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Optimalisasi Prinsip Kehati-Hatian Notaris: Rekomendasi Regulasi Penggunaan Artificial Intelligence di Indonesia

Optimizing the Prudential Principle of Notaries: Recommendations for Regulation of the Use of Artificial Intelligence in Indonesia

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ABSTRAK

Perkembangan *Artificial Intelligence* (untuk selanjutnya disebut sebagai AI) mengubah berbagai sektor pelayanan hukum. Perubahan tersebut juga termasuk pada praktik kenotariatan. Notaris dalam melakukan tugasnya bertumpu pada prinsip kehati-hatian, autentisitas, dan tanggung jawab jabatan. Pemanfaatan AI mampu meningkatkan efisiensi dalam penyusunan konsep akta, verifikasi dokumen, analisis data hukum, hingga pengelolaan protokol notaris. Di sisi lain, penggunaan AI juga menimbulkan persoalan mengenai keabsahan tindakan hukum, perlindungan data pribadi, pertanggungjawaban notaris, serta kepastian hukum. Hal ini perlu diatur karena belum terdapat pengaturan khusus tentang AI dalam sistem hukum Indonesia. Penelitian ini bertujuan menganalisis kedudukan prinsip kehati-hatian sebagai landasan penggunaan AI dalam praktik kenotariatan serta merumuskan arah regulasi yang mampu mengakomodasi perkembangan teknologi tanpa mengurangi karakter autentik jabatan notaris. Penelitian menggunakan metode yuridis normatif dengan pendekatan perundang-undangan, konseptual, komparatif, dan futuristik. Bahan hukum dianalisis secara kualitatif melalui studi terhadap peraturan perundang-undangan, doktrin, putusan, serta berbagai kebijakan internasional mengenai tata kelola AI. Hasil penelitian menunjukkan bahwa hukum positif Indonesia belum memberikan parameter yang jelas mengenai batas penggunaan AI oleh notaris sehingga berpotensi menimbulkan ketidakpastian hukum dan pergeseran tanggung jawab profesi. Oleh karena itu, prinsip kehati-hatian perlu direkonstruksi sebagai dasar pembentukan regulasi AI di bidang kenotariatan melalui pengaturan mengenai klasifikasi penggunaan AI, pengawasan, transparansi algoritma, perlindungan data, serta akuntabilitas notaris sebagai pejabat umum.

ABSTRACT
The development of Artificial Intelligence (hereinafter referred to as AI) is transforming various legal service sectors. These changes also include notarial practice. Notaries in carrying out their duties rely on the principles of prudence, authenticity, and professional responsibility. The use of AI can increase efficiency in drafting deeds, verifying documents, analyzing legal data, and managing notarial protocols. On the other hand, the use of AI also raises issues regarding the validity of legal actions, personal data protection, notary accountability, and legal certainty. This needs to be regulated because there are no specific regulations regarding AI in the Indonesian legal system. This research aims to analyze the role of the prudence principle as a foundation for the use of AI in notarial practice and to formulate regulatory directions that can accommodate technological developments without compromising the authentic character of the notary's profession. The research uses a normative juridical method with statutory, conceptual, comparative, and futuristic approaches. Legal materials are analyzed qualitatively through a study of laws, doctrines, decisions, and various international policies regarding AI governance. The research results indicate that Indonesian positive law does not yet provide clear parameters regarding the limits of AI use by notaries, potentially creating legal uncertainty and shifting professional responsibilities. Therefore, the precautionary principle needs to be reconstructed as the basis for establishing AI regulations in the notary sector through regulations concerning the classification of AI use, supervision, algorithm transparency, data protection, and the accountability of notaries as public officials.

INTRODUCTION

The development of digital technology has brought the legal profession into an increasingly complex phase of transformation. Artificial Intelligence (AI) can no longer be positioned merely as an administrative support tool. AI has begun to be utilized in document analysis, contract drafting, and legal due diligence. Therefore, new legal recommendations are needed to regulate its use. The phenomenon of AI utilization has also begun to penetrate notarial practice through the concept of the cyber notary. The cyber notary utilizes digital technology to improve the effectiveness of legal services. This development indicates that the notarial profession can no longer entirely avoid the integration of technology in the exercise of notarial authority. The use of AI in notarial practice cannot be equated with the application of AI in ordinary legal services. Recent studies indicate that the development of AI in the field of notarial practice requires a clearer regulatory framework to ensure that the principles of authenticity and legal certainty in the preparation of authentic deeds are not undermined (Susilo & Dananjaya, 2023). These developments also demonstrate that digitalization should be positioned as a supporting instrument rather than a substitute for the juridical function of a notary (Simanjuntak & Santosa, 2025). The notarial profession possesses characteristics in the use of AI that differ from those of other legal professions. Since every act performed by a notary relates to the creation of authentic legal evidence, the process of producing such evidence must also be carried out in a proper and legally sound manner.

Notarial practice is fundamentally built upon the principle of trust (*fiduciary public office*). This principle positions the notary as a public official who is obligated to guarantee the formal validity of a legal act. This obligation is reflected in the application of the prudential principle at every stage of deed preparation. The prudential principle begins with the identification of the appearing parties, verification of their identities, examination of supporting documents, reading of the deed, and concludes with the signing of the deed before the notary. AI may accelerate certain administrative stages of this process. However, technology does not possess the capacity to replace legal judgment, the free will of the parties, or the ethical responsibility inherent in the office of a notary. Therefore, the use of AI must be regarded as an instrument operating under the professional control of the notary. AI cannot be treated as the decision-maker in legal matters.

Several studies conducted in Indonesia also indicate that the use of AI within the cyber notary concept continues to face challenges concerning the validity of authentic deeds, professional liability, and the lack of harmonization between the Law on the Office of Notary and developments in digital technology (Sona, 2023). These circumstances further demonstrate that the prudential principle should be developed as the standard governing the use of AI with clearly defined legal parameters. Such an approach is also consistent with the development of international regulations that promote the concept of *trustworthy AI*, namely the use of AI that prioritizes transparency, accountability, and risk management (European Union, 2024; Schuett, 2022). These studies indicate the need for an appropriate model or mechanism governing the use of AI in notarial practice.

In Indonesia, the development of AI utilization has progressed far more rapidly than the establishment of the regulatory framework governing it. Various generative AI applications have already been adopted by notarial offices to assist in drafting deed templates, classifying documents, summarizing legal information, and managing electronic archives. Nevertheless, Indonesian positive law has yet to provide clear boundaries regarding the scope of AI utilization in the performance of notarial duties. The Law on the Office of Notary recognizes the concept of the cyber notary only in a limited manner and does not provide operational regulations concerning the use of AI in the delivery of notarial services. This regulatory gap regarding AI in notarial practice gives rise to various legal consequences.

The common issues arising from the absence of legal norms governing AI in notarial practice include uncertainty regarding the notary's liability when AI produces errors, the protection of the personal data of appearing parties, and the validity of the process of creating authentic deeds. On the other hand, the development of various international instruments demonstrates a growing tendency for AI regulation to focus on risk management rather than prohibiting the use of technology (Setyawan et al., 2025). The formulation of AI regulations in the field of notarial practice should be based on how the prudential principle is translated into legal parameters capable of preserving the integrity of the notarial profession while at the same time providing legal certainty for the public (European Union, 2024; Schuett, 2022; Ho-Dac, 2024). Therefore, the formulation of national regulations concerning AI in the field of notarial practice should no longer focus on whether AI may or may not be used.

Developments in international regulations indicate that the trend in AI governance is no longer directed toward a repressive approach. Instead, international regulatory frameworks are increasingly based on a risk-based regulatory approach. This approach is founded on the assumption that not all AI systems pose the same level of risk; therefore, legal regulation should be adjusted according to the characteristics of the technology's use. The provisions of Regulation (EU) 2024/1689 (EU Artificial Intelligence Act), for example, classify AI systems according to their level of risk, ranging from minimal risk, limited risk, and high-risk to unacceptable risk, so that the legal obligations imposed on users differ according to the potential level of impact (Schuett, 2022). This approach demonstrates that the prudential principle is not understood as a limitation on innovation but rather as an instrument for mitigating legal risks before a technology is used in public activities.

In the context of notarial practice, a risk-based regulatory approach remains highly relevant. This is because a notary is a public official who produces authentic legal evidence. Therefore, every use of AI by a notary must operate within a system of accountable control. Risk-based AI regulation in the notarial profession also enables AI to be utilized for administrative tasks without diminishing the notary's obligation to verify the identities of the parties, ascertain their intentions, or examine the legality of supporting documents. Such an approach provides a balance between legal certainty, public protection, and the need for digital transformation in legal services (Ho-Dac, 2024). The formulation of national regulations concerning the use of AI in the field of notarial practice should therefore not be limited to regulating the technical aspects of technology utilization. It should also establish mechanisms for professional supervision, auditing, and accountability.

In Indonesia, the direction of AI regulatory development has, in fact, already received governmental attention. The government has initiated an AI governance framework through various national policies concerning digital transformation, digital economic development, and artificial intelligence governance. However, these policies remain sectoral in nature and do not specifically regulate the use of AI by public officials exercising public authority, including notaries. This regulatory gap has the potential to create inconsistencies in practice, as each notarial office may employ AI systems with different standards of security, transparency, and validation.

RESEARCH METHOD

This study is a normative juridical legal research that is oriented toward developing legal arguments concerning the regulation of the use of Artificial Intelligence (AI) in the exercise of the notarial office in Indonesia. A conceptual approach is employed to examine the development of doctrines concerning the prudential principle, the liability attached to the office of a notary, and the concept of trustworthy artificial intelligence as developed in both national and international legal literature (Marzuki, 2021). Meanwhile, a comparative approach is used by analyzing the development of AI regulation in several jurisdictions, particularly through Regulation (EU) 2024/1689 (Artificial Intelligence Act) and the Singapore Model AI Governance Framework, in order to formulate a legal framework that may serve as a reference for the development of regulations in Indonesia (Ibrahim, 2007). The normative juridical approach was chosen because the issue under examination does not focus on public behavior or the empirical implementation of legal norms, but rather on the adequacy of existing legal norms in responding to the development of artificial intelligence technology in the field of notarial practice. This research employs a statutory approach, a conceptual approach, and a comparative approach. The statutory approach is conducted through an examination of Law Number 2 of 2014 concerning the Amendment to Law Number 30 of 2004 on the Office of Notary, together with other regulations relating to electronic transactions, personal data protection, and digital technology governance.

The legal materials used in this study consist of primary and secondary legal materials. The primary legal materials include statutory regulations governing the office of notary, electronic information and transactions, personal data protection, and various international legal instruments related to AI governance. In addition, this study also utilizes international policy documents, such as the **OECD Principles on Artificial Intelligence** and the **UNESCO Recommendation on the Ethics of Artificial Intelligence**, as reference materials for analyzing the development of AI regulatory principles (OECD, 2019; UNESCO, 2021). The secondary legal materials consist of textbooks on notarial law, legal theory, nationally accredited SINTA journal articles, reputable international journals, conference proceedings, research reports, and expert opinions relevant to the use of AI in notarial practice. The use of these various sources is intended to obtain a comprehensive perspective on the relationship between the development of artificial intelligence technology and the prudential principle inherent in the office of a notary. All legal materials were selected based on their substantive relevance, academic authority, and the currency of the information, thereby supporting the development of systematic and academically accountable legal arguments (Marzuki, 2021).

The collection of legal materials was conducted through library research by examining various relevant legal sources in both printed and electronic forms. The search was carried out systematically through national and international academic databases, university repositories, official government websites, international organizations, and academic publishers with recognized expertise in the fields of law and technology. All legal materials were then inventoried, classified according to their substantive content, and analyzed based on their relevance to the research issue, namely the use of AI in the exercise of notarial authority. This inventory process aimed to identify the conformity, differences, and legal gaps within the Indonesian legal system in comparison with the development of AI regulations in other jurisdictions (Ibrahim, 2007). Subsequently, each legal material was critically examined to identify legal principles that could serve as the basis for constructing a regulatory framework governing the use of AI while preserving the integrity of the notarial office. Accordingly, the process of collecting legal materials was not merely directed toward gathering normative data but was also intended to develop coherent and prescriptive legal arguments (Soekanto & Mamudji, 2019).

The legal materials were analyzed qualitatively through a process of legal interpretation and the systematic formulation of legal arguments. The interpretation was conducted using grammatical, systematic, and teleological methods to understand the relationship between the norms contained in the Law on the Office of Notary and the development of artificial intelligence technology, which has not yet been explicitly regulated under Indonesian positive law. The results of this interpretation were then compared with AI regulatory developments in various countries to identify relevant best practices that could be adopted within the Indonesian legal system. The stages of the research consisted of identifying the legal issues, inventorying and classifying legal materials, conducting a legal gap analysis, comparing the findings with international legal instruments, and formulating prescriptive legal arguments regarding the optimization of the prudential principle as the basis for regulating the use of AI in notarial practice in Indonesia.

This prescriptive approach constitutes the defining characteristic of normative legal research, which aims to produce arguments concerning what the law ought to be (*das sollen*) based on logical and systematic legal reasoning (Marzuki, 2021). Through these stages, this study is expected to produce conceptual recommendations that not only provide legal certainty regarding the use of AI by notaries but also preserve the authenticity of authentic deeds, professional accountability, and legal protection for the public as users of notarial services.

RESULT AND DISCUSSION

Implementation of the Notarial Prudential Principle in the Use of Artificial Intelligence under Indonesian Positive Law

The development of Artificial Intelligence (AI) has transformed the way various legal professions operate, including the notarial profession. The use of AI in notarial practice is, in principle, not prohibited under Indonesian law. In fact, various AI-based applications have begun to be utilized to assist in drafting deed templates, reviewing the consistency of contractual clauses, conducting legal research, classifying documents, verifying identities through biometric technology, and managing electronic archives. These developments demonstrate that AI has become a decision support system in the delivery of modern legal services. Nevertheless, the nature of the office of a notary as a public official requires that every use of technology remain subject to the prudential principle, which constitutes the fundamental basis of the notarial office.

The prudential principle is a fundamental principle inherent in all notarial powers as reflected in Law Number 2 of 2014 concerning the Amendment to Law Number 30 of 2004 on the Office of Notary. Although the term "prudential principle" is not explicitly mentioned, its substance is reflected in various obligations imposed upon notaries, including identifying the appearing parties, examining the completeness of supporting documents, ensuring the legal capacity of the parties, reading the deed before execution, maintaining the confidentiality of the contents of the deed, and ensuring that the entire process of creating an authentic deed is carried out in accordance with legal requirements. These obligations demonstrate that legal responsibility remains with the notary as a public official rather than with the technology employed in assisting the notary's work.

In the context of AI utilization, the prudential principle acquires a broader meaning. Prudence no longer relates solely to verifying identities or examining the completeness of documents but also encompasses the notary's obligation to ensure that the AI system employed produces accurate, verifiable, unbiased information and does not make legal decisions independently. AI is capable of learning patterns from vast datasets; however, it lacks the ability to comprehend justice, the free will of the parties, or the social context underlying a legal relationship. Therefore, every AI-generated output must be reverified by the notary before being used as the basis for drafting or revising an authentic deed.

This situation demonstrates that the use of AI in notarial practice remains within a legal vacuum. The Law on the Office of Notary refers to the concept of the cyber notary only in the elucidation of Article 15 paragraph (3), without providing further regulation concerning the use of artificial intelligence in notarial services. Consequently, there are no normative parameters defining the categories of work that may be performed by AI, the level of supervision that must be exercised by the notary, or the form of liability when AI produces errors. This regulatory gap has the potential to create legal uncertainty, particularly where AI-generated errors result in losses to the parties.

Another issue concerns the protection of personal data. Generative AI systems generally operate through cloud computing, which requires data to be transmitted to the servers of AI service providers. In notarial practice, however, the data being processed consist not merely of ordinary personal data but also of information protected by the notary's duty to maintain the confidentiality of authentic deeds. The use of AI without clearly defined security standards may create the possibility of data breaches, cross-border data transfers, or the use of client data for AI model training without valid consent. Such circumstances may conflict with the notary's statutory duty of confidentiality as well as Indonesia's personal data protection regime.

Furthermore, generative AI possesses a black-box characteristic, meaning that its algorithmic reasoning process cannot always be explained transparently. When AI recommends the wording of contractual clauses or interprets legal documents, the notary often does not know the underlying reasoning employed by the system. This phenomenon creates issues of accountability because the notary remains legally responsible for the contents of the authentic deed even though part of the drafting process has been assisted by AI. Accordingly, the prudential principle requires that every AI-generated output be explainable, verifiable, and auditable.

On the other hand, the use of AI also offers significant benefits when applied appropriately. AI can accelerate legal research, detect inconsistencies in the wording of authentic deeds, identify potential conflicts of legal norms, assist in the electronic management of notarial protocols, and improve the efficiency of legal services provided to the public. Accordingly, AI should not be viewed as a threat to the notarial profession but rather as an instrument that enhances the quality of legal services, provided that it remains under the full control of the notary.

Accordingly, the implementation of the prudential principle in the use of AI should be understood as imposing upon the notary the obligation to maintain human oversight throughout every stage of the deed preparation process. AI may only be utilized as an administrative or analytical support tool, whereas all legal assessments, the formation of the parties' intentions, identity verification, the reading of the deed, and legal decision-making remain the exclusive authority of the notary. Such an approach preserves the balance between the need for digital transformation and the protection of the authenticity of authentic deeds as legal instruments possessing full evidentiary value.

Reconstruction of Artificial Intelligence Regulation in Indonesian Notarial Practice Based on the Prudential Principle

The absence of specific regulations governing the use of Artificial Intelligence (AI) in notarial practice indicates that the Indonesian legal system has lagged behind technological developments. Various countries have begun establishing AI regulatory frameworks that are no longer oriented toward prohibiting the use of technology but rather toward risk-based regulation. This approach provides room for innovation while ensuring adequate protection of public interests. Therefore, the formulation of AI regulations for notaries in Indonesia should be directed toward a regulatory model that integrates the prudential principle as the foundation for managing legal risks.

Within the context of AI regulation, the prudential principle should be understood as a preventive obligation to identify, assess, and control all potential risks arising from the use of technology. This approach is consistent with international developments, particularly Regulation (EU) 2024/1689 (Artificial Intelligence Act), which classifies AI systems according to their level of risk. Low-risk AI systems are subject only to basic transparency obligations, whereas AI systems used in strategic sectors are subject to stricter supervisory requirements. Although the office of notary is not explicitly mentioned in the AI Act, the notary's authority as a public official responsible for producing authentic legal instruments indicates that AI use in notarial practice possesses characteristics comparable to those of a high-risk AI system.

Based on these characteristics, national regulations should classify the use of AI by notaries into several categories. First, AI applications for administrative functions, such as document archiving, document classification, legal research, and appointment scheduling, may be categorized as low-risk applications. Second, AI applications for document analysis, deed drafting, identification of potential contractual inconsistencies, and legal drafting review may be categorized as medium-risk applications, requiring mandatory verification by the notary. Third, AI systems that automatically make legal decisions, determine the validity of legal acts, or replace the notary's obligation to read deeds before the parties should be prohibited, as such functions are incompatible with the essential authority of a notary as a public official.

In addition to risk classification, the regulation should also establish human oversight as its fundamental principle. Every AI-generated output must be examined, verified, and approved by the notary before being used in legal services. This requirement is essential to ensure that AI never replaces the professional responsibility of the notary. Consequently, errors generated by AI do not eliminate the notary's legal responsibility toward the parties or the state.

Another essential aspect concerns algorithmic transparency. An ideal regulatory framework should require the use of AI systems capable of explaining the reasoning process underlying their recommendations (explainable AI). Notaries must be able to understand the data sources, analytical methods, accuracy levels, and limitations of the AI systems they employ. Such transparency facilitates auditing procedures should disputes arise concerning the contents of a deed or allegations of improper AI use.

Furthermore, personal data protection must constitute an integral component of AI regulation in notarial practice. Given that notaries process confidential information, cloud-based AI systems should comply with information security standards, including encryption, access control, audit trails, and certainty regarding data storage locations. The regulation should also prohibit the use of clients' data for AI model training without valid consent, as such practices may violate both the notary's duty of confidentiality and Indonesia's personal data protection regime.

Moreover, a certification mechanism for AI systems intended for use in notarial practice should be established. The government, through the relevant ministries in cooperation with professional organizations, may formulate technical standards concerning system security, accuracy, interoperability, and legal compliance. Such certification would provide legal certainty regarding the quality of AI systems while preventing the use of applications that fail to meet minimum security standards.

Regulatory reconstruction should also include the establishment of an effective supervisory mechanism. Supervision should extend not only to notaries as AI users but also to technology providers that develop AI systems for legal services. Accordingly, legal responsibility should not rest solely upon notaries but should also involve system developers when errors result from algorithmic defects or technical failures.

Ultimately, the development of AI regulations in the notarial sector cannot be achieved merely by introducing technical amendments to the Law on the Office of Notary (UUJN). It requires harmonization with the Law on Electronic Information and Transactions, the Personal Data Protection Law, cybersecurity regulations, and national AI governance policies. Such harmonization will produce a comprehensive and adaptive regulatory framework capable of accommodating ongoing technological advancements.

Accordingly, the reconstruction of AI regulation in Indonesian notarial practice should be founded upon five principal pillars:

1. Classification of AI applications according to their level of risk;
2. Mandatory human oversight by notaries;
3. Algorithmic transparency and auditability;
4. Protection of personal data and preservation of professional confidentiality; and
5. Supervisory and accountability mechanisms applicable to both AI users and AI system providers.

These five pillars transform the prudential principle from merely an ethical standard of the notarial profession into a normative foundation for AI regulation in Indonesia, thereby ensuring that digital transformation can proceed without compromising the authenticity of notarial deeds or legal certainty for the public.

CONCLUSION AND RECOMMENDATION

Conclusion

The development of Artificial Intelligence (AI) in notarial practice represents an inevitable consequence of digital transformation. Nevertheless, its implementation must remain within a legal framework that ensures legal certainty, accountability, and the protection of public interests. As public officials authorized to produce authentic deeds, notaries retain full legal responsibility for the validity of legal acts, and such responsibility cannot be delegated to AI systems. Accordingly, the prudential principle should no longer be understood merely as a procedural obligation in deed preparation but should evolve into a principle of technology governance that requires human oversight, verification of AI-generated outputs, protection of clients' personal data, and the preservation of the integrity of the authentic deed-making process.

In light of these developments, the establishment of a national regulatory framework governing the use of AI in notarial practice has become an urgent legal necessity as part of the modernization of Indonesia's legal system. Such regulation should adopt a risk-based approach that integrates AI risk classification, standards for algorithmic transparency and auditability, personal data protection, and clear supervisory and accountability mechanisms. Through this regulatory framework, AI can enhance the quality and efficiency of notarial services while simultaneously strengthening public trust in the notarial profession and maintaining an appropriate balance between technological innovation, legal certainty, and the protection of citizens' rights.

Recommendations

1. Notaries should utilize Artificial Intelligence solely as a decision-support instrument while consistently applying the prudential principle by independently verifying all AI-generated outputs, safeguarding the confidentiality of authentic deeds, and ensuring the protection of clients' personal data.
2. The Government should promptly establish a comprehensive risk-based regulatory framework governing the use of Artificial Intelligence in notarial practice by harmonizing the Law on the

Office of Notary, the Personal Data Protection Law, and the Law on Electronic Information and Transactions to ensure legal certainty, accountability, and effective public protection.

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