

Notaries' Dual Status as Public Officials and Business

Actors in Government Procurement

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ABSTRACT

This study aims to analyze the regulatory disharmony concerning the legal status of notaries as both public officials and business actors within the government procurement system and to examine its legal implications for professional independence, equality of opportunity, and contractual justice. This research employed a normative legal research method using statutory and conceptual approaches, with qualitative analysis conducted through library research. The primary legal materials consisted of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 on the Office of Notary, Presidential Regulation Number 46 of 2025 concerning Government Procurement of Goods and Services, Regulation of the National Public Procurement Agency (LKPP) Number 5 of 2021, and Regulation of the Central Statistics Agency (BPS) Number 7 of 2025 concerning the Indonesian Standard Industrial Classification (KBLI). These legal materials were analyzed using the theories of legal certainty, authority, and justice. The research gap lies in the absence of a comprehensive study examining the normative conflict between the legal framework governing the notarial office and the regulations on government procurement, along with its implications for professional independence, equality of opportunity, and contractual justice. The findings reveal a regulatory disharmony whereby the notarial legal framework recognizes notaries as independent and impartial public officials, whereas government procurement regulations classify them as business actors subject to contractual relationships and competitive procurement mechanisms. This inconsistency has the potential to shift the public-service character of the notarial office, undermine professional independence, create preferential relationships that restrict equal opportunities among notaries, and fail to ensure contractual justice between the government and notaries. The novelty of this study lies in proposing a harmonized regulatory framework for notarial service procurement that preserves the legal status of notaries as public officials within the government procurement system while maintaining the essential principles of independence, impartiality, and public service inherent in the notarial profession.

Keywords : Dual Status Of Notaries; Public Officials; Government Procurement Of Goods And Services; Notarial Independence; Regulatory Harmonization.

1. INTRODUCTION

The administration of a modern rule-of-law state requires that every governmental action be grounded in the principles of good governance, ensuring legal certainty, accountability, transparency, effectiveness, and the protection of the public interest. One of the key manifestations of these principles is the implementation of public procurement, which serves as a strategic instrument to support national development, improve the quality of public services, and optimize the utilization of state finances. Public procurement is no longer regarded merely as an administrative activity but has evolved into a public policy instrument that promotes economic growth, strengthens public governance, and delivers value for money to society (OECD, 2023). The amendment to Presidential Regulation No. 16 of 2018 through Presidential Regulation of the



Republic of Indonesia No. 46 of 2025 further reinforces the application of the principles of efficiency, effectiveness, fair competition, transparency, accountability, and procurement digitalization.

The development of the public procurement system has expanded the scope of procurement beyond the acquisition of goods and construction works to encompass a wide range of professional services, including legal services provided by notaries. Under Indonesia's civil law tradition, a notary is a public official (*openbaar ambtenaar*) vested with attributive authority directly by statute to execute authentic deeds and provide legal certainty for the public. This status is affirmed in Law No. 2 of 2014 amending Law No. 30 of 2004 concerning the Office of Notary, which positions notaries as public officials entrusted with performing certain state functions in the field of private law. Their office is characterized by independence, impartiality, integrity, and a commitment to public service. Consequently, the notarial office has long been recognized as an *officium nobile*—a noble profession embodying ethical, moral, and public service dimensions—such that the exercise of notarial authority is not merely based on commercial relationships comparable to those between business actors and consumers (Haryadi, 2025). These characteristics constitute the fundamental basis for maintaining public trust in the evidentiary value of authentic deeds as conclusive legal evidence and for ensuring legal certainty in civil legal relationships (Lieberto, 2021).

A legal issue arises when Presidential Regulation of the Republic of Indonesia No. 46 of 2025, in conjunction with Regulation of the National Public Procurement Agency (LKPP) No. 5 of 2021, classifies notaries as service providers within the government procurement framework. Such a regulatory construction positions notaries as business actors subject to market competition, price negotiations, cost-efficiency requirements, and contractual relationships with government agencies. Conversely, the Law on the Office of Notary requires notaries to remain independent public officials exercising public authority. The differing orientations of these two legal regimes create normative disharmony that has the potential to obscure the nature of the notarial office, generate conflicts of interest, and undermine legal certainty as well as professional independence (Permadi, Dungga, & Arshad, 2025).

This issue becomes even more significant when examined through Hans Kelsen's theory of the hierarchy of legal norms. According to this theory, the validity of every legal norm derives from a higher norm, requiring legislation to be harmonized, systematic, and free from contradictions. Within the context of this study, regulations governing the procurement of notarial services should remain consistent with the legal character of the notarial office as prescribed by the Law on the Office of Notary, which occupies a higher position in the hierarchy of laws than its



implementing regulations. Furthermore, from the perspective of justice, classifying notaries as business actors also raises concerns regarding John Rawls' principle of fair equality of opportunity and the concept of commutative justice. The procurement mechanism may create non-objective selection practices, reduce equal opportunities for all notaries, and shift the orientation of public service toward purely commercial contractual relationships. Consistent with contemporary developments in administrative and agrarian law, regulatory harmonization is regarded as an essential instrument for preserving legal certainty and preventing normative conflicts in modern governance (Permadi et al., 2024).

Studies concerning the legal status of notaries have continued to develop; however, existing scholarship remains fragmented in its focus. Ocid Rosadi (2025) examined the role of notaries in land acquisition, whereas Riri Mela Lomika Siregar et al. (2024) analyzed the function of notarial deeds within contractual relationships in construction consultancy services. Endra Mayendra (2021) investigated the authority of notaries as members of procurement dispute boards, while Stevanus Lieberto (2021) and Nanda Rahayu Haryadi (2025) primarily emphasized the independence of notaries as public officials. At the international level, existing studies predominantly address the integrity of public procurement systems, government contract governance, and the professionalism of service providers (OECD, 2023). To date, no study has specifically examined the normative disharmony between the Law on the Office of Notary and public procurement regulations that classify notaries as business actors, together with its implications for professional independence, equality of opportunity, and contractual justice.

The novelty of this research lies in its comprehensive analysis of the dual status of notaries as both public officials and business actors within the government procurement system by integrating Hans Kelsen's theory of the hierarchy of legal norms, John Rawls' principle of fair equality of opportunity, and the theory of commutative justice. The integration of these three theoretical perspectives provides a framework for evaluating the existing regulatory disharmony while explaining its implications for the independence of the notarial profession, equal access for all notaries to government procurement opportunities, and the balance of contractual relationships between the government and notaries.

Accordingly, this study aims to analyze the regulatory disharmony concerning the status of notaries as both public officials and business actors within the government procurement system and to examine its legal implications for professional independence, equality of opportunity, and contractual justice. The findings are expected to contribute conceptually to the development of notarial law and public procurement law by proposing a framework for regulatory harmonization



that preserves the character of the notarial office as an officium nobile while simultaneously supporting an efficient, transparent, accountable, and legally certain public procurement system.

2. RESEARCH METHODS

This study employs normative legal research (juridical normative research) to examine the regulatory disharmony concerning the status of notaries as public officials under Law Number 2 of 2014 concerning the Amendment to Law Number 30 of 2004 on the Office of Notary and their classification as business actors within the government procurement system under Presidential Regulation of the Republic of Indonesia Number 46 of 2025 concerning the Second Amendment to Presidential Regulation Number 16 of 2018 on Government Procurement of Goods and Services and Regulation of the National Public Procurement Agency (LKPP) Number 5 of 2021 concerning Guidelines for Exempted Procurement of Goods and Services in Government Procurement. The research was conducted through library research using a statutory approach, a conceptual approach, and a case approach. The case approach focuses on the analysis of the Padang District Court Decision Number 27/Pid.Sus-TPK/2016/PN Pdg, as the decision is directly relevant to the practice of procuring notarial services within government institutions and represents the legal issues concerning the status of notaries in the government procurement mechanism. Accordingly, it serves as an appropriate basis for assessing the consistency between the Law on the Office of Notary and the regulatory framework governing government procurement.

The legal materials employed in this study consist of primary, secondary, and tertiary legal materials. The primary legal materials include the Law on the Office of Notary, the Indonesian Civil Code, Presidential Regulation Number 46 of 2025, LKPP Regulation Number 5 of 2021, judicial decisions, and other relevant legislation, all of which were selected based on their normative relevance, position within the hierarchy of laws and regulations, and validity as positive law. The secondary legal materials comprise books, national and international journal articles, research reports, and scholarly legal doctrines selected based on their credibility, currency, and relevance. Meanwhile, tertiary legal materials, including legal dictionaries and encyclopedias, were used to support conceptual understanding. All legal materials were collected through documentation techniques and analyzed using a descriptive-qualitative method supported by legal reasoning analysis. The analytical process involved identifying legal issues and normative conflicts; inventorying and classifying relevant legal provisions; applying grammatical, systematic, and teleological methods of interpretation; examining the ratio decidendi of the Padang District Court Decision Number 27/Pid.Sus-TPK/2016/PN Pdg; and constructing deductive legal arguments based on statutory provisions, legal principles, legal doctrines, and judicial precedents.



to identify the existing regulatory disharmony and its implications for the independence of the notarial profession, the principle of fair equality of opportunity, and commutative justice.

3. RESULTS AND DISCUSSION

Disharmony in the Legal Status of Notaries as Public Officials under the Law on the Office of Notary and Their Position as Business Actors within the Government Procurement System

The position of a notary as a public official constitutes a fundamental legal construct within Indonesia's Civil Law legal system. Article 1(1) of the Law on Notarial Office expressly stipulates that a notary is a public official authorized by the State to execute authentic deeds and exercise other powers conferred by statutory regulations. Such authority is attributive in nature, meaning that it is derived directly from legislation rather than from any contractual relationship with members of the public. Consequently, a notary cannot be equated with an ordinary legal professional or a commercial service provider, as a notary performs state-delegated public functions to ensure legal certainty, legal order, and legal protection through the execution of authentic deeds (Haryadi, 2025). This conception affirms that the notarial office embodies the principle of *officium nobile*, prioritizing the public legal interest over economic considerations.

As a public official, a notary is legally obligated to uphold independence, impartiality, integrity, and compliance with the law. Article 16(1)(a) of the Law on Notarial Office requires notaries to perform their duties honestly, independently, impartially, and in a manner that equally safeguards the interests of all parties. These principles are not merely ethical obligations but also constitute legal prerequisites for the creation of authentic deeds possessing perfect evidentiary value (Permadi & Herlindah, 2023). Lieberto argues that independence is the principal characteristic distinguishing notaries from other administrative officials (Lieberto, 2021), while Haryadi maintains that the receipt of honoraria from service users does not alter the public character of the notarial office because a notary's authority continues to originate from the State (Haryadi, 2025). Accordingly, the primary orientation of the notarial profession remains the provision of legal services and the protection of the public interest. Previous studies have consistently recognized notaries as public officials performing public functions and have emphasized the importance of institutional independence. Nevertheless, these studies have not examined the legal implications arising from the shift in the legal construction of notaries when they are classified as business actors within the government procurement system under Presidential Regulation of the Republic of Indonesia Number 46 of 2025 concerning the Second Amendment to Presidential Regulation Number 16 of 2018 on Government Procurement of Goods and Services and Regulation of the Head of the National Public Procurement Agency Number 5 of 2021



concerning Guidelines for Exempted Procurement of Goods and Services in Government Procurement. This analytical gap constitutes the principal research gap and represents the original focus of the present study.

This study identifies a paradigm shift in the legal construction of the notarial office following the inclusion of notarial services within the government procurement system under Presidential Regulation of the Republic of Indonesia Number 46 of 2025 concerning the Second Amendment to Presidential Regulation Number 16 of 2018 on Government Procurement of Goods and Services and Regulation of the Head of the National Public Procurement Agency Number 5 of 2021 concerning Guidelines for Exempted Procurement of Goods and Services in Government Procurement. Article 1(28) of Presidential Regulation Number 46 of 2025 defines a supplier of goods and services as a business actor providing goods and/or services under a contractual arrangement. Furthermore, Article 61(1) stipulates that procurement conducted in accordance with established business practices is exempt from the general procurement procedures. This provision is further elaborated in Regulation of the Head of the National Public Procurement Agency Number 5 of 2021 concerning Guidelines for Exempted Procurement of Goods and Services in Government Procurement, which classifies notarial services as one of the professional services exempted from the ordinary procurement mechanism. Article 5(1) of the Regulation provides that such exemption is granted because the relevant professions possess established remuneration standards, specialized professional services, recognized marketing practices, and professional codes of ethics. Accordingly, the exemption is not based on the legal status of notaries as public officials but rather on their classification as professional service providers forming part of the category of business actors engaged in contractual relationships with the government.

Aspect	Law on Notarial Office	Presidential Regulation No. 46 of 2025 & LKPP Regulation No. 5 of 2021	Author's Analysis
Legal status	Public official	Service provider/business actor	Demonstrates a shift in the legal construction of the notarial office.
Source of authority	Attributive authority granted by the State	Contractual relationship within the procurement system	Indicates a transition from a public function to a private contractual relationship.
Institutional orientation	Public service	Efficiency, contractual performance, and business practices	Creates conflicting institutional orientations.

Governing principles	Independence, impartiality, and legal certainty	Efficiency, performance evaluation, and competition	The two regulatory regimes are founded upon different legal principles.
Nature of the legal relationship	Public law	Private law/contract law	Produces dualism between public and private legal regimes.
Basis of accountability	UUJN and the Notarial Code of Ethics	Procurement contracts and government procurement regulations	Creates the potential for conflicting standards of legal accountability.
Legal implication	Ensures legal certainty through authentic deeds	Positions notaries as professional service providers	Results in normative disharmony requiring regulatory harmonization.

Table 1. Normative Comparison of the Legal Status of Notaries under the Law on Notarial Office and Government Procurement Regulations.

Based on the normative synthesis presented in Table 1, this study finds that the regulatory disharmony extends beyond differences in procurement procedures and fundamentally concerns divergent legal constructions regarding the status of notaries. This constitutes an original finding of the present research, demonstrating that Presidential Regulation Number 46 of 2025 and Regulation of the Head of the National Public Procurement Agency Number 5 of 2021 concerning Guidelines for Exempted Procurement of Goods and Services in Government Procurement implicitly transform the legal construction of notaries from public officials into business actors within the government procurement regime. This classification represents more than a mere administrative change in terminology; rather, it constitutes a substantive transformation in the legal characterization of the notarial office. The Law on Notarial Office establishes notaries as public officials entrusted with exercising a portion of the State's public authority through legislatively attributed powers. By contrast, the procurement regime constructs a contractual legal relationship characteristic of commercial service providers. These competing legal constructions consequently shift the institutional orientation of the notarial office from public service toward market-based contractual mechanisms. Therefore, the issue at stake is not merely procedural in nature but reflects a conceptual conflict concerning the legal status of notaries within the Indonesian legal system.

The legal consequences of this classification are significant. Once participating in government procurement, notaries become subject to the principles of efficiency, performance evaluation, and contractual sanctions for failure to fulfil contractual obligations as stipulated in the procurement documents. This legal construction reflects a paradigm shift from a public office to a private legal relationship governed by commercial principles. Business actors are inherently oriented toward market mechanisms and economic gain, whereas notaries perform public legal

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functions founded upon independence, impartiality, and legal neutrality. This fundamental distinction constitutes the primary source of normative disharmony between the Law on Notarial Office and the regulatory framework governing government procurement.

A similar distinction can be observed through a comparative analysis of Civil Law jurisdictions. In the Netherlands, France, and Germany, notaries continue to be recognized as public officials despite receiving professional remuneration for their services. Governments in these jurisdictions do not classify notaries as business actors competing within market-based procurement mechanisms. Instead, notaries are appointed or engaged based on their statutory authority, territorial jurisdiction, professional competence, and the public need for legal services, thereby preserving their institutional independence and public character.

The existence of this normative disharmony becomes even more apparent when analysed through Hans Kelsen's Stufenbau Theory. Under Law Number 12 of 2011 concerning the Formulation of Laws and Regulations, as most recently amended by Law Number 13 of 2022, an Act of Parliament occupies a higher position within the hierarchy of laws than a Presidential Regulation. Consequently, every Presidential Regulation must derive its legal basis from, and must not contradict, statutory legislation. The Law on Notarial Office unequivocally establishes notaries as public officials entrusted with exercising public functions through legislatively attributed authority. Conversely, Presidential Regulation Number 46 of 2025 constructs notaries as service providers classified within the category of business actors. Although Article 61(1) exempts certain professional services from the ordinary procurement procedures, such exemption does not remove the classification of notaries as service providers within the government procurement system. Furthermore, Regulation of the Head of the National Public Procurement Agency Number 5 of 2021 concerning Guidelines for Exempted Procurement of Goods and Services in Government Procurement expressly recognizes notarial services as professional services operating under established business practices. Consequently, the exemption applies only to the procurement mechanism rather than to the legal status of notaries as service providers. As a result, these regulations continue to place notaries within a private-law framework emphasizing contractual relationships, efficiency, and market-oriented principles, despite the Law on Notarial Office expressly and exhaustively defining notaries as public officials. This divergence demonstrates a form of vertical inconsistency because subordinate legislation establishes a legal classification of notaries that differs from that prescribed by the governing statute. According to Kelsen's Stufenbau Theory, neither a Presidential Regulation nor its implementing regulations may alter the legal nature or institutional character of the notarial office as established by The Law on Notarial Office (Asshiddiqie & Safa'at, 2006).



This argument is further reinforced by Gustav Radbruch's theory of legal certainty. Legal certainty requires consistency, coherence, and harmonization among legal norms so that every legal subject clearly understands his or her rights, obligations, powers, and legal responsibilities. Under the current regulatory framework, notaries are simultaneously subject to two different legal regimes. On the one hand, they are bound by the Law on Notarial Office and the Notarial Code of Ethics, both of which emphasize independence, impartiality, and the protection of the public interest. On the other hand, when participating in government procurement, they are treated as professional service providers subject to contractual obligations, performance evaluations, competitive procurement procedures, and both administrative and contractual sanctions. This dual legal status creates the potential for normative conflict, particularly where the obligation to maintain professional independence conflicts with contractual performance requirements imposed under procurement regulations. Consequently, legal certainty regarding the status of notaries, the applicable supervisory framework, and the legal basis for imposing sanctions becomes increasingly ambiguous (Permadi et al., 2024).

Based on the foregoing analysis, this study confirms that the disharmony between the Law on the Office of Notary and Presidential Regulation of the Republic of Indonesia Number 46 of 2025 concerning the Second Amendment to Presidential Regulation Number 16 of 2018 on Government Procurement of Goods and Services is not merely a technical issue of public procurement, but rather reflects a fundamental conceptual inconsistency regarding the legal status of notaries. The classification of notaries as business actors has shifted the nature of the notarial office from that of a public office to a contractual and commercial legal relationship, thereby potentially undermining notarial independence, weakening legal certainty, and obscuring the notary's function as an *officium nobile*. Accordingly, regulatory harmonization is required through the establishment of a specific legal framework governing the procurement of notarial services that continues to recognize notaries as public officials while simultaneously accommodating the government's need for accountable and efficient legal services. Such harmonization is expected to preserve the consistency of the hierarchy of legal norms, strengthen legal certainty, and align Indonesia's notarial service procurement system with the fundamental principles of notarial practice in Civil Law jurisdictions.

Legal Implications of the Status of Notaries as Business Actors on Professional Independence, the Principle of Fair Equality of Opportunity, and Commutative Justice in Contractual Relationships between the Government and Notaries

The findings demonstrate that the regulatory framework established under the Law on the Office of Notary, Presidential Regulation of the Republic of Indonesia Number 46 of 2025



concerning the Second Amendment to Presidential Regulation Number 16 of 2018 on Government Procurement of Goods and Services, and Regulation of the Head of the National Public Procurement Agency Number 5 of 2021 concerning Guidelines for the Procurement of Exempted Goods and Services in Government Procurement has created a dual legal status for notaries, positioning them simultaneously as public officials and business actors within the government procurement system. This duality has shifted the institutional character of the notarial office from an officium nobile performing a public function to that of a service provider operating under contractual mechanisms and market competition. Based on the analysis conducted in this study, this transformation in the legal framework not only generates normative disharmony but also affects the independence of the notarial profession, diminishes the application of the principle of fair equality of opportunity, and weakens commutative justice in the legal relationship between the government and notaries. Applying Hans Kelsen's theory of the hierarchy of norms, this study finds that Regulation of the Head of the National Public Procurement Agency Number 5 of 2021 concerning Guidelines for the Procurement of Exempted Goods and Services in Government Procurement is not fully consistent with the Law on the Office of Notary, which recognizes notaries as public officials who must act independently, impartially, and free from economic interests. Consequently, the procurement regulations extend the legal character of the notarial office beyond the scope of authority attributed by the Law on the Office of Notary, thereby creating legal uncertainty regarding the institutional status of notaries within Indonesia's national legal system (Haryadi, 2025).

The first implication concerns the independence of the notarial profession. Professional independence constitutes a fundamental principle under Article 16 paragraph (1) letter (a) of the Law on the Office of Notary, which requires notaries to act honestly, independently, impartially, and in the interests of all parties. However, the procurement mechanism prescribed by Regulation of the Head of the National Public Procurement Agency Number 5 of 2021 concerning Guidelines for the Procurement of Exempted Goods and Services in Government Procurement classifies notaries as service providers who must participate in competitive selection procedures, price negotiations, and market-based competition in the same manner as commercial business entities. This framework has the potential to create preferential relationships with government institutions, as the selection of notarial services may be influenced by administrative considerations and budgetary efficiency. From the perspective of administrative law, such arrangements may compromise the professional autonomy of notaries due to their economic dependence on government clients. Accordingly, this study argues that the independence of notaries is threatened not only by interference from contracting parties but also by a regulatory framework that



reconstructs notaries as government business actors. This finding reinforces Liberto's argument that the character of officium nobile should not be reduced to a purely commercial activity (Liberto, 2021).

Compared with other Civil Law jurisdictions, Indonesia's regulatory framework reveals a fundamental divergence. In the Netherlands, notaries continue to be recognized as openbaar ambtenaar under the Wet op het Notarisambt and are not classified as business actors within the public procurement system. Similarly, in France, notaries, as officiers publics et ministériels, are not subjected to price-based competition comparable to that imposed on commercial service providers. These comparative practices demonstrate that Civil Law jurisdictions maintain a clear separation between the public function of notaries and market-based procurement mechanisms. Therefore, this study argues that classifying notaries as business actors within Indonesia's government procurement system constitutes a conceptual deviation from the Latin notarial model upon which the Law on the Office of Notary is founded. Regulatory harmonization should therefore be directed toward establishing a special procurement regime (*lex specialis*) that preserves the institutional character of notaries as public officials (Rosadi, 2025).

The second implication concerns the application of John Rawls' principle of fair equality of opportunity. The findings indicate that the existing procurement system for notarial services does not provide genuinely equal opportunities for all notaries to obtain government assignments. Although the Law on the Office of Notary formally recognizes equal legal status for all notaries, procurement practices continue to permit preferential relationships through mechanisms such as direct appointment, identification of specific service providers, and direct negotiation. This phenomenon was evident in the procurement of notarial services for the land acquisition project of IAIN Imam Bonjol Padang, where the procurement process had effectively been directed toward a particular notary from the outset, thereby excluding other eligible notaries from participating (Maron et al., 2020). According to Rawls, justice cannot be achieved merely through formal equality but must also guarantee equal access to opportunities. Accordingly, this study concludes that the current procurement mechanism for notarial services has not fully satisfied the principle of fair equality of opportunity, as it continues to permit unequal treatment among notaries. These findings suggest that the pursuit of procurement efficiency has not yet been fully aligned with the requirements of distributive justice (Arianto et al., 2025).

A further implication relates to commutative justice in the contractual relationship between the government and notaries. Based on Aristotle's theory of justice, commutative justice requires a balanced distribution of rights and obligations between contracting parties. However, the findings reveal that procurement contracts place the government in a dominant position with respect to

determining work specifications, procurement procedures, administrative requirements, and the negotiation of professional fees, while notaries are positioned merely as service providers obliged to comply with all such conditions. Consequently, the legal relationship becomes subordinative and no longer reflects an equitable contractual relationship. This is problematic because the authority of notaries derives directly from statutory attribution under the Law on the Office of Notary and therefore cannot be equated with that of ordinary professional service providers. Accordingly, this study concludes that the procurement mechanism for notarial services prioritizes budgetary efficiency and market competition over the protection of the institutional character of notaries as public officials and, therefore, does not fully satisfy the principle of commutative justice (Siregar et al., 2024).

These findings are further supported by the analysis of the Decision of the Padang District Court Number 27/Pid.Sus-TPK/2016/PN Pdg. The study demonstrates that the legal relationship between the government and Notary Eli Satria Pilo under the Work Order extended beyond the preparation of authentic deeds to include land administration activities, such as land remeasurement, downgrading of land rights, and applications for rights of use. This scope of work reflects an expansion of notarial functions beyond the authority conferred by the Law on the Office of Notary. In its judgment, the panel of judges focused exclusively on establishing the elements of the corruption offence without examining whether the assigned duties were consistent with the statutory limits of notarial authority. This study argues that such circumstances reveal a normative gap concerning the permissible scope of the contractual relationship between the government and notaries within the government procurement system. As a consequence, legal uncertainty arises and the potential for conflicts of interest increases when notaries perform administrative functions beyond their statutory public duties (Maron et al., 2020).

Based on the foregoing analysis, the principal original contribution of this study lies in demonstrating that the procurement of notarial services is not merely an administrative issue but rather a manifestation of normative disharmony that fundamentally affects the legal construction of the notarial office within Indonesia's legal system. Unlike previous studies, which primarily examined notarial independence or the role of notaries in land acquisition, this research demonstrates that classifying notaries as business actors has transformed their institutional character as public officials whose authority is derived directly from statutory attribution by the State. This transformation has significant implications for professional independence, the realization of fair equality of opportunity, and the achievement of commutative justice in contractual relationships with the government. Accordingly, this study proposes regulatory harmonization through the establishment of a special legal framework (*lex specialis*) governing the



procurement of notarial services, in which professionalism, ethical standards, independence, and legal certainty constitute the primary criteria for selecting notaries, rather than price competition alone. Such a framework would enable the legal relationship between the government and notaries to satisfy the administrative needs of the State while preserving the essential nature of notaries as public officials (*officium nobile*). These findings provide a normative basis for policymakers to harmonize the Law on the Office of Notary with Presidential Regulation of the Republic of Indonesia Number 46 of 2025 concerning the Second Amendment to Presidential Regulation Number 16 of 2018 on Government Procurement of Goods and Services and Regulation of the Head of the National Public Procurement Agency Number 5 of 2021 concerning Guidelines for the Procurement of Exempted Goods and Services in Government Procurement, thereby establishing a procurement system for notarial services that is consistent with the principles of the rule of law, legal certainty, and justice.

4. CONCLUSION

This study concludes that the legal framework governing the status of notaries within the Indonesian public procurement system has not yet been harmonized with Law Number 2 of 2014 concerning the Amendment to Law Number 30 of 2004 on the Office of Notary. the Law on the Office of Notary recognizes notaries as public officials exercising authority directly attributed by the State, whereas Presidential Regulation of the Republic of Indonesia Number 46 of 2025 and Regulation of the National Public Procurement Agency Number 5 of 2021 classify notaries as professional service providers. This regulatory inconsistency creates normative disharmony and legal uncertainty regarding the legal status of notaries. From the perspective of Hans Kelsen's hierarchy of norms, such inconsistency reflects a conflict between statutory law and subordinate regulations. The study further finds that classifying notaries as service providers within the public procurement system has the potential to undermine the institutional independence of the notarial office, does not fully reflect John Rawls' principle of fair equality of opportunity, and fails to satisfy Aristotle's principle of commutative justice because the contractual relationship places the government in a more dominant bargaining position. Consequently, the existing procurement mechanism prioritizes administrative efficiency over the protection of the essential character of notaries as public officials. A comparative analysis of the legal systems of the Netherlands, France, and Germany demonstrates that notaries continue to be recognized as independent public officials and are not treated as commercial service providers within public procurement systems. These findings indicate that the current Indonesian regulatory framework has not yet fully aligned with the institutional characteristics of the civil law notarial profession.



The original contribution of this study lies in demonstrating that the procurement of notarial services constitutes a problem of normative disharmony affecting the legal construction of the notarial office as a public institution. This contribution is developed through an integrated analysis based on the theories of the hierarchy of norms, legal certainty, professional independence, fair equality of opportunity, and commutative justice. Based on these findings, the study recommends that legislators harmonize the Law on the Office of Notary with the public procurement regulatory framework by explicitly recognizing the legal status of notaries as public officials. Furthermore, the National Public Procurement Agency, in collaboration with relevant ministries and government institutions, should formulate technical guidelines for the procurement of notarial services that safeguard professional independence, ensure legal certainty, and remain consistent with the public nature of notarial authority.

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