



THE ROLE OF A NOTARY IN CARRYING OUT HIS POSITIONAL DUTIES REGARDING THE DEVELOPMENT OF THE CYBER NOTARY CONCEPT IN THE ERA OF THE INDUSTRIAL REVOLUTION 4.0 AND SOCIAL 5.0

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ABSTRACT

This study aims to describe the Role of a Notary in Carrying Out His Positional Duties Regarding the Development of the Cyber Notary Concept in the Era of the Industrial Revolution 4.0 and Social 5.0. Notarization services can be said to be conventional. This means that all activities that occur between the notary and the person concerned are carried out face to face. Meanwhile, during the current industrial revolution 4.0 and social 5.0, it demands that all conventional activities be transformed using digital. The normative legal research method is used in this study. Data collection was carried out by means of document analysis, literature study and observation. The results of the study show that as digital technology develops in the era of the industrial revolution 4.0 and social 5.0, it is appropriate for notaries to participate in adapting to technology without changing the rules set by UUJN. As a public official, a notary must be adaptive in transforming public service work in terms of making notarial deeds in the digitalization era. Some notaries still adhere to UUJN provisions and carry out their duties conventionally. However, there are also those who accept technological advances by being open to adapting themselves without having to ignore the provisions stipulated in UUJN.

Keywords: Role of Notary, Cyber Notary, Industrial Revolution 4.0, Society 5.0

1. INTRODUCTION

The development of technology today is shown by the digitization of various things, including a notary who carries out his duties and authorities using technology and information, which is referred to as the concept of cyber notaries. Of course, this relationship has the duties and functions of a notary regarding the making of a deed (Nurita, 2012). The concept of cyber notaries is a concept that utilizes advances in technology and information to support the work of notaries in carrying out their daily duties and responsibilities. The duties of a notary are intended as digitizing deed documents, signing a document electronically, conducting a General Meeting of Shareholders (GMS) using teleconference media (visually online), and several other matters related to the work of a notary (Lubis et al., 2022).

In its implementation, the cyber notary concept raises various opinions, both pro and con. The main problem faced in carrying out this concept is the existence of differences related to the validity of the certificates issued in work systems that rely on electronic media as a benchmark. However, there is an assumption that the concept of cyber notaries contradicts one of the principles, namely the



principle of tabellions officium fideliter exercebo. This principle explains how a notary should work traditionally in carrying out activities related to the field of notarization (Putri & Budiono, 2019).

The use of the term cyber notaries in the Unitary State of the Republic of Indonesia is a system which is a legacy from Continental European Countries. However, in reality this assumption is not quite right. Based on some of the literature that explains its history, the terms cyber notaries and electronic are two different concepts and have nothing in common. The use of the expression e-notary is a term introduced by legal experts who come from countries that have inherited Continental European traditions. Meanwhile, the term cyber notaries is a concept introduced by jurists with a legacy from the Common Law tradition (Darmaangga & Mayasari, 2021). Based on the existing elaboration, the most appropriate statement is the use of the expression electronic notary in Indonesia, which is a country with a legacy of Continental European tradition, is the most appropriate opinion.

The term electronic notaries is a term introduced by the French delegation in the official electronics Data Interchange (TEDIS) forum. The European Union has organized a workshop in Brussels in 1989 AD. This agency has a function as a party that independently presents a record of the implementation of electronic transactions carried out between one party and another, in this case it has something to do with a deed. Meanwhile, the American Bar Association Security Committee initiated a term related to notary affairs in 1994, namely cyber notaries (Makarim, 2011).

In Indonesia itself, it is estimated that the emergence of the term cyber notaries began in 1995. In that year, there was an attempt to socialize the concept of cyber notaries to be implemented in the notary sector, but in the end this effort was still only a concept and had not been fully implemented. Meanwhile, regarding the main matter of the term cyber notaries, until now there has not been a binding meaning. Over time, the meaning contained in the concept of cyber notaries is the work of a notary in carrying out his legality by using mobile phones, fax and other electronic media to communicate with his client in issuing a deed. However, it should be underlined that the duties of a notary are only limited to making the deed requested by the consumer (Pramudyo et al., 2021).

While the powers of a notary may vary somewhat from one place to another, the standard of service for a notary does not. The standard of responsibility of a notary is almost uniform, one of objective reasonable prudence, which means that according to the law a notary must act as a reasonable notary will act in the same circumstances. Subjective standards about whether a notary acted in such a way that he or she has a clear conscience about the incident are rarely enforced, and rarely adopted (Maharani et al., 2019).

A notary carrying out duties or authorities related to his position is defined as a Cyber Notary Concept, with an information technology basis relating to the duties and functions of a Notary as stated in UUJN (Sholikhah & Hafidz, 2017). In theory, Cyber Notary is nothing new. It has been used in various nations, including the United States, the United Kingdom, France, Belgium, Germany, the Netherlands, and Asian countries such as Hong Kong and Japan. In this case, cyber Notary does not mean that there are no meetings or teleconferences between the parties, but rather that the parties still face the Notary directly, only the draft of the deed can be read from the computer, and if the parties have agreed, the deed is signed electronically. Because the documents in this situation are electronic, no paper is used. Of course, it will improve storage efficiency, ease searching with the help of a dependable, effective, and efficient system, and reduce operational costs.

The use of the term cyber notaries has actually been explained in Law Number 2 of 2014 which will later be known as the Law on Notary Positions (UUJN). Explanation of the Law regarding the amendment to Law Number 30 of 2004 concerning the Position of Notary. The law relates to the implementation of the concept of cyber notaries within the authority of a notary by relying on technology and information. In this concept, there are two areas which are the main points, namely authority and technology. The existence of progress in the economic field causes these two aspects to have an inseparable relationship with significant economic changes, a notary accelerates the process of



a contract to be executed (Nazran et al., 2021). This relates to supporting tools or media in facilitating the implementation of the intended process, namely the use of technology and information. With the increasing demands, a notary must adapt to the existing changes. This was also strengthened by the issuance of Law Number 11 of 2008 concerning Information and Electronic Transactions, hereinafter known as UU-ITE. Furthermore, the law was changed to Law Number 19 of 2016 or known as the ITE-P Law which has provided the widest possible opportunity in the use of information technology in the notary sector.

Meanwhile, the word Notary comes from the Classical Roman language, namely notary. Then this word was adapted into Indonesian which we know as the word notary. This profession is a general apparatus whose function is to carry out oaths and state and certify by hand and the official seal of certain groups of documents, to provide authenticity in foreign jurisdictions, to take recognition of deeds and other means of transportation and legalize them, and carry out certain official actions, especially in commercial departments, for example rejecting notes and invoices and notarizing foreign money orders.

The notary serves as a regulator of legal relations between the parties in writing and in a separate form, so that it becomes a certified tool that can be used as a powerful tool in court. The main job of a notary is to make a notarial deed at the request of a certain person or legal entity as required or required by law. The notary has the burden of his position, namely as an extension of the government so that the community obtains legal certainty. The role of the Notary is in accordance with the procedures according to Law Number 2 of 2014 concerning the Position of Notary (Melinda & Djajaputra, 2021).

As a public official, a notary has characteristics that distinguish him from other officials. The characteristics in question such as; has the authority to make authentic deeds, is appointed and dismissed by the government through a law, does not receive a salary and pension from the one who appointed him (the government), and finally his accountability focuses on his work to the community in the notary sector. The existence of special powers in every property owned by a Notary means that the power attached to the Notary must have a clear legal basis. The purpose of granting a notarial power of attorney as a legal basis is to ensure that his power and status do not conflict with those of other people (Adjie, 2013).

In practice, the implementation of public services by a notary consists of two service categories, namely government services and non-government services. However, this form of non-government service is closely related to the management of public services based on statutory regulations. This is because the authority of a notary is clearly regulated in the Notary Law. While an official or there is a legal authorization to issue a deed is the meaning of a notary. This action is intended to create legal protection and legal certainty for the general public (Annisa et al., 2019).

In Indonesia, notarization services can be said to be conventional. This means that all activities that occur between the notary and the person concerned are carried out face to face. Meanwhile, during the current industrial revolution 4.0 and social 5.0, it demands that all conventional activities be transformed using digital. This of course makes all parties must and inevitably understand the changes or transformations that have taken place. With this transformation, of course it can also be applied in legal life in terms of notarization. In the next stage, the services provided by notaries are based on technology and information, which are then known as cyber notaries. This thinking is based on the foundation where notaries take advantage of existing technological and information advances to carry out their duties and functions. In this case, it relates to electronic signing of deeds, using teleconference media in the implementation of the General Meeting of Shareholders (GMS), and so on (Sugianto, 2019).



Along with the rapid development of technology, the fourth industrial revolution presented both obstacles and opportunity for Notaries. Notaries, as public officers with the duty and capacity to perform public services, are obliged to be technologically literate and capable of providing information technology-based public services. Electronic means can make work more productive and efficient; documents can be created electronically, and electronic signatures can be used. Notary Era 5.0 is being developed in response to developments in the development of electronic systems, such as electronic deeds, electronic deeds, and even electronic signatures that do not require direct physical presence. Legal politics concerning the role of Notaries in the age of disruption give a type of policy that must be implemented in tandem with technology advancements from 4.0 to Society 5.0 (Setiawan, 2019).

The current progress of the so-called industrial revolution 4.0 has experienced a shift in society that no longer agrees on mutual trust. So, every community that makes an agreement will definitely lead to a notary as a means of validating the agreement they made. For this reason, the position of a Notary is becoming increasingly important in times like today. In carrying out his position, a Notary plays a key role in every legal relationship in people's lives covering various business relationships, banking, land affairs, social activities and others (Pratama et al., 2015).

Because of the quick progress of the industrial world in this era, notaries must prepare themselves for advancements in the field of law, with the requirement of being prepared with existing technological innovations that are projected to erode the role of notaries. A notary must be able to obtain information and other resources in order to continue to have strong responsibilities and opportunities. The need of a skilled notary to regularly maintain the position of a notary amid the onslaught of technology and information in the 4.0 revolution period with convenience, technical improvements, and data (Hamzah & Silalahi, 2020).

To address obstacles in the period of the Fourth Industrial Revolution, notary graduates must be able to adapt to information technology while also preparing for future learning patterns. Many professions are affected by current technology advances, one of which is the legal profession, which requires inventiveness in the Industrial Revolution 4.0, which is a challenge to answer future difficulties. Legal professionals, such as lawyers and notaries, are human persons who may be irreplaceable due to their expertise and education that can only be entered into a computer and completed by a computer. Therefore, this study aims to describe the role of a notary in carrying out his duties related to the development of the concept of cyber notary in the era of the industrial revolution 4.0 and social 5.0.

2. LITERATURE REVIEW

Cyber Notary

Welcoming Industry 4.0 and Society 5.0, for the sake of belief in economic value, legal trust is needed. The trust in question is Cyber Notary as a trusted third party and a service that can eliminate the possibility of fraud and counterfeiting in an electronic transaction (López Jiménez et al., 2021). The fact is now notaries have communicated electronically. Cyber Notary is not a Disruption of Conventional Notaries but rather enhance their function and role in the digital era. This is because Cyber Notary is an important part of National Cyber Security and Resilience. For the time being, a cyber notary can be defined as a notary who performs the responsibilities or authority of his position using information technology that is related to the activities and functions of a notary, particularly in producing deeds (Maengkom, 2021). There is presently no legally enforceable definition of a cyber notary. It can, however, be regarded as a Notary who performs his or her duties or authority using information technology. Of course, it is not permissible for a Notary to communicate with his client through cell phone or facsimile. However, it is related to the duties and functions of a Notary, particularly in the formation of deeds.



In the case of the cyber notary concept which some legal experts developed by using electronic media via teleconference, it turns out that as Edmon Makarim (in Dewi, 2021) pointed out, so far there has been a slight misunderstanding in interpreting the phrase "in the presence of" in accordance with Article 1868 of the Civil Code which is associated with the cyber notary. This identifies with the deed made by teleconference, but it's not. A cyber notary's operation is similar to that of a traditional notary. The parties continue to arrive and interact with the notaries. It's just that the parties read the draft deed on each computer immediately, and after agreeing, they signed the deed electronically at the notary's office. As a result, the deed is not signed remotely via webcam, but rather in person with the notary. If you use a webcam, other countries have not used this method either.

Concerning the authentic deed, it primarily comprises formal truths in accordance with what the parties have informed the notary (Khairul et al., 2019). However, by reading it, the Notary has the obligation to include that what is contained in the Notary Deed has been truly understood and is in line with the wishes of the parties. So that the contents of the Notary Deed are clear, as well as providing access to information, such as access to relevant laws and regulations for the parties signing the deed. As a result, the parties are free to agree or disagree with the contents of the Notary Deed to be signed. As the strongest and most fulfilled written evidence, what is stated in the Notary Deed must be accepted, unless the interested party can satisfactorily prove the opposite before a court hearing.

Authentication can at least anticipate errors in identifying information/data that is false or fake. That is if the party who appeared to the notary lied they received false information that was included in the notarial deed (Arifin, 2021). The E-Notary application cannot solve this problem. But with the audio video recording in the process of making the deed, proving the material truth of the contents of the deed becomes easier. If they appeared to order the notary to enter information that the notary knows to be false information in the notarial deed, the E-Notary application can be a solution to overcome this problem. Because when the notary and the appearers are both audio-video recorded in the process of making the deed, compliance with the law is predicted to be high.

The forms of application of the cyber notary concept in Indonesia became clear after the promulgation of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary (change UUJN) which regulates the authority to certify transactions carried out electronically, even if only stated in the Explanation of Article 15 paragraph 3, "other authorities regulated in laws and regulations", among others, the authority to certify transactions conducted electronically (cyber notary), make a deed of the pledge of waqf, and aircraft mortgages.

The successful use and utilization of ICT with the application of the cyber notary concept at the Directorate General of General Law Administration online encourages notaries to use and utilize ICT, this system is a Legal Entity Administration System (SABH) which has undergone several developments (Tan, 2019), the latest developments are revolutionary in In terms of time efficiency, services that used to take days can now be done in minutes. Through the online Directorate General of General Legal Administration, the bureaucratic process is shortened by no longer requiring meetings between service providers and service users so that opportunities for corruption, collusion, and nepotism can be avoided. This creates excellent service to the community in building good governance towards a clean government by prioritizing professional, fast, precise, efficient, inexpensive, and free of illegal levies. Then it will increase the effectiveness and efficiency of the Notary in providing certainty on the time of completion of services to the community so that it will have an impact on the development of trade and the national economy in the framework of increasing people's welfare (Donald et al., 2022).

The application of the cyber notary concept based on the Elucidation of Article 15 Amendments to UUJN is the authority to print and legalize letters and/or print certificates printed through the online system of the Directorate General of General Legal Administration. This can be seen in the provisions of Article 15 of the Minister of Law and Human Rights 4/2014, Article 15 of the Regulation of the Minister of Law and Human Rights 5/2014, and Article 15 of the Regulation of the Minister of Law and



Human Rights 6/2014, which states that Notaries can directly print Ministerial Decrees themselves. Using white paper size F4/folio weighing 80 grams which must be signed and affixed with a position stamp by the Notary and contains the phrase stating "This ministerial decree is printed from SABH". It can also be seen in Article 3 and Article 5 of the Regulation of the Minister of Law and Human Rights 10/2013, which mentions that the Notary as the applicant prints the Guarantee certificate and the Fiduciary Guarantee change certificate that has been signed electronically by the Official.

3. RESEARCH METHODS

Humans can utilize research as a method to improve, cultivate, and grow knowledge. Science, which is knowledge that is methodically organized using the power of intellect and can always be critically scrutinized and examined, will continue to evolve on the basis of research undertaken by its supervisors. This is mostly because the use of science strives to improve people's knowledge and understanding.

Normative Legal Research is the study of a legal norm (Efendi & Ibrahim, 2018). To identify the flaws in these legal norms, a "Analytic Knife" is required. Doctrinal legal research is another name for normative legal study. In legal studies like this, the law is frequently understood as what is stated in laws and regulations (law in books), or it is conceptualized as rules or norms, which are acceptable standards of human behavior. The development of a preliminary theoretical framework (scheme) is optional, but the development of a conceptual framework is required; formulations found in laws and regulations can be used as the basis for study.

Normative legal research is research aimed at finding and formulating legal arguments through analysis of the subject matter. Normative legal research is also used to examine legal principles and principles and is carried out by examining literature or secondary data. Normative law study employs normative case studies in the form of legal behavior products, such as law review. The primary focus of the study is law, which is defined as a social standard or regulation that serves as a guideline for everyone's behavior. As a result, normative legal study focuses on positive law inventory, legal principles and doctrine, legal discovery in concrete situations, legal systematics, synchronization level, comparative law, and legal history. Based on the explanation above, the author decides to use normative legal research methods to research and write a discussion on the role of notaries in carrying out their duties related to the development of the cyber notary concept in the era of the industrial revolution 4.0 and Society 5.0.

4. RESULTS AND DISCUSSION

4.1 Results

The existence of the Industrial Revolution 4.0 has revolutionized the development of human life. Digital technology has hypnotized humans in various ways, both economically, socially, politically, and even in human life. Industry 4.0 will develop on its own, but it will develop using the people, because the interaction between Industry 4.0 and the people needs to be fostered & developed further. Social 5.0 is a mapping of the future people that the Japanese government dreams of. The Japanese government believes that the Industrial 4.0 era will spur emphasis on the production process, while Social 5.0 will emphasize efforts to position humans to be centers of innovation (human-centric), while technological advances will increase quality of life and social responsibility, terms to increase use and promote sustainability. The concept of Social 5.0 makes people become sources of innovation, not limited in manufacturing/industrial factors, & solves social problems with the help of physical & virtual space integration. One of the basic ideas based on this concept is the hope that prosthetic intelligence products will replace big data based on Internet transaction products as new policies in all fields, enhance human capabilities and bring hope to open up new opportunities for humanity (Nastiti & Abdu, 2020).



Social 5.0 arises in response to the extension of the Industrial Revolution 4.0 which is believed to have the opportunity to undermine the role of humans. Social 5.0 is technology-driven, but people-centered. The emergence of Social 5.0 requires patented breakthroughs to address the challenges of Social 5.0. In general it can be said that the development of the Industrial Revolution 4.0 and Social 5.0 in Indonesia has not been fully realized, but the concept of Social 5.0 was first brought to the world from Japan. Social 5.0 itself sees the development of the Internet of Things, big data, and artificial intelligence increasing people's lives, in contrast to the concept of Industrial Revolution 0, where technological developments aim to increase productivity. Business is a process.

The trend of Social 5.0 has an indirect impact. Because Indonesia as a developing country has the right to actively participate in the development of this trend in the future. The existence of Social 5.0 brings its own threats in various sectors of life. Social 5.0 needs a model for itself. The notary also has very little time. Law No. 02 of 2014, Law No. 200 concerning Changes to Notary Public No. 30. This should be understood as "cyber notary" in the elucidation of Article 15(3). Cyber notaries are one of the "powers derived from other laws and regulations". That is, by authenticating via electronic transactions. This agreement is actually only a small part of the various electronic system developments that have occurred among notaries (e-notaries) (Faruqi, 2019).

Various developments in related electronic systems include digital certificates, electronic certificates, electronic hand indications, and deed signing processes that do not require physical (virtual) presence. However, notaries do not seem to have the courage to use electronic systems (e-notaries) to make legal breakthroughs. For example, during the Covid-19 pandemic, we had to hold all our meetings when we really needed them. It largely complies with government Home Office guidelines. One reason for doubts about the introduction of electronic notaries is that there is a norm that the deed must be physical at the time of its creation, and must be done on paper and cannot be done electronically (Nusantara, 2020).

Technological progress provides society with various opportunities. Changes in the IT 4.0 era brought new creations in public services. Digitalization of public services is a fundamental element in terms of maintainability to create technology-based services that optimize demands for efficiency, effectiveness and savings. Public services in the notary sector are still provided and not all information technology is included. Therefore, information technology has contributed to the realm of public services as well as implementing it in legal life, in the form of notary services based on the concept of information technology, or what is commonly known as cyber notarization. The various advantages of implementing cyber notary in Indonesia respond to the strengths and weaknesses of different communities (Nurita, 2012).

The legal norms that apply to Indonesian notary offices are the result of laws that are not yet fully based on modern national law. This was confirmed and stated in the general description in part I of UUJN that most of the laws and regulations drafted in UUJN were based on Dutch East Indies colonial laws and regulations. Digital transformation and technological developments that make people read. The willingness to assist government agencies is undoubtedly related to the provision of information technology for the notary sector. Regarding the legality of e-certificates, digital signatures, digitally secured documents, video conferencing in making deeds between notaries and bailiffs can have legal force in court (Utama & Anand, 2018).

The position of a notary as an official means that the power held by a notary is never transferred to another official, unless the power is owned by another official in making a notary and other power of attorney. The UUJN explains that the notary profession has other authorities that have been stipulated by Law 15(3), the contents of which are "One of the other bodies arranged in statutory regulations is an agency that verifies electronic transactions (cyber notaries). Based on the principle, Article 15 (3) also applies to Law Number 11 of 2008 concerning Information and Electronic Transactions, which are part of the idea of the emergence of electronic documents (Adjie, 2013).



Furthermore, the discourse on electronic notaries can of course also be seen as something that can threaten the notary profession. Artificial intelligence and document authentication process automation can be implemented very well. The automation of electronic notary procedures is considered suitable to eliminate the "human" element and replace it with a machine. Regarding the forms of regulation that exist in virtual worlds, we can proceed from various approaches. Regulatory models that are known in the real world must be applied in cyberspace. With that in mind, it would be more appropriate for Indonesia to draw up a bill on information technology, which only covers the basics and leads to comprehensive regulations. As a result, if this does not come into physical contact, it can lead to legal consequences for the notary, including lowering the notary's status to disgraceful behavior and legal action against the notary. There is no security guarantee for electronic systems and electronic documents notaries, subject to change or disclosure, can violate confidentiality obligations, can be rejected by the parties and cannot be accepted. This can lead to the penalty of termination of employment that a notary must face due to non-compliance with the law by the competent authority (Budhijanto, 2019).

Various pressures to immediately implement cyber notaries have also led to a number of voices rejecting the application of cyber notaries as a prolonged legal practice. Given the different roles and powers of notaries and public notaries, the concept of cyber notaries that only exists in America does not have to be applied immediately. In addition, modifications to both understandings and terms related to bona fide behavior need to be studied more deeply to examine the philosophical reasons that create these understandings and conditions. Traditionally, greater legal considerations have been taken to safeguard the evidentiary integrity of bona fide documents in terms of strength of formal evidence, strength of physical evidence, and strength of extrinsic evidence, and provide stronger protections.

Furthermore, the cyber notary is constrained because there are formal requirements that must be met to support the validity of the notary deed. The formal requirements are First, before an authorized official and second, before the parties. Third, both are known or presented to a notary. Fourth, the presence of two witnesses. The official conditions for the arrival of the perpetrators are cumulative, not alternative. Formal error where the result is not valid and has no evidentiary value. Therefore, the virtual world notary has strengths and weaknesses, and its use is full of uncertainties (Wijaya, 2018).

The discourse on the use of cyber notaries can be seen as an obstacle that affects the profession or work of notaries. However, the use of artificial intelligence (Artificial Intelligence) and automation in the stages of notary deed is very possible. The direct process carried out in the cyber notarization process is considered suitable for removing the human element and replacing it with machines. Cyber notaries then place this opinion on the development of practical human needs in the future, as well as on the limits of needs and threats. Apart from development, the notary profession was also affected by the Industrial Revolution 4.0. Changes in the current era, of course, become an obstacle that must be faced. The Industrial Revolution 4.0 is very fast affecting technological and social change, so relying only on laws and government/regulatory incentives is a mistake to get the right results. As laws and government/regulatory incentives are enacted, they may become obsolete or unnecessary. The World Economic Forum published in a white paper on the explanation in November 2016. Guarantees correct results. It may become obsolete or unnecessary by the time it is implemented (Makarim, 2011).

The term and scope of the concept of cyber law has created a new legal era in Indonesia, especially related to technology and information activities. The legal terms that control activities in cyberspace are Internet Law, Information Technology Law, Telecommunications Law, and Lex Informatica. From a practical standpoint, activities in cyberspace, as well as in response to the current state of the COVID-19 pandemic, have a "sense of urgency" to find a way out of the consequences and



legal issues that arise. What you need On the other hand, considering the practices of other countries, it seems reasonable that the scope of cyber law is not narrow and restrictive.

In carrying out their duties, of course, a notary must always adhere to the principle that a notary must carry out his duties in the traditional way. Strictly speaking, this principle helps the notary to uphold official truth. This can be supported by the position held by a notary, giving rise to the term cyber notary. *Tablelionis Officium Fideliter Exercebo* who is domiciled in Indonesia pays attention to the existence of a Notary as the basis for a Notary's legal actions in carrying out the duties and authority of a Notary.

4.2 Discussion

In Indonesia, the parties and the notary hold a physical meeting, starting from the beginning of drawing up the deed to the final stage of reading and signing the deed by the appearers and notary witnesses. Confirmed as a notary's obligation that must be fulfilled as referred to in Article 16 paragraph (1) letter m, Article 16 paragraph (7), and Article 40 paragraph (1) of the Notary Office Law. With these provisions, the information technology system has not been accepted for the series of deeds. If the notarial deed is carried out by applying an information technology system, then the formal aspect of making a deed which contains the truth of the deed is not fulfilled. Legally, apart from not fulfilling the Notary's obligations, the form of the Notary's deed also does not comply with the provisions of Article 38 of the Law on the Office of a Notary. The notary cannot fulfill the requirements that require the notary to know in accordance with the stipulations as stated in Article 39 of the Law concerning the Office of a Notary. Therefore, when the government asks notaries to work from home due to the spread of COVID-19, they have no legal policy to make deeds using technology.

Therefore, the Indonesian Notary Association (INI) issued official letter Number 67/35-III/PP-INI/2020 which provides an alternative to notaries about what can be done during COVID-19, which is defined as follows:

1. Rescheduling the signing of the deed with the parties until conditions allow for the signing of the deed;
2. Recommend other notary partners whose conditions allow them to carry out their positions to the parties;
3. Include "will be made/restated in an Authentic Deed immediately after the COVID-19 emergency is revoked by the Government" for agreements, actions or meetings which, according to laws and regulations, documents can be made in private.

Even if the appointment of a cybernotary in the UJUN-P causes cyber notaries to have a definite legal basis (Sasmita et al., 2022), it creates a dilemma because of ambiguity, or the principle of legal certainty, it can be said that the P-rule is not satisfied. Legislation related to the implementation of cyber notaries as a solution to a pandemic situation. Cyber Notaries Regarding the unique nature of cyberspace, where regulation and law enforcement cannot rely on conventional methods, some experts believe that activities in cyberspace are based on commercial law (*lex mercatoria*) in the Middle Ages. These principles, conventions and norms of cyberspace that are developed and generally recognized are called *Lex Informatica*. To support the implementation of cyber notary in Indonesia, *Lex Informatica* has several special features that can be used freely (unbound) in order to carry out transformations in terms of managing the information received. By formulating *Lex Informatica* as a framework, many of the difficulties associated with the contradictions and uncertainties inherent in such legal regulations have been avoided. *Lex Informatica* provides modern solutions to difficult problems facing the legal system, including regulating the content of social media, spreading or misusing individual information, and protecting intellectual property as a whole.

Meanwhile, law can represent an approach to regulate all activities or behavior. This is made possible by a regulated behavior approach. This approach indirectly provides significant impetus or inspiration in creating a foundation of *Lex Informatica*. In this perspective, what is meant is the function of the state as a representative of interests that can prevent or block certain behaviors, for



example the dissemination of negative content or illegal electronic money transactions. This Code of Ethics may provide for a role for Lex Informatica to ensure proper practice. These technical regulations may form the basis of the warranty (Raharjo, 2015).

This refers to a wider range of e-commerce activities that is not limited to the use of cyber notaries. These may reflect standards that can be used as specific directives for e-commerce activities within existing regulations. In formulating information security standards for electronic commerce, the Electronic Commerce Law is promulgated and revised and PP PSTE as guidelines for electronic commerce will become a reference. Therefore, the purpose of this study is to investigate and investigate the standards required by UU ITE and PP PSTE to ensure safe and reliable security and reliability as required by article 15(1) UU ITE and article 3(1) UU ITE. PPPSTE to provide guidance on fair and responsible e-commerce practices.

With an electronic signature, the parties use the same key to encrypt and decrypt documents, so that a third party or other person is involved in creating the document. This is intended so that outsiders cannot distribute and even destroy documents or signatures. Responding to concerns about interference and unauthorized access to digital signature applications, Indonesia already has digital signatures that can be proven by digital certificates (e-certificates) trusted by Certificate Authorities (CA) as e-certification providers, and part 21 of Part 1 PP PSTE. Furthermore, Article 4(4) of the ATR Ministerial Regulation/Director of BPN 2021 concerning Electronic Certificates stipulates specific justification for using electronic signatures as something that has the same legal force as traditional signatures. In terms of validity, electronic signatures have legal consequences and legal consequences if they meet the following requirements (Article 59(3) PP PSTE), including:

1. Data in the process of removing electronic signatures is exclusive to the signatory.
2. The data for creating an electronic signature during the electronic signature process is owned only by the signatory.
3. Be aware of all changes to your electronic signature that have occurred since it was signed.
4. Changes in electronic information related to electronic signatures will be known after signing.
5. There is a certain way to identify the signer. And
6. There are certain ways in which signatories have indicated that they have consented to the relevant electronic information.

These requirements are the minimum requirements that must be met by all electronic signatures. This enactment opens the possibility for anyone to develop methods, techniques or processes for making electronic signatures, including for use in cyber notary applications. The ITE Law and its amendments explicitly acknowledge that an electronic signature, even if it is only in the form of a code, has the same status as a conventional manual signature which has a legal basis and legal force (Article 11 of the ITE Law).

Electronic systems are defined as electronic devices and processes designed to prepare, collect, process, analyze, maintain, display, publish, transmit and/or distribute electronic information. Government Regulation Number 82 of 2012 concerning Electronic Transactions conducted by notaries in Indonesia must be able to provide a strong and harmonious synergy for the country's rapid progress and development. By applying the notary cyber concept, it is expected that notaries can contribute to the notary legal system in Indonesia (Nurita, 2012).

Evidence that is legal or acceptable in a civil act refers to written evidence, witness statements, accusations, confessions and oaths as referred to in Article 1866 of the Civil Code. Current evidence developments, electronic evidence as defined in Section 5 of the ITE Law, have identified:

1. Electronic information or electronic documents or their printouts constitute valid evidence.
2. Electronic information and/or electronic documents and their printouts in the sense of the year as stated in section (1) are an extension of the arm which is a legal instrument according to the procedural law applied in Indonesia.



3. Electronic information and/or electronic documents are verified when using the electronic system in accordance with the provisions of this law.

The provisions on electronic information in paragraph (a) do not apply to:

1. Letters, deeds and documents required by law to be made in writing.
2. Letters, deed and documents required by law in the form of notary deed or civil registry office deed;

Even though Article 5 paragraph (4) point 1 and 2 above currently does not allow the application of the cyber notary concept, especially in making e-certificates, it does not mean that it is impossible forever. Paragraphs (2) and (3) provide an opportunity to implement the idea of a cybernotary; Only legal umbrella. To serve the public both in the form of electronic services and traditional methods, notary services can be added, especially in making electronic documents that have original value (Nurita, 2012).

In the end, the form of the relevance of the functions and objectives of the ITE Law is stated at the time of signing the deed in all electronic transaction statements that are considered deeds, and the ratification is the same as the real deed. Restrictions on the existence of electronic signatures are legally certain and determined using existing original documents. With the peak of electronic activity, it can be concluded that evidence that can be used legally must contain information or documents that facilitate law enforcement. Article 5 of the ITE Law states that its purpose is to facilitate the enforcement of the use of electronic devices and printouts, which are known in law as extensions of legal evidence. The existence of the ITE Law provides benefits for information technology, media, and communication which has an impact, especially in the behavior and civilization of people around the world. The developments that occurred in this era of globalization indirectly had an impact on international relations that had crossed national boundaries, and major socio-cultural and economic changes had taken place quite rapidly (Barkatullah, 2012).

Based on the powers exercised by a notary, entries to a notary must go through entries to a notary. A notary candidate is an individual who has undergone training and is willing to hold a position as a public official, according to Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary, and has the position of Notary and others mentioned above. This is due to the absence of a rule that describes who becomes a notary candidate. However, someone who becomes a notary candidate is a general apparatus candidate who has fulfilled various stages and requirements to become a notary public. The stages of becoming a notary besides going through 'master' notary training, go through several stages, followed by Middle Member Registration (ALB), Pre-Apprentice Exams, Internships, certificates, tests, and others.

Based on current developments, here are some of the Associate Member (ALB)'s opinions on the "age of digital disruption, opportunity or challenge". In the digital era, which is also known as the era of digital disruption, electronic or online systems can simplify the work of notaries in the future. Opportunity is an obstacle that must be faced and the goal is to be able to adapt to other notaries. Methods that require preparation, namely:

1. Please follow the rules as they may change at any time. That is, to update the knowledge gained.
2. Notary position is a public official who deals with clients, so follow the media which means the media is booming now. Therefore, following the media can be used as a tool for notaries to approach the solutions they have to offer their clients.
3. Adjust to the transformation in this 4.0 era and be able to utilize artificial intelligence technology to carry out our duties as civil servants.
4. Be globally competitive.
5. Develop through skills by increasing the quality of cases and competencies in the field of information technology.
6. Prohibitions, Obligations, Prohibitions, and Rules of Notary Profession.



7. After completing the notary training, join us for an internship at a notary's office, either jointly or individually (Prabowo, 2017).

The current era of digitalization is something that a notary must face. This assumption is because something made by a notary is original. This means that applying online must be in black and white. Readjust what was previously done manually with the new one. When online, operations like signing can be performed, making it vulnerable to hacking, etc. When done online, but backups are still required. Opportunities for a notary in the industrial revolution 4.0 actually exist if there are clear rules regarding this cyber notary, adequate infrastructure (Alincia & Sitabuana, 2021), notary expertise in technology continues to grow. The challenge may be on the quality of Notary expertise in the use of technology, not all of them are experts in technology. The willingness of a notary to use information and communication technology in making a deed is technically quite good, but currently all notary's offices are equipped with computers, printers, scanning options, fax machines, and the internet. Notaries' willingness to produce electronic documents is technically adequate and is reflected in their ability to use internet applications such as social media, e-mail, and so on. Most of the existing notaries already have internet applications.

The notary has the right to make a deed as long as the perpetrators want or are required to do so in the form of a legalized deed in accordance with statutory regulations (Arifin, 2021). The formation of a security must be based on legal principles regarding the process of its establishment. Notaries are limited in their activities by the Corridor Regulations. This restriction is made so that the notary does not go too far in carrying out his duties and is held accountable for everything he does. Without boundaries, people tend to act hastily. The government limits the performance of notaries who fight for justice. Civil Servants (*openbaar Ambtenaar*) have a duty to help the community according to their mandate, and in carrying out their services they must compare what is legal and what is illegal and must be compared. Both obligations are consistent with the principles of practical order (Handoko, 2019).

With the rapid growth of technology, there are both difficulties and opportunities for Notaries in the Era of Disruption 4.0 towards 5.0 (Ellitan, 2020). Notaries, as public officers with the duty and capacity to perform public services, are obliged to be technologically literate and capable of providing information technology-based public services (Putra, 2021). Electronic means can make work more productive and efficient; documents can be created electronically, and electronic signatures can be used. Notary period 5.0 is undergoing changes in the development of electronic systems (Agustini et al., 2022), such as electronic deeds and electronic signatures that do not require direct physical presence. Legal politics concerning the role of notaries in the age of disruption give a type of policy that must be implemented in tandem with technology advancements from 4.0 to Society 5.0 (Aspan, 2020).

The challenge may be on the quality of Notary expertise in the use of technology, not all of them are experts in technology. Considering that all notary offices are now equipped with computers, printers, scanning facilities, fax machines and the internet, technically the notary's willingness to use information and communication technology in making deeds has increased considerably. Notaries' willingness to produce electronic documents is technically adequate and is reflected in their ability to use internet applications such as social media, e-mail, etc. Most of the existing notaries already have internet applications. The notary's task is to regulate the legal relationship between the parties in writing and in a certain form, so that it becomes a certified tool that can be used as a powerful tool in court (Koos, 2023). The main job of a notary is to make a notarial deed at the request of a certain person or legal entity as required or required by law. The notary has the burden of his position, namely as an extension of the government so that the community obtains legal certainty. The role of the Notary is in accordance with the procedures according to Law Number 2 of 2014 concerning the Position of Notary.



5. CONCLUSION

The era of the industrial revolution 4.0 and social 5.0 was marked by the pace of technological development which provided changes regarding human perspectives and lifestyles in carrying out activities and social life. Information technology transformation has provided new discoveries in the public service sector, one of which is the notary service. The service in question is in the form of making a deed, with developments that have occurred being expanded using information and communication technology using audio-visual media. Where this is done by virtual teleconference/video call between notaries and other parties. There are advantages and disadvantages in terms of using this media. The advantage is that it is efficient because it can save time and effort in face-to-face meetings. Where the appearer does not have to come to the office in processing a deed. Meanwhile, the weakness is that there are no strict and clear regulations specifically governing electronic deeds and their implementation mechanisms, which have an impact on legal loopholes. Some notaries still adhere to UUJN provisions and carry out their duties conventionally. However, there are also those who accept technological advances by being open to adapting themselves without having to ignore the provisions stipulated in UUJN. As digital technology develops in the era of the industrial revolution 4.0 and social 5.0, it is appropriate for notaries to participate in adapting to technology without changing the rules set by UUJN. As a public official, a notary must be adaptive in transforming public service work in terms of making notarial deeds in the digitalization era. The extension of the facing phrase is still difficult to implement immediately, although it is still possible to implement it. Taking examples from several countries that adhere to the civil law legal system, it is possible to carry out the digitization of the notary's duties. One of the countries that has done this is Georgia, where they have worked out this facing concept with a very good alternative to be implemented in Indonesia.

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