

# Harmonization of Notary Office Law With ITE Law Related to Electronic Notary Protocol

Syarifa Yasmin Datau<sup>1</sup>, Ranti Fauza Mayana<sup>2</sup>, Muhamad Amirulloh<sup>3</sup>  
<sup>1,2,3</sup>Master of Notary, Faculty of Law, Universitas Padjadjaran, Bandung

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## ABSTRACT

This article examines the implementation of the principle of legal certainty in the regulation of electronic notary protocols through harmonization of the UUJN with the ITE Law in the framework of digital transformation and what legal theory is most appropriate to use to renew the UUJN regarding the electronic notary protocol. The research method used is normative juridical using a statutory approach with descriptive analytical research specifications and qualitative juridical data analysis methods. Based on the results of the research, the implementation of the principle of legal certainty in the regulation of electronic Notary protocols through harmonization of the UUJN with the ITE Law has not been implemented properly, this can be initiated by specifically and formally accommodating the electronic Notary protocol in the UUJN when the electronic Notary protocol has been regulated in the UUJN then harmony with the ITE Law will be realized so that the principle of legal certainty can be realized. The most appropriate legal theory to use in the context of updating UUJN related to electronic notary protocols to provide more benefits to society 5.0 in the digital transformation era is Constitutional Theory, Developmental Law Theory, and Lex Informatica.

## ABSTRAK

Artikel ini mengkaji tentang implementasi asas kepastian hukum dalam pengaturan tentang protokol notaris elektronik melalui harmonisasi UUJN dengan UU ITE dalam rangka transformasi digital serta teori hukum apa yang paling tepat digunakan dalam rangka melakukan pembaruan UUJN terkait protokol notaris elektronik. Metode penelitian yang digunakan adalah yuridis normatif dengan menggunakan pendekatan perundang-undangan dengan spesifikasi penelitian deskriptif analitis dan metode analisis data yuridis kualitatif. Berdasarkan hasil penelitian, implementasi asas kepastian hukum dalam pengaturan tentang protokol Notaris elektronik melalui harmonisasi UUJN dengan UU ITE belum terimplementasi dengan tepat, hal ini dapat diawali dengan mengakomodir secara khusus dan formal mengenai protokol Notaris elektronik dalam UUJN, ketika protokol Notaris elektronik telah diatur dalam UUJN maka akan terwujudnya keharmonisasian dengan UU ITE, sehingga dapat terwujudnya asas kepastian hukum. Teori hukum yang paling tepat digunakan dalam rangka melakukan pembaruan UUJN terkait protokol notaris elektronik agar lebih memberikan kemanfaatan bagi masyarakat 5.0 di era transformasi digital adalah Teori Konstitusi, Teori Hukum Pembangunan dan *Lex Informatica*.

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### Corresponding Author:

Syarifa Yasmin Datau,  
Master of Notary, Faculty of Law  
Universitas Padjadjaran,  
Hayam Wuruk St Number 2, Bandung, West Java, 40115  
Email: syarifa21001@mail.unpad.ac.id

## I. INTRODUCTION

The growth of information and communication technology (hereinafter referred to as ICT) is increasingly showing its presence in the digital era, this ICT changes the perspective and even the way of life of the people where space and time boundaries are no longer obstacles and constraints, or can also be called borderless. The rapid development of ICT has influenced and changed various and hindered some patterns in people's lives, one of which is the formation of information society and society 5.0. In this digital age, the existence of ICT certainly plays a very special and essential role in people's lives because the fulfillment of various needs is carried out based on information and communication technology which can be accessed by the internet, computer, or through other electronic media, in an electronic transaction (Amirulloh, 2016)

The phenomenal existence of technology further ratifies the notion that information and communication technology has become the cultural mainstream of today's world society. Technological sophistication affects almost all aspects of people's lives; all data and information can be obtained easily, anywhere, anytime, and anyone can access information easily (Mayana & Santika, 2021) The presence of technology itself has had a significant impact on the current development of science and technology. Technology can make the level of quality of human life better. With advances in information technology, recently activities that were originally carried out using conventional methods have shifted to more modern methods or information technology-based and/or electronic (paperless), in this case including the storage of notary protocols which were originally carried out using conventional methods or traditional methods should also be able to switch to using modern methods that can be done electronically (paperless).

Under Article 1 Paragraph (1) of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary Public, a Notary is a public official authorized to make authentic deeds and has other authorities as referred to in this Law or based on other laws. Based on this article it can be concluded that the main task in the Notary Office is to make authentic deeds. The authentic deed is related to the guarantee of legal certainty which is one of the basic foundations for the birth of the Notary Office Law. In addition to guaranteeing legal certainty, order and legal protection are also the basis of the Notary Office Law (Wijanarko et al., 2015) The authority of a Notary is explained further in Article 15 Paragraph (1) of the Amended Notary Office Law, which emphasizes that a Notary has the authority to make authentic deeds regarding all actions, agreements, and determinations required by laws and regulations and/or desired by those who have an interest in being stated in an authentic deed, guarantee the certainty of the date of making the deed, keep the deed, provide Grosse, copies, and excerpts of the deed, all of that as long as the making of the deed is not also assigned or excluded to other officials or other people determined by law. In carrying out the duties of his position, one of the obligations of a notary in the administrative field is to store and maintain the deed and all relevant documents in the making of the deed which he made in the form of minutes of the deed and keep them as part of the notary's protocol.

Article 1 Paragraph (13) of the Notary Office Law, states that a notary protocol is a collection of documents constituting a state archive that must be kept and maintained by a notary by statutory provisions. In the elucidation of Article 62 of the Notary Office Law, it is stated that the Notary Protocol consists of: a. Minutes of Deed; b. Register of deeds or Repertorium; c. Book of the list of private deeds signed in the presence of a notary or registered private deed; d. Book of names of appearers or Klapper; e. Protest register book; f. Testament book; and g. Another list of books that must be kept by the Notary.

The Notary Protocol is a state archive that must be stored and maintained as well as possible by the Notary in carrying out his/her duties. The storage of the notary protocol must also be carried out with the principles and principles of caution so that the notary protocol is not scattered, lost, or

even damaged. A lot of recording and archiving activities by a Notary raises problems and risks in terms of storage, besides that the replacement Notary is also obliged to keep the protocols inherited from him by Notaries who have retired and Notaries who have passed away. The storage period for the notary's protocol is quite long, that is, as long as the Notary is still in active status in carrying out his/her duties, in this long period it is found that there is a risk of damage in its journey, this is due to the age of the paper which can only last a few dozen years, the age of the paper old paper can cause the paper to be easily damaged because it is weathered and brittle and the quality of the ink will fade over time so that later it becomes difficult or even unreadable due to the long period of storage of the Notary's protocol in transit. Furthermore, even the risk of loss and the risk that cannot be avoided is in the event of natural disasters and disasters. The place needed to store the notary protocol must also be wide and large to be able to accommodate and store all notary protocols. However, as a solution in anticipating the impacts and risks of conventional notary protocol storage and maintenance, one way is to store notary protocols electronically or based on information technology to achieve efficiency in place, time, cost, and effort and also to protect the public by implementing electronic systems. (hereinafter referred to as PSE) that is safe and reliable and forms a society 5. (Society 5.0), namely an all-digital and IT society.

Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions, especially Article 5 Paragraph (4) *juncto*. Article 15 Paragraph (1) has opened the opportunity that electronic information and electronic documents can also be used as valid legal evidence including documents or letters which according to the law must be in written form, as long as they still refer to Article 15 Paragraph (1), namely meet the important elements in the Electronic System Operation (hereinafter referred to as PSE), which must be implemented reliably and safely and be responsible for the operation of the Electronic System and can be used properly (Mantili et al., 2020), meaning that every electronic transaction organization has the capability according to the needs of its use, protected physically and non-physical, has capabilities by the specifications, and some parties are responsible and held accountable both technically and legally, thus if the implementation of electronic transactions is not guaranteed to be reliable and safe then they will not be recognized as valid legal evidence (Setiadewi & Wijaya, 2020). Sectoral Laws, in this case, the Information and Electronic Transactions Laws, can give a domino effect or serve as a baton or mandate to other Laws, especially the Law on Notary Positions to make adjustments or harmonization related to the implementation of systems and electronic transactions related to the implementation of electronic Notary protocols. moreover, the Indonesian government has facilitated the use of information technology and electronic transactions by: 1. The government protects the public interest from all kinds of disturbances as a result of misuse of information technology and electronic transactions that disturb public order, by the provisions of the ITE Law Number 11 of 2008; 2. The government determines agencies or institutions that have strategic electronic data that must be protected. The agency or institution must create electronic documents and record electronic backups and connect them to certain data centers for data security purposes, in this case, PT. TELKOM. Tbk.; and 3. The government will follow up with government regulations. Thus, of course, the security system of technological infrastructure that is reliable, accredited, and certified, and the certainty of interconnection is a mandatory requirement that must be balanced with the legal responsibilities of the parties concerned (Mayana & Santika, 2021).

In connection with the desire to be more able to optimize the use of information technology facilities in every aspect of human life, and efforts to create accelerated development growth in all fields in Indonesia, especially growth in developments in the field of notary services in Indonesia, there is a need to revise and update The Notary Office Law is something that cannot be postponed any longer. For example, at the beginning of 2021, the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (hereinafter referred to as KEMENATR/BPR) issued a legal product, namely Regulation of the Minister of Agrarian Affairs/Head of BPN Number 1 of 2021 concerning

Electronic Certificates which is the legal basis for implementing and enforcing Electronic Certificates, through this regulation the implementation of land registration along with the administrative system that was previously carried out conventionally can be switched to electronically, both related to land registration for the first time and related to data maintenance (Pramudyo et al., 2021).

Obstacles that will be faced in implementing the electronic Notary protocol next are in the field of evidentiary law. The proof is the most important part of the process of resolving civil disputes in court because, through the stage of proof, the truth of an event and the existence of a right can be declared proven or not in court (Army, 2020). In essence, with evidence, the parties try to convince the judge about the truth of an event or right by using evidence (Defriza & Khoirun Nisa, 2022) In proving the parties try to convince the judges about the truth of the existence of an event or right by using evidence. Through proof, the judge will obtain the grounds for deciding to resolve a dispute (Riza Kuswanto & Purwadi, 2017). If the Notary Office Law has formally and specifically regulated related to electronic Notary protocols, the evidentiary value of the electronic protocol as part of an electronic document will be of the same position as an authentic deed and have executorial powers.

In essence, the Notary Office Law itself as the legal basis for a Notary in carrying out the obligations and duties of his office, has not specifically and formally regulated evidence in the form of letters and electronic documents including the development of electronic Notary Protocol storage in the provisions of the Notary Office Law which is a solution to minimize conventional notary protocol storage risks to date. Referring to Article 1 Paragraph (13), Article 16 Paragraph (1) letter b, Article 32, Article 35, Article 57, Article 62 & Elucidation, Article 63, Article 64, and Article 65 of the Notary Office Law only stipulates and regulates the meaning Notary protocols, provisions for making Notary protocols, storage of Notary protocols and submission of Notary protocols as well as types of Notary protocols which are stored conventionally and do not formally and specifically regulate electronic storage of Notary protocols which is a solution to minimize the risk and impact of storage In conventional notary protocols, there is a legal vacuum or norm which causes the Notary Office Law to not be harmonious with the Electronic Information and Transaction Law because the Electronic Information and Transaction Law has recognized electronic documents as valid and irrefutable legal evidence.

Based on the description of the problem above, the researcher argues that there is a need for research that can contribute ideas for the development of legal knowledge, especially in the notary field regarding the harmonization of notary office laws with information laws and electronic transactions related to electronic notary protocols in the framework of digital transformation for the benefit and certainty law that can provide additional references for Notaries, the public, and the government. This is because the Law on the Position of Notary is not harmonious with the Law on Information and Electronic Transactions.

Based on the author's search related to this research, the writer did not find any similarities in titles, but the authors found titles that had the same topic but differed in problem identification. The first research, namely, Notary protocols stored in electronic form related to cyber notary provisions and the theory of liability based on Law number 2 of 2014 concerning amendments to Law Number 30 of 2004 concerning Notary Offices, this study focuses on Notary accountability for protocols which is stored electronically, does not focus on the existence and legal certainty of electronic notary protocols and is not associated with the ITE Law. The second study, namely, the validity of Using Notary Protocol spare Media made electronically as Evidence based on Indonesian laws and regulations, this study focuses on the validity of using notary protocols electronically as evidence in court and the legal consequences instead of focusing on the existence and legal certainty on the electronic notary protocol and is not associated with the ITE Law. The third research, namely, the urgency of storing Notary protocols in electronic form and legal certainty in

Indonesia, this study focuses on knowing how important it is to transfer Notary protocols in electronic form and legal certainty in Indonesia but does not discuss harmonization of the UUJN with the ITE Law. The difference that makes this research different from the three previous studies is the discussion that is linked directly to the ITE Law as a standard for implementing electronic systems, which will then be harmonised with UUJN.

Therefore, based on the things that have been described above, this study aims to examine in depth the title Harmonization of Notary Office Laws with Laws Related to Electronic Notary Protocols by raising problem identification, namely how to implement the principle of legal certainty in the regulation of electronic notary protocols through harmonization of the UUJN with the ITE Law in the context of digital transformation, as well as what legal theory is most appropriate to use to update the UUJN related to electronic notary protocols so that they provide more benefits to society 5.0 in the era of digital transformation

## II. RESEARCH METHOD

The problems that have been formulated above will be answered or solved using a normative juridical approach, which is done by examining library materials as a basis for research by searching for laws and regulations and literature related to the problem under study (Effendi & Ibrahim, 2016). Normative legal research is a process to find legal principles, rules, and legal doctrines to answer legal issues that are examined through the statutory regulation approach (Marzuki, 2016).

The statutory approach is carried out to examine the applicable laws and regulations about legal theories and positive law implementation practices related to the problem (Rakhmawati et al., 2019), in this case, the Law on Notary Office Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary and Information and Electronic Transactions Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions, related to the implementation of electronic Notary protocol storage and then associated with development legal theory, theory of legal objectives (justice, benefit, and legal certainty), theory of legal responsibility and theory of economic analysis of law and its implementation to create harmony for the realization of benefits and legal certainty.

Sources of data used in this research come from laws and regulations, literature, as well as the opinions of legal experts relevant to this research which consist of primary legal materials (1945 Constitution of the Republic of Indonesia, Law of Notary Office, Electronic Information and Transaction Law), Secondary legal material (books written by experts, research results, and Online Library Data Research which contains discussions on notary protocols, electronic documents, and electronic transactions as well as relevant legal theories required), and tertiary legal materials (Big Indonesian Dictionary (KBBI), Legal Dictionary, and Encyclopedia).

The data analysis method used in this study is a qualitative juridical analysis method, namely analyzing data containing legal problems and phenomena systematically using legal interpretation, and legal construction so that answers to the problems that have been formulated and conclusions can be drawn can be obtained (Prabawa, 2017). This research provides an interpretation of legal materials, as is usually the case with normative legal research. Furthermore, the results of the analysis will be linked with the author's problems in this study to produce an assessment to answer problems in research.

### III. RESULT AND DISCUSSION

#### **1. Implementation of the Principle of Legal Certainty in Arrangements Concerning Electronic Notary Protocols Through Harmonization of the UUJN with the ITE Law in the Context of Digital Transformation**

One form of the national law development program is to create a program to form a law, with the formation of a legal product, results will be obtained in the form of a set of laws and jurisprudence which will become the legal basis for providing order to create a society that is nation and state (Nurita, 2012). In connection with the implementation of electronic Notary protocol storage, the first thing that must be done so that electronic Notary protocol storage can be realized is to start by formally and specifically accommodating provisions and/or regulations regarding electronic Notary protocols, so that this can be used as an excuse, basis or legal basis for a Notary in carrying out his obligation to keep the Notary's protocol that will be held electronically so that it is clear that the status will not become a private deed which results in a lawsuit against the Notary, also applies to the judge to declare the electronic Notary's protocol is valid as evidence in terms of proof. Then also through this, the notary protocol electronically can be accepted by the relevant agencies, so that potential sanctions for dismissal for not complying with the law will not be faced by notaries, furthermore, legal certainty for the parties or appearers will be guaranteed. When the electronic Notary protocol has been regulated formally and specifically in the UUJN, harmony will be realized with the ITE Law, so that these two Laws will not conflict proportionally and can overcome the limitations of differences related to the electronic Notary protocol which causes disharmony of laws and regulations the.

When disharmony occurs in laws and regulations, in this case, UUJN and ITE Law, then there are 3 (three) principles in dealing with them, namely as follows: 1. Change or add certain articles that experience disharmony in the relevant laws and regulations by the Institution or the authorized agency in its formation, so that in this case UUJN must be added a special article that regulates the electronic storage of Notary protocols; 2. Submitting a request for judicial review to the judicial institution, for: a. Review of the Act against the Constitution to the Constitutional Court; and b. Examination of statutory regulations under the law against the law to the Supreme Court; 3. Apply legal principles or doctrines as we know them, such as: a. The principle of *lex superior derogate legi inferiori* means that higher-level laws and regulations override lower-level laws and regulations unless the substance of higher-level laws and regulations regulates matters that are determined by law to become the authority of lower-level laws and regulations. lower; b. The principle of *lex specialis derogate legi generalis*, which implies that specific legal rules will override general legal rules. However, several principles must be considered in the principle of *Lex specialis derogat legi generalis*: The provisions found in general legal rules remain valid, except for those specifically regulated in said special legal rules; The provisions of the *lex specialis* must be equal to the provisions of the *lex generalis* (law by law); and The provisions of the *lex specialis* must be in the same legal environment (regime) as the *lex generalis*. The Commercial Code and the Civil Code both include the civil law environment; c. The principle of *lex posterior derogate legi priori*, means that newer legal rules set aside or abolish the old legal rules so that the new law is obligatory. This principle also contains the following principles: The new rule of law must be equal to or higher than the old rule of law; and New and old laws governing the same aspects. This principle, among other things, aims to prevent dualism which can lead to legal uncertainty. With the existence of the *Lex posterior derogat legi priori* principle, the provisions governing the repeal of a statutory regulation are not that important. By law, similar old provisions will no longer apply when the new legal provisions come into effect (Kurniawan & Purbosari, 2022).

Harmonization is often interpreted as harmony, suitability, harmony, suitability, and/or balance, meaning that in creating a national regulation requires adjustment or alignment of the elements

contained in the national legal system which includes elements in substance or legal substance, legal structure. along with its institutions and legal culture in realizing the creation of harmonious laws and regulations by the aspirations of the people and the needs of national development (Sulistiyawan, 2019). Therefore, harmonization of the formulation of a hierarchical system or sequence of national laws and regulations that can be used as guidelines, references, and legal basis must be carried out first. In this regard, this can be done through drafting laws and regulations, in this case, the UUJN draft was revised, by 1. Ensuring in advance that the UUJN draft revised contains the philosophical values of Pancasila and that the articles in the UUJN draft are not contradictory also with the values contained in Pancasila; 2. Ensuring that the Articles in the 1945 Constitution of the Republic of Indonesia which order its formation have been correctly stated and also ensuring that the draft revision of the UUJN is aligned and by the principles of state administration according to the 1945 Constitution; 3. Consistently use legal language or legal terms in the draft; 4. Be careful and thorough in reviewing the content material or crucial issues that need to be discussed in the draft, namely material regarding special provisions related to the electronic storage of Notary protocols, whether they are aligned or compatible with other relevant laws, in this case namely the ITE Law; 5. Ensuring that the principles in the draft revision of the UUJN, including the principle of formation, the principle of material content, and other principles related to the field of law regulated in the UUJN draft, have been properly accommodated in the draft law; 6. Ensuring that the guidelines or basis in the technique of drafting laws and regulations have been complied with consistently; and 7. Ensure that the language used in formulating norms and regulations in the UUJN draft is by good and correct Indonesian language rules and uses the right choice of words, is clear, and does not result in multiple interpretations.

Harmonization of draft laws that are carried out carefully and professionally will produce bills that meet the requirements and elements of a good draft law. Good laws and regulations themselves are the basis, foundation, and pillars of a legal state that will guarantee the rights of citizens and guarantee legal certainty and justice to realize social welfare for all Indonesian people.

When examined based on legal certainty, what is meant is certainly the absence of ambiguity in norms, doubts, or even emptiness. While logical is the absence of a clash between a system of norms and other norms, causing legal conflicts. Legal certainty embodies clear, permanent, consistent, and consistent law enforcement which in its actualization is outside the influence of subjective circumstances. The law must confer and guarantee certainty so that in its implementation it does not cause multiple interpretations.

The statutory regulations as mentioned and discussed above must be able to provide space for the realization of conventional Notary protocols for media transfer into electronic form and stored electronically so that one of the objectives of the law itself can be realized, namely legal certainty. Therefore, the era of digital transformation is clear evidence that it is necessary to create legal certainty in the implementation of electronic Notary protocol storage so that it guarantees legal certainty for the wider community, certainty for Notaries, and also certainty for related officials. So that storing Notary protocols electronically can be used as a modern solution not only in dealing with situations in this digital transformation era but also in terms of realizing society 5.0, namely an all-IT and digital society. Related legal practitioners, in this case, Notaries, inevitably have to broaden their horizons and intellectual skills to deal with legal problems in dealing with the 5.0 Industrial Revolution situation (Devita, 2019).

In the writer's opinion, the conceptualization of the electronic Notary protocol must be regulated in the context of its authority, in this case, the UUJN, and in the context of discussing the technology, in this case, the ITE Law, to achieve harmonization which is expected to produce good legislation and constitute a unified whole of the entire system of laws and regulations and the national legal system to realize legal benefits, legal certainty, and justice.

## **2. The Most Appropriate Legal Theory Used in the Framework of Updating UUJN Related to Electronic Notary Protocols to Provide More Benefits to Society 5.0 in the Digital Transformation Era.**

In carrying out the process of harmonization as discussed in the identification of the first problem, UUJN updates are inevitably carried out so that electronic storage of Notary protocols can be specifically and formally accommodated in UUJN provisions as the legal basis for a Notary in carrying out his/her duties. Legal renewal is not just providing changes, corrections, replacements or completely erasing a provision, rule, or legal principle in law and statutory provisions that apply in a legal system (Riyanto, 2020). Legal renewal is the spirit of the law and can be realized through changing, adding, substituting, or deleting a provision, rule, or legal principle in applicable laws and regulations so that the legal system becomes even better, fairer, more useful, and becomes more legal certainty (Prasetyo, 2017). Lon Fuller believes that there are 8 (eight) good legal criteria, namely as follows: 1. Must be obeyed and obeyed by everyone including the government and state authorities; 2. Must be published or disseminated; 3. It must apply forward, not backward or retroactively; 4. The rules must be written specifically, clearly, and specifically so that they can be known and implemented correctly; 5. Must avoid contradictions or conflicts; 6. It is not permissible to oblige something impossible or impossible to fulfill; 7. Must be constant so that legal certainty is realized. However, this does not rule out the possibility that the law must also be changed if the political and social situation and order have changed; and 8. The actions of law enforcers and the government must be consistent and by the prevailing law (Fuady & Gunarsa, 2009).

Law has a goal to be achieved, namely to create order, balance, and justice in the order of society. Mochtar Kusumaatmadja stated that by creating these 3 things in the social order, it is hoped that the interests of the community will also be protected. The presence of the law itself, according to Satjipto Rahardjo, includes integrating and coordinating the interests of society that can clash, namely the interests of one and the other (Rahardjo, 2006). Achieving these legal objectives starts with the formation of the law, including the process of reforming the Notary Office Law. So, the most appropriate legal theory to use to update UUJN related to electronic Notary protocols, according to the author is as follows: 1. Constitutional Theory. Countries that adhere to the system as a rule of law and the theory of people's sovereignty as the concept of government, use the constitution or the Constitution as the highest legal norm compared to other legal norms. The Constitution or Basic Law has certain objectives and methods to limit and control political power in a constitutional state to guarantee the basic rights of the people. The concept of the constitution is dynamic in nature, which means that if desired, a constitution can change either partially or completely, based on the needs of the state, the development of the state administration of a nation, and in line with the times so that the ideals of a state and nation can develop. and can also change. When changes in ideals occur, there will be a desire to include them in the Constitution. Constitutional theory is appropriate to use in updating UUJN related to electronic notary protocols because it uses the Basic Law as the highest legal basis in addition to other legal norms and guidelines for the implementation of the State so that there is a guarantee for all Indonesian people including legal benefits. Moreover, constitutional theory can create a power system that is check and balances and protects human rights, including the rights and obligations of society. The constitution has a role to defend the essence of the existence of a country from the influence of various dynamic developments. Therefore, an ideal constitution is the result of adjustments, harmonization, and refinement to keep up with all developments, especially those relating to the wishes of the people's conscience. The UUJN update related to the electronic Notary protocol is a step in the adjustment and refinement process to keep up with developments in the current digital transformation stage; 2. Development Law Theory. Development Law Theory put forward by Prof. Dr. Mochtar Kusumaatmadja, S.H., LL.M. is one of the legal theories that was born based on the condition of a pluralistic Indonesian society based on Pancasila. Strictly speaking, the Development

Law Theory makes the law a means of social reform (law as a tool of social engineering). Therefore, the law as a means of community development and renewal should be realized in legal reform (regulation), including in the Notary sector, namely more specifically in UUJN related to electronic Notary protocols. There are several factors why this development theory is the right theory to be used in the renewal of UUJN related to electronic Notary protocols, which when these aspects are explained are as follows: 1. this Development Law Theory was born, grew, developed, and is an existing legal theory in Indonesia because it was created by Indonesians based on the dimensions and culture found in Indonesian society. Therefore, with the indicators of the legal dimensions of development, birth, growth, and development by Indonesian conditions, the essence, if applied in practice, will be relevant to the conditions and situation of a pluralistic Indonesian society; 2. Dimensionally, the Development Law Theory uses a frame of reference on the way of life of the Indonesian people and nation based on Pancasila which is family-friendly, so the norms, principles, institutions, and rules contained in the Development Law Theory are relatively a dimension that includes legal structure (in the form of institutions created by the legal system itself with various functions to be able to support the operation of a system), legal culture (functioning as a bridge that will connect legal regulations with behavior or legal habits throughout citizens), and legal substance (in the form of output from the legal system, including regulations or norms used by both the governing and the regulated parties); and 3. Development Law Theory provides the basis for the function of law as a means of social reform (law as a tool of social engineering) and law as a system that is indispensable for the Indonesian nation as a developing country. So that this theory is still relatively by the development of national law at this time in the context of digital transformation. Development Law Theory is needed as a basis that can be used as a reference as a means of community renewal to carry out electronic storage of Notary protocols which are very much needed by the community in this digital transformation era so that society 5.0 is formed, namely an all-IT and digital society whose implementation is still based on law and the applicable laws and regulations to create order, order and benefit in the framework of said renewal. Implementation of electronic Notary protocol storage which is a solution to anticipate the impact/risk of the conventional notary protocol storage and maintenance process to achieve efficiency in place, time, cost, and management personnel, and can also protect the public by implementing a safe electronic system (PSE), reliable and responsible; dan 3. Lex Informatica. The electronic Notary Protocol is related to the special characteristics contained in cyberspace where regulation and law enforcement cannot use conventional methods, in which some experts are of the view that activities in cyberspace should be regulated by separate laws. Principles and norms that specifically regulate cyberspace, which grow in practice and is generally recognized as Lex Informatica, have special characteristics that can flexibly realize the objectives of information management policies and the implementation of electronic systems to support the implementation of data storage. Notary protocol electronically in Indonesia. Lex Informatica is the source of the complexity of the existence of information management policies and regulations that are in a global network. Lex Informatica provides a tool that is expected to be useful for formulating regulations adapted to specific situations. The formulation of Lex Informatica as a regulation has avoided many difficulties with the significance of the conflict and the uncertainty inherent in its legal settlement. Lex Informatica offers a new way to deal with difficult problems faced by a legal regime, namely regulation of Internet content, distribution and misuse of personal information, and protection of intellectual property in a global network. On the other hand, the law can also create an approach to the regulation of activity and behavior. This can be done through the regulated-behavior approach. This approach will be a significant impetus indirectly for the norm formation of Lex Informatica. In this context, for example, the government as a stakeholder can prosecute and prohibit certain activities such as the distribution of illegal gambling videos or electronic money transactions. These rules of conduct can guide Lex Informatica to ensure ways are consistent with established practice. These technical rules can be the basis for the guarantee. Policymakers can also create and regulate

certain technical standards. For example, the Government of Indonesia can create wiretap-safe arrangements for communication tools and systems used by Heads of State in government affairs or official affairs, to avoid wiretapping by other countries. Meanwhile, in the interest of law enforcement, the Government may require the industry to ensure that communication tools that are distributed or will be distributed to the general public must be wiretap ready and of course, the wiretapping must be carried out based on applicable laws or regulations (Citra Nugraha, 2018)

So that it can be well known that changes to notary activities can be converted into activities that can be carried out using digital methods and can be carried out if the government uses its authority in changing existing regulations to realize the implementation of electronic storage of Notary protocols so that benefits are realized for society in the current digital transformation era. Henceforth, you can add the theory of ideas from Lawrence Lessig, namely the Pathetic dot Theory, used as an analytical knife to determine the architecture/application in UUJN updates related to electronic Notary protocols whether they are appropriate and based on the Electronic Information and Transaction Law related to the implementation of electronic systems which is safe and reliable.

#### IV. CONCLUSION

The implementation of the principle of legal certainty in the regulation of electronic notary protocols through harmonization of the UUJN with the ITE Law in the context of digital transformation can be initiated by specifically and formally accommodating the implementation of notary protocol storage in the UUJN so that this can be used as a reason, basis or legal basis for notaries in carrying out its obligations to store Notary protocols that will be held electronically. When the electronic Notary protocol has been regulated formally and specifically in the UUJN, harmony will be realized with the ITE Law, so that these two laws will not conflict proportionally so that the principle of legal certainty can be realized. The most appropriate legal theory to use in the context of updating UUJN related to electronic notary protocols so that they provide more benefits to society 5.0 in the digital transformation era are Constitutional Theory, Developmental Law Theory, and Lex Informatica.

Thus, it is hoped that the House of Representatives (DPR) together with the President of the Republic of Indonesia can revise/update the UUJN related to the implementation of electronic Notary protocol storage, by specifically and formally accommodating it in Article UUJN and recognizing it as one of the valid pieces of evidence in the verification process. Along with updating UUJN, the Government should also create a National Data Center that is tested, integrated, and certified both in terms of technology and security for storing various documents or vital state archives, one of which is for the electronic Notary protocol.

The implications of this research are expected to be research that can contribute ideas to the development of the legal field, especially in the field of Notary, regarding the harmonisation of Notary office laws with Information and Electronic Transaction laws related to electronic Notary protocols in the framework of digital transformation for the benefit and legal certainty that can provide additional references for Notaries, the public, and the government.

This research is expected to be useful for developments in the field of law, especially in the field of notary related to electronic notary protocols, to add sources of reference or literature used in making scientific papers, and can become material for further research for other researchers.

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