

# Digitalization of Notary Deeds In The Era of Industrial Revolution 4.0 In Facing The Covid-19 Pandemic

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## ABSTRACT

Purpose of this research is first, to analyze the digitization of deeds and notary deeds that do not conflict with the Law on Notary Position. Second, to analyze legal certainty in changing the behavior of notaries who use digital media in the era of the industrial revolution 4.0 and facing the Covid-19 pandemic when making and storing minimum deeds. This research uses normative legal research methods. This research concludes, firstly: Notary deed and minuta deed are very important state documents, so that in their storage the Notary is obliged to maintain and safeguard them properly, regulated in UUJN Article 1 point 13. Storage of Notary deed minuta documents using electronic media has not been regulated in UUJN, however, Article 6 of the ITE Law considers the validity of an electronic document, even though the evidence according to Article 1866 of the Criminal Code and Article 184 of the Criminal Procedure Code does not explain the existence of electronic evidence, in which a notary deed is an authentic deed in accordance with UUJN Article 1 point 1. Second: Changes in the work behavior of Notaries In the era of the industrial revolution 4.0 and facing the Covid-19 pandemic, the creation and storage of digital notary deeds requires certainty and protection from the Government and the Indonesian Notary Association (INI). Digitalization as a form of notary adhering to health protocols and protection for minimum notary deeds from damage caused by natural disasters, fire and being eaten by termites and excess space.

**Keywords:** Notary, Minuta Akta, Industrial Revolution 4.0, Covid-19 Pandemic

## 1. INTRODUCTION

Changes in the times are getting faster and force every individual human being to follow these changes. The changes that exist cannot be separated from the intervention of humans themselves, who are willing to innovate for the sake of survival and use their minds to the maximum extent possible, this is done for the benefit of every human being. Changes in the human mindset from traditional relying on the tools available in nature, then studying it carefully, and gradually so that humans find a science that is used to create new discoveries in the field of technology. In the 1.0 industrial revolution, it began with the invention of the steam engine, then entered the 2.0 industrial revolution which was marked by the discovery of electrical energy, the industrial revolution 3.0, which was marked by the discovery of digital technology and the internet and now it has entered the era of the 4.0 industrial revolution which is marked by its existence the use of the internet, making it possible to make a connection between machines in the form of electronics, even machines nowadays can think of themselves like living things, which is known as *Artificial Intelligence* (AI), which is an artificial intelligence added to a system.

The government is committed to building a manufacturing industry that has global competitiveness by accelerating the implementation of the industrial revolution 4.0. As a basic rule of implementation, the Ministry of Industry issued a program called Making Indonesia 4.0. This program is an integrated roadmap and strategy for Indonesia to enter the digital era that is currently running to implement a number of strategies in entering the industrial era 4.0. This aims to create sustainable economic growth (Ministry of Industry, 2018).<sup>1</sup>

The Industrial Revolution 4.0 is a transformation comprehensive of all aspects of production in industry through the combination of digital technology and the internet with conventional industries according to Angela Merkel (2014). Meanwhile, according to Schlechtendahl et al. (2015) the industrial revolution 4.0 emphasizes the definition of the speed element of information availability, namely an industrial environment in which all entities are always connected and able to share information with one another. A more technical understanding is conveyed by Kagermann et al (2013) that Industry 4.0 is an integration of *Cyber Physical Systems* (CPS) and the *Internet of Things and Services* (IoT and IoS) into industrial processes including manufacturing and logistics and other processes.<sup>2</sup>

In today's world conditions that force all human activities to be carried out with *social distancing*, it can be concluded that *social distancing* is an act of staying away from and limiting direct contact with other individuals to avoid spreading the disease. Especially the corona virus (Covid-19) which is currently rife.<sup>3</sup> Even working at home for the sake of breaking the chain of spread of the corona virus or covid-19, the use of technology in this case the internet is needed to help human work in the midst of the current covid-19 pandemic, with the use of the internet this makes changes in human behavior at work increasingly required to further increase knowledge about the use of the internet itself, so that work can continue even in the midst of a pandemic.

The use of technology *Internet* as a very capable tool in the era of industrial revolution 4.0 and the Covid-19 pandemic is very influential in aspects of human work, such as making deeds in notary offices, and storing data that is done electronically can save space and space compared to conventional storage and coupled with risks such as fire, flood, earthquake, tsunami, liquefaction, and being eaten by termite insects. The development of the world of digitization is what makes every job easier, data creation and storage in electronic form, this can be done by utilizing information

<sup>1</sup> Edison H Manurung's, *The Role of Law and the Challenges of Law Enforcers in Facing the Era of the Industrial Revolution 4.0*, Faculty of Engineering, Mpu Tantular University, Vol. 1, No. 2, 2019, p. 131

<sup>2</sup> [https://id.wikipedia.org/wiki/Revolusi\\_Industri\\_4.0](https://id.wikipedia.org/wiki/Revolusi_Industri_4.0), diakses Selasa, 24 November 2020, Pukul 20.22

<sup>3</sup> Mareta Fauziah, <https://campuspedia.id/news/social-distancing-ini-arti-dan-manfaatnya/#:~:text=Social%20distancing%20sendiri%20memiliki%20arti%20yang%20sangat%20beragam%20langsung%20dengan%20individu%20lain%20untuk%20menghindari%20penyebaran%20penyakit>, diakses Senin, 07 Desember 2020, Pukul 23.38



technology such as *email*, *WhatsApp*, *telegram* and storage media like, *Google Drive*, *Cloud* and others.

Notary is one of the professional positions which in practice requires the storage of important documents for the parties, namely, in the form of a notary protocol containing the minutes of notary deeds. This is regulated in Article 1 number 13 of Law Number 2 of 2014 concerning Regulation of Notary Position "Notary Protocol is a collection of documents which are state archives which must be kept and maintained by a Notary in accordance with the provisions of laws and regulations", then Article 16 Paragraph ( 1) letter b UUJN 2014 "make a Deed in the form of Minuta Deed and keep it as part of the Notary Protocol".

Changes in behavior in the midst of the Covid-19 pandemic and the current development of the 4.0 industrial revolution era, forcing all parties, including notaries, to change their work behavior towards tappers who come to their offices, so that the implementation of health protocols continues to run well and services to the users can also be fulfilled. In this case, the Indonesian Notary Association needs to fully control the process of changing the work behavior of notaries at this time and be supervised by the Ministry of Law and Human Rights, with strong security when notaries use digital media at work.

First, Does digitizing deeds and notary deeds not contradict the Law on Notary Position? Second, what is the legal certainty in changing the behavior of notaries who use digital media in the era of the industrial revolution 4.0 and facing the Covid-19 pandemic when making and storing minimum deeds?

## **2. RESEARCH METHOD**

This research method is normative legal research, so that more than one research approach can be used.<sup>4</sup> The object of this research is "Digitalization of Notary Deeds in the Era of the Industrial Revolution 4.0 in Facing the Covid-19 Pandemic." Meanwhile, the collection of research material was carried out by studying the laws and regulations that have a relationship with the problem, in the form of primary data and secondary data. the main secondary is textbooks because textbooks contain basic principles of law science and classic views of highly qualified sajrajana<sup>5</sup>

## **3. RESULTS AND DISCUSSION**

Notaries in practice always refer to UUJN as rules that guide notaries in making and storing Minuta deed as a notary protocol. Regarding the storage of the deed minuta, most notaries in

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<sup>4</sup> Johnny Ibrahim dalam Reza Ardiyanto dan Moh. Saleh, *Juridical Implication of Falsification of Signature in Minutes of Deed of Notary Position (Study of the Supreme Court's Decision Number 1234 K / Pid / 2012)*, Fakultas Hukum, Universitas Narotama, Vol. 16 No. 1, 2020, hlm. 4

<sup>5</sup> Peter Mahmud Marzuki, *Penelitian Hukum Edisi Revisi*, Prenadamedia Group, Jakarta, 2005, hlm. 182-183

Indonesia still use the conventional system (paper documents), and it is a habit that occurs in notary offices. This is also because UUJN has not directly regulated the making and storage of deed minuta as a notary protocol in digital form, so options in digital form are still difficult to implement, even though technological developments in the era of industrial revolution 4.0 and the Covid-19 pandemic are currently very much required to use digital technology as best as possible and as much as possible for ease of work and still obeying *social distancing* as a form of health protocol.

A pandemic is an epidemic that occurs on a scale that crosses international borders, usually affecting large numbers of people.<sup>6</sup> With a pandemic like this, many countries, including Indonesia, have implemented health protocols in order to break the chain of the spread of the corona virus, a change in behavior in activities like this has also been experienced by notaries throughout Indonesia. There is a change in the behavior of notaries who are required to continue to open their offices and apply health protocols with staff and other parties who need notary services to make deeds.

The application of digitizing deeds and notary deeds in the era of the industrial revolution 4.0 and the current pandemic certainly poses a challenge for notaries. The change in the behavior of notaries who are in direct contact with the parties to make deeds conventionally must comply with the rules of the health protocol, up to making deeds and storing conventional deeds (paper documents) to electronic documents, of course the notary must review all relevant laws and regulations. and increase their knowledge and skills in operating internet-based digital media applications which will become a place for notaries to make deeds and save their interests.

When meeting with the parties, making deeds and storing minuta in electronic form, the notary needs to prepare several important aspects, including the following:

- a. Implementing the covid-19 protocol rules and providing the infrastructure for enforcement of health protocols.
  - Running wash basin.
  - Provide soap for hand washing.
  - Mandatory use of masks.
  - Require distance between staff, tappers and notaries themselves.
  - Not making physical contact such as shaking hands with tappers.
- b. Storing the minimum deeds into a database.

Database can be defined or interpreted as a collection of data stored systematically on a computer that can be processed or manipulated using *software* programs or

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<sup>6</sup> [https://id.wikipedia.org/wiki/Pandemi#cite\\_note-Porta2008-3](https://id.wikipedia.org/wiki/Pandemi#cite_note-Porta2008-3), diakses Jumat, 04 Desember 2020, Pukul 22.37

applications to produce information. Database definition includes specifications in the form of data types, data structures and also limitations on the data that is then stored.<sup>7</sup>

c. There is the hardware needed to store the database.

*Hardware* or hardware are various things that act as support for data processing operations. *hardware* This includes memory, terminals and other computer devices.<sup>8</sup>

d. Have an IT support team.

IT Support is a technician whose role is to evaluate and improvements to the technology company's three main objects, namely computers, software, and network systems development (*networksystem*).<sup>9</sup>

The IT support team has several responsibilities and duties, namely:

- Ensuring all computers can be used.
- Make sure all computers are connected to the network.
- Ensuring all applications can be used and run smoothly.
- Store all data on the computer used by the *user*.
- Making technical reports by means of documentation.
- Understand and master computer basics.
- Understand the working principles of switches, routers and others.
- Restore data if you experience problems with your computer.
- Make settings on the *browser*.
- Repair and get your broken computer ready in the shortest possible time.<sup>10</sup>

Some of the important aspects above support the implementation of deeds and storage of notary deeds in digital form, so that the notary office is following developments in the era of the industrial revolution 4.0 and the current Covid-19 pandemic.

### **Digitizing Deeds and Minutes of Notary Deeds.**

Notary deeds are authentic evidence which contains the interests of the parties, so the notary deed is a state document that must be properly guarded by a notary as a notary protocol as stipulated in Article 1 number 13 UUJN. It is very important that the notary keep the deed of minuta very carefully so that the notary must have very good security from various forms of risk that the deed minuta can experience. Fires, natural disasters and being eaten by termites are some of the threats that notaries will face in storing paper documents.

<sup>7</sup> <https://www.termasmedia.com/lainnya/software/69-pengertian-database.html>, diakses Jumat, 27 November 2020, Pukul 23.25

<sup>8</sup> <https://qwords.com/blog/komponen-basis-data/>, diakses Jumat, 27 November 2020, Pukul 00.00

<sup>9</sup> <https://www.linovhr.com/tugas-it-support/>, diakses Jumat, 27 November 2020, Pukul 23.48

<sup>10</sup> *Ibid.*

The notary is responsible for maintaining and maintaining the minimum deed as a notary protocol, here are some theories regarding responsibility:

- a. The *fautes de service* theory, which is a theory which states that losses to third parties are borne by the agency of the official concerned. In its application, the losses incurred are also adjusted to whether the mistakes committed are serious or minor mistakes, where the severity of an error has implications for the responsibility that must be borne.
- b. The theory of *fautes personnelles*, which is a theory which states that losses to third parties are borne by employees because their actions have caused losses. In this theory, the burden of responsibility is shown to humans as individuals.<sup>11</sup>

It is a fact that conventional transactions using paper seem to have turned into transactions using electronic systems.<sup>12</sup> Likewise, what has been experienced in the implementation of the notary's performance, which is starting to be faced with the times, so that all forms of transactions carried out by clerk have often used electronic media, such as paying notary fees using the digital transfer method through a bank account. Then the use of internet media in registering legal entities in the form of PT, CV and so on, the use of technology media should be utilized maximally by notaries so that notaries in carrying out their positions can keep up with the changing times.

It becomes a challenge in itself for notaries when the minimum deed is turned into an electronic document, the notary who carries out his duties and authority to make a deed based on UUJN must pay attention to the advantages and disadvantages of storing the deed minuta electronically, with conventional storage of minutas (paper documents). In this connection, the urgency of the function and role of notaries electronically has surfaced in the *2004 International Coongress from Latin Notary* which was discussed in the *Working Group on Theme II (The Notary and Electronic Contracts)*.<sup>13</sup>

In the era of the industrial revolution 4.0 and accompanied by the Covid-19 pandemic, forcing notaries to participate in using technology massively, in its services to the notary community using digital media such as zoom applications, email, WhatsApp, telegram to conduct virtual meetings. The existence of covid-19 has triggered the use of technology to become more massive, this should be addressed more carefully by the government, by making a special rule for notaries when a formal activity is carried out with digital media has a protection, even though at this time UUJN itself does not regulate regulations. to digitizing the creation and storage of the notary deed minimum and still applying the conventional system, must be present in front of the notary directly and the notary does not yet have the means to make and save the minuta deed.

<sup>11</sup> Ridwan HR, *Hukum Administrasi Negara*, PT. Raja Grafindo Persada, Jakarta, 2006, hlm. 365

<sup>12</sup> Edmon Makarim, *Notaris dan Transaksi Elektronik*, Rajawali Pers, Depok, 2018, hlm. 9

<sup>13</sup> *Ibid*, hlm. 10

### **Legal Certainty for Notaries**

Article 1 number 1 UUJN "Notaries are public officials who are authorized to make authentic deeds and have other powers as referred to in this Law or based on other laws." The notary makes an authentic deed, then from the deed made, the notary keeps the original deed in the form of a minimum, then a copy is given to the authorized parties in the deed, this is in accordance with Article 15 Paragraph (1) UUJN "Notaries are authorized to make authentic Deeds of all actions, agreements, and stipulations required by laws and regulations and / or those interested in being included in the authentic Deed, guaranteeing the certainty of the making of the Deed, keeping the Deed, giving grosse, copy and excerpt of the Deed, all as long as the making of the Deed is not also assigned or excluded to other officials or other people by law. " According to Philipus M. Hadjon's opinion, authority (*bevoegdheid*) is expressed in the concept of public law relating to legal power or defined as legal power (*rechtsmacht*).<sup>14</sup> The notary's authority in making authentic deeds as referred to in Article 1 number 1 UUJN "Notaries are public officials who are authorized to make authentic deeds and have other powers as referred to in this Law or based on other laws". In this case, authority is defined as the ability to act to carry out an act and a legal relationship that is given by law.<sup>15</sup>

When a notary makes a deed as a notary protocol based on UUJN, it has not been regulated regarding the storage of deed minutes electronically, this is also a debate among notaries who are already in office, and it becomes a legal vacuum for notaries who want to digitize the minimum amount of deeds. Article 1 point 13 UUJN explains "Notary Protocol is a collection of documents which is a state archive which must be kept and maintained by a Notary in accordance with the provisions of the legislation". Here the notary is obliged to maintain the minimum amount of the deed as well as possible, so that there is no accident that could endanger the minuta deed itself.

### **Proof of Notary Deed in Digital Form in the Era of the Revolution Industrial 4.0 in Facing the Covid-19 Pandemic**

In this difficult time, remember that each of us has an important role. Together we can protect ourselves and protect others and survive the COVID-19 outbreak. We can deal with the outbreak faster with the right actions.<sup>16</sup>

The covid-19 pandemic forces humans to work more creatively and innovatively, so that every job can continue even though they still carry out health protocols. In the era of the industrial

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<sup>14</sup> Philipus M. Hadjon, *Tentang Wewenang*, Makalah Bulanan Yuridika No. 5-6 Tahun XII September - Desember, Universitas Airlangga, 1997, Surabaya, hlm. 1

<sup>15</sup> SF. Marbun, *Peradilan Administrasi Negara dan Upaya Administrasi di Indonesia*, Liberty, Yogyakarta, 1997, hlm. 154

<sup>16</sup> <https://covid19.go.id/edukasi/pengantar/pengantar>, diakses Sabtu, 05 Desember 2020, pada Pukul 02.20

revolution 4.0 at this time is also a form of progress made by humans in the form of the use of internet technology that has been carefully developed by humans. It becomes an advantage for humans when the use of the internet is used wisely and well so that the benefits of the internet can be felt in everyday life, especially in the world of professional work, such as a notary.

Industry terminology 4.0 was first introduced at the Hannover Fair, Germany in 2011 which later introduced the term industry 4.0. At first, industrial terminology 4.0 was the name for the initiation of the German government's technology strategy towards 2020. In a literature review conducted by a research team from the University of Dortmund, Germany (Hermann, Mario Pentek, Tobias Otto and Boris, 2015) found several key concepts in industrial terminology. 4.0, which according to them the concept is a component of industry 4.0, namely: (1) Cyber-physical system (CPS); Internet of Things (IoT); Internet of Services (IoS); and Smart Factory. From these key components, Hermann, et al defined industry 4.0 as follows: "we define Industrie 4.0 as follows: Industrie 4.0 is a collective term for technologies and concepts of value chain organization. Within the modular structured Smart Factories of Industrie 4.0, CPS monitor physical processes, create a virtual copy of the physical world and make decentralized decisions. Over the IoT, CPS communicate and cooperate with each other and humans in real time. Via the IoS, both internal and cross-organizational services are offered and utilized by participants of the value chain".<sup>17</sup>

Deeds and deeds made by notaries, in this case, should be able to keep up with the increasingly advanced times in the technology sector, so that these deeds and deeds can be made not only in conventional form (paper documents) but can also be made in the form of digital documents. Minuta notary deed is a very important state document and must be guarded and cared for by a notary public. The importance of these deeds should be given special attention by notaries so that they are not damaged by natural disasters, fires and eaten by termites.

There are currently pros and cons among notaries, when a deed is turned into an electronic document, how can it prove it in court as perfect evidence if the deed is turned into an electronic document. In article 6 of Law Number 11 Year 2008 concerning Electronic Information and Transactions or it can be called the ITE Law "In the event that there are provisions other than those regulated in Article 5 paragraph (4) which require that information must be in written or original form, Electronic information and / or Electronic Documents are considered valid as long as the information contained therein can be accessed, displayed, guaranteed its integrity, and can be accounted for so as to explain a situation. " With Article 6 of the ITE Law, there should be a guarantee that electronic documents can be created and their protection guaranteed, in Article 32 Paragraph (1) of the ITE Law "Every person intentionally and without rights or against the law in any way changes, adds, reduces, carries out transmitting, destroying, removing, transferring, hiding any Electronic

<sup>17</sup> Edison H Manurung, *Op. Cit.*, hlm. 130



information and / or Electronic Documents belonging to other people or public property. " Paragraph (2) "Any person who knowingly and without rights or against the law in any way transfers or transfers Electronic information and / or Electronic Documents to the Electronic System of another person who is not entitled."

Protection of these electronic documents is regulated by the ITE Law, so that the security in their storage can be guaranteed and protected from people who are not entitled to the Minuta deed. This is the same as UUJN Article 54 Paragraph (1) "Notaries can only give, show, or provide the contents of the Deed, Grosse Deed, Copy of Deed or Quotation of Deed, to people with direct interest in the Deed, heirs, or people who obtain rights, unless stipulated otherwise by the laws and regulations. " This is actually in line with Article 32 Paragraph (1) and (2) of the ITE Law above because of the laws and regulations governing these electronic documents, in this case the minimum notary deed. Even though Article 1866 of the Criminal Code and Article 184 of the Criminal Procedure Code have not explained the issue of proof in the form of electronic documents, sufficient legislation is needed to ensure legal certainty for the minimum amount of deeds in electronic form which is equivalent to the minimum strength of deeds in conventional form (paper documents).

### **Inner Constraints Transition of the Notary**

Protocol The notary protocol must be implemented by all notaries in Indonesia, in keeping the minimum amount of the act, the notary is always emphasized to maintain and maintain the deed as a state document, however, notaries are in the times of increasing development, especially in the use of digital media. In the current era of the industrial revolution 4.0, the use of internet-based technology is very helpful in every modern human work, one of which is in professional work such as a notary, which demands that a job be made as well as possible, and quickly in order to serve the parties interested in making a deed .

However, in the implementation of this digitization, the notary cannot fully implement it, one of which is in making the minimum deed into an electronic document, the notary is still faced with enormous obstacles, according to Gatot Triwaluyo, SH, M.Kn. Notaries and Land Deed Making Officials (PPAT) domiciled in the City of Surabaya, East Java Province, Iya said related to the constraints in digitizing the minuta notary deed, namely, that:<sup>18</sup>

- a. There is no law specifically made to regulate the digitization of notary deed minutes, in this case UUJN.

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<sup>18</sup> Wawancara dengan Gatot Triwaluyo, SH, M.Kn. Notaris dan Pejabat Pembuat Akta Tanah (PPAT) di Surabaya, 1 Desember 2020

- b. There are differences in existing infrastructure facilities in each region in Indonesia, which of course areas in remote areas still have very minimal infrastructure compared to urban areas.
- c. Costs that will be incurred for managing the minimum deed deposit in electronic form will be borne by the Notary only or will be borne by the government.
- d. There is no special agency such as Cyber Notary to secure the data of notary public.
- e. It is feared that there will be an error in the system when the notary carries out electronic data input activities, so that the data of the parties will not be inputted into the electronic data database.

When the notary is faced with the above problems when he wants to follow the current era of the industrial revolution 4.0, the notary is still very difficult to keep up with these changes. However, seeing the current work of notaries in the field of digitization, namely, in the form of registering the names of PT, CV, and so on through the website of the Ministry of Law and Human Rights, so that the work of a notary is faster and does not require a very long time.

#### **4. CONCLUSION**

Notaries in carrying out their positions are always required to act professionally and always comply with laws and regulations relating to notaries, such as UUJN, KUHPperdata and so on. The digitization of deeds and notary deeds is a good move for the security of state documents. The Covid-19 pandemic demands that every job, including notary professional positions, work in compliance with applicable health protocols, and with technological advances in the era of the industrial revolution 4.0, currently, it becomes a supporter of human work who must continue to maintain *social distancing*. The advantages of digitizing deeds, namely, being able to continue to apply the Covid-19 pandemic health protocol and digitizing the minimum certificate can reduce the risk of damage to the minimum certificate in the event of fire, natural disasters and being eaten by termites. The drawback is that currently the implementation of digitization of deeds and notary deeds is still faced with inadequate infrastructure in several regions in Indonesia, there are no specific laws and regulations related to the notary position that specifically regulates the digitization issue so that it will risk causing new problems for notary public and parties with an interest in the deed. The author hopes that there will be more advanced developments by the Government and Notaries in the implementation of digitizing deeds and keeping the minuta deeds, so that in the era of the industrial revolution 4.0 and the current Covid-19 pandemic, notaries can continue to work by implementing health protocols to protect notaries personally and their the party that will make the deed, and can better protect a very important state document, namely the minimum of a notary deed.

