

LEGAL CERTAINTY OF ELECTRONIC MEDIA GMS & OPPORTUNITY TO IMPLEMENT THE CYBER NOTARY CONCEPT ACCORDING TO POSITIVE LAW

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Abstract: *The challenge of Notaries in the era of digital disruption is that they are required to work fast, full of solutions and smart in combining scientific understanding, skills, practice with the support of technological advances and the conditions they face, but the main thing is that every product produced by Notaries as perfect evidence must be achieved as a spirit. actually from the position of a notary, cyber notary is a concept that utilizes technological advances, the phrase cyber notary is in the explanation section of Article 15 paragraph (3) of the UUJN-P, not in the body of the law which creates a void of norms for notaries in implementing the concept, article 16 letter m UUJN-P requires the authenticity of a deed made before a Notary, the idea of making a deed cyber, but is hindered by the normative rules for making a deed, however, a Notary has the opportunity to make a deed cyber, at the teleconference GMS implementation on the legal basis of Article 77 of the Law PT.*

Key Words: *Legal Certainty, Electronic Media GMS, Cyber Notary.*

1. INTRODUCTION:

Indonesia currently does not have normative rules related to the concept *cyber notary*, but the opportunity to implement this concept exists, namely, to improve public services and support the ease of doing business in Indonesia/ *Easy of Doing Business* (EODB), it is necessary to simplify the process of legalizing foreign public documents in line with *Convention Abolishing the Requirement of Legalization for Foreign Public Document* adopted at *The Hague Conference on Private International Law* , on 5 October 1961 in The Hague (apostille convention) .

The opportunity for the concept is *cyber notary* seen in the holding of the General Meeting of Shareholders (GMS), during the Covid-19 emergency the community is required to be adaptive to existing social changes, in order to minimize the spread of the virus, the use of electronic media is an alternative that is the main choice, including the implementation General Meeting of Shareholders (GMS) through electronic media.

2. THEORITICAL FRAMEWORK:

a. Theory of Legal Certainty

According to Gustav Radbruch justice and legal certainty are fixed parts of the law.[1]

b. Theory of Development Law

According to the legal theory of development which is the most crucial foundation of a law, the law must be able to play an active and dynamic role as a catalyst and dynamist for the means of reforming Indonesian society.

c. Theory Legal Liability

According to Hans Kelsen, legal liability theory is a concept related to obligations in this case is a legal obligation.[2]

3. LITERATURE REVIEW:

Digitization of the field of notarianship is characterized by changes or innovations in the way notaries work assisted by electronic media, one example is the organization of GMS by companies.

Cyber notary is able to create a new world through the use of *cyber space*, which is the problem is when the making of authentic deeds of the audience can not be in the same place/forum, for example for the audience one of whom is abroad who will cooperate with other faces, here an idea arose to publish electronic deeds in line with technological developments in this digital age.

5. METHOD:

The method used in this study is a juridical method (*normative legal research*), namely research whose research is on legal norms, laws and regulations, court decisions, legal norms that exist in society and also sees the synchronization of other legal rules according to the regulatory hierarchy. existing legislation in Indonesia.[3]

6. DISCUSSION:

Explicitly, the presence of the phrase *cyber notary* is in the explanation of the Law and not in the body of the Law itself, this is what causes a *vacum/* emptiness of norms on the concept itself, thus creating legal uncertainty for the Notary in exercising his authority. [4]

With regard to such authority, if the Notary acts outside the specified authority, then the Notary has acted outside the authority, then the product of the Notary is not legally binding or (*non executable-non executable*), and the party or those who feel harmed by Notary actions outside the authority, can sue Notaries in civil to a state court. [5]

7. ANALYSIS:

A. Opportunities and Challenges for Implementing the Concept *Cyber Notary* in the Era of Digital Disruption

Seeing that e-apostille has been implemented in several countries participating in the convention, the Indonesian government has also participated in ratifying this convention through Presidential Regulation Number Presidential Regulation Number 2 of 2021 concerning Ratification of the *Convention Abolishing the Requirements of Legalization for Foreign Public Document / Apostille Convention*. The establishment of the ratification of the Apostille Convention aims to increase *Ease Of Doing Business* (EODB), encourage investment/capital from and abroad, improve the quality of public services by eliminating *bureaucratic red tape*, namely excessive regulations that can reduce productivity as a result of delays in decision making, simplifying the complicated bureaucratic process by only issuing apostille certificates, authenticating a public document with simpler terms and procedures.[6]

B. Legal Certainty of the General Meeting of Shareholders (GMS) Through Electronic Media According to Positive Law

The responsibility of the Notary in making the minutes of the GMS in electronic media is to check the formal truth of the parties who appear, but with the change in the way of working in this era of disruption, this responsibility does not only include formal truths but also material truths, for this reason the principle of prudence is needed. caution by the Notary in carrying out his duties.

8. CONCLUSION

From the discussion as explained earlier, several conclusions can be drawn, including:

- 1) Utilization of technology in the era of digital disruption provides opportunities as well as challenges for Notaries in applying the concept of notary *cyber*, the opportunity is based on Article 77 of the PT Law the implementation of the General Meeting of Shareholders (GMS) teleconferencing media can

be carried out on condition that all shareholders agree unanimously as evidenced by a sign. the hand of approval either physically or electronically, the meeting participants can see, hear, and can participate in the meeting

- 2) The responsibility of the Notary in making the minutes of the GMS is to check the formal and material correctness of the supporting documents for the GMS, this responsibility is carried out by implementing the *prudent principle*.

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