

# LEGAL CERTAINTY OF DIGITAL NOTARY PROTOCOL STORAGE (A POLITICAL URGENCY OF NOTARIAL LAW)

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**Abstract:** *Notary protocol is a collection of documents which are state archives that must be stored and maintained by a Notary in accordance with the provisions of the legislation. Based on Article 15 paragraph (1), Article 16 paragraph (1) letter b, Article 58, Article 59, and Article 63 UUJN/UUJNP, the Notary is responsible for keeping the Notary's deed and protocol throughout the life of his office and will be forwarded by another Notary or his replacement. According to the times, it is time for Notary protocols to be stored and maintained digitally.*

**Key Words:** *Legal Certainty, Notary Protocol, Notary.*

## 1. INTRODUCTION:

So many deed archives (minuta) that must be kept and maintained by the Notary, have created separate problems for the Notary, not only the Notary who is still in his tenure but also up to the next successor Notary. Inheriting the archives will certainly have an impact on the cost of running a Notary's Office which is quite large and relatively expensive, even though the inheritance does not necessarily mean inheriting the client itself. It may be that what happens is exactly the opposite, which will actually harm them.

Archives that are still in the form of paper type archives result in large volumes of paper archives which cause various problems related to storage, maintenance costs, management staff, facilities, or other factors that can cause archive damage.

## 2. THEORITICAL FRAMEWORK:

### a. Legal Certainty Theory

According to Sudikno Mertokusumo, legal certainty is a guarantee that the law is enforced, that those entitled by law can obtain their rights and that decisions can be enforced.[1]

### b. Legal Responsibility Theory

According to Hans Kelsen, the concept of legal responsibility is that a person is legally responsible for a certain action or that he bears legal responsibility, the subject means that he is responsible for a sanction in the event of a conflicting act.[2]

## 3. LITERATURE REVIEW:

According to Harlien Budiono, a notary is a public official who is responsible for making a written statement intended as evidence of legal actions.[3]

According to Tan Thong Kie, the protocol belongs to the community and is under the supervision of the Minister of Justice.[4]

## 4. METHOD:

The method used in this study is an empirical juridical approach, namely an approach based on field research methods, namely examining applicable legal provisions and what is happening in people's lives.[5]

## 5. DISCUSSION:

Technological developments are increasingly rapid, giving rise to a new phenomenon where currently in practice, Notaries can utilize *Cloud Computing* such as *Google Drive* or *iCloud* to store scanned deeds into the *Cloud* on the grounds that these services provide easy access (*upload* and *download*) for Notaries. Even though behind the convenience offered by *cloud*, there is a legal risk for data protection in the event of leakage or unauthorized access and also regarding legal liability if unwanted things occur to the data stored in the *cloud*.

## 6. ANALYSIS:

### A. Notary Protocol Storage Arrangements According to Positive Law in Indonesia

Storage of Notary protocols by Notary protocol holders is an attempt to maintain the legal age of the Notary deed as perfect evidence for the parties or their heirs regarding everything contained in the deed, Notary Deed in the form the copy will forever exist if it is kept by the person concerned and in the form of minutes it will also exist if it is kept by the person concerned and in the form of minutes it will also be kept by the Notary himself or by the Notary holding the protocol or by the MPD.

### B. Notary Responsibilities in Keeping Notary Protocols in Indonesia

Transfer of Notary responsibility in keeping other Notary protocols that are 25 (twenty five) years old or more to the Regional Supervisory Council (MPD), provided that the Notary receiving the protocol submits other Notary protocols to MPD. This means that as long as the Notary does not submit it to the MPD, the responsibility for storing other Notary protocols remains attached to the Notary receiving the protocol.

### C. Legal Certainty Digital Notary Protocol Storage

Legal certainty for storing notary protocols digitally, for now is something that is still gray for notaries, because there are no implementing rules for storing notary protocols digitally. In terms of effectiveness, storing Notary protocols digitally will make it easier for Notaries in Indonesia and for the community of course.

## 7. CONCLUSION :

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

- 1) Notary protocol storage arrangements are regulated in Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary (UUJN/UUJN-P). Storage of Notary protocols is carried out by Notaries, Temporary Notary Officials, Alternate Notaries, and MPD. After the Notary protocol is 25 (twenty five) years old, the Notary protocol must be submitted to the MPD. In UUJN/UUJN-P it is not clearly regulated whether notary protocol storage is only done with paper media (conventional) or can be stored digitally using electronic media by a notary.
- 2) Notary digital storage of protocols that use electronic media is not regulated in UUJN/UUJN-P, so legal responsibility arising from violations or acts against the law, general legal provisions apply both civil, criminal and administrative to the Notary concerned.
- 3) There are no rules governing digital storage of Notary protocols, creating a void in norms.

## REFERENCES:

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