

PENETRATION OF INTERNATIONAL ECONOMIC LAW IN THE DEVELOPMENT OF THE CYBER NOTARY CONCEPT IN INDONESIA

Ikhsan Lubis, Detania Sukarja, Rosmalinda

Universitas Sumatera Utara

Jl. Dr. T. Mansur No. 9, Kampus Padang Bulan, Medan, Sumatera Utara, Indonesia 20155

email: hikhsanlubiss@gmail.com

Tarsisius Murwadji

Universitas Padjadjaran

Jl. Ir. Soekarno Km. 21 Jatinangor, Kab. Sumedang, Jawa Barat, Indonesia 45363

DOI: 10.30631/alrisalah.v22i1.868

Submitted: Sept 29, 2021; Revised: May 30, 2022; Accepted: June 24, 2022

Abstract: This study aims to describe the penetration of international economic law in the development of the cyber notary concept in Indonesia. The development of the world today, which has entered the Industrial Revolution 4.0, has forced international law to develop the idea of a cyber notary. It needs to be conducted because Indonesia has no legal instrument to regulate cyber notaries. This study adopts legal research conducted to examine the problem in a normative juridical approach where the author examines various laws and regulations because normative juridical conceptualizes law as a written norm and is poured into legislation used as a benchmark for the community. The study results indicate that various legal instruments have been established, such as legal norms regarding Cyber Notaries in Indonesia, which are contained in the Act, in particular a. Law No. 2 of 2014 concerning amendments to Law No. 30 of 2004 concerning the Position of a Notary. Law No. 11 of 2008 concerning Information and Electronic Transactions (UU ITE), Law No. 40 of 2007 concerning Limited Liability Companies.

Keywords: International Economic Law, Cyber Notary, Information and Electronic Transactions, Notary

Abstrak: Tujuan penelitian adalah untuk mendeskripsikan penetrasi hukum ekonomi internasional dalam pengembangan konsep cyber notary di Indonesia. Perkembangan dunia saat ini yang memasuki Revolusi Industri 4.0 telah memaksa hukum internasional untuk mengembangkan konsep cyber notary. Hal ini perlu dilakukan karena belum atau tidak kuat perangkat hukum di Indonesia untuk mengatur cyber notary. Penelitian ini mengadopsi penelitian hukum yang dilakukan untuk mengkaji masalah adalah pendekatan yuridis normatif dimana penulis mengkaji berbagai peraturan perundang-undangan karena

yuridis normatif mengkonseptualisasikan hukum sebagai norma tertulis dan di-tuangkan ke dalam peraturan perundang-undangan yang dijadikan tolak ukur bagi masyarakat. Hasil penelitian menunjukkan bahwa, telah dibentuknya berbagai perangkat hukum seperti norma hukum tentang perangkat cyber notary di Indonesia berada di dalam Undang-undang, khususnya a. UU No 2 Tahun 2014 tentang perubahan UU No. 30 Tahun 2004 tentang Jabatan Notaris. Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik (UU ITE), Undang-undang No 40 tahun 2007 tentang Perseroan Terbatas.

Kata Kunci: Hukum Ekonomi Internasional, Cyber Notary, Informasi dan Transaksi Elektronik, Notaris

Introduction

The Dutch have colonized Indonesia for more than three centuries, which has influenced the Indonesian legal system to this day. During the colonial era, the Netherlands was also influenced by French law, which Rene David classified as a Romano-Germanic Legal Family.¹ This legal system is identical to several continental European countries, so it is often referred to as the Continental European Legal System (Civil Law). Civil law systems are also commonly known to have legal sources derived from the codification of written law (written code). John Henry Merryman stated that there are three sources of law in a country with a civil law legal system, civil law, namely laws (statutes), derivative regulations (regulation), and customs that do not conflict with the law (custom). Judges' decisions in the civil law legal system are often considered not a law.

While the Anglo-Saxon legal system (common law), which has historical roots in the British Empire, makes court decisions on its legal basis.² It was because, in the ear-

ly history of the British Empire, there was no strong parliament, but only the king's orders were used as the rule of law. When a judge decides a case, the decision is binding on the litigants and generally applies to similar cases.³ The judge's decision is important because of the absence of laws passed by the parliament or the difficulty of making regulations that follow the development of society.⁴

As such, judges and courts play a significant role in shaping the law in countries such as the United States and the United Kingdom.⁵

Based on the characteristics of the legal formation of the two legal systems, judges in countries that adhere to civil law, such as Indonesia, are identical only to be mouth-pieces of the law, while judges in common law countries can make a law or legislation. This concept is then understood dichoto-

American Journal Of Comparative Law 15, no. 3, (1966): 419-435.

³ Ibid.

⁴ USA Usembassy, "Outline Of The U.S. Legal System," <https://usa.usembassy.de/etexts/gov/Outlinelegalsystem.pdf>, accessed on 2nd of July 2018.

⁵ Law Berkeley, "The Common Law and Civil Law Traditions," <https://www.law.berkeley.edu/library/robbins/pdf/commonlawcivillawtraditions.pdf>, accessed on 2nd of July 2018.

¹ Rene David, *Major Legal System in The World Today*, The Free Press Collier-Macmillan Limited, 1968, p. 14.

² Joseph Dainow, "The Civil Law and The Common Law: Some Points Of Comparison," *The*

mously and statically: always different and will not change.

M. Fathahillah Akbar, for example, considers that the absence of the KPK's authority in prosecuting money laundering cases (TPPU) in Law No. 30 of 2002 concerning the Corruption Eradication Commission (KPK Law) makes prosecution of money laundering crimes cases carried out by the KPK "theoretically wrong".⁶ Straightforwardly, Akbar stated that the prosecution of the money laundering crime case by the KPK was "illegal" because its authority was not contained in clear rules". Akbar's argument is based on a statutory review only.

Akbar's argument is not appropriate if the prosecution carried out by the KPK on the money laundering offenses case is considered illegal. This authority has a legal basis, both based on court decisions and decisions of the Constitutional Court, which declares a constituency (not contrary to the constitution).⁷ However, the proposal to revise the KPK Law to add this authority is acceptable. This pattern is regular in common law countries when a court decision is adopted or becomes a reference for making or updating a written law.

In practice and its development, several judges in Indonesia make a law to fill the void like judges in common law countries. Thus, the judiciary in Indonesia is no longer entirely in line with the civil law legal system because it already has and applies several characteristics that are identical to the standard law justice system, for example, judge decisions that renew the law, even criminal law that adheres to the principle of

legality.⁸ This condition or system is formed from the current relationship between the legal structure, the rule of law, and society.

According to Emma Nurita, the concept of a cyber notary can temporarily be interpreted as a notary who carries out his duties or authority based on information technology, which is related to the duties and functions of a notary, especially in making deeds. Then according to Brian Amy Prastyo, the essence of a cyber notary currently has no binding definition. However, it can be interpreted as a notary who carries out his duties or authority based on information technology. Of course, it is not legal to use a cellphone or facsimile for communication between a notary and his client. But it is related to the duties and functions of a notary, especially in the making of a deed.

This paper focuses on how to apply the cyber notary concept in Indonesia more clearly after the enactment of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary (amendment to UUJN) which regulates the authority to certify transactions conducted electronically, although it is only listed in the Elucidation of Article 15 paragraph 3, namely what is meant by other authorities regulated in laws and regulations," among others, the authority to certify transactions conducted electronically (cyber notary), making a deed of *waqf* pledge, and aircraft mortgages.

Cyber notary in the practice of international law itself still refers to national law, because most of the subjects of international law are in the national legal area where the subject of international law is. In the

⁶ Muhammad Fathahillah Akbar, "Prosecution of Money Laundering of Proceeds of Corruption By Anti-Corruption Commission," *Mimbar Hukum*, Vol. 28, No. 2, June 2016, pp. 322-333.

⁷ Putusan Mahkamah Konstitusi Nomor 77/PUU-XII/2014 tentang Uji Materi Undang-Undang Nomor 8 Tahun 2010.

⁸ A deeper discussion regarding the discovery of law in criminal law, see Eddy O.S. Hiariej, *Asas Legalitas & Penemuan Hukum dalam Hukum Pidana* (Jakarta: Erlangga, 2009).

sense that the cyber notary carries out the duties and authorities of the notary based on the national law where the cyber notary is located. And basically in every country that implements a cyber notary, it is still based on national law in that country, because international law applies when there is a case where transactions occur between different countries where they are required to use international law based on the national laws of the two countries.

When referring to international economic law against cyber notaries, the answer returns to how national law, civil law and public law relate to international economic relations. So the application of cyber notary can go hand in hand with international economic law which is based on how the national law in that country applies. In this study, the author examines how breakthroughs in international economic law can run in line with the application of the cyber notary concept in Indonesia. Because according to the author, the cyber notary itself has a valid legal basis and whether the legal basis can coexist with international economic law, especially in Indonesia itself.

Research Method

The approach in legal research that is carried out to examine the problem is a normative juridical approach.⁹ The author examines various laws and regulations because normative juridical conceptualizes law as a written norm and is poured into legislation used as a benchmark for the

community, behavior, and national and state life. In this case, the laws and regulations as legal material being studied are primary, secondary, and tertiary legal materials collected through library research.¹⁰ Primary legal materials include laws and regulations relevant to the issues studied, namely the Law on Notary Positions (UUJN), the Law on Information and Electronic Transactions (UU ITE), and others. Furthermore, to help explain, analyze, and compare primary legal materials, secondary legal materials are also used, such as expert writings in journals and articles related to the issues discussed. Meanwhile, judging from the techniques used to analyze legal materials, descriptive-analytical techniques are used, which will later thoroughly describe the object studied in this study, namely, the urgency of implementing Cyber Notary practices in a time where all physical contact is avoided as much as possible. As much as possible to suppress the increase in the number of people who are positively infected Covid19. Furthermore, the conclusions will be explained using qualitative analysis techniques, aiming to present a systematic analysis of the facts and phenomena studied. According to Miles and Huberman¹¹, qualitative data is not in numbers but in the form of descriptions or events. The conclusion is a short answer regarding the results of the research. It only focuses on the scope of questions in the formulation of the problem.

⁹ Kornelius Benuf, Siti Mahmudah, and Ery Agus Priyono, "PERLINDUNGAN HUKUM TERHADAP KEAMANAN DATA KONSUMEN FINANCIAL TECHNOLOGY DI INDONESIA," *Refleksi Hukum: Jurnal Ilmu Hukum* 3, no. 2 (2019), 145-60 <<https://doi.org/10.24246/jrh.2019.v3.i2.p145-160>>.

¹⁰ Fitriani Ahlan Sjarif and Efraim Jordi Kastanya, "Surat Edaran sebagai Instrumen Administrasi Negara di Masa Pandemi Covid-19," *Jurnal Hukum & Pembangunan* 51, no. 3 (2021), 786-802 <<http://www.jhp.ui.ac.id/index.php/home/article/view/3135>>.

¹¹ Matthew B. Miles and A. Michael Huberman, *Qualitative Data Analysis: An Expanded Sourcebook, 2nd Edition*, 2nd edn (Thousand Oaks, CA: Sage Publications, 1994).

Results and Discussion

1. Penetration of International Law

For decades, international economic law was considered an “non politicized” branch of international law. Settlement of disputes based on rules carried out by independent judges has become the norm. Economic governance institutions are isolated from the United Nations decision-making forum, where peace and security are key considerations. Security exemptions are applied sparingly in trade and investment agreements, allowing governments and private entities to operate within a predictable legal framework. While this legalistic environment has never been uncontested, critical actors within the regime support the assumption that, by and large, economic governance can be separated from broader geopolitical struggles.

It is no longer the case. The current United States administration is a vocal exponent of this shift, promoting the position that security concerns are no longer just an exception to a legal obligation but now permeate its entire economic relationship. The European Union, whose supranational powers have traditionally ceased when security concerns begin, has put a foreign investment screening framework to protect the security and public order. China's national security law has led the government to block Chinese companies from participating in developing 5G mobile network infrastructure. Around the world, data protection and data localization laws challenge the idea that the internet is free and without boundaries, giving governments the technical ability and legal right to control the flow of information across borders to protect security interests.

These developments could strain the ability of international economic law to operate under its usual legalistic assump-

tions.¹² The World Trade Organization, which for two decades has seemed to stand at the top of geopolitical struggles, is now required to handle security exceptions in parallel disputes. At the same time, legalized dispute resolution procedures are under threat. International investment regimes, which developed under fragmented legal and institutional structures, are now the subject of multilateral reform efforts, just as countries worldwide are building barriers to foreign investment to safeguard their security interests. Under India's new model treaty, a request for a security exemption by a single country would make a dispute unjustified.

The language of security has also evolved beyond traditional military security. In a world where everyday objects are increasingly connected to the internet, how do WTO obligations and cybersecurity interact? Do WTO Members' determination to protect food security trump commitments to eliminate trade-distorting agricultural subsidies? Does the search for energy security allow countries to limit foreign investment? Can countries ban all fields of economic activity and negate the value of investments in pursuit of global climate security?

The international economic law of the digital economy, with a focus on datafication of the global digital economy, the disciplines of international economic law applicable to global digital trade and investment, and the global regulatory framework that governs the digital economy. It adopts an interdisciplinary approach that focuses on the legal and political aspects of global digital trade as well as the political econo-

¹² Alcianno G Gani, “Cybercrime (Kejahatan Berbasis Komputer),” *Jurnal Sistem Informasi* 5, no .1 (2018), 16-29 <<http://journal.universitassurya.darma.ac.id/index.php/jsi/article/view/18z>>.

my that drives the digital economy.¹³ Deep understanding of international, regional and domestic frameworks on digital trade; applicable rules in WTO law and Regional Trade Agreements, including Bilateral Investment Agreements¹⁴; regulation of cross-border data flows and their interface with transnational and domestic data governance, including privacy and cybersecurity governance issues; and the interface of international economic law and emerging digital and data-driven technologies. This course will focus on the role of cross-data governance in digital trade and how datafication of the global economy affects international economic law and vice versa. The course components will focus on foreign digital trade policy in various digital trade agreements. It is of interest to anyone interested in learning more about the global digital trade and e-commerce market, the current framework and the future evolution of the regulatory framework for the digital economy.

2. Concept of Cyber Notary in Indonesia

The current globalization technology is increasingly advanced, characterized by very rapid technological characteristics. It begins from the authority of gadget service providers and various life factors. In Indonesia, the characteristics of technology also affect the notary criminal service, which can be

marked through the notary's authority in the cyber notary field. Cyber Notary is the application of making data together with computers, laptop networks, or different digital media together with teleconferences or video meetings to carry out a Notary authority's responsibilities. Cyber Notary is intended for flexibility in facilitating and accelerating the implementation of the responsibilities and authority of a Notary in doing correct deeds, regarding all deeds or agreements or provisions required by regulations or prioritized through interesting events to be protected in a right deed. The Notary Cyber Gadget is considered very useful if it is related that Indonesia is the largest archipelagic country in the world.

Despite these technological advances, the legal profession, including civil law notaries, has not undergone significant changes.¹⁵ In Indonesia, civil law notaries were introduced by the Dutch for a long time when the majority of Indonesian territory was still a colony under the Dutch East Indies (Netherlands East-Indies). The state notary system continues to follow the Dutch notary system. The first notary in Indonesia was a Dutchman named Melchior Kerchem. The existence of a notary system in Indonesia is necessary and recognized as independent and impartial individuals.

A notary is a profession that globally operates in two legal systems, namely notaries in legal countries and notaries in Common Law, commonly known as Public Notaries. Although both are positions, they both have different functions and authorities. Indonesia adheres to a civil law legal system that uses written laws or regulations as

¹³ Sinta Dewi Rosadi and Garry Gumelar Pratama, "URGENSI PERLINDUNGANDATA PRIVASIDALAM ERA EKONOMI DIGITAL DI INDONESIA," *Veritas et Justitia* 4, no. 1 (2018), 88-110 <<https://doi.org/10.25123/vej.2916>>.

¹⁴ Tubagus Satria Wibawa and Made Maharta Yasa, "Kebijakan Anti-Dumping World Trade Organization sebagai Bentuk Tindakan Proteksi: Studi Kasus Bea Masuk Anti-Dumping Uni Eropa Kepada Impor Biodiesel Indonesia," *Kertha Negara: Journal Ilmu Hukum* 7, no. 6 (2019), 1-12 <<https://ojs.unud.ac.id/index.php/Kerthanegara/article/view/50389>>.

¹⁵ Niru Anita Sinaga, "Kode Etik sebagai Pedoman Pelaksanaan Profesi Hukum yang Baik," *Ilmiah Hukum Dirgantara* 10, no. 2 (2020), 1-34 <<https://doi.org/https://doi.org/10.35968/jh.v10i2.460>>.

its primary source of law. Until now, in Indonesia, there is no special regulation regarding the mechanism for making a deed by a notary as one of its authorities uses electronic media, which incidentally is included in the branch of the Cyber Notary system.

In 2018, the generation of the Industrial Revolution 4.0 combined Cyber-Physical Systems, the Internet of Things, Networks, and cyberspace. The Industrial Revolution 4.0 that hit the international millennium created a demanding situation for all events, including expert regulation events that required creativity to answer them. In the crime career sector, there may also be a shift due to the Industrial Revolution 4.0 is the task to answer the problem of destiny. This generation also has a full-size effect in the field of crime. Human Resources (HR) is a problem that must be faced in the generation of the Industrial Revolution 4.0, which requires sophisticated human resource competencies and unique skills. In a legal profession such as a notary, it is necessary to improve services to the community by making maximum use of existing information technology. Notaries can broaden their horizons in innovative thinking, problem-solving, communication, creativity, and collaboration. A notary is a profession that provides legal services to the community to achieve legal certainty. Also, the industrial revolution 4.0 made the process of improving Notary services needed at this time.

The industrial world is currently known as the Industrial Revolution 4.0 which cannot be separated from the debate that continues to be a conversation in Indonesia. The Industrial Revolution 4.0 causes changes in aspects of life that have a significant impact. Also, industry 4.0 is termed as the era of disruptive technology due to automation and connectivity in all areas. Ac-

ording to Emma Nurita, it is hoped that a notary will not be left behind in dealing with current developments. Notaries must do community service as a whole so that they are willing to make authentic written evidence about the legal actions they have committed. On this basis, those appointed as notaries must have the spirit of serving the community.

Referring to the advancement of ICT that utilizes the internet, of course, it impacts the overall performance of the responsibilities and authorities of a notary¹⁶. Notaries at first used the traditional method (but were surprised to see how they had to meet immediately earlier than a notary, and the records were immediately accompanied by a deed made through a notary and legalized on paper) in making a correct and perfectly enforced deed through a notary. The means for people who want it in the proof function, go to an electronic notary offering or take advantage of our digital space/online world to use this ability, called a virtual world notary. In electronic transactions, it is possible to intervene from a notary as the role of a notary in conventional transactions. It is appropriate if a notary still uses the traditional method in service activities in electronic transactions. Because of the parties' speed, timeliness, and efficiency, the term Cyber Notary was later popularized in development. Notaries must be able to use the Cyber Notary concept to create fast, accurate and efficient services, to accelerate the pace of economic growth.¹⁷¹⁸.

¹⁶ Fran Casino, Thomas K. Dasaklis, and Constantinos Patsakis, "A Systematic Literature Review of Blockchain-Based Applications: Current Status, Classification and Open Issues," *Telematics and Informatics*, 36 (2019), 55-81 <<https://doi.org/10.1016/j.tele.2018.11.006>>.

¹⁷ Dina Chamidah and others, "Authority and Power of the Law Relating to Cyber Deed Notary in Indonesia Era Industrial Revolution 4.0," *In-*

The authority of a Notary in the Cyber Notary field is explicitly stated in the explanation of Article 15 paragraph (3) of the Notary Position Act (UUJN), which states that other jurisdictions in the legislation include the Cyber Notary authority, deed, pawn waqf, and pawned aircraft. . The presence of a notary authority in the cyber field can be seen as an answer to the demands of today's technology.

From a philosophical point of view, electronic transactions are no longer conventional ones that do not rule out cuts across the country and in the elucidation of Article 2 of the ITE Law, it is clear that coverage does not recognize territorial boundaries. However, on the other hand, having a notary area office as regulated in Article 18 of the UUJN states that a notary is domiciled in a district/city and has locations throughout the province of domicile.

Article 17, letter a of the UUJN stipulates that Notaries are prohibited from positions outside the role area, which aims to provide legal certainty to the public and avoid unfair competition among notaries. Notaries only have jurisdiction over the legal actions taken in their territory and the entire province of residence. It raises questions about the competence and authority to conduct cyber Notary Public on electronic transactions carried out outside the office.

Article 1 point 7 UUJN requires the deed to be made before a notary so that the cyber notary deed is very small, considering that a cyber notary notarizes the deed because of the presence of a notary and the parties

are not in the notary's office area. However, new regulations or reforms may emerge in line with the increasingly rapid development of the UUJN era. In Article 5 of Law no. 11 the Year 2008.

Section 4 concerning Electronic Transaction Information Letter states that the invalidity made in writing according to the Law, the letter must be in the form of a notarial deed or a Deed Making Officer¹⁹. If we examine the article above, especially article 5, paragraph (4), at this point, the concept of a cyber notary cannot be implemented. However, it does not mean it is impossible forever. Suppose the provisions of article 5, paragraphs (2) and (3) can be ascertained in the second paragraph as long as the opportunity cyber notary concept. In that case, only a uniform legal basis is necessary for the notary office regulations. Therefore, it is required to conduct an analysis and evaluation through a legal quality audit of the existing laws and regulations. Legal quality audits are carried out not only to improve existing legal materials but also to improve the legal system, including legal materials, legal institutions, law enforcement, legal services, and public legal awareness in developing the concept of cyber notary institutions.

The legal quality audit of the cyber notary institution is an evaluation that will become a recommendation on the status of the legislation being analyzed, whether it is changed, revoked or maintained. This legal evaluation mechanism is carried out based on technical guidelines for legal quality audits that can be used to detect regulations whether the legislation is overlapping, dis-

ternational Journal of Engineering and Advanced Technology, 9.1 (2019), 947-52 <<https://doi.org/10.35940/ijeat.A9438.109119>>.

¹⁸ Ika Yuli Agustin and Ghansham Anand, "Proposing Notaries' Deed Digitalization in Indonesia: A Legal Perspective," *Lentera Hukum* 8, no. 1 (2021), 49 <<https://doi.org/10.19184/ejllh.v8i1.21375>>.

¹⁹ Gana Prajogo, Lydi Ratu Setia Permata, and Muhammad Fernando, "Autentikasi Akta Partij dalam Digital Signature oleh Notaris," *Indonesian Notary* 3, no. 2 (2021), 10 <<http://notary.ui.ac.id/index.php/home/article/view/1515>>.

harmony, contradictory, multi-interpreted, ineffective, creates a high-cost burden, and is not in line with the values of Pancasila.

The notary's authority can be added to serve the public as conventional and serve the city in electronic services, especially electronically with the exact value. The concept of a cyber notary does not only bring about changes to the UUJN, especially Articles of the Civil Code 1867 to Article 1870 of the Civil Code, thus showing that Indonesia can still stand alone and work together to make changes to the legal order in Indonesia.

Legal norms regarding Cyber Notary equipment in Indonesia are contained in the Act, particularly a. Law No. 2 of 2014 concerning amendments to Law No. 30 of 2004 concerning the Position of a Notary. Law No. 11 of 2008 concerning Information and Electronic Transactions (UU ITE), Law No. 40 of 2007 concerning Limited Liability Companies²⁰. Indonesia, which has its policy, the authority in trading has a notary's career, such as electronic transaction identity (Cyber Notary). Even though when Australia no longer has / Strict rules clearly, it explains the authority of a Notary in making offers with Cyber Notary tools because the carrier mechanism is part of the form of digital transactions that have been regulated in the Electronic Transactions Act 1999/Electronic Transactions Act 1999/ETA (Australia). The similarities can be seen in its function. Each Cyber Notary System is a law in the form of civil servants quickly, concisely, and has criminal security for all parties. In Indonesia with Online Company Registration, through the Legal Entity Administration System or abbreviated as SABH and Australia with the e-

apostille device. By its objectives, particularly the application of Cyber Notary tools in the country, each of which can be directed to improve the economic system's ability and exchange abroad and within the country.²¹.

Notaries as public officials are mandated by Law Number 30 of 2004 and have been amended by Law Number 2 of 2014 concerning Notary Positions (referred to as the Law on Notary Positions) to show authentic evidence, and other authorities as determined in Article 15 of the Law concerning the Position of a Notary. Article 16 of the Law on Notary Positions explains the various obligations of a Notary. In letter m, it stipulates that the reading of the deed must be carried out by a Notary in front of an audience at least in front of an audience. of 2 (two) witnesses, in whose explanation the Notary is required to be physically present or face to face physically both with the appearers and witnesses to sign the authentic deed. Arrangements during a pandemic like this are a significant obstacle for the practice of notaries in Indonesia²².

Electronic information and communication technology in carrying out work by notaries or the concept of Cyber Notary itself was first heard and initiated by the Committee of American Bar and Association in 1993. This concept explains that notaries in America are authorized to authenticate various documents related to electronic busi-

²⁰ Shinta Pangesti, Grace I Darmawan, and Cynthia P. Limantara, "The Regulatory Concept of Cyber Notary in Indonesia," *Rechtsidee*, 7 (2021), 1-13 <<https://doi.org/10.21070/jihr.2020.7.701>>.

²¹ Tanty Maharani, Lalu Parman, and Lalu Muhammad Hayanul Haq, "Cyber Notary System in the Order of Norms in Indonesia and Australia (Comparative Study in Notary Service Improvement Strategies)," *International Journal of Scientific Research and Management* 7, no. 05 (2019) <<https://doi.org/10.18535/ijorm/v7i5.11a03>>.

²² Gana Prajogo and Abdul Salam, "OTENTISITAS AKTA NOTARIS YANG DITANDATANGANI MELALUI ONLINE DI MASA PANDEMI COVID 19," *PALAR (Pakuan Law Review)* 8 no. 1 (2022), 107-19 <<https://doi.org/https://doi.org/10.33751/palar.v8i1.4591>>.

ness transactions. However, after this initiation, it was not regulated in Indonesia until the issuance of Law Number 2 of 2014, which was an amendment to the previous Law on Notary Positions. In Article 15, which regulates the various powers, paragraph (3) states that a notary has other powers regulated in laws and regulations. Furthermore, the other authorities are explained in the elucidation of Article 15 paragraph (3) that what other authorities mean here is one of them authorizing transactions conducted electronically.

The explanation of Article 15 Paragraph (3) of the Law on Notary Positions opens up opportunities for Notaries to exercise their authority electronically or as Cyber Notar²³. However, in the field, not many notaries dare to apply Cyber Notary in practice due to the lack of clarity on further regulations regarding the technical implementation. Notaries do not have a legal basis or umbrella if the implementation of Cyber Notary causes problems. Notaries, as public officials, are born with the will by the rule of law to serve the community in terms of making written and authentic evidence about an event or specific legal act. Based on this thought, a notary must have a passion for serving the community because its existence has been the community's will from the start, with the issuance of Presidential Decree No. 11 of 2020 and Presidential Regulation No. 21 of 2020 concerning Large-Scale Social Restrictions, which oblige the public to limit activities carried out outside the home in the hope of slowing or even breaking the chain of spread. COVID-19, the practice of notaries, is also

expected to take steps to participate in increasing physical space through the implementation of the Cyber Notary system.

The term Cyber Notary was first found in the laws and regulations in Indonesia in the Elucidation of Article 15 paragraph (3) of the Law on Notary Positions which regulates the authority of other Notaries, which are regulated by laws and regulations. However, there are no further statutory regulations or implementing regulations for this Cyber Notary concept. The primary function of a Cyber Notary, based on the explanation of Article 15 paragraph (3) of the Notary Position Law, is to ratify and authenticate electronic transactions. The certification is an act as a Certification Authority owned by a notary as a third party so that the parties can receive digital certificates in the form of electronic documents (Matra, 2012). These electronic documents have the same position and are parallel to paper documents. Article 6 of the ITE Law states that as long as the information contained in an electronic document can be displayed and accessed, its integrity is guaranteed and can be accounted for, then the electronic document is valid. The electronic document generated from an electronic transaction is then ratified by a Notary so that it can become valid evidence. Article 1, number 18 of Government Regulation Number 82 of 2012 concerning the Implementation of Electronic Systems and Transactions defines a deed as an electronic certificate containing an Electronic Signature and identity issued by the electronic certification operator indicating the status of the legal subjects of the parties in the Electronic Transaction.

²³ Cyndiarnis Cahyaning Putri and Abdul Rachmad Budiono, "Konseptualisasi dan Peluang Cyber Notary dalam Hukum," *Jurnal Ilmiah Pendidikan Pancasila dan Kewarganegaraan* 4 no. 1 (2019), 29 <<https://doi.org/10.17977/um019v4i1p29-36>>.

Conclusion

Penetration of international economic law is more of an encouragement to the business world which will later hold an electronic GMS (e-GMS) to utilize digital technology as a means to improve the quality of legal services that are simple, fast and effective while maintaining legal protection for those who have an interest in the company. And the cyber notary concept can work with the international economic law, which is basically good international law wherever it is still based on national law in each country which later when there is a case that must involve both countries then International Law applies and knows how to position the two countries in the eyes of international law.

Bibliography

Journals

- Agustin, Ika Yuli, and Ghansham Anand. "Proposing Notaries' Deed Digitalization in Indonesia: A Legal Perspective." *Len-tera Hukum* 8, no. 1 (2021), 49 <<https://doi.org/10.19184/ejrh.v8i1.21375>>
- Akbar, Muhammad Fathahillah. "Prosecution of Money Laundering of Proceeds of Corruption by Anti-Corruption Commission." *Mimbar Hukum* 28, no. 2, Juni 2016.
- Benda-Beckman, Franz Von, *et al.* "Myths and Stereotypes about Adat Law: A Re-assessment of van Vollenhoven in the Light of Current Struggles over Adat Law in Indonesia." *Bijdragen Tot De Taal-, Land-En Volkenkunde* 167, no. 2-3, 2011.
- Benuf, Kornelius, Siti Mahmudah, and Ery Agus Priyono. "PERLINDUNGAN HUKUM TERHADAP KEAMANAN DATA KONSUMEN FINANCIAL TECHNOLOGY DI INDONESIA." *Refleksi Hukum: Jurnal Ilmu Hukum* 3 no. 2 (2019), 145-60 <<https://doi.org/10.24246/jrh.2019.v3.i2.p145-160>>
- Casino, Fran, Thomas K. Dasaklis, and Constantinos Patsakis. "A Systematic Literature Review of Blockchain-Based Applications: Current Status, Classification and Open Issues." *Telematics and Informatics*, 36 (2019), 55-81 <<https://doi.org/10.1016/j.tele.2018.11.006>>
- Chamidah, Dina, Atik Krustiyati, Ari Purwadi, Rizky Hadiwidjayanti, and Abdul Talib bin Bon. "Authority and Power of the Law Relating to Cyber Deed Notary in Indonesia Era Industrial Revolution 4.0'." *International Journal of Engineering and Advanced Technology* 9, no. 1 (2019), 947-52 <<https://doi.org/10.35940/ijeat.A9438.109119>>
- Cohn, Ernst J. "Precedents in Continental Law." *The Cambridge Law Journal* 5, no. 3, (1935).
- Cribb, Robert. "Legal Pluralism and Criminal Law in the Dutch Colonial Order." *Indonesia Trans-Regional Indonesia Over One*
- Dainow, Joseph. "The Civil Law and the Common Law: Some Points of Comparison." *The American Journal of Comparative Law* 15, no. 3 (1966-1967).
- Dewi Rosadi, Sinta, and Garry Gumelar Pratama. "URGENSI PERLINDUNGAN DATA PRIVASI DALAM ERA EKONOMI DIGITAL DI INDONESIA." *Veritas et Justitia* 4 no. 1 (2018), 88-110 <<https://doi.org/10.25123/vej.2916>>
- Fon, Vincy, *et al.* "Judicial Precedents in Civil Law Systems: A Dynamic Analysis." *International Review of Law and Economics* 26 (2006).
- Friedman, Lawrence M. "Legal Rules and the Process of Social Change." *Stanford Law Review* 19, no. 4, April 1967.
- Gani, Alcianno G. "Cybercrime (Kejahatan Berbasis Komputer)." *Jurnal Sistem Informatika* 5 no. 1 (2018), 16-29 <<http://journal.universitassuryadarma>

- ac.id/index.php/jsi/article/view/18z>
- Ginsburg, Tom, *et al.* "Why Do Countries Adopt Constitutional Review?." *Journal of Law, Economics and Organization* 30, no. 587 (2014).
- Glaeser, Edward L., *et al.* "Legal Origins." *The Quarterly Journal Of Economics* 117, no. 4 (2002).
- Hornblower, William B. A. "Century Of Judge Made Law." *Columbia Law Review*, 7, no. 7 (1907).
- Hudson, John. "Maitland And Anglo-Norman Law." In *Proceedings-British Academy* 89 (1996).
- Koopmans, T. "Comparative Law and Courts." *The International and Comparative Law Quarterly* 45, no. 3 (1996).
- Lev, Daniel S. "Judicial Authority and the Struggle for an Indonesian Rechtsstaat." *Law and Society Review* 13, no. 1 (1978).
- "Colonial Law and the Genesis of the Indonesian State." *Indonesia*, 40 (1985).
- "Judicial Unification in Post Colonial Indonesia." *Indonesia* 16 (1973).
- "The Supreme Court and Adat Inheritance Law in Indonesia." *The American Journal of Comparative Law* 11, no. 2 (1962).
- Lile, William Minor. "Judge Made Law." *Virginia Law Review*, Vol. 15, No. 6, April 1929.
- Maclean, Roberto G. "Judicial Discretion In The Civil Law." *Louisiana Law Review*, Vol. 43, No. 4, 1982.
- Maharani, Tanty, Lalu Parman, and Lalu Muhammad Hayanul Haq. "Cyber Notary System in the Order of Norms in Indonesia and Australia (Comparative Study in Notary Service Improvement Strategies)." *International Journal of Scientific Research and Management* 7, no. 05 (2019) <<https://doi.org/10.18535/ijprm/v7i5.11a03>>
- Matyushok, Vladimir, Vera Krasavina, Andrey Berezin, and Javier Sendra García. "The Global Economy in Technological Transformation Conditions: A Review of Modern Trends." *Economic Research-Ekonomiska Istraživanja* 34, no. 1 (2021), 1471-97 <<https://doi.org/10.1080/1331677X.2020.1844030>>
- Merrymen, John Henry. "On the Convergence (and Divergence) of the Civil Law And The Common Law." *17 Stan. J. Int'l L* 357 (1981).
- Metzger, Ernest, *et al.* "Case Law, and Principles of Procedure." *Law and History Review* 22, no. 1, (2008).
- Millar, Fergus. "The Greek East and Roman Law: The Dossier of M. Cn. Licinius Rufinus." *Journal of Roman Studies* 89 (1999).
- Orucu, Esin. "What is a Mixed Legal System: Exclusion or Expansion." *Electronic Journal of Comparative Law* (2008).
- Pangesti, Shinta, Grace I Darmawan, and Cynthia P. Limantara. "The Regulatory Concept of Cyber Notary in Indonesia." *Rechtsidee* 7 (2021), 1-13 <<https://doi.org/10.21070/jjhr.2020.7.701>>
- Pfander, James E., *et al.* "Article III and the Scottish Judiciary." *Harvard Law Review* 124, no. 7, (2011).
- Prajogo, Gana, and Abdul Salam. "OTENTISITAS AKTA NOTARIS YANG DITANDATANGANI MELALUI ONLINE DIMASA PANDEMI COVID 19." *PALAR (Pakuan Law Review)* 8, no. 1 (2022), 107-19 <<https://doi.org/https://doi.org/10.33751/palar.v8i1.4591>>
- Prajogo, Gana, Lydi Ratu Setia Permata, and Muhammad Fernando. "Autentikasi Akta Partij dalam Digital Signature Oleh Notaris." *Indonesian Notary* 3, no. 2 (2021), 10 <<http://notary.ui.ac.id/index.php/home/article/view/1515>>
- Putri, Cyndiarnis Cahyaning, and Abdul Rachmad Budiono. "Konseptualisasi Dan Peluang Cyber Notary Dalam Hukum." *Jurnal Ilmiah Pendidikan Pancasila dan Kewarganegaraan* 4, no.1 (2019),

- 29 <<https://doi.org/10.17977/um019v4i1p29-36>>
- Riccobono, Salvatore, *et al.* "Outlines of the Evolution of Roman Law." *University Of Pennsylvania Law Review and American Law Register* 74, no. 1 (1925).
- Sinaga, Niru Anita. "Kode Etik Sebagai Pedoman Pelaksanaan Profesi Hukum Yang Baik." *Ilmiah Hukum Dirgantara* 10, no. 2 (2020), 1-34 <<https://doi.org/https://doi.org/10.35968/jh.v10i2.460>>
- Siong, Han Bing. "The Japanese Occupation of Indonesia and the Administration Of Justice Today: Myths And Realities." *Bijdragen Tot De Taal, Land-En Volkenkunde*, 154, no. 3 (1998).
- Sjarif, Fitriani Ahlan, and Efraim Jordi Kastanya. "Surat Edaran sebagai Instrumen Administrasi Negara di Masa Pandemi Covid-19." *Jurnal Hukum & Pembangunan* 51, no. 3 (2021), 786-802 <<http://www.jhp.ui.ac.id/index.php/home/article/view/3135>>
- Thompson, George Jarvis. "Development of the Anglo-American Judicial System." *Cornell L. Rev* 17, no. 9 (1931).
- Tuckee Jr., Charius E. "Anglo-Saxon Law: Its Development and Impact on the English Legal System." *USAFA Journal of Legal Studies* 2 (1991).
- Waite, John Barker. "Civil Law Theory And Common Law Practice." *American Bar Association Journal* 15, no. 6 (1929).
- Watsons, Alan. "Comparative Law and Legal Change." *The Cambridge Law Journal*, 37, no. 2 (1978).
- Wibawa, Tubagus Satria, and Made Maharta Yasa. "Kebijakan Anti-Dumping World Trade Organization sebagai Bentuk Tindakan Proteksi: Studi Kasus Bea Masuk Anti-Dumping Uni Eropa Kepada Impor Biodisel Indonesia." *Kertha Negara: Journal Ilmu Hukum* 7, no. 6 (2019), 1-12 <<https://ojs.unud.ac.id/index.php/Kerthanegara/article/view/50389>>
- Wijaya, Daya Negri. "Justice for People: Thomas Stamford Raffles, Jury System, and Court of Circuit." *Tawarikh: International Journal for Historical Studies* 8, no. 1, (2016).
- Yu, Seon Bong. "The Role of the Judge in the Common Law and Civil Law Systems: the Cases of the United States and European Countries." *International Area Review* 2, no. 2 (1999).

Books

- Burns, Peter. *The Leiden Legacy: Concepts of Law in Indonesia*. Leiden: KITLV Press, 2004
- David, Rene. *Major Legal System in The World Today*. The Free Press Collier-Macmillan Limited, 1968.
- Devlyn, Sir Patrick. *Trial By Jury*. London: Stevens and Sons Limited, 1956.
- Glenn, H. Patrick. *Legal Traditions Of The World*. 4th Ed. New York: Oxford University Press, 2010.
- Halperin, Jean Louis. *Five Legal Revolutions Since The 17th Century: An Analysis Of A Global Legal History*. Swiss: Springer International Publishing, 2014.
- Hiariej, Eddy O.S. *Asas Legalitas dan Penemuan Hukum dalam Hukum Pidana*. Jakarta: Erlangga, 2009.
- Kagan, Robert. *Adversarial Legalism: The American Way of Life*. Massachusetts: Harvard University Press, 2001.
- Kamil, Ahmad, *et al.* *Kaidah-kaidah Hukum Yurisprudensi*. Jakarta: Kencana, 2004.
- McAlinn, Gerald Paul, *et al.* *An Introduction To American Law*. Carolina Academic Press, 2010.
- Merryman, John Henry. *The Civil Law Tradition: An Introduction to the Legal System of Western Europe and Latin America*. 2nd Ed. California: Stanford University Press, 1985

Mertokusumo, Sudikno. *Mengenal Hukum (Suatu Pengantar)*. Yogyakarta: Liberty, 1990.

Mertokusumo, Sudikno. *Penemuan Hukum: Sebuah Pengantar*. Yogyakarta: Liberty, 2004.

Mertokusumo, Sudikno. *Sejarah Peradilan dan Perundang-Undangannya di Indonesia Sejak 1943 dan Apakah Kemanfaatannya bagi Kita Bangsa Indonesia*. Yogyakarta: Universitas Atma Jaya, 2011.

Miles, Matthew B., and A. Michael Huberman. *Qualitative Data Analysis: An Expanded Sourcebook*. 2nd Edition. Thousand Oaks, CA: Sage Publications, 1994.

Pompe, Sebastian. *Runtuhnya Institusi Mahkamah Agung*. Jakarta: Lembaga Kajian dan Advokasi Untuk Independensi Peradilan, 2012.

Soepomo, *Sistem Hukum di Indonesia: Sebelum Perang Dunia II*. Jakarta: PT Pradnya Paramita, 2002.

Wheeler, Russell R., et al. *Creating Federal Judicial System*. 3rd Ed. Washington: Federal Judicial Center, 1989.

Research Report/Thesis

Oates, Jack Lawson. "The Influence of the French Revolution on Legal and Judicial Reform." *Theses*. Burnaby: Master of Arts Simon Fraser University, 1980.

Internet Sources

Law Berkeley. "The Common Law and Civil Law Traditions." <https://www.law.berkeley.edu/library/robbins/pdf/commonlawcivillawtraditions.pdf>. Accessed on 20th of February 2018.

Mill, John Stuart. "Auguste Comte And Positivism." 1865 <http://library.umac.mo/>

[Ebooks/ B21819853.Pdf](#). Accessed on 20th of February 2018.

McWhirter, Robert J. "Going Courting Where We Got Courts and the Rule Of Law." https://www.myazbar.org/azattorney/pdf_articles/1008courting1.pdf. Accessed on 20th of February 2018.

USA Usembassy. "Outline Of The U.S. Legal System." <https://usa.usembassy.de/etexts/gov/outlinelegalsystem.pdf>. Accessed on 20th of February 2018.

Laws

Law Number 19 of 1964 concerning Judicial Powers, (State Gazette of 1964 Number 107, Supplement to State Gazette of 1964 Number 2699).

Law Number 14 of 1970 concerning Basic Provisions of Judicial Power, (State Gazette of the Republic of Indonesia of 1970 Number 74, Supplement to the State Gazette of the Republic of Indonesia Number 2951).

Law Number 4 of 2004 concerning Judicial Powers (State Gazette of the Republic of Indonesia of 2004 Number 8, Supplement to the State Gazette of the Republic of Indonesia Number 4358).

Law Number 48 of 2009 concerning Judicial Power. (State Gazette of the Republic of Indonesia of 2009 Number 157, Supplement to the State Gazette of the Republic of Indonesia Number 5076).

Verdict

Constitutional Court Decision Number 77/PUUXII/2014 regarding Judicial Review of Law Number 8 Year 2010