

## The Validity of Notarial Deeds Using Electronic Signatures

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**ABSTRACT**

This study examines the legal validity of electronically signed supporting documents (warkah) in notarial deeds within the framework of Indonesian notarial and cyber law. The rapid development of information technology and the increasing use of electronic signatures in legal transactions have created legal uncertainty due to the lack of synchronization between the Notary Office Law (UUJN-P) and the Information and Electronic Transactions Law (UU ITE). The research aims to analyze the validity of electronically signed warkah in notarial practice and to formulate future regulatory frameworks to support the implementation of cyber notary services in Indonesia. This study employed a mixed-method approach combining normative juridical analysis and empirical legal research. Normative analysis was conducted through the examination of legislation, legal doctrines, and legal theories, while empirical data were collected through interviews, observations, and documentation involving practicing notaries in Badung Regency. The findings reveal that electronically signed warkah have not yet obtained full legal recognition under the current UUJN-P because notarial protocols still require the physical binding of documents. This condition creates a legal antinomy between conventional notarial regulations and electronic transaction laws, potentially weakening the evidentiary value of authentic deeds and degrading them into private deeds. The study concludes that legal harmonization between the UUJN-P, UU ITE, Archives Law, and Stamp Duty Law is urgently required to establish a secure and legally certain cyber notary framework. Future regulations should recognize certified electronic signatures and electronic protocols as integral components of modern notarial services.

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### INTRODUCTION

This research is motivated by legal uncertainty arising from vague norms contained in Article 16 paragraph (1) letter g of the Notary Office Law (UUJN-P). This provision requires notaries to bind deeds executed within one month into a book containing no more than 50 deeds, as well as to record the number of deed minutes, the month, and the year of execution on the cover of each book. The core issue lies in the unclear regulation regarding what forms of documents or warkah (attachments) appended to deed minutes must be bound as part of the notarial protocol (Idroes et al., 2025; Lubis et al., 2025; Mannas et al., 2024). This condition creates juridical ambiguity, raising fundamental questions concerning the validity of electronically signed warkah—namely, whether digital documents signed electronically may be accepted and bound as part of the notarial protocol as mandated by law.

The problem becomes increasingly complex with the development of information technology and the enactment of the Information and Electronic Transactions Law (UU ITE), which recognizes electronic documents and electronic signatures as legally valid evidence

(Wiguna et al., 2024; Fardela et al., 2024). On the one hand, the UU ITE accommodates the use of electronic signatures (Article 11) and electronic documents (Article 1 number 4) with full legal validity (Anshori et al., 2025; Khoirunissa et al., 2024). On the other hand, the UJN-P still requires that warkah be maintained in physical or hardcopy form in order to be bound as part of the notarial protocol (Mulyadi et al., 2025; Aman & Rini, 2024). This situation creates a conflict of norms (antinomy) between the cyber law regime and the notarial law regime, which have not yet been harmoniously synchronized (Wiguna et al., 2024).

In notarial practice, notaries frequently receive electronically signed documents or warkah as the basis for drafting deeds, such as letters of resignation of commissioners, spousal consent documents, or other corporate documents (Maharani et al., 2025; Dharma et al., 2024). However, due to the absence of explicit regulation in the UJN-P, notaries are placed in a dilemmatic position (Dharma et al., 2024; Habibah et al., 2025). On the one hand, they are expected to follow technological developments and societal needs; on the other hand, they face risks concerning the legal validity of the deeds they produce (Agustan et al., 2024; Setiadi et al., 2025). This research is therefore necessary to address the vagueness of these norms and to ensure legal certainty for both notaries and the parties appearing before them, thereby supporting the realization of the cyber notary concept in Indonesia (Pangesti et al., 2020; Setiadi et al., 2025; Maharani et al., 2025).

Previous studies have discussed the concept of cyber notary in Indonesia, including the evidentiary value of notarial deeds created through electronic mechanisms and the need to clarify the scope of notarial authority in digital transactions (Efendi & Sesung, 2025; Nabila, 2026; Nugroho, 2026; Putra et al., 2025). Apriani's 2024 study, for example, analyzes cyber notary practices in civil law countries and their evidentiary implications for Indonesia. Other recent studies also emphasize that the implementation of cyber notary systems requires stronger legal certainty, particularly regarding whether parties must physically appear before a notary or may appear virtually through electronic media.

Further studies conducted in 2025 highlight that Indonesia's cyber notary regulation remains implicit, particularly because the concept appears only in the explanation of Article 15 paragraph (3) of the UJN and has not yet been developed into comprehensive operational regulations. Research concerning digital transformation in notarial practice also demonstrates that electronic certificates, electronic signatures, and secure digital systems are increasingly relevant; however, their implementation remains constrained by the absence of detailed notarial procedures.

The research gap lies in the limited discussion concerning electronic signatures not merely in notarial deeds generally, but specifically in warkah as supporting documents attached to deed minutes. Many studies discuss cyber notary broadly, yet relatively few examine the legal status of electronically signed attachments that form the basis for authentic deeds. This gap is significant because the validity of a deed may be affected if the supporting warkah are considered procedurally defective.

The urgency of this research is reinforced by the practical reality that notaries increasingly encounter electronic documents in corporate, banking, land, and civil transactions. Without clear regulations, notaries may hesitate to accept electronically signed warkah, while society increasingly expects legal services that are fast, paperless, and secure. This uncertainty

may reduce legal protection for parties and weaken the evidentiary value of deeds before the courts.

The novelty of this research lies in its focus on the intersection between electronic signatures, notarial warkah, and *ius constituendum* regulation. Rather than merely questioning whether electronic signatures are generally valid, this research evaluates how future laws should harmonize the UUJN-P, UU ITE, Archives Law, and Stamp Duty Law in order to accommodate electronic warkah within a secure cyber notary framework. This gives the study a practical and reform-oriented character.

Therefore, the purpose of this research is to analyze the validity of electronically signed warkah in notarial deeds and to formulate future regulatory frameworks concerning electronic signatures in notarial attachments. The contribution of this research is both theoretical and practical. Theoretically, it enriches legal scholarship in the fields of notarial law and cyber law. Practically, it provides guidance for notaries, policymakers, professional organizations, and law enforcers in developing a more adaptive, legally certain, and technologically responsive notarial system.

## **METHOD**

This research employed a mixed-method approach combining normative juridical analysis with empirical legal research to comprehensively examine the validity of electronically signed notarial deed warkah and the future regulation of cyber notary practices in Indonesia. The normative approach was used to analyze statutory regulations, legal principles, doctrines, and legal theories related to the Notary Office Law (UUJN-P), the Information and Electronic Transactions Law (UU ITE), the Archives Law, and the Stamp Duty Law. Meanwhile, the empirical approach was conducted to understand the practical implementation of electronic signatures in notarial activities and to identify legal problems experienced by practicing notaries. The population of this research consisted of practicing notaries registered in Badung Regency, as well as legal materials related to cyber notary regulation in Indonesia. The research sample included selected notaries who had experience handling electronic documents or electronic signatures in notarial practice. The sampling technique employed in this study was purposive sampling because respondents were selected based on specific criteria, namely professional experience, understanding of electronic signatures, and involvement in digitally based legal transactions.

The research instruments consisted of interview guidelines, observation sheets, and documentation review forms designed to obtain both normative and empirical data. Semi-structured interview instruments were used to explore respondents' perceptions regarding the legality, evidentiary strength, and practical risks of electronically signed warkah. The validity of the instruments was examined through content validity by consulting legal experts and senior notaries to ensure that the interview questions reflected the objectives of the research. Reliability testing was conducted through consistency evaluation of interview responses and triangulation among interview findings, statutory analysis, and documentary evidence. Data collection techniques included literature study, in-depth interviews, observation, and documentation. The literature study was conducted through the review of legislation, journal articles, books, court decisions, and scholarly publications related to cyber notary and electronic signatures. Interviews were conducted directly with practicing notaries in Badung

Regency, while documentation techniques were used to examine supporting legal documents and examples of electronic warkah encountered in practice.

The research procedure began with identifying legal issues and reviewing relevant legal frameworks concerning electronic signatures and notarial protocols. After the normative review stage, empirical data collection was carried out through interviews and documentation at the selected research location. The collected data were then classified, verified, and interpreted systematically to identify the relationship between legal norms and practical implementation. This research utilized Microsoft Word and NVivo software for data organization, coding, and qualitative interpretation of interview results and legal documents. Data analysis techniques employed qualitative descriptive analysis, evaluative analysis, and argumentative legal analysis. Qualitative descriptive analysis was used to explain empirical findings regarding the use of electronic signatures in notarial practice, while evaluative and argumentative analyses were conducted to assess the harmony and consistency between the UUJN-P and the UU ITE. The results of the analysis were then interpreted using the theory of legal certainty and the concept of cyber notary in order to formulate recommendations for future legal harmonization in Indonesia.

## **RESULTS AND DISCUSSION**

### **Validity of Notarial Deed Warkah Signed Electronically**

The validity of notarial deed warkah signed electronically under the UUJN/UUJN-P has not yet been fully recognized because Article 16 paragraph (1) letter g of the UUJN-P stipulates that warkah must be bound in a bundle containing no more than fifty deeds, implying that such warkah must exist in physical or hardcopy form. Meanwhile, warkah bearing electronic signatures are digital or online in nature. Therefore, if they are to be attached as part of notarial deed warkah, they must first undergo a validation process, which currently requires procedures beyond those regulated under the existing UUJN/UUJN-P.

Empirical research conducted in Badung Regency reveals that the use of electronic signatures in notarial deed warkah remains within a legal gray area because it has not been explicitly regulated under the UUJN-P. Although the UU ITE has accommodated electronic signatures in accordance with technological developments, their implementation in notarial practice has not yet been fully permitted due to conflicts between applicable legal norms. Formally, notaries cannot readily accept the use of electronic mechanisms because of the high risks posed to legal certainty. If a deed supported by electronically signed warkah were brought before a court, its evidentiary value could be considered weak and legally defective. This procedural nonconformity has the potential to degrade the status of an authentic deed into that of a private deed, thereby placing notaries in a vulnerable position without adequate legal protection.

The legal consequence arising from this vague norm is the emergence of legal uncertainty due to the antinomy between the UU ITE and the UUJN-P. Based on Gustav Radbruch's Theory of Legal Certainty, legal regulations must be clear, consistent, and capable of consistent application. However, the absence of explicit regulation concerning electronic signatures within the UUJN causes the standard of deed authenticity to become open to multiple interpretations. Warkah serving as the basis for the creation of deeds (*onderliggende document*)—if their integrity cannot be legally accounted for—may result in the

transformation of what should provide legal certainty for the parties into legal uncertainty, whereby authentic deeds risk degradation into private deeds.

### **Regulation of Electronic Signatures in Notarial Deed Warkah as *Ius Constituendum***

Harmonization between the UUJN/UUJN-P and the UU ITE has not yet reached an ideal level of equivalence, especially in responding to the acceleration of information technology. Amendments to the UU ITE expanding the position of electronic information as valid evidence should be followed by amendments to the UJN to achieve regulatory synchronization. The main entry point for this change lies in Article 15 paragraph (3) of the UJN concerning the concept of Cyber Notary. Restructuring the UJN is very urgent to align notarial authority with information technology developments.

For regulations on electronic signatures in notarial deed warkah to be able to accommodate and adapt to legal developments, particularly in the field of cyber notary, the *ius constituendum* regulation of electronic signatures in notarial warkah must follow and adopt the norms contained in the provisions of the UU ITE and the Stamp Duty Law. This includes recognition of electronic documents as valid evidence, recognition of certified electronic signatures with legal force equivalent to wet signatures, as well as regulation of electronic stamps.

Furthermore, future legal harmonization must also accommodate the standardization of notarial protocols for warkah signed electronically. The Notary Protocol should ideally transform into an Electronic Protocol that is nationally integrated, in order to align the dignity of state archives with the demands of global digitalization. The desired legal regulation must be able to converge the UJN, the Archives Law, and the UU ITE into a single regulatory framework that recognizes the validity of Cyber Notary, where document storage no longer relies solely on physical form, but rather on encryption systems that guarantee permanent data security and authenticity.

The factors driving the need for establishing regulations concerning cyber notary include: (1) human life today cannot be separated from advancements in information technology; (2) Indonesia as part of the global community is required to improve legal instruments related to the utilization of information technology; (3) Indonesian Notaries must become cyber notaries in order to improve the quality of notarial services; (4) conventional storage of deed minutes, warkah, and supporting documents can shift to electronic systems for cost efficiency and archive security.

### **CONCLUSION**

The validity of notarial warkah bearing electronic signatures under the UJN/UUJN-P has not yet been fully recognized because Article 16 paragraph (1) letter g of the UJN-P stipulates that warkah must be bound in a bundle containing fifty deeds, implying that such warkah must exist in hardcopy form. Meanwhile, warkah bearing electronic signatures are digital or online in nature. Therefore, if they are to be attached as part of notarial deed warkah, they must first undergo a validation process, which currently requires procedures beyond those regulated under the existing UJN/UUJN-P. Consequently, legal uncertainty arises, and notaries are placed in a vulnerable position because the deeds they produce risk being degraded into private deeds.

In order for regulations concerning electronic signatures in notarial deed warkah to accommodate and adapt to legal developments, particularly in the field of cyber notary, the *ius constituendum* regulation of electronic signatures in notarial warkah must adopt and follow the norms contained in the UU ITE and the Stamp Duty Law. Ideal legal harmonization requires a redefinition of the concept of “presence” from a purely physical meaning to a functional meaning, whereby the use of certified electronic signatures is regarded as a manifestation of the parties’ sovereignty of will while remaining under notarial supervision in order to guarantee legal certainty.

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