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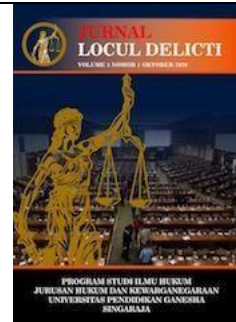
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## **THE IMPACT OF DIGITAL DEVELOPMENT ON THE DUTIES AND AUTHORITIES OF NOTARIES IN INDONESIA**

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### **Abstract**

The development of digital technology has brought changes significant in system service law, including in field notary as public officials who have authority For make authentic deeds faced with challenges adaptation to system Work digital- based research This aim For analyze implications development digital technology towards implementation duties and authorities notaries in Indonesia. The study focused on the use of sign hand electronics, services General Legal Administration (AHU Online), as well as digitalization document like Certificate Electronic Property Rights. Research results state that digital transformation in practice Notary Public is an inevitability that must be balanced with regulatory reform, increasing capacity technology notary, and strengthening protection law to document electronics. Recommendations main proposed is compilation regulations special about digital notary and strengthening infrastructure and training based technology in econotarial system national.

## **Introduction**

The development of digital technology has brought changes big in various aspect life, including in field law and services service notary. Digitalization No only change method public interact and do transaction, but also demanding profession law, including notary, for adapt self with dynamics of the times. In the midst of the era of revolution Industry 5.0 and digital transformation, duties and authorities Notary Public as officials general participate experience challenge at a time opportunity in context modernization service law.

Notary Public is officials general public who are on duty and are obliged give service as well as consultation law to society that needs it.<sup>1</sup> Notary Public in operate his profession play a role as waiter society and is officials appointed by the government.<sup>2</sup> Constitution Number 30 of 2004 concerning Position Notary, who has changed through Constitution Number 2 of 2014 concerning Change on Constitution Number 30 of 2004 ( hereinafter referred to as Law No. called UUJN), is the only one regulations that govern position notary in Indonesia.

Notary, based on provision Constitution Number 2 of 2014 concerning Position Notary, has function main as compiler authentic deeds and implementer function service law to society. In implementation, notary required operate his duties manually, written, and based document physical. However, the reality show that public now start demand efficiency, speed, and flexibility through service digital -based, including in matter manufacturing deed, consultation law and communication administrative other.

Digitalization is something form change from technology mechanic as well as analog electronics to digital technology. Progress technology information like use of electronic signatures, storage digital documents, and systems online services start penetrate to realm notary. This is cause various problem juridical about validity, power law, as well as boundaries authority Notary Public in use digital technology. In addition that, the question also arises about to what extent the law positive in Indonesia can accommodate practice notary digitally based valid and effective.

Digital transformation in field notary No only nature technical, but also contains dimensions normative and ethical requirements reviewed in a way deep. In one side, digitalization potential increase quality and efficiency service notary. But on the other hand, without clear regulations and protection adequate law, use technology precisely can cause risk law, such as data falsification, breach privacy, or weakening mark authentic from deed Notary Public.

Based on background behind said, the paper This aim For study in a way critical How development digital technology influences duties and authorities notaries in Indonesia, as well as give recommendation law to strengthening regulations and practices adaptive notary to changing times.

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<sup>1</sup> Gunardi and Markus Gunawan, 2007, *Notary Law Code*, Raja Grafindo, Jakarta, p. 534

<sup>2</sup>Tan Thong Kie, 2007. *Studies Notary & Miscellaneous Practice Notary*. PT. Ichtiar Baru Van Hoeve, Jakarta, p. 449

### **Formulation Problem**

Based on description background back above, then can formulated problem as that is as following :

- 2.1. How implications development digital technology towards implementation duties and authorities notary in Indonesia?
- 2.2. What just challenge the law being faced Notary Public in operate his duties in the digital era?

### **Research Methods**

Method research used is study doctrinal with approach juridical normative that is research that uses *legis positivist*, who stated that law identical with norms written regulations made and promulgated by an institution or authorized officials. In addition That conception This look at law as something system normative in nature autonomous, closed and detached from life public.<sup>3</sup>

Writer use a number of approach that is *statute approach*, *comparative approach* and *conceptual approach*. Peter Mahmud Marzuki state that, *statute approach* or approach legislation is approach with use legislation and regulation. <sup>4</sup>*Statute approach* technique use hierarchy legislation, principles legislation and also interpretation law. *Comparative approach* or approach comparison is activity For compare law one country with another country or law in time certain with law from another <sup>5</sup>time. Peter Mahmud Marzuki state that, the approach conceptual or *conceptual approach* is carried out while researchers No move on from existing regulations, where the laws that govern No clear.<sup>6</sup>

### **Result and Discussion**

#### **A. Implications Development Digital Technology Against Implementation Duties and Authorities Notary in Indonesia**

Development digital technology in decade final has give significant influence to various aspect life, including in field law and notary. According to Marilyn Deegan, digitalization is a conversion process from all form document printed or others to in presentation digital form.<sup>7</sup> Need public will service fast, efficient and flexible law has push birth digital innovation in service processes public. Notary as officials general authorities make deed authentic participate experience pressure For adapt self with the digital era. Dynamics This require reformulation to system work, regulation, and competence professional notary to remain relevant with demands of the times.

Draft Digital Notary starts develop as response to change the. Digital notarization refers to use technology information and communication in support tasks notary, such as compilation deeds, data verification, up to archiving document in a way electronics. Purpose mainly is speed up service, reducing risk manual errors, as well as expand access public to service law. Although draft This Not yet fully accommodated in regulations, some digital initiatives have walking, like system service based applications and signs digital hand in deed outside position.

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<sup>3</sup>Peter Mahmud Marzuki, 2005, *Legal Research*, Kencana Prenada Media Group, Jakarta, p. 37.

<sup>4</sup>*Ibid* ., p. 97

<sup>5</sup>*Ibid* ., p. 133

<sup>6</sup>*Ibid* ., p. 137

<sup>7</sup>Dewa Ayu and Ni Ketut. *Protection Transformation Work Deep Lontar Creation Form Digitalization*, in Journal of Law, Vol. 5, No. 2, (Bali: Udayana University, 2020), p. 303.

The Ministry of Agrarian Affairs and Spatial Planning/BPN has initiated transformation big through implementation Certificate Electronic Property Rights (e-SHM). Innovation This aim replace physical land certificate with document electronics that have strength the same law. The role of a notary in this process become important, especially in do verification documents, binding agreements and reporting to system BPN electronic. Changes This No only speed up the administrative process land, but also demands Notary Public understand procedure technical and legal the digital system.

In field civil, role Notary Public the more shift to digital realm with existence system service General Legal Administration (AHU Online) developed by the Ministry of Law and Human Rights. This allows submission and formation of legal entities such as Limited Liability Company (PT), Commanditaire Vennootschap (CV), Foundation, Association, and Cooperative done online. Notary on duty upload deed establishment, doing verification through account registered, as well as receive a legal entity legalization decree in a way electronics. Implications from system This is efficiency time and costs, as well as improvement transparency in the process of establishing a legal entity.

Implementation digital services at AHU have an impact straight to the point Work notary. Previously, the legalization and ratification process need presence physically at the Ministry office, now all processes can done from office notary. However, this this also demands Notary Public have the necessary technological skills and access to stable internet network. Besides that, validity document and data integrity in digital systems must guaranteed not to cause gap laws that can misused.

Transformation also gives rise to challenge new related validity and power law from the resulting document in a way electronics. In law positive Indonesia, authenticity deed Notary Public Still close relation with presence physical appearance of the parties and signing right in front of notary. This matter listed in Constitution Number 2 of 2014 concerning Position Notary. As a result, the concept digital notarization and use sign hand electronic Not yet fully recognized as tool proof authentic equivalent with deed conventional.

On the other hand, the Supreme Court has confess strength proof from document electronic in case civil through Regulation Supreme Court (Perma) Number 3 of 2018 concerning Administration Case in Court In a way Electronics. This is open room for adjustment procedural law against digital evidence, however Not yet in a way explicit touch realm notary. Therefore that, existence regulations special about digital notary becomes need urge.

Besides aspect juridical, changes to digital direction also demands improvement capacity technical and ethical professional notary. Use system online based not only concerning ability operational, but also concerns not quite enough answer ethics like guard confidentiality of client data, avoiding conflict digital interests, as well as avoid utilization gap system For profit personal. Development and supervisory institutions Notary Public need strengthen training technology as well as compile code relevant ethics with digital practices.

From the side institutions, organizations profession Notary Public like THIS (Bond Indonesian Notary) is necessary take role active in push transition into the digital era. This step can done through advocacy regulation, facilitation training technical, as well as development system supporters Work integrated digital notary.

Without support strong institutions, transition This potential produce fragmentation standards and inequality quality service between Notary Public One with other.

Implementation digital technology also brings impact positive in matter transparency and accountability. With system data -based recording and reporting time real time, practice Notary Public become more can supervised by an institution related. This is potential reduce practices manipulative or forgery documents. However, the challenge still There is in matter alignment system between agency such as BPN, AHU, and the police so that they do not happen overlapping overlap or confusion procedure.

Related with signing deed in a way electronics, need existence arrangement more continue so that the sign digital hand has equal standing in a way law with sign manual hand. Law Information and Transactions Electronics (UU ITE) is indeed confess sign hand electronics, however Not yet set the implementation details in context notary. This is become a big PR in development notarial system legitimate digital based, can trusted, and not cause gap law.

In in practice, some Notary Public has develop system semi-digital work, for example with use application for client booking, archiving deed in soft file form, up to give service consultation via video call. Although Thus, the form deed Still still printed and signed in a way physique in accordance mandate law. Conditions This show that digital transformation is underway walking, but Still limited to aspects administrative, not yet touch the core of task manufacturing authentic deeds.

The development of digital technology has give opportunity big for modernization duties and authorities notaries in Indonesia. Digitalization support efficiency work, speed up service law, and improve transparency of the process. However, on the other hand, there are challenge normative and technical matters that must be quick answered through legal reform and improvement capacity notary to be able to adapt in a way professional.

Need will regulations that recognize validity digital deeds, as well as implementation sign hand electronic in deed notary, is step beginning going to a complete digital notary. Changes this is also a must balanced with protection strong law to data misuse and assurance validity digital information. In addition that, it is necessary There is integrated national digital system inter-institutional so that the role Notary Public still strategic and credible in the middle changing times.

The role of a notary as guard validity law must strengthened with support reliable technology. Digitalization No may reduce mark authentic and trustworthy to deed notary. Therefore that, digital transformation in notary must done in a way directed, gradual, and based on principle certainty law, professionalism, and protection to right public.

#### **B. Legal Challenges Faced Notary Public In Operate His Duties in the Digital Era**

The development of digital technology in the legal world present opportunities, but also creates challenge in particular, in particular for profession notary. As public officials who have not quite enough answer important in manufacturing authentic deeds, notary faced with change big in the implementation jobs. Digitalization demand efficiency, accessibility, and speed services, while

system applicable law still very dependent on procedures conventional. Asynchrony between technology and regulation This become root from various challenge the law being faced notaries in the digital era.

One of challenge main is emptiness the laws that govern in a way special practice digital notary. Until now, the law Number 2 of 2014 concerning Position Notary Public Still requires signing deed in a way direct and presence physical appearance of the parties in front of notary. Provisions This No accommodate digital practices such as sign hand electronic or implementation ratification via video conference. Ambiguity This cause doubt law in implementation technology by notary.

On the other hand, the use of sign hand regulated electronics in Constitution Information and Transactions Electronics (ITE Law) has not in a way special associated with authentic deeds notary. In fact, the sign digital hand is component important in implementation deed online. The absence of rule technical and clear limitations make Notary Public hesitant in utilise technology this. This thing potential hinder efficiency service as well as make things difficult integration technology to in notarial system.

Another challenge arises from aspect proof law. Deed notary made in a way conventional own strength perfect proof Because fulfil element formal and material. However, if deed drafted and approved digitally, not yet There is guarantee that court will confess mark authenticity. This is create uncertainty detrimental laws Good Notary Public and interested parties. So, it's necessary existence certainty about position law the resulting digital document Notary Public.

Aspect data confidentiality and protection information also becomes challenge serious. Notary keep various document important and sensitive, such as agreements, establishment of legal entities, as well as document legacy. When digital systems are used, the potential data leak due to hacking or negligence technical increase sharp. Personal data protection laws that have not been fully established in Indonesia to enlarge risk law for Notary Public.

Standard security system electronics used by notaries are also not yet arranged in a way national. No There is provision the laws that govern system digital storage for deed, standard encryption, or provider service legitimate technology used by notaries. As a result, each notary use system different with quality security that is not evenly. This is open potential inequality treatment and weaknesses protection law.

Challenge law other is related with jurisdiction electronically. When the notary serve client online, appear question regarding legal area ( domicile) law ) implementation deed. Not yet available regulations that explain How digital space can become part from jurisdiction law notary. Ambiguity This can cause conflict jurisdiction as well as gap law for the intending party abuse system.

Problem supervision and guidance Notary Public in digital practices are also becoming challenges that have not been completed. Supervisory institution such as the Ministry of Law and Human Rights and organization profession Not yet own monitoring system for digital practices being implemented notary. Without mechanism adaptive supervision, violations ethics or law in digital practices are difficult detected since early. This is cause risk decline quality service and integrity profession Notary Public.

From the side personal capacity, many notary who experienced constraint in digital literacy and use technology information. No all Notary Public own ability or source adequate power For switch to digital systems. Inequality This create gap service between notary based technology and what is still conventional. If not overcome, inequality This will cause injustice access law for public.

Change fast system also makes it difficult Notary Public in adapt with regulations and procedures new. Every change digital systems, such as in AHU Online, taxation electronics, or system digital land, demanding adaptation fast. No all Notary Public capable follow development this, okay Because lack of training and lack of support technical from institution related. Lack of socialization from government make things worse situation This.

Besides that, there are also challenges in matter proof intention and identity party online. In notarial system, presence physique allows Notary Public verify in a way direct identity and awareness the law of the parties. However in digital interaction, potential forgery identity or pressure from other parties find it difficult avoided. This is Can impact on validity deed made in a way electronics.

Notaries also face potential abuse digital system for action crimes, such as money laundering or disguise identity in establishment of a legal entity. Convenience upload document online makes it easier perpetrator criminal hiding motives or identity they. Without filter or verification strong from digital system, notary risky involved in a way No direct in crime the.

No lost important, challenge law also emerged from lack of harmonization between digital regulations in various institutions. For example, digital systems at AHU, BPN, and the Directorate General Tax walk individually without integration cross Notary institution must adapt different procedures, even though should system can walk integrated. Fragmentation This create confusion law and slow down the service process.

From the side ethics profession, use technology present challenge new in guard dignity and trust public to notary. The digital era allows occurrence unlawful practices ethics without easy detected, such as online collusion or data manipulation. Therefore that, organization profession need adapt code ethics in order to be able to answer digital challenges in general concrete and measurable.

For face all challenge that, regulatory reform is needed in a way comprehensive, including revision of the Job Law Notary and drafting regulation the descendants that regulate digital practices in explicit. In addition that, training intensive for notary and development system standardized technology in a way national must become priority. Collaboration between government, organization professions, and providers technology become key For build ecosystem a safe, legal and trusted digital notary.

## **Closing**

### **A. Conclusion**

The development of digital technology provides significant influence to implementation duties and authorities notary in Indonesia. In one side, digitalization create opportunity big For increase efficiency, accuracy, and transparency in service notary. Implementation technology like sign hand electronics, AHU Online system, and certificates electronics on land show that part

task Notary Public has start adapt with the digital era. This is show that Notary Public No Can Again operate role in a way conventional if want to still relevant in the middle changing times.

On the other hand, this digital transformation Not yet fully balanced with adequate regulation. The laws that regulate position Notary Public Still depend on approach physical and formal, which has not been in harmony with digital practices such as online consultation or signing document in a way electronics. Implications other is emergence demands to improvement capacity technology notary, adjustment procedure work, and protection law to digital data. Therefore that, development digital technology must responded to with step progressive and integrated laws so that they do not cause uncertainty law.

#### **B. Suggestion**

- a. Need done revisions and adjustments to Constitution Number 2 of 2014 concerning Position Notary, in particular related procedure manufacturing deed and signing, so that it can accommodate digital practices in legal and effective. Regulation additional is also needed For arrange validity digital deeds and procedures implementation task Notary Public based technology.
- b. Government and organizations profession notary (like THIS) is necessary organize training and certification technology information for notary, so that they own appropriate digital skills with need practice modern notary. In addition that, strengthening system security information and integration system cross institution must become priority for notaries can Work digitally without sacrifice aspect legality and trust public.

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