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# Opportunities for the Digital Implementation of Legalization and Certification by Notaries Public

Imam Endrik Pratama

Magister Kenotariatan, Universitas Pancasila Jakarta, Indonesia

## Correspondence

Imam Endrik Pratama, Magister Kenotariatan, Universitas Pancasila Jakarta, Indonesia, Jl. Srengseng Sawah, Srengseng Sawah, Kec. Jagakarsa, Kota Jakarta Selatan, Daerah Khusus Ibukota Jakarta 12630, e-mail: imamendrik064@gmail.com

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*Original Article*

## Abstract

The advancement of digital technology has brought significant changes to various aspects of life, including the notary sector. The digitalization of notary services has become a crucial issue, particularly concerning the legalization and certification of documents. This development raises questions about the prospects, legality, and legal challenges associated with its implementation. This study aims to analyze the legal standing and authority of notaries in digital legalization and certification, as well as to examine the validity of documents within the Indonesian legal system. The research employs a normative juridical approach, analyzing regulations, legal doctrines, and court decisions. According to the Notary Law (UUJN), legalization and certification fall under the authority of notaries. However, digitalization still presents challenges, such as document security and legal certainty. Therefore, clearer regulations are necessary to ensure that this process can be carried out securely and in compliance with the law.

**Keywords:** *Electronic Document Legalization, Digital Waarmerking, Notary Public, Legal Clarity and Security*

## Abstrak

Perkembangan teknologi digital telah membawa perubahan signifikan dalam berbagai aspek kehidupan, termasuk bidang kenotariatan. Digitalisasi pelayanan notaris menjadi isu penting, terutama terkait legalisasi dan waarmerking dokumen. Perkembangan ini menimbulkan pertanyaan mengenai prospek, legalitas, serta tantangan yuridis dalam penerapannya. Penelitian ini bertujuan menganalisis posisi hukum dan kewenangan notaris dalam legalisasi serta waarmerking digital, serta mengkaji keabsahan dokumen dalam sistem hukum Indonesia. Metode yang digunakan adalah yuridis normatif dengan analisis terhadap regulasi, doktrin hukum, dan putusan pengadilan. Dalam UU Jabatan Notaris (UUJN), legalisasi dan waarmerking merupakan kewenangan notaris. Namun, digitalisasi masih menghadapi tantangan, seperti keamanan dokumen dan kepastian hukum. Oleh karena itu, diperlukan regulasi yang lebih jelas agar proses ini dapat berjalan secara aman dan sesuai hukum.

**Kata kunci:** *Legalisasi Digital, Waarmerking Digital, Notaris, Kepastian Hukum*

## 1. INTRODUCTION

The Indonesian Internet Service Providers Association (APJII) has announced that the number of internet users in Indonesia in 2024 is expected to reach 221.563.479 out of a total population of 278.696.200 in 2023. According to the results of APJII's 2024 Indonesian Internet Penetration Survey, the country's internet penetration rate has reached 79.5%, reflecting a 1.4% increase from the previous period.<sup>1</sup>

This rapid development, supported by government initiatives in digitalization, aims to help Indonesia bridge the gap with other nations. One of the key government-backed initiatives is the launch of Ina Digital by the President of the Republic of Indonesia on May 27, 2024. Minister of State Apparatus Empowerment and Bureaucratic Reform (PANRB) Abdullah Azwar Anas stated that Ina Digital is an institution responsible for driving the integration of digital services. Initially, only private companies adopted digital signatures, but with the advancement of regulations and the growing need for digital authentication, government agencies have also begun implementing digital signatures.

The concept of a Cyber Notary refers to notaries who utilize digital technology in performing their duties and responsibilities. In Indonesia, the development of cyber notaries is driven by the need to enhance the efficiency, security, and accessibility of notarial services. Establishing a robust technological infrastructure is crucial for supporting cyber notaries, including the development of a secure and integrated notary information system, the use of legally recognized digital signatures, and secure electronic data storage.<sup>2</sup>

A notary is a public official authorized to create authentic deeds and perform other duties as mandated by Law Number 2 of 2014, which amends Law Number 30 of 2004 concerning the Position of Notary (UUJN). According to Article 15, paragraphs (1) and (2), a notary has the authority to draft authentic deeds for all actions, agreements, and decisions required by law or requested by interested parties. Notaries also ensure the validity of the deed's date, store the deed, and provide certified copies and extracts, as long as the deed's creation is not assigned to another official or party by law.<sup>3</sup> Additionally, notaries are authorized to validate signatures and verify the authenticity of private documents by registering them in a special record book—procedures commonly referred to as legalization and *waarmerking*.

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<sup>1</sup> Asosiasi Penyelenggara Jasa Internet Indonesia (APJII), "APJII Jumlah Pengguna Internet Indonesia Tembus 221 Juta Orang," Asosiasi Penyelenggara Jasa Internet Indonesia (APJII), 2024, <https://apji.or.id/berita/d/apji-jumlah-pengguna-internet-indonesia-tembus-221-juta-orang>.

<sup>2</sup> Desy Bungdiana and Arsin Lukman, "Efektivitas Penerapan Cyber Notary Dengan Meningkatkan Kualitas Pelayanan Notaris Pada Era Digital," *Jurnal Ilmu Sosial Dan Pendidikan* 7, no. 1 (2023): 309–18, <http://dx.doi.org/10.58258/jisip.v7i1.4216>.

<sup>3</sup> Wibby Yuda Prakoso and Gunarto Gunarto, "Tanggung Jawab Dan Akibat Hukum Dari Akta Notariil Yang Dibuat Oleh Notaris Pengganti Setelah Masa Jabatannya Selesai," *Jurnal Akta* 4, no. 4 (2017): 773–78, <http://dx.doi.org/10.30659/akta.v4i4.2524>.

With digital advancements, legalization and *waarmerking* have also evolved. Online legalization (e-legalization) is now widely implemented by universities in Indonesia, while online *waarmerking* (e-waarmerking) is used by institutions such as the Tulungagung District Court under the Electronic *Waarmerking* Service (E-WAAS).<sup>4</sup> These innovations enhance public services by making them more accessible and efficient.

According to Article 1, paragraph (4) of Law Number 19 of 2016, in conjunction with Law Number 11 of 2008 concerning Information and Electronic Transactions (UU ITE), an electronic document is defined as any electronic information that is created, forwarded, sent, received, or stored in analog, digital, electromagnetic, optical, or similar formats. Such documents can be viewed, displayed, and/or heard through a computer or electronic system. The definition includes, but is not limited to, written text, audio recordings, images, maps, designs, photographs, letters, symbols, numbers, access codes, and perforations that carry meaning or significance.<sup>5</sup>

Based on the above article, the components and criteria of electronic documents include:

- 1) Form: Data or information in various formats such as analog, digital, electromagnetic, optical, or similar types.
- 2) Source and Destination: Electronic documents can be created, forwarded, sent, received, or stored.
- 3) Display Media: Electronic documents can be viewed, displayed, and/or heard via a computer or electronic system.
- 4) Content: Includes, but is not limited to, text, sound, images, maps, designs, photos, letters, symbols, numbers, access codes, and perforations.
- 5) Meaning or Significance: The document must have a meaning or significance that can be understood by individuals capable of interpreting it.

Additionally, the functions and uses of electronic documents, based on the articles mentioned above, include:

- 1) Communication: Facilitating the exchange of information and communication between parties.
- 2) Storage: Archiving data or information electronically for future access and use.
- 3) Verification: Utilizing electronic documents to verify identity or other information.

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<sup>4</sup> Pengadilan Negeri Tulungagung, "E-WAAS (Elektronik Waarmerking Service)-Pengesahan Akta Dibawah Tangan," Pengadilan Negeri Tulungagung, 2022, <https://pn-tulungagung.go.id/berita-terkini/utama/berita/e-waas-elektronik-waarmerking-service-pengesahan-akta-dibawah-tangan>.

<sup>5</sup> Pemerintah Republik Indonesia, "Undang-Undang Nomor 19 Tahun 2016 Jo Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik" (2016), <https://peraturan.bpk.go.id/Details/37582/uu-no-19-tahun-2016>.

- 4) Legality: Recognized as valid legal evidence in various transactions and legal proceedings.

The legality and validity of electronic documents are also established in the ITE Law, which states that electronic documents are legally recognized and hold the same legal weight as physical documents, provided that the information is accessible, can be displayed, its integrity is assured, and it can be accounted for. This is outlined in several articles of the ITE Law, including:

- 1) Article 5, Paragraph (1) of the ITE Law: Electronic information and/or electronic documents and/or printouts are valid legal evidence.
- 2) Article 5, Paragraph (2) of the ITE Law: Electronic information and/or electronic documents and/or printouts, as referred to in Paragraph (1), serve as an extension of valid evidence in accordance with applicable procedural law in Indonesia.
- 3) Article 5, Paragraph (3) of the ITE Law: Electronic information and/or electronic documents are deemed valid if they utilize an electronic system that complies with the provisions set forth in this law.
- 4) Article 5, Paragraph (4) of the ITE Law: The provisions regarding electronic information and/or electronic documents, as mentioned in Paragraph (1), do not apply to:
  - a) Documents that, according to law, must be created in written form; and
  - b) Documents that, according to law, must be executed as a notarial deed or a deed issued by an official authorized to create legal documents.

In practice, the legalization and *waarmerking* process carried out by notaries is still largely conducted using conventional methods, where a physical stamp and the notary's handwritten signature are affixed to the document. However, with the rapid advancement of digital transformation and the increasing use of electronically signed documents, notaries, as public officials, are being encouraged to adopt digital methods for document legalization and *waarmerking*.<sup>6</sup> Both digital and conventional methods of legalization and *waarmerking* have their own advantages and disadvantages, highlighting the ongoing evolution of notarial practices in response to technological advancements. Several comparisons can be made, including:

- 1) Digital Legalization and Certification
  - a) Advantages:

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<sup>6</sup> Rafly Dzikry Abida and Rizky Ramadhani Irham, "Tanggung Jawab Notaris Terhadap Waarmerking Akta Di Bawah Tangan Yang Pembuatannya Dibantu Oleh Notaris," *Jurnal Education and Development* 9, no. 1 (2021): 154–57, <https://doi.org/10.37081/ed.v9i1.2328>.

- Time and Cost Efficiency: The digital process significantly reduces the time and expenses required for document verification and validation. It eliminates the need for physical meetings, saving both time and costs.
  - Security: The use of certified electronic signatures enhances document security, as encryption technology ensures that data cannot be altered or falsified.
  - Accessibility: Digitally validated documents can be accessed anytime and anywhere by authorized parties, facilitating efficient storage and management. Additionally, electronic documents can be easily authenticated through an integrated digital system.
- b) Disadvantages:
- Technological Dependence: Digital legalization requires a stable and advanced technological infrastructure. Without adequate security measures, there is a risk of cyberattacks and data loss.
  - Regulatory Disparities: Not all countries have established regulations recognizing the legality of electronic signatures and digital documents. In Indonesia, regulations are still evolving and need to be harmonized with international standards.
  - Lack of Digital Literacy: Not all notaries and users are familiar with digital technology, necessitating training and adaptation to ensure smooth adoption.
- 2) Conventional Legalization and *Waarmerking*<sup>7</sup>
- a) Advantages:
- Widespread Legal Recognition: Physical documents that have been legalized and *waarmerked* by a notary are generally more widely accepted by various institutions and countries, especially those that have not yet adopted digital technology.
  - Legal Certainty: The physical process, which involves a wet signature and an official notary stamp, provides strong legal certainty. Properly stored physical documents are also less vulnerable to cyber threats.
- b) Disadvantages:
- Time and Cost Inefficiency: The traditional process is time-consuming and more expensive. It also requires in-person meetings between the involved parties.
  - Risk of Forgery: Physical documents are more susceptible to signature and stamp forgery.

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<sup>7</sup> Selva Omiyani, Suprpto Suprpto, and Saprudin Saprudin, "Digitalisasi Tandatangani Secara Elektronik Dengan Menggunakan Akta Notaris," *Notary Law Journal* 3, no. 1 (2024): 12–28, <https://doi.org/10.32801/nolaj.v3i1.55>.

- Storage Challenges: Physical documents require significant storage space and can be difficult to retrieve quickly when needed.

As is widely recognized, the UUJN (Notary Law) faces certain limitations and challenges in adapting to digitalization, particularly concerning digital legalization and *waarmerking*. The UUJN has not yet established specific procedures for digital legalization and *waarmerking*, and the absence of clear regulations creates uncertainty for notaries and related parties regarding the implementation of digital processes. The traditional legalization and *waarmerking* process, which involves face-to-face meetings and direct verification by a notary, requires adjustments to accommodate digital procedures—something that has not yet been fully addressed within the existing UUJN framework.

Several studies have explored the concept of cyber notaries. These studies indicate that certain provisions in the UUJN may not be fully aligned with other regulations governing digitalization and electronic transactions, such as the ITE Law and regulations related to digital signatures.<sup>8</sup> Based on this background, this study aims to:

- 1) Analyze the prospects for implementing cyber notaries in performing digital legalization and *waarmerking*, including the opportunities and challenges encountered in practice.
- 2) Explain the urgency of digital legalization and *waarmerking* by notaries to ensure document validity and provide legal certainty in the digital era.
- 3) Evaluate existing regulations and propose ideal policy recommendations for cyber notaries in conducting digital legalization and *waarmerking* in accordance with technological advancements and legal requirements in Indonesia.

## 2. RESEARCH METHODOLOGY

This study employs a normative legal approach with a qualitative descriptive analysis method, focusing on the examination of legal provisions governing cyber notaries, particularly digital legalization and *waarmerking* within the Indonesian legal framework. This approach was selected due to its relevance to the study's objective, which involves

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<sup>8</sup> Mahfuzatun Ni'mah Sona, "Penerapan Cyber Notary Di Indonesia Dan Kedudukan Hukum Akta Notaris Yang Bebas Cyber Notary," *Officium Notarium* 2, no. 3 (2022): 497–505, <https://doi.org/10.20885/JON.vol2.iss3.art12>; Ovie Sumita Putri, Lovelly Dwina Dahen, and Irfan Ridha, "Tinjauan Yuridis Keabsahan Dan Kekuatan Pembuktian Tanda Tangan Elektronik (Digital Signature) Dengan Menggunakan Aplikasi Privy Dalam Perjanjian Berdasarkan KUHPerdata," *Journal of Sharia and Law* 2, no. 4 (2023): 1157–82, <https://jom.uin-suska.ac.id/index.php/jurnalfsh/article/view/1482>; Stefan Koos, "The Digitization of Notarial Tasks: A Comparative Overview and Outlook of 'Cyber Notary' In Indonesia and Germany," *The Indonesian Journal of Socio Legal Studies* 2, no. 2 (2023): 1–26, <https://doi.org/10.54828/ijsls.2023v2n2.1%0A%0A>; Widya Kridawidyanı et al., "The Legal Advantages of Blockchain Technology For Notary Protocol Archives," *Journal of Law and Policy Transformation* 8, no. 2 (2023): 234–46, <https://journal.uib.ac.id/index.php/jlpt/article/view/9125>.

interpreting legal norms in the context of digital technology. The research relies on secondary data sources, categorized into three levels of legal materials:

- 1) Primary legal materials, which include relevant laws and regulations such as the UUJN (Law No. 2/2014 in conjunction with Law No. 30/2004) and the UU ITE (Law No. 19/2016 in conjunction with Law No. 11/2008).
- 2) Secondary legal materials, consisting of contemporary academic works.
- 3) Tertiary legal materials, such as legal dictionaries and encyclopedias, which provide additional reference points for the research.

Data collection was conducted through literature review, document analysis, and comparative analysis, examining both conventional and digital practices. The data analysis process followed a systematic approach, including data categorization, legal interpretation, comparative analysis, gap analysis, and policy recommendation formulation. The analytical framework consists of three key dimensions:<sup>9</sup>

- 1) Prospective analysis: Identifies opportunities and challenges in implementing cyber notaries.
- 2) Urgency analysis: Evaluates the significance of digitalization in ensuring legal certainty.
- 3) Regulatory analysis: Assesses the adequacy of existing regulations and proposes ideal policy recommendations to accommodate technological advancements in notary practices in Indonesia.

### 3. RESEARCH RESULT AND DISCUSSION

#### 3.1. Prospects for Cyber Notaries in Digital Legalization and *Waarmerking*

The prospects for Cyber Notaries in conducting digital legalization and *waarmerking* are highly promising in an era that increasingly emphasizes efficiency and technology. By utilizing electronic signatures, blockchain, and data encryption, notaries can provide faster, more secure, and more accessible services without geographical limitations. Additionally, digitally legalized documents hold the same legal validity as physical documents, provided that the procedures comply with applicable regulations, such as those stipulated in the ITE Law and notary regulations in Indonesia.

As demand for digital document legalization continues to rise, Cyber Notaries have significant growth potential, particularly with technological innovations such as artificial intelligence (AI) and smart contracts, which can enhance service speed and efficiency.

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<sup>9</sup> Kaelan Kaelan, *Metode Penelitian Kualitatif Interdisipliner* (Yogyakarta: Paradigma, 2012).

When properly implemented, Cyber Notaries not only offer convenience but also preserve legal integrity.<sup>10</sup>

Notaries, as legal professionals, are experiencing technological transformations due to advancements in information and electronic technology. As society evolves, so too must the notarial work system to adapt to these changes. The Law on Notary Positions (UUJN) has paved the way for the implementation of the Cyber Notary concept, as outlined in Article 15, Paragraph (3) of Law No. 2 of 2014, which amends Law No. 30 of 2004. This article states that, in addition to the authorities specified in Paragraphs 1 and 2, notaries are also authorized to perform additional duties as regulated by other laws and regulations.<sup>11</sup>

This provision allows notaries to assume additional responsibilities beyond those explicitly listed in Paragraphs 1 and 2, depending on legal provisions outside the UUJN. Some examples of these additional authorities include the Cyber Notary, Waqf Pledge Deed, Aircraft Mortgage Deed, and other notarial deeds. The original UUJN regulation, ratified in 2003, did not include provisions on electronic transactions, as these regulations only emerged later in the ITE Law of 2008. However, this legal framework now provides a basis for notaries to perform their duties under the Cyber Notary concept.<sup>12</sup>

As previously discussed, the notarial profession is directly impacted by technological advancements, which can enhance their efficiency and formal procedures. The Cyber Notary concept can be understood as the duties, rights, and obligations of notaries that incorporate technology and information systems to facilitate their work. While notaries' primary authority, as mandated by law, is to create authentic deeds, they also have additional authorities regulated under Article 15, Paragraph (2), Sections b and d of the UUJN. These include the authority to record private agreements by registering them in a special book, a process known as *waarmerking* and to certify the accuracy of photocopies by verifying their conformity with the original document, a process known as legalization.

Notaries in Indonesia continue to face legal obstacles in performing legalization and *waarmerking*, primarily due to the lack of comprehensive regulations governing these processes. Among the many articles in the Law on Notary Positions (UUJN), only a few specifically address legalization and *waarmerking*, namely Article 15, Paragraph (2), Section b and Article 15, Paragraph (2), Section d of the UUJN. However, these

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<sup>10</sup> Koos, "The Digitization of Notarial Tasks: A Comparative Overview and Outlook of 'Cyber Notary' In Indonesia and Germany."

<sup>11</sup> Pemerintah Republik Indonesia, "Undang-Undang Nomor 2 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 30 Tahun 2004 Tentang Jabatan Notaris" (2014), <https://peraturan.bpk.go.id/Details/38565/uu-no-2-tahun-2014>.

<sup>12</sup> Habib Adjie, *Hukum Notaris Indonesia: Tafsir Tematik Terhadap UU No 30 Tahun 2004 Tentang Jabatan Notaris* (Bandung: Refika Aditama, 2009).



provisions fail to provide clear and comprehensive guidance on how notaries should conduct legalization and *waarmerking* in Indonesia.<sup>13</sup>

Currently, notarial legalization and *waarmerking* are still conducted through conventional methods, where applicants must visit and contact a notary in person to complete the process. Meanwhile, the development of digital-based documents in Indonesia has accelerated, particularly following the COVID-19 pandemic. At present, 81% of businesses in Indonesia have transitioned to digital archiving, making Indonesia one of the leading countries in technology adoption worldwide.<sup>14</sup>

Given this widespread digital transformation, the author argues that notaries should also gradually transition to digital platforms to enhance accessibility and convenience for the public. However, the implementation of cyber notary has not been fully optimized due to regulatory limitations. While current laws and regulations provide a foundation for the concept of cyber notary, further legislative development is needed to support its effective implementation.

Thus, clearer and more comprehensive regulations are essential to facilitate the optimal adoption of cyber notary, ensuring greater efficiency in notarial services across Indonesia. Recognizing cyber notary as a key opportunity to modernize the notarial system, it is crucial that regulatory support is strengthened to enable its proper and effective execution.

### 3.2. Legal Certainty for Digital Legalization and Waarmerking by Notaries

Legal certainty for digital legalization and *waarmerking* conducted by notaries is currently only addressed in the explanation of Article 15, Paragraph (3) of the UUJN, which states:

“The term ‘other authorities regulated in laws and regulations’ includes, among others, the authority to certify electronically conducted transactions (Cyber Notary), execute Deeds of Waqf Pledges, and process Airplane Mortgages.”

However, it is important to note that the explanation of Article 15, Paragraph (3) does not explicitly define which types of transactions can be conducted electronically by notaries. Thus, while the law grants notaries the authority to certify electronic transactions, the UUJN fails to specify which transactions fall under this category. This lack of clarity contradicts the Development Law Theory proposed by Mochtar Kusumaatmadja, which asserts that law should function as a means of social renewal.<sup>15</sup>

<sup>13</sup> Pemerintah Republik Indonesia, Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan atas Undang-undang Nomor 30 Tahun 2004 tentang Jabatan Notaris.

<sup>14</sup> Tengku Darmansah et al., “Tantangan Dan Solusi Dalam Pengelolaan Arsip Di Era Digital,” *Jurnal Ekonomi Dan Bisnis Digital* 2, no. 1 (2024): 16–20, <https://jurnal.itcc.web.id/index.php/jebd/article/view/1190>.

<sup>15</sup> Mochtar Kusumaatmadja, *Mochtar Kusumaatmadja Dan Teori Hukum Pembangunan. Seri Tokoh Hukum Indonesia*, 1st ed. (Jakarta: Epistema Institute, 2012).

With the implementation of digital *waarmerking* by the Tulungagung District Court, which has paved the way for notaries to conduct digital legalization and *waarmerking*, it is evident that legal reforms are needed. Since both judges and notaries are state officials, the UUJN should be adapted to align with current societal conditions. Given that almost all business activities in Indonesia have transitioned to digital platforms, the UUJN must be revised to provide legal certainty for notaries and enable them to perform their duties digitally. This legal adjustment would be consistent with the Development Law Theory and the evolving demands of modern society.

According to the author, the UUJN presents several weaknesses in adapting to cyber notary practices and digitalization:

1) Limited Regulation of Cyber Notary

Article 15, Paragraph (1) of the UUJN states that notaries have the authority to draft authentic deeds, legalize documents, and conduct *waarmerking*. However, the article does not provide technical guidance on how these responsibilities can be carried out in a digital environment. Currently, the UUJN does not specifically regulate cyber notary practices or outline procedures for digital notarization. Instead, it requires that all notarial processes be conducted physically and manually, including the physical presence of involved parties when creating authentic deeds. This requirement poses a significant obstacle in the digital era, where physical meetings are often impractical. The current law mandates that documents must be physically submitted to a notary for review, legalization, or *waarmerking*, which is incompatible with modern digital workflows.

2) Physical Presence Requirements

Another major limitation in the UUJN is the absence of regulations governing digital document verification mechanisms. In the traditional legalization and *waarmerking* process, a notary must physically examine submitted documents to verify their authenticity. However, in the digital context, documents exist as electronic files, requiring specialized technologies to validate their authenticity and integrity. Currently, the UUJN lacks provisions regarding the use of encryption, blockchain technology, or certified digital signatures, which could help ensure the security and validity of electronic documents.

Without these legal guidelines, gaps in security standards emerge, leaving electronic documents vulnerable to forgery and data manipulation. Furthermore, Article 16 of the UUJN explicitly requires that a notary must be physically present when witnessing parties signing agreements. This regulation hinders the adoption of cyber notary practices, which allow online notarization and remote signing. The physical presence requirement conflicts with modern digitalization trends, which prioritize efficiency, accessibility, and flexibility in legal transactions.

3) The Absence of Electronic Signature Regulations for Notaries

One of the key weaknesses of the UUJN is the lack of regulations on electronic signatures. In the digital era, legally recognized electronic signatures, as regulated under the UUIITE, should be valid for digital document validation. However, the UUJN does not explicitly recognize or regulate the use of electronic signatures by notaries in the legalization or *waarmerking* process. This discrepancy creates a lack of harmony between the UUJN and the UUIITE, potentially leading to legal uncertainty regarding the validity of digital documents that are legalized or *waarmerked* by a notary. In reality, electronic signatures are a crucial component of cyber notary practices, and their absence in the UUJN hinders the adoption of modern digital notarization methods.

4) Data Security and Confidentiality

Another major shortcoming of the UUJN is its failure to establish clear regulations regarding notaries' obligations to protect personal data and ensure the confidentiality of digital documents. In the digital era, the legalization and *waarmerking* process often involves uploading or transmitting documents through online platforms. Without explicit legal provisions in the UUJN, there is no guarantee that personal data contained in these documents will be adequately safeguarded. Personal data protection is a critical issue in the digital age, as recognized by Law No. 27 of 2022 on Personal Data Protection (UUPDP). The use of technology in cyber notary practices requires robust data security systems to protect sensitive information and maintain client confidentiality. However, the UUJN does not yet provide the necessary security standards or technical guidelines to ensure the safe implementation of digital notarial services.

5) Lack of Alignment with the ITE Law

Although the ITE Law supports the use of electronic signatures and electronic documents, the UUJN is not fully aligned with these provisions. This misalignment creates confusion regarding the legal validity of digital notarial documents, particularly when inconsistencies arise between the UUJN and the ITE Law. Additionally, the UUJN does not provide sufficient flexibility for the government or notary professional organizations to develop an integrated digital system. Many countries have already implemented technology-driven systems that allow notaries to access, verify, and store documents electronically with high security standards. However, in Indonesia, the UUJN does not establish a legal foundation for such advancements. As a result, the digital transformation of notarial services is progressing slowly and lacks clear direction.

6) Limited Digital Infrastructure Among Notaries

Another major limitation of the UUJN is its failure to adapt to the rapid advancements in information and communication technology. The UUJN does not include guidelines or policies encouraging notaries to utilize digital platforms

for legalization and *waarmerking* services. This ambiguity has led many notaries to hesitate in adopting digital technology, fearing that they might violate existing regulations or face legal challenges in the future. As a result, legalization and *waarmerking* processes remain largely conventional, often taking longer and being less efficient than digital methods. Moreover, not all notary offices in Indonesia have access to adequate technology or possess sufficient digital expertise. This unequal access to technology has led to disparities in the implementation of cyber notary practices, creating a gap between notaries in urban areas and those in rural or remote regions.

Weaknesses in the Notary Law (UUJN) significantly impact the effectiveness of legalization and *waarmerking* services in the digital era. Unclear regulations create legal uncertainty for both notaries and the public who rely on notarial services.<sup>16</sup> Additionally, the lack of provisions supporting the digitalization of notary services hinders efforts to modernize the legal system, which should ideally enhance efficiency, transparency, and accessibility for the public.

From the perspective of the theory of development law, the legal system should serve as a tool for social renewal, adapting to technological advancements and evolving societal needs. However, the shortcomings in the UUJN indicate that current regulations have yet to fully accommodate the requirements of modern society. To address these issues, a revision of the UUJN is essential to integrate cyber notary practices and align them with other relevant regulations, such as the Electronic Information and Transactions Law (UUITE).

Legalization and *waarmerking* are critical responsibilities of notaries, ensuring the authenticity and legal validity of documents. These processes are designed to certify that documents are genuine and legally binding.<sup>17</sup> However, with the rapid advancement of information technology, challenges have emerged in adapting traditional notarial practices to digital environments.

At present, the UUJN still mandates that the legalization process be conducted in person, as stated in Article 15, Paragraph (1), which grants notaries the authority to create authentic deeds, validate signatures, and provide *waarmerking* for document copies. This requirement places a strong emphasis on physical presence, which has become a significant obstacle in the digital era. Conversely, the UUITE recognizes electronic documents as legally valid evidence, as outlined in Article 5. Additionally, Article 11 states that electronic signatures hold the same legal weight as wet-ink

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<sup>16</sup> Mohammad Jamus et al., "Problems of Implementing Cyber Notary in Notarial Deeds in Indonesia," *Sultan Agung Notary Law Review* 6, no. 3 (2024): 57–79, <http://dx.doi.org/10.30659/sanlar.v6i3.42422%0A>.

<sup>17</sup> Sang Ayu Made Ary Kusumawardhani, "The Power of Law Action *Waarmerking* by Notary Official Regarding Under Hand Deed," in *Proceedings of The International Conference on Multi-Disciplines Approaches for The Sustainable Development* (Denpasar: Dwijendra Univeristy, 2023), 288–93, <https://eproceeding.undwi.ac.id/index.php/mdasd/article/view/247>.

signatures. Unfortunately, the UUJN has yet to explicitly incorporate these provisions, creating a disconnect between the two laws.

To effectively address the challenges of digital transformation, the UUJN must undergo reform, incorporating the following strategic measures:

1) Recognition of Digital Presence

The requirement for physical presence in legalization and *waarmerking* should be replaced with digital presence, verified through video conferencing or a secure digital identification system. This would eliminate the need for parties to be physically present at the notary's office, making the process more efficient and accessible.

2) Standardization of Electronic Signatures

Notaries should be granted the authority to use certified electronic signatures, issued by an authorized institution. This would enable secure digital document validation while ensuring legal authenticity and enforceability.

3) Development of a Cyber Notary System

The government must develop an integrated cyber notary platform, connected to official government systems, such as the Ministry of Law and Human Rights. This platform would allow notaries to electronically access, verify, and store documents while ensuring high-security standards.

4) Data Protection and Digital Security

UUJN reforms must also include comprehensive regulations on electronic document security standards, focusing on client data protection and encryption mechanisms to prevent data breaches and manipulation.

### 3.3. Regulations Needed for Digital Legalization and *Waarmerking*

Regulations concerning cyber notaries in digital legalization and *waarmerking* are an urgent necessity for Indonesia as it adapts its legal system to technological advancements and the needs of modern society. Comprehensive and adaptive regulations will not only enhance the role of notaries in the digital era but also ensure security, validity, and legal fairness in all transactions involving electronic documents. To achieve this, adaptive legal measures must be carefully formulated based on the principles of *ius constitutum* (current law) and *ius constituendum* (future law).

Currently, Indonesia's existing legal framework (*ius constitutum*) faces several challenges in regulating cyber notaries. The Notary Law (UUJN), which serves as the primary legal foundation for notarial duties and functions, still mandates the physical presence of parties seeking legalization or *waarmerking*. Article 16 of the UUJN requires notaries to ensure the direct presence of the involved parties before them. This provision not only restricts the flexibility of notarial services but also fails to meet the

needs of modern society, particularly in situations where physical presence is impractical, such as during a pandemic or in remote areas. Furthermore, the UUJN lacks specific provisions for validating electronic documents or using digital signatures in the legalization and *waarmerking* process. This creates a legal gap, even though the Electronic Information and Transactions Law (UUITE) already recognizes electronic signatures as a valid form of identity verification.

From the perspective of *ius constituendum*, Indonesia must urgently develop regulations that accommodate cyber notary practices in digital legalization and *waarmerking*. There are five key steps for implementing cyber notary regulations:<sup>18</sup>

- 1) **Official Recognition of Digital Legalization and *Waarmerking***  
Digital legalization and *waarmerking* should be granted the same legal standing as manual processes. This can be achieved by regulating the use of technology, such as certified electronic signatures and video conferencing, to verify the presence of parties remotely.
- 2) **Standardization of Certified Electronic Signatures**  
The implementation of certified electronic signatures—recognized by institutions such as the National Cyber and Crypto Agency (BSSN) or KOMINFO—should be mandated to guarantee document validity for both notaries and involved parties.
- 3) **Implementation of Strict Cybersecurity Standards**  
Future regulations must establish rigorous cybersecurity measures to protect digital documents from forgery, data breaches, and unauthorized access. The digital legalization and certification process should include data encryption systems, multi-factor authentication, and a secure and integrated digital archiving platform.
- 4) **Development of a Professionally Managed Digital Archive**  
Digital notarial records must be professionally managed under the supervision of the Ministry of Law and Human Rights to ensure notarial protection and document verifiability when needed.

In the context of development law, as proposed by Mochtar Kusumaatmadja, cyber notary regulations exemplify how law should function as an adaptive and responsive tool for social and technological advancements.<sup>19</sup> The legal system is not merely a static set of norms but should actively promote efficiency and justice. By adopting cyber notary practices, document validation can be conducted more quickly and efficiently, without compromising legal integrity.

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<sup>18</sup> Nabilah Apriani, Irgi Alfian, and Melia Putri Purnama Sari, “The Application of Cyber Notary in Indonesia,” *Jurnal Ius Constituendum* 9, no. 1 (2024): 101–16, <http://dx.doi.org/10.26623/jic.v9i1.8129>; Winshery Tan, Shenti Agustini, and Ampuan Situmeang, “The Urgency of Implementing a Cyber Notary in Indonesia: A Comparative Study with The United States,” *Sasi* 30, no. 3 (2024): 274–86, <https://doi.org/10.47268/sasi.v30i3.2258>.

<sup>19</sup> Kusumaatmadja, *Mochtar Kusumaatmadja Dan Teori Hukum Pembangunan. Seri Tokoh Hukum Indonesia*.

This aligns with the principle of justice, ensuring that notarial services become more accessible to the general public, including those in remote areas. Furthermore, the adoption of cyber notary practices can serve as a strategic step to enhance Indonesia's legal competitiveness on a global scale. Many countries have already recognized electronic documents and digital signatures as legally valid, reinforcing the need for Indonesia to modernize its legal framework accordingly.

By implementing similar regulations, Indonesia can strengthen its position in international transactions, particularly those involving global business entities. The adoption of cyber notary practices must also align with the core values of Pancasila. In this context:

- 1) The first principle, "Belief in the One and Only God," is reflected in the commitment to conducting the legalization and *waarmerking* process with integrity, responsibility, and adherence to ethical principles.
- 2) The second principle, "Just and Civilized Humanity," is demonstrated through efforts to ensure fair access to notarial services for all citizens, including those in remote or underdeveloped areas, so they receive equal legal services comparable to urban communities.
- 3) The third principle, "Unity of Indonesia," is embodied in the harmonization of regulations that integrate various legal and technological elements to support national interests.
- 4) The fourth principle, "Democracy Led by the Wisdom of Deliberation and Representation," is evident in the inclusive policy-making process, which involves notaries, government agencies, and the community in formulating adaptive and responsive regulations.
- 5) The fifth principle, "Social Justice for All Indonesian People," is realized through regulations that ensure cyber notary services are affordable, secure, and efficient for all segments of society.

Despite its potential benefits, the implementation of cyber notaries in Indonesia faces several challenges. One of the primary obstacles is the uneven distribution of technological infrastructure, which poses difficulties, particularly for notaries in remote areas. To address this issue, the government must provide support by developing adequate technological infrastructure and offering training programs to ensure notaries can effectively operate digital systems.

Additionally, harmonizing the Notary Law (UUJN) with the Electronic Information and Transactions Law (UUITE) must be prioritized to eliminate potential legal conflicts that hinder the implementation of cyber notary services. This lack of alignment is one of the key reasons why digital legalization and *waarmerking* have not yet been fully implemented.

To effectively establish cyber notary regulations, collaboration among key institutions is essential. This includes the Ministry of Law and Human Rights, the Ministry of Communication and Information (KOMINFO), the National Cyber and Crypto Agency (BSSN), and other relevant agencies. With coordinated efforts, Indonesia can ensure the effective implementation of cyber notary regulations, enhance the efficiency of notarial services, and accelerate the country's transition into a more advanced era of legal digitalization. From a legal standpoint, the author suggests that the UUJN should explicitly include a provision allowing notaries to use electronic signatures for digital legalization and *waarmerking*. This amendment would provide greater legal certainty and enable notaries to fulfill their duties and responsibilities in the digital era.

## CONCLUSION

The Cyber Notary system holds significant potential for development in Indonesia, supported by Article 15, Paragraph (3) of the Notary Law (UUJN), which grants notaries the authority to certify electronic transactions. The digitalization of notary services has become increasingly essential, particularly in the aftermath of the COVID-19 pandemic, which accelerated the adoption of technology across various legal sectors. However, legal uncertainties remain regarding the implementation of digital legalization and *waarmerking*, as the UUJN does not explicitly regulate electronic transactions within the notarial domain. This regulatory gap creates a disconnect between existing laws and the evolving needs of modern society.

Several major shortcomings in the UUJN hinder the adoption of digital notary practices, including limited regulations on cyber notaries, physical presence requirements that do not align with the digital era, lack of regulations governing notary electronic signatures, weak data protection measures, insufficient synchronization with the Electronic Information and Transactions Law (UUITE), and limited digital infrastructure to support cyber notary services. Given these challenges, reforming the UUJN is an urgent priority. The law must be amended to incorporate regulations on digital presence, standardization of electronic signatures, development of the Cyber Notary system, and enhanced digital data protection. Additionally, harmonizing the UUJN with the UUITE is crucial to ensuring legal certainty in digital notary practices.

Based on this study, the following key recommendations are proposed; revise the UUJN to include provisions on electronic signatures and digital presence mechanisms for legalization and *waarmerking*, implement robust cybersecurity standards, including data encryption and multi-factor authentication, to safeguard electronic transactions, develop a national Cyber Notary system that is integrated with government databases to enhance efficiency and security, provide training and certification programs for notaries to ensure proficiency in digital technologies, harmonize the UUJN with the



UUITE and the Personal Data Protection Law (UUPDP) to create a cohesive legal framework for digital notary services, foster collaboration among key government agencies, including the Ministry of Law and Human Rights (Kemenkumham), the Ministry of Communication and Informatics (KOMINFO), and the National Cyber and Crypto Agency (BSSN), to develop comprehensive Cyber Notary policies, and conduct comparative studies with other countries to adopt best practices that align with Indonesia's legal and technological landscape.

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