

Breaking the Chains of Paper: Pioneering Electronic Notary Protocol Storage as the Dawn of a New Era in National Notarial Law

Yussy Adelina Mannas^a✉, Azmi Fendri^a, Wisnu Agung Baroto^b

^a Faculty of Law, Universitas Andalas, Padang, Indonesia

^b Tokyo Institute of Technology, Tokyo, Japan

✉ Corresponding email: yussyadelina@law.unand.ac.id

Abstract

The Notary Protocol is a collection of documents constituting state archives that must be preserved and maintained by notaries in accordance with statutory provisions. Currently, the storage of notary protocols as state archives is predominantly conducted through conventional means, relying on paper-based media and manual handling. This traditional approach is fraught with several challenges, including vulnerability to loss and damage over time, the need for extensive physical storage space due to the increasing volume of archives, inefficiencies in document retrieval, and ineffective distribution of documents across organizational units and personnel. These limitations underscore the weaknesses of conventional archive management. Law Number 43 of 2009 on Archives permits the creation and storage of archives in various forms, including electronic media, thereby providing a legal basis for digital archiving. However,

the existing regulatory framework governing notarial practices, particularly the Law on Notary Positions, does not explicitly address the electronic storage of notary protocols. This regulatory gap necessitates an analysis of the legal certainty surrounding the electronic archiving of notary protocols. Transitioning to electronic storage aligns with the demands of the Fourth Industrial Revolution (Industry 4.0) and Society 5.0, which emphasize digitalization and technological integration. This study explores the feasibility and legal implications of adopting electronic storage for notary protocols, aiming to enhance efficiency, security, and accessibility in the management of state archives.

KEYWORDS *Notary Protocol, Electronic, Legal Reform*

Introduction

Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia asserts that Indonesia is a state based on the rule of law. This principle underscores the importance of legal certainty, which is essential for maintaining social order and justice.¹ The government and the judiciary play critical roles in upholding this certainty, ensuring that laws are consistently applied and that regulations do not contradict or overstep legal boundaries.² Within this framework, the notary profession holds a significant position. Notaries contribute to legal certainty by facilitating the proper execution of civil law transactions, offering impartiality, confidentiality, and legally sound documentation.³ The notarial profession, with its roots extending back to the

¹ Gunawan, Bambang Panji, et al. "The Development of Indonesia as The Rule of Law Based on 1945 Constitution Before and After Amendments." *Yurisdiksi: Jurnal Wacana Hukum dan Sains* 16, no. 2 (2020): 64-73; Budi, Mohammad Wahyu Adji Setio. "Indonesian State System Based on Pancasila and the 1945 Constitution: A Contemporary Developments." *Indonesian Journal of Pancasila and Global Constitutionalism* 1, no. 1 (2022): 1-16.

² See Wiratraman, Herlambang P. "Constitutional struggles and the court in Indonesia's turn to authoritarian politics." *Federal Law Review* 50, no. 3 (2022): 314-330. See also Suparto, Suparto, et al. "Enhancing External Oversight of Constitutional Judges: A Study on the Role of the Judicial Commission in Indonesia and South Korea." *Lex Scientia Law Review* 8, no. 1 (2024): 517-560.

³ Hariyanto, Budi. "Peran Majelis Pengawas Notaris dalam Upaya Penegakan Terhadap Pelanggaran Kode Etik Notaris Berdasarkan Undang-Undang Jabatan Notaris." *IUS:*

Dutch colonial era, has long been integral to Indonesia's legal system, playing a vital role both before and after the nation's independence. In living a life, humans realize that they cannot live alone but need other people and try to connect with other people; relation to legal certainty. One of them is carried out by the role of a Notary.⁴

Initially, the existence of a Notary was a necessity for Europeans in Indonesia in an effort to create authentic deeds, especially in the field of trade. Nowadays the Notary profession is increasingly popular among the public. Its existence is increasingly needed to create authentic written evidence of legal acts carried out by the community. Therefore, it is not uncommon for various laws and regulations to require certain legal acts to be made in an authentic deed.⁵ Notaries and their deed products can be interpreted as the state's efforts to create legal certainty and protection for members of society.⁶

Article 1 number 1 of Law Number 30 of 2004 concerning the Position of Notaries in conjunction with Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notaries (hereinafter referred as UUJN) states that A notary is a public official who is authorized to make authentic deeds and has other authorities as intended in this Law or based on other laws.⁷

The word official refers more to a person who holds a position. All actions taken by an official in accordance with his/her authority are the implementation of the position. The term general official is a translation of the term *openbaare ambtenaren* contained in Article 1 Number 1 of the Regulation on Notaries in

Jurnal Ilmiah Fakultas Hukum 9, no. 1 (2022): 16-23. See also Adjie, Habib. "Legal Study Regarding the Responsibilities of Notaries in Providing Social Services in Accordance with the Implementation of their Position." *Journal of Law and Sustainable Development* 11, no. 8 (2023): 1-16; Azhari, Reyhan Nabillah. "Understanding the Contents of Indonesian Civil Law: A Book Review Perkembangan Hukum Perdata di Indonesia, Sudikno Mertokusumo, Genta Publishing Yogyakarta, 2019, 206 Pages, ISBN 978-602-0757-08-7." *Journal of Indonesian Legal Studies* 5, no. 1 (2020): 263-266.

⁴ Aulia, Putri Annisa, Yuliandri Yuliandri, and Azmi Fendri. "Law Enforcement by the Notary Supervisory Board for Violations Toward Law on Notary Position (in Padang City)." *International Journal of Multicultural and Multireligious Understanding* 6, no. 3 (2019): 698-708.

⁵ Abdul, Halim. "Tanggung Jawab Notaris dalam Menjaga Minuta Akta." *Fenomena Hukum* 20, no. 2 (2022): 184-197.

⁶ Sulihandari, Hartanti, and Nisya Rifiani. *Prinsip-Prinsip Dasar Profesi Notaris*. (Jakarta: Dunia Cerdas, 2013).

⁷ Manuaba, Paramaningrat, et al. "Prinsip Kehati-Hatian Notaris dalam Membuat Akta Autentik". *Acta Comitas* 3, no. 1 (2018): 59-74.

Indonesia. Article 1 number 1 of the Regulation on Notaries in Indonesia states that:

De notarissen zijn openbare ambtenaren, uitsluitend bevoegd, om authentieke op te maken wegens alle handelingen, overeenkomsten en beschikkingen, waarvan eene algemeene, dat bij authentiek geschrift belanghebbenden verlangen, dat bij authentiek geschrift blikken zal, daarvan de dagteekening te verzekeren, de akte in bewaring te houden en daarvan grossen, afschriften en uittreksels uit te geven; alles voorzoover het opmaken dier akten door eene algemeene verordening niet ook aan andere ambtenaren of personen opgedragen of voorhehouden is. (Notaries are civil servants, exclusively authorised to draw up authentic deeds for all deeds, agreements and arrangements, of which a general, at the request of interested parties in the case of an authentic document, to obtain inspection of the authentic document, to ensure the date thereof, to keep the deed and to provide copies, extracts and extracts thereof; all to the extent that the drawing up of such deeds has not also been assigned or reserved by general regulation to other civil servants or persons).⁸

In Indonesian, a Notary is a public official who has the sole authority to make authentic deeds regarding all deeds, agreements and stipulations which are required by a general regulation or by interested parties who wish to be expressed in an authentic deed, guarantee the certainty of the date, store the deed and provide *grosse*, copies and quotations thereof, as long as the making of the deed by a general rule is not also assigned or excluded to another official or another person.⁹

The importance of the Notary profession lies in its main duties as a maker of authentic deeds. The article 1870 of the Civil Code states that an authentic deed provides an absolute proof for the parties who made it. Notaries are given the authority by law to create absolute evidence.¹⁰ Based on Article 1868 of the Civil Code, it is stated that what is meant by an authentic deed is a deed which in the form determined by law is made by or in the presence of a public official who has authority for that purpose in the place where the deed is made.

⁸ Adjie, Habib. *Hukum Notaris Indonesia, Tafsir Tematik Terhadap Undang-Undang Nomor 30 Tahun 2004 Tentang Notaris* (Surabaya: Refika Aditama, 2007).

⁹ Adjie.

¹⁰ Adjie.

Authentic deeds are usually made in the form of agreements, relating to agreements made by members of the public. It can be understood that the existence of the Notary profession is as a public official who has the authority to make authentic deeds as stated in Article 1868 of the Civil Code.¹¹

Notaries, in carrying out their work must comply with the obligations as regulated in article 16 of Law Number 30 of 2004 concerning Notary Work. Notaries have an important role in resolving legal problems in society. The evidence used by notaries is recorded in writing. Notaries are responsible for maintaining public trust and upholding legal ethics and dignity in carrying out their profession.¹²

In carrying out his office, a notary has several obligations, including making a deed in the form of a deed minute and storing it as part of the notary's protocol.¹³ Article 1 number (13) UUJN states that "*Notary Protocol is a collection of documents which constitute state archives which must be kept and maintained by a Notary in accordance with the provisions of statutory regulations.*" In the development of Notaries in carrying out their positions, there are already services that have been integrated electronically. Examples are the Electronic Mortgage Service system, Online Single Submission (OSS), and electronic fiduciary.¹⁴

The storage of Notary protocols as state archives is still carried out conventionally and has not been used electronically. Based on Article 1 number 5 of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions (UU ITE) defines an electronic system as: "*An electronic system is a series of electronic devices and procedures that function to prepare, collect, process, analyze, store, display, announce, transmit and/or disseminate electronic information*".

Storing conventional Notary protocols requires extreme care so that they are not damaged, lost and/or scattered, considering that Notary protocols are state archives.¹⁵ Current archiving practices carried out by notaries still use

¹¹ Triwahyuni, Abdullah Dian. "Kewajiban dan Tanggung Jawab Notaris Sebagai Pejabat Umum." *Acta Comitas* 5, no. 1 (2020): 1-13.

¹² Ayuningtyas, Pratiwi. "Sanksi terhadap notaris dalam melanggar kode etik." *Repertorium: Jurnal Ilmiah Hukum Kenotariatan* 9, no. 2 (2020): 95-104.

¹³ Republic of Indonesia. *Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary.*

¹⁴ Sudjarot, Anton. "Peran dan Kewenangan Notaris Terhadap Pendaftaran Izin Usaha Melalui Sistem Online Single Submission." *Fiat Iustitia: Jurnal Hukum* 3, no. 1 (2022): 93-113.

¹⁵ Paripurno, Roro Dyah, Hanif Nur Widhiyanti, and Rika Kurniaty. "Legal Construction of Notarial Deed Bank as the Media of Electronic Notarial Protocol Storage."

conventional media in the form of paper and are stored manually, so that physical storage over a long period of time is prone to loss and damage.¹⁶ Conventional archive management has many weaknesses. Requires a fairly large storage space because archives are always increasing in number, documents are easily damaged and lost, searching for documents takes a long time, distribution of documents between organizational units and between employees is less effective. To realize good archive management, the use of information technology cannot be avoided.¹⁷

In previous research, the urgency of storing notary protocols in electronic form in Indonesia is very important. According to Kuswanto, the transfer of protocols in electronic form is important to implement because in carrying out its obligations to store these documents, it becomes safe, effective and efficient.¹⁸

Protocol as a state archive, relating to archival arrangements regulated in Law Number 43 of 2009 concerning Archives (hereinafter abbreviated as Archives Law). Based on Article 1 number 2 of the Archives Law, it states that: "*Archives are records of activities or events in various forms and media in accordance with developments in information and communication technology created and accepted by state institutions, regional governments, educational institutions, companies, political organizations, community organizations, and individuals in the implementation of social, national and state life*".

Article 68 Paragraph (1) of the Archives Law states that archive creators and/or archival institutions can create archives in various forms and/or transfer media including electronic media and/or other media. With the opportunity to store records electronically, and notary protocols are part of the state archives which are of course also subject to the Archives Law, it is necessary to carry out a legal certainty analysis, whether Notaries can store notary protocols electronically, considering that this regulation is not stated in the Law. Notary position where the Notary Position Law still requires conventional notary protocol storage arrangements.

International Journal of Multicultural and Multireligious Understanding 9, no. 7 (2022): 60-72.

¹⁶ Nisa, Naili Zahrotun. "Aspek Legalitas Penyimpanan Minuta Akta Notaris Secara Elektronik." *Jurnal Civic Hukum* 5, no. 2 (2020): 205-219.

¹⁷ See Martini, Tini. "Pengelolaan Arsip Elektronik." *Jurnal Komputer Bisnis* 14, no. 1 (2021): 12-20; Rifauddin, Machsun. "Pengelolaan arsip elektronik berbasis teknologi." *Khazanah al-Hikmah: Jurnal Ilmu Perpustakaan, Informasi, dan Kearsipan* 4, no. 2 (2016): 168-178.

¹⁸ Kuswanto, Mohamat Riza, and Hari Purwadi. "Urgensi Penyimpanan Protokol Notaris dalam Bentuk Elektronik dan Kepastian Hukumnya di Indonesia." *Jurnal Repertorium* 4, no. 2 (2017): 62-69.

The need to be able to store the notary protocols electronically is of course in order to respond to the era of revolution 4.0 and society 5.0 which brings people closer to the digitalization system. Where the era of revolution and society requires the position of Notary to be more able to adapt to the existing system.¹⁹ The existence of legal certainty regarding the regulation of digital protocol storage will certainly be a legal reform in the field of notarial law in Indonesia.

Several previous researchers who analyzed notary protocols include Benny Krestian Heriawanto, *The Obligation to Keep Notary Protocols and Their Legal Consequences according to Positive Law in Indonesia*.²⁰ This research analyzes that the Notary's obligation to keep the Notary's protocol gives rise to two forms of responsibility, namely the responsibility to realize this obligation (keeping the notary's protocol) and the responsibility and/or liability that arises from not carrying out this obligation. The second responsibility and/or liability gives rise to legal consequences, in the form of administrative, civil and criminal sanctions. A notary who is proven to be negligent does not carry out the Notary's obligation to keep the notary protocol, then, the notary can be declared to have committed an unlawful act, both civil and/or criminal. This is in line with what was stated by Desy that notarial deeds which are part of authentic deeds that have a very important position in terms of proof, because the purpose of making and storing the deed is in the notary's protocol section which is a state archive that is used as evidence.²¹

Other research related to notary protocols was also conducted by Dian Ayu Yuhana, *The Role of Regional Supervisory Councils and Protocol Recipient Notaries in the Retention of Notary Protocols that are 25 Years Old*.²² This research analyzes that based on Article 63 paragraphs (5) and (6) jo. Article 70 letter e UUJN regarding the storage of Notary Protocols that are 25 years old by the MPD has not yet been implemented properly, this problem does not only occur in the city of Yogyakarta but also in the entire Yogyakarta Special Region that has not been able to implement the regulations of the UUJN. The MPD has

¹⁹ Talita, Dista Vennesya Mirna, and Edith Ratna. "Peran Notaris Sebagai Pejabat Umum Dalam Era Revolusi Industri 4.0." *Notarius* 16, no. 2 (2023): 870-881.

²⁰ Heriawanto, Benny Krestian. "Kewajiban Menyimpan Protokol Notaris dan Akibat Hukumnya Menurut Hukum Positif Indonesia." *Arena Hukum* 11, no. 1 (2018): 101-118.

²¹ Rositawati, Desy, et al. "Penyimpanan Protokol Notaris secara Elektronik dalam Kaitan Cyber Notary". *Acta Comitatus* 2, no. 1 (2017): 172-182.

²² Yuhana, Dian Ayu. "Peran Majelis Pengawas Daerah dan Notaris Penerima Protokol Terhadap Penyimpanan Protokol Notaris Yang Telah Berumur 25 Tahun." *Officium Notarium* 1, no. 1 (2021): 49-59.

not been able to carry out the authority granted by the UUJN because there are no facilities and infrastructure for storing the Notary Protocols, and there is no special budget regarding this matter. The responsibility of the Protocol Recipient Notary regarding the 25 years old Notary Protocol that he has received is to store, safeguard and care for the Protocols to remain stored safely so that they are not easily damaged or lost because the Notary Protocol is a state archive which must remain in existence even if the Notary concerned is no longer in office. This is done because if in the future the parties ask again about the deed which will be used as evidence, then the deed will still exist.²³ So that the Protocol Recipient Notary is obliged to carry out his responsibilities properly and correctly, if the Notary Protocol he holds/keeps is damaged or lost due to his negligence, then the Protocol Recipient Notary can be held responsible up to the criminal realm.

The approach method in this paper is normative juridical research. Normative juridical research is legal research carried out by researching and reviewing library materials.²⁴ According to Soerjono Soekanto, normative legal research includes: research on legal principles, legal systematic, levels of vertical and horizontal synchronization, comparative law and legal history. In this research, researchers will synchronize statutory regulations, both vertically and horizontally, in analyzing the legal certainty of the storing of the notary protocols in the era of digitalization.

The type and research specifications of this writing are analytical descriptive. This approach is used because this research is used to analyze judge's decisions.²⁵ The implementation of this method is not limited to collecting and compiling the data, but includes analyzing and interpreting of the meaning of the data,²⁶ so that it is able to produce legal interpretations and legal constructions in trying to find legal certainty regarding the regulation of storing notary protocols according to positive law in Indonesia, obstacles in implementing the storage of notary protocols in Indonesia, as well as finding

²³ Khalid, Raden Raihan Sulaiman, and Moh Saleh. "Problematics of the Position of Notary in Technology Development and Information." *Al-Risalah Jurnal Ilmu Syariah dan Hukum* 23, no. 1 (2023): 72-85.

²⁴ Soekanto, Soerjono. *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. (Jakarta: Raja Grafindo Persada, 2007).

²⁵ Hammarberg, Karin, Maggie Kirkman, and Sheryl De Lacey. "Qualitative research methods: when to use them and how to judge them." *Human Reproduction* 31, no. 3 (2016): 498-501. See also Grossman, Joel B. "Social backgrounds and judicial decision-making." *Harvard Law Review* 79, no. 8 (1966): 1551-1564.

²⁶ Grossman.

the concept of regulating the storage of notary protocols in the era of digitalization as a form of legal reform in Indonesia.

Based on the problems and approaches described above, this research uses two types of data collection tools: *First*, document study used to collect secondary data is in the form of legal materials as described above, and *second*, interview, which is used to collect primary data, both from respondents and from sources, because the data expected from this interview method is in-depth data, the interview guide that will be used is unstructured interview guidance. In this case, only make a list of basic questions and will be developed during the interview.

The data analysis method used in this research is normative qualitative, that is, it is able to thoroughly explain the problem being studied based on national and international laws and regulations, so that the data analysis carried out in this research also uses qualitative methods, namely as a research procedure that produces descriptive data in the form of written or spoken words from people and observable behavior.²⁷ The collected data will be processed by systematizing the legal materials in question, namely making a classification of the legal materials.

Legal Certainty & Legal Renewal on Storage of Notary Protocols as Electronic State Archives

Based on Article 1 point 1 of the Law on the Position of Notaries, a Notary is a public official who has the authority to make authentic deeds and has other authorities as intended in the Law on the Position of Notaries or based on other laws. Understanding "*Public Services*" in relation to "*Public Officials*" are two things that at first glance have similarities. In the Big Indonesian Dictionary, the words "*general*" and "*public*" have almost the same meaning, namely as "*many people*". However, if we trace it in the statutory regulations, only "*Public Official*" is defined in the statutory provisions.²⁸

²⁷ Sinaga, Niru Anita. "Pentingnya Perlindungan Hukum Kekayaan Intelektual Bagi Pembangunan Ekonomi Indonesia." *Jurnal Hukum Sasana* 6, no. 2 (2020): 144-165. See also Mayana, Ranti Fauza. *Perlindungan Desain Industri di Indonesia dalam Era Perdagangan Bebas*. (Jakarta: Grasindo, 2004); Waspiah, Waspiah, et al. "Indonesian Patent Law Reform for Simple Patent Innovations on Achieving Welfare State Objectives." *Journal of Indonesian Legal Studies* 8, no. 1 (2023): 199-242.

²⁸ See Bachrudin, Bachrudin. "Jabatan Notaris di Indonesia dalam Jerat Liberalisasi." *Jurnal Pembaharuan Hukum* 2, no. 2 (2015): 185-196. See also Gunarto, H., H. Bachrudin, and

The authority of a notary as a public official in making authentic deeds granted by the State through law automatically places the notary as a delegate of the state with attributive authority. The authority to make authentic deeds is as explained in the UUJN preamble. Amendment to letter (b) aims to guarantee certainty, order and legal protection for certain legal events.²⁹ In addition, a notary is a public official who has the authority to make authentic deeds as long as the making of certain authentic deeds is not reserved for other public officials. Making authentic deeds is required by statutory regulations in order to create certainty, order and legal protection. Apart from authentic deeds made by or before a Notary, not only because it is required by statutory regulations, but also because it is desired by interested parties to ensure the rights and obligations of the parties for certainty, order and legal protection for interested parties as well as for society as a whole.³⁰

An authentic deed essentially contains formal truth in accordance with what the parties notified to the Notary. However, the Notary has the obligation to ensure that what is contained in the Notarial Deed is truly understood and in accordance with the wishes of the parties, namely by reading it so that the contents of the Notarial Deed become clear, as well as providing access to information, including access to statutory regulations related to the parties signing the deed. Grosse Deed, Copy of Deed, Quote of Notarial Deed, or legalization of a private letter attached to a deed stored in a Notarial Protocol, can only be issued by the Notary who made it, a Substitute Notary, or a valid holder of the Notarial Protocol.

Notaries as officials have certain authorities, along with the authority they have, there are also responsibilities carried out by these authorities. In article 65 of UUJN Number 2 of 2014, it is explained that a notary has responsibility for the deed he or she makes even if his or her term of office has ended or has retired.³¹ According to Article 58 of the Notary's Office Law, the Notary makes a list of deeds, a list of legalized private letters, a list of private letters that are

H. Eko Soponyono. *Hukum Kenotariatan: Membangun Sistem Kenotariatan Indonesia Berkeadilan*. (Bandung: Refika Aditama, 2019).

²⁹ Mulia, Jingga, Elita Rahmi, and Eko Nuriyatman. "Protokol Notaris Sebagai Arsip Vital Negara dalam Perspektif Perundang-Undangan di Indonesia." *Mendapo: Journal of Administrative Law* 3, no. 3 (2022): 223-241.

³⁰ See Agustin, Ika Yuli, and Ghansham Anand. "Proposing Notaries' Deed Digitalization in Indonesia: A Legal Perspective." *Lentera Hukum* 8, no. 1 (2021): 49-72.

³¹ Putri, Karina Prasetyo. "Tanggung Jawab Dan Perlindungan Hukum Bagi Notaris Purna Bakti Terhadap Akta Yang Pernah Dibuat (Analisis Pasal 65 dan Pasal 66 Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan Atas Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris)". *Thesis*. (Malang: Brawijaya University, 2016).

recorded, and a list of other documents required by this Law. In the register of deeds, the Notary records every day all deeds made by or before him, both in the form of Minutes of Deeds and originals, without blank gaps, each in a space covered with lines of ink, by including the serial number, monthly number, date, nature of the deed, and names of all persons acting either for themselves or as proxies for others.

Article 1 number 13 of the Notary Public Law defines a notary protocol as a collection of documents which constitute state archives which must be kept and maintained by a Notary in accordance with the provisions of statutory regulations. As state archives, these documents must always be kept and maintained under any circumstances, even if the notary who owns the protocol is on leave or has died.³²

In the Explanation to Article 62 UUJN, it is stated that the Notary Protocol consists of:

a. Deed Minutes

The minutes of the deed are the original notarial deed, where the minutes of this deed consist of (attached) personal data of the parties and other documents required to make the deed. Every month the deed minutes must always be bound into one book containing no more than 50 deeds. On the cover of each book, the number of minutes of the deed, the month and year of its creation are recorded.

b. Deed register book or Repertory

In this Repertorium, every day the Notary records all deeds made by or before him either in the form of deed minutes or originals by including the serial number, monthly number, date, nature of the deed and the names of the parties present.

c. Register of deeds under hand

The signing is carried out before a Notary or the deed is registered privately; the notary is obliged to record the documents under his hand, both legalized and recorded, by including the serial number, date, nature of the letter and the names of all parties.

d. Book listing the names of faces or Klapper;

The notary is obliged to make a Klapper list arranged alphabetically and done every month, where the names of all persons/parties appearing, their nature and deed number are included.

e. Protest list book

³² Putra, Theodorus Kevin Purinsyah, and Nany Pudjianti Suwigjo. "The Notary Protocol File Managerial." *Law Development Journal* 5, no. 1 (2022): 1-13.

Every month the Notary submits a List of Protest Deeds and if there is none, it must still be made with the words "*zero*".

- f. Will registration book; And
The notary is obliged to record the deeds of will that he makes in the Register of Wills Book. In addition, no later than the 5th day of each month, the Notary is obliged to make and report a will list of wills made in the previous month. If no will has been made, the Register of Wills must still be made and reported with the words "*zero*".
- g. Another register book that must be kept by the Notary
Based on statutory provisions, one of them is the Limited Liability Company Register Book, which records when it was established and with what deed number and date, changes to the Articles of Association or changes to the composition of members of the Board of Directors, members of the Board of Commissioners or Shareholders.

In addition to the Register Book which is included in the Notary Protocol mentioned above, a good Notary should administer and make filing arrangements for the following matters:³³

- a. Daily Deed Register Book
- b. A special folder containing minutes of deeds before they are bound into a book every month
- c. Deed Document Archive File
- d. Archive file containing a copy of the letter under the authorized hand
- e. Archive file containing a copy of the letter under the recorded hand
- f. Archive file containing a copy of the Protest List
- g. Collatione Copy Archive File (i.e. a copy of a letter under your own hand in the form of a copy containing the description as written and depicted in the letter in question)
- h. Notary Monthly Report Archive File to the Regional Supervisory Council (MPD) accompanied by a receipt from the MPD
- i. Archive file containing the Will Report to the Director of Civil Affairs cq Balai Treasure Indigalan Sub Directorate of Wills
- j. Archive file containing receipt of a copy of the Deed
- k. Notary's Incoming and Outgoing Letters Book
- l. Notary Entry Letter Archive File
- m. Archive file copy of Notary's Outgoing Letter

³³ Embang, Thea Farina, and Elin Sudiarti. "Analisis Yuridis Penyimpanan Minuta Akta Notaris Secara Elektronik." *UNES Law Review* 6, no. 1 (2023): 1217-1223.

- n. Register Book of Social Legal Entities and Business Entities that are not legal entities made in the office

Every month, no later than the 15th, the Notary is obliged to submit in writing a copy of the deed list and other lists made in the previous month to the Regional Supervisory Council (Monthly Report).

Arrangements for submitting Notary Protocols are regulated in Article 63 of the Law on Notary Positions. Submission of the Notary Protocol is carried out if the Notary:

- a. Die
- b. His term of office has ended
- c. Ask for it himself
- d. Spiritually and/or physically unable to carry out the duties of a Notary position continuously for more than 3 (three) years
- e. Appointed as a state official
- f. Change position
- g. Temporarily dismissed; or
- h. Dishonorably discharged

Submission of the Notarial Protocol for the reasons mentioned above is carried out no later than 30 (thirty) days with a minutes of submissions of the Notarial Protocol signed by the person submitting and the recipient of the Notarial Protocol. If the Notary dies, the Notary Protocol will be handed over by the Notary's heirs to another Notary appointed by the Regional Supervisory Council. If the Notary's term of office expires, the Notary's Protocol will be submitted by the Notary to another Notary appointed by the Regional Supervisory Council. Notary Protocols from other Notaries who are 25 (twenty-five) years old or more at the time of submission are submitted by the Notary receiving the Notarial Protocol to the Regional Supervisory Council.

Head of the Information Technology Division of the Central Board of the Indonesian Notary Association (PP INI) Ismiati Dwi Rahayu is not sure that this provision can be implemented. How can the MPD be able to store thousands of notary protocols that are more than 25 years old in the MPD office if the supervisory board himself does not have an office, even though the MPD has been around since 2004. Because the MPD does not have an office, the notary protocols are now kept at the relevant notary's office. This means that the provisions of Article 63 paragraph (5) of the Notary Position Law cannot be implemented as they should Likewise with the provisions of Article 1 number 13 of the Notary Position Law. This problem is further strengthened by the fact that there is no solution from the Notary Position Law itself. The law does not yet clearly regulate whether it is permissible to store and maintain the notary

protocols electronically.³⁴ Although it is known that notary protocols in electronic form have a role in making it easier for notaries to implement the services more effectively and efficiently.³⁵

If this problem is pursued, then the reasons for non-implementation of the rules of Article 63 paragraph (5) UUJN/UUJN-P and Article 70 letter e UUJN, are as follows:³⁶

- a. Lack of socialization carried out by the Regional Supervisory Council. One of the reasons why the rules of Article 63 paragraph (5) UUJN/UUJN-P and Article 70 letter e UUJN are not implemented is the lack of socialization carried out by the MPD. Some notaries do not even know that the notarial protocol they receive must be submitted to the MPD when they are 25 years old or more.
- b. UUJN/UUJN-P Rule Factors
 - 1) In the UUJN there are several regulations that are considered burdensome for notaries and MPD. For example, Article 57 UUJN causes the implementation of storing protocols that are 25 (twenty five) years or more to be troublesome for notaries, this is because there are regulations in UUJN Article 57 which basically states that those who can issue Deed Excerpts, Copies, Grosse Deed, or legalization of a private letter attached to a deed stored in a Notary protocol is only the Notary who made it, a substitute Notary, or the legal holder of the notary protocol. Because of this, it will be troublesome for the MPD and Notary if protocols that are 25 (twenty-five) years old or more are stored in the MPD office.
 - 2) Regarding the lack of clarity in the rules contained in Article 63 paragraph (5) which states that Notary Protocols from other Notaries who are 25 (twenty five) years old or more at the time of submission are submitted by the Notary receiving the Notarial Protocol to the Regional Supervisory Council, and Article 63 paragraph (6) which states that in the event that the Notary Protocol is not submitted within the 30 (thirty) day period as intended in paragraph (1), the

³⁴ Toruan, Henry Donald Lumban. "The Importance of Using Electronic Deeds to Facilitate the Service and Storage of Notary Archives." *Jurnal Penelitian Hukum De Jure* 22, no. 4 (2022): 483-498.

³⁵ Toruan.

³⁶ Verdyanika, Dwi Kukuh, Shinta Hadiyantina, and Endang Sri Kawuryan. "Kewenangan Majelis Pengawas Daerah Notaris terhadap Protokol Notaris yang Telah Berumur 25 Tahun atau Lebih." *Jurnal Mercatoria* 14, no. 2 (2021): 77-87.

Regional Supervisory Council has the authority to take the Notary Protocol.

The authors also found this problem in practice when carrying out his duties as a Regional Notary Supervisory Council. Storing Notary Protocols becomes an obstacle due to limited space, or the notary protocol being damaged due to flooding, termites and so on. Therefore, when a quotation test is carried out on the minutes of a deed, sometimes the Notary also takes a long time to find the minutes among the pile of minutes of the deed in the notary's office.³⁷

By considering all the problems mentioned above, the presence of an electronic notary, or the use of an electronic system to carry out notary work, can be said to answer all the problems mentioned above.³⁸

TABLE 1. Comparison of Conventional Notary Problems with Solutions via Electronic Systems.³⁹

Conventional	Electronic
Limited storage space for notary deeds and journals	More efficient and affective and faster file discovery electronically so that authenticity requirements can be proven property
Violation of notary professionalism related to authenticity requirements (time and location of making the deed)	Notaries can access authentic sources of personal data in ministries related to the e-ID system which can show that there is a conflict of interest between the notary and his client
Weak evidence supporting the authenticity of the identity of the legal subject of the notary's conflict of interest	Electronic systems can limit the level of authorization and the number of accesses for tax applications can be properly traced
Violation of tax liability confidentiality	With a deposit system or electronic delivery of copies, the notary's performance can be tracked properly
Weak monitoring control and guidance of related agencies	-

³⁷ Rukmana, Rubiyanti, Nandita Dwi Savitri, and Yuliana Adelvina Padha. "Peran Notaris dalam Transaksi Perdagangan Berbasis Elektronik." *Jurnal Komunikasi Hukum (JKH)* 7, no. 1 (2021): 495-508.

³⁸ Bimaroni, Restu Abiranda, Apromico Apromico, and Munsharif Abdul Chalim. "Legal Review on Prospects for Filling in the Form of Notary Protocol in Electronics Form and Legal Power." *Jurnal Akta* 6, no. 1 (2019): 67-72.

³⁹ Makarim, Edmon. *Notaris dan Transaksi Elektronik: Kajian Hukum Tentang Cybernotary atau Electronic Notary*. (Jakarta: Raja Grafindo Persada, 2013). See also Dewi, Luh Anastasia Trisna. "Legal Aspect of Cyber Notary in Indonesia." *Journal of Digital Law and Policy* 1, no. 1 (2021): 37-44.

The ineffective implementation of Article 63 paragraph (5) of the Notary Position Law needs to be analyzed based on the Legal Effectiveness Theory, to analyze what causes the ineffective implementation of these norms. The theory of legal effectiveness according to Soerjono Soekanto is that whether a law is effective or not is determined by five factors:⁴⁰

1) The legal factor itself (law)

The rapid development of society, technology and information in the twentieth century, and the generally difficult to follow legal sector has caused people to rethink about law. By starting to pay attention to the interaction between the legal sector and society where the law is applied. However, the problem of public legal awareness is still one of the most important factors in the effectiveness of a law that is treated in a country.⁴¹

Law functions for justice, certainty and expediency. In the practice of administering law in the field, sometimes there is a conflict between legal certainty and justice. Legal certainty is concrete in nature, tangible in nature, while justice is abstract in nature, so that when a judge decides a case by applying the law alone, sometimes the value of justice is not achieved. So, when looking at a legal problem, at least justice is the main priority because law is not only seen from the perspective of written law.

If we analyze the provisions of the norms governing notary protocols as state archives, then there are two laws that can be used as two bases for thinking, namely the Law on Notary Positions and the Law on Archives. In the Notary Position Law, this has been regulated in quite detail. Starting from the meaning contained in Article 1 number 13 of the Notary Position Law. This article emphasizes that the notary protocol is a state archive, which of course all storage will also be related to the provisions contained in the Law on Archives. The Law on Notary Positions also provides a concrete description of the types of documents included in notary protocols as regulated in Article 62 of the Law on Notary Positions. Articles 63 to 65 of the Notary Position Law also explain the procedures for storing and transferring the notary protocols. The concrete normative provisions in this law apparently still leave several obstacles, especially regarding the storage of notary protocols. Conventional storage means that Notaries require a lot of space for storage. Conventional storage also allows documents to be damaged due to natural disasters such as floods or earthquakes,

⁴⁰ See Soekanto, Soerjono. "Kesadaran Hukum dan Kepatuhan Hukum." *Jurnal Hukum & Pembangunan* 7, no. 6 (1977): 462-471.

⁴¹ Orlando, Galih. "Efektivitas Hukum dan Fungsi Hukum di Indonesia." *Tarbiyah bil Qalam: Jurnal Pendidikan Agama dan Sains* 6, no. 1 (2022): 49-58.

or documents damaged by termites.⁴² In reality, the positive legal school approach does not fully solve the *ius constitutum* problem, because it is only oriented towards statutory regulations, so it will only touch the problem, but not the root of the problem.⁴³ Based on this, a theoretical approach is needed, to find the answers to whether it is possible that these problems arise because the school of law which is the theoretical basis of a law is no longer relevant.

2) *Law enforcement factors, namely the parties who form and implement the law*

In the functioning of the law, the mentality or personality of law enforcement officers plays an important role. So far, there has been a strong tendency among the public to interpret the law as officers or law enforcers, meaning that the law is identified with the actual behavior of officers or law enforcers. Unfortunately, in exercising their authority, problems often arise due to attitudes or behavior that are deemed to exceed their authority or other actions that are considered to tarnish the image and authority of law enforcement.

The Notary Supervisory Council is a body established by the Government in the Law on the Position of Notaries, which carries out the government's duties in providing guidance and supervision of Notaries. The legal basis that regulates the duties and authority of the Notary Supervisory Board is the Notary Position Law, which is then followed up in the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 15 of 2020 concerning Procedures for Examination of the Supervisory Board of Notaries (hereinafter referred to as Minister of Law and Human Rights Regulation Number 15 2020) and Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 16 of 2021 concerning Organizational Structure and Work Procedures, Procedures for Appointment and Dismissal, as well as the Budget of the Notary Supervisory Council (hereinafter written as Minister of Law and Human Rights Regulation No. 16 of 2021).

Supervision of Notaries is carried out by the Minister. In carrying out this supervision, the Minister formed a Supervisory Council. As an extension of the

⁴² See also Gracale, Sharon, and Mohamad Fajri Mekka Putra. "The Urgency of Electronic Notarization in Indonesia by Seeing the Implementation in Estonia During the Covid-19 Pandemic." *American Journal of Humanities and Social Sciences Research* 6, no. 9 (2022): 135-138.

⁴³ Shodiq, Achmad, and Nynda Fatmawati Octarina. "Problems of Law Enforcement of Notary Code of Ethics in the Digital Era." *Jurnal Justisia: Jurnal Ilmu Hukum, Perundang-Undangan dan Pranata Sosial* 7, no. 2 (2022): 537-551.

Government, the Supervisory Council is an important body that has the authority to guide and supervise the duties of Notaries. The Supervisory Council consists of the Regional Supervisory Council, Regional Supervisory Council and Central Supervisory Council. The existence of the Regional Supervisory Council in examining Notary Protocols is not intended to look for mistakes by Notaries in carrying out their duties, but to ensure that the Notary's duties are carried out in accordance with the mandate contained in the Law on the position of notary and its derivative laws and regulations.⁴⁴

The Supervisory Council consists of elements, namely government elements, Notary Organization elements; and expert/academic elements. This Supervisory Council consists of 9 (nine) people consisting of one) chairman who is also a member, two deputy chairmen who are also members, and 6 six members. The chairman and deputy chairman of the Supervisory Council must come from different elements and be elected from and by the members of the Supervisory Council.

For the effectiveness of Notary Protocol audits for the work area of a Regional Supervisory Council which is large and has a relatively large number of Notaries, it is necessary to consider reorganizing the work area of the Regional Supervisory Council by expanding the Regional Supervisory Council, so that the Regional Supervisory Council can carry out 1 (one) Notary Protocol audit for 1 (one) year.

3) *Facility factors that support law enforcement*

Facilities or supporting facilities include software and hardware. According to Soerjono Soekanto, law enforcers cannot work well if they are not equipped with proportional vehicles and communication equipment. Therefore, facilities or facilities have a very important role in law enforcement. Without these means or facilities, it will not be possible for law enforcers to harmonize their proper role with their actual role.

The facility factor is one of the factors that is quite determining in the legal issue of storing notary protocols. Article 63 paragraph 5 of the Notary Position Law states that Notary Protocols from other Notaries who are 25 (twentyfive) years old or more at the time of submission are submitted by the Notary receiving the Notary Protocol to the Regional Supervisory Council. In practice, the Regional Supervisory Council does not have a special office. Meetings and inspections are carried out at Government Offices, so this is also a problem

⁴⁴ Leonard, Tommy, Azharuddin Azharuddin, and Wilbert Wilbert. "Tinjauan Pelanggaran Kode Etik Notaris Kota Medan Menurut Perspektif Pengawasan Majelis Pengawas Daerah Notaris." *Jurnal Suara Hukum* 5, no. 2 (2023): 177-199.

where the Notary Protocol, which is more than 25 years old, will be kept by the Regional Supervisory Council. Of course, this requires space and supporting infrastructure so that all notary protocol documents are maintained, safe and not damaged over time. Practically, this has not been fulfilled, resulting in the inability to effectively implement the provisions of Article 63 paragraph (5) of the Law on Notary Positions.

4) *Community factors, namely the environment in which the law applies or is applied*

Law enforcers come from society and aim to achieve peace in society. Every citizen or group has more or less legal awareness. The problem that arises is the level of legal compliance, namely high, medium or low legal compliance. The degree of community legal compliance with the law is an indicator of the functioning of the law in question.

The transfer of notarial protocols in principle also involves the heirs. In principle, every time a Notary dies, based on Article 35 of the Notary Position Law, the Notary's family is obliged to notify the Regional Notary Supervisory Council no later than 7 (seven) working days. If the Notary dies while on leave, the duties of the Notary's office will be carried out by the Substitute Notary as Temporary Acting Notary for a maximum of 30 (thirty) days from the date the Notary dies. The Temporary Notary Official submits the Notary Protocol of the Notary who died to the MPD no later than 60 (sixty) days from the date the Notary died.

Based on Article 63 paragraph (2) of the Law on the Position of Notaries, in the event that a Notary dies, the Notary Protocol is handed over by the Notary's heirs to another Notary appointed by the Regional Supervisory Council. Through this article we can see that the other Notary who will receive the protocol of a Notary who has died is a Notary appointed by the MPD. Submission of the protocol is carried out no later than 30 (thirty) days by making a minutes of submission of the Notarial protocol signed by both the person submitting and the recipient of the Notarial protocol. Public legal awareness is required (in this case the family members who are the heirs of the notary who died) in submitting notary protocols to the notary appointed by the Regional Supervisory Council.⁴⁵

⁴⁵ Mallolongan, Litha Nabilla, and Hendry Julian Noor. "Peluang Penerapan Penyimpanan Minuta Akta secara Elektronik menuju Era E-Notary berdasarkan Undang-Undang No. 2 Tahun 2014 tentang Jabatan Notaris." *Notary Law Journal* 2, no. 1 (2023): 54-81.

5) *Cultural factors, namely as a result of work, creativity and feelings that are based on human work in social life*

Culture basically includes the values that underlie applicable laws, which values are abstract conceptions of what is considered good (so it is obeyed) and what is considered bad (so it is avoided). Indonesian culture is the basis or basis for applicable customary law. Apart from that, written law (legislation) also applies, which is formed by certain groups in society who have the power and authority to do so. The statutory law must be able to reflect the values that are the basis of customary law, so that the statutory law can apply actively.

Law can be effective if these factors can function well as seen from people's behavior. In modern society, social order is maintained, among other things, by a system of coercive social control, namely law, to implement this law is supported by a system of tools of power such as the police, courts and so on which are organized by the state, whereas in primitive societies the tools of power sometimes it does not exist, but that does not mean that in primitive society law does not exist.⁴⁶

Based on the five factors that determine the effectiveness of the law, based on the above analysis, the factors that result in the current storage of notary protocols not being able to run effectively are legal factors and facility factors. In terms of legal factors, the legal norms governing the storage of notary protocols are currently in principle quite good. However, with the development of information technology, the digitalization approach is appropriate to consider in overcoming the problems contained in the facilities factor which is also the cause of not being able to carry out the mandate of Article 63 paragraph (5) of the Notary Position Law. To overcome the problems that have occurred in practice so far, it is necessary to consider the opportunity to store notary protocols as digital state archives, so that the laws that develop in society can truly become responsive laws.

Based on Article 1 number 2 of the Archives Law, Archives are stated as records of activities or events and media in accordance with developments in information and communication technology that are blind and accepted by state institutions, regional governments, educational institutions, companies, political organizations, community organizations, and individuals in the implementation of social, national and state life. If you pay attention to the definition of archives according to the Archives Law, it is not clearly stated that notaries as Public Officials fall under the archival qualifications of the Archives

⁴⁶ See Barzilai, Gad. *Communities and Law: Politics and Cultures of Legal Identities*. (Michigan: University of Michigan Press, 2010).

Law, but if you analyze the classification of archives based on their function, namely dynamic archives and static archives, it can be observed as follows:⁴⁷

- 1) Dynamic archives are archives that are used directly in the activities of the archive creator and are stored for a certain period of time (Article 42 paragraph (2) of the Archives Law). Dynamic archives are divided into :
 - a. Maintained archives: namely state archives relating to the existence and survival of the nation and state whose integrity, security and safety must be maintained (Article 1 point 8 of the Archives Law).
 - b. General Archives are archives that are not included in the protected archives category. (Article 1 number 9 of the Archives Law).
- 2) Static archives are archives produced by archive creators because they have historical use value, their retention has expired, and they are permanent and have been verified either directly or indirectly by the National Archives of the Republic of Indonesia and/or archival institutions. As a stored document, an archive has a storage period which is usually called retention. The literal meaning of retention is detention. In archiving, archive retention means the length of time an archive is stored (held) in an active file or inactive file before being moved or destroyed. The benchmark for determining retention time should be based on archive categories, namely vital, important, useful and useless. According to Article 1 number 22 of the Archives Law, the Archives Retention Schedule (JRA) is a list containing the minimum storage or retention period, type of archive, and information containing recommendations regarding whether a type of archive should be destroyed, reassessed or made permanent used as a guide for depreciating and saving the archives. Dynamic archives are stored or destroyed based on the archive class in terms of the interests of the archive's use. Vital archives are eternal and are not destroyed, while archives that are classified as useless are kept for a maximum of 1 month and immediately destroyed.

Based on the description above, the qualification of the deed minutes as part of the notary protocol, if analyzed based on its meaning, is that the data deed minutes are qualified as dynamic archives without a time period. However, if studied from dynamic archive management, it can be called vital archives (Article 9 paragraph (2) of the Archives Law). The management of the archive is the responsibility of the archive creator, namely the notary, substitute notary

⁴⁷ Kumalawati, Ivo Dewi, Herowati Poesoko, and Ivida Dewi Amrih Suci. *Hukum Kenotariatan Karakteristik Minuta Akta Notaris sebagai Arsip Negara*. (Yogyakarta: Laksbang Pustaka, 2021).

and temporary notary. Deed minutes can be qualified as dynamic archives without a vital time period.⁴⁸

Regarding the storage and management of archives, as mentioned above, Article 1 point 13 of the Law on the Position of Notaries regulates notary protocols which are declared as state archive documents which must be kept and maintained by Notaries in accordance with the provisions of statutory regulations. Meanwhile, provisions regarding state archives are regulated in more detail in the form of statutory provisions in accordance with those contained in Law Number 43 of 2009 concerning Archives. The Notary Protocol in the Notary Position Law is only regulated in relation to delivery, even though as an archive, the notary protocol must be managed based on four activity aspects as regulated in Article 59 of the Archives Law, namely acquisition, processing, preservation and provision aspects. If Article 40 paragraph (2) of the Archives Law which regulates management aspects is synchronized with the management aspects in the Notary Position Law, it can be described in the following table.⁴⁹

TABLE 2. Comparison of Archives Storage and Management Arrangements According to the Archives Law and the Notary Position Law

Indicator	Storage and Management in the Archives Law (UUK)	Storage and Management in the Notary Position Law (UUJN)
Archive Creator	Article 57 paragraph (1) UUK: a. State institutions b. Local government c. Public universities d. BUMN and/or BUMD	Article 1 numbers 1,2,3 jo. Article 65 UUJN: a. Notary Public b. Temporary Notary Officer c. Substitute Notary
Acquisition	a. Article 60 paragraph (1) UUK, <i>Includes data collection, arrangement (announcement of Archive Disbursement List), assessment, and submission of archives to the Archives Institution</i> b. Article 53 UUK, <i>Archives that have historical value, have expired and are certified</i>	a. Articles 62-64 UUJN, <i>Without an assessment, all protocols must be kept by the Notary, Substitute Notary, Temporary Notary, Notary holding the protocol and MPD</i> b. Article 63 paragraph (5) UUJN, <i>submitted to the MPD, the submission of the protocol as intended in</i>

⁴⁸ Kumalawati, et.al.

⁴⁹ Kumalawati, et.al.

Indicator	Storage and Management in the Archives Law (UUK)	Storage and Management in the Notary Position Law (UUJN)
	<i>as permanent in accordance with the JRA must be submitted to the Archives Institution according to their level.</i>	<i>Article 62 is carried out no later than 30 days (Article 63 paragraph (1) UUJN) and the Notary Protocol from another Notary who is 25 years old or more at the time of submission is submitted by the Notary receiving the protocol.</i>
Processing	Article 62 UUK <i>Processing is carried out based on the principles of origin and original rules.</i>	Not regulated in UUJN Management is carried out by Notaries, substitute Notaries, Temporary Notary Officials, Protocol Holding Notaries, and MPDs in various ways.
Preservation (Maintenance)	a. Article 45 paragraph (1) UUK, <i>Archive maintenance is carried out by the archive creator</i> b. Article 40 paragraph (4) UUK, <i>Archive creators create official documents, archive classification, archive retention schedules, as well as security classification systems and archive access.</i>	Carried out by Notaries, substitute Notaries, Temporary Notary Officials, Notaries holding protocols, and MPD
Access to Archives	a. Article 64 Paragraph (3) UUK, <i>Access to archives is based on openness and closedness in accordance with statutory provisions</i> b. Article 65 Paragraph (1) UUK, <i>Basically, access to archives is open to the public</i> c. Article 64 paragraph (1) UUK, <i>Archival institutions are obliged to ensure easy access to each archive</i>	a. It is a closed archive except for Article 66 UUJN b. Keep everything confidential regarding the Deed he or she makes and all information obtained for the purpose of making the Deed in accordance with the oath/promise of office unless the law determines otherwise (Article 16 paragraph (1) letter jo. Article 54 paragraph (1) "Notaries can only give, show or

Indicator	Storage and Management in the Archives Law (UUK)	Storage and Management in the Notary Position Law (UUJN)
		<i>notify the contents of the Deed, Gross Deed, Copy of the Deed or Quote of the Deed to people who have a direct interest in the deed, heirs or people who have acquired rights, unless otherwise determined by statutory regulations”.</i>
Archive Management	<p>a. Article 2 PP Number 28 of 2012 concerning Implementation of UUK, <i>Archives are carried out at the national, provincial, district/city and university levels in a national archives system.</i></p> <p>b. Article 3 PP Number 28 of 2012 concerning Implementation of UUK, <i>The implementation of the archives is carried out at the national level, the responsibility of ANRI, the Province is the responsibility of the Governor, the Regency/City is the responsibility of the Regent/Mayor, and universities are the leaders.</i></p> <p>c. Article 4 PP Number 28 of 2012 concerning Implementation of UUK</p> <ol style="list-style-type: none"> 1) Policy determination 2) Archives development 3) Archives management. 	Notaries, temporary Notary Officials, substitute Notaries, Protocol Holding Notaries and MPDs are subject to Article 16 paragraph (1) letter f jo. Article 54 paragraph (1) UUJN.
Shrinkage	<p>Archive depreciation is carried out by the archive creator, activities include:</p> <ol style="list-style-type: none"> a. Making a list of archive records b. Transfer of inactive archives to the archives unit 	Does not recognize depreciation

Indicator	Storage and Management in the Archives Law (UUK)	Storage and Management in the Notary Position Law (UUJN)
	<ul style="list-style-type: none"> c. Submission of archives to the National Archives of the Republic of Indonesia d. Submission of archives to the autonomous regional archives body/office e. Static archive submission control f. Destruction of archives (Decree of the Head of ANRI Number 9 of 2000 concerning Guidelines for Depreciation of Archives in State Institutions and Government Bodies 	
Electronic storage	Article 68 paragraph (1) UUK <i>Archive creators and/or archival institutions can create archives in various forms and/or transfer media including electronic media and/or other media.</i>	Not familiar with electronic archive storage

If this comparison is analyzed based on the theory of legal certainty, a legal regulation contains legal principles which form the basis for its formation. Satjipto Rahardjo said that legal principles can be interpreted as the "*heart*" of legal regulations,⁵⁰ even though it is said that legal principles are the heart of legal regulations, legal principles and legal norms cannot be equated in the form of positive law. Legal principles only regulate and explain (explanation), where the aim is only to provide an overview and is not normative.⁵¹ Society is a unity of individuals who have a social life interwoven from various kinds of relationships between individuals who are its members. Law is as a tool of social control.⁵²

In this case, Van Eikema Hommes firmly stated that legal principles should not be considered as concrete legal norms, but should be seen as general

⁵⁰ Rahardjo, Satjipto. *Ilmu Hukum*. (Bandung: Citra Aditya Bakti, 2021).

⁵¹ Sidharta, Bernard Arief. *Karakteristik Penalaran Hukum dalam Konteks Keindonesiaan*. (Bandung: CV. Utomo, 2006).

⁵² Utami, Wiwik. "Hukum Sebagai Agen Pengendali Sosial dalam Masyarakat Ditinjau dari Segi Sosiologi Hukum." *Jurnal Maksiagama* 12, no. 2 (2020): 97-104.

foundations or guidelines for applicable law,⁵³ so to understand a legal regulation, legal principles are needed. In other words, Karl Larenz in his book: *Methodenlehre der Rechtswissenschaft*, states that: legal principles are ethical legal measures that provide direction to the formation of law.⁵⁴ Because legal principles contain ethical demands, legal principles can be said to be a bridge between legal regulations and social ideals and the ethical views of society. In forming legal rules, the main principle is established to create clarity regarding legal regulations, this principle is legal certainty. Legal certainty is one of the goals of the rule of law. This view was expressed by Radbruch and Kusumaatmadja.⁵⁵

The idea of the principle of legal certainty was originally introduced by Gustav Radbruch in his book entitled *introduction in die rechtswissenschaften*. Radbruch wrote that in law there are 3 (three) basic values, namely⁵⁶: (1) Justice (Gerechtigkeit); (2) Expediency (Zweckmassigkeit); and (3) Legal Certainty (Rechtssicherheit). This doctrine of legal certainty comes from Juridical-Dogmatic teachings which are based on the positivistic school of thought in the world of law, which tends to see law as something autonomous, independent, because for adherents of this thought, law is nothing more than a collection of rules. For adherents of this school, the aim of law is nothing other than simply ensuring the realization of legal certainty. Legal certainty is realized by law with its nature which only creates general legal rules. The general nature of legal rules proves that law does not aim to realize justice or benefit, but merely for certainty.⁵⁷

Certainty is a matter (state) that is certain, provisions. Laws must essentially be certain and fair. It must be a guide to behavior and is fair because the code of behavior must support an order that is considered reasonable. Only

⁵³ Notohamidjojo, Oeripan. *Soal-Soal Pokok Filsafat Hukum*. (Jakarta: Gunung Mulia, 1975). See also Abdullah, Junaidi. "Refleksi Dan Relevansi Pemikiran Filsafat Hukum Bagi Pengembangan Ilmu Hukum." *YUDISIA: Jurnal Pemikiran Hukum dan Hukum Islam* 6, no. 1 (2016): 181-199; Mushafi, Mushafi. "Eksistensi Filsafat Hukum dan Kontribusinya Terhadap Hukum Nasional." *Voice Justisia: Jurnal Hukum dan Keadilan* 4, no. 1 (2020): 82-103.

⁵⁴ Atmadja, I. Dewa Gede. "Asas-Asas Hukum dalam Sistem Hukum." *Kertha Wicaksana* 12, no. 2 (2018): 145-155.

⁵⁵ Kusumaatmadja, Mochtar. *Fungsi dan Perkembangan Hukum dalam Pembangunan Nasional*. (Bandung: Universitas Padjadjaran, 1970).

⁵⁶ Rahardjo, *Ilmu Hukum*.

⁵⁷ See Braithwaite, John. "Rules and principles: A theory of legal certainty." *Australasian Journal of Legal Philosophy* 27, no. 2002 (2002): 47-82. See also Coudert, Frederic R. "Certainty and justice." *The Yale Law Journal* 14, no. 7 (1905): 361-373.

because it is fair and implemented with certainty can the law carry out its function. Legal certainty is a question that can only be answered normatively, not sociologically.⁵⁸

The theory of legal certainty was born from the development of the basic value of legal certainty. Legal certainty is "*Scherkeit des Rechts selbst*" (certainty about the law itself).⁵⁹ Ronald Dworkin said that: *we live in and by law..., how can the law command when the law books are silent or unclear or ambiguous?*⁶⁰ Furthermore, legal certainty according to Jan Michiel Otto defines it as the possibility that in certain situations: *First*, there are clear, consistent and easily obtainable rules issued by and recognized by the state's (power). *Second*, the ruling agencies (government) apply these legal rules consistently and also submit and obey them. *Third*, citizens in principle adapt their behavior to these rules. *Fourth*, independent and unthinking judges (judiciary) apply these legal rules consistently when they resolve legal disputes. *Fifth*, judicial decisions are concretely implemented.⁶¹

According to Utrecht, legal certainty contains two meanings. *Firstly*, the existence of general rules makes individuals know what actions they may or may not do, and *secondly*, in the form of legal security for individuals from government arbitrariness because with the existence of general rules individuals can know what the State may impose or do toward individuals.⁶² The general nature of legal rules proves that law does not aim to realize justice or benefit, but solely for legal certainty.⁶³

According to Sudikno Mertokusumo, legal certainty is a guarantee that the law must be implemented in a good manner. Legal certainty requires efforts to regulate law in legislation made by authorized and authoritative parties, so

⁵⁸ Lifante-Vidal, Isabel. "Is legal certainty a formal value?." *Jurisprudence* 11, no. 3 (2020): 456-467. See also Braithwaite, "Rules and principles: A theory of legal certainty."

⁵⁹ See Radbruch, Gustav. "Five minutes of legal philosophy (1945)." *Oxford Journal of Legal Studies* 26, no. 1 (2006): 13-15.

⁶⁰ Dworkin, Ronald. "Essays in Epistemology Hermeneutics and Jurisprudence, In Patrick Nerhot, *Law Interpretation and Reality*, (Netherland: Kluwer Academic Publisher, AA Dordrecht, 1990).

⁶¹ Otto, Jan Michiel. "Toward an analytical framework: real legal certainty and its explanatory factors." In *Implementation of Law in the People's Republic of China*. (Leiden: Brill Nijhoff, 2002), pp. 23-34.

⁶² See Manullang, Fernando Morganda. "The Purpose of Law, Pancasila and Legality According to Ernst Utrecht: A Critical Reflection." *Indonesia Law Review* 5, no. 2 (2015): 187-207.

⁶³ See Raitio, Juha. "What is meant by legal certainty and uncertainty?." *Rechtstheorie* 37, no. 4 (2006): 393-405.

that these rules have a juridical aspect that can guarantee certainty that the law functions as a regulation that must be obeyed.⁶⁴

Normative legal certainty is when a regulation is created and promulgated with certainty because it regulates clearly and logically. Clear in the sense that it does not give rise to doubt (multiple interpretations) and is logical. It is clear in the sense that the regulations become a system of norms with other norms so that they do not clash or give rise to norm conflicts.⁶⁵ Legal certainty refers to the application of law that is clear, permanent, and consistent, the implementation of which cannot be influenced by subjective circumstances. Certainty and justice are not just moral demands, but factually characterize the law. A law that is uncertain and unwilling to be fair is not just a bad law.⁶⁶

Furthermore, regarding legal certainty, Lord Lloyd said that ⁶⁷...*law seems to require a certain minimum degree of regularity and certainty, or without that it would be impossible to assert that what was operating in a given territory amounted to a legal system*". From this view, it can be understood that without legal certainty, people do not know what to do and ultimately uncertainty arises which will ultimately lead to violence due to the lack of certainty in the legal system. Thus, legal certainty refers to the application of law that is clear, permanent and consistent where its implementation cannot be influenced by circumstances that are subjective in nature.⁶⁸

In this article, we will not discuss how it correlates with Legal Positivism reasoning, and with this article it is hoped that we will be able to explain the relationship between the principle of legal certainty and legal positivism reasoning to study, analyze and discover the concept of regulating the storage of notary protocols in the era of digitalization based on two basic principle regulations contained in the Notary Position Law and the Archives Law. The

⁶⁴ Mertokusumo, Sudikno. *Mengenal Hukum: Suatu Pengantar Edisi Revisi*. (Yogyakarta: Cahaya Atma Pustaka, 2010).

⁶⁵ Julyano, Mario, and Aditya Yuli Sulistyawan. "Pemahaman terhadap asas kepastian hukum melalui konstruksi penalaran positivisme hukum." *Crepido* 1, no. 1 (2019): 13-22.

⁶⁶ See Alexy, Robert. "Legal certainty and correctness." *Ratio Juris* 28, no. 4 (2015): 441-451; Berteau, Stefano. "Towards a new paradigm of legal certainty." *Legisprudence* 2, no. 1 (2008): 25-45.

⁶⁷ Halilah, Siti, and Mhd Fakhurrahman Arif. "Asas Kepastian Hukum Menurut Para Ahli." *Siyasah: Jurnal Hukum Tata Negara* 4, no. 2 (2021): 56-65.

⁶⁸ Prayogo, R. Tony. "Penerapan Asas Kepastian Hukum dalam Peraturan Mahkamah Agung Nomor 1 Tahun 2011 Tentang Hak Uji Materiil dan dalam Peraturan Mahkamah Konstitusi Nomor 06/PMK/2005 Tentang Pedoman Beracara dalam Pengujian Undang-Undang." *Jurnal Legislasi Indonesia* 13, no. 2 (2016): 191-201.

storage of Notary protocols as state archives is in principle binding on the Archives Law as a norm that regulates archives in detail. Article 68 paragraph (1) of the Archives Law is a norm that can be used as a basis for storing the notary protocols as digital state archives.

Concept of Arrangements for Storing Notary Protocols as State Archives in the Era of Digitalization as a Form of Legal Reform in Indonesia

The era of society 5.0 is a renewal that places humans as the main component in it, not just a passive component like in the 4.0 revolution. The main abilities in facing society 5.0 include: (1) the ability to solve complex problems and be a problem solver for himself and many people; (2) the ability to think critically, not only in the classroom but also in social life and the surrounding environment so that social sensitivity arises, as well as (3) ability to be creative. During society 5.0, humans are required to produce solutions more quickly to meet their needs. This has an impact on humans to continue to dig up information and create new innovations to support their survival.⁶⁹

According to Mochtar Kusumaatmadja, Indonesian human development must be carried out with several principles, one of which is being aware of the rights and obligations, both as individuals and as members of society, so that the understanding of the individual cannot be separated from the understanding of the society where the individual has the opportunity to develop fully.⁷⁰ "Today's" Indonesian people who are involved in development strive to have the character of modern people, which includes ideal qualities such as careful, frugal, diligent, honest, punctual (keep promises), firm but wise, brave but careful, firmly adhere to principles (principles), namely the characteristic of not being easily shaken or tempted to do things that are not good and lead to.⁷¹

Looking at the beginning of the birth of Mochtar Kusumaatmadja's Theory of Development Law, it moves from the Indonesian context (the spirit of development) and the perspective of the relationship between law and

⁶⁹ Kumalawati, Ivo Dewi, Muhammad Khoidin, and Nurul Ghufroon. "Karakteristik Minuta Akta Notaris Sebagai Arsip Negara (Characteristics Minuta Deed as a State Archives)." *Lex Humana: Jurnal Hukum dan Humaniora* 1, no. 2 (2017): 109-138.

⁷⁰ Kumalawati, et.al.

⁷¹ Kumalawati, et.al.

society, which is a combination of Sociological Jurisprudence and Pragmatic Legal Realism, namely:⁷²

- 1) The meaning and function of law in society; namely, where the law creates order, justice and certainty.
- 2) Law as a social rule, namely the law is part of a system of social rules.
- 3) The relationship between law and power, namely when power is subject to law.
- 4) The relationship between law and socio-cultural values, namely when good law is in accordance with living law.
- 5) Law as a tool of social engineering, namely when law brings or provides social change or provides national development.

The law used as a means of reform can be in the form of law or jurisprudence or a combination of both. Law as a social rule cannot be separated from the values that apply in a society. It can even be said that the law is a reflection of the values that apply in society.⁷³ The direction in which legal ideals move will be influenced by the ideals contained in the nation's way of life. *Pancasila* as the way of life of the Indonesian people will be a source of inspiration and guide the direction that national law wants to go. National laws are formulated to protect the entire nation and all of Indonesia's blood, promote general welfare, educate the life of the nation, and to participate in implementing world order based on freedom, eternal peace and social justice.⁷⁴

Based on this description, researchers used the Legal Theory of Development in this research because Mochtar Kusumaatmadja views law as a means of societal renewal. Currently, technology plays an important role in human life, almost all nations in every corner of the world use technology in their lives. One nation and another can also be connected in one pattern of life, thanks to the help of technology. This acceleration in various aspects has changed what was previously a distant life into a unified life. The implications of this unified life are called globalization.⁷⁵ The progress of science and information technology, especially in the notary field, can be seen from the current progress in digital systems and computer technology. By using the

⁷² Kusumaatmadja, Mochtar. *Konsep-Konsep Hukum dalam Pembangunan*. (Bandung: Alumni, 2002).

⁷³ Kusumaatmadja.

⁷⁴ See Shidarta, Shidarta. "Bernard Arief Sidharta: Dari Pengembangan Hukum Teoretis ke Pembentukan Ilmu Hukum Nasional Indonesia." *Undang: Jurnal Hukum* 3, no. 2 (2020): 441-476.

⁷⁵ Rahardjo, Satjipto. "Pembangunan Hukum di Indonesia dalam Konteks Global." *Perspektif* 2, no. 2 (1997): 1-10.

theory of Development Law, it is hoped that law will be able to act as a means of renewing society. Thus, this theory is very appropriate to use in studying aspects of legal reform, in accordance with the title of this research.⁷⁶

Legal reform is essentially a renewal of the main points of thought—often also interpreted as a renewal of basic concepts or ideas—not just changing the textual formulation of articles. The guideline for Indonesian legal reform is *Pancasila*. It is as a way of life, foundation and ideology of the Indonesian nation. Things that should be prioritized in reforming Indonesian law are: Legal politics, the direction of legal politics and legislative regulations that are built to achieve state goals, should always be based on *Pancasila* which is contained in the Preamble and explanation of the Articles of the 1945 Constitution. The way to build national laws that are based on *Pancasila* values can be achieved by examining problems by reviewing old norms which are considered to be no longer in accordance with the social conditions of society, carrying out reviews regarding legislation which is not in accordance with the concepts or values of *Pancasila*. With the existence of legal regulations regarding the legal certainty of storing notarial deeds electronically, this will be a legal reform in the field of notarial law in response to community needs.⁷⁷

The steps needed to realize an electronic-based system as emphasized by Kumalati, et.al⁷⁸, such as:

- 1) Make legal regulations.
- 2) Build the application, network, security, maintenance to suit the needs.
- 3) Prepare the hardware
- 4) Prepare the operator/admin staff
- 5) Implement nationally
- 6) Building a strong commitment to implement the electronic-based systems.

Six Steps to Developing an electronic-based system, apart from aiming for efficiency and realizing digital document management, is also intended to provide security for digital data. Because digital documents can be easily copied, modified, or forged without a clear physical trace, security procedures are

⁷⁶ Anggara, Ria. "Studi Komparatif Terhadap Penyimpanan Protokol Notaris Secara Elektronik di Korea Selatan dan di Indonesia." *Indonesian Notary* 3, no. 3 (2021): 308-335.

⁷⁷ Nisa, "Aspek Legalitas Penyimpanan Minuta Akta Notaris Secara Elektronik."

⁷⁸ Kumalawati, et.al. *Hukum Kenotariatan Karakteristik Minuta Akta Notaris sebagai Arsip Negara*.

needed as a strong authentication method.⁷⁹ The most important technique in securing digital documents is the use of digital signature, digital certificate and document hashing functions and is supported by the implementation of digital data security governance.

Digital signatures are the strongest method for authenticating digital documents. The procedure involves the use of cryptographic keys to generate a unique signature for each document. Digitally signed documents allow verification of the document's authenticity. A digital certificate is a certificate issued by a trusted certificate authority that confirms the identity of a digital entity and its associated public key. The authentication approach using digital signatures and digital certificates is a process that must be carried out from the moment the document is created.

Apart from the two methods above, there is a document hashing method as a process carried out to produce a unique hash value for each digital document. Hash is a mathematical algorithm that takes any input data and converts it into a hash value that is unique and has a fixed size, or is often referred to as a digital fingerprint. In addition, the differences in authentication methods mean that these three techniques can be used for digital documents. If a digital signature must be affixed when the document is created, then the (physical) document that has been created cannot be signed later. Therefore, the hash method can be used on documents that have been created and digitized.

Apart from the management of electronic-based information systems and digital data security, the authors believe that it is also necessary to involve the relevant Ministry as an authentication agency for notary protocols that will be stored electronically. Regarding the Law on Notary Positions, empowerment to act electronically can also be mentioned in the revision of the Law on Notary Positions, as has been stated in France, Belgium, the Netherlands, Germany, the UK and the US.⁸⁰ This simply adds a paragraph to the notary's authority where it is necessary to include the provision that:

⁷⁹ Puspitasari, Adelia, and Eko Wahyudi. "Analisis Urgensi Kewenangan Notaris Dalam Mensertifikasi Transaksi Secara Elektronik." *Jurnal Hukum, Politik dan Ilmu Sosial* 2, no. 2 (2023): 176-185.

⁸⁰ Ngadino, Ngadino. "Notary Responsibility for Electronic Storage of Notary Protocols." *Jurnal Pembaharuan Hukum* 8, no. 1 (2021): 60-72.

- 1) Notaries can also play a role in supporting electronic transactions or carrying out their service activities electronically⁸¹
- 2) Notaries have special privileges to access public data according to their authority regarding the deed they make. Detailed provisions regarding this matter can be delegated to regulations under the law where the technical implementation can be delegated to Ministerial Regulations⁸²

TABLE 3. Comparison of Conventional and Electronic Notary Protocols

Conventional Notary Protocol	Electronic
1. Notary Protocol consists of: <ol style="list-style-type: none"> a. Minutes of Deed b. Register of Deeds / Repertory Book c. Register of Deeds Under Hand d. Book of List of Names of Opponents / Klappers e. Protest List Book f. Register of Wills Book g. Other register books that must be kept by the notary based on regulatory provisions 	Protocol: <ol style="list-style-type: none"> 1. Paper document → First original copy 2. Electronic Notary Journal (log-book/list of deeds or any information) 3. Electronic notary seal 4. Electronic stamping 5. Certain format of e-document determined by law and regulations
2. Seal → Notary's stamp	
3. Duty Stamp	
4. The form and format of certain deeds is determined by law	

Head of the National Archives of the Republic of Indonesia Mustari Irawan explained first about the archives themselves. From an archival perspective, the existence of an archive can be determined when it can be destroyed or made permanent. Seeing the urgency of notary protocols, Mustari classifies notary protocols as vital archives because these archives must remain as long as the notary carries out his role⁸³. Lecturer in Telematics Law at the University of Indonesia, Edmon Makarim, believes that apart from digitizing notary protocols, the storage of notary protocols does not have to be handed over to the MPD. According to Edmon Makarim, this expert will be able to

⁸¹ Embang, Thea Farina, and Elin Sudiarti. "Analisis Yuridis Penyimpanan Minuta Akta Notaris Secara Elektronik." *UNES Law Review* 6, no. 1 (2023): 1217-1223.

⁸² Makarim, *Notaris dan Transaksi Elektronik: Kajian Hukum Tentang Cybernotary atau Electronic Notary*.

⁸³ Anggara, "Studi Komparatif Terhadap Penyimpanan Protokol Notaris Secara Elektronik di Korea Selatan dan di Indonesia."

answer this with the existence of a Public Repository Document (PRD). Apart from making it easier for interested parties to check the documents, this convenience can also be felt when carrying out international transactions. Apart from checking with the notary, the parties can check with the PRD.⁸⁴

A repository is a centralized digital storage that developers use to make and manage the changes to an application's source code. A repository is a place that can be used to share files in the form of source code. This application is quite popular and is widely used by large companies such as Facebook, Google and Twitter.

The Georgia Archives states that documents are information that is collected and can be accessed and used. The International Standard Organization (ISO on Record Management - ISO 15489) defines records or documents as information created, received and managed as evidence or information that an organization or individual uses to fulfill legal obligations and business transactions.⁸⁵ This document has a beginning and end which can be text, data, digital maps, spreadsheets, databases, images and sound data. Meanwhile, archives are defined by Daserno and Kyanaston as documents in all media that have historical or legal value and are therefore stored permanently⁸⁶.

Based on Article 40 paragraph (3) to paragraph (6) of the Electronic Information and Transactions Law, it is stated that the government determines that agencies or institutions that have strategic electronic data must be protected. The agency or institution must contain electronic documents and electronic branch records and connect them to a certain data center for data security purposes. Detailed provisions for this matter are stipulated in government regulations. Learning from what happened in Europe and the US, it is realized that there is a gap between the mandatory document storage period between business actors who function as electronic certification (CA/SCP) (7 years) and the obligation to keep notary archives (kept forever because there is no specified time period certain). Regarding this, a middle way is needed where the provisions for community CAs for notaries must have a special nature in the

⁸⁴ See Heriawanto, Benny Krestian. "Kewajiban Menyimpan Protokol Notaris dan Akibat Hukumnya Menurut Hukum Positif Indonesia." *Arena Hukum* 11, no. 1 (2018): 101-118; Sunaryanto, Hery. "Efektivitas Tempat Penyimpanan Protokol Notaris yang Telah Berumur 25 Tahun." *Jurnal Hukum dan Kenotariatan* 2, no. 2 (2018): 288-301.

⁸⁵ Maengkom, Chris Rivaldo. "Electronic Information Security System for Notarial Deeds as National Archives." *Asia-Pacific Research in Social Sciences and Humanities Universitas Indonesia Conference (APRISH 2019)*. Atlantis Press, 2021.

⁸⁶ Sukoco, Badri Munir. *Manajemen Administrasi Perkantoran Modern*. (Jakarta: Erlangga, 2016).

revision of the Notary Position Law. In connection with the data received being public data of the Indonesian nation, based on security considerations and the speed of accessing it quickly, it is appropriate that the data center and its reserves are still within the jurisdiction of Indonesia.⁸⁷ Based on the description above, the concept of storing notary protocols electronically in the era of digitalization is a necessity that cannot be avoided, but instead it must be responded to by producing norms that will become the legal basis accompanied by implementing the regulations in realizing this as a reform in the field of national notarial law.

Conclusion

Finally, this research highlighted and concluded that, normative legal certainty is when a regulation is created and promulgated with certainty because it regulates clearly and logically. Clear in the sense that it does not give rise to doubt (multiple interpretations) and is logical. Legal certainty regarding the storage of notary protocols as state archives according to positive law in Indonesia. Notaries in the era of digitalization are based on two basic regulations contained in the Notary Position Law and the Archives Law. The storage of Notary protocols as state archives is in principle binding on the Archives Law as a norm that regulates archives in detail. Article 68 paragraph (1) of the Archives Law is a norm that can be used as a basis for storing notary protocols as digital state archives. In addition, the concept of regulating the storage of notary protocols as state archives in the era of digitalization in electronic form is one form of legal reform in Indonesia, this is an unavoidable need. What can be done in preparing to store notary protocols electronically are: creating legal regulations, building applications, networks, security, maintenance to suit needs, preparing hardware, preparing operator/admin staff, implementing it nationally, building a strong commitment to implementing the system electronically based, preparing authentication institutions.

References

Abdul, Halim. "Tanggung Jawab Notaris dalam Menjaga Minuta Akta." *Fenomena Hukum* 20, no. 2 (2022): 184-197.

⁸⁷ Makarim, *Notaris dan Transaksi Elektronik: Kajian Hukum Tentang Cybernotary atau Electronic Notary*.

- Abdullah, Junaidi. "Refleksi Dan Relevansi Pemikiran Filsafat Hukum Bagi Pengembangan Ilmu Hukum." *YUDISIA: Jurnal Pemikiran Hukum dan Hukum Islam* 6, no. 1 (2016): 181-199.
- Adjie, Habib. "Legal Study Regarding the Responsibilities of Notaries in Providing Social Services in Accordance with the Implementation of their Position." *Journal of Law and Sustainable Development* 11, no. 8 (2023): 1-16.
- Adjie, Habib. *Hukum Notaris Indonesia, Tafsir Tematik Terhadap Undang-Undang Nomor 30 Tahun 2004 Tentang Notaris* (Surabaya: Refika Aditama, 2007).
- Agustin, Ika Yuli, and Ghansham Anand. "Proposing Notaries' Deed Digitalization in Indonesia: A Legal Perspective." *Lentera Hukum* 8, no. 1 (2021): 49-72.
- Alexy, Robert. "Legal certainty and correctness." *Ratio Juris* 28, no. 4 (2015): 441-451.
- Anggara, Ria. "Studi Komparatif Terhadap Penyimpanan Protokol Notaris Secara Elektronik di Korea Selatan dan di Indonesia." *Indonesian Notary* 3, no. 3 (2021): 308-335.
- Atmadja, I. Dewa Gede. "Asas-Asas Hukum dalam Sistem Hukum." *Kertha Wicaksana* 12, no. 2 (2018): 145-155.
- Aulia, Putri Annisa, Yuliandri Yuliandri, and Azmi Fendri. "Law Enforcement by the Notary Supervisory Board for Violations Toward Law on Notary Position (in Padang City)." *International Journal of Multicultural and Multireligious Understanding* 6, no. 3 (2019): 698-708.
- Ayuningtyas, Pratiwi. "Sanksi terhadap notaris dalam melanggar kode etik." *Repertorium: Jurnal Ilmiah Hukum Kenotariatan* 9, no. 2 (2020): 95-104.
- Azhari, Reyhan Nabillah. "Understanding the Contents of Indonesian Civil Law: A Book Review Perkembangan Hukum Perdata di Indonesia, Sudikno Mertokusumo, Genta Publishing Yogyakarta, 2019, 206 Pages, ISBN 978-602-0757-08-7." *Journal of Indonesian Legal Studies* 5, no. 1 (2020): 263-266.
- Bachrudin, Bachrudin. "Jabatan Notaris di Indonesia dalam Jerat Liberalisasi." *Jurnal Pembaharuan Hukum* 2, no. 2 (2015): 185-196.
- Barzilai, Gad. *Communities and Law: Politics and Cultures of Legal Identities*. (Michigan: University of Michigan Press, 2010).
- Berteau, Stefano. "Towards a new paradigm of legal certainty." *Legisprudence* 2, no. 1 (2008): 25-45.

- Bimarani, Restu Abiranda, Apromico Apromico, and Munsharif Abdul Chalim. "Legal Review on Prospects for Filling in the Form of Notary Protocol in Electronics Form and Legal Power." *Jurnal Akta* 6, no. 1 (2019): 67-72.
- Braithwaite, John. "Rules and principles: A theory of legal certainty." *Australasian Journal of Legal Philosophy* 27, no. 2002 (2002): 47-82.
- Budi, Mohammad Wahyu Adji Setio. "Indonesian State System Based on Pancasila and the 1945 Constitution: A Contemporary Developments." *Indonesian Journal of Pancasila and Global Constitutionalism* 1, no. 1 (2022): 1-16.
- Coudert, Frederic R. "Certainty and justice." *The Yale Law Journal* 14, no. 7 (1905): 361-373.
- Dewi, Luh Anastasia Trisna. "Legal Aspect of Cyber Notary in Indonesia." *Journal of Digital Law and Policy* 1, no. 1 (2021): 37-44.
- Dworkin, Ronald. "Essays in Epistemology Hermeneutics and Jurisprudence, In Patrick Nerhot, *Law Interpretation and Reality*, (Netherland: Kluwer Academic Publisher, AA Dordrecht, 1990).
- Embang, Thea Farina, and Elin Sudiarti. "Analisis Yuridis Penyimpanan Minuta Akta Notaris Secara Elektronik." *UNES Law Review* 6, no. 1 (2023): 1217-1223.
- Gracale, Sharon, and Mohamad Fajri Mekka Putra. "The Urgency of Electronic Notarization in Indonesia by Seeing the Implementation in Estonia During the Covid-19 Pandemic." *American Journal of Humanities and Social Sciences Research* 6, no. 9 (2022): 135-138.
- Grossman, Joel B. "Social backgrounds and judicial decision-making." *Harvard Law Review* 79, no. 8 (1966): 1551-1564.
- Gunarto, H., H. Bachrudin, and H. Eko Sopyono. *Hukum Kenotariatan: Membangun Sistem Kenotariatan Indonesia Berkeadilan*. (Bandung: Refika Aditama, 2019).
- Gunawan, Bambang Panji, et al. "The Development of Indonesia as The Rule of Law Based on 1945 Constitution Before and After Amendments." *Yurisdiksi: Jurnal Wacana Hukum dan Sains* 16, no. 2 (2020): 64-73.
- Halilah, Siti, and Mhd Fakhurrahman Arif. "Asas Kepastian Hukum Menurut Para Ahli." *Siyasah: Jurnal Hukum Tata Negara* 4, no. 2 (2021): 56-65.
- Hammarberg, Karin, Maggie Kirkman, and Sheryl De Lacey. "Qualitative research methods: when to use them and how to judge them." *Human Reproduction* 31, no. 3 (2016): 498-501.
- Hariyanto, Budi. "Peran Majelis Pengawas Notaris dalam Upaya Penegakan Terhadap Pelanggaran Kode Etik Notaris Berdasarkan Undang-Undang

- Jabatan Notaris." *IUS: Jurnal Ilmiah Fakultas Hukum* 9, no. 1 (2022): 16-23.
- Heriawanto, Benny Krestian. "Kewajiban Menyimpan Protokol Notaris dan Akibat Hukumnya Menurut Hukum Positif Indonesia." *Arena Hukum* 11, no. 1 (2018): 101-118.
- Julyano, Mario, and Aditya Yuli Sulistyawan. "Pemahaman terhadap asas kepastian hukum melalui konstruksi penalaran positivisme hukum." *Crepido* 1, no. 1 (2019): 13-22.
- Khalid, Raden Raihan Sulaiman, and Moh Saleh. "Problematics of the Position of Notary in Technology Development and Information." *Al-Risalah Jurnal Ilmu Syariah dan Hukum* 23, no. 1 (2023): 72-85.
- Kumalawati, Ivo Dewi, Herowati Poesoko, and Ivida Dewi Amrih Suci. *Hukum Kenotariatan Karakteristik Minuta Akta Notaris sebagai Arsip Negara*. (Yogyakarta: Laksbang Pustaka, 2021).
- Kumalawati, Ivo Dewi, Muhammad Khoidin, and Nurul Ghuftron. "Karakteristik Minuta Akta Notaris Sebagai Arsip Negara (Characteristics Minuta Deed as a State Archives)." *Lex Humana: Jurnal Hukum dan Humaniora* 1, no. 2 (2017): 109-138.
- Kusumaatmadja, Mochtar. *Konsep-Konsep Hukum dalam Pembangunan*. (Bandung: Alumni, 2002).
- Kusumaatmadja, Mochtar. *Fungsi dan Perkembangan Hukum dalam Pembangunan Nasional*. (Bandung: Universitas Padjadjaran, 1970).
- Kuswanto, Mohamat Riza, and Hari Purwadi. "Urgensi Penyimpanan Protokol Notaris dalam Bentuk Elektronik dan Kepastian Hukumnya di Indonesia." *Jurnal Repertorium* 4, no. 2 (2017): 62-69.
- Leonard, Tommy, Azharuddin Azharuddin, and Wilbert Wilbert. "Tinjauan Pelanggaran Kode Etik Notaris Kota Medan Menurut Perspektif Pengawasan Majelis Pengawas Daerah Notaris." *Jurnal Suara Hukum* 5, no. 2 (2023): 177-199.
- Lifante-Vidal, Isabel. "Is legal certainty a formal value?." *Jurisprudence* 11, no. 3 (2020): 456-467.
- Maengkom, Chris Rivaldo. "Electronic Information Security System for Notarial Deeds as National Archives." *Asia-Pacific Research in Social Sciences and Humanities Universitas Indonesia Conference (APRISH 2019)*. Atlantis Press,
- Makarim, Edmon. *Notaris dan Transaksi Elektronik: Kajian Hukum Tentang Cybernotary atau Electronic Notary*. (Jakarta: Raja Grafindo Persada, 2013).

- Mallolongan, Litha Nabilla, and Hendry Julian Noor. "Peluang Penerapan Penyimpanan Minuta Akta secara Elektronik menuju Era E-Notary berdasarkan Undang-Undang No. 2 Tahun 2014 tentang Jabatan Notaris." *Notary Law Journal* 2, no. 1 (2023): 54-81.
- Manuaba, Paramaningrat, et al. "Prinsip Kehati-Hatian Notaris dalam Membuat Akta Autentik". *Acta Comitas* 3, no. 1 (2018): 59-74.
- Manullang, Fernando Morganda. "The Purpose of Law, Pancasila and Legality According to Ernst Utrecht: A Critical Reflection." *Indonesia Law Review* 5, no. 2 (2015): 187-207.
- Martini, Tini. "Pengelolaan Arsip Elektronik." *Jurnal Komputer Bisnis* 14, no. 1 (2021): 12-20.
- Mayana, Ranti Fauza. *Perlindungan Desain Industri di Indonesia dalam Era Perdagangan Bebas*. (Jakarta: Grasindo, 2004).
- Mertokusumo, Sudikno. *Mengenal Hukum: Suatu Pengantar Edisi Revisi*. (Yogyakarta: Cahaya Atma Pustaka, 2010).
- Mulia, Jingga, Elita Rahmi, and Eko Nuriyatman. "Protokol Notaris Sebagai Arsip Vital Negara dalam Perspektif Perundang-Undangan di Indonesia." *Mendapo: Journal of Administrative Law* 3, no. 3 (2022): 223-241.
- Mushafi, Mushafi. "Eksistensi Filsafat Hukum dan Kontribusinya Terhadap Hukum Nasional." *Voice Justisia: Jurnal Hukum dan Keadilan* 4, no. 1 (2020): 82-103.
- Ngadino, Ngadino. "Notary Responsibility for Electronic Storage of Notary Protocols." *Jurnal Pembaharuan Hukum* 8, no. 1 (2021): 60-72.
- Nisa, Naily Zahrotun. "Aspek Legalitas Penyimpanan Minuta Akta Notaris Secara Elektronik." *Jurnal Civic Hukum* 5, no. 2 (2020): 205-219.
- Notohamidjojo, Oeripan. *Soal-Soal Pokok Filsafat Hukum*. (Jakarta: Gunung Mulia, 1975).
- Orlando, Galih. "Efektivitas Hukum dan Fungsi Hukum di Indonesia." *Tarbiyah bil Qalam: Jurnal Pendidikan Agama dan Sains* 6, no. 1 (2022): 49-58.
- Otto, Jan Michiel. "Toward an analytical framework: real legal certainty and its explanatory factors." In *Implementation of Law in the People's Republic of China*. (Leiden: Brill Nijhoff, 2002), pp. 23-34.
- Paripurno, Roro Dyah, Hanif Nur Widhiyanti, and Rika Kurniaty. "Legal Construction of Notarial Deed Bank as the Media of Electronic Notarial Protocol Storage." *International Journal of Multicultural and Multireligious Understanding* 9, no. 7 (2022): 60-72.

- Prayogo, R. Tony. "Penerapan Asas Kepastian Hukum dalam Peraturan Mahkamah Agung Nomor 1 Tahun 2011 Tentang Hak Uji Materiil dan dalam Peraturan Mahkamah Konstitusi Nomor 06/PMK/2005 Tentang Pedoman Beracara dalam Pengujian Undang-Undang." *Jurnal Legislasi Indonesia* 13, no. 2 (2016): 191-201.
- Puspitasari, Adelia, and Eko Wahyudi. "Analisis Urgensi Kewenangan Notaris Dalam Mensertifikasi Transaksi Secara Elektronik." *Jurnal Hukum, Politik dan Ilmu Sosial* 2, no. 2 (2023): 176-185.
- Putra, Theodorus Kevin Purinsyah, and Nany Pudjianti Suwigjo. "The Notary Protocol File Managerial." *Law Development Journal* 5, no. 1 (2022): 1-13.
- Putri, Karina Prasetyo. "Tanggung Jawab Dan Perlindungan Hukum Bagi Notaris Purna Bakti Terhadap Akta Yang Pernah Dibuat (Analisis Pasal 65 dan Pasal 66 Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan Atas Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris)". *Thesis*. (Malang: Brawijaya University, 2016).
- Radbruch, Gustav. "Five minutes of legal philosophy (1945)." *Oxford Journal of Legal Studies* 26, no. 1 (2006): 13-15.
- Rahardjo, Satjipto. "Pembangunan Hukum di Indonesia dalam Konteks Global." *Perspektif* 2, no. 2 (1997): 1-10.
- Rahardjo, Satjipto. *Ilmu Hukum*. (Bandung: Citra Aditya Bakti, 2021).
- Raitio, Juha. "What is meant by legal certainty and uncertainty?." *Rechtstheorie* 37, no. 4 (2006): 393-405.
- Republic of Indonesia. *Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary*.
- Rifauddin, Machsun. "Pengelolaan arsip elektronik berbasis teknologi." *Khizanah al-Hikmah: Jurnal Ilmu Perpustakaan, Informasi, dan Kearsipan* 4, no. 2 (2016): 168-178.
- Rositawati, Desy, et al. "Penyimpanan Protokol Notaris secara Elektronik dalam Kaitan Cyber Notary". *Acta Comitas* 2, no. 1 (2017): 172-182.
- Rukmana, Rubiyanti, Nandita Dwi Savitri, and Yuliana Adelvina Padha. "Peran Notaris dalam Transaksi Perdagangan Berbasis Elektronik." *Jurnal Komunikasi Hukum (JKH)* 7, no. 1 (2021): 495-508.
- Shidarta, Shidarta. "Bernard Arief Sidharta: Dari Pengembangan Hukum Teoretis ke Pembentukan Ilmu Hukum Nasional Indonesia." *Undang: Jurnal Hukum* 3, no. 2 (2020): 441-476.
- Shodiq, Achmad, and Nynda Fatmawati Octarina. "Problems of Law Enforcement of Notary Code of Ethics in the Digital Era." *Jurnal Justisia*:

- Jurnal Ilmu Hukum, Perundang-Undangan dan Pranata Sosial* 7, no. 2 (2022): 537-551.
- Sidharta, Bernard Arief. *Karakteristik Penalaran Hukum dalam Konteks Keindonesiaan*. (Bandung: CV. Utomo, 2006).
- Sinaga, Niru Anita. "Pentingnya Perlindungan Hukum Kekayaan Intelektual Bagi Pembangunan Ekonomi Indonesia." *Jurnal Hukum Sasana* 6, no. 2 (2020): 144-165.
- Soekanto, Soerjono. "Kesadaran Hukum dan Kepatuhan Hukum." *Jurnal Hukum & Pembangunan* 7, no. 6 (1977): 462-471.
- Soekanto, Soerjono. *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. (Jakarta: Raja Grafindo Persada, 2007).
- Sudjarot, Anton. "Peran dan Kewenangan Notaris Terhadap Pendaftaran Izin Usaha Melalui Sistem Online Single Submission." *Fiat Iustitia: Jurnal Hukum* 3, no. 1 (2022): 93-113.
- Sukoco, Badri Munir. *Manajemen Administrasi Perkantoran Modern*. (Jakarta: Erlangga, 2016).
- Sulihandari, Hartanti, and Nisya Rifiani. *Prinsip-Prinsip Dasar Profesi Notaris*. (Jakarta: Dunia Cerdas, 2013).
- Sunaryanto, Hery. "Efektivitas Tempat Penyimpanan Protokol Notaris yang Telah Berumur 25 Tahun." *Jurnal Hukum dan Kenotariatan* 2, no. 2 (2018): 288-301.
- Suparto, Suparto, et al. "Enhancing External Oversight of Constitutional Judges: A Study on the Role of the Judicial Commission in Indonesia and South Korea." *Lex Scientia Law Review* 8, no. 1 (2024): 517-560.
- Talita, Dista Vennesya Mirna, and Edith Ratna. "Peran Notaris Sebagai Pejabat Umum Dalam Era Revolusi Industri 4.0." *Notarius* 16, no. 2 (2023): 870-881.
- Toruan, Henry Donald Lumban. "The Importance of Using Electronic Deeds to Facilitate the Service and Storage of Notary Archives." *Jurnal Penelitian Hukum De Jure* 22, no. 4 (2022): 483-498.
- Triwahyuni, Abdullah Dian. "Kewajiban dan Tanggung Jawab Notaris Sebagai Pejabat Umum." *Acta Comitatus* 5, no. 1 (2020): 1-13.
- Utami, Wiwik. "Hukum Sebagai Agen Pengendali Sosial dalam Masyarakat Ditinjau dari Segi Sosiologi Hukum." *Jurnal Maksiagama* 12, no. 2 (2020): 97-104.
- Verdyandika, Dwi Kukuh, Shinta Hadiyantina, and Endang Sri Kawuryan. "Kewenangan Majelis Pengawas Daerah Notaris terhadap Protokol Notaris yang Telah Berumur 25 Tahun atau Lebih." *Jurnal Mercatoria* 14, no. 2 (2021): 77-87.

- Waspiah, Waspiah, et al. "Indonesian Patent Law Reform for Simple Patent Innovations on Achieving Welfare State Objectives." *Journal of Indonesian Legal Studies* 8, no. 1 (2023): 199-242.
- Wiratraman, Herlambang P. "Constitutional struggles and the court in Indonesia's turn to authoritarian politics." *Federal Law Review* 50, no. 3 (2022): 314-330.
- Yuhana, Dian Ayu. "Peran Majelis Pengawas Daerah dan Notaris Penerima Protokol Terhadap Penyimpanan Protokol Notaris Yang Telah Berumur 25 Tahun." *Officium Notarium* 1, no. 1 (2021): 49-59.

Acknowledgment

None.

Funding Information

None.

Conflicting Interest Statement

The author(s) stated that this work is original and has not been previously published in another journal or publication. The author(s) also declared that there is no conflict of interest in the publication of this article.

Notification

Starting from the 2024 issue, our journal has transitioned to a new platform for an enhanced reading experience. All new articles and content will now be available on this updated site. However, we would like to assure you that archived issues from 2016 to 2023 are still accessible via the previous site. You can view these editions by visiting the following link: <https://journal.unnes.ac.id/sju/jils/issue/archive>.