

ORIGINAL ARTICLE



Reinterpreting the Principle of *Tabellionis Officium Fideliter Exercebo* in Notarial Practice in the Digital Era of Society 5.0

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Abstract

The rise of Society 5.0 has driven significant technological transformations across various sectors, necessitating the adaptation of traditional legal principles to contemporary digital practices. This study examines the reinterpretation of the principle *Tabellionis Officium Fideliter Exercebo* in Indonesia's notarial practice within the digital context of Society 5.0. Employing a normative juridical approach, the research explores how emerging digital technologies, including electronic signatures, teleconferencing, blockchain, and biometric authentication, can fulfill traditional legal requirements of authenticity, integrity, and physical presence in notarial acts. Although Indonesia's current legal framework poses challenges to fully digital implementations, the analysis suggests that adaptive regulatory reforms could enable a hybrid notarial model. Such a model integrates traditional safeguards with technological innovations, enhancing legal certainty, accessibility, and inclusivity. Ultimately, this research advocates regulatory updates that maintain core notarial values while meeting modern societal expectations for efficient, trustworthy, and accessible legal services.

1. Introduction

Society 5.0 refers to a human-centered society that integrates cyber and physical systems to address social problems through digital innovation. Unlike Industry 4.0, which focused on automation and efficiency, Society 5.0 emphasizes inclusivity, ethics, and human empowerment, requiring not just digitization but also equitable, accessible, and trustworthy public services, including in the legal domain. Advancements in digital technology have transformed daily life, including how transactions are conducted and legal services accessed. Digitalization now extends to the notarial profession through the concept of the digital notary an implementation of the cybernotary model that uses technologies like electronic signatures, digital verification, and teleconferencing to improve legal service efficiency and accessibility [1].

However, in Indonesia, this concept remains relatively new. Most notary offices still rely on conventional systems, where all activities are conducted manually and depend on face-to-face interactions. The limited adoption of technology in this sector is attributed to several factors, including inadequate infrastructure, lack of technical understanding, and the absence of a strong legal framework that explicitly governs the implementation of digital notarial practices.

The notarial profession in Indonesia operates within the Civil Law system and adheres to the principle of *Tabellionis Officium Fideliter Exercebo*, which mandates that notaries perform their duties with integrity and supposed to work traditionally. In practice, this principle requires the physical presence of the notary and all involved parties during the execution of notarial deeds, including the reading and signing of the documents. Notarial deeds that do not comply with these procedures may be classified as private deeds, thereby diminishing their evidentiary strength under the law. This study adopts a functionalist approach to legal reinterpretation, wherein core legal principles are assessed for their underlying values such as integrity, legal

certainty, and public trust and recontextualized to modern conditions without altering their essential function. This approach allows the *Tabellionis Officium Fideliter Exercebo* principle to be aligned with digital tools while retaining its role as a guarantor of legal authenticity and procedural fairness.

On the other hand, Law Number 2 of 2014, which amends Law Number 30 of 2004 concerning Notarial Law, has begun to open space for the integration of technology within notarial practice [2]. One indication of this can be found in the Elucidation of Law Number 2 of 14 Article 15 paragraph (3), which grants notaries the authority to certify electronic transactions [3]. Although this provision is limited in scope, it signifies an initial step toward the recognition of digital notarial practices in Indonesia.

This situation gives rise to a dilemma: on one hand, there is a pressing need to modernize the notarial system in line with technological advancements; on the other hand, notaries must continue to uphold the fundamental principle of the authenticity of notarial deeds, as mandated by existing legal doctrines and regulations [4,5]. The digitalization of deeds also presents both technical and legal challenges, such as the validity of electronic signatures, the legality of remote appearances, and the legal safeguards against forgery or coercion in a digital environment [6].

Therefore, it is crucial to examine the practice of digital notaries in the era of Society 5.0 through the lens of the *Tabellionis Officium Fideliter Exercebo* principle. Such an analysis is necessary to evaluate the extent to which digitalization can be implemented without violating the legal foundations that define the notary's role as a public official, as well as to explore how legislators can accommodate modern needs through adaptive regulations while preserving the core values of the notarial profession.

The practical implications of this reinterpretation particularly for notaries, clients, and regulators are analyzed in detail in the discussion, with a view to proposing balanced, adaptive solutions that consider each group's legal and operational concerns.

2. Methods

This study employs a normative juridical research method, which is commonly used to examine legal norms, principles, and regulations in response to evolving societal and technological conditions [7]. The research is grounded in two complementary approaches: the statutory approach and the conceptual approach [8]. The statutory approach focuses on analyzing existing legislation, such as the Indonesian Civil Code, the Notary Office Act (UUJN) and its amendments, as well as specific articles related to electronic transactions and digital identity. The conceptual approach is used to examine the core values embedded in the principle of *Tabellionis Officium Fideliter Exercebo*, particularly integrity, authenticity, and legal certainty, and to reinterpret these values within the context of digital notarial practice.

Legal materials for this research are categorized into three levels: primary, secondary, and tertiary sources. Primary sources include binding legal documents such as laws, regulations, and codes relevant to notarial duties and digital procedures. Secondary sources consist of academic journal articles, legal commentaries, and jurisprudence that provide interpretative perspectives and critique of current practices. Tertiary sources, such as legal dictionaries and encyclopedias, are used to support terminological clarity and conceptual framing. Materials were selected based on their relevance to the digital transformation of notarial services, their jurisdictional applicability to Indonesia, academic credibility, and publication recency [9].

The analysis employs a qualitative descriptive approach, applying legal hermeneutics to interpret textual norms and a functionalist framework to assess the adaptability of traditional principles to modern conditions [10,11]. This method enables a reinterpretation of legal terms such as "presence" and "signature" in light of digital technologies like teleconferencing,

electronic signatures, and biometric verification. The analysis proceeds through four stages: identifying and reviewing the legal norms and doctrinal foundations; deconstructing the conceptual elements of the notarial principle under study; assessing compatibility between traditional legal values and digital tools; and finally, formulating normative and regulatory recommendations for a hybrid notarial model that maintains legal certainty while embracing technological innovation.

In addition, this research incorporates a preliminary framework to assess the technological feasibility of implementing digital notaries. This includes evaluating the availability and reliability of digital infrastructure, the legal recognition of electronic identities and signatures, cybersecurity readiness, and the inclusivity of such systems across diverse populations. By integrating this interdisciplinary perspective, the study aims not only to contribute to legal theory but also to inform practical regulatory reforms that align with Indonesia's readiness for Society 5.0.

3. Results and Discussion

3.1 The Practice of Digital Notaries in the Society 5.0 Era from the Perspective of the Tabellionis Officium Fideliter Exercebo Principle

The rapid advancement of digital technology in the era of globalization has brought about significant changes across various aspects of life, including the field of law. Society 5.0, which represents a synthesis of technology and humanism, demands that public services become more intelligent, adaptive, and oriented toward human well-being. Within this context, the notarial profession is not immune to the pressures of modernization. The concept of the digital notary referring to the application of digital technology in the execution of notarial duties emerges as an innovative solution, yet simultaneously poses serious challenges, particularly when viewed through the lens of the *Tabellionis Officium Fideliter Exercebo* principle, which underpins notarial duties within the Civil Law system, such as in Indonesia.

Indonesia adheres to the Latin notary system derived from the Civil Law tradition, in contrast to the Anglo-Saxon system, which is more administrative in nature and does not grant authentic evidentiary value to documents [12]. Under the Latin system, notaries are public officials appointed by the state and endowed with the authority to draw up authentic deeds, provide legal advice, and ensure the truthfulness and formal legality of the documents they produce [13]. In this system, the *Tabellionis Officium Fideliter Exercebo* principle holds significant importance, as it requires notaries to perform their duties faithfully and honestly, to be physically present during the drafting of deeds, and to ensure that deeds are read and signed by the parties in their presence. This is affirmed in Article 1868 of the Indonesian Civil Code and Article 16 paragraph (1) letter m of the Law Number 2 of 2014.

Technological advancements in the Society 5.0 era have reshaped public expectations regarding legal services, including notarial functions. People now demand convenience, speed, and accessibility through digital means. However, the digitalization of notarial practice faces significant legal challenges, primarily due to the normative requirement that the procedures of *face-to-face appearance*, reading, and signing of deeds be conducted physically in the presence of a notary [14]. The absence of explicit legal provisions recognizing the validity of teleconferencing or electronic signatures in the context of authentic deeds creates a legal vacuum that hampers the full implementation of the digital notary concept [15].

On one hand, the *Tabellionis Officium Fideliter Exercebo* principle is designed to protect the public through deeds produced in a process that is accountable, transparent, and conducted directly. On the other hand, the digital notary concept offers opportunities for efficiency, inclusivity, and adaptation to technological developments. In this regard, the issue does not lie in a fundamental conflict between these two perspectives, but rather in the lack of a legal

mechanism that harmonizes traditional values with technological innovation. For instance, the use of electronic signatures based on Public Key Infrastructure (PKI) and biometric verification can ensure the identity and validity of the parties involved without requiring physical presence [16,17]. The procedure of *"face-to-face appearance"* could be reinterpreted as virtual presence, supervised in real time by the notary through encrypted teleconferencing, provided that identity assurance, voluntary consent, and the absence of coercion are guaranteed. While the physical presence of a notary has traditionally ensured the integrity and authenticity of legal acts, modern digital tools can replicate, and in some respects even enhance, these protections. Electronic signatures using PKI provide traceable, encrypted proof of intent and identity, often more secure than handwritten signatures prone to forgery. Video calls can facilitate real-time, supervised interaction between the notary and the parties involved, enabling visual confirmation of consent, awareness, and the absence of coercion. Moreover, the use of blockchain technology for deed storage can create immutable, time-stamped records that are highly resistant to tampering. Biometric identity verification, such as fingerprint or facial recognition, adds another layer of authentication that surpasses traditional ID checks. Together, these technologies can uphold the values of *Tabellionis Officium Fideliter Exercebo*, integrity, transparency, and legal certainty while adapting their expression to the digital context.

The transformation of the notarial profession in the Society 5.0 era must be carried out through regulatory reform that remains grounded in the substantive essence of the *Tabellionis Officium Fideliter Exercebo* principle, rather than its merely formal aspects. Therefore, several steps are necessary, including: (1) revising the Notarial Law and the Civil Code to redefine the terms "appearance" and "signing" within a digital context; (2) issuing technical regulations for the implementation of digital notarial practices equipped with high standards of digital security; (3) providing training and certification for digital notaries to ensure professionalism and understanding of technological risks; and (4) developing a hybrid service system that allows individuals from various backgrounds to choose between manual and digital services based on their needs and level of accessibility.

The reinterpretation of *Tabellionis Officium Fideliter Exercebo* through a functionalist lens emphasizes preserving the principle's core functions authenticity, integrity, and the trusted presence of the notary even as the medium shifts from analog to digital. By analyzing how these values can be upheld without being strictly tied to physical presence, we create a bridge to actionable regulatory reform. This theoretical foundation informs specific practical adaptations that ensure continuity of legal trust while embracing technological innovation.

For instance, the redefined notion of "presence" as a functional, rather than physical, requirement supports regulatory endorsements of secure video conferencing for remote notarization. Similarly, the principle's emphasis on fidelity (*fideliter*) to legal truth underpins mandates for multi-layered identity verification such as biometric authentication and cryptographic signatures to replicate the trust traditionally established through in-person evaluation. These conceptual reinterpretations directly inform the proposed regulatory measures outlined in the following section, demonstrating how abstract legal norms can shape concrete digital policy.

3.2 Legal Challenges Faced by Notaries in Performing Duties Digitally

Digital notaries represent an adaptation of notarial practices from conventional, in-person procedures to digital processes, in response to the continuous development of technology. In many other countries, the application of digital notaries has become well known and widely practiced. One of the most common implementations is the use of digital signatures. The United States, for instance, has massively adopted this technology, with digital notary practices increasing by as much as 547% in the year 2020 [18].

However, the implementation of the digital notary concept presents significant legal challenges, particularly in relation to the process of producing authentic deeds. This shift impacts various key requirements of the notarial process, including the signing of deeds, the obligation that the appearer must be identified or introduced to the notary, the notary's duty to read aloud the deed, the physical presence of appearers and witnesses, and the territorial jurisdiction of the notary. Another challenge lies in the adherence to the *Tabellionis Officium Fideliter Exercebo* principle, which mandates that notarial duties be performed in a traditional manner, as codified in the Indonesian Civil Code (KUH Perdata) and the Notary Office Act (UUJN) as amended [19].

The Civil Code stipulates that an authentic deed must be executed by a competent official in the place where the deed is made. According to the Notary Office Act (UUJN), failure to fulfill certain procedural requirements can result in a notarial deed losing its status as an authentic deed, thus rendering it a private deed. These procedural requirements include: (1) the obligation to read the deed before the appearers in the presence of at least two witnesses, and to ensure the deed is signed immediately by the appearers, the witnesses, and the notary, as stipulated in Article 16 paragraph (1) letter l of the UUJN an aspect that, enhances the authenticity of the deed; (2) an exception to this reading requirement if the appearers declare that they have read and understood the contents of the deed, provided that such declaration is included in the deed's closing clause (Article 16 paragraph (7)); (3) qualifications of the appearers, such as a minimum age requirement as regulated in Article 39 of the UUJN; (4) provisions regarding witnesses as stated in Article 40; and (5) the physical presence of all parties involved, as emphasized in the Elucidation of Article 16 paragraph (1) letter f of the UUJN [20].

The primary issue arising from this situation is that the evidentiary strength of a private deed is significantly weaker than that of an authentic deed. Consequently, if an authentic deed is downgraded to a private deed, it may result in legal disadvantages for the involved parties. The opportunity to conduct the process of creating an authentic deed entirely online without direct, in-person meetings between the parties could theoretically be realized by amending existing legal provisions that currently require the physical presence of the parties. Such changes must be supported by advanced technology, such as teleconferencing systems that allow the notary to read the deed aloud via digital media, with the appearers able to hear and witness it. However, in practice, this remains difficult to implement.

One of the core challenges lies in verifying the identity and voluntariness of the parties participating via teleconference. It is possible that individuals may be acting under duress something that is not easily detectable through digital media. Furthermore, the validity of teleconference recordings may also be subject to scrutiny in future legal disputes, as there is always a risk of manipulation or tampering, given the sophistication of current technology. In such scenarios, the evidentiary weight of teleconferenced deeds would be equivalent to that of a private deed, not an authentic one. This situation could lead individuals to prefer the creation of private deeds, which are simpler and more cost-effective.

In addition, the online execution of notarial deeds may only be accessible to certain segments of society namely, those who are technologically literate and/or financially capable. For individuals with limited access to technology or from underprivileged backgrounds, engaging in digital notarial processes may prove to be difficult or even impossible. As a result, these communities will likely continue to rely on traditional manual deed-making procedures. Taking this into account, the notary's extralegal role and legal outreach duties as theorized by A.W. Voor and mandated under Article 15 paragraph (2) letter e of the amended Notary Office Act (UUJN) will not be optimally fulfilled.

In addition to their role in the preparation of authentic deeds, notaries in Indonesia are also authorized to legalize signatures and certify the certainty of dates on private documents by recording them in a special register. This provision constitutes a form of legalization for private

deeds created by individuals or parties independently, written on paper with sufficient stamp duty, and recorded in a special register maintained by the notary. The practice of legalizing documents electronically is heavily dependent on the legal acceptance of electronic signatures. However, as of now, there is no specific regulation governing electronic signatures within the context of notarial deeds.

The implementation of electronic signatures is indeed feasible in Indonesia. Nevertheless, it must be distinguished from the authentication of deeds, as the legalization process does not convert a private deed into an authentic one. Rather, legalization serves only to verify the identity of the party who has signed the document [21].

The problem lies in the current legal framework. Article 15 paragraph (2) letter a of the amended Notary Office Act (UUJN) stipulates that, in addition to legalizing signatures, notaries are also authorized to determine the certainty of the date of private documents. In practice, this is done by directly asking the parties involved about the accuracy of the date stated on the document to be legalized. Therefore, if a new regulation is introduced allowing for electronic signing of deeds, the existing provision must either be amended, repealed, or clarified to align with the new framework.

Furthermore, under Article 15 paragraph (2) letter e of the amended UUJN, notaries are also granted the authority to conduct legal education and outreach. This represents an extra-legal function of the notarial profession. According to A.W. Voor, the notary's extra-legal duties involve providing services to vulnerable individuals and those who lack legal knowledge. This extra-legal role enables notaries to go beyond their statutory mandates and contribute to the dissemination of legal awareness and education.

In delivering legal education or outreach, notaries are generally more effective when meeting directly with individuals in need of legal advice. This is particularly relevant in Indonesia, where a significant portion of the population may lack sufficient technological literacy. Therefore, in-person meetings can offer greater practical benefits. This consideration should be taken into account by legislators in formulating and implementing the concept of digital notaries in Indonesia.

With the introduction of the digital notary concept, the theory of responsive law becomes applicable. The digital notary model is a response to evolving human behavior, which has been significantly influenced by technological advancement. However, as of now, there is no specific or comprehensive regulatory infrastructure that clearly governs the concept of digital notaries.

According to the author, when viewed through the lens of the *Tabellionis Officium Fideliter Exercebo* principle, this principle serves as a safeguard against excessive or unchecked changes brought about by the emergence of digital notarial practices. It functions as a regulatory boundary to ensure that the public especially clients of notaries continue to receive legal protection, justice, and certainty. This regulatory restraint is necessary given the current lack of explicit and specific statutory provisions addressing digital notarial practices.

The implementation of the digital notary concept in the Notary Office Act (UUJN), its amendments, and the Notarial Code of Ethics will undoubtedly have implications for the professionalism of notaries. Therefore, the application of this concept must be aligned with the capacities and readiness of notaries in Indonesia. From the outset of the legal reform process, it is crucial to consider the principle of *law as a tool of social engineering*. This principle is especially relevant for Indonesia in anticipating potential social challenges that may arise from the public's unpreparedness to adapt to rapid technological change.

In the process of regulatory formation, input from various segments of society particularly those directly affected by the implementation of the digital notary concept must be considered. This

includes academics, notaries themselves, business communities, and the general public as users of notarial services. As such, the resulting legislation should genuinely reflect societal needs, ensure that no parties are disadvantaged, and be widely accepted across all levels of society. Furthermore, involving academics and information technology experts in the legislative reform process can help mitigate or even prevent potential negative impacts of technology within the notarial domain.

An effective legal reform can be observed through a law-making process that responds to existing issues and evolving social changes. This notion of effective legal transformation aligns with the model of responsive law proposed by Philippe Nonet and Philip Selznick. Therefore, in formulating the digital notary concept within the Notary Office Act (UUJN), its amendments, and the Notarial Code of Ethics, it is essential to ensure that its implementation promotes substantive justice, serves the broader public interest, emphasizes duty over coercion, and creates space for meaningful public participation.

To address the challenges in implementing the concept of a digital notary, regulatory reform is required to harmonize the provisions of the Notary Law (UUJN), the Civil Code (KUH Perdata), and the Notarial Code of Ethics in order to accommodate the utilization of digital technologies. This includes the formal recognition of teleconferencing as a valid form of presence, the application of digital signatures based on Public Key Infrastructure (PKI), and the use of blockchain technology to ensure the authenticity and integrity of notarial deeds.

Moreover, it is essential to establish stringent standards for electronic identity verification through biometric authentication, to ensure the authenticity of transacting parties and to prevent undetected coercion in digital environments. In the regulatory drafting process, the principle of responsive law must be adopted by involving academics, notaries, technology experts, the business sector, and the broader public as users of notarial services.

The development of digital notary services must also consider inclusivity, ensuring that benefits are not limited to the technologically literate and economically privileged. Accordingly, hybrid service options (both online and offline) should be made available, alongside more extensive legal literacy programs targeting the general public, particularly through in-person outreach in areas with limited digital access [22].

Notaries must be equipped with technological training and specific certifications to ensure professionalism in delivering digital services, while upholding the core values embodied in the principle *Tabellionis Officium Fideliter Exercebo*. In this way, the emergence of digital notaries not only responds to technological advancements but also safeguards legal protection, certainty, and justice for all segments of society.

To address the challenges of implementing digital notary services, regulatory reforms must revise the Notary Office Act (UUJN), the Civil Code (KUH Perdata), and the Notarial Code of Ethics to accommodate digital technologies while preserving legal integrity. Key measures include formally recognizing teleconferencing as a valid form of appearance, adopting digital signatures secured by Public Key Infrastructure (PKI), and using blockchain to maintain the authenticity of notarial deeds. Equally critical is the establishment of robust identity verification protocols such as biometric authentication, multi-factor authentication (MFA), and real-time video supervision to prevent fraud and coercion. These tools, when combined with AI-driven behavioral analysis, can detect anomalies and verify voluntary participation, thereby reinforcing the notary's role as a guardian of legal certainty and public trust in a secure digital environment. In the formation of new regulations, the principle of responsive law must be adopted by involving academics, notaries, technology experts, business actors, and the general public as users of notarial services.

The digital notary model must prioritize inclusivity, in line with the ethical and human-centered goals of Society 5.0. It is essential to ensure that its benefits extend beyond the technologically literate or economically privileged. To bridge this digital divide, a hybrid service model that combines both digital and traditional (face-to-face) notarial services should be implemented nationwide. In practice, this could involve maintaining conventional notary offices in rural or underserved regions while gradually introducing mobile notarial units equipped with offline-capable digital tools that synchronize with national systems when internet connectivity is available. For example, notaries could conduct field visits using secure biometric verification devices and portable digital platforms to prepare documents, which are then uploaded from designated access points. This approach aligns with the notary's extralegal role in legal outreach, as mandated under Article 15 paragraph (2) letter e of the UUJN.

Additionally, expanded legal education and outreach programs must be prioritized, especially through direct engagement in areas with low digital access. These efforts are crucial to building public trust and awareness of digital notarization while reinforcing the core values of legal protection and certainty. Notaries, in turn, must receive structured and certified training in managing both systems covering digital competencies such as the use of e-signatures, blockchain authentication, and remote verification technologies, alongside soft skills including community-based legal counseling and digital literacy instruction. By equipping notaries with the capabilities to navigate both digital and manual frameworks, the hybrid model can operationalize the *Tabellionis Officium Fideliter Exercebo* principle in a manner that reflects technological advancement, safeguards authenticity and integrity, and delivers justice to all segments of Indonesian society.

4. Conclusions

The study demonstrates that the principle of *Tabellionis Officium Fideliter Exercebo* can be effectively reinterpreted within the digital context of Society 5.0, preserving its foundational values of authenticity, integrity, and trust. Digital technologies, including electronic signatures, secure teleconferencing, blockchain-based verification, and biometric authentication, can successfully replicate traditional notarial safeguards, enabling notaries to ensure legal certainty without requiring physical presence. This research underscores the necessity for adaptive regulatory reforms in Indonesia, advocating for a hybrid notarial model that integrates conventional and digital practices. Such an approach will not only enhance public accessibility and inclusivity but also reinforce legal trust and justice, aligning traditional notarial roles with contemporary technological advancements.

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