

# **Notarial Use of Electronic Signatures: A Comparative Study of Indonesia and South Korea**

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## **ABSTRACT**

The advancement of digital technology has significantly transformed notarial practices, particularly regarding the use of electronic signatures in the creation of authentic deeds. This study provides a normative legal analysis comparing the regulation of electronic signatures by notaries in Indonesia and South Korea, focusing on legal certainty, document validity, and authenticity. In Indonesia, the regulation is governed by Law Number 11 of 2008 on Electronic Information and Transactions as last amended by Law Number 1 of 2024, Government Regulation Number 71 of 2019 on the Implementation of Electronic Systems and Transactions, and the Notary Position Act (UUJN), which requires that deeds be signed in the physical presence of a notary. Meanwhile, South Korea comprehensively regulates this matter through the Electronic Signature Act (ESA) and the Notary Act, which authorizes notaries to use certified electronic signatures supported by a government-integrated digital verification system. This research employs a normative juridical approach with comparative legal analysis to examine the alignment and divergence of legal norms between the two countries, as well as their relation to the authenticity principle of deeds as stipulated in Article 1868 of the Indonesian Civil Code. The findings reveal that South Korea has fully implemented electronic signatures in notarial practice through robust legal and technological infrastructure, whereas Indonesia still faces normative conflicts among the ITE Law, the Notary Position Act, and the Civil Code. Therefore, regulatory harmonization is necessary to ensure that Indonesia's notarial system can transition toward digitalization while preserving authenticity and legal certainty.

**Keywords:** Authentic deed; comparative law; electronic signature; legal certainty; notary.

## **1. INTRODUCTION**

Electronic signatures have become a technological breakthrough that has transformed the paradigm of document authentication, both in the public and private sectors. Their use allows interested parties to sign documents remotely, without physical presence, using only a digital device and an internet connection. This advantage not only speeds up administrative processes but also significantly reduces operational costs. Therefore, the use of electronic signatures is a strategic step in realizing a modern, responsive, and adaptive legal administration and service system.

However, the use of electronic signatures in legal practice, particularly in the notary sector, raises serious legal issues. This issue relates to the potential for conflicting norms between several provisions of laws and regulations. On the one hand, Article 5 paragraph (1) of Law Number 11 of 2008 concerning Electronic Information and Transactions, as last amended by Law Number 1 of 2024 (hereinafter referred to as the ITE Law), affirms that electronic information and/or electronic documents constitute valid legal evidence. Furthermore, Article 11 paragraph (1) of the ITE Law



states that electronic signatures have legal force and valid legal consequences as long as they meet the requirements of authenticity, integrity, and connection with the signatory. (Law No. 11 of 2008; Law No. 2 of 2014)

On the other hand, Article 16 paragraph (1) letter c of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary (hereinafter referred to as UUJN) still requires that the notary must read the deed in front of the person appearing and it must be signed directly by the parties and the notary at the same time. This provision confirms that the notary legal system in Indonesia is still oriented towards the element of physical presence and the use of wet signatures as formal requirements for authentic deeds. (Law No. 11 of 2008; Law No. 2 of 2014)

Furthermore, Article 1868 of the Civil Code (KUHPerdara) also stipulates that an authentic deed must be drawn up by or before an authorized public official, in this case a notary, and must meet the formal requirements of the parties' presence and direct signing. An authentic deed that meets these requirements has perfect evidentiary force, both formally and materially, and therefore cannot be easily challenged in the civil legal evidence process.

Based on these provisions, there appears to be a potential conflict of norms when notaries attempt to utilize digital technology, particularly electronic signatures, in exercising their authority. Although the ITE Law has provided legal legitimacy for the use of electronic signatures and electronic documents as valid evidence, its application in notarial practice still faces normative obstacles. To date, the UUJN has not explicitly regulated the mechanism for the use of electronic signatures by notaries, thus creating legal ambiguity regarding the validity of authentic electronic deeds created within the notarial environment. (Law No. 11 of 2008; Law No. 2 of 2014)

Historically, regulations regarding the office of notary have been in effect since Staatsblad 1860 Number 3, which came into effect on July 1, 1860. This means that notarial law in Indonesia is more than a century and a half old. In the context of today's digital transformation, such ancient legal provisions should be strengthened and updated to reflect developments in information technology. While the UUJN (National Notary Law) regulates the function of notaries as public officials authorized to provide legal certainty and protection, it has not explicitly addressed digital-based notarial practices. (Law No. 11 of 2008; Law No. 2 of 2014)

The concept of cyber notary essentially provides an opportunity for notaries to perform some of their duties electronically, including certifying transactions conducted online. This is in line with the explanation of Article 15 paragraph (3) of the UUJN, which states that outside of the authority as referred to in paragraphs (1) and (2), notaries have other authority to certify electronic



transactions. Therefore, the results of this certification can be in the form of an electronic document, as long as it meets the provisions of Article 1868 of the Civil Code regarding the authenticity of deeds.

The signature on a deed is an inseparable part of the *verlijden* (deed formalization) process. Based on Article 44 paragraph (1) of the UUJN, the signature must be given firmly and stated at the end of the deed. The signing contains the meaning of a statement of will that is legally stated in written form. Therefore, any change from a wet signature to an electronic signature must be ensured not to reduce the legal meaning of the signing itself.

Thus, the concept of a cyber notary, which enables the electronic creation and authentication of deeds, needs to be accompanied by a comprehensive update of notary law. Without revisions to the provisions of the UUJN (National Notary Law), the implementation of cyber notaries has the potential to conflict with basic notary principles and obscure the legal status of notaries as a tool of social engineering, a legal instrument that should be a driver of social development and innovation in the digital age. (Law No. 11 of 2008; Law No. 2 of 2014)

This research not only discusses the Indonesian context but also conducts a comparative study with South Korea, which has implemented a comprehensive electronic notary system (e-Notarization). This system is regulated through an amendment to the South Korean Notary Public Act No. 9416 on February 6, 2009, which came into effect on August 7, 2010. The amendment regulates the authentication mechanism for electronic documents, including the use of electronic signatures by appointed notaries. According to Article 66-7 of the law, appointed notaries are required to electronically sign electronic documents and attach information that can prove the validity of the signature. This provision confirms that notaries in South Korea can perform the function of digital document authentication, while ensuring the legal certainty and integrity of electronic documents. (Law No. 11 of 2008; Law No. 2 of 2014)

The electronic notarization system in South Korea is supported by the Electronic Signature Act (ESA) 2021, which provides the basic legal framework for the use of electronic signatures. The ESA defines an electronic signature as information in electronic form attached to or logically associated with an electronic document to identify the signatory and confirm that the document was signed by that signatory. An electronic signature that meets the legal requirements set forth by the ESA has the same legal force as a manual signature. (Republic of Korea, 2009; Electronic Signature Act, 2001)

The implementation of this electronic notary system also allows for document authentication via video conferencing. This aligns with Article 66-12 of the Notary Public Act,



which permits electronic document authentication via internet video devices, provided the identities of the parties involved can be verified and all procedures are carried out in accordance with applicable regulations. (Law No. 11 of 2008; Law No. 2 of 2014)

The official website of South Korea's electronic notary system, known as e-Notarization, provides a platform for appointed notaries to perform digital notarization processes. Through this platform, notaries can perform identity verification, electronic document signing, and digital document archiving. The system is integrated with a digital security infrastructure that supports the authentication and integrity of electronic documents. (Republic of Korea, 2009; Electronic Signature Act, 2001)

Previous research has highlighted various aspects of notary digitization in Indonesia. Dewi et al. (2024) discussed the legality of electronic signatures in legal contracts, including notarial deeds, but their focus was limited to the national context without cross-country comparisons. Mayana (2021) emphasized the opportunities for notarial digitization, but without discussing electronic document authentication procedures in detail. Setiawati et al. (2025) conceptually raised the concept of cyber notary in the era of Industrial Revolution 4.0 and Society 5.0, but did not examine the implementation of electronic signatures in authentic deeds. Thus, there remains a research gap regarding the legality and practice of using electronic signatures in creating authentic deeds, particularly in the context of comparisons with more advanced systems such as South Korea. (Law No. 11 of 2008; Law No. 2 of 2014)

Based on this review, this study aims to fill this gap with a normative-comparative approach, namely analyzing the use of electronic signatures in notarial practice in Indonesia, accompanied by a comparative study with South Korea. This study emphasizes the conflict of norms that arise due to the inconsistency of the ITE Law and the UUJN and the need for legal reform to accommodate digital-based notarial practices, without compromising the principles of legality and the evidentiary power of authentic deeds. Thus, this study is expected to provide a practical contribution in the form of a digital-based notarial legal regulation model that integrates the principles of legal certainty, efficiency, and legal protection for the community. (Law No. 11 of 2008; Law No. 2 of 2014)

## **2. RESEARCH METHODS**

This research is a normative legal research that examines legal norms in legislation, doctrine, and legal principles, with a focus on library research to understand the legal principles related to the use of electronic signatures in notarial practice in Indonesia and South Korea. The



legal materials include primary materials (Indonesian and South Korean laws and regulations), secondary materials (legal literature, journals, books, and previous research), and tertiary materials (dictionaries and legal encyclopedias). Data were collected through library research and analyzed qualitatively with a normative juridical approach, comparing applicable provisions, assessing legal implications, and describing the results narratively and argumentatively. This analysis includes identifying normative inconsistencies, evaluating legal certainty, and learning from South Korean practices as a basis for formulating recommendations for notarial law reform in Indonesia so that the use of electronic signatures remains valid and has evidentiary power. (Law No. 11 of 2008; Law No. 2 of 2014)

### **3. RESULTS AND DISCUSSION**

#### **Policy on the Use of Electronic Signatures by Notaries in Indonesia and South Policy on the Use of Electronic Signatures by Notaries in Indonesia**

The results of the study show that the policy of using electronic signatures (TTE) in Indonesia has a legal basis through Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law) and its amendments, namely Law No. 19 of 2016 and Law No. 1 of 2024. Based on Article 11 paragraph (1) of the ITE Law, electronic signatures have valid legal force if they meet certain requirements, such as an exclusive link between the data of the signature maker and the signatory and the system's ability to detect changes to the signature or electronic document. (Law No. 11 of 2008; Law No. 2 of 2014)

However, from the results of the normative analysis it can be concluded that the application of TTE in notarial practice in Indonesia still faces significant legal obstacles. Although Article 5 paragraph (1) of the ITE Law recognizes electronic documents as valid legal evidence, this recognition has not been followed by harmonization with the Notary Law (UUJN) and the Civil Code (KUHPdata), especially regarding the definition of an authentic deed which requires it to be made before a public official with physical presence. Article 16 paragraph (1) letter m of the UUJN explicitly requires the notary to be physically present and sign the deed in the presence of the person appearing and witnesses. (Law No. 11 of 2008; Law No. 2 of 2014)

These findings demonstrate a conflict of norms between the ITE Law, which accommodates electronic instruments, and the UUJN, which still focuses on conventional concepts of authentication. This conflict demonstrates that Indonesia has not yet implemented notarial law reforms that are adaptive to digital developments. In the context of Satjipto Rahardjo's progressive



legal theory, the law should not be a barrier to social innovation but rather adapt to the changes of modern digital society. (Law No. 11 of 2008; Law No. 2 of 2014)

In addition, Article 13A paragraph (1) letter a of Law No. 1 of 2024 does open up opportunities for the provision of electronic signature services through Electronic Certification Providers (PSrE). However, until now there have been no derivative regulations that explicitly allow notaries to sign authentic deeds with TTE. The existing provisions only reach the level of recognition of two types of certified and uncertified TTE as regulated in Article 60 of the ITE Law, but have not yet reached the realm of authentic proof as referred to in Article 1868 of the Civil Code. (Law No. 11 of 2008; Law No. 2 of 2014)

Thus, the results of this study confirm that Indonesian legal policy is still fragmentary and not yet integrated between digital law (UU ITE) and notarial law (UUJN). Although Law Number 11 of 2008 concerning Electronic Information and Transactions (UU ITE) and its amendments have provided a basis for legal certainty for all electronic transactions, legal certainty for authentic notarial deeds has not been fully achieved because there is still a lack of synchronization between the ITE Law, the Notary Law, and other related regulations. The study shows that the ITE Law does recognize the validity of electronic documents as legal evidence, but in notarial practice, the Notary Law still requires the physical presence of the parties and wet signatures before a notary, so that authentic electronic deeds do not yet have a strong legal basis. (Law No. 11 of 2008; Law No. 2 of 2014)

In practice, the requirement for physical presence, as interpreted textually by most notaries, hinders the implementation of electronic notary (e-notary). However, several legal instruments, such as Supreme Court Regulation No. 1 of 2016 concerning Mediation Procedures in Court, recognize presence via video conference as in-person presence. This means there is an opportunity for a new interpretation of "physical presence" in a digital context, but this has not yet been accommodated in notary regulations.

Overall, Indonesia is still in the pre-digital notary reform stage, where the existing legal framework is not yet able to provide legal certainty and protection for the use of electronic signatures by notaries. (Law No. 11 of 2008; Law No. 2 of 2014)

#### **Policy on the Use of Electronic Signatures by Notaries in South Korea**

Research in South Korea shows that the country has implemented comprehensive legal reform through the Electronic Signature Act (ESA) of 2001, which replaced the Digital Signature Act (DSA) of 1999 and was integrated with the Notary Public Act (amended in 2009). Based on the analysis, South Korean legal policy positions electronic signatures as a legal instrument





equivalent to manual signatures if they meet three fundamental principles: identity authentication, data integrity, and non-repudiation. (Law No. 11 of 2008; Law No. 2 of 2014)

South Korea has been one of the countries that has successfully implemented an electronic notary system (e-Notarization) since 2010, following a revision to the Notary Public Act (Act No. 9416) and the enactment of several Presidential Decrees governing the technical procedures and security standards for the digital certification system. Through this system, all notarial activities such as the creation, signing, and storage of deeds can be carried out digitally using certified electronic signatures supervised by the Korea Internet & Security Agency (KISA), the national certification authority. (Law No. 11 of 2008; Law No. 2 of 2014)

Legal provisions regarding the authentication and certification of electronic documents are detailed in Articles 66-5 to 66-12 of the Notary Public Act, including attestation via video internet equipment (teleconferencing), which is legally recognized as a form of in-person attendance. This demonstrates that South Korea has transformed notarial practice from a conventional model to a digital model based on information technology that is efficient and legally binding. (Law No. 11 of 2008; Law No. 2 of 2014)

Compared to Indonesia, research results show that South Korea has reached the implementation and integration stage, while Indonesia is still at the normative-administrative stage. In Lawrence M. Friedman's legal system theory, South Korea's success can be explained by the synergy between structures (institutions such as the KISA and the Ministry of Justice), substance (the Electronic Signature Act and the Notary Public Act), and a legal culture that supports the digitalization of the legal system. (Law No. 11 of 2008; Law No. 2 of 2014)

Aspect	Indonesia	South Korea
Legal Basis for Electronic Signatures	ITE Law (2008, 2016, 2024)	Electronic Signatures Act (2001)
Integration with Notary Law	Not yet integrated (UUJN has not been adjusted)	Integrated with the Notary Public Act (2009)
Electronic Attendance Recognition	Not explicitly regulated	Regulated in Article 66-12 of the Notary Public Act



Aspect	Indonesia	South Korea
Certification Authority	PSrE under Kominfo	KISA is under the Ministry of Science and ICT
Status of Notary Reform	Pre-reform (conceptual stage)	Implementation (e-Notarization has been running since 2010)

Academically, the results of this study reinforce the view that adaptive and comprehensive legal policies are key factors in the successful implementation of electronic signatures in notarial practice. South Korea exhibits an integrated and operational regulatory model, while Indonesia still requires reform of its notarial legal system to integrate digital technology without compromising the principle of deed authenticity. (Law No. 11 of 2008; Law No. 2 of 2014)

Thus, from the results of the comparative analysis, it can be concluded that the application of electronic signatures by notaries in Indonesia is still potential and conceptual, while in South Korea it is already actual and functional through a structured and synergistic legal system. (Law No. 11 of 2008; Law No. 2 of 2014)

#### **Future Reform of the Notary Legal System to Adopt the Use of Electronic Signatures by Notaries in Indonesia**

Reform of the notarial legal system in Indonesia is an urgent need to face the era of legal digitalization. The use of electronic signatures in notarial practice requires a paradigm shift in the concept of authentic deeds, the public service system, and the responsibilities of the notary office. To date, the Indonesian notarial system is still based on Law Number 2 of 2014 concerning the Notary Office (UUJN), which does not substantially accommodate the use of information technology, particularly regarding the electronic creation of deeds. (Law No. 11 of 2008; Law No. 2 of 2014)

Normatively, Article 15 paragraph (1) of the UUJN confirms that a notary is authorized to make authentic deeds regarding all acts, agreements, and provisions required by statutory regulations and which the parties wish to state in an authentic deed. However, this provision is still based on physical presence, namely the physical presence of the parties and the notary for the signing of the deed. This is a major obstacle when faced with the development of electronic law which allows signing to be carried out via digital media with a certified electronic signature.

In this context, the direction of reform of the notary legal system in Indonesia needs to encompass several aspects. First, a revision of the UUJN to explicitly regulate the legality of



electronic authentic deeds, including electronic signature mechanisms and online notarial certification. Second, strengthening derivative regulations through Regulations of the Minister of Law and Human Rights or Regulations of the Notary Organization (Indonesian Notary Association), which govern the procedures for using electronic systems for the creation, storage, and archiving of notarial deeds. Third, the development of digital notary infrastructure, such as a national e-notary system portal that enables the electronic signature authentication process to be integrated with the Electronic Certification Center (BSrE) of the National Cyber and Crypto Agency (BSSN). (Law No. 11 of 2008; Law No. 2 of 2014)

In addition, notarial law reform also needs to pay attention to strengthening aspects of data security and deed integrity, considering that notarial deeds are legal documents that have perfect evidentiary power. The use of certified electronic signatures must be supported by an encryption, authentication, and audit trail system that can ensure that any changes to the document can be detected. This is in line with the provisions of Article 11 paragraph (1) of Law Number 11 of 2008 concerning Electronic Information and Transactions as amended by Law Number 19 of 2016 (ITE Law), which states that electronic signatures have legal force and valid legal consequences as long as they meet certain requirements. (Law No. 11 of 2008; Law No. 2 of 2014)

Lessons can be learned from the South Korean notary system, which has implemented the e-Notarization System under the Korea Online E-Notary Center (KONEPS). This system allows the entire deed creation process to be conducted digitally, from the application and identity verification to electronic signing with a certificate issued by the Korea Information Certificate Authority (KICA). This model can be adapted to the Indonesian context, while adhering to the principles of national legal sovereignty and personal data protection, as stipulated in Law Number 27 of 2022 concerning Personal Data Protection. (Law No. 11 of 2008; Law No. 2 of 2014)

Thus, future reforms to Indonesia's notary legal system aim not only to adapt to technological developments but also to strengthen the principles of legal certainty, authenticity of deeds, and efficiency of public services. The transformation to a cyber notary system integrated with certified electronic signatures is a strategic step towards realizing a modern, digital-based notary system that upholds the principles of public trust and the responsibilities of the notary office. (Law No. 11 of 2008; Law No. 2 of 2014)

#### **4. CONCLUSION**

Based on the results of normative analysis and legal comparison between Indonesia and South Korea, it can be concluded that the implementation of electronic signatures (TTE) in notarial



practice in Indonesia still faces legal and structural obstacles due to the lack of synchronization between the Electronic Information and Transactions Law (UU ITE), the Notary Law (UUJN), and the provisions of Article 1868 of the Civil Code (KUHPdata) regarding authentic deeds. Meanwhile, South Korea has successfully implemented a comprehensive electronic notary system (e-notarization) through the harmonization of the Electronic Signature Act (ESA) and the Notary Public Act which provides full legitimacy for the use of electronic signatures by notaries. (Law No. 11 of 2008; Law No. 2 of 2014)

To address the first problem, Indonesia's legal policy on the use of electronic signatures by notaries is still declarative and not yet operational, while South Korea already has an integrative, standardized legal system supported by the country's digital infrastructure. Indonesian policy still needs to be strengthened with derivative regulations that explicitly regulate the use of E-signatures in the creation of authentic deeds to align with the principles of authenticity and legal certainty. (Law No. 11 of 2008; Law No. 2 of 2014)

To address the second problem, reform of the notary legal system in Indonesia needs to be directed at three main dimensions: legal substance, institutional structure, and legal culture. Substantive reform requires a revision of the UUJN to recognize the electronic presence and digital signatures of notaries; institutional reform emphasizes the establishment of a national digital notary platform and a digital notary certification body; while legal culture reform requires a paradigm shift in the notary profession to adapt to digitalization. Thus, the Indonesian notary system can transform toward efficient digital governance without losing the essence of deed authenticity. (Law No. 11 of 2008; Law No. 2 of 2014)

Theoretically, this research contributes to the development of digital notary law theory and reinforces Satjipto Rahardjo's thinking on progressive law, which states that law must adapt to social and technological changes to achieve substantive justice. Practically, the results of this research can serve as a reference for lawmakers in formulating new norms regarding cyber notaries based on legal certainty, efficiency, and personal data protection. (Ibrahim, 2007; Soekanto & Mamudji, 2020)

Further research is recommended to delve deeper into the technical and legal aspects of electronic signature verification and digital evidence in court, including an empirical study of the readiness of notaries and Indonesia's legal infrastructure to implement an e-notary system. This approach is expected to yield a responsive, measurable, and sustainable digital notary law design for the era of technology-based legal transformation. (Law No. 11 of 2008; Law No. 2 of 2014)



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