



Legal Certainty for The Reading and Signing of The Deed through Teleconferencing Media During The Covid 19

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Abstract

The Covid 19 pandemic hit Indonesia, in the hampering of notary work in carrying out their duties and positions due to the establishment of large-scale social restrictions (PSBB). As a result, many notaries closed their offices and conducted deed-making services using electronic technology and teleconferencing media. The problem studied in this study is 1) How is the validity of the reading and signing of deeds implemented through teleconferencing media during the Covid 19 pandemic? 2) How to reconceptualization of the arrangement of reading and signing of deeds implemented through teleconferencing media in realizing legal certainty during the Covid 19 pandemic period and after the Covid 19 pandemic period ends? This type of normative research uses statute approach, conceptual approach, and case approach. The results of this study were found: It needs to be written in the head of the deed regarding the reading of the deed using teleconferencing media, at the end of the deed is written a description of the use of digital signatures. At the time of reading the deed through the teleconference media Notary must be in his position for the creation of legal certainty where the deed is made. The need for the expansion of the meaning of the face in article 16 paragraph (1) letter m UUJN to face directly or use teleconferencing media. The meaning of signatures in UUJN needs to be expanded in meaning with digital signatures. The anatomy of the deed in Article 38 of UUJN needs to be changed in the form of deeds made through teleconferencing media and using digital signatures. Recommendations for the government need to harmonize article 5 paragraph (2) of the UU ITE with UUJN for the creation of legal certainty on deeds made by and before notaries digitally both the results and the process of making deeds.

Keywords: deed; digital signature; notary; teleconference

INTRODUCTION

2020 could be considered as the worst year for every society all around the world, especially in Indonesia due to the COVID-19 pandemic that has infected almost all countries in the world (Dzulfaroh 2020). As the director general of the World Health Organization (WHO), Tedros Adhanom Ghebreyesus said that the COVID-19 virus is a pandemic (Ekarina 2020). Many ways have been done by Indonesian government in order to establish the *salus populi suprema lex esto* principle, which basically means that the safety of the people is the highest law of a nation. To deal and prevent the spread of the COVID-19 virus, Indonesia conducted policies such as Mass Movement Control Order (*Pembatasan Sosial Berskala Besar*, PSBB) as well as Enforcement of Restrictions on Community Activities (*Pemberlakuan Pembatasan Kegiatan Masyarakat*, PPKM). As a result, many notaries do not open their office in the period of PSBB and PPKM. This contradicts with the policy in Article 17 Verse 1 letter b in Number 30 of 2004 of Notary Office Bill (State Gazette of the Republic of Indonesia of 2004 Number 117, Supplement to

the State Gazette of the Republic of Indonesia Number 4432) and also going through changes due to Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of a Notary (State Gazette of the Republic of Indonesia of 2014 Number 3, Supplement to the State Gazette of the Republic of Indonesia Number 5491) in which explained that "Notaries are forbidden to leave their office location more than 7 (seven) working days consecutively without a rightful reason." Notary as a profession is a profession with an important role as an officer that is in charge to make authentic deeds as evidence." This quote is often included as a consideration in letter b and letter c. The notary service is one of the legal needs in our society.

In order to ensure the legal need of the society with notary services to make a deed during PSBB and PPKM, many notaries innovated in the deed-making by using electronic media and teleconference technology. Those innovations are deemed necessary by them to minimize the risk of the COVID-19 virus new cluster. The process of deed-making by notary is regulated by Article 16 Verse (1) letter m of Notary Office Bill that regulates the obligation to recite the deed conducted by the notary in front of the appearer and conditions that should be fulfilled in the process of deed-recitation. After the notary recited the deed, the deed should be signed by the appearer at that exact time as explained in Article 44 of Notary Office Bill. In the reality of the COVID-19 pandemic, there are some innovations, where one recites the deed in front of the appearer through teleconference media and the usage of digital signature in the signing process of the deed. The innovation of such caused the creation of the new law within the world of notarial service due to the current technological progress (Nurita, 2012:3).

There are no regulations or legal norms that regulate the applicant's testimony using teleconferencing media, the process of signing the deed by the applicant through teleconferencing media or by using a digital signature. Many researchers have done research relating with such issues and came up with the cyber notary concept. Some researcher hoped and suggested so there is an immediate regulation and bill that accommodates the regulation of *cyber notary* concept. If the regulation that allows notaries and applicants to do witnessing and deed-signing (*verscheen*) using a teleconference media has passed, there is the need to take into attention on the location where the *verscheen* is conducted. The location where the *verscheen* being conducted is very important for the notary in doing their work, whether the *verscheen* done through a teleconference media is inside or outside of the territory of the notary. The regulation on the territory of the notary has been regulated in Article 18 of Notary Office Bill. The prohibition for notaries to conduct their service outside of their territory is regulated in Article 17 Verse (1) letter and Article 19 Verse (3) of Notary Office Bill. This is needed to ensure the certainty and the authenticity of the deed made by the notary. One of the certainties of such is by the certainty on the location where the deed was made. At the ending of the deed, the location of the deed-making shall be mentioned and explained.

Other than establishing the location of the deed-making, the signing process of the deed done by the applicant in front of the notary through teleconference media also needed to be observed on its legal certainty. This is because the absence of the regulation that regulate electronic signature that is put in the deed. What if the deed was not immediately signed by the applicant at the moment of the deed recitation through teleconference media? What will be its legal consequences if the deed read by the notary through teleconference media did not sign immediately and after the reading by the applicant? Through these legal certainty problems on the reading and the signing of the deed through teleconference media as already laid out in the background of this research, this research aims to examine the validity of the reading and the signing of the deed conducted through teleconference media in the middle of the COVID-19 pandemic and reconceptualize the regulation of the deed-reading and the deed-signing conducted through teleconference media in order to ensure legal certainty in the middle of the COVID-19 pandemic and afterwards.

METHOD

The method used in this research is normative research method. Normative research method is used because there is an incoherence between the ideal condition (*das sollen*) with the reality (*das sein*) that caused questions from its normative aspects on what is going on (Efendi & Ibrahim, 2018:125). The reality inspected in this research is that there is the absence of regulation on the deeds within the Notary Office Bill made in the middle of the COVID-19 pandemic due to some innovations made by the notaries to adapt with the situation. The approach used in this research is the statute approach due to the absence of the legal norm on the regulation of some innovations done by the notaries relating with deed-making in the middle of the COVID-19 pandemic. Notary Office Bill has not regulated this issue and its derivative rules are absence in which shall answer these problems. This research also used conceptual approach due to the innovations done by the notaries in making deeds by using the *cyber notary* concept. *Cyber notary* concept is a concept in which the services of the notary are assisted by technologies and electronic media in its process and its results. *Cyber notary* as a concept is yet to be implemented formally in Indonesia because of the absence of its regulation in Notary Office Bill and its derivative rules. Casual approach is also used in this research due to the findings of deeds made by the notaries using electronic media in the middle of the COVID-19 pandemic. The data resources for this research are based on primary, secondary, and tertiary sources. The secondary data are acquired through literature review by processing primary data and thus laying it out as an analysis. The primary legal resources in this research are 'law regulation, jurisprudence, and international treaties (RED 2016). The relevant law and regulations relating with legal issues in this research are: Law Number 30 of 2004 concerning the Notary Office (State Gazette of the Republic of Indonesia of 2004 Number 117, Supplement to the State Gazette of the Republic of Indonesia Number 4432). Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Notary Office (State Gazette of the Republic of Indonesia of 2014 Number 3, Supplement to the State Gazette of the Republic of Indonesia Number 5491). Law Number 11 of 2008 concerning Information and Electronic Transactions (State Gazette of the Republic of Indonesia of 2008 Number 58, Supplement to the State Gazette of the Republic of Indonesia Number 4843). Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions (State Gazette of the Republic of Indonesia of 2016 Number 251, Supplement to the State Gazette of the Republic of Indonesia Number 5952). Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions (State Gazette of the Republic of Indonesia of 2019 Number 185, Supplement to the State Gazette of the Republic of Indonesia Number 6400). Government Regulation Number 21 of 2020 concerning Large-Scale Social Restrictions in the Context of Accelerating the Handling of Corona Virus Disease 2019 (COVID-19) (State Gazette of the Republic of Indonesia of 2020 Number 91, Supplement to the State Gazette of the Republic of Indonesia Number 6487). Secondary legal sources that are used are the legal sources that support the primary legal sources, consist of books written by influential legal experts (*de horseede leer*), legal journals, doctrines, legal cases, and even symposium results (Efendi & Ibrahim, 2018:175) that are related with the most recent legal case in this research. The tertiary legal sources in this research are legal sources that give instruction or explanations on the primary and secondary legal resources, such as legal dictionary and encyclopedia (Efendi and Ibrahim 2018).

DISCUSSION

The Validity of the Deed-Reading and Deed-Signing Conducted through Teleconference Media.

The process of making and preparing deeds, reading minute deeds by Notaries is presented with the interceptor and witnesses and the signing of the deed. This process must be undertaken by a Notary in the making of his deed so that the deed made by and before the Notary has the evidentiary value as an authentic deed. If this process is violated, resulting in the deed that is made to decrease the evidentiary value to the deed under the

hand. The paradigm of authenticity of deeds produced by notaries is still seen from the form of the final result in the form of prints forged and signed by Notaries, not electronic deeds. Deeds in electronic form to date have not been regulated. The advancement of technological development today is like a double-edged sword, (Nurita, 2012:25) on the one hand providing convenience for those who can take advantage of current technology, on the other hand creating new problems. The new problem arises about the status of the strength of evidence tools for electronic documents. Documents and electronic information and print according to Article 5 paragraph (1) of the ITE Law are valid legal evidence, but do not include and do not apply to documents or letters that must be made in the form of notary deeds or deeds made by deed-making officials based on the provisions of the law. Another problem that arises is eliminating aspects of physical meetings between the parties and notaries (Mvt/Mys 2010).

The validity of reading and signing deeds implemented by teleconference media reviewed from various laws and regulations found the following arrangements:

Juridical Analysis Based on the Civil Law Code

The reading and signing of the deed carried out through teleconference media has not been regulated in more detail in the Civil Code (*burgerlijk wetboek*) (hereinafter referred to as BW). BW regulates the term authentic deed in the fourth book of BW on proof and expiration (*Verjaring en Bewijs*). Article 1868 BW states that a deed can be said to be an authentic deed if it fulfills the following elements:

The form is determined by law;

Made by or a general official authorized to make it;

Made before the authority for where the deed was made.

If these three elements are not fulfilled in the process of making it, then the deed made is reduced to a degree below the hand as stated in Article 1869BW. The reading and marking of the deed are done electronically if the parties (Notary, Wiretapping and Witness) acknowledge and state that it is true that the process of reading and signing the deed electronically has taken place, then based on the provisions of Article 1875 BW, the incident creates complete evidence such as an authentic deed for the signatory party, the heirs and the person who obtains the rights thereof. Article 1875 BW as the basis for proof of an electronically signed deed could have a deed in the form of an authentic deed if the signature contained in it is recognized by the party who signed it.

Juridical Analysis based on limited liability company law

The use of teleconferencing technology in the Limited Liability Company Law is permitted in holding the General Meeting of Shareholders (GMS). The GMS is held at the place and domicile of the company. GMS can also be held in places used as the company's main business activities. During the Covid 19 pandemic, it was not possible to hold the GMS directly, this was done to break the chain of the spread of the Covid 19 Virus. Electronic GMS using teleconferencing media is possible during the Covid 19 pandemic. Arrangements regarding GMS through teleconferencing media have been regulated in Article 77 paragraph (1) UUPT.

The electronic holding of the GMS using teleconferencing media was a legal breakthrough in its time to find the best solution related to the provisions for the physical presence of shareholders (Lubis 2020). The provisions of Article 77 of the Company Law are a paradigm shift regarding the validity of the GMS as regulated in Article 76 of the Company Law. Article 77 UUPT as a *lex specialist* to fulfill the principle of benefits where teleconferencing can be implemented anytime and anywhere, not limited to places and regions (Lubis 2020). For a public company, the basis for holding a GMS through teleconference media has been regulated in the Regulation of the Financial Services Authority of the Republic of Indonesia Number 15/POJK.04/2020 concerning the Plan and Organizing of the General Meeting of Shareholders of a Public Company and the Regulation of the Financial Services Authority of the Republic of Indonesia Number 16/POJK.04 /2020 concerning the Electronic General Meeting of Shareholders of Public

Companies (Putra, Yahanan, and Trisaka 2019).

The electronic holding of the GMS using teleconferencing media was a legal breakthrough in its time to find the best solution related to the provisions for the physical presence of shareholders. The provisions of Article 77 of the Company Law are a paradigm shift regarding the validity of the GMS as regulated in Article 76 of the Company Law. Article 77 of the Company Law as a *lex specialist* to fulfill the principle of benefit where teleconferencing can be carried out anytime and anywhere, not limited to places and regions. For a public company, the basis for holding a GMS through teleconference media has been regulated in the Regulation of the Financial Services Authority of the Republic of Indonesia Number 15/POJK.04/2020 concerning the Plan and Organizing of the General Meeting of Shareholders of a Public Company and the Regulation of the Financial Services Authority of the Republic of Indonesia Number 16/POJK.04 /2020 concerning the Electronic General Meeting of Shareholders of Public Companies.

After the GMS and a decision is made unanimously and a quorum, the provisions of Article 77 paragraph (4) of the Company Law require that the minutes of the meeting be signed by the participants of the GMS. The explanation of article 77 paragraph (4) provides the meaning of "approved and signed" approved and signed physically or electronically. After the minutes of the meeting are completely signed by all meeting participants, then the minutes of the meeting are brought before a notary to make a deed of statement of the general meeting of shareholders where the contents of the deed made before the notary are made from minutes. In addition, to being regulated in Article 77 paragraph (4) of the Company Law, the arrangement regarding the signing of the minutes of the GMS meeting is also regulated in Article 90 paragraph (1) of the Company Law. Minutes of the GMS shall be signed by the Chairperson of the Meeting and at least 1 (one) shareholder appointed from and by the GMS participants who are present at the GMS. The purpose of signing the minutes of the GMS meeting is to guarantee the certainty and correctness of the contents of the minutes of the GMS held. To ensure the certainty and correctness of the contents of the GMS, minutes of the GMS can also be made by a Notary who is also present either in person or using teleconference media, witnesses, attends the GMS, and pours the contents of the GMS into a form of deed made by a notary (relapse deed). The deed of recurrence made by a Notary in the GMS does not have to be signed by the chairman of the meeting and the meeting participants as stipulated in Article 90 paragraph (2) of the Company Law.

Deed of willingness or Deed of Office according to G.H.S Lumban Tobing is an authentic deed that describes an act done or seen or witnessed by the Notary itself who made the deed (Alwesius 2019). One form of deed of relapse is the Deed of the General Meeting of Shareholders where in the general meeting process Notaries are invited to be able to attend and watch the GMS process from start to finish and a decision from the GMS is stated in the form of a deed made by a Notary. The notary who makes the deed of willingness must be in the position and territory of his office.

Juridical Analysis Based on the Law on Notary Positions

The process of reading and signing the deed is a unity in the stage of confirmation of a deed carried out by a Notary in carrying out his duties and positions. UUJN regulates the process of reading and signing deeds. Article 16 paragraph (1) letter m UUJN regulates the obligation of notaries to read the deed before the face and attended by at least 2 (two) witnesses. Furthermore, UUJN also regulates as soon as the deed is read directly signed by the interceptor, witnesses and Notaries as stipulated in article 44 paragraph (1) of UUJN. Article 40 paragraph (1) of UUJN also states that each deed read by a Notary is attended by witnesses of at least 2 (two) witnesses, unless otherwise specified by law.

A. C.H. Melis said that the purpose of reading the deed by a notary is as a guarantee to the interceptors that what they sign is in accordance with what the notary hears from what is read by the Notary. In addition, the purpose of the reading of the deed carried out by the notary is as a form of certainty for the opponents that what is written in the deed is true and in accordance with the will of the opponents (Kie, 1994:505).

UUJN until now has not regulated the process of reading deeds carried out by

wiretaps using teleconferencing media. Electronic signatures also whose arrangements have been regulated in the ITE Law to date have not been adopted by UUJN, so the need for arrangements related to the process of reading deeds through electronic media and signing of original of the deed using digital-based electronic signatures. Although UUJN has not regulated this, but UUJN provides an opportunity for the deed not to be read by a Notary as in article 16 paragraph (7) of UUJN. Likewise related to the signing of the deed, UUJN also provides an opportunity for the interceptor not to sign the original of the deed as stipulated in article 44 paragraph (1) of UUJN. Notary must state firmly in the closing of his deed if no reading of the deed before the face and the face-to-face cannot sign the original of the deed directly due to a certain thing. A certain thing can be likened to the condition of the Covid 19 pandemic which resulted in the appearance of witnesses and notaries meeting through teleconference media which was held within the Notary's own office area. Thus, it is not possible for the parties to directly sign the deed which has been read out by a Notary or read by the Appraisers themselves. J.H.M Hendriks concluded that the formal evidentiary value of a notarial deed does not lie in the signatures of the appraisers, but in the signature of the notary (Kie, 1994:478).

Juridical Analysis Based on the Electronic Information and Transaction Law and its Amendments

Law Number 11 of 2008 concerning Information and Electronic Transactions (State Gazette of the Republic of Indonesia of 2008 Number 58, Supplement to the State Gazette of the Republic of Indonesia Number 4843) and has been amended by Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions (State Gazette of the Republic of Indonesia of 2016 Number 251, Supplement to the State Gazette of the Republic of Indonesia Number 5952) (hereinafter referred to as UU ITE) is present and regulates other evidence that has not been regulated in HIR and KUHAP. The evidence that has not been regulated is in the form of electronic evidence. Article 5 of the ITE Law provides legal certainty over the regulation of electronic evidence. The opinion of Eddy O.S. Hiariej on the provisions of Article 5 of the ITE Law which regulates evidence in the form of electronic information and electronic documents and their printouts as an expansion of evidence in accordance with procedural law in force in Indonesia (Isma and Koyimatun 2014). Electronic information and electronic documents and printouts are new evidence tools for laws governing evidence other than the ITE Law (Isma and Koyimatun 2014).

Evidence regulated in-laws and regulations which are considered as valid evidence and can be used as evidence in trials under other laws, including:

Article 164 and Article 284 Rbg regulate evidence in civil procedural law

Article 184 of the Criminal Procedure Code which regulates evidence in criminal procedural law, and

Article 100 of the State Administrative Court Law which regulates the State Administrative Procedural Law (Asimah 2021).

In its development, Article 5 of the ITE Law has expanded its meaning with the intention of adding to the evidence regulated in procedural law in Indonesia or to expand the scope of evidence that has been regulated in procedural law in Indonesia. Notary Deed as an authentic deed which is included in the category of documentary evidence in procedural law in Indonesia, according to the ITE Law, it does not include electronic evidence as stated in Article 5 paragraph (4) of the ITE Law. While the land certificate which is an authentic deed issued by the land office based on the Regulation of the Minister of Agrarian affairs and Spatial Planning / Head of the National Land Agency of the Republic of Indonesia Number 1 of 2021 concerning Electronic Certificates (State News of the Republic of Indonesia Year 2021 Number 12) which was promulgated on January 12, 2021 (hereinafter referred to as *Perkaban 1 2021*) is already in the form of electronic certificates. Electronic certificate as written evidence that proves proof of ownership of the right to a piece of land owned by a person or legal entity. Between deeds made by or before a Notary with an electronic land certificate are both authentic deeds as mentioned in article

1868 BW. However, the land certificate issued by the land office is currently in the form of an electronic certificate, it is very likely that in the future the deed made by or before a notary can be in the form of an electronic notary deed. While Article 5 paragraph 4 of the ITE Law does not accommodate the authentic deed as electronic evidence. This causes a conflict of norms that must be resolved with the reconceptualization of arrangements regarding electronic evidence in the form of electronic authentic deeds.

Regarding electronic signatures, it is regulated in Article 11 of the ITE Law. The electronic signature itself consists of a certified electronic signature and an uncertified electronic signature. Electronic signatures if they meet the requirements as stated in Article 11 paragraph (1) of the ITE Law have legal force and legal consequences. However, the UUJN does not regulate electronic signatures, so there is a need for a reconceptualization related to electronic deed signing based on the ITE Law which is implemented in the UUJN.

An authentic deed has the power of proof both formally, materially, and outwardly since the deed was created and ratified (Pramono 2015). Legal certainty over authentic deeds is created from the strong legal relationship between the parties to the deed and the validity of the deed made in accordance with the terms and conditions that guarantee the creation of an authentic deed. According to Sudikno Mertokusumo deeds can serve as evidence (*probationis causa*) and as a Function of Formil (*Formalitas causa*) (Pramono, 2015:253). Function of deeds as evidence (*probationis causa*) have the understanding that the parties deliberately make a deed to be able to be proven in the future.

The power of outward proof of an authentic deed can be proven by the deed itself which can be proven as an authentic deed (Septianingsih, Budiarta, and Dewi 2020). Authentic deed proves its validity because to be an authentic deed must meet the requirements of both the form, terms, and process of making it must meet the provisions of applicable laws and regulations. The fulfillment of these conditions makes the deed become authentic which causes the deed made to apply and be considered as the original (*acta publica probant seseipsa*) until someone can prove otherwise (Pramono 2015). The form of Notary deed is regulated in article 38 of UUJN where the deed consists of the Head of Deed, Content of deed and Closing deed.

The head or the beginning of the deed starts from the beginning of the deed until the comparison (Kawurnyan, 2018:4). The head or beginning of this deed consists of the Title of Deed, Deed Number, Hour, day, date, month and year, Full Name and Notary Place of Residence. UUJN provisions article 38 paragraph 2 letter c mentions each head or beginning of the deed consisting of hours, days, dates, months, and years. The writing of the hours, days, date, months, and years written in the head or beginning of the deed is at the time when the Notary is ready with the manuscript of the deed, then read and signed by the interceptor, witnesses, and Notaries (Kawurnyan, 2018:6). Related to the interceptor who uses teleconferencing media needs to be written in the head of the deed about the teleconferencing media used in it.

The end of the deed according to article 38 UUJN contains about the description of the reading of the deed as in article 16 paragraph (1) letter m or article 16 paragraph (7) of UUJN, the description of the signing, the place of signing and, the identity of the witnesses in the deed and the description of the or absence of changes in the process of making the deed. The reading of the deed may also not be read by a notary if the interceptor wants the deed not to be read because the interceptor reads the deed himself before the deed is inaugurated by the Notary. Article 16 paragraph (7) of UUJN stipulates that the deed is read by the accuser must be described in the closing of the deed. The description of the signing of the deed at the end of the deed mentioned the order of the handcuffing starting from the interceptor, the witnesses then the Notary who signed and inaugurated the deed. Signing is a legal fact (*rechtsfeit*) which contains a statement of the signer's will that by writing it is in accordance with the law to be considered his own writing (Kie, 1994:473). GJHM Hendriks binds that the notarial deed required by the appearers to sign the notarial deed as it should be in article 44 of the UUJN, but article 44 paragraph (1) of the UUJN marks the obligation of the appearers who are unable to affix his signature, as long as the notary who made the deed mentions in his deed that the appearer explains why the appearers are not as they are in article 44 paragraph (2) UUJN. Regarding the use of

electronic signatures in the minutes of the deed, it is also necessary to write down the closing of the deed regarding the use of electronic signatures and validation of the electronic signature.

The power of proof formal on an authentic deed can be proven by the certainty of an event contained by a Notary based on the terms and conditions stipulated in the issuance of the deed (Septianingsih et al. 2020). Formally, the truth and certainty of the day, date, month, time and place before the notary, the truth of the parties who appear before the notary, the initials and signatures of the appearers, witnesses and notaries, what is seen, heard, witnessed by the notary as outlined into the deed, if it is formally disputed by the parties, then the party who denies it must be able to prove it in a trial in court (Septianingsih et al. 2020). Formal proof of an authentic deed is complete proof. This is because the evidentiary value between the officials who make the deed, and the parties is the same (Pramono 2015). This means that all the information contained in the deed applies to everyone in the deed and has the power of formal proof (Pramono 2015).

The material power of proof of an authentic deed provides certainty about the material of a deed, "is the content of the statement stated in the deed true?" (Satyagraha, 2016:16). The truth of the parties who have done what is poured into the deed, is proven by the parties. Those who are not only present and explain the purpose and purpose of the notary come notary but declare that the parties have done what is written in the deed (Pramono 2015).

Reconceptualization of Arrangements for Reading and Signing of Deeds Implemented Through Teleconferencing Media

Arrangements for reading and signing of original of the deed using teleconferencing media that need to be reconceptualized. This is necessary in order to create legal certainty that regulates the current void of norms in the notarial world. The basic considerations and thoughts on the reconceptualization of statutory arrangements are as follows:

The urgency of reconceptualizing the arrangement for reading and signing the deed is carried out through teleconference media in realizing legal certainty.

Philosophical Urgency

One of the foundations that need to be considered in the establishment of good laws and regulations is philosophical development. The philosophical foundation is a matter of consideration that considers the outlook of life, legal ideals, and awareness in pouring a problem into a rule of law based on the philosophy of the Indonesian nation. Philosophy reflects on all kinds of problems and problems (Sidharta, 2013:4). One of the problems and issues that need to be resolved and regulated in a statutory regulation is the problem related to the disruption of the work of Notaries in carrying out their duties and positions during the Covid 19 pandemic. Notaries in carrying out their duties during the Covid 19 pandemic, almost all activities are carried out using teleconferencing media. Teleconferencing is an effective way to suppress the spread of the Covid-19 virus infection because there are no face-to-face meetings.

Notaries during the Covid 19 pandemic many follow the regulations that urge not to open their offices and work at home in accordance with SE INI no. 65. While article 17 Paragraph 1 letter b UUJN explains that "Notaries are prohibited from leaving their office for more than 7 (seven) consecutive working days without a valid reason. But what about the Notary deeds made by Notaries during the Covid 19 pandemic at this time all professions are affected by digitalization, including into the world of Notaries (Budiono 2019). Notary profession is a profession that has a very important role as an Officer who is tasked with making authentic deeds as a means of proof. It is contained in the consideration of the letter b and letter c. Notary services as one of the legal needs in society. So that philosophically necessary arrangements that regulate the need for legal certainty on deeds made by and before notaries in the form of a digital deed or arrangements governing the process of reading and signing the original of the deed through electronic media.

Juridical Urgency

Several statutory arrangements that support the work of a notary in carrying out his

position with the help of electronic media include:

Regulation of the Minister of Law and Human Rights No. 4 of 2014 concerning the Procedure for Application for Legal Entity Endorsement and Approval of Amendments to the Articles of Association and Submission of Notice of Amendment to Articles of Association and Changes in Limited Liability Company Data (State News of the Republic of Indonesia Year 392) (hereinafter referred to as *Permenkumham 4* of 2014).

Permenkumham 4 of 2014 regulates the application for the approval of the company's legal entity submitted by the Applicant to the minister through SABH. The applicant according to *Permenkumham 4* of 2014 is the co-founder or board of directors of the Company who has obtained the status of legal entity or Liquidator of the Company dissolved or the Curator of the Bankruptcy Company who gives power to the Notary to apply through SABH. While the Legal Entity Administration System which is further abbreviated as SABH is the Company's information technology services electronically organized by the Directorate General of General Legal Administration. In order to obtain the Ministerial Decree regarding the ratification of the Company's legal entity, the Applicant must submit an electronic application to the Minister within a period of at least 60 (sixty) days from the date the Deed of establishment has been signed. In practice, the applicant fills out the format that has been provided in SABH and ends by uploading the deed submitted to the minister. If the process of filling out the format and uploading the deed has been carried out by a Notary, the Minister issues a Ministerial Decree regarding the ratification of the Company's legal entity within a period of at least 14 (fourteen) days from the date of the statement not objecting from the Minister. Keputusan yang Ministerial given to the applicant is given in electronic form that can be directly printed by the applicant, namely notary. The paper used to print the minister's decision used a white paper the size of F4 / folio weighing 80 (eighty) grams. The Decree of the Minister printed by the Notary must be signed and stamped by the Notary and contains a phrase stating, "This Ministerial Decree is printed from SABH".

Government Regulation of the Republic of Indonesia Number 24 of 2018 concerning Licensing Services Seeks to Integrate Electronically (State Gazette of the Republic of Indonesia Year 2018 Number 90, Supplement to State Gazette of the Republic of Indonesia Number 6215) (hereinafter referred to as PP 24 of 2018) PP 24-year 2018 provides good news for all businesspeople. The issuance of PP 24 of 2018 based on considerations in order to reduce investment improvement and effort, the need for electronically integrated business services (Anon 2019). PP 24 of 2018 gave birth to a non-ministerial government agency that manages and organizes government affairs in the field of investment coordination known as OSS. The business issuance process is currently required through OSS institutions. The issuance of business licenses issued by OSS is carried out in electronic transactions in accordance with the applicable provisions in the laws and regulations in the field of information and electronic transactions. Business actors who apply for licensing can be as individuals or legal entities. Licensing documents obtained from OSS can be printed by business actors themselves to support their business activities. Dated February 2, 2021, issued Government Regulation No. 5 of 2021 on the Implementation of Risk-Based Business Licensing (State Gazette of the Republic of Indonesia Year 2021 Number 15, Supplement of State Gazette of the Republic of Indonesia Number 6617) (hereinafter referred to as PP 5 of 2021) which replaces PP PP 24 of 2018. PP 5 of 2021 has been effective 4 (four months) since it was issued, so that dated June 2, 2021, has been declared effective.

Regulation of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency of the Republic of Indonesia Number 9 of 2019 concerning Electronically Integrated Dependent Rights Services (State News of the Republic of Indonesia Year 2019 Number 686) (hereinafter referred to as *Permen ATR HT-el*).

The implementation of electronic dependent rights registration is a follow-up to the series of agrarian reform programs by conducting legalization and digitization of agrarian reform in the form of land digitization (Huzaini 2020). In addition to the registration of liability, other services stipulated in article 6 of *Permen ATR HT-el* also serve the transfer of dependent rights, change of creditor name and elimination of dependent rights can be

served electronically. Any application for services that have been received by the HT-el System is given a proof of application registration issued by the HT-el system. The submission of dependent rights services is electronically submitted by the applicant as a registered user on the HT-el system provided by the Ministry of Agrarian affairs and Spatial Planning / National Land Agency. The results of the Dependent Rights service submitted through the HT-el system were found in the form of electronic documents issued by HT-el system in the form of a certificate of Dependent Rights and Records of dependent rights on land books and Land Rights Certificates or Property Rights over Flat Units.

Regulation of the Minister of Agrarian affairs and Spatial Planning / Head of the National Land Agency of the Republic of Indonesia Number 1 of 2021 concerning Electronic Certificates (State News of the Republic of Indonesia Year 2021 Number 12) (hereinafter referred to as *Perkaban 1 2021*).

The birth of *Perkaban 1 2021* is a breakthrough and advanced innovation carried out by the land office during the Covid 19 pandemic to issue electronic certificates. The electronic certificate which is hereinafter referred to as Certificate-el is a certificate issued through an Electronic System in the form of Electronic Documents. The implementation of land registration both for land registration for the first time and for the maintenance of land registration data after the enactment of Bandage 1 2021 is held through an electronic system. As for the results of the implementation of land registration electronically in the form of data, electronic information and / or electronic documents containing rights data, physical data, and juridical data of land fields that are valid and maintained their authenticity is stored in the local land office electronic system database. The results of the implementation of electronic systems in the form of electronic documents issued through electronic systems and given electronic signatures in accordance with the provisions of applicable laws and regulations.

Sociological Urgency

During the Covid 19 pandemic, many notaries did not open their offices and did not carry out their duties and positions as usual. Notaries are urged to delay the creation of deeds that are being made during the Covid 19 pandemic. To provide services for the community during the Covid 19 pandemic there are several Notaries who innovate by issuing deeds by signing original of the deeds carried out by the face-to-face using media and technology assistance. In addition, there is also a Notary who reads the deed in front of the interceptor through teleconference. The arrangement regarding the reading and signing of the original of the deed is clearly set out in the UUJN. However, some innovations carried out by some Notaries who innovate through teleconferencing media have not been supported by the regulatory arrangements governing teleconference and marking original of the deed which is then sent to the Notary office. So, this is a new problem. On the new problem, a legal umbrella is needed in the form of laws and regulations that regulate the problems faced by Notaries who carry out their duties and duties during the Covid 19 Pandemic so that deeds made by or before Notaries who use the help of technology media have legal certainty.

Reconceptualization of the reading and signing of the deed carried out through teleconference media in realizing legal certainty.

The interpretation of the law as a connecting bridge between the wide chasm of the object being formulated and its formulation. A legal product that is considered defective from birth can be rectified, justified, tried and grounded through interpretation. Prof. Satjipto Rahardjo said that without interpretation of the law it would not work, because in order to become a law that is just and grounded, further meaning is needed. The meaning of facing and the meaning of signature in Article 16 paragraph (1) letter m UUJN needs to be interpreted further in accordance with the current circumstances and conditions. UUJN still gives the meaning of facing must face to face before a Notary, while the signature is the wet signature of the appearer which is done before a Notary. This meaning needs to be expanded with the presence of technological developments where nowadays people can communicate and meet face to face directly through teleconferencing media. The UUPT has bridged the existence of arrangements for the GMS to be carried out using

teleconference media. Likewise with regard to electronic signatures, the ITE Law has regulated electronic signatures. Regulations related to electronic signatures can also be applied in future revisions of the UUJN by following the terms and conditions that apply in the ITE Law.

The provisions of UUJN article 38 paragraph 2 letter c mention each head or beginning of the deed consisting of hours, days, dates, months, and years. The writing of the hours, days, dates, months and years written in the head or beginning of the deed is at the time when the Notary is ready with the manuscript of the deed, then read and signed by the interceptor, witnesses, and Notaries. The provisions of UUJN article 38 paragraph 2 letter c need to also be expanded in meaning if the interceptor uses electronic media. There is also a provision that regulates the writing of the head of the deed for the face of the Notary by using teleconferencing media for the creation of legal certainty on the deed made before the Notary. Likewise with the arrangement at the end of the deed according to article 38 of UUJN which contains about the description of the reading of the deed as in article 16 paragraph (1) letter m or article 16 paragraph (7) of UUJN, the description of the signing, the place of signing and, the identity of the witnesses in the deed and description of the or absence of changes in the process of making the deed. If carried out through teleconferencing media and electronically signed by using digital signatures, it is necessary to regulate the arrangement or expansion of meaning related to signatures. Signatures can be wet signatures or digital signatures. In addition, to adjusting the meaning of the impediment, the meaning of signing original of the deed and adjustment of the anatomy of the deed in UUJN, it is also necessary to adjust in article 5 paragraph (4) letter b of the ITE Law which states that the letter and its documents that according to the Law must be made in the form of a notarial deed or deed made by the deed-making official does not include valid evidence according to the ITE Law. For the sake of the creation of legal certainty on deeds made in electronic form including in the manufacturing process that uses electronic media as in the formulation of the first problem of this research, the need for adjustment of arrangements in the ITE Law so that there is no conflict of norms. The provisions of article 5 paragraph (4) letter b should be removed or against letters or documents made in the form of deeds according to the provisions of the law or made by authorized officials in the form of deeds must be accommodated also as a valid means of evidence even if made in digital form or in electronic form, as long as the digital deed or electronic deed can be accounted for its validity both in the process of making it and against the deed.

CONCLUSION

Based on the results of the discussion from the initial chapter to the last chapter of this study, conclusions can be drawn as follows:

The forms of legal certainty and validity of the reading and signing the original of the deed carried out through teleconferencing media during the Covid 19 pandemic are as follows:

The reading of the deed carried out by the Notary before the Appraiser using teleconferencing media, needs to be written at the head or at the end of the deed regarding the use of the teleconferencing media used during the process of appearing before the Notary, user ID and password used to be able to connect to the teleconferencing media used by the Notary and the Appraiser.

During the process of reading the deed through the medium of teleconference, the device used by the Notary to perform the teleconference must be in the position and territory of the Notary's office for legal certainty over the place of making the deed made by and before the Notary as outlined in the closing of the deed.

UUJN does not yet regulate electronic signatures, but Article 44 paragraph (1) of the UUJN also regulates the arrangement of original the of the deed may not be signed by the appearer with the provisions of the Notary who made the deed by mentioning in the deed the statement of the appearer explaining why the appearer did not sign as in Article 44 paragraph (2) UUJN. The formal proof value of a notary deed is not in the signature of the appraisers, but in the signature of the notary.

The validity of reading the deed and signing the minutes of deed made through teleconference media if the deed is used as evidence, as long as it is acknowledged by the parties and the Notary who made the deed based on the provisions of article 1875 BW has complete evidence like an authentic deed. The form of reconceptualization of statutory arrangements related to reading and signing of deeds carried out through teleconferencing media in realizing legal certainty during the covid 19 pandemic and after the covid 19 pandemic ended, including the following. It is necessary to expand the meaning of appearing as in Article 16 paragraph (1) letter m of the UUJN where the appearer does not have to meet face-to-face with a Notary, but the meaning of appearing can also be carried out through teleconference media according to the place of domicile and area of office of the Notary. Besides that, the meaning of the signature needs to be expanded by adding the meaning of digital signatures. Arrangements related to the anatomy of the deed as stated in Article 38 of the UUJN need to be expanded on the head and closing of the deed. Where in the head of the deed describes the arrangement regarding the appearance before the Notary by using teleconferencing media which needs to be stated in the head of the deed and in the closing section of the deed related to the signing of the minutes of deed it is necessary to have arrangements regarding the signing of the minutes of deed carried out digitally with a digital signature. The regulation of Article 5 paragraph (2) letter b of the ITE Law needs to be adjusted and needs to be harmonized with the UUJN so that a notarial deed in digital form can be used as legal evidence in accordance with the prevailing laws and regulations in the law of evidence.

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