

ARTIFICIAL INTELLIGENCE IN NOTARIAL PRACTICE: LEGAL RISKS AND ETHICAL CONSIDERATIONS

Kecerdasan Buatan dalam Praktik Kenotariatan: Risiko Hukum dan Pertimbangan Etis

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Abstract

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The accelerating integration of Artificial Intelligence (AI) into legal services has raised pressing questions about the duties, authority, and ethical boundaries of the notarial profession. This study analyses the legal risks and ethical considerations associated with the use of AI in notarial practice, focusing on the Indonesian normative framework. Using a normative juridical method with statutory, conceptual, and doctrinal approaches, this research examines the Notary Office Act (UUJN), the Electronic Information and Transactions Act (UU ITE), the Personal Data Protection Act (UU PDP), and related regulations alongside scholarly literature on AI and law. The findings show that AI cannot be classified as a legal subject because it lacks the capacity to bear rights and obligations; instead, it functions as a legal object or technological tool whose operation remains under human control. While AI may improve efficiency in document drafting, identity verification, and archival management, its uncritical adoption threatens the principles of physical presence, personal authority, evidentiary value of authentic deeds, and notarial accountability. The study concludes that comprehensive regulatory reform and an updated code of ethics are required so that AI strengthens rather than displaces the notarial profession in the digital era.

INTRODUCTION

The era of globalisation and digital transformation has profoundly reshaped the way human activities are organised, documented, and authenticated. Every facet of contemporary life is now intertwined with digital infrastructure, signalling a transition from Industry 4.0 to Society 5.0 in which Artificial Intelligence (AI) plays an increasingly central role. AI is one of the most innovative manifestations of technological progress and is gradually permeating various sectors of public administration, including the notarial profession. As an instrument capable of identifying patterns, drafting documents, and supporting decision-making, AI has emerged as both a promising tool and a serious challenge for traditional legal professions in Indonesia.

Within the legal field, AI has been deployed for legal analytics, automated contract drafting, intelligent document review, and electronic transaction support. The notarial profession in Indonesia is governed strictly through Law Number 2 of 2014 concerning the Amendment to Law Number 30 of 2004 on the Office of Notary (UUJN). Under that legal framework, notaries hold significant authority in providing legal certainty through the creation of authentic deeds, document storage, and the provision of related legal services. However, neither the UUJN nor its implementing regulations explicitly govern the use of AI-based technology in notarial practice, generating doctrinal uncertainty about the permissible scope of AI deployment within the discharge of notarial duties.

AI use in legal services may accelerate administrative processes, reduce human error, enhance the efficiency of service delivery, and broaden public access to notarial assistance. At the same time, such deployment raises concerns regarding the validity of legal products generated by AI, the allocation of legal liability when AI systems malfunction, the protection of personal data processed by automated systems, and potential infringement of the notary's authority as a public official. Notaries occupy a unique position in Indonesian positive law: they are public officials bearing both moral and legal responsibility for the legal instruments they produce. Consequently, the integration of AI must be examined cautiously to prevent the erosion of the *personalia* principle, under which the presence, accountability, and personal authority of a notary cannot be wholly substituted by automated systems.

The current normative landscape exhibits a regulatory vacuum (vacuum of norm) regarding AI in notarial practice. Without an adaptive legal umbrella, AI risks being adopted without adequate supervision, creating threats to the legality of AI-assisted notarial documents and provoking doubts about their evidentiary force. Meanwhile, smart contracts, blockchain-based authentication, and digital signature technology continue to evolve rapidly, prompting questions about disintermediation and the continued relevance of human notarial intervention. Comparative experiences from the European Union, particularly the proposed Artificial Intelligence Act, demonstrate that responsive legislation is necessary to manage AI risks in critical sectors, including legal services.

Against this background, this article provides a comprehensive legal analysis of the deployment of AI in notarial practice in Indonesia. It seeks to answer two central questions: first, what is the legal status of AI in relation to the duties and authority of the notary under prevailing Indonesian law; and second, what legal risks and ethical considerations arise from the integration of AI in notarial practice, and how should regulators respond. The discussion is intended to contribute to the reform of notarial law in the digital era and to inform the development of a code of ethics that accommodates technological transformation while safeguarding the integrity, accountability, and trustworthiness of the notarial profession.

METHOD

This research employs a normative juridical method, an approach that seeks truth through coherence by examining the conformity of legal norms with prevailing legal principles and assessing whether existing rules in the form of commands or prohibitions accord with relevant doctrines. The normative method is appropriate because the central question of this study is whether the deployment of AI in notarial practice is consistent with the legal norms governing the profession, with the principles of authentic deed-making, and with the broader Indonesian legal system that recognises only natural persons and legal entities as legal subjects.

Three interrelated approaches are used. The statute approach (statutory approach) examines primary legal materials, including Law Number 2 of 2014 on the Office of Notary (UUJN), Law Number 11 of 2008 in conjunction with Law Number 19 of 2016 on Electronic Information and Transactions (UU ITE), Law Number 27 of 2022 on Personal Data Protection (UU PDP), Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions, and the Indonesian Civil Code (KUHPperdata), particularly Article 1868 on authentic deeds. The conceptual approach (conceptual approach) draws upon doctrines and theories of legal subjectivity, the principle of *personalia*, the principle of physical presence (*kehadiran fisik*), and the cyber notary concept. The doctrinal approach scrutinises scholarly works, including journal articles, monographs, and academic theses concerning AI and notarial practice, both within Indonesia and in comparative jurisdictions such as the European Union.

Data were collected through a comprehensive literature review of statutes, government regulations, professional codes of ethics, doctrinal commentary, and academic publications addressing the relationship between AI and the notarial profession. The analysis is qualitative, undertaken through systematic interpretation, comparison, and critical evaluation of normative materials in order to identify gaps, inconsistencies, and reform priorities. By integrating these approaches, this study assesses whether the existing regulatory framework remains responsive to the disruptions posed by AI, and proposes recommendations for legal reform and ethical refinement that maintain notarial accountability.

RESULTS AND DISCUSSION

Results

The findings of this research are presented in three principal clusters. First, AI cannot be classified as a legal subject under Indonesian positive law because it lacks the capacity to bear rights and obligations comparable to those of natural persons or juridical entities. Second, even though AI is recognised as an electronic system or electronic agent under the UU ITE, its operation remains attributable to a human controller who functions as the legitimate legal subject. Third, the duties of a notary, by virtue of the UUJN, are personal in nature; they cannot be wholly delegated to AI, although AI may operate as an administrative or technological auxiliary instrument under strict human supervision. The results also reveal a number of legal risks summarised in Table 1 below.

Table 1. Legal Risks and Ethical Considerations of AI in Notarial Practice

No	Aspect	Description
1	Legal Subjectivity	AI is treated as a legal object/electronic agent, not a legal subject; liability rests on the human operator.
2	Physical Presence	Article 16(1)(m) and Article 38 UUJN require physical presence; fully automated AI deed-making contradicts the personalia principle.
3	Evidentiary Value	AI-generated deeds without genuine notarial intervention risk being downgraded from authentic to private deeds.
4	Liability	Notaries remain civilly and criminally liable for errors generated by AI tools used in their offices.
5	Personal Data	AI processes large volumes of personal data, triggering UU PDP obligations and cybersecurity duties.
6	Disintermediation	Smart contracts and blockchain authentication may bypass notarial roles, threatening exclusive authority.
7	Professional Ethics	Algorithmic dependence may compromise the notary's prudence, conscience, and impartiality requirements.

These findings indicate that the legal architecture surrounding the notarial profession remains anchored in the analogue paradigm of physical presence, manual document creation, and direct interaction between the notary and the parties. AI deployment, while economically attractive, can shift the locus of trust from the notary as a public official to algorithmic processes whose internal logic is not always transparent. The following discussion elaborates these risks in light of statutory provisions and prevailing legal doctrines.

Discussion

The first axis of analysis concerns the legal status of AI in Indonesian law. According to L.J. van Apeldoorn, the capacity to perform legal acts requires that the actor be a legal subject possessing both rights and the legal competence to exercise them (Apeldoorn, 2007). Indonesian criminal law similarly demands that the perpetrator be a legal subject with capacity, that there exist an actus reus and mens rea, that liability can be attributed, and that no excusing circumstance applies (Prodjodikoro, 2011). Subjects of Indonesian criminal law are natural persons whose category has been extended to include legal entities. AI, however, lacks consciousness, autonomous will, and the capacity to bear rights and obligations. Although the rapid evolution of AI has prompted comparative debates, including the European Union's proposed Artificial Intelligence Act, Indonesia has yet to enact a statute specifically classifying AI as a subject of law (Kurniawijaya, Yudityastri & Zuama, 2021; European Commission, 2021).

Within the framework of the UU ITE, AI may be characterised as either an electronic system (Article 1(5)) or an electronic agent (Article 1(8)). Government Regulation Number 71 of 2019 reinforces that responsibility for the operation of an electronic system rests on its operator, who is the legal subject (Suadi, Yuliantini & Ardhya, 2021). Accordingly, AI is properly classified as a legal object or technological instrument whose operation remains under human control. As Haris and Tantimin (2022) argue, since AI cannot be subject to criminal liability, responsibility necessarily reverts to the human controller. AI in the notarial context, therefore, must be understood as an instrumentum, not as a juridical agent capable of replacing the personal authority of the notary.

The second axis examines the principle of personal authority and physical presence. Article 15 and Article 16 of the UUJN affirm that notaries are public officials authorised to draft authentic deeds and bear full responsibility for their content and validity (Gunarto, 2019). Article 16(1)(m) and Article 38 of the UUJN further mandate that authentic deeds be produced in the physical presence of the parties before the notary, ensuring the verification of identity, intent, and consent. As Syafril, Adjie and Wijaya (2024) emphasise, the notary's signature and seal carry full evidentiary weight precisely because they signify direct personal involvement, prudence, and moral accountability. Should AI generate deeds remotely and automatically without genuine notarial intervention, the personalia principle would be eroded and the resulting deeds risk being deemed legally defective or non-authentic.

The third axis addresses the evidentiary value of authentic deeds. Article 1868 of the KUHPdata stipulates that an authentic deed possesses perfect evidentiary value, contingent upon its production by a competent public official within the limits of his or her authority. Where AI substantially drafts the deed and the notary merely "validates" the output, fundamental questions arise as to whether the notary genuinely witnessed and comprehended the legal act of the parties (Kusnandar, 2023). The Decree of the Director-General of the Public Court Number 271/DJU/SK/PS01/4/2018, which provides that digital copies of court decisions are inadmissible as legal evidence, illustrates the cautious approach of Indonesian courts toward electronically generated documents (Wijaya, 2023). Without legislative intervention, AI-assisted deeds risk being reclassified as private deeds, weakening their evidentiary force and undermining legal certainty.

The fourth axis concerns liability. Notaries are civilly and criminally accountable for the deeds they execute. AI errors, including biases in data processing, hallucinations in document drafting, or omissions in identity verification, may lead to civil suits or criminal prosecution against the notary, even in the absence of intentional wrongdoing (Putra, Kusuma & Muslimin, 2024). Consequently, notaries who adopt AI tools must implement robust due-diligence mechanisms, including human-in-the-loop supervision, audit trails, and validation procedures consistent with the prudent notary principle (prudent notarius). The principle of know-your-customer (KYC) and the requirement of verifying the validity of identity documents demand a degree of human discernment that pure algorithmic processing cannot replicate (Fahri, 2019).

The fifth axis explores personal data protection and cybersecurity. AI-driven notarial systems necessarily process large volumes of personal data, including identity documents, family records, and financial information. The UU PDP imposes strict obligations on data controllers and processors, including lawful basis requirements, data minimisation, and security safeguards. Violations may expose the notary's office to administrative sanctions, civil claims, and reputational damage. Tjong (2020) underscores the necessity of robust cybersecurity protocols in notarial offices that store electronic data, particularly when the data are processed by third-party AI providers whose servers may be located outside Indonesian jurisdiction.

The sixth axis is the threat of disintermediation. Smart contracts, blockchain-based authentication, and digital signature technology can facilitate the conclusion of legal transactions without notarial mediation (Brkan, 2019). In real estate, blockchain registries combined with cryptographic verification may, in some jurisdictions, partially substitute for the authentication function traditionally performed by notaries. While Indonesia has not yet adopted such technologies in mainstream property transactions, the trend signals a structural reconfiguration of the notarial market. As Putra and Rahmadani (2021) caution, notaries must engage proactively with technological change rather than resist it, lest they be relegated to peripheral roles in the legal infrastructure of the future.

The seventh axis concerns the cyber notary concept. Edmon Makarim, Habib Adjie, and other scholars have advocated for the recognition of cyber notarial practices, including the storage of notarial protocols in electronic form and the conduct of certain authentication acts via verified video conference (Makarim, 2013; Adjie, 2008). According to Rab Van Esch, the evidentiary materials used in deed-making must satisfy criteria of durability, resistance to forgery (addressed through cryptography), originality, and accessibility for third parties (Kurniawijaya et al., 2021). Adapting these criteria to electronic deeds would require comprehensive legislation, including amendments to the UUJN, technical regulations for electronic protocols, and the development of secure infrastructure for the storage of digital deeds (Menawati & Muadah, 2024).

The eighth axis is professional ethics. The Code of Ethics of the Indonesian Notary Association (INI) requires notaries to safeguard the dignity, integrity, and impartiality of the profession (Yusticia et al., 2020). Heavy reliance on AI may erode the notary's ethical commitments by externalising judgment to opaque algorithms, blurring lines of accountability, and reducing personal engagement with clients (Murdayantin, Agustini & Pebrianti, 2023). As Agustini (2022) observes, justice is not merely an algorithmic output but a normative ideal that requires conscience, wisdom, and contextual sensitivity. Hence, AI must function as an auxiliary, never as a substitute for the notary's ethical and intellectual responsibility.

Finally, the ninth axis is the imperative of regulatory reform. The current UUJN was drafted in 2014 and does not address AI, smart contracts, or digital authentication in any meaningful manner. Reform should encompass the express recognition of AI as a permissible auxiliary tool subject to strict safeguards; the codification of cyber notarial procedures, including verified video conferencing for the formation of deeds; the harmonisation of UUJN provisions with the UU ITE and UU PDP; the development of a specific code of ethics governing AI use; and the establishment of supervisory mechanisms by the Notary Supervisory Council (Majelis Pengawas) over AI deployment (Syahrul, 2022). Without such reform, the notarial profession risks normative obsolescence, jurisdictional conflict with other digital authenticators, and erosion of public trust.

CONCLUSION

Artificial Intelligence has entered the notarial profession as both an opportunity and a challenge. Within Indonesian positive law, AI cannot be classified as a legal subject because it lacks the capacity to bear rights and obligations. It functions as a legal object or technological instrument, while liability for AI-driven actions remains attached to the human operator or notary. Under the UUJN, the duties of the notary are personal in nature and cannot be delegated to non-human entities; the creation of authentic deeds requires the notary's active participation in scrutiny, clarification, reading, and signing in the physical presence of the parties.

The integration of AI in notarial practice is therefore subject to strict legal and ethical limits. AI may serve as an administrative auxiliary—accelerating document drafting, identity verification, and archival management—but it cannot supplant the substantive functions of the notary as a public official. Without an adequate regulatory framework, AI deployment poses significant risks: erosion of the personalia principle, weakening of the evidentiary value of authentic deeds, exposure of notaries to civil and criminal liability for AI errors, breaches of personal data protection obligations, and the structural threat of disintermediation. Regulatory reform, including a comprehensive amendment to the UUJN, the development of a specific code of ethics for AI use, harmonisation with the UU ITE and UU PDP, and the establishment of supervisory mechanisms, is therefore an urgent priority. Only by adopting an adaptive and responsive legal framework can Indonesia ensure that AI strengthens, rather than displaces, the notarial profession in the digital era. Future research should examine comparative regulatory models—particularly the European Union's Artificial Intelligence Act—and develop concrete legal-technical standards for cyber notarial practice in Indonesia.

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