explanation of Article 15 paragraph (3) UUJN-P "What is meant by other authority regulated in statutory regulations, among others, is the authority to certify transactions carried out electronically (cyber notary), make deeds, waqf pledges, and airplane mortgages." Certification, which comes from English, means information or validation, and also means a procedure from a third party that provides a written guarantee for processes, products or services that meet the requirements and standards and are also mutually agreed upon. The authority of a Notary in certifying electronically has the aim of guaranteeing order, certainty and legal protection for the public. With increasingly fast technological developments, there is an interest in valid evidence, which also has an authentic character regarding legal acts, stipulations, agreements and legal events. formed by officials who have this authority.<sup>18</sup>

If we refer to the provisions of Article 1-point (7) UUJN-P "Notarial Deed, hereinafter referred to as deed, is an authentic deed made by or before a Notary in accordance with the

<sup>18</sup> Syamsul Bahri, Annalisa Yahanan, and Agus Trisaka, "Kewenangan Notaris Dalam Mensertifikasi Transaksi Elektronik Dalam Rangka Cyber Notary," *Revista de Patologia Tropical*, 2019, <https://doi.org/10.28946/RPT.V0I0.356>.



form and procedures stipulated in this Law." Furthermore, Article 16 paragraph (1) letter m UUJN-P "The Notary must read the deed in front of the audience in the presence of at least 2 (two) witnesses, or 4 (four) special witnesses for making the Deed of Will under his hand and signed at the time also by presenters, witnesses and notaries." Article 16 refers to the parts of the authenticity of a deed which are explained by Article 1868 of the Civil Code "An authentic deed is a deed made in a form determined by law by or before a public official authorized to do so in the place where the deed is made". Because it is explained further that "the strength of the notarial deed itself as evidence lies in the unique character of the maker, in the case of a notary who is appointed directly by law as a public official who is given the authority to make a deed."<sup>19</sup>

If we analyze these two provisions, namely Article 15 paragraph (3) and Article 16 paragraph (1) with reference to Article 1868 of the Civil Code, it clearly creates a blurring of norms. Where the explanation of Article 15 paragraph (3) gives Notaries the authority to carry out transaction certification electronically or with cyber notary institutions, but the further mechanism for executing these transactions is not explained. In this cyber notary, the presenters must physically appear face to face in front of the Notary as the public official who executes the deed, or can it be done virtually face to face via a permitted electronic medium? Because the meaning of cyber notary explained by the author above is that the existence of electronic media makes it possible for transactions to take place without having to meet physically, or virtually face to face.

Ratifying deeds using the cyber notary concept requires legal certainty in the arrangement. Terms and conditions for authenticating authentic deeds by Notaries which are carried out digitally or virtually using electronic methods. Therefore, it is urgent to renew the UUJN-P, especially regarding the ratification of deeds that are legalized and made, both the meaning of the phrase "face to face" with the Notary Public, as well as the method of signing the deed, which is done electronically, needs to be done. Thus, in carrying out and carrying out the duties and functions of his position as a Notary, the Notary is no longer left behind and can become an integral part of technological developments in the era of globalization 4.0. Notaries as public officials who hold part of the State's authority can provide more efficient and effective services to the public without violating the law and the provisions of the laws and regulations that have been established. Therefore, the ideal legal solution is the need for a revision of the Law Concerning Notary Positions which must be adjusted to the principles of good governance in terms of notarial services. The function of general principles of good governance in administering government is as a guide or guide for the government or state administration officials in the context of good governance. In this connection, Muin Fahmal stated that the general principles of proper government are guidelines for state administrators in carrying out their duties. These signs are needed so that actions remain in accordance with the true objectives of the law.

In its development, AAUPB has had the following importance and functions:<sup>20</sup> 1) For state administration, it is useful as a guide in interpreting and implementing statutory provisions that are vague, vague or unclear. Apart from that, it also limits and avoids the possibility of state administration using *ermessenfreies*/carrying out policies that deviate greatly from statutory provisions. In this way, state administration is expected to avoid acts

<sup>19</sup> Sjaifurrachman and Habib Adjie, "Aspek Pertanggungjawaban Notaris Dalam Pembuatan Akta," 2011, 299.

<sup>20</sup> Solechan Solechan, "Asas-Asas Umum Pemerintahan Yang Baik Dalam Pelayanan Publik," *Administrative Law and Governance Journal* 2, no. 3 (August 1, 2019): 541-57, <https://doi.org/10.14710/ALJ.V2I3.541-557>.

of onrechtmatiggedaad, détournement de pouvoir, abuse de droit, and ultravires; 2) For members of the public, as seekers of justice, AAUPB can be used as a basis for a lawsuit; 3) For TUN Judges, it can be used as a tool to test and cancel decisions issued by TUN bodies or officials; 4) AAUPB is also useful for legislative bodies in drafting laws.

Based on one of the functions of the AAUPB, the design or amendment of the law should be adjusted to the principles of good governance. Therefore, the solution for changing the law regarding notary positions in realizing good notarial services in the current era of digitalization is as follows: 1) It is very possible to accommodate the concept of cyber notary in the Law on Notary Positions, but the question is regarding the authenticity of a deed based on cyber notary. So if we refer to Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems, which means that an electronic certificate which contains an electronic signature and identity shows the legal subject status of the parties in an electronic transaction issued by the electronic certification organizer, while the electronic certification organizer is A legal entity that has the function of being a party that can be trusted and can carry out electronic certification audits. If you refer to this definition, the authority to certify electronic-based transactions is the notary as the institution responsible for the certification. Therefore, the provisions of article 15 paragraph (3) UUJN can have the meaning that a notary has the authority to certify electronic certificates. However, in the provisions of this article, there needs to be further regulation regarding the authority and qualifications for electronic-based certification in Article 15 paragraph (1) UUJN (authentic deed) or inauthentic; 2) The concept of cyber notary in the UUJN revision must pay attention to several things, namely the need for changes in notary authority. The notary's authority in question is his authority to facilitate the business world in Indonesia, then changes to the notary's authority also need to be considered so as not to degrade the essence of an authentic deed, and there needs to be strict provisions regarding security guarantees for a deed made electronically.<sup>21</sup>

Then regarding electronic-based signatures, the notary can refer to the provisions in Article 60 of Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions which regulates that electronic-based signatures recognize the existence of certified electronic signatures and uncertified signatures. Certified electronic signatures must fulfill several conditions, namely fulfilling the validity of the legal force and legal consequences of electronic signatures as stipulated in Article 59 paragraph (3) PP a quo, using an electronic-based certificate made by an electronic-based certification provider, carried out using a manufacturing device certified electronic signature. Based on the provisions of these regulations, notaries should be able to use certified electronic signatures to guarantee the security of a deed. These changes to the Law Concerning Notary Positions can guarantee the fulfillment of the general principles of good governance, namely the principle of legal certainty, the principle of good public service and the principle of benefit as well.

## CONCLUSION

Current technological developments have various impacts on human life, including on the governance of a country. Therefore, government administration must also synergize

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<sup>21</sup> Muhammad Farid Alwajdi, "Urgensi Pengaturan Cyber Notary Dalam Mendukung Kemudahan Berusaha Di Indonesia," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 9, no. 2 (August 27, 2020): 257, <https://doi.org/10.33331/Rechtsvinding.V9I2.422>.

with advanced technological developments to realize good governance. A notary is a non-governmental public official who provides public services to the community in terms of providing legal certainty through the authentic deeds he produces. However, unfortunately, notary services in Indonesia are currently still carried out conventionally. In fact, the concept of cyber notary has become an urgency and pressure in today's advanced technological developments. The implementation of cyber notary has been implemented in several countries, one of which is in the United States as a comparative example of the implementation of cyber notary which is good because in America it has a complete set of legal regulations in regulating cyber notary while the laws and regulations in Indonesia are not yet in synergy with each other and the regulation is not yet clear. to carry out cyber notary services for notary services in the community. Therefore, there is a need for a revision of Law Number 2 of 2024 concerning the Position of Notaries which can accommodate the cyber notary institution by taking into account the principles of good governance as regulated in Law Number 30 of 2014 concerning Government Administration.

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