

# A Justice and Maslahah-Based Reconstruction of Notary Removal Regulations

Anis Mashdurohaturun

Universitas Islam Sultan Agung, Indonesia  
anism@unissula.ac.id

Rizky Amalia Solichin

Universitas Islam Sultan Agung, Indonesia  
rizkyamaliakarli@yahoo.com

Rita Purwanti

Universitas Islam Sultan Agung, Indonesia  
ritapurwanti123@gmail.com

Dedi Sutomo

Universitas Islam Sultan Agung, Indonesia  
afrastica@gmail.com

Wildan Syukri

Universitas Islam Sultan Agung, Indonesia  
wildan.s@gmail.com

|| Received: 26-08-2025

| Revised: 10-11-2025

| Accepted: 20-11-2025

|| Published On: 30-11-2025

**Abstract:** This study critically examines the weaknesses of Indonesia's current notary removal regulations, highlighting how they fall short in realizing justice and fulfilling the broader public interest (maslahah). A close analysis of Article 13 of Law No. 2 of 2014 on the Position of Notary shows that the regulation lacks clarity and fairness, especially because the "threat of punishment" is ambiguously treated as equivalent to a final court decision. This ambiguity weakens legal certainty and places notaries in a vulnerable position when facing disciplinary actions. Employing a socio-legal approach supported by both primary and secondary data, and framed by theories of justice, legal systems, and progressive law, the study identifies substantial gaps in legal substance, structure, and culture that hinder the regulation's ability to protect rights and ensure professional accountability. To address these shortcomings, the study proposes a reconstruction of the regulatory framework grounded in justice and maslahah, emphasizing transparency, proportionality, ethical responsibility, and the protection of societal welfare. Academically, this research offers a new integrative perspective that brings together concepts of justice and maslahah to reform administrative regulations. It also provides a conceptual critique of the inconsistencies within the notary removal mechanism while presenting a more ethically oriented model for aligning professional accountability with Indonesia's legal ideals and Islamic legal values. This reconstruction aims to create a fairer, more coherent regulatory system that better serves both notaries and the public.

**Keywords:** Notary Removal; Justice; Maslahah; Legal Reform; Regulation.

**Abstrak:** Penelitian ini secara kritis mengkaji kelemahan regulasi pemberhentian notaris di Indonesia, dengan menyoroti bagaimana regulasi tersebut belum mampu mewujudkan keadilan dan memenuhi kepentingan publik yang lebih luas (maslahah). Analisis mendalam terhadap Pasal 13 Undang-Undang Nomor 2 Tahun 2014 tentang Jabatan Notaris menunjukkan bahwa ketentuan tersebut kurang memiliki kejelasan dan keadilan, terutama karena "ancaman pidana" secara ambigu diperlakukan sebagai setara dengan putusan pengadilan yang berkekuatan hukum tetap. Ambiguitas ini melemahkan kepastian hukum dan menempatkan notaris pada posisi rentan ketika menghadapi tindakan disipliner. Dengan menggunakan pendekatan sosiolegal yang didukung data primer dan sekunder, serta dibingkai oleh teori keadilan, sistem hukum, dan hukum progresif, penelitian ini mengidentifikasi kesenjangan substansial dalam aspek substansi, struktur, dan kultur hukum yang menghambat kemampuan regulasi tersebut dalam melindungi hak dan memastikan akuntabilitas profesional. Untuk mengatasi kelemahan tersebut, penelitian ini menawarkan rekonstruksi kerangka regulasi yang berlandaskan prinsip keadilan dan maslahah, dengan menekankan transparansi, proporsionalitas, tanggung jawab etis, dan perlindungan terhadap kesejahteraan masyarakat. Secara akademik, penelitian ini memberikan perspektif integratif baru yang memadukan konsep keadilan dan maslahah dalam reformasi regulasi administratif. Penelitian ini juga menghadirkan kritik konseptual terhadap inkonsistensi mekanisme pemberhentian notaris, sekaligus menawarkan model yang lebih berorientasi etika untuk menyelaraskan akuntabilitas profesional dengan ideal hukum Indonesia dan nilai-nilai hukum Islam. Rekonstruksi ini bertujuan menciptakan sistem regulasi yang lebih adil dan koheren, yang lebih mampu melayani kepentingan notaris maupun publik.

**Kata Kunci:** Pemberhentian Notaris; Keadilan; Maslahah; Reformasi Hukum; Regulasi.

## How to cite this article:

Anis Mashdurohaturun and Others, A Justice and Maslahah-Based Reconstruction of Notary Removal Regulations, *Bengkulu Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan*, 12.2 (2025), 739-750  
Doi: <http://dx.doi.org/10.29300/mzn.v12i2.9406>



Copyright (c) 2025 The Authors

Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi, dan Keagamaan

Published by Faculty of Sharia, State Islamic University of Fatmawati Sukarno Bengkulu

This work is licensed under a [Creative Commons Attribution-ShareAlike 4.0 International License](https://creativecommons.org/licenses/by-sa/4.0/)

## Introduction

Notaries occupy an essential position in Indonesia's legal system as public officials responsible for preparing authentic deeds that guarantee legal certainty, protect the rights of the parties involved, and uphold the orderly functioning of civil and commercial transactions. Through the authority granted by Law No. 2 of 2014 on the Position of Notary, they draft various legally binding instruments—including contracts, agreements, wills, sales transactions, and other civil documents—while ensuring that these instruments accurately reflect the intentions of the parties. Because of this, the role of the notary is closely tied to public trust, legal reliability, and the smooth operation of economic and social life.<sup>1</sup>

Although notaries are obligated to work with honesty, impartiality, diligence, and full adherence to ethical standards, they are frequently drawn into legal disputes arising from the deeds they draft. In many cases, notaries are treated as if they were responsible for the substance of the deed, even though their role is limited to formalizing the will of the parties. Situations like this often lead to accusations, investigations, or legal actions against notaries—circumstances that place them in a vulnerable position despite their compliance with statutory duties. To provide a layer of protection, Article 66 paragraph (1) of

Law No. 2 of 2014 requires that any legal examination of a notary obtain prior approval from the Notary Honorary Council. This mechanism is intended to preserve the integrity of notarial work and uphold the confidentiality of notarial protocols, though in practice it does not always prevent undue legal pressure on notaries. A more serious issue relates to the provisions governing notary removal. Article 13 of Law No. 30 of 2004, as amended by Law No. 2 of 2014, allows notaries to be removed based on criminal charges that carry a minimum penalty of five years' imprisonment. The article treats the "threat of punishment" as if it were the same as a final and binding court decision. This ambiguity undermines the presumption of innocence and exposes notaries to sanctions long before their cases are conclusively decided, creating legal uncertainty and heightening their professional vulnerability.<sup>2</sup>

Several studies have attempted to address aspects of notarial accountability and regulation. Sintia Latifa et al (2025) examined the procedural weaknesses in notary supervision<sup>3</sup>, while Nanda Ayu Lestari's Improvement of the Supervisory Function by the Notary Supervisory Council in the Prevention of Violations of the Authority and Duties of the Notary Office (*Officium Notarium*)<sup>4</sup>. Meanwhile, Islamic legal scholars such as Auda<sup>5</sup> and Dedi et al<sup>6</sup> highlight the

<sup>1</sup> Lia Trizza Firgitta Adhilia and Anisah Daeng Tarring, 'Prosedur Pembinaan Dan Pengawasan Notaris Oleh Majelis Pengawas Notaris Daerah', *Jurnal Litigasi Amsir* 9, no. 4 (August 2022): 320–30.

<sup>2</sup> Dwi Suryahartati and Jefri Mahardika, 'Reforming the Legal Framework of Notary Supervision in Indonesia: Towards a Digital Governance Model', *Supremasi Hukum: Jurnal Kajian Ilmu Hukum* 14, no. 1 (June 2025): 89–110, <https://doi.org/10.14421/2xx8sn14>.

<sup>3</sup> Shintia Latifa, Khairani, and Syofirman Syofyan, 'Penegakan Hukum Terhadap Notaris Yang Melanggar Undang-Undang Jabatan Notaris (Studi Kasus Dikota

Padang)', *Unes Journal of Swara Justisia* 9, no. 1 (April 2025): 93–106, <https://doi.org/10.31933/5s2e4b11>.

<sup>4</sup> Nanda Ayu Lestari, 'Peningkatan Fungsi Pengawasan Oleh Majelis Pengawasan Notaris Dalam Pencegahan Pelanggaran Kewenangan Dan Tugas Jabatan Notaris', *Officium Notarium* 2, no. 2 (2022): 324–33, <https://doi.org/10.20885/JON.vol2.iss2.art14>.

<sup>5</sup> J. Auda, 'A Maqāsidī Approach to Contemporary Application of the Shari'ah', *Intellectual Discourse* 19, no. 2 (2011): 193–217, ScopuS.

<sup>6</sup> Dedi, Ibnu Rusydi, and Nursyamsi, 'Aplikasi Mashlahat Dalam Transaksi Ekonomi Syariah Kontemporer Di

centrality of justice and *maslahah* in developing fair legal policies that safeguard both individual rights and public welfare. However, these studies remain limited in scope; none have specifically examined notary removal regulations through an integrated lens of justice and *maslahah*, nor have they addressed the conceptual contradiction within Article 13 that equates an unproven threat of punishment with a final legal ruling.

This gap indicates the need for a more comprehensive and principled reconstruction of the notary removal framework—one that not only corrects legal inconsistencies but also aligns the regulation with broader ethical and societal considerations. Embedding the principles of justice and *maslahah* into the regulatory structure would ensure that notaries are treated fairly, protected from premature sanctions, and able to perform their public duties without fear of unjust legal repercussions. Based on this context, the central research question of this study is: “How can Indonesia’s notary removal regulations be reconstructed based on the principles of justice and *maslahah* to create a fairer and more coherent legal framework?” By addressing this question, the study aims to strengthen the legal foundations of the notarial profession, enhance public confidence, and ensure that regulatory mechanisms serve both individual rights and the broader public interest.

## Method

This study adopts a constructivist paradigm to examine the regulations on notary removal as legal realities shaped by social interaction, institutional practices, and

interpretive processes rather than merely fixed normative rules.<sup>7</sup> By using this paradigm, the research is able to question how far the existing framework upholds the principles of justice and *maslahah*, which form the philosophical foundation of Indonesia’s legal system as well as Islamic legal ethics. Methodologically, the study employs a qualitative descriptive-analytical design supported by a socio-legal approach that integrates doctrinal legal analysis with empirical observation. This approach enables a contextual reading of notary removal regulations both in terms of their formal legal construction and their practical implementation within supervisory institutions. The data are collected from multiple sources. Primary data are obtained through semi-structured interviews with notaries, legal practitioners, supervisory council members, and academics, complemented by written responses gathered through questionnaires to broaden the empirical insight. Secondary data consist of legal documents, including the 1945 Constitution, the Civil Code, the Criminal Code, Law No. 2 of 2014 on the Position of Notary, and other regulations governing notary supervision, as well as academic literature that discusses legal certainty, professional accountability, administrative sanctions, and Islamic concepts of justice and *maslahah*. Tertiary reference materials such as legal dictionaries and encyclopaedias provide further conceptual clarification. All data are analysed through an integrative qualitative method that compares doctrinal provisions with empirical findings to identify substantive,

---

Indonesia Perspektif Legislasi’, *Al-Afkar, Journal For Islamic Studies*, 24 October 2022, 190–206, <https://doi.org/10.31943/afkarjournal.v5i4.351>.

<sup>7</sup> Helaluddin and Hengki Wijaya, *Analisis Data Kualitatif: Sebuah Tinjauan Teori & Praktik* (Sekolah Tinggi Theologia Jaffray, 2019).

structural, and cultural weaknesses in the current regulation.<sup>8</sup> The analysis employs theories of justice, legal system theory, progressive law, and maqāṣid al-sharī'ah to assess whether the existing rules align with legal ideals and public welfare. Through this analytical process, the study ultimately seeks to construct a more coherent, fair, and maslahah-oriented regulatory model that strengthens professional accountability while better protecting societal interests.

## Results and Discussion

### Comparative Analysis of Notary Removal Decisions: Anglo-Saxon vs. Continental Systems

The comparative analysis of notary removal decisions between the Anglo-Saxon and Continental legal systems reveals substantial differences in their approaches to legal processes, principles, and outcomes. The Anglo-Saxon system, prevalent in countries like the United Kingdom and the United States, is based on common law, which emphasizes judicial precedents and past decisions. This system relies on case law and the interpretation of judicial rulings to shape legal principles, making it flexible and adaptable. Judges play a key role in creating and modifying laws through their decisions, leading to a dynamic legal environment. However, this flexibility can sometimes result in unpredictability, as legal outcomes often depend on the specific arguments presented and the interpretation of individual judges.<sup>9</sup>

In contrast, the Continental legal system, found in countries such as France, Germany, and the Netherlands, is based on codified statutes and written laws. This system is structured around comprehensive legal codes that provide a clear and systematic framework for legal processes. Judges in the Continental system primarily apply and interpret these codified laws rather than creating new legal principles. This approach ensures a high degree of legal certainty and predictability, as the removal procedures for notaries are explicitly outlined in legislative texts. The formal and structured nature of the Continental system aims to reduce variability and ensure consistent application of the law.<sup>10</sup>

The removal process for notaries also differs markedly between the two systems. In the Anglo-Saxon system, removal can involve complex legal proceedings in court, where decisions are influenced by the evidence presented and the arguments made by both parties. This litigation-focused approach allows for substantial judicial discretion but can lead to varying outcomes based on the specifics of each case. On the other hand, the Continental system features a more formal and administrative process. Removal procedures are governed by detailed regulations and statutes, with less judicial discretion involved. This administrative approach provides a more predictable and standardized process, aligning with the system's emphasis on adherence to established rules.<sup>11</sup>

Legal certainty is another area of

<sup>8</sup> Matthew B Miles and A. Michael Huberman, *Analisis Data Kualitatif: Buku Sumber Tentang Metode-Metode Baru* (Jakarta: Universitas Indonesia Press, 2014).

<sup>9</sup> Sofyan Hadi, *Mengkaji Sistem Hukum Indonesia (Kajian Perbandingan Dengan Sistem Hukum Lainnya)* | DiH: *Jurnal Ilmu Hukum*, n.d., accessed 5 April 2023, <https://jurnal.untag-sby.ac.id/index.php/dih/article/view/2244>.

<sup>10</sup> Moh Rif'an et al., 'Law as General Rule or Law as Conglomeration of Legal Decision', *Jurnal Hukum Lex Generalis* 1, no. 7 (October 2020): 47–64, <https://doi.org/10.56370/jhlg.vii7.231>.

<sup>11</sup> Achmad Barlian Dipantara, 'Analisis Perbandingan Sistem Hukum Eropa Kontinental Dengan Sistem Anglo Saxon Yang Ditinjau Dari Perspektif Sistem Juri', *Jurnal Hukum, Administrasi Publik Dan Negara* 2, no. 6 (October

distinction. The Anglo-Saxon system derives certainty from the development of judicial precedents, which can provide guidance but also introduce variability in legal outcomes. The randomness of court decisions can affect notaries' ability to navigate the legal environment effectively. Conversely, the Continental system offers greater legal certainty through its reliance on codified laws and structured procedures. The clarity and consistency of these regulations reduce uncertainty and provide a stable legal framework for notaries.<sup>12</sup>

The treatment of public officials, including notaries, also varies between the systems. In the Anglo-Saxon system, the removal of notaries is typically handled through legal mechanisms involving courts, where judges have substantial interpretive power. This can result in varied outcomes depending on the case specifics and judicial interpretation. In the Continental system, removal procedures are more regulated and standardized, with administrative processes governing the removal of notaries. This structured approach minimizes judicial discretion and emphasizes adherence to legal norms. Overall, the Anglo-Saxon and Continental legal systems each offer distinct approaches to notary removal, shaped by their historical, philosophical, and cultural contexts. The Anglo-Saxon system's flexibility and reliance on precedents contrast with the Continental system's structured and codified

framework. Each system's approach has its advantages and challenges, reflecting broader differences in legal philosophy and practice.<sup>13</sup>

### **Comparative Study of Notary Removal Decisions and Civil Servant Termination**

The processes of dismissing notaries and terminating civil servants (ASN) in Indonesia, though both rooted in legal frameworks, exhibit substantial differences in their procedures, principles, and impacts. Understanding these differences is crucial for ensuring justice and maintaining the integrity of these professions. The removal of notaries is governed by specific legislation, notably Law No. 2 of 2014 concerning Notary Positions. This law outlines the grounds for removal, including violations of professional ethics, legal infractions, or other reasons specified within the legislation. In contrast, civil servants are governed by Law No. 5 of 2014 on Civil Servants, which provides a broader regulatory framework. ASN terminations can result from disciplinary issues, poor performance, or legal breaches, with detailed provisions found in government regulations and ministerial decrees.<sup>14</sup>

The procedural aspects of removal for notaries involve a review by the Notary Honorary Council 'DKN' or other relevant authorities. The process includes an opportunity for the notary to defend themselves before a final decision is made. This allows for a degree of procedural flexibility but

---

2025): 11–22, <https://doi.org/10.62383/hukum.v2i6.662>.

<sup>12</sup> Asrianti Sukirman et al., 'COMPARISON OF INHERITANCE OF LEGAL SYSTEM: INHERITANCE IN ISLAM, ANGLO-SAXON AND CONTINENTAL EUROPE', *Russian Law Journal* 12, no. 1 (January 2024), <https://russianlawjournal.org/index.php/journal/article/view/3846>.

<sup>13</sup> Al Habsy Ahmad, 'Analisis Pengaruh Penerapan Sistem Hukum Eropa Kontinental Dan Anglosaxon Dalam Sistem Peradilan Di Negara Republik Indonesia',

*PETITUM* 9, no. 1 (June 2021): 51–65, <https://doi.org/10.36090/jh.v9i1.997>.

<sup>14</sup> Mega Annisa Rahmawati and Sri Wahyuni, 'Kontroversi Layanan PPAT Dalam Keabsahan Proses Pembuatan Akta Peralihan Hak Atas Tanah', *Das Sollen: Jurnal Kajian Kontemporer Hukum Dan Masyarakat* 3, no. 01 (January 2025), <https://journal.forikami.com/index.php/dassollen/article/view/811>.



ensures that the notary's rights are considered. For ASN, the removal process is more formal and structured. It involves a series of steps, including investigation, disciplinary hearings, and an appeal process. ASN are entitled to a more regulated defence mechanism, with oversight from government bodies and adherence to strict procedural norms. This structured approach aims to ensure fairness and transparency in the removal process. Both notary and ASN removals are grounded in principles of justice, such as due process and proportionality. For notaries, the removal must be based on clear evidence and reasons, ensuring that the decision is justifiable and fair. Similarly, ASN removals must adhere to principles of fairness, including the right to defence and an impartial review of the evidence. However, ASN are subject to more rigorous ethical and disciplinary standards, reflecting the broader scope of their duties and responsibilities within public administration. This heightened scrutiny underscores the importance of maintaining high professional standards and public trust.<sup>15</sup>

The sanctions imposed on dismissed notaries typically include the revocation of their practice licenses and potential administrative penalties. In severe cases, criminal sanctions may be applied if legal violations are involved. Such measures are intended to uphold the integrity of the notarial profession and protect public interests. For ASN, removal can result in various forms of termination, including with or without honour, depending on the nature and severity of the infraction. Sanctions may also include

disciplinary acts such as delayed promotions or reassignment. The impact of these sanctions extends beyond the individual, affecting the stability and effectiveness of public services and the perception of government institutions. Oversight for notaries is conducted by the DKN and the Indonesian Notary Association 'INI'. These bodies are responsible for monitoring compliance with professional standards and handling public complaints regarding notarial conduct. This oversight mechanism helps ensure accountability and address grievances related to professional conduct.<sup>16</sup>

In the case of ASN, oversight is carried out by relevant government agencies and the National Civil Service Agency 'BKN'. ASN have avenues to file complaints about unfair treatment or rights violations, providing a structured process for addressing grievances and ensuring that procedural standards are upheld. Dismissed notaries have the right to appeal or contest removal decisions, although the appeal process may be less formal compared to ASN procedures. ASN, on the other hand, benefit from a more formalized appeal process, with clear procedures and timelines, ensuring a thorough review of the removal decision. While both notary removal and civil servant termination share underlying principles of justice and fairness, they differ substantially in terms of legal frameworks, procedural structures, and impacts. Notary removal processes are governed by specific laws with a degree of flexibility, while ASN terminations follow a more formalized procedure under broader regulations. These differences reflect the distinct roles and

<sup>15</sup> Rindiana Larasati et al., 'Model Pengawasan Regulasi Terhadap Notaris Di Belanda Dan Indonesia: Regulasi, Perkembangan, Dan Tantangan', *Journal of Law Review* 5, no. 1 (2026): 1–13, <https://doi.org/10.55098/jolr.v5i1.176>.

<sup>16</sup> Agnes Nova Randomis, 'Regulation of Legal Protection for Notaries in Performing Official Duties to Ensure Legal Certainty and Justice', *International Journal of Social Service and Research* 5, no. 10 (October 2025): 1269–75, <https://doi.org/10.46799/ijssr.v5i10.1333>.

responsibilities of each profession, emphasizing the need for tailored approaches to ensure fairness and maintain professional integrity.<sup>17</sup>

### Reconstructing Justice Values in Notary Removal Regulations

In reconstructing the justice values embedded in notary removal regulations, it is imperative to anchor the discussion in both Islamic legal principles and contemporary regulatory practices. Islamic jurisprudence, while not providing specific rules for notaries, offers general principles that can guide the development of fair and just regulations. Central to this is the concept of *'adl* (justice) as emphasized in several Quranic verses, which can inform the framework for notary oversight and removal. Firstly, the Quranic verse from Surah Al-Baqarah (2:282) underscores the importance of accuracy and fairness in documenting transacts. This verse highlights that notary, who act as witnesses and recorders, must uphold justice and avoid any bias or negligence in their duties. The application of these principles to the notarial field suggests that removal regulations must include stringent measures to ensure notaries adhere to high standards of integrity and fairness. Any removal process must, therefore, be transparent, based on objective criteria, and free from arbitrariness.<sup>18</sup>

Additionally, *Surah An-Nisa'* (4:58)

commands the fulfilment of trusts and adjudication with justice. This principle can be interpreted to mandate that notary removal regulations must ensure that any act taken against a notary is conducted in a manner that respects their rights and ensures due process. The fairness in these regulations must align with the broader Islamic injunctions of *'adl*, meaning that notaries must be given a fair opportunity to defend themselves and that the decision-making process must be impartial and just. *Surah Al-Maidah* (5:1) reinforces the concept of upholding agreements and obligations. This suggests that notaries, who are responsible for crafting and verifying legal documents, must operate under a framework that holds them accountable for their acts. Consequently, removal regulations must explicitly state the grounds on which notaries can be dismissed, ensuring these grounds are aligned with the principles of fairness and due diligence as outlined in Islamic teachings.<sup>19</sup>

In integrating these Islamic values into contemporary regulations, it is also essential to consider the dynamic nature of legal practice and the evolving societal needs. Islamic law acknowledges both *al-tsabat* 'stability' and *al-tathawwur* 'dynamism', indicating that while certain legal principles remain constant, the application and interpretation of these principles can adapt to new circumstances.<sup>20</sup> Therefore, notary removal regulations must be flexible enough to accommodate changes

<sup>17</sup> Thalita Reizky Amalia and Disriani Latifah Soroinda, 'Cancellation of Notary Deed Based on Agreement of The Parties Through Deed of Cancellation', *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 6, no. 1 (April 2024): 119–34, <https://doi.org/10.37680/almanhaj.v6i1.4197>.

<sup>18</sup> Agnes Nova Randomis, 'Regulation of Legal Protection for Notaries in Performing Official Duties to Ensure Legal Certainty and Justice', *International Journal of Social Service and Research* 5, no. 10 (October 2025): 1269–75, <https://doi.org/10.46799/ijssr.v5i10.1333>.

<sup>19</sup> Gholib Ivan Ali, Riskha Amaliya Lubis, and Anis Mashdurohatun, 'The Authority Of Public Notary In The Making Of Deregistration Agreement Of Mortgage Right', *JURNAL AKTA* 5, no. 2 (May 2018): 331–36, <https://doi.org/10.30659/akta.v5i2.3083>.

<sup>20</sup> Muhammad Zaki and Saidin Saidin, 'Legal Protection and Law Assistance to Notaries as a Public Official in Indonesia', *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 2 (May 2024): 821–46, <https://doi.org/10.22373/sjhk.v8i2.17276>.

while firmly rooted in justice principles. By aligning notary removal regulations with these Islamic justice values, the regulatory framework not only adheres to legal principles but also upholds ethical standards that promote trust and accountability in the notarial profession.

### **Justice and Maslahah Based Regulatory Reconstruction of Notary Removal Procedures**

A justice- and maslahah-based reconstruction of notary removal regulations requires grounding the regulatory framework not only in statutory law but also in broader ethical foundations that shape Indonesia's legal philosophy, including Islamic legal principles. Although Islamic law does not explicitly regulate the technical role of notaries, its normative commitment to justice, fairness, and the protection of public welfare provides a strong ethical basis for evaluating the legitimacy of administrative sanctions, including the removal of notaries from office. These values, drawn from the Qur'an and the *maqāṣid al-sharī'ah*, offer an important lens through which the existing regulatory mechanisms can be assessed and improved.

Surah al-Baqarah (2:282), the longest verse in the Qur'an, underscores the importance of honesty, accuracy, and integrity in recording transactions. By emphasizing the role of a fair and impartial scribe, the verse provides an ethical analogue for notaries as modern legal scribes entrusted with documenting, verifying, and ensuring the authenticity of legal acts. The emphasis on justice ('*adl*') within this verse implies that notaries must uphold the highest

standards of neutrality and truthfulness, and that any administrative action—including dismissal—must reflect these same principles. In this light, reconstructing notary removal regulations requires ensuring that decisions are based on clear, objective, and transparent criteria that do not compromise integrity or violate the presumption of innocence.<sup>21</sup>

Similarly, Surah al-Nisā' (4:58) commands believers to return trusts to their rightful owners and to judge among people with fairness. This verse offers direct ethical guidance for regulatory institutions responsible for supervising notaries. Since notaries hold public trust and act as neutral intermediaries in legal transactions, any examination or disciplinary action must be conducted with impartiality and accountability. This requires a removal process that guarantees procedural fairness, provides opportunities for defense and appeal, and remains free from political influence or personal bias. The Qur'anic call to fulfill contracts, as stated in Surah al-Mā'idah (5:1), further reinforces the responsibilities inherent in the notarial profession.<sup>22</sup> The verse stresses the obligation to honor agreements, which resonates with the duty of notaries to uphold professional standards and legal commitments. When applied to removal regulations, this principle demands that evaluations of notarial misconduct be tied to objective measures of professional violation rather than speculative accusations or unresolved legal processes. Removal should therefore be a final, justified outcome grounded in proven breaches of public trust.<sup>23</sup>

<sup>21</sup> Zaki and Saidin.

<sup>22</sup> Mujahidin Mujahidin et al., 'Challenge of Waqf to the Social and Economic Welfare of Muslim Communities: A Comparative Analysis Between Countries', *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 12, no.

1 (April 2025): 168–84, <https://doi.org/10.29300/mzn.v12i1.7765>.

<sup>23</sup> Ibrahim Siranggi, Sukanda Husin, and Busyra Azheri, 'Liability of Substitute Notary in Deed Correction', *International Journal of Multicultural and Multireligious*



Central to this reconstruction effort is the dynamic nature of Islamic law—its balance between al-tsabāt (stability) in moral foundations and al-taṭawwur (adaptability) in social and transactional affairs (mu‘āmalāt).<sup>24</sup> This duality allows Islamic legal ethics to remain relevant to contemporary regulatory challenges.<sup>25</sup> In the context of notary removal, this means that while core ethical principles such as justice, truthfulness, and public welfare remain constant, the mechanisms for enforcing accountability must adapt to the demands of modern legal administration. This flexibility supports the need to revise regulations that currently allow for removal based solely on the threat of punishment, which undermines legal certainty and contradicts both justice principles and the maqāṣid requirement to preserve dignity (ḥifẓ al-‘ird) and public welfare (ḥifẓ al-maṣlaḥah).<sup>26</sup>

By integrating these Qur’anic values and maqāṣid-based considerations, the reconstruction of notary removal regulations becomes more ethically coherent, legally consistent, and socially responsive. A justice- and maṣlahah-oriented model ensures that the removal process remains transparent, proportionate, and grounded in verified misconduct rather than presumptive guilt. Such a framework not only strengthens the integrity of the notarial profession but also reinforces public trust in the legal system as a whole. Ultimately, aligning regulatory

mechanisms with both statutory law and Islamic ethical principles contributes to a more balanced, fair, and welfare-oriented system of professional accountability in Indonesia.

## Conclusion

This study concludes that Indonesia’s current notary removal regulations—particularly Article 13 of Law No. 2 of 2014—exhibit fundamental weaknesses in terms of justice, legal certainty, and the protection of public welfare (maṣlahah). The ambiguous conflation between the “threat of punishment” and a final, legally binding court decision creates a regulatory inconsistency that jeopardizes the rights of notaries and contradicts core principles of fairness. This ambiguity not only exposes notaries to premature sanctions but also undermines the presumption of innocence and disrupts the stability of the legal system by allowing disciplinary actions to proceed without clear, objective, and verifiable criteria. To remedy these structural and conceptual shortcomings, a justice- and maṣlahah-based reconstruction of the regulatory framework is essential. Such reconstruction requires refining the legal provisions governing notary removal so that dismissal is strictly grounded in final court decisions for proven criminal acts, rather than speculative or unresolved legal threats. This approach aligns the regulatory process with the principles of justice embedded in Pancasila,

---

*Understanding* 6, no. 4 (August 2019): 30–41, <https://doi.org/10.18415/ijmmu.v6i4.945>.

<sup>24</sup> Heru Subiyantoro, Karnaji, and Fendy Suhariadi, ‘Sharia Compensation Schemes and Employee Performance in Contemporary Islamic Economics’, *MILRev: Metro Islamic Law Review* 4, no. 2 (September 2025): 1128–51, <https://doi.org/10.32332/milrev.v4i2.11192>.

<sup>25</sup> Gregorius Widiartana and Sajjad Hussain, ‘Judicial Pardon in Contemporary Criminal Verdicts: Balancing Justice, Legal Certainty, and the Utility of Law’,

*NUSANTARA: Journal Of Law Studies* 4, no. 01 (July 2025): 1–11, <https://doi.org/10.5281/zenodo.17346796>.

<sup>26</sup> Alfiandri Setiawan and Ahmad Kamalul Fikri, ‘A Review of Contemporary Islamic Legal Philosophy Towards the Orientation of Iddah Legislation: Tinjauan Filsafat Hukum Islam Kontemporer Terhadap Orientasi Pensyariatan Iddah’, *AL-AQWAL: Jurnal Kajian Hukum Islam* 3, no. 01 (June 2024): 01, <https://doi.org/10.53491/alaqwal.v3i01.1037>.

ensures proportionality and due process, and reinforces the ethical foundations of accountability found in Islamic legal values—particularly the Qur’anic imperatives of fairness (‘adl), trust (amānah), and the protection of societal welfare (ḥifẓ al-maṣlaḥah). By integrating justice and maslahah as normative guides, the reconstructed framework promotes greater transparency, equity, and legal predictability. It strengthens the professional dignity of notaries, safeguards their rights, and upholds the broader public interest by ensuring that disciplinary mechanisms are both substantively fair and procedurally sound. Ultimately, this study affirms that a more coherent, just, and welfare-oriented regulatory system will enhance public trust in the notarial institution and contribute to a more ethical and accountable legal order in Indonesia.

### Declaration of Competing Interest

The authors declare that they have no competing interests related to this study. There are no financial, professional, or personal relationships that could be construed to influence the research process, analysis, or conclusions presented in this paper. The study was conducted independently, without any external pressures, sponsorships, or affiliations that might give rise to conflicts of interest. All authors affirm that the work reflects their genuine academic contribution and objective scholarly judgment.

### Acknowledgements

The authors express their sincere gratitude to Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia, for the institutional support, facilities, and academic resources provided throughout the course of this research. The encouragement, conducive

academic environment, and access to scholarly materials offered by the university significantly contributed to the successful completion of this study. The authors also appreciate the administrative and academic units whose assistance helped ensure the smooth progression of the research activities.

### References

- Adhilia, Lia Trizza Firgitta, and Anisah Daeng Tarring. ‘Prosedur Pembinaan Dan Pengawasan Notaris Oleh Majelis Pengawas Notaris Daerah’. *Jurnal Litigasi Amsir* 9, no. 4 (August 2022): 320–30.
- Ahmad, Al Habsy. ‘Analisis Pengaruh Penerapan Sistem Hukum Eropa Kontinental Dan Anglosaxon Dalam Sistem Peradilan Di Negara Republik Indonesia’. *PETITUM* 9, no. 1 (June 2021): 51–65. <https://doi.org/10.36090/jh.v9i1.997>.
- Ali, Gholib Ivan, Riskha Amaliya Lubis, and Anis Mashdurohatun. ‘The Authority Of Public Notary In The Making Of Deregistration Agreement Of Mortgage Right’. *JURNAL AKTA* 5, no. 2 (May 2018): 331–36. <https://doi.org/10.30659/akta.v5i2.3083>.
- Amalia, Thalita Reizky, and Disriani Latifah Soroinda. ‘Cancellation of Notary Deed Based on Agreement of The Parties Through Deed of Cancellation’. *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 6, no. 1 (April 2024): 119–34. <https://doi.org/10.37680/almanhaj.v6i1.4197>.
- Auda, J. ‘A Maqāsidi Approach to Contemporary Application of the Shari’ah’. *Intellectual Discourse* 19, no. 2 (2011): 193–217. Scopus.
- Dedi, Ibnu Rusydi, and Nursyamsi. ‘Aplikasi Mashlahat Dalam Transaksi Ekonomi Syariah Kontemporer Di Indonesia Perspektif Legislasi’. *Al-Afkar, Journal For Islamic Studies*, 24 October 2022, 190–206. <https://doi.org/10.31943/afkarjournal.v5i4.351>.
- Dipantara, Achmad Barlian. ‘Analisis Perbandingan

- Sistem Hukum Eropa Kontinental Dengan Sistem Anglo Saxon Yang Ditinjau Dari Perspektif Sistem Juri'. *Jurnal Hukum, Administrasi Publik Dan Negara* 2, no. 6 (October 2025): 11–22. <https://doi.org/10.62383/hukum.v2i6.662>.
- Hadi, Sofyan. *MENGAJI SISTEM HUKUM INDONESIA (Kajian Perbandingan Dengan Sistem Hukum Lainnya) | DiH: Jurnal Ilmu Hukum*. n.d. Accessed 5 April 2023. <https://jurnal.untag-sby.ac.id/index.php/dih/article/view/2244>.
- Helaluddin, and Hengki Wijaya. *Analisis Data Kualitatif: Sebuah Tinjauan Teori & Praktik*. Sekolah Tinggi Theologia Jaffray, 2019.
- Larasati, Rindiana, Bunga Desyana Pratami, Iqbal Kamalludin, and Ariyanto Ariyanto. 'Model Pengawasan Regulasi Terhadap Notaris Di Belanda Dan Indonesia: Regulasi, Perkembangan, Dan Tantangan'. *Journal of Law Review* 5, no. 1 (2026): 1–13. <https://doi.org/10.55098/jolr.v5i1.176>.
- Latifa, Shintia, Khairani, and Syofirman Syofyan. 'Penegakan Hukum Terhadap Notaris Yang Melanggar Undang-Undang Jabatan Notaris (Studi Kasus Kota Padang)'. *Unes Journal of Swara Justisia* 9, no. 1 (April 2025): 93–106. <https://doi.org/10.31933/5s2e4b11>.
- Lestari, Nanda Ayu. 'Peningkatan Fungsi Pengawasan Oleh Majelis Pengawasan Notaris Dalam Pencegahan Pelanggaran Kewenangan Dan Tugas Jabatan Notaris'. *Officium Notarium* 2, no. 2 (2022): 324–33. <https://doi.org/10.20885/JON.vol2.iss2.art14>.
- Miles, Matthew B, and A. Michael Huberman. *Analisis Data Kualitatif : Buku Sumber Tentang Metode-Metode Baru*. Jakarta: Universitas Indonesia Press, 2014.
- Mujahidin, Mujahidin, Muhammad Imran, Nasrullah Bin Sapa, Fasiha Fasiha, Sitti Aisya, and Trimulato Trimulato. 'Challenge of Waqf to the Social and Economic Welfare of Muslim Communities: A Comparative Analysis Between Countries'. *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 12, no. 1 (April 2025): 168–84. <https://doi.org/10.29300/mzn.v12i1.7765>.
- Rahmawati, Mega Annisa, and Sri Wahyuni. 'Kontrovesi Layanan PPAT Dalam Keabsahan Proses Pembuatan Akta Peralihan Hak Atas Tanah'. *Das Sollen: Jurnal Kajian Kontemporer Hukum Dan Masyarakat* 3, no. 01 (January 2025). <https://journal.forikami.com/index.php/dassollen/article/view/811>.
- Randomis, Agnes Nova. 'Regulation of Legal Protection for Notaries in Performing Official Duties to Ensure Legal Certainty and Justice'. *International Journal of Social Service and Research* 5, no. 10 (October 2025): 1269–75. <https://doi.org/10.46799/ijssr.v5i10.1333>.
- . 'Regulation of Legal Protection for Notaries in Performing Official Duties to Ensure Legal Certainty and Justice'. *International Journal of Social Service and Research* 5, no. 10 (October 2025): 1269–75. <https://doi.org/10.46799/ijssr.v5i10.1333>.
- Rif'an, Moh, Muhammad Akbar Nursasmita, Fazal Akmal Musyarri, Danang Wahyu Setyo Adi, and Elsa Assari. 'Law as General Rule or Law as Conglomeration of Legal Decision'. *Jurnal Hukum Lex Generalis* 1, no. 7 (October 2020): 47–64. <https://doi.org/10.56370/jhl.v1i7.231>.
- Setiawan, Alfiantri, and Ahmad Kamalul Fikri. 'A Review of Contemporary Islamic Legal Philosophy Towards the Orientation of Iddah Legislation: Tinjauan Filsafat Hukum Islam Kontemporer Terhadap Orientasi Pensyariaan Iddah'. *AL-AQWAL: Jurnal Kajian Hukum Islam* 3, no. 01 (June 2024): 01. <https://doi.org/10.53491/alaqwal.v3i01.1037>.
- Siranggi, Ibrahim, Sukanda Husin, and Busyra Azheri. 'Liability of Substitute Notary in Deed Correction'. *International Journal of Multicultural and Multireligious Understanding* 6, no. 4 (August 2019): 30–41. <https://doi.org/10.18415/ijmmu.v6i4.945>.
- Subiyantoro, Heru, Karnaji, and Fendy Suhariadi. 'Sharia Compensation Schemes and Employee Performance in Contemporary Islamic Economics'. *MILRev: Metro Islamic*

*Law Review* 4, no. 2 (September 2025): 1128–51. <https://doi.org/10.32332/milrev.v4i2.11192>.

Sukirman, Asrianti, Oyo Sunaryo Mukhlas, Januariansyah Arfaizar, and ALAMSYAH. ‘COMPARISON OF INHERITANCE OF LEGAL SYSTEM: INHERITANCE IN ISLAM, ANGLO-SAXON AND CONTINENTAL EUROPE’. *Russian Law Journal* 12, no. 1 (January 2024). <https://russianlawjournal.org/index.php/journal/article/view/3846>.

Suryahartati, Dwi, and Jefri Mahardika. ‘Reforming the Legal Framework of Notary Supervision in Indonesia: Towards a Digital Governance Model’. *Supremasi Hukum: Jurnal Kajian Ilmu Hukum* 14, no. 1 (June 2025): 89–110. <https://doi.org/10.14421/2xx8sn14>.

Widiartana, Gregorius, and Sajjad Hussain. ‘Judicial Pardon in Contemporary Criminal Verdicts: Balancing Justice, Legal Certainty, and the Utility of Law’. *NUSANTARA: Journal Of Law Studies* 4, no. 01 (July 2025): 1–11. <https://doi.org/10.5281/zenodo.17346796>.

Zaki, Muhammad, and Saidin Saidin. ‘Legal Protection and Law Assistance to Notaries as a Public Official in Indonesia’. *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 2 (May 2024): 821–46. <https://doi.org/10.22373/sjhhk.v8i2.17276>