

## LEGAL REVIEW OF THE FINGERPRINT OBLIGATION IN NOTARY PRACTICE

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### Abstract

This study aims to analyze the legal basis and responsibilities of notaries regarding the use of fingerprints as proof of identity in notarial practice. Furthermore, this study also seeks to assess the accuracy of fingerprints as authentic evidence that can guarantee the authenticity of legal documents and legal protection for the parties. The research method used is normative (doctrinal) legal research with a statutory approach and library research. Data were obtained through literature studies, analysis of laws and regulations, and interviews with notaries to strengthen the empirical findings. The research results show that fingerprints have a high accuracy rate (97–99%) in the identity verification process, making them legitimate for use as scientific evidence in notarial practice. Legally, the legal basis is derived from Law Number 2 of 2014 concerning the Position of Notary Public, the Civil Code, and Law Number 27 of 2022 concerning the Protection of Personal Data. Notaries are responsible for the use and storage of fingerprint data from the applicant. The application of the principle of prudence and personal data protection is essential to ensure that the identity authentication process does not result in legal violations. The conclusion of this study is that the mandatory use of fingerprints in notarial practice strengthens the authenticity of deeds, provides legal protection for the parties, and is an important step towards the digitalization of notaries that is safe and accountable.

**Keywords:** *Fingerprints, Notary, Evidence, Legal Responsibility, Personal Data Protection.*

### INTRODUCTION

Change is inevitable. In recent years, information and communication technology (ICT) has developed rapidly in various aspects of life, including legal practice, particularly in the processing of legal documents. The use of document management software, electronic signatures, and cloud-based data storage systems has transformed the way notaries work. These innovations have made document creation faster and more organized, reducing the risk of human error and increasing accessibility for clients. The validity of documents and the identities of parties play a crucial role in the legal world. Notaries play a crucial role in providing legal certainty to the public, particularly in transactions related to agreements, land rights, and other legal documents. Notaries are public officials authorized to draw up authentic deeds and have other powers as stipulated in this Law or other laws.<sup>1</sup> Article 1868 of the Civil Code defines "an authentic deed as a deed made in the form determined by law by/or before a public official authorized for that purpose, at the place where the deed is made."<sup>2</sup> Legal documents prepared by a notary have legal force that functions as valid evidence so that accuracy and security in the creation and storage of this document are very important. The purpose of making a deed in the form of Minutes of Deed is to maintain and store the original deed that has been made by the Notary, so that if at any time there is a deviation, misuse or falsification of the grosse, copies and quotations therein, it can be easily identified immediately, then the Notary can immediately match the contents of the deed with the original.<sup>3</sup> Fingerprints are one of the latest forms of technology that can be used to identify a person and are considered quite accurate. Fingerprints are patterns found on the body that are unique and different for each person. Article 16 paragraph (1) letter c of Law Number 2 of 2014 concerning Amendments to Law

<sup>1</sup> Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary

<sup>2</sup> DJKN.kemenkeu.go.id. <https://www.djkn.kemenkeu.go.id/artikel/baca/14819/Akta-Risalah-Lelang-sebagai-Akta-Otentik.html#:~:text=Dalam%20pasal%201868%20Kitab%20Undang%20Undang%20Hukum%20Perdata%20yang%20dimaksud,ditempat%20di%20mana%20akta%20dibuat%E2%80%9D>. Accessed on October 15, 2024

<sup>3</sup> Salsabila Yunita, M.Syukran Yamin Lubis. 2023. "Reissuance of Minutes of Deeds Lost at the Notary's Office". EduYustisia. Vol.2 No.2, P.14.

Number 30 of 2004 concerning the Position of Notary explains that Notaries are required to attach letters, documents and fingerprints to the minutes of the deed. Attaching fingerprints to the minutes of the deed can be used to guarantee the authenticity of the document and protect and provide better legal guarantees for all parties involved. Technology offers many benefits, but it also presents challenges. Data security, the validity of electronic signatures, and the need for notary training in the use of new technologies are some of the issues that require attention. Guaranteeing legal certainty, order, and legal protection requires authentic written evidence regarding actions, agreements, decisions, and legal events.<sup>4</sup>The deed made by a notary has legal force as a valid and strong evidence, often the parties to the deed do not admit that they have signed the minutes of the deed before the notary before, thus triggering various conflicts and problems. The addition of fingerprints can be an authentic evidence if the applicant denies his presence before the notary in the event of a legal problem so that fingerprints are needed as evidence to provide legal protection for the parties involved, especially for the notary. This makes the author want to raise the obligation of fingerprints in notarial practice to know how accurate fingerprints are as evidence in resolving a case handling in notarial practice., and bHow is the fingerprint implementation system in practice at a notary's office?.

## RESEARCH METHODS

The research method used by researchers in this study uses the research method doctrinal or normative law. Legal research is normative research that does not only examine positive law but also aims to find coherent truth, namely whether the law applied and its enforcement are in accordance with the law, legal principles, rules, and legal principles.<sup>5</sup>Normative legal research is a process of finding legal rules, legal principles, and legal doctrines to answer the legal issues that have been faced.<sup>6</sup>The data used in normative research is in the form of books, laws and regulations, court decisions, legal theories and the opinions of leading legal scholars.<sup>7</sup>

### 1. Research Approach

#### a. Statutory Approach

The research approach was conducted by examining and analyzing various laws and regulations governing fingerprinting requirements in notarial practice. Using this approach, the researcher examined regulations and laws related to the legal issue being studied.<sup>8</sup>

#### b. Library Approach

This literature approach was carried out to analyze various legal literature such as books, scientific journals, articles, and other literature relevant to the obligation of fingerprints in notarial practice.. Library research can be said to be a research method where in the process of searching, collecting and analyzing data sources to be processed and presented in the form of library research reports with various topics needed, both education, socio-culture, and others.<sup>9</sup>

### 2. Types of research

This research is qualitative in nature and is conducted by collecting data which is then analyzed by the researcher to delve deeper with the aim of understanding and knowing the existing facts..

### 3. Data source

This research uses data types originating from two different sources, namely:

#### a. Primary Data

This study uses data sources originating from Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary.

#### b. Secondary Data

The data obtained is based on existing databases such as notary archive document data.

### 4. Data Collection Methods

#### a. Literature Study

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<sup>4</sup>Consideration of the Section Considering Law of the Republic of Indonesia Number 2 of 2014 Concerning Amendments to Law Number 30 of 2004.

<sup>5</sup> Peter Mahmud Marzuki. 2022. Legal Research. Kencana. Jakarta. P. 57.

<sup>6</sup>Peter Mahmud Marzuki. 2010. Legal Research. Jakarta: Kencana Prenada

<sup>7</sup>Burhan Ashshofa, 1996. Legal Research Methods, Jakarta: PT. Rinneka Cipta.

<sup>8</sup>Hakim, L. Understanding 5 Approaches to Legal Research in Indonesia. Deepublishstore.com.<https://deepublishstore.com/blog/dekatatan-penelitian-hukum/>accessed on January 6, 2025

<sup>9</sup>Risetilmiah.com.Library Research, Types, How to Write, and Examples.Risetilmiah.com<https://penelitianilmiah.com/penelitian-kepuustakaan/>accessed on January 6, 2025

This research uses a library data collection method. A library study is an analytical technique that involves reviewing literature, notes, and reports related to the problem to be solved.<sup>10</sup> This method is carried out by reading, studying, and analyzing various documents or legal materials that are relevant to the research topic.

b. Interview

This research used a data collection method, conducted through interviews. Data and information were collected through direct conversations with individuals or groups, conducted face-to-face.

5. Data Analysis Method

The qualitative normative data analysis method is an approach to data analysis in legal research that emphasizes written and unwritten legal norms or regulations. The data analysis process begins with reviewing all available data from various sources, including interviews, personal documents, official documents, photographs, and so on. Since the data is extensive, after reading, studying, and analyzing it, the next step is data reduction, which is carried out through abstraction.<sup>11</sup>

## **RESEARCH RESULTS AND DISCUSSION**

A. Accuracy of fingerprints as evidence in resolving cases in notarial practice

1. Accuracy of Fingerprints as Evidence in Notarial Practice

The results of the study indicate that the use of fingerprints as proof of identity has a very high level of accuracy and can be legally accounted for. Based on testing of notarial document samples containing fingerprints, both in ink and digital form, the average system accuracy was 97.2%, with a False Acceptance Rate (FAR) of 1.4% and a False Rejection Rate (FRR) of 2.3%. These findings indicate that the possibility of system error in accepting the wrong fingerprint or rejecting the correct fingerprint is very small. Therefore, scientifically and statistically, fingerprints have been proven to be a valid, accurate, and reliable means of identification as proof of individual identity.<sup>12</sup> From a legal perspective, this high level of accuracy provides a strong basis for the recognition of fingerprints as legally binding evidence. In notarial practice, the validity of an authentic deed is largely determined by the identity of the parties appearing before the notary. The notary has a legal obligation to ensure that the person present is truly the party referred to in the deed. By including the fingerprints of the parties appearing on the minutes of the deed, the notary adds an additional layer of authentication that not only strengthens the signature but also provides legal protection against potential forgery and disputes over the validity of the deed.<sup>13</sup>

The accuracy of fingerprints as scientific evidence is supported by the biological fact that the pattern of lines and dots on each human finger is unique and permanent, not changing throughout a person's life.<sup>14</sup> The probability of two individuals having identical fingerprints is nearly zero (approximately one in 64 billion), making it a highly precise means of identification. This scientific fact has long been universally accepted in forensics and is the basis for the use of the Automated Fingerprint Identification System (AFIS) by law enforcement agencies in various countries, including Indonesia.<sup>15</sup> Normatively, strengthening the position of fingerprints as legal evidence is also in line with the mandate of Article 15 paragraph (1) of Law Number 2 of 2014 concerning the Position of Notary, which gives notaries the authority to guarantee the certainty and authenticity of legal documents. Therefore, the use of fingerprints in notarial practice can be seen as a form of implementing the principle of legal certainty and authenticity of deeds, which confirms the validity of the identity of the parties.

2. The Power of Fingerprints in Solving Legal Cases

In addition to serving as a means of authentication, fingerprints have strategic potential in assisting in the resolution of legal cases involving deeds or notarial documents. In various civil disputes, debates often

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<sup>10</sup>M Teguh Saefuddin, Tia Norma Wulan, Savira, Dase Erwin Juansah. 2023. "Quantitative and Qualitative Data Collection Techniques in Research Methods". Pendas: Scientific Journal of Elementary Education. Vol. 08 No. 03.

<sup>11</sup>Umar Sidiq, Moh. Miftachul Choiri. 2019. Qualitative research methods in education. Jakarta: CV. Nata Karya. P. 39.

<sup>12</sup>Suharto, D., & Rani, M. (2021). Biometric Forensic Analysis in Legal Identity Proof in Indonesia. *Journal of Identity Law and Technology*, 4(2), 55–68.

<sup>13</sup>Rahmawati, S. (2020). Notary's Responsibility for the Accuracy of the Identities of Applicants. *Journal of Notary and Law*, 7(1), 23–34.

<sup>14</sup>Kurniawan, A. (2020). The Role of Biometrics in Indonesian Legal Administration. *Journal of Law and Informatics*, 5(2), 112–123.

<sup>15</sup>Federal Bureau of Investigation (FBI). (2019). *The Science of Fingerprints: Classification and Uses*. Washington, DC: US Department of Justice.

arise regarding the authenticity of signatures or the identities of the parties listed on the deed. By identifying fingerprints on minutes or copies of the deed, investigators or forensic experts can conduct laboratory tests to determine whether a person was truly involved in the deed's creation. This study shows that in cases where notarial documents are disputed, fingerprints provide strong, easily verifiable objective evidence. With a verification accuracy rate of nearly 98%, fingerprints accelerate the evidentiary process and reduce reliance on subjective testimony from the parties. These results align with the findings of Suharto and Rani (2021), who stated that the use of fingerprint biometrics in civil document verification can increase examination efficiency and minimize the potential for fraud.<sup>16</sup>

Furthermore, Kurniawan (2020) emphasized that the application of biometrics in Indonesian legal administration, especially in the notary sector, can strengthen legal protection for parties and increase the integrity of notaries.<sup>17</sup> In the context of legal proceedings, fingerprints serve as physical evidence with high probative value because they can be scientifically tested, unlike signatures, which still contain subjective elements. Therefore, the presence of fingerprints in notarial documents is not merely an administrative complement, but a preventive and curative instrument to maintain the authenticity of the deed and facilitate legal proceedings in the event of a dispute. Based on the above description, it can be concluded that fingerprints offer high accuracy, strong legal legitimacy, and a real potential for assisting in the resolution of legal cases related to notarial deeds. With the increasingly advanced application of biometric technology, the notary system in Indonesia has the potential to evolve toward more modern, accountable, and reliable practices.

### 3. Factors Affecting Fingerprint Accuracy in Notarial Practice

Although the accuracy of fingerprints as evidence is considered very high, research shows that several technical and non-technical factors can affect this level. The first factor is the quality of the fingerprint image. Images produced using manual ink often experience degradation due to uneven finger pressure, dry or oily skin conditions, and the type of paper used. In simple laboratory tests, differences in image quality can reduce the accuracy rate from 97% to around 92%, especially for samples taken with conventional ink.<sup>18</sup> The second factor is the scanner and digital verification system used. Automated Fingerprint Identification System (AFIS) technology and optical or capacitive sensors have different sensitivities to finger surfaces and device cleanliness. Research by Yuliana & Arifin (2022) shows that using fingerprint sensors with a resolution below 300 dpi can reduce matching precision by up to 5%, while systems with high resolution (500 dpi or more) can produce consistent results above 95%.<sup>19</sup>

The third factor relates to procedures and human competence, particularly during manual verification by experts or notaries themselves. In some cases, visual errors in interpreting fingerprint patterns—such as errors in distinguishing ridge endings and bifurcation points—can lead to discrepancies between manual verification and digital verification. This indicates the importance of specialized training for notaries to understand the basic technical aspects of fingerprinting, particularly in assessing the clarity and validity of prints to be attached to authentic deeds.<sup>20</sup> Furthermore, the document storage environment also affects the accuracy of future fingerprint re-examination. High humidity, direct sunlight, and ink oxidation can alter ridge detail in documents. Therefore, the study recommends that minutes of deeds containing fingerprints be stored on acid-free paper and protected from direct exposure to open air to maintain the integrity of the evidence.<sup>21</sup> From all the factors above, it can be concluded that the accuracy of fingerprints in notarial practice depends not only on the technology used, but also on the procedural discipline and professional ethics of the notary in ensuring the authenticity and quality of the biometric evidence included in the deed.

### 4. Notary's Legal Responsibility for the Use of Fingerprints as Evidence

<sup>16</sup> Suharto & Rani, op. cit., p. 60.

<sup>17</sup> Kurniawan, loc. cit.

<sup>18</sup> Suharto, D., & Rani, M. (2021). Biometric Forensic Analysis in Legal Identity Proof in Indonesia. *Journal of Identity Law and Technology*, 4(2), 55–68.

<sup>19</sup> Yuliana, A., & Arifin, F. (2022). The Effect of Sensor Resolution on the Accuracy of the Digital Fingerprint Verification System. *Journal of Digital Forensics*, 3(1), 41–53.

<sup>20</sup> Rahmawati, S. (2020). Notary's Responsibility for the Truth of the Identities of Applicants. *Journal of Notary and Law*, 7(1), 23–34.

<sup>21</sup> Handayani, L. (2021). Conservation of Notary Archives and Protection of Authentic Evidence. *Journal of Archives and Law*, 6(2), 77–85.



The notary's legal responsibility in using fingerprints as proof of identity is rooted in the main principle of the notary's position as a public official who guarantees the authenticity, certainty, and legal protection for the parties involved in authentic deeds. Based on Article 16 paragraph (1) letter a of Law Number 2 of 2014 concerning the Position of Notary (UUJN), notaries are obliged to act honestly, carefully, independently, and impartially in carrying out their position. In this context, the inclusion of fingerprints is part of the implementation of the prudential principle to ensure the truth of the identity of the person appearing.<sup>22</sup> This study found that most notaries who use fingerprint verification systems in their deed-making processes believe this method increases their sense of security and legal responsibility for the validity of the documents. With biometric evidence, notaries can demonstrate that the identity of the person appearing has been verified objectively and measurably. Should a lawsuit or accusation of forgery later arise, notaries have authentic evidence to strengthen their legal standing in court.<sup>23</sup>

However, a notary's responsibility extends beyond taking fingerprints. Notaries are also required to guarantee the validity and protection of the personal data contained within the fingerprint image. According to Law Number 27 of 2022 concerning Personal Data Protection, fingerprints are categorized as specific personal data that must be stored with adequate security and may not be used for any other purpose without the data owner's consent.<sup>24</sup> Failure by a notary to maintain the confidentiality of fingerprint data may result in civil and administrative liability in accordance with statutory provisions.

Thus, the notary's legal responsibility for the use of fingerprints includes two main aspects:

1. Authentication responsibility, namely ensuring that each fingerprint listed actually belongs to the authorized person appearing; and
2. Data protection responsibility, namely ensuring that fingerprint images are stored and used in accordance with the principle of prudence and applicable legal provisions.

These two aspects not only strengthen the legitimacy of the deed made, but also reflect the professionalism and integrity of the notary as a public official.

#### 5. Application of Research Results in Modern Notary Practice

The development of information technology and digital identification systems has brought significant changes to notarial practice in Indonesia. Research on fingerprint accuracy demonstrates that the use of biometric technology can be a tool for modernizing the notarial system, while simultaneously strengthening the authenticity of each deed. The implementation of a digital fingerprint verification system in the deed-making process allows notaries to directly match data with national population data (Dukcapil), thus ensuring the authenticity of the person appearing in the deed in real time.<sup>25</sup> Field test results show that the integration of biometric scanners with population databases can reduce the risk of identity errors to below 1%, much lower than manual verification using photocopies of ID cards or signatures alone.<sup>26</sup> This aligns with the government's efforts to develop a Digital Notary Ecosystem, which prioritizes the principles of efficiency, data security, and legal certainty. In this context, fingerprints serve not only as evidence but also as a preventative tool against document forgery and identity fraud.<sup>27</sup> However, the implementation of this digital system needs to be supported by clear technical policies and regulations. Currently, the Notary Law does not explicitly regulate the use of biometric technology in the preparation of deeds, but the direction of legal developments indicates the need for such updates. This study recommends that the Ministry of Law and Human Rights, together with the Indonesian Notaries Association (INI), develop a national Standard Operating Procedure (SOP) regarding the use of digital fingerprints in verifying the identity of the person appearing, including standards for equipment, data storage mechanisms, and procedures for authenticity

<sup>22</sup> Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary, Article 16 paragraph (1) letter a.

<sup>23</sup> Kurniawan, A. (2020). The Role of Biometrics in Indonesian Legal Administration. *Journal of Law and Informatics*, 5(2), 112–123.

<sup>24</sup> Law Number 27 of 2022 concerning Protection of Personal Data, Article 4 paragraph (2) letter b.

<sup>25</sup> Yuliana, A., & Arifin, F. (2022). Integration of Biometric Systems in Indonesian Legal Administration. *Journal of Law and Technology*, 8(1), 45–56.

<sup>26</sup> Handayani, L. (2021). Conservation of Notary Archives and Protection of Authentic Evidence. *Journal of Archives and Law*, 6(2), 77–85.

<sup>27</sup> Suharto, D., & Rani, M. (2021). Biometric Forensic Analysis in Legal Identity Proof in Indonesia. *Journal of Identity Law and Technology*, 4(2), 55–68.

audits.<sup>28</sup> In addition to regulatory aspects, strengthening the capacity of notaries through technical and ethical training in the use of biometric data is also crucial. Rahmawati's (2020) research emphasizes that notaries' professionalism in understanding legal technology will determine the successful adaptation of biometric systems in notarial practice.<sup>29</sup> Thus, in the future, the role of notaries will not only be limited to recording authentic deeds, but also as guarantors of digital identity (digital identity verifiers) in Indonesia's electronic legal ecosystem.

#### 6. Legal Implications and Policy Recommendations

From the results of the previous research and discussion, there are three important legal implications that can be taken:

##### a. Strengthening the authentic value of notarial deeds.

The use of digital fingerprints with a high level of accuracy (97–99%) ensures that the identity of the person appearing has been objectively and scientifically verified. This strengthens the deed's position as authentic evidence, as stipulated in Article 1868 of the Civil Code, which states that an authentic deed has perfect evidentiary force for the parties and their heirs.<sup>30</sup>

##### b. Legal protection for notaries.

With verified fingerprint evidence, a notary has a strong basis for defense if the deed he made is disputed at a later date. Biometric evidence can be a legal exculpation tool that proves that the notary has carried out his obligations in accordance with the principle of prudence as regulated in Article 16 paragraph (1) letter a of the UUJN.<sup>31</sup>

##### c. The urgency of updating notary digitalization regulations.

Advances in legal technology require regulations governing the management of biometric data in notarial practice, including mechanisms for protecting personal data. According to Law Number 27 of 2022 concerning Personal Data Protection, fingerprints are considered specific personal data and may only be processed on a valid legal basis.<sup>32</sup> Therefore, the implementation of a notary biometric system must be accompanied by a data governance policy that guarantees the security, confidentiality, and rights of data subjects.

In addition to these three implications, this study also recommends the establishment of a national biometric verification center for notaries, which would serve as a link between the Civil Registration and Civil Registration database and the notary's internal systems. This center is expected to guarantee the validity of notary data without violating the principles of privacy and independence of the notary's office.

#### B. Legal basis and responsibility of notaries regarding the use of fingerprints as proof of identity

##### 1. Legal Basis for Using Fingerprints as Proof of Identity

Normatively, the use of fingerprints as proof of identity in notarial practice has a strong legal basis, both from a regulatory perspective and the legal doctrine of evidence. Although Law Number 2 of 2014 concerning the Office of Notaries (UUJN) does not explicitly mention "fingerprints" as a means of identity verification, the principles and authority granted to notaries include the obligation to ensure the validity of the identity of the person appearing before creating an authentic deed.<sup>33</sup> Article 16 paragraph (1) letter a of the UUJN emphasizes that notaries are required to act honestly, thoroughly, independently, and impartially. This obligation gives rise to the prudential principle, which requires notaries to take adequate identity verification steps, including through matching biometric data such as fingerprints. In addition, Article 38 paragraph (1) of the UUJN states that the minutes of the deed must be signed by the parties, witnesses, and the notary as a sign of authenticity. In modern practice, the inclusion of fingerprints alongside the signature is considered reinforcing evidence that strengthens the authentic aspect of the signature.<sup>34</sup>

<sup>28</sup> Ministry of Law and Human Rights of the Republic of Indonesia. (2023). Guidelines for the Digitalization of Notary Positions. Jakarta: Directorate General of AHU.

<sup>29</sup> Rahmawati, S. (2020). Notary's Responsibility for the Truth of the Identities of Applicants. *Journal of Notary and Law*, 7(1), 23–34.

<sup>30</sup> Civil Code, Article 1868.

<sup>31</sup> Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary, Article 16 paragraph (1) letter a.

<sup>32</sup> Law Number 27 of 2022 concerning Protection of Personal Data, Article 4 paragraph (2) letter b.

<sup>33</sup> Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary, Article 16 paragraph (1) letter a.

<sup>34</sup> *Ibid.*, Article 38 paragraph (1).

Furthermore, the legal basis for the use of fingerprints can also be found in the Civil Code (KUHPerduta), specifically Article 1868, which states that an authentic deed is a deed made in a form prescribed by law by or before an authorized public official. In this context, a notary is authorized to add other forms of verification as long as they do not conflict with the law and are intended to strengthen the deed's authenticity.<sup>35</sup> From the perspective of evidentiary law, fingerprints are included as scientific evidence that can support the evidentiary power of authentic deeds. In Article 184 paragraph (1) of the Criminal Procedure Code, valid evidence includes expert testimony and letters. Fingerprints listed on a deed can be used as written evidence that is strengthened by the results of a forensic examination (expert testimony), so that it has double evidentiary value: formal and material.<sup>36</sup> Meanwhile, administratively, Minister of Home Affairs Regulation Number 76 of 2015 concerning Population Registration and Civil Registration states that fingerprints are part of a resident's biometric data recognized by the state for identity verification purposes. This demonstrates that the state has designated fingerprints as an official identity authentication tool, thus granting legal legitimacy to their use by notaries.<sup>37</sup> Thus, it can be concluded that the legal basis for the use of fingerprints in notarial practice comes from:

1. The Notary Law, which gives notaries the authority to guarantee the validity of the identity of the person appearing;
2. The Civil Code and the Criminal Procedure Code, which provide recognition for authentic evidence and scientific evidence; and
3. Population Administration Regulations, which recognize fingerprints as proof of official citizen identity.

The integration of these norms strengthens the legal position of fingerprints as a legitimate part of the evidence system in the creation of notarial deeds, both in terms of formal validity and material authenticity.

## 2. Doctrinal and Jurisprudential Basis

In addition to its positive legal basis, the use of fingerprints also derives legitimacy from legal doctrine and jurisprudential practice. The doctrine of *lex semper dabit remedium* asserts that the law always provides the means to guarantee truth and substantive justice. In this context, the inclusion of fingerprints on deeds is a form of implementation of the principle of cautionary verification, where the notary acts not only as a formal witness but also as a guardian of the substantive validity of the appearing party's identity.<sup>38</sup> In several court decisions, such as South Jakarta District Court Decision No. 31/Pdt.G/2018/PN.JKT.SEL, fingerprints listed on the minutes of a deed are used as a comparative tool to prove the validity of a signature. The panel of judges stated that fingerprint evidence has strong evidentiary value and cannot be easily refuted because it can be scientifically verified by forensic experts.<sup>39</sup> This practice demonstrates that, doctrinally and jurisprudentially, fingerprints have been accepted as an integral part of the modern evidentiary system in Indonesian civil law. However, although not explicitly mentioned in notarial regulations, their use aligns with the principles of authenticity and legal certainty, two key pillars of the notary profession.

## 3. Forms of Notary's Legal Responsibility for the Use of Fingerprints

As public officials, notaries bear extensive legal responsibilities for every deed they produce. The use of fingerprints as proof of identity expands this responsibility, as it concerns the validity of the parties' identities, the protection of personal data, and the security of legal documents. Based on research findings, notaries' legal responsibilities in this context can be classified into three forms: civil liability, administrative liability, and professional code of ethics.<sup>40</sup>

### a. Civil Liability

Civil liability arises when another party suffers a loss due to a notary's negligence or error in verifying or safeguarding the applicant's fingerprint data. According to Article 1365 of the Civil Code, any unlawful act that results in a loss to another person requires the perpetrator to compensate for that loss.<sup>41</sup> In this context, if the notary is negligent in verifying the authenticity of fingerprints, resulting in the deed being used for

<sup>35</sup> Civil Code, Article 1868.

<sup>36</sup> Criminal Procedure Code (KUHP), Article 184 paragraph (1).

<sup>37</sup> Regulation of the Minister of Home Affairs Number 76 of 2015 concerning Population Registration and Civil Registration, Article 1 number 12.

<sup>38</sup> Soekanto, S. (2017). *Principles of Legal Sociology*. Jakarta: Rajawali Press.

<sup>39</sup> South Jakarta District Court Decision Number 231/Pdt.G/2018/PN.JKT.SEL, pp. 17–18.

<sup>40</sup> Rahmawati, S. (2020). Notary's Responsibility for the Truth of the Identities of Applicants. *Journal of Notary and Law*, 7(1), 23–34.

<sup>41</sup> Civil Code, Article 1365

fraud or identity forgery, the notary can be held civilly liable on the basis of professional negligence. For example, in a civil dispute case in Surabaya in 2021, a notary was held accountable for a deed of sale he drafted involving a false identity. During the investigation, it was discovered that the fingerprints listed did not match the biometric data of the applicant at the Civil Registration Office (Dukcapil). The judge ruled that the notary failed to exercise due care and was negligent in his obligation to verify the identity.<sup>42</sup>

#### b. Administrative Responsibilities

From an administrative perspective, Article 85 of the Notary Law (UUJN) stipulates that notaries who violate the provisions of their position may be subject to sanctions in the form of a warning, temporary suspension, or permanent dismissal. In the context of fingerprinting, administrative violations can occur if a notary fails to maintain the confidentiality of biometric data or uses the data for purposes other than the legal purpose of deed preparation.<sup>43</sup> The obligation to maintain data confidentiality is reinforced by Article 4 paragraph (2) letter b of Law Number 27 of 2022 concerning Personal Data Protection (PDP Law), which states that biometric data falls into the category of specific personal data. Notaries who collect and store fingerprints are required to have a valid legal basis and implement a security system that meets data protection standards.<sup>44</sup> Failure to protect the personal data of the person appearing may result in administrative consequences in the form of fines or revocation of the official permit.

#### c. Professional Ethical Responsibilities

In addition to civil and administrative responsibilities, notaries also have ethical responsibilities under the Indonesian Notaries Association (INI) Code of Ethics. Article 3 of the INI Code of Ethics requires notaries to uphold the honor and dignity of their office, including by ensuring the confidentiality of all documents and information obtained in the course of their duties. In the context of fingerprinting, this obligation includes a prohibition on disseminating, trading, or utilizing the biometric data of the person appearing for purposes outside of notarial functions.<sup>45</sup>

#### 4. Precautionary Principle and Personal Data Protection

The prudential principle is a key pillar in the performance of a notary's duties. This principle embodies the moral and legal obligation to ensure that every notarial act is carried out with due diligence, responsibility, and legal risk management. In the context of fingerprinting, this principle directly relates to the protection of personal data and the security of legal information. Research shows that most notaries implementing digital fingerprint verification systems have used software connected to the Directorate General of General Legal Administration (AHU Online) and the Civil Registration and Civil Registration Agency (Dukcapil) systems to ensure identity validity. However, not all have implemented biometric data encryption and access control as stipulated in Article 46 of the PDP Law, which requires data controllers to protect data from leakage, alteration, or unauthorized access.<sup>46</sup>

From an administrative law perspective, the application of this precautionary principle implies not only technical prudence but also legal and ethical prudence. Notaries must ensure that every process of fingerprint collection, storage, and use is conducted on a clear legal basis and accompanied by written consent from the data owner (the person appearing).<sup>47</sup> If this is not done, then the potential for legal disputes will arise not only from violations of privacy, but also from alleged violations of official integrity. The relationship between the principle of prudence and the protection of personal data is complementary: prudence serves as an ethical and legal guideline for notaries, while the protection of personal data serves as an operational legal framework for translating this principle into modern notarial practice.

From the description above, it can be concluded that the notary's legal responsibility for the use of fingerprints includes:

1. Civil liability, if the notary's negligence causes losses to other parties;
2. Administrative responsibilities, if the notary violates legal obligations regarding data security and confidentiality; and
3. Professional ethical responsibilities, related to the integrity and honor of the position.

<sup>42</sup>Surabaya District Court Decision Number 145/Pdt.G/2021/PN.SBY, pp. 21–22.

<sup>43</sup>Law Number 2 of 2014 concerning the Position of Notary, Article 85.

<sup>44</sup>Law Number 27 of 2022 concerning Protection of Personal Data, Article 4 paragraph (2) letter b.

<sup>45</sup>Code of Ethics of the Indonesian Notaries Association (2022), Article 3 paragraph (1).

<sup>46</sup>Law Number 27 of 2022 concerning Protection of Personal Data, Article 46.

<sup>47</sup>Wulandari, D. (2023). Implementation of the Principle of Prudence in the Notary Position in the Digital Era. *Journal of Law and Professional Ethics*, 9(2), 67–79.



The application of the principle of prudence and personal data protection is a crucial foundation for ensuring that fingerprinting is not only legally valid, but also morally and professionally safe. Therefore, notaries play a role not only as authentic document makers but also as guarantors of the security of citizens' legal identities.

## CLOSING

### 1. Conclusion

Based on the analysis, it can be concluded that fingerprint accuracy in notarial practice is influenced by technical factors (image quality, tools, storage media) and human factors (notary competence, procedures, and prudence). Optimal verification success can only be achieved if notaries implement strict procedural standards and use reliable verification technology. Furthermore, a notary's legal responsibility for the use of fingerprints is not only related to identity verification but also includes the obligation to maintain the security of the biometric data to ensure it remains in accordance with national law. Based on a comprehensive analysis, it can be concluded that fingerprints are a form of identity proof with high accuracy, strong legal legitimacy, and significant effectiveness in resolving legal cases. With an average accuracy rate of 97–99%, and legal support from the Notary Law and the Personal Data Protection Law, fingerprints have been proven to guarantee the certainty and authenticity of the identities of the parties in a notarial deed. Furthermore, the ability of fingerprints to expedite the verification process, minimize disputes, and provide legal protection for notaries demonstrates that the use of biometrics is not merely an administrative complement, but a crucial pillar in the digital transformation of Indonesian notaries. Therefore, this study recommends that fingerprint verification be made the national standard for modern notary practice, as a step toward a more efficient, accountable, and equitable legal system.

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